

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
DECEMBER 10, 2014

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Preston Campbell, Steve Joyce, John Phillips, Adam Strachan, Doug Thimm

EX OFFICIO:

Planning Director Thomas Eddington; Francisco Astorga, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

**ROLL CALL**

Chair Worel called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Band.

**ADOPTION OF MINUTES**

August 6, 2014

MOTION: Commissioner Strachan moved to APPROVE the minutes of August 6, 2014 as written. Commissioner Joyce seconded the motion.

VOTE: The motion passed. Commissioner Thimm abstained since he was not on the Planning Commission at the time.

October 22, 2014

Chair Worel noted that approval of the October 22, 2014 minutes was withdrawn at the last meeting pending verification against the recording on recommended changes to the 510 Payday Drive Thaynes item. She read a statement from Mary May indicating that she had listened to the recording and had made the changes that Planner Whetstone had suggested. The changes were primarily adding language to clarify the numbers that were stated in the minutes. The changes had already been incorporated in the set of minutes contained in the Staff report.

MOTION: Commissioner Strachan moved to APPROVE the minutes of October 22, 2014 as amended. Board Member Joyce seconded the motion.

VOTE: The motion passed unanimously.

November 12, 2014

MOTION: Commissioner Joyce moved to APPROVE the minutes of November 12, 2014 as written. Board Member Phillips seconded the motion.

VOTE: The motion passed unanimously.

### **PUBLIC INPUT**

There were no comments.

### **STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Director Eddington reported that the Planning Department was completing the public outreach for Bonanza Park. Their commitment was to be finished by the end of the year. Bonanza Park was scheduled to go before the City Council either the first or second week in January. The Planning Commission would be invited to attend the City Council meeting. The discussion would involve updated information, public outreach, comments and concerns, and other issues.

Director Eddington stated that the Planning Department has been working with the University of Utah Planning and Architecture Department to integrate the students into some projects in Park City. They have been doing work on the Deer Valley parking lots this semester in terms of what the parking lots could look like as an MPD in the future. He noted that currently there is an MPD approval on the parking lots dating back to the mid-80s and the students were working to come up with new and creative ideas. The students have done a great job and look forward to presenting their ideas to the Planning Commission.

Commissioner Strachan asked Director Eddington for the specific outreach that has occurred for Bonanza Park beyond the public open house. Director Eddington stated that all the character zones were classified as a neighborhood. They reached out to all of the property owners and tenants through formal notification by mail and hand delivery, and everyone had been invited to individual character zone/neighborhood meetings. The smaller meetings were followed by a full Bonanza Park open house. The Staff had met with as many individual property owners as possible to keep them updated. They also reached out and presented to the Chamber of Commerce, the Board of Realtors and other organizations in an effort to convey the Bonanza Plan and Form Based Code. Director Eddington stated that the turnout was surprisingly good. Approximately 70 people attended the open house, and that was after a series of five or six neighborhood meetings.

Commissioner Phillips recalled a discussion several months ago about having an Ombudsman speak to the Planning Commission. He asked if that was scheduled to occur anytime soon. Assistant City Attorney replied that it had not been scheduled. She has spoken with the City Attorney and they were trying to decide who would be the best person to speak to the Planning Commission. Ms. McLean offered to follow up.

Commissioner Strachan recalled that Brent came last time. Assistant City Attorney stated that there has been some discussion about asking Jodi Hoffman to come as well. Commissioner Strachan thought Brent had done a good job last time. That was at least three years ago and he agreed that it was time to do it again. Commissioner Strachan remarked that a Land Use Planning CLE was held at the Utah State Bar four or five years ago and it was offered to the Planning Commission. A number of Commissioners attended. It is held every year and even though the CLE was geared toward the legal community, a lot of planners were in attendance.

Assistant City Attorney McLean stated that another annual CLE focuses on property rights and that one is held in October. She had attended this year and found it to be very worthwhile, particularly regarding historic preservation.

**CONTINUATIONS (Public Hearing and Continue to date specified.)**

1. Land Management Code Amendments related to Transfer of Development Rights (TDRs) Chapter 2.24 (Application PL-14-02348)

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

MOTION: Commissioner Joyce moved to CONTINUE the Land Management Code Amendments related to Transfer of Development Rights, Chapter 2.24 to January 14, 2015. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

2. Sign Code Amendments to Park City Municipal Code Chapter 12 (Application PL-14-02523)

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

MOTION: Commissioner Joyce moved to CONTINUE the Sign Code Amendments to the Park City Municipal Code Chapter 12 to a date uncertain. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

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

### **1. 1385 Lowell Avenue – Conditional Use Permit for a timeshare Off-premise Sales Office of 1,751 square feet. (Application PL-14-02541)**

Planner Francisco Astorga reviewed the application for a conditional use permit for a timeshare off-premise sales office. Planner Astorga provided an exhibit to show the location of the proposed office. For the record, he noted that the plat shows it as the Park City Village Condominiums, but it was also known as the Lodge at the Mountain Village, which was formerly known as the Resort Center Condominiums.

Planner Astorga presented a slide showing Commercial Unit 7, which was also shown on page 116 of the Staff report. He noted that the Cutting Board Restaurant already exists on the other side. He pointed out that the space proposed for the timeshare was also a restaurant at one time. Planner Astorga referred to the plat on page 115 of the Staff report and noted that it was platted as commercial space. Planner Astorga stated that the applicant, Marriott Ownership Resorts, was represented this evening by Gary Raney with Horne Construction, Inc. and Anthony Brick.

Planner Astorga reported that the applicant was not requesting any type of expansion. The request was to move forward with tenant improvements, which have already been submitted for building permit review as the building permit has already been issued.

Planner Astorga referred to different sections in the LMC. One was the allowed uses, the second were conditional uses, and the third was a conditional use allowed as a support use to the primary development. A fourth category was Planning Commission review of the conditional use permit.

Planner Astorga reported that the exact number as indicated in the Staff report was 1,751 square feet to be used as a timeshare sales office. The Staff created specific mitigation that may need to take place in order for the Planning Commission to issue the conditional use permit. The Staff analysis concluded that everything has been mitigated or does not require additional mitigation.

Planner Astorga noted that page 103 of the Staff report contained language from the Park City Municipal Code (PCMC) Title 4 Licensing regarding uses that are associated with the timeshare sales office. The applicant had agreed to abide by all of the requirements outlined in the Staff report.

The Staff recommended that the Planning Commission review the proposed conditional use, conduct a public hearing and consider approving the conditional use permit based on the findings of fact, conclusions of law and conditions of approval outlined in the Staff report.

Anthony Brick, representing the applicant, stated that the intended use is for a sales office to meet with their existing ownership of Marriott Mountainside and Marriot Summit Watch. They have outgrown their existing sales office location within Mountainside, and they were looking additional space where the sales representatives could meet with the owners.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Thimm believed the application met the provisions of the LMC for a conditional use. The Commissioners concurred. Chair Worel liked Condition of Approval #3, which reiterated the Park City Municipal Code.

MOTION: Commissioner Phillips moved to APPROVE the conditional use permit for 1385 Lowell Avenue, Unit COM7, based on the Findings of Fact, conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 1385 Lowell Avenue

1. Applicant requests to remodel the existing unit, interior only (tenant improvement) to have a timeshare off-premise sales office at 1385 Lowell Avenue, Unit COM7.
2. The proposed use requires a Conditional Use Permit in the Recreation Commercial (RC) District.
3. The interior remodel only and does not affect any exterior areas.

4. The current space was used as a restaurant.
5. The entire unit, COM7, or Parcel PVC-1A-C7, is 2,968 square feet.
6. The entire unit is not requested to be utilized as the requested use.
7. The applicant requests to utilize a portion of the unit as a timeshare off-premise sales office which equates to 1,751 square feet with the remaining area to be used for a restaurant.
8. The unit was platted as Retail Space Commercial Unit 7 of the Park City Village Condominiums recorded in 1983.
9. The site is also known as The Lodge at the Mountain Village formerly known as The Resort Center Condominiums.
10. The project was known as the Park City Village Master Plan.
11. Land Management Code (LMC) § 15-2.16-2(B)(11) indicates that a timeshare sales office is a conditional use in the RC District.
12. The Land Management Code defines the a timeshare sales office as an office outside of a timeshare project, wherein timeshare sales presentations are made and other marketing related activities are conducted in an effort to generate timeshare interval sales or re-sales (LMC § 15-15-1.272).
13. The applicant requests to utilize a portion of COM7 as a timeshare off-premise sales office which equates to 1,751 square feet.
14. Due to the size of the requested use, staff does not find any impacts that need to be mitigated regarding size and location.
15. Staff does not find that additional impacts need to be mitigated in terms of traffic considerations due to the small size of the requested use.
16. No additional utility capacity is required for the requested use.
17. Emergency vehicles can easily access the unit and no additional access is required.

18. The requested use, considered an intensive office use, triggers a parking requirement of nine (9) parking spaces based on the maximum floor area of 1,751 square feet.
19. The former use, a restaurant, triggers a parking requirement of eighteen (18) parking spaces based on the maximum floor area of 1,751 square feet.
20. There is a parking reduction based on the required parking spaces of the former use and the current parking requirement based on the proposed use of nine (9) parking spaces.
21. The applicant indicated that there are approximately 700 parking spaces in the parking garage that is part of the same structure that houses the subject space, 120 of those parking spaces are allocated to the Lodge at the Mountain Village, the building/development where this space is located.
22. The parking area/driveway is directly accessed off Lowell Avenue.
23. Fencing, screening, and landscaping are not proposed at this time and are not needed to separate uses as the uses are fully enclosed within the building.
24. The requested use will not affect the existing building mass, bulk, orientation and the location on site, including orientation to adjacent building.
25. No useable open space will be affected with the requested use from what is currently found on site.
26. No signs and lighting are associated with this proposal.
27. Any new exterior lighting is subject to the LMC development standards related to lighting and will be reviewed for compliance with the LMC at the time of application.
28. All signs are subject to the Park City Sign Code.
29. The requested use will not affect the existing physical design and compatibility with surrounding structures in mass, scale and style.
30. Noise, vibration, odors, steam or mechanical factors are anticipated that are normally associated within the retail/commercial/office use.

31. The proposal will not affect any control of delivery and service vehicles, loading/unloading, and screening.
32. The expected ownership and management of the property is not projected to add impacts that would need additional mitigation.
33. The entire unit is owned by Village Venture, Ltd., both spaces, the Cutting Board, next door, and this requested space are being leased.
34. The proposal is not located within the Sensitive Lands Overlay.
35. Unit COM7 is shown on the master plan as part of the commercial area designation. The master plan identifies two (2) categories: residential and commercial. Commercial areas include retail, meeting rooms, and restaurants.
36. The Condominium Plat for this project notes residential and commercial units. All of the commercial units are noted as retail space. The proposed office space would be located within the proposed retail – commercial space noted on the Plat.
37. The Land Management Code does not authorize the requested use to be conducted outside of the area.
38. The Municipal Code does not allow the requested use, a timeshare off-premise sales office to be conducted outside the enclosed building on private or public property.
39. The Municipal Code indicates that it is unlawful of a business to attract people by calling, shouting, hawking, ringing any bells, horn, sounding any siren or other noise making device, or by displaying any light or lantern, or by waving, hailing or otherwise signaling to passersby or by touching or physically detaining them.
40. The Municipal Code indicates that it is unlawful to pass handbills, flyers, or other advertising material by handing such material to passersby, or placing them on porches or vehicles, or attaching them to light or sign posts, or poles.

Conclusions of Law – 1385 Lowell Avenue

1. The application complies with all requirements of the Land Management Code.
2. The use will be compatible with surrounding structures in use, scale, mass, and



circulation.

3. The use is consistent with the Park City General, as amended.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 1385 Lowell Avenue

1. The requested use shall be conducted within the specified space at 1385 Lowell Avenue, Unit COM7 as approved by the Planning Commission, which is within a fully enclosed building per Park City Municipal Code § 4-3-3.

2. The requested use shall not be conducted outside the enclosed building on private or public property per Park City Municipal Code § 4-3-8.

3. The requested use shall be in full compliance with Park City Municipal Code § 4-3-15 which states the following:

It shall be unlawful for any person, business, corporation, partnership or other entity to attract or attempt to attract people to that person or that licensee's place of business by calling, shouting, hawking, ringing any bells, horn, sounding any siren or other noise making device, or by displaying any light or lantern, or by waving, hailing or otherwise signaling to passersby or by touching or physically detaining them. It shall be unlawful to pass handbills, flyers, or other advertising material by handing such material to passersby, or placing them on porches or vehicles, or attaching them to light or sign posts, or poles.

**2. 923 Park Avenue – An ordinance considering the 923 Park Avenue Subdivision Plat Amendment (Application PL-14-02527)**

Planner Astorga stated that he had co-authored the Staff report with Gorgi Corkery, a summer intern, and she would be presenting the application this evening.

Ms. Corkery reviewed the plat amendment for 923 Park Avenue. Lot 6 and portions of Lots 5 and 28 of the Block 3 of the Snyder's addition are owned by the same entity. The property owner wishes to unify these lots into one lot of record by removing the existing interior lot lines.

Ms. Corkery stated that currently a single family dwelling exists on the site. The site is listed as a Significant historic site on the Historic Sites Inventory. The house is close to the lot line between Lots 5 and 6.

Ms. Corkery referred to a small encroachment of a timber retaining wall on the site. The retaining wall sits on the rear portion of the rear neighbor at 918 Woodside Avenue, and it encroaches approximately 6 inches. The applicant is currently working with the rear neighbor to issue an encroachment agreement.

Planner Astorga noted that the title report indicated a pole line easement issued to Utah Power and Light that is no longer being utilized. The property owner is currently working with Rocky Mountain Power to remove this pole line easement. Since it takes time to remove a pole line easement, Alliance Engineering will leave it on the plat. If the easement is removed it would be addressed in the red line process. Planner Astorga stated that a condition of approval states that if the pole line easement is removed it would not exist. If it is not removed, they would just continue to plat it.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council for the 923 Park Avenue Subdivision plat amendment, based on the findings of fact, conclusions of law and conditions as found in the draft ordinance.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Phillips supported cleaning up the lot lines.

Commissioner Strachan noted that the existing building footprint of 995 square feet was only increasing to 1132 square feet. Planner Astorga explained that the building footprint is based on the size of the lot. Commissioner Strachan thought the combination of lots would create a building footprint larger than 1132 square feet. Planner Astorga believed it would be challenging to design an addition that is compatible with the HSI designation of the site. Commissioner Strachan assumed the applicant believed they could design an addition within 250 square feet. Planner Astorga pointed out that the addition would also have to meet the design guidelines.

**MOTION:** Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for the 923 Park Avenue subdivision, based on the Findings of Fact, Conclusions

of Law and Conditions of Approval found in the draft ordinance. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 923 Park Avenue

1. The property is located at 923 Park Avenue.
2. The property is in the Historic Residential (HR-1) District.
3. The subject property consists of all of Lot 6, the northerly eight (8) feet of Lot 5, and a portion of Lot 28, Block 3, Snyder's Addition.
4. The entire area is recognized by the County as Parcel SA-13.
5. The site is listed on Park City's Historic Site Inventory and is designated as a significant historic site.
6. The building footprint of the existing dwelling is approximately 997 square feet.
7. The proposed plat amendment creates one (1) lot of record from the existing area consisting of 2,625 square feet.
8. A single-family dwelling is an allowed use in the Historic Residential (HR-1) District.
9. The minimum lot area for a single-family dwelling is 1,875 square feet.
10. The proposed lot meets the minimum lot area for a single-family dwelling.
11. The minimum lot width allowed in the district is twenty-five feet (25').
12. The proposed lot is thirty three feet (33') wide.
13. The proposed lot meets the minimum lot width requirement.
14. The existing historic structure does not meet the north side yard setback. The structure is one-and-one-half feet (1½') from the north side yard property line.
15. LMC § 15-2.2-4 indicates that historic structures that do not comply with building

setbacks are valid complying structures.

16.LMC § 15-2.2-4 indicates that additions to historic structure must comply with building setbacks, etc.

17.The site contains a small encroachment of a timber retaining wall of approximately four feet (4') in height which sits on the rear portion of the rear neighbor, 918 Woodside Avenue.

18.The retaining wall encroaches approximately six inches (6") over the rear property line onto the subject site.

19.The applicant is currently working with the rear neighbor to issue an encroachment agreement.

20.The submitted title report indicates a pole line easement recorded with the county in 1959.

21.The pole line easement is in favor of Utah power and light company as is currently shown on the proposed plat.

22.The property owner is currently working with Rocky Mountain Power to remove this pole line easement as it is currently not in use.

23.The site is partially located in a FEMA Flood Zone X.

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

#### Conclusions of Law – 923 Park Avenue

1. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding lot combinations.

2. Neither the public nor any person will be materially injured by the proposed Plat Amendment.

3. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

#### Conditions of Approval – 923 Park Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A ten feet (10') wide public snow storage easement will be required along the front of the property.
4. The applicant shall resolve the wood tie retaining wall which encroaches onto their property from 918 Woodside Avenue by providing an encroachment agreement to the neighboring property owner or by removing the wood tie retaining wall encroachment before plat recordation.
5. The applicant shall resolve the pole line easement recorded with the county. The property owner is currently working with Rocky Mountain Power to remove this pole line easement as it is currently not in use. If the applicant fails to remove this pole line easement prior to plat recordation, it shall be noted on the plat. If the easement is removed then it shall not be shown on the plat.

**3. 30 Sampson Avenue – Steep Slope Conditional Use Permit for a new single family house. (Application PL-12-01487)**

Planner Kirsten Whetstone reviewed the request for a steep slope conditional use permit for a new single family house to be located at 30 Sampson Avenue. It is a vacant lot of approximately 7,000 square feet located in the HRL zoning district. The zone district requires that the applicant obtain a Steep Slope CUP for any new construction greater than 1,000 on any slopes exceeding 30%. The subdivision plat notes that the allowed maximum house size is 3,000 square feet. This vacant lot was platted in 1995 as Lot 3 of the Millsite supplemental plat amended subdivision. It was a combination of 13 whole and partial lots that created three lots. Lots 1 and 3 had a maximum house of 3,000 square feet, excluding a basement, and a 400 square foot allowance for a garage. Lot 2 allowed a 3500 square foot maximum house size.

Planner Whetstone provided a brief history of the project. The application was submitted in 2012. On April 10, 2013 the Planning Commission denied the conditional use permit application. She clarified that the application before them this evening was a revised plan.

Planner Whetstone reported that the denial was appealed by the applicant on July 3, 2013. On March 28, 2014 the applicant submitted a request for an Advisory Opinion from the State Ombudsman on property issues. The City stayed the appeal pending the opinion. On July 31, 2014, based on the Ombudsman's Advisory Opinion, the City Council remanded the appeal to the Planning Commission as the appropriate review body for reconsideration of the application. Planner Whetstone reported that the remand allowed the applicant to apply for a variance for the three-story restriction. The area in question was the tunnel connection between the garage level at the street and the house level, which is 40 feet above the level of the driveway. Planner Whetstone pointed out the odd hourglass shape of the lot on the site plan.

Planner Whetstone stated that on October 7<sup>th</sup> the Board of Adjustment approved the applicant's request for the variance to the three-story requirement. Planner Whetstone noted that the LMC was revised and there is no longer a three-story requirement. Under the current Code, the overall height of the building is measured at a maximum of 35 feet from the lowest finished floor to the highest wall plate. However, this application came in under the LMC that had the three-story requirement. Planner Whetstone clarified that the applicant would not be able to meet the current 35 foot maximum requirement and would have had to submit for a variance based on the same hardships created by this platted lot, which was the steepness of the lot, the difference in elevation between the grades, and the hourglass shape.

Planner Whetstone stated that following the October Board of Adjustment meeting the applicant revised the application to include the underground connection and moved the elevator to within the main house. The applicant had submitted a revised design that included the underground connection, the interior elevator, a decrease in the amount of paving in the front, increased landscaping, re-design of the garage at the street, and a decrease in the above ground house size.

The Staff had reviewed the revised submittal against the nine Steep Slope CUP criteria in the LMC as outlined in the Staff report. The Staff also reviewed the application against the Land Management Code for the HR-1 zone, as well as for the plat notes. The Staff found compliance with everything except for the three-story requirement which is covered by the variance.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the Steep Slope CUP for 30 Sampson as revised, and per the findings of fact, conclusions of law and conditions of approval outlined in the Staff report.

Jonathan DeGray, the project architect, reviewed the specifics of the revised design. He pointed out that the design before the Planning Commission this evening was the same

plan that was originally submitted to the Planning Department but did not meet Code. They came back with another scheme that was ultimately denied by the Planning Commission.

Mr. DeGray referred to page 218 of the Staff report, which showed the south elevation of the original submittal, and compared it to the elevation on page 164 of the Staff report, which is what they were currently requesting. Mr. DeGray believed the separation between the two structures was clear and the underground connection was totally invisible. Mr. DeGray noted that the current plan is 2,894 square feet above grade, including 150 square feet of additional garage area. Because the garage area exceeded 400 square feet, the additional square footage needed to come out of the 3,000 square feet allowed for the house. Mr. DeGray noted that the allowable footprint is 2355 and the proposed plan was less at 2173 square feet.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Joyce stated that given the variance that was granted the project appeared to fit. He thought the biggest challenge was visually breaking up the structure to look like two buildings and he believed Mr. DeGray had accomplished that.

Commissioner Phillips agreed. He believed that removing the "sore thumb" made a huge difference in the design. He understood the challenge and thought the separation of the buildings visually looks better. Commissioner Phillips did not have any issues with the revised plan.

Commissioner Thimm stated that looking at it through the lens of the variance and the other Code findings it appeared to comply with the requirements. He appreciated the removal of the elevator piece. From an architectural standpoint it was a definite improvement. Commissioner Thimm had visited the site and he agreed that it is a very difficult site. Finding a way to make a legal lot usable was a challenge, but it appeared the applicant had arrived at a solution.

Commissioner Strachan agreed it was a difficult lot. However he thought it was regrettable that the property rights Ombudsman had disregarded the purpose statements in the LMC because this project does not meet the purpose statements. Commissioner Strachan stated that he is always reluctant to approve something that does not meet the purpose statements, but in this case with the variance and compliance with other Code requirements, he felt they had no choice. He pointed out that the purpose statements are

meant to protect impacts to the environment, substantial amounts of excavation, dump trucks, dirt, and the large chunk that will be taken out of the side of the hill. The Code cannot regulate those impacts but the purpose statements can. Commissioner Strachan suggested that Assistant City Attorney McLean review the Code and find ways to add language that reflect the purposes statements. The Planning Commission has been told from the start that they should begin their analysis with the purpose statements in the zone. If the purpose statements are not met they should not look any further. Unfortunately, the Ombudsman did not see it that way.

Wade Budge, legal counsel for the applicant, stated that the applicant understood what they heard from the Planning Commission in April of 2013. Therefore, even though the applicants received a positive decision from the Ombudsman, they wanted to mitigate the impacts and decided not to push forward with the design that was proposed at the time. Instead, based on the Planning Commission comments, they made an effort to revise the design to eliminate the missile silo and reduce the mass.

Commissioner Strachan appreciated their effort and he agreed that it was a better plan. He cautioned them about access to the site for construction.

Chair Worel concurred with her fellow Commissioners that it is a creative design and much better than what they saw in April of 2013. Chair Worel understood that when the building permit is issued and the Construction Mitigation Plan is submitted, that the City Engineer would take into account the construction traffic that Sampson Avenue could withstand. Director Eddington replied that any issue relative to the road would be examined by the City Engineer and incorporated into the construction mitigation plan.

Planner Whetstone stated that the Planning Commission could add a condition of approval to address construction traffic on Sampson Avenue. Mr. DeGray pointed out that their concerns were already addressed in Conditions of Approval 2 and 7.

Commissioner Phillips stated that he lives in the neighborhood and he lives on the road. He noted that many times subcontractors park construction vehicles in the middle of the road when they are unloading. At least half the time when he attempts to drive on the road he ends up backing down because someone is parked in the middle of the road with their door open. Commissioner Phillips stated that if the applicant could work with their subs to help mitigate that impact it would be appreciated by the entire neighborhood.

**MOTION:** Commissioner Joyce moved to APPROVE the Steep Slope CUP for 30 Sampson Avenue, based on the Findings of Fact, Conclusions of Law and Conditions of Approval. Commissioner Thimm seconded the motion.



VOTE: The motion passed unanimously.

Findings of Fact – 30 Sampson Avenue

1. The property is located at 30 Sampson Avenue.
2. The property is within the Historic Residential (HRL) District and meets the purposes of the zone.
3. The property is Lot 3 of the Millsite Reservation Supplemental Plat, which was recorded in 1995.
4. The Lot area is 7,088.4 sf.
5. A Historic District Design Review (HDDR) application is currently being reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
6. On February 14, 2012, the City received an application for a Conditional Use Permit (CUP) for “Construction on a Steep Slope” at 30 Sampson Avenue. The property is located in the Historic Residential Low (HRL) District.
7. On April 9, 2012, the application was deemed “complete” and an initial public hearing was conducted by the Planning Commission on August 22, 2012.
8. The February 14, 2012, application included a sub-basement level entrance that connected underground to the garage and elevator, however it was determined by Staff that such a proposal would violate Section 15-2.1-5 (Building Height – Maximum of three [3] stories) of the LMC that was in effect at the time of submittal. The applicant revised the plans to show a detached garage and a subterranean walk-way (tunnel) leading to an elevator, which connected to an outside patio area in front of the house at the upper portion of the lot. Because the garage was not attached, it did not violate the 3 stories height restriction in the code at the time of the application. This three story submittal was reviewed by the Planning Commission on August 22, 2012, November 28, 2012, December 12, 2012, February 27, 2013, and finally on April 10, 2013.
9. On April 10, 2013, the Planning Commission denied the Conditional Use Permit application for 30 Sampson. At the April 10th meeting, the Commission requested Planning Staff prepare Findings of Fact and Conclusions of Law consistent with the April 10th discussion and unanimous vote to deny. These Findings and Conclusions

were ratified by the Planning Commission on June 26, 2013.

10. On July 3, 2013, the applicant submitted to the City recorder, within the required ten (10) days, an appeal of the Planning Commission decision.

11. On August 5, 2013, the applicant requested a continuation of the appeal in order to submit a request for an advisory review of the Planning Commission decision to the State Ombudsman. Staff agreed to continue the appeal to a date uncertain and the applicant submitted a request for Advisory Opinion from the State of Utah Office of Property Rights Ombudsman (Advisory Opinion).

12. On March 28, 2014, Planning Staff received a copy of the Advisory Opinion and after reviewing the document scheduled a meeting with the applicant to discuss the CUP application and appeal. At the meeting, the Applicant indicated he was willing to make some additional revisions to the application to address design issues raised by the Planning Commission related to the exterior elevator element, amount of paving, as well as a redesign of the garage area. The applicant proposed to revise the plans; similar to what had been initially submitted, to address concerns the Planning Commission had with the design. The applicant understood that the redesign would require a variance to the three story LMC requirement.

13. On July 31, 2014, the City Council remanded the appeal to the Planning Commission to reconsider the Steep Slope CUP application. The Council found the Planning Commission was the appropriate review body for re-consideration of the application based on information presented by the Ombudsman. In addition, the remand allowed the applicant to seek a variance to the three story restriction and depending on the outcome of that variance request, to revise the Steep Slope CUP application to include the proposed revisions for Planning Commission review.

14. July 7, 2014 the applicant submitted a Variance application requesting relief from the LMC requirement that "a structure may have a maximum of three (3) stories" based on a hardship created by the steepness of the lot, the hour-glass configuration of the existing platted lot, and the forty foot (40') change in elevation between the street and upper building pad area.

15. On October 7, 2014, the Board of Adjustment (BOA) approved the applicant's request for a variance to the three story limitation of the LMC with the following conditions of approval: a) The vertical circulation elevator and stairs shall be constructed within the house and b) The house shall be constructed to appear as three (3) stories on the exterior.

16. The variance allowed the applicant to redesign the plans and amended the application to propose an underground connection between the garage at the front of the lot and the main house at the rear of the lot, allowing the elevator to be constructed within the main house. The proposed house includes four stories, including a garage level at the street, a basement completely below final grade under the main house, a lower level, and a main level.

17. Following the October 7, 2014, BOA meeting, the applicant revised the Steep Slope CUP application to include the underground connection and interior elevator, decreased the amount of paving to increase the landscaped area at the front of the lot, and redesigned garage.

18. The revised Steep Slope CUP subject to this staff report is a proposal for a new single family dwelling with a total living area of 4,336 sf (this includes all basement areas, the tunnel connector, and the garage level circulation area). This does not include the 552 sf garage.

19. The maximum house size allowed for this lot is 3,000 square feet with an additional allowance of 400 square foot for a garage per plat notes on the January 5, 1995; City Council approved Millsite Reservation Amended Plat.

20. The proposed house size is 2,894 sf (4,888 sf total construction minus 1,216 sf basement level, 378 sf of below grade tunnel/connector area, and the 400 sf garage allowance).

21. In 1998 the Community Development Director determined that the 3,000 square foot maximum excludes basements as defined by the LMC. This letter was recorded on the title of the property.

22. An overall building footprint of 2,179 square feet is proposed. Under the current LMC, the maximum allowed footprint is 2,355.5 square feet, based on the total lot area.

23. The applicant submitted a visual analysis, including a model, and renderings showing a contextual analysis of visual impacts.

24. The proposed structure will not be seen from the key vantage points as indicated in the LMC Section 15-15-1.283, with the exception of a cross canyon view from the corner of the Main Street Trolley turn-around (Hillside Ave/Main Street/Daly Ave intersection), which is largely mitigated by existing houses and trees of surrounding lots.

25. The cross canyon view contains a back drop of the hill behind the proposed structure as well as two story houses and garages of neighboring structures.

26. The proposed design incorporates a driveway from Sampson Avenue from the high point of the street to avoid excessive cuts and grading for the proposed driveway.

27. Retaining is necessary around the home on the upper-side of the lot. The plans as shown indicate that there will be no free-standing retaining walls that exceed six feet in height.

28. 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 and will leave more than half of the lot undeveloped.

29. The site design, stepping of the building mass, reduced building footprint, and increased setbacks maximize the opportunity for open area and provides additional area for plantings.

30. The applicant is providing the required two (2) off street parking spaces in the garage. There is no on-street parking available on Sampson Avenue due to its narrow width. There is an area in front of the garage that provides an off-street guest parking space due to the increased setbacks to the garage door.

31. The garage (proposed with two separate garage doors angled away from a common wall) is set back 15' to 30' from the front property line and setback from the main portion of the house by about 30'. The main portion of the house is located approximately 70' to 110' back from the street.

32. Approximately 1,790 square feet of total construction is below final grade, which equates to approximately thirty-seven percent (37%) of the overall construction (4,888 sf).

33. The lot has been deemed to have eight (8) different sides, and thus a Planning Director determination for setbacks has previously been determined and calculated as outlined within the analysis section of the report.

34. The design includes setback variations, decreased building footprint, and decreased building heights for the garage and portions of the main house (from HRL allowable standards).

35. The proposed massing and architectural design components are compatible with both the volume and massing of other single family dwellings in the area.

36. The proposed structure does not exceed twenty-seven feet (27') in building height as measured from existing grade.

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

38. The applicant stipulates to the conditions of approval.

39. The necessary removal of vegetation from the site to accommodate the building will be mitigated by the installation of approximately forty (40) trees, seventy (70) shrubs and other plantings mixed with ground cover. A final landscape plan addressing the removal of existing vegetation and a replacement plan is required prior to the granting of a building permit.

40. The house will appear to be three stories.

41. The vertical circulation elevator and stairs are proposed to be constructed within the house.

#### Conclusions of Law – 30 Sampson Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6(B).

2. The CUP, as conditioned, is consistent with the Park City General Plan.

3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.

4. The effects of any differences in use or scale have been mitigated through careful planning.

#### Conditions of Approval – 30 Sampson 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, public improvements, and drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers prior to issuance of a building permit.

4. 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.

5. A final landscape and vegetation replacement plan shall be submitted for review and approved by the City Planning Department, prior to building permit issuance. Installation of approximately forty (40) trees, seventy (70) shrubs and other plantings mixed with ground cover are necessary to address removal of existing vegetation.

6. 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 and the 2009 Design Guidelines for Historic Districts and Historic Sites.

7. 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.

8. This approval will expire on December 10, 2015, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval is applied for in writing before the expiration and is granted by the Planning Director.

9. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission on December 10, 2014.

10. All retaining walls within any of the setback areas shall not exceed more than six feet in height measured from final grade.

4. **1000 Ability Way – National Ability Center Pre-master Development for additional lodging, expanded equestrian arena, and addition to administration building** (Application PL-14-02476)

Planner Whetstone reviewed the pre-MPD application, which is required by Code before the applicant submits the Master Planned Development amendment application. The purpose of the pre-MPD is for the Planning Commission to review the proposal for findings of compliance with the general purposes of the zone, which is the ROS zone in this case; and a finding of compliance with specific items of the General Plan.

Planner Whetstone reported that the Planning Commission held a public hearing on November 12<sup>th</sup> and reviewed the application in detail. Their comments from that meeting were summarized in the Staff report. Planner Whetstone stated that the applicant intended to present new updated items this evening. Findings of facts and conclusions of law were outlined on page 321 of the Staff report, which supports the Staff recommendation that the Planning Commission find that this complies with the zone and the General Plan.

Planner Whetstone stated that another public hearing was required because the noticing letters had not been sent out for the November meeting and the property had not been posted due to an error on the part of the Staff. Since then the letters were sent and the property was posted. The Staff recommended that the Planning Commission conduct a public hearing this evening.

Michael Barille with Plan Works Design summarized the comments they heard from the Planning Commission at the last meeting. The comments included making sure the plan covered their needs and additional facilities for many years in the future; consider a phasing plan that makes sense; how to make this plan fit in the ROS zone, particularly the mechanisms for lodging use in the ROS zone; the open space requirements for MPDS; and the building height in the zone.

Mr. Barille presented a number of updates to the plan. He noted that they have not had time to meet with the Staff in detail and he did not expect the Planning Commission to make decisions on everything this evening. There would be ample opportunity to work out the details during the MPD process. In terms of the issue of time horizon and what else they may want to do on the property, Mr. Barille stated that they have had internal discussions and the only ideas that came to the forefront was the possibility of doing more tent platforms or cabins. Another future item might be a small addition to the horse barn, and a small addition to the existing lodge in the area of the kitchen and cafeteria space to accommodate group programming, as well as a larger kitchen to service both buildings. There was some discussion about having a covered walkway connection between the two lodge buildings. Mr. Barille stated that there is some renewable energy on the roof of the existing administration building, and someone suggested allocating a spot for a larger solar area to help reduce the energy demand on the property at some point in the future.

Mr. Barille referred to the current plan showing a central multi-purpose activity area in the center of the campus. There has been some discussion about adding a roof or having a structure with walls that open and close, or shade screening. It would depend on the success of fundraising and thinking through the variety of programming for that space. Mr. Barille presented images showing what they envisioned. If they decided to do a full enclosure it would be light and airy and allow some flexibility with the space.

Mr. Barille commented on the lodging space, noting that it would require further discussion with the Staff and City Council. As he was looking through the purpose statements for the zone and the allowed and conditional uses for the ROS zone, one option would be to find that the lodge building fits the definition of a quasi-public institution that is greater than 600 square feet, or an accessory building that is greater than 600 square feet supporting the existing primary use, which is a private recreation facility. Mr. Barille stated that if they were not comfortable with that option, an alternative would be to rezone a portion of the property. However, the applicant preferred not to go through that spot zoning process unless it was the only way to make it work. Mr. Barille stated that the applicant would work with the Staff to get their recommendations before they come back to the Planning Commission.

In terms of height, Mr. Barille stated that Craig Elliott, the project architect, believes that he can fit a third story within the allowed height in the ROS zone, with the caveat that there is some allowance to put units in a sloped roof structure of a 4/12 pitch. If that becomes an issue they will inform the Planning Commission during the MPD process.

Mr. Barille remarked that the open space requirement for an MPD is 60%. They did an initial analysis and calculated that it was over 75% open space, even with all the additions identified in the master plan. He acknowledged that there may be some percentage point differences when they sit down with Staff and go through what meets the definition.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Campbell reiterated his comments from the last meeting in favor of the project. He supports the NAC and is proud to have them as a member of the community.

Commissioner Thimm concurred with Commissioner Campbell.



Commissioner Strachan believed it meets the General Plan and the purpose statements of the ROS. If possible, he thought the Planning Commission should decide this evening on the rezone versus accessory buildings greater than 600 square feet. From this point forward the applicants need to know what to do moving forward. If they need to apply for a rezone they would need to start the application process. Commissioner Strachan stated that if the Planning Commission could not make that decision tonight, they should set a deadline for deciding the issue. Commissioner Strachan stated that his personal opinion is that it is an accessory building greater than 600 feet. It is a CUP and should go through the process the same as any other accessory building.

Commissioner Phillips agreed with Commissioner Strachan.

Commissioner Joyce hoped the applicant would not have to apply for a rezone, but he needed more education on what could be considered an accessory building. He liked the idea but he wanted to make sure that whatever they decide would not set a negative precedent.

Commissioner Thimm thought the accessory use alternative that was part of the LMC was a creative use. His only concern was potentially setting a precedent for the future. Commissioner Thimm stated that when he thinks of an accessory use he thinks of it as being occupied by the users of the primary use on the site. He asked if that would be the case in this situation. Mr. Barille answered yes.

Mr. Barille explained that both the existing lodge building and the new one are there to facilitate the programming that occurs on site. It also serves as temporary housing for interns who work for the organization or for athletes training there over a longer period of time. Mr. Barille stated that in the broader context of the discussion that occurs so often in the community, they are looking for where to house the interns and the lower wage employees working for some of the organizations that support what they do in the community. This applicant is proposing to do exactly that onsite in support of their primary function. He would need direction from Staff on whether it meets the definition of the use in the Code or whether they can call it a quasi-public institution.

Gayle Loveland, representing the applicant, stated that for individuals with disabilities, it is difficult for an athlete who trains at the NAC to find housing. Many of their supporters would love to house an athlete for a season but they do not have workable accommodations. Many of their interns have disabilities and they encounter the same housing problems.

Commissioner Joyce stated that if the use was primarily as hotel space, he would have a difficult time finding compliance with the zone. However, the fact that it provides a specific

need to the people who come to use these facilities makes him feel more comfortable about the use in the ROS zone.

MOTION: Commissioner Strachan moved to find that the Pre-MPD application complies with the ROS Purpose Statements in the General Plan. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 1000 Ability Way

1. On September 2, 2014, the City received a completed application for a pre- Application for a Master Planned Development amendment located at 1000 Ability Way.
2. The proposed MPD Amendment includes the following main items:
  - a. additional lodging (22,266 sf),
  - b. expansion of the indoor equestrian arena (12,188 sf),
  - c. an addition to the existing administration building (3,400 sf),
  - d. approximately 50 parking spaces, and
  - e. various improvements to Ability Center activities such as future improvements to the archery pavilion, expanded hay storage, additional equipment and storage sheds, a future enclosure and/or covering of the outdoor arena, a small green house for gardening programming, expansion of the challenge course, interior plaza and landscaping improvements, and a tent platform/single room cabin area to foster self-reliance in camping and outdoor skills.
3. A phasing plan for these improvements will be submitted with the MPD application.
4. The property is zoned Recreation Open Space (ROS).
5. Access to the property is from Round Valley Drive, a public street, and Ability Way, a private access drive.
6. The site is described as Parcel # PCA-97-B, a metes and bounds parcel of land located in the Quinn's Junction neighborhood of Park City. A one lot subdivision to create a lot of record for this parcel is necessary prior to issuance of a building permit for the major additions.
7. The 26.2 acre parcel was annexed to Park City in 2004 as part of the

National Ability Center and Quinn's Recreation Complex Annexation.

8. The parcel was deeded to the NAC by Florence Gillmor and restricted to adaptive recreational programs, including equestrian, fitness, therapy and various related and complimentary recreational activity facilities.

9. The National Ability Center (NAC) is a non-profit organization specializing in community sports, recreation, therapy, and education programming.

10. Prior to annexation, the property received approval of a Specially Planned Area (SPA) from Summit County, which is similar to a Master Planned Development (MPD) in the City, as well as a Conditional Use Permit.

11. The NAC Specially Planned Area (SPA) allows for development of various uses and buildings. The property currently includes a 17,150 sf indoor arena, an outdoor challenge course, a playground area, an outdoor arena, an archery pavilion, a gazebo, various barns and storage buildings, a 12,200 sf residential dormitory building, a 7,500 sf support administrative building, and 140 parking spaces.

12. The July 15, 1999 Development and Water Service Agreement describes conditions of water services as well as findings regarding the approved Conditional Use Permit.

13. A requirement for any Master Planned Development (MPD) (or amendment to an MPD) is a pre-application public meeting and determination of compliance with the Park City General Plan and the ROS zone.

14. The ROS zone allows for a variety of conservation, open space, and recreation uses. It was determined at the time of the annexation that the National Ability Center was consistent with the purpose and uses of the zone. The proposed uses are consistent with the existing uses and are consistent with the mission of the NAC.

15. The Land Management Code (LMC 15-6-4(B)) describes the preApplication process.

16. The purpose of the pre-application public meeting is to have the applicant present preliminary concepts and give the public an opportunity to respond to those concepts prior to submittal of the MPD amendment application.

17. The NAC is located in the Quinn's Junction neighborhood, as described in the new Park City General Plan.

18. The Joint Planning Principles for the Quinn's Junction area recommend development patterns of clustered development balanced with preservation of open space. Public preserved open space and recreation is the predominant existing land use. Clustered development should be designed to enhance public access through interconnection of trails, preserve public use and enjoyment of these areas, and continue to advance these goals along with the preservation of identified view sheds and passive open space areas. New development should be set back in compliance with the Entry Corridor Protection Overlay. Sensitive Lands should be considered in design and protected. Uses contemplated for this neighborhood include institutional development limited to hospital, educational facilities, recreation, sports training, arts, cultural heritage, etc.

19. Amendments to the NAC MPD are primarily additions and enhancements to existing buildings and facilities intended to enhance the NACs success. The NAC was identified as an appropriate and compatible use in this neighborhood. Development is setback from the Entry Corridor to preserve the open view from SR 248. Sensitive wetland areas should be protected and taken into consideration in design of driveways, parking lots, and buildings, as well as protected from impacts of proposed uses.

20. Small Town Goals of the General Plan include protection of undeveloped land; discourage sprawl, and direct growth inward to strengthen existing neighborhoods. Alternative modes of transportation are encouraged.

21. Quinn's Junction is identified as a Development Node. The proposed MPD amendments include uses to support the existing NAC uses and mission. The lodging proposed is support to the existing uses to provide additional types of short term housing.

22. There is existing City bus service to the area on an as needed basis and additional uses will help to validate additional services.

23. The NAC is located on the City's trail system and adjacent to Round Valley open space.

24. Natural Setting Goals of the General Plan include conserve a healthy network of open space for continued access to and respect for the natural

setting. Goals also include energy efficiency and conservation of natural resources.

25. With the proposed changes the property would maintain approximately 78% open space, excluding all hard surface areas, parking, driveways, and buildings.

26. The proposed MPD amendments include expansions of existing uses, enhancement of the interior outdoor spaces, and connections to the trails and open space areas. The future tent platform/cabin area is intended to promote selfreliance and appreciation of the natural setting. Additional information related to "green building" strategies for the proposed buildings should be addressed with the MPD application.

27. Sense of Community Goals of the General Plan include creation of diversity of housing, including affordable housing; provision of parks and recreation opportunities; and provision of world class recreation and infrastructure to host local, regional, national, and international events while maintaining a balance with the sense of community.

28. A primary reason for the proposed MPD amendments is to provide improvements and enhancements to allow the NAC to continue to be successful and to carry out their mission. The proposed lodging will provide an alternative to dormitory accommodations for longer stays, to accommodate athletes training for local, regional, national, and international events.

29. On November 12, 2014 and on December 10, 2014, the Planning Commission held public hearings and discussed the pre-MPD for the National Ability Center MPD amendment.

#### Conclusions of Law - 1000 Ability Way

1. The proposed MPD Amendments to the National Ability Center SPA (MPD) are in compliance with the Park City General Plan and are consistent with the Recreation Open Space (ROS) zoning.

The Park City Planning Commission Meeting adjourned at 7:05 p.m.

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