

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
MAY 13, 2015

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Preston Campbell, John Phillips, Nann Worel

EX OFFICIO:

Kirsten Whetstone, Planner; Christy Alexander; Planner; Francisco Astorga, Planner; Polly Samuels McLean, Assistant City Attorney

=====

REGULAR MEETING

**ROLL CALL**

Chair Strachan called the meeting to order at 5:45 p.m. and noted that all Commissioners were present except Commissioners Band, Joyce and Thimm who were excused.

**ADOPTION OF MINUTES**

April 8, 2015

Commissioner Worel referred to the bottom of page 19 of the Staff report, page 17 of the minutes, and removed the word **they** from the second sentence. The correct sentence should read, "Mr. Fiat stated that more engineering work was done on this project regarding those issues than has been done on any other project."

MOTION: Commissioner Phillips to APPROVE the minutes of April 8, 2015 as corrected. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

**PUBLIC INPUT**

There were no comments.

**STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Planner Astorga submitted copies of signage the Planning Department was considering for public noticing. The signs were more typical of the older signs. They are more expensive

but they do stay in place and last longer. The signs will also include a sentence warning people not to tamper with the noticing signs.

Commissioner Worel asked if a date had been set for the City Council/Planning Commission dinner. Planner Alexander believed it was Tuesday, June 16<sup>th</sup>.

Planner Alexander announced that an open house for the growth study with Envision Utah would be held on June 15<sup>th</sup>. It is an open house for the community and the Planning Department will send out invitations when the specifics have been finalized.

Commissioner Phillips asked if it was possible for the Planning Commission to have a session regarding historic building rehabilitation. His request was spurred by what had occurred at the Rio Grande. Commissioner Phillips thought the end result was unpredictable and not what he and others had expected to see. Regardless of whether it was right or wrong, he wanted the opportunity to see if the Staff and the Planning Commission could have done something different in the application process to at least have made it more predictable.

Planner Alexander stated that the preservation planners could put together a presentation for the Planning Commission. Commissioner Phillips asked if they could use the Rio Grande building as an example so they could follow the process and see how it ended up as it did. He thought it would be helpful for future applications to understand what they could do to make sure the end result is what they intended.

Planner Astorga reported that the Preservation Planner, Anya Grahn was looking into the Rio Grande building. He understood that Rory Murphy was scheduled to share his thoughts and comments about the Rio Grande building at a City Council meeting the following evening. Planner Astorga offered to pursue a work session when the full Planning Commission and Planning Manager Kayla Sintz could be present.

Planner Kirsten Whetstone understood that Commissioner Phillips was asking for a work session to discuss a general process for historic preservation, using the Rio Grande building as an example to begin the discussion.

Council Member Cindy Matsumoto reported that the City Council had asked the Staff to look into what happened with the Rio Grande Building. She understood that the legal department was also going to look into. Ms. Matsumoto stated that when the first plan did not go forward the applicant met with the Staff, and the question was whether or not that was the correct process. She also did not believe the Staff had a full understanding of what the applicant had proposed. Ms. Matsumoto thought it was a good idea for the Planning Commission to look at it as well.

## **WORK SESSION**

### Capital Improvement Projects

Planner Whetstone stated that Matt Cassel was unable to attend the meeting but he had submitted a list of items for the Planning Commission to review. Mr. Cassel had highlighted the items that pertained to the Planning Commission. Planner Whetstone stated that if the Commissioners had input or questions they could either provide that now or contact Matt Cassel.

Assistant City Attorney McLean stated that if the Commissioners had questions, she suggested that they invite Mr. Cassel to attend a meeting as opposed to contacting him individually.

Commissioner Worel asked if the list was prioritized. Planner Whetstone believed it was a general list and the projects were not prioritized. Commissioner Worel would like Mr. Cassel to address some of the priorities.

Commissioner Phillips pointed out a typo on 1450-1460 Park Avenue. On the third line on page 71 of the Staff report the number 2,61,750 was missing a digit. He was unsure where the missing digit belonged but it could potentially be a 540,000 difference.

### 355 Ontario Avenue – Steep Slope Conditional Use Permit for a new accessory building/garage (Application PL-15-02716)

Planner Alexander stated that this was a discussion item for the Planning Commission prior to the regular session for 355 Ontario Avenue. She noted that in November 2013 LMC amendments were brought before the Planning Commission and the City Council in regards to Building Heights in the historic districts. At that time the LMC was amended to require a 10' stepback of structures at the 23' height to decrease the visible massing at the street front or from cross canyon views.

Planner Alexander stated that something situations are overlooked when the Code is amended because it is impossible to know what might come forward in the future. Planner Alexander noted that Ontario is a unique neighborhood because it is a narrow street with extremely steep slope coming off of Ontario on the downhill side. This applicant was proposing to build a garage as an accessory building. An addition to the home was not being proposed. However, a stepback at 23 feet would cut into the garage and they would not be able to build a feasible garage large enough for a car. The entire purpose of building the accessory structure is to provide on-site parking since the historic home does not require parking and there is no on-street parking on Ontario. Planner Alexander stated

that this item was discussed at a Staff meeting and they determined that the historic home on the property steps back at the 22' height and more than 10 feet. The Staff believes the garage meets the intent of the Code. Looking from Marsac or from the public stairway easement and down from the cross canyon view, a full three story massing is not seen. Because the intent of the Code is to minimize the three-story massing directly from the street, the Staff believes the garage meets the intent of the Code. However, the Code itself for the HR-1 District, Section 15-2.2-5(b), the Building Height reads, "The ten foot minimum horizontal step on the downhill façade is required unless the first story is located completely under the finished grade on all sides of the structure. The horizontal step shall take place at a maximum height of 23 feet from where the building footprint meets the lowest point of existing grade." Planner Alexander stated that the language specifies structure. It did not take into account an addition or accessory structure with an existing home on the lot.

Planner Alexander stated that the Staff was suggesting for this project that the Planning Commission find that it meets the intent of the Code. They also asked whether the Planning Commission would like the Staff to look at amending the Code to address instances in the future where additions or an accessory structure are proposed.

Commissioner Phillips felt the proposal met the intent of the Code as demonstrated in the cross canyon view. He noted that it was a small portion of the upper level and not the complete back of the building. If it went all the way across he might have issues with it, but as proposed he agreed with the Staff determination that it meets the intent of the Code. Commissioner Phillips identified several homes that did not meet the new Code, which was a good example of why the Code was put into place.

Commissioners Worel concurred with Commissioner Phillips. Commissioner Campbell thought it looked great.

Chair Strachan asked if they were talking about the garage and the house behind it. Planner Alexander replied that it was an accessory building, which allows them to only have the garage and storage. The applicants originally planned to build an accessory apartment but it did not meet the Code in terms of size for an accessory apartment. The kitchen and bathroom were removed from the plans and the applicant was aware that it could only be used as a garage and storage. She clarified that the structure would be an accessory building used as a garage and storage. It would not have livable space and it would not have plumbing.

David White, the project architect, explained that the top floor is a small single car garage with an open parking space beside it. The first and second floors were open space.

Planner Alexander remarked that the work session was primarily to discuss the stepback. The Planning Commission could go into more details of the project during the regular session.

Chair Strachan preferred to hold his comments until the regular session.

**Continuations (public hearing and continue to date specified.)**

1. 212 Main Street, Condominium Conversion – Staff recommends that the Planning Commission conduct a public hearing and continue the item to a date uncertain to allow the Staff to confirm new ownership. (Application PL-14-02491)

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

MOTION: Commissioner Phillips moved to CONTINUE 212 Main Street Condominium Conversion to a date uncertain. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

2. 327 Woodside Avenue – Plat Amendment combining two (2) lots into one (1). (Application PL-14-02663)

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

MOTION: Commissioner Worel moved to CONTINUE 327 Woodside Avenue Plat Amendment to May 27, 2015. Commissioner Phillips seconded the motion.

3. 7101 Stein Circle – Stein Eriksen Residences Condominium Plat Amending the North Silver Lake Condominium Plat. (Application PL-15-02680)

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

MOTION: Commissioner Worel moved to CONTINUE 7101 Stein Circle, Stein Eriksen Residence Condominium Plat Amending the North Silver Lake Condominium Plat to May 27, 2015. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

4. 259/261/263 Norfolk Avenue – Consideration of the First Amended Upper Norfolk Subdivision Plat – Amending Conditions of Approval on Ordinance N. 06-55.  
(Application PL-15-02665)

Planner Astorga stated that the developer requested a continuance to June 10, 2015 rather than May 27, 2015.

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

MOTION: Commissioner Phillips moved to CONTINUE 259/261/263 Norfolk Avenue – Consideration of the First Amended Upper Norfolk Subdivision Plat to June 10, 2015. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

**REGULAR AGENDA** – Discussion, public hearing, action.

1. **355 Ontario Avenue – Steep Slope CUP for a new accessory building/garage on a lot with an existing historic home.** (Application PL-15-02716)

Planner Alexander reported that an existing historic home sits on the property. The owner, William McKenna, was requesting to build an accessory structure with a garage that is approximately 1,270 square feet total, including the garage. The footprint of the new accessory building combined with the footprint of the existing home meets the maximum footprint of 1,388.3 square feet. Due to the slope of the lot being an average of 40%, with 30% being within the first 50 feet from Ontario, a Steep Slope Conditional Use permit is required.

Planner Alexander stated that the setback standards have been met and the applicant was requesting a height exception. The maximum height within the district is 27'. The height of the garage goes up to 29'. Planner Alexander noted that the Code allows an exception if it is approved by the Planning Director. She stated that the applicant made that request and the Planning Director determined that because it was only a difference of 2 feet it falls within exceptions that have been granted in other areas within the neighborhood. Therefore, the Planning Director granted the height exception for the additional two feet. The action letter was included in the Staff report.

Planner Alexander remarked that as discussed during the work session the applicant was proposing to use the lower two floors as storage and work space. There will be no plumbing in the structure. The garage will be the upper level with stairs that exit out on to

an existing deck, which goes straight into the existing home. Planner Alexander stated that parking is not required parking for this historic house; however, because Ontario Avenue is very narrow and lacks on-street parking, and the steepness of the lot is very dangerous, they applicant was requesting to build a garage.

Since there are several other garages within the neighborhood the Staff finds this to be a good use of the property and finds no other issues or unmitigated impacts with the Steep Slope CUP. The Staff recommended that the Planning Commission conduct a public hearing and approve the Steep Slope CUP.

Chair Strachan opened the public hearing.

Planner Alexander had received two letters from neighboring properties who were in favor of this project. The letters would be added into the record.

Chair Strachan closed the public hearing.

Chair Strachan stated that having condition of approval #14, which states that no livable bedrooms, bathrooms or kitchen areas shall be created inside the accessory building, made him feel more comfortable. In looking at the cross canyon view, he thought the structure looked like a house waiting to happen; and had the potential for a future owner to violate the rules and add a bathroom and a bedroom to make it a home. He pointed out that 1200 square feet was a significant size for a garage.

Planner Whetstone noted that the Code allows accessory structures to have living space and bathrooms. The Code prohibits the structure from having a kitchen, without applying for a conditional use permit for an accessory apartment. She asked Planner Alexander to verify if the applicants were aware of Condition of Approval #14. Commissioner Strachan noted that one of the findings of facts indicates that the applicant has stipulated to Condition #14. Planner Alexander pointed out that the proposed structure could not become an accessory apartment because an accessory apartment has to be one-third the size of the existing home.

Assistant City Attorney McLean suggested that one of the Findings refer to the definition of an accessory building found in LMC 15-15-1.3, which restricts it to "building on the same lot as the principle building and that it is clearly incidental to and customarily found in connection with such principle building such as attached garages, barns and other similar structures that require a building permit, operated and maintained for the benefit of the principle use, not a dwelling unit. It also includes structures that do not require a building permit."

Planner Alexander noted that the one-third size for an accessory apartment was addressed in LMC Section 15-4-7. She remarked that it has to be one-third of the principle dwelling size but no less than 400 square feet. Since the existing home is not 1200 square feet it would be impossible to make the proposed accessory structure an accessory dwelling unit.

Assistant City Attorney McLean stated that the restrictions in terms of the use are defined by the accessory building, which is defined in Section 15-15-1.3 and also in the definition of a dwelling unit, which is a “building or portion thereof designed for the use as the residence for a sleeping place for one or more persons or families.” She pointed out that it does not meet the definition of a dwelling unit and it cannot have a kitchen.

Chair Strachan understood that Ms. McLean was suggested that the Planning Commission make a finding that says it is subject to 15-4-7 and 15-15-1.3.

Commissioner Worel wanted to know whether these conditions of approval would be followed if someone ten years from now applied for a building permit to make the structure into an apartment. Ms. McLean replied that if the process works as it should, they would see the prior approval for the Steep Slope CUP and the attached conditions. She thought it might be worth adding a condition of approval as well as the finding. Chair Strachan noted that Condition of Approval #14 already addresses that issue. He did not think they should add that it must comply at all times with Section 15-4-7 because the Code might be changed at some point.

Chair Strachan suggested that the Planning Commission approve the Steep Slope CUP with the amendment to add Finding of Fact #27 to read, “The project shall comply with Code Sections 15-4-7 and 15-15-1.3.”

MOTION: Commissioner Worel moved to APPROVE the CUP for 355 Ontario Avenue according to the Findings of Fact, Conclusions of Law, and Conditions of Approval with the amendment to add Finding of Fact #27 as stated by Chair Strachan. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact - 355 Ontario Avenue

1. The property is located at 355 Ontario 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 A of the Ontario Three Subdivision. The lot area is 3,352 square feet.
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 lot is a combination of a portion of Lots 18 and 19 located in Block 54 of the Park City Survey, which was previously vacated. This is downhill lot with an existing historic home.
6. Access to the property is from Ontario 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 directly adjacent to the garage on the south, within the lot area.
8. The neighborhood is characterized by primarily non-historic and historic residential structures, single family homes and duplexes.
9. The proposal consists of a total of 1,270.5 total square feet, including the garage.
10. The proposed driveway was designed with a maximum width of twelve feet and is approximately 20 feet in length from the garage to the existing edge of street and 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 an overall slope of 0% as measured from the front of the garage to the edge of the paved street.
12. An overall combined building footprint with the existing Landmark historic house and accessory structure of 1,338.3 square feet is proposed. The maximum allowed footprint for this lot is 1,338.3 square feet. The accessory structure totals 596.3 square feet of footprint and the historic home totals 792 square feet of footprint.
13. The proposed structure complies with all setbacks of 5' side yards and 10' front and rear yards, with the proposed structure setback 5' on both side yards, 10' on the front and 44' on the rear.
14. The proposed structure complies with the twenty-seven feet (27') maximum building height requirement measured from existing grade except for portions of the garage.

The Planning Director has approved an exception to the height of 29' for a garage on a downhill lot. Portions of the building are less than 27' in height.

15. 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 required step back of 10' at the building height of 23' at the rear façade of the existing historic home whereas it does not meet the step back on the accessory structure itself.

16. The applicant submitted a visual analysis, cross valley views and a streetscape showing a contextual analysis of visual impacts of this home on the cross canyon views and the Ontario Avenue streetscape.

17. Retaining is not necessary around the home on the upper, steeper portion of the lot. There will be no free-standing retaining walls. There are no window wells.

18. 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.

19. 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% or greater slope areas on the first 50' of the front of the lot, which requires the Steep Slope CUP.

20. 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.

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

22. 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.

23. No lighting has been proposed at this time. Lighting will be reviewed at the time of

Building Permit application for compliance with the LMC lighting code standards.

24. 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.

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

26. The applicant stipulates to the conditions of approval.

27. The project shall comply with Code Sections 15-4-7 and 15-15-1.3.

#### Conclusions of Law – 355 Ontario Avenue

1. The Steep Slope CUP application is consistent with the Park City General Plan.
2. 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.
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 – 355 Ontario 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. 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 plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
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, the 2009 Design Guidelines for Historic Districts and Historic Sites (Historic District Design Review) and the Land Management Code.
7. No building permit shall be issued until the Ontario Three Subdivision is recorded.
8. 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.
9. This approval will expire on May 13, 2016, 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.
10. Modified 13-D residential fire sprinklers are required for all new structures on the lot.
11. 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.
12. Construction waste should be diverted from the landfill and recycled when possible.
13. All electrical service equipment and sub-panels and all mechanical equipment, except those owned and maintained by public utility companies and solar panels, shall be painted to match the surroundings.
14. No livable bedrooms, bathrooms, or kitchen areas shall be created inside the accessory building as it is for a garage and storage only, due to the proposed building not meeting the size requirement of an accessory apartment in association with the size of the existing dwelling.

**2. 1021 Park Avenue – Plat Amendment combining two lots in order to remove the lot line with an existing historic home (Application PL-15-02703)**

Planner Alexander reviewed the application for a plat amendment for the purpose of combining two existing lots that previously had a historic home located over the property lines. The applicant, Bill Hart, and his representative Marshall King, were present to answer questions.

Planner Alexander stated that the application first came to the Planning Department as a Historic District Design Review in order to deconstruct the existing historic home that was located on this property. It went through the HDDR process with Planner Anya Grahn and it was approved. Planner Alexander noted that the applicant would be required to apply for another HDDR for reconstruction of the home. A preservation plan is in place which requires the owner to reconstruct the historic single family home exactly as it was previous to deconstruction. The Staff report included a brief timeline summary of the historic home and the reasoning for the deconstruction.

Planner Alexander reported that in order to reconstruct the home the existing lot lines need to be removed to make the property one complete lot of record, which is why the applicant was requesting this plat amendment.

The Staff found no issues with this request because the applicant had met the HDDR requirements and the home was already deconstructed. The property is currently vacant. The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation on this plat amendment.

Chair Strachan opened the public hearing.

Planner Alexander had received a letter from Ross Wilson, a neighbor at 1025 Park Avenue, who supported the plat amendment and urged the Planning Commission to approve the application. The letter from Mr. Wilson was entered into the record.

Chair Strachan closed the public hearing.

**MOTION:** Commissioner Phillips moved to forward a POSITIVE recommendation for the plat amendment at 1021 Park Avenue, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Worel seconded the motion.

**VOTE:** The motion passed unanimously.

Findings of Fact – 1021 Park Avenue

1. The plat is located at 1021 Park Avenue within the Historic Residential (HR-1) District.
2. The 1021 Park Avenue Subdivision consists of Lots 5 & 6 of Block 4 of the Snyder's Addition to the Park City Survey.
3. On February 25, 2015, the applicants submitted an application for a plat amendment to combine two (2) lots containing a total of 3,750 square feet into one (1) lot of record.
4. The application was deemed complete on March 11, 2015.
5. The site is a developed parcel which had a historic structure which has been deconstructed, identified on the City's Historic Sites Inventory (HSI) as a "Landmark" site.
6. The lots at 1021 Park Ave are currently vacant after the historic home was deconstructed in order to satisfy the Building Department's Notice and Order.
7. Approval of the HDDR for deconstruction was noticed on March 18, 2015.
8. The Encumbrance and Agreement for Historic Preservation for 1021 Park Avenue states that the historic home must be reconstructed as outlined in the Historic Preservation Plan by March 30, 2017.
9. The HR-1 zone requires a minimum lot area of 1,875 square feet for a single family dwelling.
10. The maximum footprint allowed in the HR-1 zone is 1,518.75 square feet for the proposed lot based on the lot area of the lot.
11. The plat amendment secures public snow storage easements of ten (10') feet across the frontage of the lot.
12. Lots 5 & 6 of Block 4 of the Snyder's Addition to the Park City Survey are located in a FEMA flood zone X, which is an area with an 0.2% annual chance of flooding or an areas with a 1% annual chance of flooding with average depths of less than one (1) foot.

13. The front yard setback is approximately 13 feet, the rear yard setback is approximately 16 feet. The side yard setbacks are approximately 11 feet each. These setbacks meet the requirements of the Land Management Code.

#### Conclusions of Law – 1021 Park Avenue

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

#### Conditions of Approval – 1021 Park Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment 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 amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Recordation of this plat is required prior to building permit issuance for any construction on the proposed lot.
4. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation.
5. A ten foot (10') wide public snow storage easement is required along the frontage of the lots with Park Avenue and shall be shown on the plat.
6. All conditions of approval from the HDDR approval of March 18, 2015 continue to

apply.

3. **545 Main Street & 550/554/560 Park Avenue – Plat Amendment to create four (4) lots of record from five (5) lots (Application PL-15-02466)**
4. **550 Park Avenue – Steep Slope CUP for construction of a new single-family dwelling and a CUP for a parking area with five or more spaces. (Application PL-14-02541 and PL-15-02471)**

Planner Astorga requested that the Planning Commission discuss the two items together, conduct a public hearing and take two separate actions.

Planner Astorga noted that there were two different zone districts within the plat amendment that includes 545 Main Street, which is the April Inn, and four lots on Park Avenue. He presented a slide showing that Lots 2 and 3 would become larger. Lot 3 would be 32.5 feet in width and the standard 75' deep lot. Lot 2 as proposed would be 32.42 x 75'. Lots 2 and 3 are on Park Avenue and the zoning district on that side of the block is HR-2. Historically the HR-2 was known as the HTO zone, which was the historic transitional overlay from the Main Street uses that tended to spill into the residential HR-1 zone.

Planner Astorga noted that the applicant submitted the plat amendment application, as well as a conditional use permit. He explained that the purpose of combining 550 and 545 Main Street is to accommodate a use that is listed in the HR-2 zone. Planner Astorga stated that the plat amendment and the CUP are related because the special criteria for the HR-2(A) zone applied to both. He stated that the reason for the plat amendment is to accommodate a structure on 550 Park Avenue with a conditional use permit for the structure and residential a parking area with five or more parking spaces for the associated use on the same lot.

Planner Astorga reported that the original application that was submitted was not a plat amendment. It rearranged the lot on Park Avenue but it did not combine the two lots. The applicant had to request a plat amendment to remove the lot line because the use would not work as the April Inn recently received a Historic District Design Review approval to remodel 12 units into 3 units. Planner Astorga pointed out that the April Inn is not a historic building; however when it was approved there was no parking on site. The developer began working with the Staff and paid \$14,000 per parking space in order to move forward with that specific remodel. Planner Astorga remarked that his unique concept was a conditional use permit based upon a building where the main floor and the upper floor would be the single family dwelling, and the lower level would be the parking structure for the uses associated in the HCB zoned lot. The Code allows for this type of request. The



Staff report contained the analysis regarding the special requirements for the HR-2(A). The Staff report for the conditional use permit application outlines the necessary criteria for the Steep Slope CUP, special conditional use requirements, as well as the HR-2(A) criteria.

Planner Astorga reported that a few months ago the City Engineer, Matt Cassel, went before the City Council on behalf of the applicant to see if the Council would grant an easement on the alley to use the property for the lowest level of the structure. He noted that people mistakenly think it is a right-of-way because of the layout, but it is actually City owned property. The easement would allow the structure to only be accessed through Main Street. The City Council indicated that the easement would be granted and they were in the process of drafting the final language.

Planner Astorga reported on a letter he received from John Plunkett that was included as public comment in the Staff report.

Chair Strachan understood that there would be six parking spaces in Lot 1; two would be uncovered and four would be covered. He asked if the uncovered spaces would be off of Park Avenue or toward Main Street.

Jonathan DeGray, representing the applicant, replied that they would be toward Main Street. Planner Astorga reviewed the proposed site plan showing where the parking spaces would be located.

Commissioner Phillips thought the two uncovered spaces already exist because people park cars there. Chair Strachan asked if Lots 2 and 3 would eventually be single family homes. Mr. DeGray answered yes. Commissioner Strachan asked if those homes would have garages. Mr. DeGray answered yes. There would be space for one car in the garage and another car in the driveway. Chair Strachan assumed there would be no access from the easement to those lots. Mr. DeGray replied that this was correct. They would be independent lots accessed off of Park Avenue. Planner Astorga clarified that the six parking spaces belong to the April Inn. The main floor of the structure has separate parking for the house.

Chair Strachan referred to the letter from Mr. Plunkett and he asked if the applicants would be willing to a condition stating that none of the parking that may be built on Lots 1, 2, or 3 for the residential uses could ever be used for the April Inn or any commercial use. He noted that Mr. Plunkett was concerned that if the April Inn parking overflows they could potentially tell people to park in the Park Avenue residence parking.

Paul Colton, representing the applicant, noted that the Code already has that requirement and they were not opposed to adding it as a condition. Planner Astorga noted that per

Code the parking must be below the Park Avenue level. The Staff was comfortable adding a condition of approval to reiterate the Code requirement.

Assistant City Attorney McLean suggested a condition to read, "Parking for the April Inn may only be accessed from Main Street". Mr. Colton pointed out that the only physical access to the parking is off of Main Street.

Chair Strachan also favored some of the other conditions that were suggested by Mr. Plunkett. For example, a condition stating that the emergency exit door for the April Inn could not be used as an entrance. Planner Astorga clarified that he had not added language regarding the door because the building permit for the April Inn shows that the door would be eliminated. Chair Strachan asked if there was any access to the April Inn from the Park Avenue side. He was told there was not. Chair Strachan stated that the fine line between the HR1 and the HCB was difficult to work with and he felt this proposal actually works for the commercial side without impacting the residential on Park Avenue. Commissioner Worel thought it was a creative solution. Commissioner Phillips concurred. It also relieves some of the existing parking pressures.

Chair Strachan opened the public hearing for both the plat amendment and the CUP.

Sanford Melville, a resident at 527 Park Avenue, commented on the letter from John Plunkett and he stated for the record that he fully supported the comments and concerns that were raised in the letter. Mr. Melville was concerned about the four tandem parking spaces on the middle level of the Park Avenue home. A one-bedroom residence was being proposed and he thought it was unusual to have four-car parking for a one-bedroom house. He believed it called into question the ultimate use of the parking. If this is approved, Mr. Melville thought a condition of approval should include a statement that the four car parking could only be used for the Park Avenue residents. Mr. Melville was also concerned about the two garage doors facing Park Avenue for the tandem parking. He referred to the elevation on page 190 of the Staff report. He thought it presented a visual wall of garage doors on the street level which is something Park City has been trying to eliminate from recent projects. Mr. Melville found nothing in the proposal to protect the historic retaining wall at the top of the steps on Park Avenue on the City property. He suggested adding a provision to protect or damage or not undermine the historic wall. Mr. Melville was concerned about the re-routing of the steps leading from Park Avenue to the alley and the City property. He thought it appeared that the applicant was proposing to use almost all of the City property up to Park Avenue as entrances to the lower garage level. The exhibit on page 188 illustrates how they intend to re-route the steps. The existing steps go down into the alley. If the steps are re-routed he was concerned that they would become very steep. Mr. Melville was concerned that the public steps would be sacrificed for the project. He noted that the steps are heavily used by the residents of Park Avenue

and re-routing them would be unfortunate. Mr. Melville believed there were inconsistencies in the drawings as far as whether there would be doors on the six parking spaces or whether it would be an open space. It was unclear from the packet how that would look.

Mary Wintzer, a resident at 320 McHenry, stated that she had not studied this particular item; however, after listening to Mr. Melville she agreed that if this is a one bedroom structure it makes no sense to have the parking. She asked the Planning Commission to scrutinize the project and consider the comment about the stairs being used by the public. If all of this is being facilitated by using City property, that also makes no sense because of the Visioning of small town and historic character. If the applicant has to use City property to facilitate all of this development, she would ask the Planning Commission to look at it carefully because that was not what the citizens in Old Town intended in the Visioning.

Chair Strachan closed the public hearing.

Chair Strachan asked if the four spaces built for the single family homes would only be used by the single family residents, or whether they could be used by April Inn. Planner Astorga stated that per Code, the parking spaces that access off Park Avenue could only be used for the single family dwelling. The HCB uses can only spill over into the HR-2 if it is below the Park Avenue level. Therefore the spaces cannot be used as parking for any of the HCB.

Chair Strachan asked the reason for having four spaces for a one-bedroom dwelling. Mr. DeGray explained that the two tandem garages are locked out. Two spaces are required and dedicated for the residents. The other two are for the building owner. When he rents the building he wants to have a lockout to store his vehicles and other things.

Chair Strachan asked if Lots 2 and 3 would have tandem garages side by side. Mr. DeGray stated that Lots 2 and 3 are individual single family lots that have not been designed. Because of the loss of space on the lowest level to facilitate the parking for the residential units at the April Inn, it would be a very small house that would probably be used as a one-bedroom rental facility. Having extra storage for his uses made more sense than having a 1,000 square foot home.

Commissioner Phillips agreed that it was a lot of stalls for one unit, but he understood that the garage could be used for storage, table tennis, or other uses. However, the garage is supposed to be subordinate in design, but he sees a lot of garage doors facing the street with a subordinate entry. He personally did not believe the garages were subordinate.

Mr. DeGray stated that based on the Staff's input during the HDDR review they created stepping in the front elevations and recesses at the entry and at the garage door to create

movement along the front elevation. Mr. Phillips noted that those techniques are typically used. He was unsure how to define subordinate and asked Planner Astorga if he was correct in understanding that the Code requires garages to be subordinate.

Planner Astorga replied that the General Plan defines the word subordinate, but he was unsure whether there was a specific regulation or policy requiring it. Planner Whetstone noted that the Historic District Design Review Guidelines address garages being subordinate.

Commissioner Phillips understood that the second half of the garage was for the building owner. He asked if it was the same owner of the Main Street property, and if so, whether he could park there and walk down the stairs into the other building. Regardless of whether it is the owner or a tenant they were trying to discourage that type of access. Planner Astorga replied that it was actually prohibited. Mr. DeGray noted that during the plat discussion the Planning Commission had talked about adding a condition limiting the use of the parking garage to the residents at 550 Park Avenue.

Assistant City Attorney McLean noted that Criteria #6 for a Steep Slope CUP outlined on page 170 of the Staff report specifically states that the garage must be subordinate in design to the main Building. Criteria #6 also states that in order to decrease the perceived bulk of the main building, the Planning Commission may require a garage separate from the main structure or no garage.

Mr. DeGray asked Planner Astorga to show the streetscape on page 191 of the Staff report because he thought the west elevation of the building was somewhat deceiving as what is seen from the street.

Commissioner Phillips noted that in the past the Planning Commission has requested that applicants step the garage. He referred to the three homes on page 191 and commented on the percentage of garage doors facing the street. He believed the intent of the word "subordinate" was to keep from having the whole face of the house be the garage. Commissioner Phillips pointed out that the existing house has a single car garage with a nice dominant entry. He was concerned that the entry door of the proposed house would not even be seen driving down Park Avenue because it is recessed, and only the garage doors would be visible. Commissioner Phillips felt strongly that the intent of the Code was to prevent that from occurring.

Assistant City Attorney McLean understood that Commissioner Phillips felt that the double garage door impacts the building form and scale. However, those impacts could be mitigated if, for example, there was one garage door. Commissioner Phillips understood the difficulty of having one garage door because there were two separate

garages. He thought adding windows to the side of the garage would help add some interest to the building driving down the street. Commissioner Phillips offered design suggestions for the applicant to consider. Planner Whetstone suggested the possibility of flipping the entrance and the garage so the entrance would be to the front and the garage would be recessed.

Commissioner Campbell thought that because it was already stepped the two garage doors would not present the unified façade that it appeared to be in the drawing. He believed the applicant had already complied with the intent of the Code by making that step and they were giving up garage space to do it. He suggested that they try to camouflage the garage doors in some way to make it look more like the siding of the house. Commissioner Campbell thought a 3-D model would help better visualize the true effect of the garage doors, because he believed the garages were stepped more than what was showing in the drawing.

Commissioner Worel agreed that the garage doors were not subordinate to the house. She also thought a 3-D model would help.

Chair Strachan read from the Code regarding special requirements for MPDs and Conditional Use Permits in Subzone A. "The commercial portions of a structure extending from the HCB to the HR-2 must be designed to minimize the commercial character of the building and use, and must mitigate all impacts on the adjacent residential uses." He pointed out that it was not the classic "reasonably mitigate" the impacts. In these situations all the impacts must be mitigated. Chair Strachan remarked that the owner was using this as a personal garage to forward a commercial use of renting the unit. He pointed out that under that scenario it was a commercial use and not a residential use. The impact to the adjacent residential uses would be the owner driving up and down Park Avenue to park in the garage when he does not live there. Chair Strachan did not believe the purpose and intent of the garage a residential use that complies with the Code.

Mr. DeGray thought Chair Strachan was misrepresenting the intent of the owner. The owner intended to use the garage purely for storage while he was renting the building whether nightly or monthly. The owner would not be using the garage daily. Chair Strachan remarked that the owner may not have that intent but he could use it on a daily basis. Mr. DeGray agreed, but the purpose is to use it as storage space, which is not prohibited by Code. He clarified that it was not for a commercial enterprise.

Chair Strachan clarified that if this was only for a residential unit, the person designing the residential unit would not opt for four parking spaces for a one-bedroom unit. He believed they would opt to have more bedrooms and two parking spaces. Chair

Strachan stated that the extra garage was obviously for the owner of the residential unit on Lot 1 so he could park there and use it for storage in conjunction with the commercial lot that he owns. He pointed out that in combining the lots Lot 1 becomes a commercial lot. It is residential on the top but the rest is commercial.

Assistant City Attorney McLean recommended that the Planning Commission look at Criteria. She understood that their concern was that the impacts of this design do not coordinate with adjacent properties in terms of preserving of natural vegetation, minimizing driveway and parking areas and provide variation of the front yard. Those concerns were addressed in Criteria #5. She also heard concerns related to Criteria #6 regarding the garage must be subordinate in design to the main building. Another issue was addressed in Criteria 8, the dwelling volume.

Commissioner Campbell stated that the perceived bulk of the garage and the house were intertwined. He believed the only issue was the two garage doors. If one of the garage doors looked like siding you would not be able to tell it was a garage door unless you were up close to it.

Mr. DeGray summarized the direction from the Planning Commission for either re-designing the front of the garage or better portraying what was actually designed. He was willing to prepare a 3-D model showing the shade and shadow and how the garages are stepped back. He would look at creating even further stepping between the garage doors and making the entry to the building proud of the garage doors. He asked if that would be acceptable to the Planning Commission if he came back with a proposal that accomplished those three items.

Chair Strachan suggested that the Planning Commission could forward a positive recommendation for the plat amendment this evening because the design for Lot 1 design works as a good way to access the HCB zone. They should continue the CUP for the single family dwelling and approve the CUP for a parking area with five or more spaces.

Assistant City Attorney McLean pointed out that the Findings for both CUPs were intertwined. She recommended that both CUPs be continued and that the Staff draft separate Findings for each CUP application. She noted that the CUP for parking could be a Consent Agenda item at the next meeting.

Commissioner Campbell clarified that he was personally not opposed to having four cars in the garage. However, he would like the applicant to hide the fact that two-thirds of the front of the house is a garage door. Commissioner Phillips concurred.

Mr. DeGray commented on the landscaping element and noted that the curb cut is limited to the front of the northerly garage door. He would also show that as a street view on a 3-D model.

Chair Strachan requested that the applicant also address the public comments regarding the stairs and how they would be re-routed. Assistant City Attorney McLean stated that she was not aware that the stairs were moving. The stairs are on City property and she asked if they had obtained permission from the City engineer to re-route the stairs. Planner Astorga stated that a condition of approval states that any type of work or remodeling of the City stairs would have to be approved by the City Engineer. Planner Astorga understood that the reason for changing the stairs was to allow for a car to pull in and out of the first driveway.

Mr. DeGray stated that the bottom third of the stairs would be remodeled and the number of rise and run would remain the same. The steepness of the stairs would be the same. Mr. DeGray remarked that historic wall that was mentioned would not be affected at all. Planner Astorga noted that the landscaping would also have to be approved by the City Engineer through the encroachment agreement process. Chair Strachan asked Mr. DeGray to address those issues at the next meeting to allay their concerns and the public concerns.

Commissioner Phillips noted that the stairs are heavily used. He asked about the width of the existing paved area of the alley and whether it would be wide enough to paint a line for pedestrians. Assistant City Attorney McLean stated that they were working on the easement to allow the applicant to use the alley. As part of that they could require designating a pedestrian area to make it safer for pedestrians since they were adding parking for six additional cars.

**MOTION:** Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for the Plat Amendment at Cardinal Park Subdivision based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Campbell seconded the motion.

**VOTE:** The motion passed unanimously.

**MOTION:** Commissioner Worel moved to CONTINUE the Steep Slope Conditional Use Permit for construction of a new single-family dwelling at 550 Park Avenue, as well as the Conditional Use Permit for a parking area of five or more spaces to June 10, 2015. Commissioner Phillips seconded the motion.

**VOTE:** The motion passed unanimously.

Findings of Fact – Cardinal Park Subdivision – Plat Amendment

1. The property is located at 545 Main Street and 550, 554, 560 Park Avenue.
2. The property is in the Historic Commercial Business (HCB) and Historic Residential-2 (HR-2) District, respectively.
3. The subject property consists of Lot 1 of the 545 Main Street Plat and Lot 32, 33, 34, and 35 of Block 9 of the Amended Plat of the Park City Survey.
4. The Main Street lot has a non-historic building known as the April Inn and is recognized by Summit County as Parcel 545-MAIN-1.
5. The four (4) Park Avenue lots are vacant and are recognized by Summit County as Parcels PC-137 (lot 32 & 33), PC-131 (lot 34), and PC-138 (lot 35).
6. The proposed Plat Amendment creates three (3) lots of record from the existing five (5) lots.
7. The four (4) existing Park Avenue lots are to be reconfigured into three (3) lots with a depth of seventy-five feet (75') and a width ranging from 32.42' to 35' and the April Inn lot would be combined with the newly reconfigured lot northwest of it.
8. Lot 1 would have two (2) addresses, one (1) for Main Street, the April Inn, 545 Main Street and one (1) for Park Avenue, 550 Park Avenue.
9. Lot 2 would be addressed 554 Park Avenue.
10. Lot 3 would be addressed 560 Park Avenue.
11. Lot 1 would retain the HR-2 District zoning on the Park Avenue side and the HCB District zoning on the Main Street side with all of their associated rights and restrictions.
12. There are no provisions in the Land Management Code (LMC) which prohibit the two (2) Districts within the same lot.
13. A single-family dwelling is an allowed use in the Historic Residential-2 District.
14. The minimum lot area for a single-family dwelling is 1,875 square feet.



15. The area of proposed Lot 1 is 8,425.5 square feet.
16. The minimum lot area in the HCB District is 1,250 square feet.
17. The proposed area of lot 1 within the HR-2 District is 2,625 square feet.
18. The area of proposed Lot 2 is 2,431.5 square feet.
19. The area of proposed Lot 3 is 2,437.5 square feet.
20. The areas of proposed lots meet the minimum lot area for single-family dwellings in the HR-2.
21. A duplex dwelling is a conditional use in the Historic Residential-2 District.
22. The minimum lot area for a duplex dwelling is 3,750 square feet.
23. The proposed lots, including the HR-2 portion of Lot 1, do not meet the minimum lot area for a duplex dwelling.
24. The minimum lot width allowed in the Historic Residential-2 District is twenty-five feet (25').
25. The proposed lot width of Lot 1 within the HR-2 District is 35 feet.
26. The proposed lot width of Lot 2 is 32.42 feet.
27. The proposed lot width of Lot 3 is 32.5 feet.
28. The proposed lots, including the HR-2 portion of Lot 1, meet the minimum lot width requirement.
29. Any provisions regarding lot size regarding Lot 1 shall be governed by the rights and restrictions of their corresponding zoning Districts.
30. The maximum building footprint of lot 1 shall be 1,132.5 square feet. (HR-2 District).
31. The maximum building footprint of Lot 2 shall be 1,060.5 square feet.
32. The maximum building footprint of Lot 3 shall be 1,062.7 square feet.

33.The rear yard setback for Lot 1 shall be measured from the zone line.

34.The current property owner would own everything within these two areas, proposed lot 1, until a Condominium Record of Survey is submitted by the applicant, reviewed and approved by the City and recorded at the County.

35.The Property Owner must protect Significant Vegetation during any Development activity.

36.Significant Vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4 ½ ') above the ground, groves of smaller trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

37.The Property Owner must demonstrate the health and viability of all large trees through a certified arborist.

38.The applicant must submit the required report by the certified arborist and that the loss of significant mitigation is replaced on a like per like basis.

39.LMC § 15-2.3-8 indicates special requirements for Master Planned Development and Conditional Use Permits in Sub-zone A, consisting of lots in the HR-2 District that are west of Main Street, excluding those Lots within Block 13.

40.Special requirements apply to Lots in Sub-Zone A that are part of a Plat Amendment that combines a Main Street, HCB zoned, Lot with an adjacent Park Avenue, HR-2 zoned, Lot for the purpose of constructing a residential dwelling or Garage on Park Avenue.

41.The applicant requests to build a residential parking area for the April Inn below grade of Park Avenue projected across the HR-2 and beneath the main floor of a single-family dwelling, a residential structure facing Park Avenue.

42.The proposed structure within the HR-2 portion of the lot meets the minimum side and front yard setbacks of the HR-2 District as stated.

43.The parking structure below the single-family dwelling does not occupy side yard setbacks other than the access leading to it.

44.The proposed structure within the HR-2 portion of the lot meets the building height

requirements of the HR-2 District as stated.

45.The new structure fronting on Park Avenue does not contain commercial uses.

46.Only the lot area within the HCB portion of the lot shall be used to calculate the commercial floor area.

47.The number of residential units allowed on the HR-2 portion of the Development is limited by the Lot and Site Requirements of the HR-2 District as stated in Section 15-2.3-4.

48.The access for the parking structure underneath the single-family dwelling is off Main Street, HCB District, through an easement. The applicant is not asking for a commercial structure. No emergency access onto the HR-2 portion of the property is proposed.

49.Next to the four (4) parking spaces are four (4) small storage areas and also a small mechanical room. The storage and mechanical areas cannot be seen from elevation except from the south side as they are indeed located on the lowest parking level and access from the interior part of this level.

50.The width of the proposed structure is twenty nine feet (29').

51.There are no historic sites or buildings within the proposed plat amendment.

52.The applicant controls the Claimjumper Building located at 573 Main Street, which already received a Plat Amendment approval by the City in 2012, and these same Special Requirements were analyzed, reviewed, and applied, as findings of fact, conclusions of law, and conditions of approval were met.

53.No density transfer is being proposed.

54.Maximum allowed Building Footprint for the HR-2 Lot is subject to Section 15-6-5(B).

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

#### Conclusions of Law – Cardinal Park Subdivision – Plat Amendment

1. There is Good Cause for this Plat Amendment.

2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding Subdivisions.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – Cardinal Park Subdivision – Plat Amendment

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 along Park Avenue.
4. A note shall be added to the Plat Amendment to be approved in a form by the City Attorney which shall indicate that the any provisions regarding lot size regarding Lot 1 shall be governed by the rights and restrictions of their corresponding zoning Districts and for purposes of lot area shall not be added collectively.
5. Fire sprinklers shall be required for all new construction or substantial renovations, as determined by the Park City Building Department during building permit review.
6. The applicant shall submit the report by a certified arborist per LMC § 15-2.3-15 and that the loss of significant mitigation shall be replaced on a like per like basis.
5. **1893 Prospector Avenue – Master Planned Development for a new building containing 11 residential units on Lot 25b of the Giga plat Replat of Parking Lot F at Prospector Square (Application PL-15-02698)**

Planner Whetstone stated that this project has two applications. One is a master planned development and the second is a conditional use permit. The property is located in

Prospector Square on one of the vacant lots at 1893 Prospector Avenue. There is currently development occurring at 1897 Prospector Avenue. Planner Whetstone stated that a plat amendment called the Giga plat amendment that was approved and recorded and that property is under construction for the Park City lodging on the bottom floor and four residential rental units for employees. Planner Whetstone stated that the lot subject to this application is along the Rail Trail.

Planner Whetstone stated that the MPD is a request to approve a Master Planned Development because there are ten or more units and because the applicants have requested a height exception, which is allowed through the MPD portion of the Land Management Code. She noted that the MPD is reviewed through the criteria in Section 15-6-5 as outlined in the Staff report.

Planner Whetstone stated that the conditional use permit was for residential uses in the GC zone. She explained that the GC zone does not allow single-family or duplexes, but it does allow multi-family that requires a conditional use permit. This particular project is a request for 11 residential units with 12 parking spaces on the lower level but not underneath the ground. The structure is proposed to be on stilts with parking underneath.

Ehlias Louis with Gigaplex Architecture introduced the project architect, Andrew Foster, and Brandon and Mike Schoefield with CDR Development.

Planner Whetstone stated that the Staff report identified some of the criteria for review of the Master Planned Development. She noted that one of the requirements of an MPD is for the Planning Commission to review a pre-MPD for compliance or consistency with the General Plan and the goals of the General Plan that would be applicable in this area, as well as the purposes of the GC zone. The Planning Commission reviewed the pre-MPD on March 25<sup>th</sup> and found that the concept plans were consistent with the General Commercial Zone and the General Plan concepts.

Planner Whetstone stated that the applicant submitted a full MPD application for 11 residential units. The Staff had reviewed the application against the criteria on pages 226-227. However, one item for discussion was the requested height exception. Page 228 of the Staff report outlined the five criteria for granting a height exception. Planner Whetstone stated that the applicant may request an exception and the Planning Commission may consider an increase in height based on the five criteria.

Planner Whetstone reported that the applicant was requesting a height increase of 6'6". The zone height is 35 and allows an additional five feet for a pitched roof. She noted that the proposed design has a flat roof and the proposed building height is 41'6".

Planner Whetstone reviewed the five criteria for a height exception. Criteria #1 is that the increase in height does not result in additional density or additional floor area. She stated that the lot is in the Prospector Square Overlay and has a density that is based on the floor area ratio or two times the lot area. Under that formula the applicant would be allowed 11,520 square feet. The design as proposed is 11,279 square feet. The floor area includes the required affordable housing. Planner Whetstone explained that the applicant originally proposed ten units; however, with an MPD they are required to meet a housing obligation which is why the MPD is for 11 units. She noted that the affordable housing plan was still being reviewed. The question was whether the affordable housing requirement would be satisfied with two units, which would make the project 9 market units and 2 affordable units; or if it would be satisfied with 1 affordable unit allowing for 10 market units. Planner Whetstone stated that the City Housing Authority was scheduled to hear this on May 28<sup>th</sup>.

Planner Whetstone reviewed the site plan. She noted that in Prospector Square it is zero lot line development due to the way the development area was platted.

Planner Whetstone noted that the applicant was only requesting the height exception for the eastern roof, which is 30% of the total roof area. The height exception allows for more articulation and open roof areas.

With the exception of the height and a resolution on the affordable housing, the Staff found that the project complies with the criteria for an MPD. The Staff requested that the Planning Commission discuss the height exception, conduct a public hearing and consider approving this application according to the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Staff report.

Ehlias Louis, representing the applicant, provided a global overview statement on how the design concept came about. He stated that due to the replat they had a development agreement with the Prospector Square HOA, which allowed them to do the replat but to include the parking that existed. In order to do that they agreed to build their building on stilts to preserve the amount of parking required. Mr. Louis stated that with the FAR of two, the easiest solution was to build the building on stilts. The first floor would be the actual dimensions of the lot and with a FAR of 2 they could build two of those and have a perfect rectangle. However, from the standpoint of an architect, a rectangle did not add to the flavor of the target market they were looking with the feel they wanted to provide to the residents. Therefore, they looked at what would make sense. The target market is young professionals and even though the units are small they wanted to take advantage of corner views with natural light coming in. Mr. Ehlias pointed out that rather than a rectangle the building would be L-shaped. Again, to create a community feel because it was a zero lot line, they added as much deck space as possible for the residents. However, in order to

provide the amount of livable space that is allowed in the FAR, the most interesting rendition was a design with a third level residency on the eastern side, which pushes the height above the 35' foot height restriction.

The applicants had prepared a 3-D model to demonstrate their vision of an interesting building with a modern design that provides diversity on the Prospector Avenue corridor. It allows them to bring over the bridge to increase the alternate transportation uses of a resort lifestyle for young professionals. Mr. Louis stated that the design challenge was having 10 units coming to an MPD and using the LMC to request a height exception for the eastern side.

Mr. Louis stated that Gigaplex Architects and their partnership are big proponents of the affordable housing initiative in Park City. The requirement is to add 15% of the square footage into the building and they were happy to do so. He pointed out that there were options to delay the affordable housing to a future development or to pay an in-lieu fee. They also had the ability add the affordable housing on-site in the building, which was their preferred approach. Mr. Louis stated that in order to add 1350 square feet to this building, they changed the number of units from ten to eleven to include a studio and a small apartment. He believed they have designed a great solution to what they think is the spirit of the LMC and the MPD for a project like this. It is interesting, it invites questions, it is a modern design, it has open space, it is communal, and it abides by all of the development agreements to move the lot.

Mr. Louis remarked that the main goal was to provide both affordable units within the building rather than pay an in-lieu fee. That approach affords the ability to add more square footage and density to the complex itself. He noted that they were not going to ask for the extra 13,000 square feet on this building to accommodate the deed restricted units. Therefore, the envelope of the building that the Commissioners saw with the pre-MPD stays the same. The result is less market rate square footage, which they were willing to do to put the affordable units in the building.

Mr. Louis stated that they really like their proposed design and believe it is the best solution for the market they were targeting, as well as the greater community in general.

Commissioner Worel thought the 3-D model was helpful to see the difference in building heights. She asked if the other structures on the model were approved under a different LMC and why one structure had a 44.7 foot height. Mr. Louis stated that it was the Suncreek Apartments. He did not believe there has been new residential development in that area for ten or fifteen years. For that reason he was unable to speculate what the LMC allowed at that time. Mr. Louis remarked that they did their due diligence to compare

heights in the area to give the Commissioners an idea of how the requested height exception would fit with what already exists.

Commissioner Phillips pointed out that the applicant was asking for a height exception for one portion of the building; however, other portions of the roof were below the 35' allowed height. He thought it was safe to assume that the average roof height was at or below the maximum allowed.

Planner Whetstone noted that the height of the building under construction at 1897 Prospector as shown on the 3-D model was actually the height of the penthouse and did not need a height exception. The actual height of the main building is 35'. Mr. Louis agreed that the main building is 35'. He clarified that penthouse did not require a height exception because it is a pop-out for circulation and not habitable space.

Chair Strachan opened the public hearing.

Charlie Wintzer stated that he had not intended to speak on this application. However, as someone who typically speaks out against height exceptions this is the first time he has heard a great cause for it. It is in the right location, it is up against the hillside, the uses are right, and the building fits the neighborhood. Mr. Wintzer encouraged the Planning Commission to grant the height exception.

Lincoln Calder, a 30 year resident of Park City spoke in favor of the project. He is a local realtor and given his age and peer group he works with a lot of younger buys with moderate budgets. Mr. Calder stated that currently there is no product in Park City that appeals to young professional buyers at a moderate price. There is an affordable housing option, but young professionals are not interested in deed restricted housing with a price appreciation cap. They want their primary residence to be an investment for a better future. Currently, the young professionals only have the choice of buying at Kimball Junction or other areas within the County. Mr. Calder pointed out that if the City wants a diverse community in terms of income, age and occupation, this project appeals to that group. He thought the City would gain more by granting a small height exception.

Chair Strachan closed the public hearing.

Commissioner Campbell liked the proposed project. He was nervous about setting a precedent by granting the height exception. However, he concurred with Mr. Wintzer that this was the best case for granting height because it is low impact to the neighbors and adds a lot of positives. Commissioner Campbell referred to the comment about young professionals moving to Kimball Junction. He noted that those same people come to Park City on Friday night and they all drive. He could see the people living in this building



walking to restaurants and the grocery store. Commissioner Campbell thought this project was exactly what they need in Park City.

Commissioner Worel appreciated the models. She thought the project was creative and she liked how they included the heights of the surrounding projects to give them a better perspective. Commissioner Worel pointed out that if they had designed a pitched roof the allowed height would be 40'. Therefore, they were only talking about 1'6" more than what was allowed. Commissioner Worel liked the project and thought it was well-done.

Commissioner Phillips liked how the project engages the Rail Trail. In his opinion this project fits the definition of live/work/play. This proposal was one of the best he has seen in his time on the Planning Commission. He thought they should encourage this type of development as a model for other areas of town being redeveloped. Commissioner Phillips suggested the possibility of having a future discussion about allowing additional height in Bonanza Park for these same reasons.

Chair Strachan echoed the comments of his fellow Commissioners. He remarked that the Planning Commission needed to make findings as to why the height exception was appropriate. He thought the evidence was the 70/30 split and that overall the building height was below the 35' maximum.

Commissioner Campbell had concerns with specifying the 70/30 split. If they approve the height exception based on the average height being below the maximum, the next applicant could have a design with an average below the 35' maximum, but it may not meet the other criteria.

Chair Strachan clarified that the Planning Commission needed to have some evidence on the record as to why the height exception was appropriate for this project. The question is whether the additional height increases the volume. If 70% is lower and only 30% is higher, then the dwelling volume is not increased by the height exception.

Assistant City Attorney McLean commented on a potential problem she had just noticed as she was reading through the Code. Under the MPD Section, there are different ways that an MPD applies. She noted that prior to 2013 an MPD was required for any residential project with ten or more lots or ten or more units. However, in 2013 that was changed to ten or more residential unit equivalents. A residential unit equivalent is defined as 2,000 square feet, which is less than what was being proposed. Ms. McLean clarified that in this case the MPD did not appear to be required and there were no commercial uses proposed.

Assistant City Attorney McLean stated that another section talks about when an MPD is allowed but not required. She read from subsection 2, "The Master Planned Development

process is allowed but is not required when the property is not part of the original Park City Survey or Snyder's Addition to the Park City Survey.....and the proposed MPD is for an affordable MPD consistent with Section 15-6-7 herein." Ms. McLean was unsure whether that was the intent and she wanted the opportunity to look at the amended ordinance when this was suggested to see if there was a typo and that the "and" was supposed to be an "or" for affordable housing.

Assistant City Attorney McLean apologized for not catching this situation sooner, but when she first saw this project she thought the MPD was required because there were more than ten units. She found her mistake when she was reading the Code for another project. Ms. McLean stated that legally she was uncertain whether the City could permit this to be an MPD. She preferred to take the time to research it further to make sure that it was an allowable application.

Planner Whetstone suggested that Ms. McLean look at Section 1, Allowed but not Required, because that was where it fell under when it was discussed with the former Planning Director. Ms. McLean believed there was consensus that the MPD was not required under Item A. Subsection 1 that Planner Whetstone referenced states that, "The Master Planned Development process is allowed but is not required in the historic residential and historic residential HR1 and HR2 zones, only when the HR1 or HR2 zone properties and combined with adjacent HCB or HRC zoned properties. Height exceptions will not be granted for master planned development in those and other zones." Ms. McLean could not see what Planner Whetstone relied on when talking with the former Planning Director.

Chair Strachan clarified that the applicant may not need an MPD and the plat amendment was already approved. Ms. McLean explained that they might not need an MPD, and an MPD may not be allowed or available to them under the Code. She understood that part of the reason for seeking an MPD was the ability to request a height exception. She thought it looked like a great project and again apologized to the applicants and the Commissioners for raising the issue this late in the process. However, she was not comfortable having the Planning Commission vote on something that may not be allowed by Code.

Commissioner Campbell asked if there was another mechanism to allow for a height exception besides the MPD. Ms. McLean could not find another mechanism in the GC zone if the space is habitable.

Commissioner Worel wanted to know how much parking was required for the entire area. Mr. Louis stated that 103 spaces were required by the development agreement with the Prospector Square Property Owners Association. Without parking under the proposed building 12 spaces would be lost, reducing the parking to 91 spaces.

Planner Whetstone noted that there was also a flood plain issue. Mr. Louis stated that the flood plain issue was currently being studied by Gus Sherry. Mr. Louis has been working with Mr. Sherry and Matt Cassel. Mr. Sherry had not completed his study but he did not believe there would be an issue with the flood plain. Mr. Louis remarked that the flood plain was one reason for the stilts concept. They could not build habitable units below the base flood elevation.

Mr. Louis stated that the MPD process was started on December 15<sup>th</sup> and they were unaware that it would take this long. They understood the process, but they were now on a limited time-frame because of the Park City Lodging building that is under construction. Mr. Louis preferred to have a yes or no answer from the Planning Commission. If the answer is no, unfortunately they would lose the affordable units and possibly the bridge, and they would be forced to build a box with larger condos. Mr. Louis reiterated that they could not afford to wait much longer to start building.

Commissioner Worel asked if the Planning Commission could approve the MPD conditioned on legal findings. For example, if Ms. McLean found that the MPD could move forward the applicants could begin work without coming back to the Planning Commission. If the MPD is not legal then the applicant would know to pursue a different approach.

Assistant City Attorney McLean was hesitant to have the Planning Commission to take an action on something that did not appear to be permissible from the evidence she found this evening. She preferred to continue this item to the next meeting to allow time to see if there was something that could be done to help the applicant. Ms. McLean believed the Staff and other have the mindset that ten units or more requires an MPD; however, that requirement changed in 2013. She recognized that there were a number of benefits for this MPD and she was sorry that neither she nor the Staff had caught the mistake before this.

Assistant City Attorney McLean took a few minutes to pull up the ordinance from 2013 and found that the word "and" was not a typo. She was hoping that the ordinance language would say "or" but it did not. She reiterated her recommendation to continue this item to the next meeting to allow for more research. If it is allowable, the Staff had the findings ready to move forward with an approval.

Assistant City Attorney McLean suggested that the Planning Commission could take action on the CUP this evening because the outcome of the MPD would not affect the CUP. Mr. Louis stated that if they could get approval for the CUP they could at least begin designing the rectangular building, which is what they would most likely build if they could not get the height exception.

MOTION: Commissioner Worel moved to CONTINUE the Central Park City Condos – Master Planned Development for a new building containing 11 residential units on Lot 25B of the Giga Plat replat of Parking Lot F at Prospector Square to May 27, 2015. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

6. **1893 Prospector Avenue – Conditional Use Permit for residential uses in the General Commercial (GC) zone for a new building containing 11 residential units on Lot 25b of the Giga plat Replat of Parking Lot F at Prospector Square (Application PL-14-02584)**

Chair Strachan opened the public hearing.

There were not comments.

Chair Strachan closed the public hearing.

Chair Strachan stated that based on the MPD discussion, he was comfortable approving a conditional use permit based on the findings of fact, conclusions of law and conditions of approval found in the Staff report. The Commissioners concurred.

MOTION: Commissioner Phillips moved to APPROVE the Conditional Use Permit for residential uses for Central Park City Condominiums based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

**Findings of Fact – 1893 Prospector Avenue - CUP**

1. The subject property is located at 1893 Prospector Avenue and consists of Lot 25b of the Gigaplat replat, a replat of Lots 25a, 25b, and Parking Lot F of the Prospector Square Supplemental Amended Plat.
2. The Gigaplat replat was approved by City Council on June 5, 2014. The final mylar was recorded on May 1, 2015.
3. Lot 25b is a vacant, undeveloped privately owned development lot.

4. The property is located in the General Commercial (GC) zone and within the Prospector Square Subdivision Overlay.
5. On December 15, 2014, Staff received an application for a pre-MPD for the Central Park City Condominiums project located in the General Commercial zoning district. The application was considered complete on February 24, 2015.
6. On February 24, 2015, the applicant submitted a complete application for the Conditional Use Permit for residential uses in the GC District. The CUP application was revised on April 13, 2015 to incorporate the required affordable unit, bringing the total number of residential units to eleven.
7. On March 25, 2015, the Planning Commission conducted a public meeting on the pre-MPD and Conditional Use Permit application. The Commission found that the pre-MPD preliminary concept plans were consistent with the General Plan and GC Zone. The Conditional Use Permit application was reviewed and continued to the May 13, 2015 meeting.
8. In the General Commercial (GC) zoning district, residential uses, including multi-dwelling units, are required to be reviewed per the Conditional Use Permit criteria in the Land Management Code (LMC) and require approval by the Planning Commission. Retail and offices uses are allowed uses in the GC zone.
9. An FAR of 2 is allowed for buildings within the Prospector Square Subdivision Overlay.
10. The building consists of approximately 11,279 sf of residential uses and circulation area. The proposed FAR is 1.96. There are seven units at approximately 810 sf, three units at 1,017 s, and one studio unit at 500 sf. The units are designed to be smaller, attainable market rate dwelling units for full time residents. At least one and potentially two units will be deed restricted affordable unit depending on the Housing Authority's approval.
11. Allowing smaller residential uses in an area of high employment opportunities and within walking distance of the bus lines, shops, restaurants, schools, and recreation amenities is one method of mitigating vehicular trips of residential uses.
12. The capacity of streets, intersections, and shared parking lots were designed with the Prospector Square planned area to accommodate build

out of all the development parcels. There are no significant traffic impacts associated with the proposed uses as build out of these platted lots is anticipated with the Prospector Square Subdivision approval. Office and retail uses are allowed to be constructed on this lot without approval of a Conditional Use Permit.

13. Utilities necessary for this use are available at or near the site. Prior to recordation of the plat amendment for this property a utility plan and utility easements will be approved by the City Engineer and utility providers.

14. Any additional utility capacity, in terms of fire flows and residential fire sprinklers will be reviewed by the Fire District, Water Department, and Building Department prior to issuance of a building permit and prior to recordation of the subdivision plat. Necessary utilities and upgrades shall be installed as required by the City Engineer.

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

16. The residential uses create a reduced parking impact from the allowed uses of retail and office. Parking demand (in terms of timing) for residential uses is generally opposite the demand for retail and office uses.

17. There are 91 existing parking spaces within Parking Lot F. Parking within Prospector Square is shared and upon completion of the reconfigured Parking Lot F, there will be a total of 103 parking spaces, including the 12 spaces located under the building, as per the Owner's parking agreement with the Prospector Square Property Owner Association. All 103 parking spaces are intended to be shared parking per the parking agreement.

18. Internal vehicular and pedestrian circulation system includes existing sidewalks along Prospector Avenue, a Prospector Association walkway located to the west of the parking lot, and the Rail Trail bike path located to the south, with informal access that will not be altered. Circulation within the Parking Lot will be improved with the reconfigured parking lot.

19. A pedestrian bridge connection to the Rail Trail is proposed from the building. The Rail Trail is owned by State Parks and certain permits and/or encroachment agreements will be necessary in order to construct the bridge. The bridge will not be constructed if necessary agreements and easements are not secured.

20. No outdoor storage of goods or mechanical equipment is proposed.
21. No fencing is proposed.
22. The three and four story building is proposed to be located north of the Rail Trail fully within platted Lot 25b. The Prospector Overlay within the GC zone allows zero setbacks to property lines. The building is oriented towards the Rail Trail and is separated from the Rail Trail and adjacent buildings so as not to cause adverse shadowing on any existing units, or on the Rail Trail.
23. The building includes façade shifts on all elevations. Residential uses are located on the second, third, and fourth floors with common outdoor terraces and green roof elements oriented to the south.
24. Maximum building height in the GC zone is 35' and the applicant has requested through the MPD application, a building height exception of six feet six inches (6'6") for 30% of the roof for the eastern portion of the building to a height of 41'6". The remainder of the building roof (70%) is less than the allowed building height. The building would not exceed the allowable density or maximum floor area ratio (FAR of 2) as allowed by the GC zone.
25. No changes to the existing open space within the Prospector Square planned area are proposed with the residential uses. The new building is proposed to be constructed on an existing re-platted lot. Common decks and terraces are provided as open areas for the units to share.
26. The physical design of the building, in terms of mass, scale, style, design and architectural detailing complies with Title 15-5-5- Architectural Design Guidelines of the Land Management Code and is compatible with the surrounding buildings. The proposed building is contemporary and distinct in design and compliments the variety of building styles in the area. Materials consist of wood, metal, concrete and glass. Green planted roofs and roof terraces provide outdoor space for the residents.
27. No signs are proposed at this time. All signs are subject to the Park City Sign Code.
28. Exterior lighting will be reviewed at the time of the building permit review.
29. The residential uses will not create noise, vibration, odors, steam or other

mechanical factors that might affect people and property off-site.

30. The applicants propose to design and construct an enclosure for the existing trash dumpster located at the southwest corner of the parking lot. The service area within the enclosed parking area will include a recycling area.

31. There are no loading docks associated with this use.

32. If the owner desires to sell individual units in the future, a condominium record of survey plat will need to be applied for and recorded at Summit County.

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

34. The development is located in a FEMA Flood Zone A.

35. The development is located adjacent to a stream with wetlands.

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

#### Conclusions of Law – 1893 Prospector Avenue – CUP

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)] and all requirements of the LMC.

2. The use as conditioned will be compatible with surrounding structures in use, scale, mass, and circulation.

3. The use as conditioned is consistent with the Park City General Plan.

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

#### Conditions of Approval 1893 Prospector Avenue - CUP

1. All standard conditions of project approval shall apply to this project.

2. Any signs associated with the use of the property must comply with the City's Sign Code.

3. No outdoor storage of goods or mechanical equipment is allowed on-site.



4. Review and approval of a final drainage plan by the City Engineer is required prior to building permit issuance.
5. Review and approval of the final utility plans for 1893 Prospector are required prior to building permit issuance.
6. Prior to issuance of a certificate of occupancy for the building, the reconfigured Parking Lot F shall be completed, including paving, striping, and landscaping.
7. Building Height shall be verified for compliance with the approved MPD plans prior building permit issuance.
8. The Construction Mitigation Plan, submitted prior to building permit issuance, shall include detailed information regarding coordination of utility installation, reconstruction of Parking Lot F, and the provision of any required interim parking during construction.
9. Prior to issuance of a building permit for construction of the proposed pedestrian bridge connection to the Rail Trail all required permits and/or encroachment agreements shall be obtained from the State Parks property owner and the City.
10. A stream alteration permit and/or 404 permit will be required for any work in the stream area.
11. An elevation certificate will be required showing that the lowest occupied floor is at or above the base flood elevation.
12. A stream study will be required to determine the upstream and downstream flood plain impacts. Impacts will be required to be mitigated.
13. A wetland delineation study by a certified wetland delineator will be required prior to building permit issuance to verify if any wetlands will be disturbed with construction of the building.
14. As part of the final utility plan and prior to issuance of a building permit, the water system must be modeled to verify that adequate fire flows and pressures can be provided to this building and whether water line upgrades are required.
15. All exterior lighting on the terraces and porches shall be reviewed by the

Planning Department with the Building Permit application and shall be subdued, down directed, shielded, and with no exposed bare bulbs.

16. All conditions of approval of the Master Planned Development for 1893 Prospector Avenue apply to this Conditional Use Permit.

7. **Land Management Code Amendment regarding Nightly Rentals use in the HR-L Chapter 2.1 and green roof definition and application in HR-L Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16, and Definitions Chapter 15**

**Nightly Rentals in the HR-L East District**

Planner Astorga stated that the Planning Department initiated this request based on many discussions the Staff has had with residents in the HR-L East District. He explained that he was calling it HR-L East because there are two sections in town with HR-L zoning. One is known as the McHenry neighborhood and the other one is by King Road and Sampson Avenue. Because of the proximity to PCMR, the Staff decided not to include the HR-L West district in this discussion. Therefore, only the McHenry neighborhood was being addressed this evening.

Planner Astorga noted that the first page of the Staff report had the definition of a nightly rental. In addition, there were conclusions of law for each conditional use permit and the 15 mitigating review criteria for the CUP. Planner Astorga stated that another relevant point was the parking requirement for a nightly rental, which is triggered by the seventh and eighth bedroom. He explained that a house with six bedrooms has the same parking requirements as the dwelling, which are two spaces, and that has always been a major issue. Planner Astorga remarked that nightly rentals are allowed everywhere in Park City with the exception of the HR-L District, which requires a conditional use permit. They are also prohibited in the SF District where there are some exceptions throughout.

Planner Astorga stated that the Planning Department felt it was time to review nightly rentals to see where the Planning Commission stands on the issues. The Staff will come back on June 24<sup>th</sup> with a more appropriate analysis. As indicated in the Staff report, the intent is to survey all of the residents in the HR-L District regarding their thoughts on nightly rentals. Planner Astorga noted that if the City decided not to allow nightly rentals they would be creating a legal non-conforming use. The Staff would also come back with a thorough General Plan analysis. Planner Astorga asked the Planning Commission whether other studies or analyses should be conducted.

Planner Astorga stated that the Staff had drafted a pending ordinance for the nightly rental portion of the proposed LMC amendment. The pending ordinance allows the City to put a hold on any conditional use permits for a nightly rental in this District.

Chair Strachan asked what needed to be done to solidify the pending ordinance to avoid a rush of applications. Planner Astorga clarified that the pending ordinance was in effect and no action was required by the Planning Commission. He explained that it would eventually need to be acted on by the City Council, but the ordinance goes live as soon as it is noticed and published on the agenda. Planner Astorga remarked that the pending ordinance did not require a noticing letter, but because the District is small he planned to send a letter to the property owners.

Planner Astorga stated that this was a legislative item and the Planning Commission had the ability to make a recommendation to amend the Code. The original intent could be reconsidered from the standpoint of the current situation of the use, the neighborhood, and the impacts.

#### Green Roofs

Planner Astorga noted that there was not a pending ordinance for the green roof discussion. Green roofs were introduced in the City in 2009. However, in 2009 the City did not address active versus passive space, and accessible versus non-accessible, and that has presented a challenge for the Planning Department.

Commissioner Worel recalled that the Planning Commission has had issues regarding green roofs with past applications. Planner Astorga noted that the project discussed this evening for 550 Park Avenue had a green roof, but it was passive and non-accessible. He reiterated that the City decided to allow green roofs with the 2009 LMC amendments.

Commissioner Worel asked how many houses in the District have six bedrooms. Planner Astorga was unsure. He stated that the minimum lot size in the District was 3750 square feet, which is the equivalent of two old town lots. Therefore, the houses are larger than in other parts of town just because the minimum lot size is doubled. He offered to do the research on the number of bedrooms if the Commissioners thought it was necessary.

Chair Strachan opened the public hearing for nightly rentals.

Mary Wintzer explained that the HRL zone was created for McHenry Street, but not all of Rossi Hill. It is a dead-end street with extremely poor access. They are the last bastion of full-time residents. Because they were full-time residents, for their protection and the safety of their families, as well as trying to preserve the spirit of McHenry Street as a

neighborhood, the City created the HR-L zone sometime around 1979 or 1980 specifically for McHenry Street. Ms. Wintzer was not sure what happened but sometime between 1981 and 1984 it was taken away. There were 13 homes and no one received notice or they would have spoken to it. Ms. Wintzer believed it was a bureaucratic snafu that on the map they no longer had the designation of no nightly rentals. Ms. Wintzer stated that their property values are higher because they are a full-time neighborhood and do not have nightly rentals. They were also different from other Old Town neighborhood because they have more open space and smaller homes on larger lots. Ms. Wintzer stated that a few years ago when they created the Rossi Hill subdivision for some of the houses on the east side of the road, the Planning Director asked them to cap the size of homes that could be built on those lots. She owns two houses and they gladly did that because of the spirit and how they feel about Old Town and their neighborhood. Ms. Wintzer remarked that they did that with the promise that they would be helped to maintain this full-time neighborhood status with no nightly rentals. Currently, the homes that are second homeowners are owned by people who have a goal to live in Park City full time. Ms. Wintzer had contacted as many of those owners as possible and no one was opposed. They all have nice houses and have no interest in renting them nightly.

Ms. Wintzer just wanted the Planning Commission to understand the reason why nightly rentals were only prohibited on McHenry Street, and that it does not take away from Old Town or the nightly rentals. She asked the Planning Commission to consider giving it back so they can return to what they always wanted to be and what they were for several years.

Chair Strachan closed the public hearing.

Commissioner Worel asked for clarification if nightly rentals became a non-conforming use in the District. Planner Astorga explained that as long as the dwelling is actively being used for nightly rental the use can remain, even if the dwelling changes ownership. It is typically tracked through the business license. The business license has to lapse one year before the use loses its non-conforming status.

Commissioner Phillips stated that he lives in Old Town and he understands the situation. He believes they have lost their neighborhoods and it has completely changed in the short time he has lived there. He sees this as preserving a neighborhood the same as they would preserve a house. Commissioner Phillips understood why the HR-L West was excluded, but he would be interested in knowing whether that neighborhood has the same sentiment as those on McHenry Street.

Planner Astorga reiterated that they were only excluded from this discussion because of the proximity to PCMR. The Planning Commission could include that area in their discussion if they wanted, but the process is that the City Council would have the final say.

Planner Astorga thought some residents on that side of the HRL would like to remove the nightly rental conditional use. He suggested that they could schedule neighborhood meetings to get a better feel for the sentiment of the majority.

Planner Astorga summarized that the Staff would do a neighborhood survey of nightly rentals and they would do a thorough General Plan analysis. He asked if the Commissioners wanted to see any other studies or surveys.

Chair Strachan thought it was important to have the broader discussion regarding nightly rentals throughout Old Town. He did not want to hold up the pending ordinance because he thought it was the right thing to do for this zone. However, once that is done, there should be a broader legislative discussion on whether nightly rentals in Old Town should be frozen. The Commissioners concurred.

Commissioner Phillips agreed that the McHenry Avenue issue should be addressed first and separately. He thought it was clear-cut and prohibiting nightly rentals for that neighborhood was wise.

Planner Astorga requested discussion on green roofs. He stated that the definition of a green roof was included in the definition section of the LMC. The Staff report outlined the roof pitch that currently exists in the Code and that the primary roof must be between 7/12 and 12/12 pitch. A green roof may be below the required 7/12 as part of the primary roof design. He noted that the Planning Department was seeing more applications for green roofs. He believed the evolution of design was taking that direction with mountain architecture. Planner Astorga remarked that the Staff has had discussion with neighbors regarding the active space versus passive space. For example, the Code does not prohibit people from sunbathing on the roof. The Code is very unclear on uses. He asked the Planning Commission if the uses should be clarified or whether they even care.

Chair Strachan did not believe a green roof should be counted as open space. On the issue of active versus passive, he preferred active because it is better when people use them.

Planner Astorga assumed the Planning Commission could recommend adding a sentence to the definition of a green roof stating that, "Green roofs shall not count towards the open space calculation." Assistant City Attorney McLean replied that they could recommend that additional language to the City Council.

Commissioner Campbell disclosed that he was currently building two projects with active green roofs; one of which might be the genesis of this discussion. He did not believe it

would affect his ability to speak to the technical aspects of green roofs. He had consulted Ms. McLean and she did not think he needed to recuse himself from the discussion.

Commissioner Phillips disclosed that he was designing his house with a flat roof, but he was unsure at this point whether it would be a green roof.

Planner Astorga stated that when the Code was clarified two years ago, item 1 was added regarding green roofs. "A structure containing a flat roof shall have a maximum height of 35' measured from the lowest floor plane to the highest wall top plate that supports a ceiling joist or roof rafters". He noted that it was the 35' rule. However, the language further states, "The height of the green roof including the parapets, railing or similar features shall not exceed 24 inches above the highest top plate mentioned above." Planner Astorga stated that this regulation only works if it is a passive roof. If it becomes an active roof by building an accessible staircase going up to it, the railing must be increased to 36 inches.

Commissioner Phillips did not believe they should allow a railing to go any higher than what was already stated. If the roof is going to be active and there is not enough room, then the roof needs to be lowered. Planner Astorga asked if they could do it under the 27' rule, which is the situation they recently encountered.

Planner Astorga clarified that he was not looking for answers this evening, but he did want the Commissioners to think about it for the discussion on June 24<sup>th</sup>. He hoped the full Planning Commission would be in attendance for that meeting to hear everyone's ideas and opinions. He reiterated that the Planning Department was getting more and more requests for green roofs. For that reason, Commissioner Worel thought they needed to figure it out and make decisions fairly soon. Commissioner Phillips commented on the number of green roofs already being built around town.

Planner Astorga stated that since the Code does not address passive or active, the Staff interprets that to mean that either one can be approved as long as it meets the current regulation for height. Assistant City Attorney McLean recalled that there was a slight exception for railing under the Code. Planner Astorga replied that it was 24'. That was done for the purpose of adding articulation on a possible parapet.

Commissioner Phillips asked if the Staff could do an analysis of some of the homes being built with green roofs to see if they could learn anything from what has already come to fruition. Assistant City Attorney stated that the Planning Commission should also provide input to help the Staff craft language. She believed it came down to the height issue and whether or not the roof can be an active area. She pointed out that these were policy issues that could be determined. Ms. McLean agreed that the Code needed clarification.

Chair Strachan thought the Planning Commission could provide firm direction on whether or not green roofs should be allowed and whether they could be active. He believed there was consensus that active green roofs should be allowed. The Staff would have the burden of determining what types of active uses would be allowed.

Commissioner Campbell pointed out that green roofs are expensive to put in and they need a lot of maintenance. He thought it would be irresponsible to make it unsafe for people to maintain the roof, and noted that it may not always be a trained worker with a harness. Homeowners will be on their flat roof putting in vegetable gardens or flower pots. He emphasized that safety is a factor.

Chair Strachan thought there should also be percentages of impermeable surfaces versus permeable surfaces. Commissioner Phillips suggested that screening may be another item for discussion.

Planner Astorga stated that there were three different scenarios in three different parts of town that he could come back with to show the massing, etc., that might help them tighten the regulations.

Chair Strachan felt strongly that an active green roof needed to be a conditional use in Old Town to mitigate the impacts to the neighbors.

Assistant City Attorney McLean recommended that the Commissioners provide input in terms of the height, and whether fencing or railing should be included in the overall height. She noted that it is included now, but there is a 2-foot height exception. Planner Astorga clarified that the 2-foot rule was above the 35' foot. They would still not be able to break the 27-foot height even with the railing. Commissioner Phillips remarked that the railing should not be allowed to break the 27' plane. He did not believe this should be an exception. Commissioner Campbell disagreed because he believed people would push the deck of the roof up higher and leave off the railing. It would push them into what he considers to be an unsafe condition. Ms. McLean understood that the Building Department would not allow access to a roof without railing.

Chair Strachan suggested that it would be worthwhile for the Staff to draft height exception language with conditions that have to be met. At that point the Planning Commission could decide whether they did not want to allow a height exception or whether the conditions could adequately mitigate the problems. He thought it should be clear for the next meeting that there was no consensus from the Commissioners this evening and that their comments were primarily brainstorming.

Chair Strachan opened the public hearing on green roofs.

Charlie Wintzer stated that the green roof came to the Planning Commission through the City Council. It was never brought to the Planning Commission, and they first found out about it when they received an application for a green roof. The Planning Commission wrote the definition of a green roof because they did not believe it was appropriate to have people on a deck five feet from their property line. It also made the houses bigger, so they were trying to deal with the mass and scale of the buildings and give some privacy on the side yards of houses. Mr. Wintzer remarked that if they allow green roofs to become habitable space it impacts their neighbors. He did not believe it was appropriate in Old Town to have habitable spaces on a roof. If someone wants a deck they can put it in their back yard, which is 15 or 20 feet away from the property line.

Chair Strachan stated that Mr. Wintzer had reminded him of some of the history. Currently there are no controls over someone building a large deck and partying on their deck. It is not a conditional use.

Mr. Wintzer replied that the control is that people will not give up the living space in the house to build a larger deck. If people want a deck they will make their house smaller. However, if they allow green roofs to be habitable space, people will build bigger houses. Mr. Wintzer was concerned that people who go to sleep at a reasonable hour are impacted by someone in a nightly rental partying on the roof. The noise would be heard all over town. He urged the Planning Commission to look at it closely because it would be a problem.

Chair Strachan closed the public hearing.

Commissioner Phillips stated that Mr. Wintzer's comment was his reason for suggesting that they keep everything as low as possible. If they do not have the room for it they will not lose living space.

Chair Strachan stated that the Planning Commission would discuss the issues at the June 24<sup>th</sup> meeting with the full Planning Commission and make some decisions.

Planner Astorga stated that he would come back with a pending ordinance language. Chair Strachan thought a pending ordinance may be going too far. Assistant City Attorney McLean suggested that if they have language it would be easier for the Planning Commission to revise and amend it, as opposed to waiting another month.

Chair Strachan preferred to wait for the full Planning Commission before directing the Staff to come forward with an ordinance. He thought it was premature to provide that direction.



Planning Commission Meeting  
May 13, 2015  
Page 49

MOTION: Commissioner Phillips moved to CONTINUE the LMC Amendments for Nightly Rental in the HRL East District and green roofs in the Historic Residential and the RC Districts to June 24, 2015. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

Park City Planning Commission meeting adjourned at 9:00 p.m.

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