PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JUNE 24, 2015

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

Kayla Sintz, Planning Manager; Kirsten Whetstone, Planner; Francisco Astorga, Planner; Christy Alexander, Planner; Mark Harrington, City Attorney
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REGULAR MEETING

ROLL CALL

Chair Strachan called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Campbell who arrived later.

ADOPTION OF MINUTES

June 10, 2015

Commissioner Band referred to page 66 of the Staff report, page 14 of the minutes and corrected the vote on the motion for 875 Main Street to reflect that she had voted against the motion. The vote should be corrected to read, **The motion passed 4-1. Commissioner Band voted against the motion.**

Commissioner Band referred to page 89 of the Staff report, page 37 of the minutes under the public hearing for Alice Claim and changed Jim Doiling to the correct spelling of Jim **Doilney.**

Commissioner Joyce referred to page 62 of the Staff report, page 10 of the minutes, middle of the first paragraph, and changed "as a designation for residents" to correctly read "**destination** for residents…"

Commissioner Joyce referred to page 82 of the Staff report, page 30 of the Minutes and changed "five 6' retaining walls add up to 10' to correctly read "…add up to **30'.**

MOTION: Commissioner Phillips moved to APPROVE the minutes of June 24, 2015 as amended. Commissioner Joyce seconded the motion.

VOTE: The motion passed. Commissioner Campbell was not present for the vote. Commissioner Worel abstained since she was absent on June 10th.

May 13, 2015

MOTION: Commissioner Phillips moved to APPROVE the minutes of May 13th, 2015 as written. Commissioner Worel seconded the motion.

VOTE: The motion passed. Commissioners Band, Joyce and Thimm abstained since they were absent on May 13th.

PUBLIC INPUT
There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Commissioner Phillips disclosed that he lives across the street from 125 Norfolk, the Consent Agenda item, but he did not believe that would impact his decision this evening.

Commissioner Phillips disclosed that he has a non-complying hot tub that would not affect his judgement in the discussion this evening. He would move his hot tub two feet if necessary.

Commissioner Phillips disclosed that he would be recusing himself from 259, 261, 263 Norfolk Avenue due to past professional relationships with the applicant. He was not certain that this association would not affect is judgement.

Commissioner Phillips asked if the City had looked at annexing Snow's Lane either recently or in the past. He was working on a house on that street and noticed hazardous conditions that could cause problems on the City property. He also recalled that someone had applied for a position on the City Council believing that they were within the City limits but later found they were not. Commissioner Phillips suggested that the Staff look at whether or not annexing would make sense.

Planning Manager Sintz offered to research what has historically been done and report back to the Planning Commission. Chair Strachan recalled some discussion about that during the Silver Star development application.

Commissioner Phillips noticed that 259, 261, 263 Norfolk was not posted and has not been posted for some time. Commissioner Band stated that she found the sign in the weeds today and re-staked it. However, the sign was dated March 25th, which was the last time it

was on the agenda. Commissioner Phillips noted that he had made this same comment about the sign at the March 25th meeting. He questioned whether or not was considered proper noticing if the sign was lying down.

City Attorney Mark Harrington pointed out that Commissioner Phillips had recused himself from this item and he should not be making comments. If the other Commissioners had questions regarding signage and public noticing they should make their comments when the item comes up on the agenda.

WORK SESSION

Sign Code Amendment regarding Resort Free-Standing Signs.

Planner Christy Alexander reported that the sign code is part of the Municipal Code and any amendments to the Sign Code go through the City Council as the approval body. However, they value the opinion of the Planning Commission and the purpose of this work session is to hear feedback regarding the proposed sign code amendment.

Planner Alexander stated that the City has been partnering with Deer Valley in working on improvements to the Deer Valley Road right-of-way. The City Engineer has been working with the resort in talking about wayfinding signage, and how to improve and update what currently exists, as well as potential signage for the future. Planner Alexander noted that current language in the sign code states that any free-standing signs are limited to 7-feet in height. With this improvement to the right-of-way the City Engineer and Deer Valley were talking about specific signage, which she presented to the Planning Commission. The intent is to help visitors to the community know when they were actually entering the resort area, since many people do not know where Deer Valley begins.

Planner Alexander stated that the Resort was proposing a free-standing sign up to 20'. However, after looking at signs within the community, what signs the Resorts currently have, and which signs are most visible and legible to both pedestrians and vehicle traffic, the Staff recommended limiting the signage to 14' in height. The City Engineer had requested 16'. Planner Alexander noted that with the changes or proposed amendments to the sign code they would need to amend the height limit, limit the number of signs to two free-standings signs, and reduce the setback from 10' off the property line to 5' off the property line. In addition, if there are right-of-way improvements, any signage within the right-of-way must be approved by the City Engineer.

The Staff requested input from the Planning Commission regarding the height limit, number of signs, and the setbacks.

Commissioner Thimm could find nothing in the amendment that suggested a change in the face area of the sign, which is currently 20 square feet. He questioned how they would measure 20 square feet on the sign Planner Alexander was showing on the screen. He asked whether it would be the text area or the whole sign. Planner Alexander replied that it would be any image and text. Commissioner Thimm clarified that it would just be the logo or decorative portion and the wording. Planner Alexander answered yes.

Commissioner Thimm referred to language regarding special exceptions and noted that Item a) mentions an entrance corridor. He asked if the Code defines an entrance corridor. Planner Alexander believed it was defined somewhere in the Code, but she was unsure how specific it was and suggested that they look at revising the language for clarification. Commissioner Thimm thought it would be easy for people to stretch the limits of the Code without a clear definition.

Planning Manager Sintz asked if Commissioner Thimm thought Item a) that states within 300 feet of the Resort's property needed clarification. She noted that they were interchanging entry exit corridor, but they were honing in on the proximity of the Resort property. Commissioner Thimm thought the language was gray and nebulous. Planner Alexander understood that the concern was that where the property begins is different than the entry corridor. Commissioner Thimm stated that the issue was what might be construed to be an entrance corridor by some but not by others. He thought that needed to be clarified. Planner Alexander agreed.

Commissioner Joyce remarked that a lot of thought went into drafting the current Sign Code. He wanted to know the real motivation behind the proposed amendments and what problem they were trying to solve. Planner Alexander replied that much of the signage was done before the Olympics or for the Olympics and things have changed since then. The City was already looking at amending the Sign Code this year, and with Vail taking over PCMR and wanting to update their signage, the Staff tried to look at providing the best wayfinding signage for the Resort areas to help guide the tourists.

Commissioner Joyce asked if the signage was literally intended to be a directional signage. He did not believe the example Planner Alexander presented as the proposed sign was not directional. He thought it made more sense to have signage at the roundabout directing people to many choices; or to have signage at the base of Deer Valley directing buses, drop-off traffic, etc. to different locations. Commissioner Joyce remarked that the proposed example looked more like a welcome sign that did not meet the needs of wayfinding.

Commissioner Joyce reiterated his consistent concern about making Code exceptions for an individual business. If the issue is that the Resorts are special because they generate so much traffic to one place, he would prefer changing the LMC to have special signage

requirements for a use that generates this volume of traffic. Commissioner Joyce pointed out that the two Resorts were asking for new signage and he was uncomfortable changing the Code for that particular type of business. He believed it was a big mistake. Commissioner Joyce noted that later in the meeting the Planning Commission would be discussing a Code change regarding vertical zoning specifically to eliminate some of the odd exceptions that exist in the Code.

Commissioner Joyce stated that his message to City Council would be that if the intent is to teach people how to get to the base of Deer Valley, a good 7' road sign should be sufficient because they have those same signs all over town for various businesses and they work fine. He was unsure why that would not be adequate for the Resorts. Commissioner Joyce personally believed they were only having this discussion because the City was actively involved in working on the Deer Valley Beautification.

Planner Manager Sintz remarked that the existing signs in place are not in compliance with Sign Code and the intent is to look at all the signs as a whole, recognizing that the City has two large resort destinations that do have an identity and a brand within the City. The Staff thought it was best to look at it in a cohesive manner.

Commissioner Joyce stated that if the answer is that the Sign Code is broken and they made a mistake when they thought 7' was adequate, then the question is whether it should apply to hotels and other businesses. He was willing to have that discussion to determine whether or not there are mistakes in the Sign Code. There are several examples where the Code was changed to fix many non-compliant things and he had no problem with that process. He reiterated that a lot of thought went into the current 7' height and he was uncomfortable picking it apart one sign at a time without good reason and being fair to other businesses. He used hotels as an example. Planning Manager Sintz remarked that hotels are very different than the two major Resort destinations. She stated that the Staff would never recommend a 14' sign for a hotel.

Chair Strachan could not find reference in the Code indicating that the proposed change only applied to ski resorts. He specifically referenced 12.9.1(G). Planner Alexander stated that the Resorts are specifically mentioned in her redlined version. She clarified that the current Code language does not address the Resorts specifically. Chair Strachan asked if the City Attorney could see problems with giving one business a right that is not extended to other businesses.

City Attorney Harrington stated that the more exception based they are, particularly in light of recent federal litigation, the more they put the City at risk. However, they are able to differentiate different classes of signage, but not the content. Mr. Harrington stated that it had not yet been reviewed comprehensively because they first wanted to hear input from

the Commissioners and policy direction. Mr. Harrington thought they could expect a fairly quick return and some broader recommendations on the entire Sign Code, particularly with regard to temporary signage. At that point the Planning Commission would have the opportunity to address non-complying and temporary exceptions. Mr. Harrington believed Commissioner Joyce was accurate in saying that the best basis to distinguish was directional signage. He noted that directional can include arrival. Mr. Harrington emphasized that the more exception based and limited in number, the more at risk they are to be challenged, particularly if it is content based and subject to scrutiny. Mr. Harrington noted that there has been a high degree of voluntary compliance in Park City because people in the community recognize the importance of aesthetic regulations. He stated that there is a functional difference between a UDOT sign and a Resort sign, and there is an analysis that the Staff can draw upon that shows the deficiencies in direction signs. The City receives a high number of complaints regarding directional confusion.

Commissioner Joyce stated that the Staff report talks about wayfinding, but in his opinion the proposed example was not a wayfinding sign.

Commissioner Band concurred with Commissioner Joyce. They were talking about Deer Valley now but they would eventually have this same discussion for PCMR. If they intend to amend the Sign Code they should look at all signs. She was opposed to a piecemeal approach. If the City wanted to make exceptions for the two big ski resorts they could still make that decision.

Commissioner Joyce stated that if exceptions are made for the ski resorts it should be driven by traffic volume rather than use.

Commissioner Worel agreed that the signs needed to be wayfinding. She also was also uncomfortable relating the size of the sign to the perceived importance of what it relates to.

Chair Strachan concurred with Commissioners Band and Joyce. He believed the St. Regis would be the next entity that would request a 14' sign. He thought it needed to be more Code driven. Exceptions could be allowed but it should be for businesses that occupy recreation open space or something similar. He did not favor specifying ski resorts.

Chair Strachan suggested that the Staff re-work the amendment and bring it back to the Planning Commission for further discussion.

CONTINUATIONS (Public Hearing and Continue to date specified.)

1. Land Management Code Amendment regarding Nightly Rentals use in the HR-L (Application PL-15-02817). Chapter 2.1 and green roof definition and application in

HR-L; Chapter 2.1, HR-1 (Application PL-15-02818). Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16, and Definitions Chapter 15.

Chair Strachan opened the public hearing.

Michael Kaplan stated that he is a professor and one of the courses he teaches is Ski Resort Management. He actually did a study on the evolution of ski towns and currently Park City is at a new pulse where businesses will come in and property will be sold to people who are looking for third homes. The businesses will be market businesses. It is a function of the rates and due to the sale and recovery of the economy. Mr. Kaplan thought the City should focus on getting hot beds on Main Street in the form of nightly or long-term rentals. He stated that in general, the ski resorts that are more successful focus growth and density towards the core. Mr. Kaplan remarked that the way the Code reads currently, the developers are making $2 million condos and they are becoming second, third and fourth homes, which does not add to the energy of Main Street. Mr. Kaplan stated that he is involved with Main Street and there is a great need for hot beds. That should be the direction of the Code as they amend it.

Chair Strachan asked if Mr. Kaplan favored adding nightly rentals in zones or decreasing the number of nightly rentals.

Mr. Kaplan stated that he favored giving an incentive to developers to make nightly rentals. He offered suggestions for incentives to steer developers away from the current model. He suggested that the Code encourage smaller units and remove some of the parking prohibitions and other things that forced the developers in the direction they have taken.

Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to CONTINUE the LMC Amendments regarding nightly rentals and green roofs to July 22nd, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

CONSENT AGENDA

1. 125 Norfolk Avenue – Hewtex Plat Amendment combining portions of Lots 7, 8, 11 and all of Lots 9 and 10 Block 78 of the Millsite Reservation.
(Application PL-15-02720)

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

MOTION: Commissioner Joyce moved to APPROVE the Consent Agenda. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 125 Norfolk Avenue

1. The property is located at 125 Norfolk Avenue.
2. The property is in the Historic Residential-Low Density (HR-L) Zoning District.
3. The subject property consists of Portions of Lots 7, 8, 11 and all of Lots 9 and 10 in Block 78 of the Millsite Reservation.
4. Existing Lots 8, 9, and 10 contain a single-family dwelling built in 1973 and a non-historic detached garage constructed at an unknown date. The building footprint of the single-family dwelling is approximately 672 square feet. The building footprint of the non-historic detached garage is approximately 304.5 square feet.
5. An asphalt driveway is located on Lots 7, 8, 9, and 10.
6. The proposed plat amendment creates one (1) lot of record from the existing three (3) partial lots and two (2) full lots equaling 7,417 square feet.
7. A single-family dwelling is an allowed use in the Historic Residential-Low Density (HR-L) District.
8. The minimum lot area for a single-family dwelling is 3,750 square feet; the lot at 125 Norfolk Avenue will be 7,417 square feet. The proposed lot meets the minimum lot area for a single-family dwelling.
9. The maximum building footprint for a lot this size, 7,417 square feet, is 2,444.5 square feet. Compared to adjacent properties on Sampson Avenue within the HR-L zone, the average lot size is 6,237.5 square feet. The average building footprint of those properties on Sampson Avenue within the HR-L zone is 2,162.29 square feet.
10. The minimum lot width allowed in the HR-L District is thirty-five feet (35'). The proposed lot is one hundred twelve feet six inches (112'6") wide. The proposed lot meets the minimum lot width requirement.
11. The minimum side yard setbacks for a one hundred twelve feet six inch (112'6") wide lot are fifteen feet (15').
12. The minimum front and rear yard setbacks for a lot seventy-five feet (75') in depth are fifteen feet (15') and thirty feet (30') total per Table 15-2.1a in the Land Management Code.
13. The existing non-historic single-family dwelling is thirteen feet (13') from the rear

property line on its southwest corner.
14. The existing non-historic detached garage encroaches into the Public Right-of-Way over the east property line approximately one foot seven inches (1'7") on the northeast corner. The existing non-historic detached garage is approximately one foot three inches (1'3") from the east property line on the southeast corner. The property owner will demolish the non-historic detached garage prior to plat recordation which will eliminate the encroachment.
15. The existing single-family dwelling is a legal non-complying as the structure and does not meet the rear yard setbacks. The Building Department does not keep Building Permits prior to 1979. It is unknown whether or not a Building Permit was obtained to construct the single-family dwelling.
16. The combined side yards setbacks are to be thirty feet (30') per Table 15-2.1 in the Land Management Code.
17. The proposed plat amendment will not cause undo harm to adjacent property owners.
18. The proposed lot area of 7,417 square feet is a compatible lot combination as the entire Historic Residential-Low Density District has abundant sites with comparable dimensions.
19. The applicant submitted a Historic District Design Review (HDDR) Pre-application on October 21, 2014 to construct an addition to the non-historic structure and demolish the existing non-historic detached garage. A Design Review Team meeting occurred on October 29. A second Design Review Team meeting occurred on April 1. Currently, there are no active applications under review.
20. The applicant applied for a Plat Amendment application on March 19, 2015. The Plat Amendment application was deemed complete on April 22, 2015.
21. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 125 Norfolk Avenue

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

Conditions of Approval – 125 Norfolk Avenue

1. The City Attorney and City Engineer will review and approve the final form and

content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If the final signed mylar has not been presented to the City for City signatures for recordation 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 of July 9, 2016, and an extension is granted by the City Council.
3. A ten feet (10') wide public snow storage easement will be required along the Norfolk Avenue frontage of the property and shall be shown on the plat prior to recordation.
4. The property owner must demolish the existing non-historic detached garage which encroaches into the Public Right-of-Way on the east side of the property prior to plat recordation.
5. 13-D sprinklers are required for any new construction or significant renovation of existing.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 534 Park Avenue – Conditional Use Permit Modification to relocate the bed and breakfast's laundry facilities into the non-historic garage on the property. (Application PL-15-02759)

Planner Anya Grahn explained that the Washington School House Bed and Breakfast has an existing laundry room in their basement. They currently outsource the laundry for the facility and they would like to upgrade the laundry facilities by moving them into the garage.

Planner Grahn stated that the existing historic building and the garage are over footprint for what is allowed on the site. Therefore, no addition could be made and the applicant would have to use the existing buildings. In 1983 this bed and breakfast use was approved by the Historic District Commission as part of the renovation. At that time the garage was not included as part of the site. It was acquired in 2000 from John Plunkett. Mr. Plunkett had submitted a letter to the Planning Commission indicating that there was a minor error in what he had appealed in the early 2000s. Planner Grahn stated that in 2001, after the garage had been obtained as part of the site, a plat amendment was done to include the garage.

The Staff report outlined the reasons why the Staff believed the application complies with the Conditional Permit. However, Planner Grahn requested discussion on Item 12, which relates to noise, smells, etc. The applicant plans to install exterior vents on the south side

facing the Washington School house rather than the neighbor on the other side of the building. The applicant also plans to put in a new air condenser on the west side at the rear of the property. Planner Grahn had added Conditions of Approval requiring vegetation; and restricting the hours for using the laundry room between 7:00 a.m. to 10:00.

Planner Grahn reviewed the site plan showing the location of the new vents and the new condenser.

Chair Strachan asked if the compressor was necessary for the laundry machines. A representative for the applicant stated that it was only an air conditioning condenser.

Commissioner Worel referred to page 157 of the Staff report, which stated that the applicant was proposing to install a commercial size washing machine, ironing board and small utility sink in the current garage. She asked if there was a reason why a dryer was omitted. Planner Grahn replied that it was an error and there would be a dryer. Commissioner Worel assumed that the dryer was the reason for venting.

Commissioner Phillips asked how many loads of laundry they anticipated per day. The applicant's representative estimated between three to four loads per day. It is a 12 room bed and breakfast with 13 beds. With the commercial units all the linens could be done in one or two loads per day, and the towel would be a separate load. He estimated four loads on a heavy day.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Thimm clarified that the condenser would only serve the laundry room. He was told that this was correct. The applicant's representative stated that it was a very quiet system.

Commissioner Joyce asked about access from the main building to the laundry. The applicant's representative stated that there is a front entrance off of Park Avenue and the staff would walk back and forth outside. Commissioner Joyce asked if the garage has been used to park cars. The applicant answered no.

Commissioner Joyce noted that Planner Grahn had asked for feedback on Item 12 regarding noise and smell. He assumed the restricted hours for the laundry matched the

pool hours of 7:00 to 10:00. He believed it was more appropriate to match the construction hours which ends earlier in the evening and starts later on the weekend.

Commissioner Joyce suggested adding a condition of approval limiting the scope to one washer and one dryer. Commissioner Joyce referred to page 168 of the Staff report. In looking at redoing the garage door he thought it was odd that the one on the right had wall-mounted heating and air conditioning unit mounted to the opening garage doors. The applicant's representative believed the drawing was incorrect and that it was meant to be above the doors inside on the brick portion. He stated that it still may not go in that exact location. Commissioner Joyce clarified that he only questioned it because of the intent to keep things away from the wall closest to the neighbor.

Commissioner Joyce stated that if they could limit the number to one washer and one dryer and use the standard construction hours for the hours of operation, he was comfortable with the application.

Planner Grahn offered to add a condition of approval with a limitation of one washer, one dryer, one small sink, one iron. She asked if the Commissioners wanted to discuss an end time for daily operation.

Planning Manager Sintz noted that the construction hours are Monday-Saturday 7:00 a.m. to 9:00 p.m. and Sunday 9:00 a.m. to 6:00 p.m. Ms. Sintz referred to Condition #7, which stipulates that the approval is for the laundry room use only. She recommended adding "on-site" to the language. Commissioner Joyce clarified that his concern was with the 10:00 p.m. end time. He asked if the applicant would agree to a time restriction of 7:00 a.m. to 8:00 p.m. The applicant's representative agreed, noting that most of the laundry would be done during business hours.

Commissioner Phillips stated that based on the standards for review he believed the applicant met all four standards listed in the Staff report. He agreed with Commissioner Joyce on the condition to limit the number of washers and dryers. Commissioner Phillips asked how many decibels would be heard on the outside of the building compared to a regular washer and dryer. The applicant's representative was unprepared to answer but offered to ask their sales rep. Commissioner Phillips was only concerned because sometimes the longer the ducts the more turns and the sound coming out the other end could be quieter. He recommended that they ask the sales rep if something could be done to make the machines quieter out of respect to the neighbors. Commissioner Phillips thought there was a definite advantage to this request because not having a laundry service pick up and drop off the laundry eliminates one car on the road.

Commissioner Joyce stated that he was present when they installed the commercial washer and dryer at the Friends of Animals in Brown's Canyon and it did not produce any more noise than other washers and dryers. The applicant's representative pointed out that the building has 10" thick concrete.

Commissioner Thimm noted that Condition #3 talks about fire sprinklers being required for new construction. He stated that the use was being changed and equipment was being added. He asked if they would be required to provide a fire suppression system. Planner Grahn replied that given the equipment in the garage and the fact that the garage is currently not sprinklered, the Building Department was requiring sprinklers. Commissioner Thimm thought it was a good idea to have a fire suppression system, but he thought the language should be changed to say for this project rather than for new construction.

Planner Grahn was comfortable changing the language; however, she believed that the Building Department would view it as new construction because the systems were being updated. Planning Manager Sintz suggested striking the words "for new construction".

MOTION: Commissioner Band moved to APPROVE 543 Park Avenue Conditional Use Permit to relocate the bed and breakfast laundry facilities into the non-historic garage on the property; based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended.

VOTE: The motion passed unanimously.

<u>Findings of Fact – 543 Park Avenue</u>

1. The property is located at 543 Park Avenue, and is currently the home of the Washington School House bed and breakfast.

2. The zoning is Historic Residential (HR-1).

3. The proposed Modification to Conditional Use Permit is to permit the construction of on-site laundry facilities consisting of one (1) commercial size washing machine, one (1) commercial size dryer, one (1) commercial ironing board, one (1) small utility sink, and one (1) heating/cooling unit. The on-site laundry facilities are an auxiliary use of the bed and breakfast, in the non-historic accessory garage structure. The garage is north of and adjacent to the Washington School House building and is located within the same lot of record.

4. The Washington School House bed and breakfast is a landmark structure listed on the Park City Historic Sites Inventory (HSI) and the National Register of Historic Places (listed

in 1978). The stone building was constructed in 1889. According to the HSI, the building was vacant and in disrepair at the time of its listing on the National Register in 1978.

5. On September 21, 1983, the Historic District Commission granted a conditional use permit for the site to be rehabilitated and adaptively reused as a bed and breakfast. The site continues to be used as such, and it has twelve (12) guest rooms. The Washington School House provides breakfast, snacks, and other light meals as needed to its guests.

6. On March 22, 1984, Park City Municipal Corporation entered a non-exclusive easement agreement for the parking access and use of the staircase located as the north 21.5 feet of Lot 11 and all of Lot 36, Block 9 of the amended plat of Park City Survey.

7. On October 9, 1984, an easement agreement (entry #225977) granted the Washington School Inn a private easement for the 11 automobile parking spaces.

8. On June 7, 2001, the Park City Council approved a plat amendment to combine seven Old Town lots into one lot of record on the site where the Inn is located.

9. On November 10, 2010, the Planning Commission approved a Conditional Use Permit for a private recreation facility, which included a year-round heated lap pool with connected hot tub and spa located behind the Washington School Inn bed and breakfast

10. Use of the garage as an accessory structure is an allowed use in the HR-1 zone.

11. The garage has a side yard setback of four feet (4') along the north property line; the required side yard setback is three feet (3'). The garage is not historic.

12. The garage measures approximately 21 feet by 23 feet, or approximately 483 square feet. It is currently used as a storage room to support the bed and breakfast use only; it is not currently being used for parking.

13. The property is currently over footprint for the lot configuration with the existing historic structure and non-historic garage, thus no addition could be added to either existing structure, and no new enclosed building could be placed on the site.

14. Additional parking requirements for the site are not affected by this application. Parking by guests or employees shall only occur in designated parking associated with the original Conditional Use Permit for the bed and breakfast. The 1983 CUP approval did not include the garage as part of the site's parking requirement, thus any current use of the garage for private guest parking was an additional, but not required, benefit to the bed and breakfast.

15. The proposed laundry room does not require additional parking per the requirements of the Land Management Code. The relocation of the laundry room to the accessory structure will not displace any existing parking.

16. Adherence to previously approved associated parking with the original bed and breakfast CUP will be followed. Guests and employees will continue to not be permitted to park on Woodside Avenue. Deliveries and servicing of the bed and breakfast as well as its pool will continue to occur off of Park Avenue, per the existing CUP applications. Because the bed and breakfast will no longer be outsourcing their laundry, there will be a reduction to trucks servicing the site to fulfill the bed and breakfast's laundry needs.

17. The laundry facility in the garage will not interfere with existing access routes for emergency vehicles. The most direct emergency access to the laundry room will be from Park Avenue.

18. Minor exterior changes to the non-historic garage will include revising the design and operation of the existing overhead door, as well as new vents and flues on the south elevation of the structure. Laundry facilities are an auxiliary use to the bed and breakfast. Only laundry for the bed and breakfast will be done on site. Any new exhaust vents will not impact the site's existing open space.

19. Ownership of the current business license will not change. The use is limited to owners and guests of the property.

20. The use is proposed to be contained within the existing accessory structure—the garage, and no new structures are proposed at this time. The garage is not located on a Steep Slope, nor is the property located in the Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance.

21. Staff findings in the Analysis section are incorporated herein.

Conclusions of Law – 543 Park Avenue

1. The CUP, as proposed, is not consistent with all requirements of the Park City Land Management Code.

2. The CUP, as proposed, is consistent with the Park City General Plan.
3. Neither the public nor any person will be materially injured by the proposed CUP.

4. Approval of the CUP is subject to the conditions stated below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval – 543 Park Avenue

1. The applicant shall apply for a building permit from the City within one (1) year from the date of Planning Commission approval. If a building permit has not been granted within one year's time, this Conditional Use Permit will be void.

2. An approved Historic District Design Review will be required prior to building permit issuance for any exterior work.

3. Fire sprinklers will be required by the Chief Building Official at the time of review of the building permit submittal.

4. Any improvements in the City right-of-way will require an Encroachment Agreement with the City prior to building permit issuance.

5. The needed exterior condenser will comply with LMC 15-2.2-3(I) which requires screened mechanical equipment and similar structures to be located a minimum of 5 feet from the side lot line. Any new exterior exhaust vents and similar equipment shall be screened with vegetation.

6. The laundry room shall only be used between the hours of 7am and 8pm.

7. The approval is for the on-site laundry room use only. Any additional uses would require additional CUP modification and are outside the scope of the 1983 bed and breakfast conditional use permit, the 2010 private recreation facility conditional use permit, and this 2015 modification to CUP.

8. No guest or employee parking shall occur on Woodside Avenue or Park Avenue. Guest and employee parking shall adhere to the 1983 conditional use permit approval. Service and deliveries for the Washington School House Bed and breakfast shall continue along Park Avenue.

9. Any new signage will require a new sign permit.

10. No new lighting is proposed at this time. Any new lighting shall be reviewed and approved by the Planning Department prior to installation.

11. Noise levels shall comply with 6-3-9 of the Park City Municipal Code.

2. 259, 261, 264 Norfolk Avenue – Consideration of the First Amended Upper Norfolk Subdivision Plat – Amending Conditions of Approval on Ordinance No. 06-55. (Application PL-15-02664)

Commissioner Phillips recused himself and left the room.

Planner Astorga reviewed the application to amend the original ordinance 06-55, which approved the Upper Norfolk subdivision in 2006. Jerry Fiat was representing the three entities that own each lot.

Planner Astorga stated that in 2006 a specific condition of approval indicated that construction access to the lots would be from King Road. In 2009 the applicant lost that access easement and, therefore, they were in violation of the condition of approval. Planner Astorga reported that the Planning Commission first reviewed this amendment to the ordinance on March 25, 2005 and it was continued until this evening. The two conditions of approval requiring access from King Road were outlined on page 190 of the Staff report. The applicant was requesting to amend those two conditions. Planner Astorga noted that the construction easement agreements were granted; however, the one with the access had a specific time frame and it had expired.

Planner Astorga stated that when the Planning Commission reviewed this application on March 25th they talked about construction mitigation and the Steep Slope conditional use that was discussed in the original approval in 2006. Pages 191 and 192 of the Staff report outlined some of the items that were discussed in 2006 regarding the Steep Slope CUP.

Planner Astorga commented on the first part of this application, which was construction mitigation. Exhibit C in the Staff report was the actual letter written by Jerry Fiat concerning the construction mitigation. The first is the desire to build all three units at the same time. The second is that staging area has been secured in the back of the sites on Mr. Sfire's property. An easement agreement was obtained and that agreement expires two years after the start of construction. Planner Astorga noted that in his letter Mr. Fiat indicated that no materials would be staged on the street, that parking will take place in a shared private driveway, and there is sufficient space for cars and trucks to turnaround without having to back up or down Upper Norfolk. Mr. Fiat also indicated in his letter that they intend to encourage carpooling to further reduce traffic. Trucks will not be allowed to que up on Upper Norfolk. The road would only be closed for specific utility upgrades. Deliveries could be accommodated in the area of the three lots.

Planner Astorga noted that the letter was reviewed by the Building Department. The Building Department does not approve the actual construction mitigation until the building permit is issued; however, they had no issues with what was being proposed. Planner Astorga noted that language was drafted in the Building Department's form and the information was placed on the actual construction mitigation plan, with a disclaimer that it was subject to change at any time. Planner Astorga stated that the Chief Building Official has the ability to amend a construction mitigation plan to address specific concerns that may arise during construction.

Planner Astorga stated it was unfortunate that the applicants lost the access off of King Road because there is no other way to accommodate construction other than through King Road. Based on recommendations by the Building Department, Planner Astorga recommended that the Planning Commission approve the specific ordinance that amends the original plat from 2006. The lots have always been viewed as buildable lots of record, but access would be more difficult.

Planner Astorga commented on the issue regarding construction on steep slope. He explained that as the Staff further examined the minutes from 2006 they found that many questions and concerns were not addressed because they would be discussed with the Steep Slope CUP. He noted that whenever an issue was raised by either the public or the Commissions, the re-occurring answer was that all of the items would be addressed through a Steep Slope Conditional Use Permit.

Planner Astorga noted that Exhibit F showed the actual site with the triplex that has since been demolished. The next Exhibit was the actual survey that was submitted in 2006 that showed a large encroachment of the triplex over the City right-of-way. Planner Astorga presented the existing conditions site plan that was submitted in 2006, as well as a preliminary proposed site plan that was submitted. He pointed to the existing berm and the shared driveway. Planner Astorga stated that the trucks would come in, make the turn and then make an applicable turnaround in that area where it would not affect the neighborhood. Planner Astorga noted that the construction easement he mentioned earlier was behind the lots towards the west.

Planner Astorga presented an Exhibit that was shown in 2006. One imaged showed the existing conditions with the triplex. Another image represented the proposed with each single family dwelling at approximately the same section cut.

Planner Astorga stated that in June 2010 a memo was written by the Planning Department indicating that this site required a Steep Slope CUP. In August 2010 another memo was written by the Planning Department stating that a Steep Slope CUP was not required. Planner Astorga explained that when the Staff reviewed the site at the applicant's request,

they looked at the plat but failed to look at the Findings of Ordinance 06-55. Finding 13 of the Ordinance indicated that the sites were on steep slopes and required a Steep Slope conditional use permit. Planner Astorga stated that this application was the reason why plat notes are now placed on new plats referencing the actual ordinance recorded with the City. The plat note would direct people to the findings of fact, conclusions of law, and conditions of approval for the plat.

Planner Astorga reviewed the site plan that was recently submitted by the applicant regarding construction mitigation. The area in yellow in the back was the construction staging area, which is the shared driveway. Planner Astorga referred to the survey and verified that the topo lines match the submitted survey. He noted that Lot C, before the area was disturbed, had a slope of 67%. Regarding the other two lots, he indicated a slope of 53% and 38%. Planner Astorga remarked that it could be debated as to whether or not it meets the Steep Slope CUP requirement because of the disturbance that took place. He noted that the survey was done before the triplex was removed, but at that time it had a slope of 67%. Based on that information the Staff recommended that they honor the original Finding of Fact requiring the applicant to come back with a Steep Slope CUP for each lot.

The Staff recommended that the Planning Commission amend the ordinance to allow building three single family dwellings. He reiterated that there is no longer access through King Road and they would have to use Upper Norfolk. Specific conditions of approval address vegetation and changes to the construction mitigation plan. If the construction mitigation plan changes for any reason, the applicant has the responsibility to inform the neighbors. Planner Astorga reported on a technical aspect of the easement in the back that was an error in the survey, and he recommending making that change. Another condition of approval requires a cross access temporary construction easement over the three lots so staging during construction could occur on the three properties.

Planner Astorga clarified that the only way to amend an ordinance is to apply for another ordinance which amends it. A memo by the Planning Director is not sufficient to remove a specific finding, conclusions of law, or condition of approval.

Jerry Fiat, representing the applicants, remarked that the condition regarding access in the rear was not in the plat. They were new owners who were not aware of the condition. A plan was submitted in 2009 to build, at which time the Planning Department discovered the access issue and suggested that they amend the ordinance. He clarified that the applicants had no issue with amending the Ordinance.

Mr. Fiat thought the major issue was the Steep Slope CUP. He recognized that either he or the buyers should have checked for findings of fact, but it was not on the plat and they

had a clear letter from the Planning Director. Mr. Fiat explained that in 2009 plans were submitted to determine whether or not it required the Steep Slope CUP process. After the Planning Department determined that it was steep slope he met with Planner Astorga and former Planning Director Thomas Eddington because he did not think it was right. Mr. Fiat noted that the area on the third lot is steep because they dug it out for parking. It is a disturbed area and not the natural topography of the area. Mr. Fiat stated that in looking at pictures of the triplex, it is evident that the triplex fully extended on to the berm. He noted that the public right-of-way was used for parking and the triplex was also on the public right-of-way. Mr. Fiat emphasized that the site was disturbed. Mr. Fiat remarked that the site was measured which is why the Planning Director which is why the Planning Director wrote another letter in conflict with the first letter.

Mr. Fiat stated that they have been trying to build these lots for a while and they have almost lost this season. They have a letter that was written in good faith stating that a Steep Slope CUP is not required. Mr. Fiat noted that they removed a six unit structure that was 47' in height and encroached on to the public right-of-way. They would like to build three homes and create a better situation on the site.

Commissioner Band asked Planner Astorga to explain the construction mitigation process if the approved construction mitigation plan is changed. Planner Astorga clarified that changes normally do not occur. He added a condition of approval due to the issues related to the narrowness of Norfolk and the expectation of the neighborhood that access would occur off King Road. Planner Astorga stated he followed the same noticing criteria for a plat amendment, which is to notify property owners within 300 feet. The applicants would have to provide an updated list of neighbors within 300 feet and to notify the neighbors that the x-component of their construction mitigation plan has been amended. Planner Astorga stated that the Chief Building Official has the authority to approve, amend or deny construction mitigation plans.

Commissioner Band asked if there was a specific time frame for notifying the neighbors. Planner Astorga offered to include language in the condition requiring that letters be sent the day the amended construction mitigation plan is approved. Commissioner Band thought the neighbors should be noticed a day or due prior to something that would affect them so they would know what to expect and could plan accordingly. Planning Manager Sintz noted that something similar occurred with the construction of the Main Street Mall and a system was put in place that notified property owners when changes would be occurring on the street. She believed they would use that model.

Commissioner Worel noted that pages 193 and 194 talks about construction easements and that two of the legal descriptions were incorrect. She asked if that should be in the conditions of approval. She also noted that in the redlined Condition #5 was struck where

it talks about construction easement agreements. Planner Astorga stated that he wanted the Planning Commission to understand the original findings of fact, conclusions of law and conditions of approval. For example, page 201 contained the existing findings of fact and those were redlined to show the changes proposed for the amended ordinance. On page 202, Conditions 4 and 5 would be struck because Condition #4 addressed the King Road access; and Condition #5 was tied to Condition #4.

To answer Commissioner Worel's first question, Planner Astorga referred to the Condition #6 in the proposed draft ordinance. He noted that the easement was drawn appropriate, but once they looked at distances and angles it did not quite close. The intent is to have the surveyor address that item. Planner Astorga stated that Mr. Fiat was already working on the language to address the technical aspects that were not appropriate drafted in the recorded documents. Planner Astorga referred to Condition #7 and stated that since they would be staging on Mr. Sfire's property, the Planning Department wanted an inventory of the landscaping to make sure it is brought back up to what is was.

Commissioner Thimm stated that if they were making a finding of fact that there is sufficient area on the property to conduct construction staging, he questioned why an off-site area was shown for staging as part of the presentation. Planner Astorga replied that the off-site area is what makes the area sufficient for construction staging. Commission Thimm thought Finding #14 did not reflect that intent. Planner Astorga agreed and revised Finding #14 to read, "There is sufficient area on the property and adjacent to it to conduct construction staging."

Commissioner Joyce thought Finding of Fact #14 should be changed to read, "between the property and the easement there is sufficient property for construction staging."

Chair Strachan opened the public hearing.

Debbie Brabender, a resident at 283 Upper Norfolk, believed her property would be the most impacted by the construction. She emphasized that the applicants have the right to build their house and she encourages it because beautiful homes will improve the neighborhood value. Ms. Brabender stated that her only concern is that the road that comes in in front of these houses would drive on the City property right in front of her guest house that she rents as nightly rentals. She will lose the parking spot and that section will be the turnaround spot for everyone else. Ms. Brabender was not pleased with that prospect. She has spoken with Planner Astorga and there are ongoing discussions with regard to how they can square up their property and not lose the privacy in front of their guest house. Ms. Brabender liked that the Planning Commission was going back to the original documents to make sure everything was being done appropriately. Ms. Brabender reiterated that she was not opposed to the project. As the only person on the end of the

street who lives there full time she understands the traffic situation. She was pleased to see the plans for the driveway, but she disagreed with how the driveway circles around in front of her lot because it would be the turnaround spot.

Michael Kaplan stated that he owns the property at 236 and 238 Upper Norfolk, where it becomes a choke point on the street. Mr. Kaplan cited an incident where cars were parked on both sides of the street and there was an emergency with a toddler, but because the road is narrow the emergency vehicles could not get through. Luckily, everything worked out fine, but since his property is nightly rental he put up signs allowing people to park on one side of the street but not the other. Mr. Kaplan emphasized that the road is very narrow and he requested that everything possible be done to leave room for emergency vehicles. He had done his part and he hoped others would be considerate of the situation.

Commissioner Worel closed the public hearing.

Commissioner Worel was impressed with the construction mitigation plan and she thought Mr. Fiat was working hard to lessen the impacts on the neighborhood as much as possible. She has always had concerns with Upper Norfolk. She was interested to hear the comment about the shape of the driveway.

Commissioner Joyce referred to the site plan on page 226 of the Staff report and pointed out where the property line comes across for the house next door. Mr. Fiat noted that the hatched areas on the site plan are the areas that were historically used for parking and they were reclaiming it as berm. Mr. Fiat stated that their original intent was to reduce or eliminate the parking that was in the unimproved right-of-way and return some of the berm to screen it better. He was willing to move it more, but they were not trying to create parking because they have the shared driveway for parking.

Mr. Fiat remarked that no one puts together a construction mitigation plan like he does. He believed he was the only developer who rents parking spaces and never uses City parking for construction sites. They always rent parking and they also enforce it. He thought they did an exemplary job of controlling the situation on all of their projects and he could not recall a single complaint. Mr. Fiat understood the comment about losing the parking, but the narrowness of the road is caused by the amount of parking that occurs on the public right-of way and not by the project.

Commissioner Joyce asked if Mr. Fiat had an easement on the City right-of-way that would allow them to turn it into private driveway. Mr. Fiat stated that most of the improved public right-of-ways are not in a platted right-of-way. There is usually a significant difference between the improved right-of-way and the lots and it is typically crossed. He pointed out that this occurs on every project throughout Old Town. He noted that usually it is a single

driveway for each lot. They would prefer a single driveways but they were specifically requested to eliminate the number of driveways. They came in with a proposal for two and they were asked to do one.

Planner Astorga presented an exhibit of the outer edge of the Park City survey. He noted that the red area in the circle represented the subject property. The area above it was the next property and it was not included in the Park City survey. That was the reason for the unique angle. Planner Astorga reviewed the aerial photograph and pointed out that platted Norfolk ends on the angle. Everything north was private property with an easement over those areas to access the other three or four homes. Planner Astorga understood that Commissioner Joyce was questioning whether 283 or 263 would have access. That was the reason why another condition of approval was added stating that any improvements to the right-of-way would have to be filed and appropriately approved by the City Engineer. Planner Astorga clarified that the parking that has taken place was never formalized by the City. He understood that it was illegal parking that has been enjoyed up to this point.

Commissioner Joyce expected that one property would not be allowed to come up in front of another property on the right-of-way. He assumed that the access would be associated with Lot 283 rather than Lot 263. City Engineer Matt Cassel stated that the City tries to keep the driveways within the boundaries of the property lines to avoid causing impacts to the neighbors. There is nothing written prohibiting drives to extend beyond the property lines but it is a guiding principle.

Commissioner Joyce sympathized with the applicants regarding the steep slope issue. However, as he read through all the past minutes, the driveway was the one issue that kept coming up but kept getting pushed to the steep slope CUP. The concerns related to the berms, how amount of cut, retaining walls and other issues. Commissioner Joyce believed that when the previous Planning Commission gave approval for the plat, it was done based on the assumption that they would have a secondary level of approval to shape the plan. Commissioner Joyce was comfortable with the construction mitigation plan and he would like the applicant to be able to move forward, but he was uncomfortable with the driveway piece and making sure it gets done right.

Mr. Fiat noted that they were not disturbing any of the berm. They were actually bringing back and revegetating the berm. With City Engineer approval, Mr. Fiat was willing to move the driveway 90 degrees off the public right-of-way to stay away from being in front of 283 Norfolk. Commissioner Joyce asked if Mr. Fiat was convinced that they could bring the driveway up to the first house and not encounter driveway steepness issues. Mr. Fiat replied that the Code would not allow them to exceed 14%. He commented on a driveway was currently being torn out because the grade was 16%. Mr. Fiat remarked that

everyone in town was very aware of the strict rules. If he moved the driveway he would have to make it work within the 14% requirement.

Commissioner Band asked if they were using the public right-of-way to stage pouring the driveway. She had walked the lot and questioned how they would get everything to the back staging area. Mr. Fiat stated that they would grade the driveway either use a crane over a forklift to move everything to the staging area. He explained that a small crane usually fits within the space. Mr. Fiat realized that the concrete truck would have to be on the road when the last piece of the driveway is poured, but he believed there was sufficient space on-site to build the project. Mr. Fiat stated that relative to other sites this was a very manageable project.

Commissioner Thimm thanked Mr. Fiat for a thorough and detailed construction mitigation plan. In terms of the right-of-way and the driveway, Commissioner Thimm stated that he tends to look at a piece of property from the right-of-way line to the edge of curb or sidewalk as frontage. He favored moving the driveway perpendicular off of Norfolk because it was more in line with how he defines frontage.

Commissioner Thimm commented on the steep slope issue. He agreed with the applicant that a letter is on file saying that it was not steep slope; however, another letter on file says that it is. In addition, the Planning Staff was recommending that the condition of approval having it be a steep slope should remain. Commissioner Thimm asked Planner Astorga if there was an outstanding issue that made the Staff draw that conclusion. Planner Astorga replied that it was the review of the minutes from 2006 and the number of items that were not addressed on the belief that it would be reviewed under a Steep Slope CUP.

Planner Astorga admitted that he had written the last memo on behalf of the former Planning Director and that they had not looked at the ordinance. They only looked at the plat and there was not a plat note. They went on-site but since none of the planners are certified surveyors they made their determination based on what they knew. As a professional planner, after reading all the minutes, he thought it clearly reflected that all of the items regarding the driveway and the design of the house were to be reviewed through the Steep Slope CUP process.

Commissioner Campbell thought there was a perception in the neighborhood that the right-of-way extends perpendicular from the roadway. His only objection was using the triangular section above. He felt that piece should stay with the house to the north. If Mr. Fiat was willing to move it perpendicular and felt comfortable that he could meet the driveway grade, Commissioner Campbell could support it. After driving by the site, he thought the steep slope situation was created by the prior excavation. He believed the natural grade would not have met the steep slope requirement. Commissioner Campbell

pointed out that the previous Planning Commission talked about reviewing a steep slope CUP because they were under the assumption that the property was a steep slope. That does not mean that it actually was a steep slope.

Commissioner Band was inclined to lean towards the Staff recommendation to keep the condition for a Steep Slope CUP because of the minutes from 2006. However, if they choose to remove the condition, she thought it was important to address the issues that were kicked down the road if there was not going to be a Steep Slope CUP process.

Commissioner Campbell questioned whether they were technically able to discuss those issues this evening. City Attorney Harrington replied that the Staff had not framed the issues for discussion. He suggested that the Planning Commission outline the specific issues so the Staff could prepare a recommendation for the next meeting.

Commissioner Band understood that the two options were 1) approve the ordinance as amended, keeping the Steep Slope CUP; or 2) Continue this item to another meeting when the Planning Commission could discuss some of the issues.

Chair Strachan felt this was one circumstance where the equities weigh in favor of the developer. He understood the issue of getting two conflicting letters and the mixed message it sends. In his opinion, where there is a tie it goes to the “runner”, and in this case that would be the developer. Chair Strachan remarked that the question was whether or not they could adequately mitigate the potential impacts in the context of a plat amendment application. He believed they could mitigate the impacts without going through the Steep Slope CUP process, especially since the developer was given mixed messages.

Chair Strachan thought the greatest impacts and the ones that could be mitigated related to construction impacts, the driveway, and construction staging. He pointed out that the CUP process would get them to the same point they were at this evening, and many of the conditions that the Planning Commission would end up imposing had already been agreed to by the construction mitigation plan. If Mr. Fiat was willing to take all of the bullet points outlined on page 193 of the Staff report and make them conditions of approval to this plat amendment, Chair Strachan believed that would achieve the goal of mitigating the impacts.

Mr. Fiat agreed to what Chair Strachan was suggesting, and noted that he had originally suggested that it become a condition of approval.

Commissioner Melissa clarified that if the Commissioners agreed they would be removing Finding of Fact #13.

Commissioner Thimm concurred with Chair Strachan. He believed the LMC and the Planning Staff would enforce the mitigation of impacts. Commissioner Thimm liked the adage of the tie going to the runner. He appreciated Mr. Fiat's persistent effort.

Commissioner Band asked if they needed to add language to the construction mitigation plan to address the comment by Planning Manager Sintz that a specific system was in place to notify the neighbors if changes to the Plan occur. Planner Astorga pointed out that the condition should be removed entirely because those items would become conditions of approval and the Chief Building Official would not have the ability to amend the construction mitigation plan.

Chair Strachan suggested that the Planning Commission take a break and move to the next item on the agenda to give Planner Astorga the opportunity to draft the revised findings of fact and conditions of approval and bring it back to the Planning Commission for action this evening. The Commissioners concurred.

Chair Strachan noted that since the majority of the public were present for the LMC amendment regarding Vertical Zoning storefronts, the Planning Commission would move that to the next agenda item.

Commissioner Phillips returned to the meeting.

3. Land Management Code Amendments regarding vertical zoning storefront regulations in Chapter 15-2.5-2 Uses in Historic Recreation Commercial (HRC), Chapter 15-2.6-2 Uses in Historic Commercial Business (HCB), and associated Definitions in Chapter 15-15 Defined Terms (Application PL-15-02810)

Planner Whetstone reviewed the proposed amendments to Chapter 2.5 and 2.6, as well as changes to the definitions in Chapter 15. The Staff recommended that the Planning Commission conduct a public hearing and continue the item to July 22nd to allow time for the Staff to consider input from both the Planning Commission and the public. Planner Whetstone stated that the Staff intends to provide noticing to the business owners prior to the July 22nd, meeting. She noted that every property owner within the area of the vertical zoning ordinance was noticed for this meeting; and it would be beneficial to hear from the businesses.

Planner Whetstone stated that Goal 16 in the General Plan stated, "To maintain Historic Main Street District as the heart of the City for residents and encourage tourism in the District." Objectives talk about limiting uses within the first story of buildings along Main Street to retail and restaurant establishments that are inviting to passing pedestrians. Uses that should be discouraged included office space, real estate, show rooms, parking, etc.

An implementation strategy is to re-examine the City's vertical zoning ordinance that requires commercial retail shops along Main Street and to consider strengthening that ordinance.

Planner Whetstone stated that additionally the City has an economic development strategic plan that includes goals related to maintain and improving a balance of sustainable community goals by going beyond economic initiatives and include social and environmental strategies to preserve Main Street.

Planner Whetstone stated that the proposed amendments pro-actively direct uses that have a more positive impact or effect on the economic and social vitality and activity level of the street to look at street level storefronts. Upper level spaces in the districts in this area can continue to accommodate offices, residential, real estate offices and those types of uses. Planner Whetstone remarked that the proposed amendment expands the reach to Lower Main Street and suggests taking out any areas that were exempt from the existing ordinance. Planner Whetstone summarized that the proposed amendment would amend the table to add additional uses that would not be allowed in storefront properties; to expand the location of the ordinance; and to relook at the definition where a property fronts on a street or a public or private plaza. She noted that a private plaza has its own definition and this amendment would not include a small, personal or private plaza. However, if it is on Main Street it would probably fall under this amendment because it would be within 50 feet of the street.

Planner Whetstone had reviewed the ordinance and read through the minutes of how it was created and why some areas were exempt. She recognized that some areas may still need to be exempt and she anticipated a lot of conversation regarding this issue.

Planner Whetstone requested that the Planning Commission consider adding a requirement that new construction or redevelopment reconstruction shall not be manipulated so as to not create a storefront property.

Planner Whetstone stated that the storefronts are regulated by a footnote to the uses. They added the footnote "any residential use". She pointed out that nightly rental was not mentioned in the list because it was already part of the residential use. A bed and breakfast and a hostel were added, as well as minor hotel rooms. They also added under conditional uses triplex, multi-units, guest houses, and group care facilities. Also added were parking areas or structures, as well as recreation facilities; commercial, public and private. Planner Whetstone clarified that the footnote are uses are prohibited in the HRC zone, storefronts on Main Street, Swede Alley, Heber Avenue and Park Avenue, excluding the HRC zoned areas on the west side of Park Avenue. She noted that three HRC properties across from the Kimball Arts Center are residential buildings. Other historic

buildings on the west side of Park Avenue with different uses back to residential and it seemed appropriate that adaptive reuse of those buildings may be an office. Planner Whetstone remarked that an item for discussion would be to allow a hotel on a Main Street storefront but not the hotel rooms. Hotel lobbies would also be prohibited unless they were open to the public.

Planner Whetstone reviewed the items for discussion outlined on page 480 of the Staff report: 1) Are there Uses that the Commission finds should be excluded or included from the provisions of this Ordinance; 2) How should access to upper and lower level spaces be regulated? Should access and/or lobby areas for hotels, residential condominium properties, offices, private clubs, etc. be limited to a certain percentage of the overall Storefront area? Should these regulations apply to lobbies that are essentially public because they provide access through to public restaurants, bars, and shops; 3) Does the Commission find that expansion of the Ordinance to the lower MainStreet area by a) including Public and Private Plaza areas in the definition of Storefront, and b) by removing the current language that excludes certain properties, further addresses the City's adopted Goals and Objectives and strengthens the existing Ordinance; 4) Are there certain properties or spaces that should be excluded from the provisions of this Ordinance due to existing physical constraints, such as the location or orientation of windows, entry ways or other reasons? Should the properties that front onto the northern interior plaza at Summit Watch continue to be excluded from the Vertical Ordinance, thus allowing non-retail uses to located in that area; 5) Staff has exempted the HRC zoned properties located on the west side of Park Avenue because these properties transition to adjacent residential properties on Woodside. Residential and office uses within Storefront Areas are compatible uses in this transition area. Should this area be included in the Vertical Zoning regulations; 6) Should new development be required to have Storefront Areas if located on Main, Heber, Swede, or east side of Park and within the HRC and HCB Zoning Districts?

Chair Strachan opened the public hearing.

Doug Clyde thought the discussion items were well framed and he intended to stay and listen to their discussion. Mr. Clyde had read the ordinance and believed that it generally accomplishes what they want. However, he had concerns about the plaza issue. He thought it was unclear what the relationship of a plaza is to the specific streets on which the storefronts are regulated. It is unclear when a plaza becomes part of one of those regulated streets. For example, in reading the ordinance one could construe that the 1st Street stairs are a public plaza connected to Park Avenue and perhaps should have storefront all the way up the stairs. He thought the intent of what they were trying to accomplish was good but he cautioned them to consider the unintended consequences.

Mike Sweeney stated that he is one of the owners of a plaza and had a difficult time understanding the thinking with respect to the plazas. Plazas were not involved on Main Street. Mr. Sweeney remarked that he, his brothers and others provide Park City with lower Main Street because until they developed it there was not a lower Main Street. It was a Mill plat and it terminated at Heber Avenue. Mr. Sweeney stated that from his understanding as the President of the HPCA at the time this was going on, they were talking about storefront on the Main Street level. It did not involve his plaza or the Main Street Summit Watch Plaza, which are the only two plazas on Main Street that are 1,000 square feet. Mr. Sweeney stated that the businesses on the interior of the Marriott Summit Watch need all the help they can get because very few businesses have been successful in the 20 years since the plaza was created. Mr. Sweeney noted that he help craft the original language and the fact that it has been expanded to include private plazas does not make any sense. He supported the idea of having commercial retail in storefronts, which includes bars and event centers. Mr. Sweeney stated that the purpose of the ordinance is to make sure that the commercial activity on Main Street is existing. He does not believe in having parking come in on Main Street. He remarked that this came to the attention of the City Council because of how 205 Main Street was designed. The reason for this amendment is to make sure that something like 205 Main Street never happens again. Mr. Sweeney stated that when he was involved with the HPCA they looked at what they thought was right for Main Street to create the commercial activity and the vibrancy they were looking for. He believed that was what they were trying to protect to make sure that 205 did not happen again on Main Street. Mr. Sweeney noted that the real estate firms were asked to leave Main Street and they will not be coming back. Mr. Sweeney wanted to meet with Planner Whetstone to go through in detail what he understands about this particular situation they were in right now.

Eric Nelson agreed that this conversation was triggered by what happened on 205 Main Street, which in his view is a disaster for the City and for Main Street. He believed the City had an opportunity to vitalize that section of Main Street, and so far they have lost that opportunity. Mr. Nelson had read the Staff report and he had no comments on it. However, he did wat to comment on process. When a project like 205 Main Street is not reviewed by the Planning Commission and the City Council, and neither body even knew it had been approved, the process is flawed. When the buck stops with the City Council and they knew nothing about it that is a problem. Mr. Nelson stated that someone needed to address the process because 205 Main Street was not the only instance where a project was approved without the Planning Commission or the City Council seeing it; and that is a mistake. Mr. Nelson requested that the Staff and the Planning Commission address that issue.

Chair Strachan closed the public hearing.

Commissioner Campbell agreed that plazas were a separate issue. He was unsure how to address plazas, but he thought they were crafting a shotgun approach to stop 205 Main from happening again. Commissioner Campbell stated that it is only two plazas and both need whatever help they could give them. He did not believe they should be treated the same way as Main Street.

Commissioner Thimm concurred with Commissioner Campbell with regard to looking at plazas differently. He has walked them many times and he sees the struggles. In terms of access, Commissioner Thimm thought having lobbies for offices and hospitality as part of the storefront face for Main Street makes sense. However, it was important to look at it holistically if they intend to make changes to the LMC as opposed to a knee jerk reaction to one project.

Commissioner Band thought the downtown plaza areas have started to change and a lot of the businesses have been there for a while. The more they can encourage good shops to be there the more people will go there. Commissioner Band stated that if the concern was about the vibrancy of that area, taking plazas out of the ordinance will hurt more than it will help. If the intent is to address the lack of vibrancy on lower Main and on this plaza, they should not do it by putting in offices and real estate business. They need to help the area by making it more vibrant and keep the retail and commercial spaces that will bring people in.

Commissioner Joyce asked Planning Manager Sintz not to put the Planning Commission in the same position they were put in for Bonanza Park where owners are caught off guard and blindsided. He wanted to make sure that the people who are the most affected are clearly informed about this amendment. Commissioner Joyce thought a reaction to 205 Main Street was part of the timing, but at the last meeting they discussed a private club at 875 Main that was zoned as an exception, even though it was not a desirable storefront use. Commissioner Joyce noted that what they were really trying to do was make downtown a vibrant place to come. Places that draw people are where the people go because it is interesting. His problem with the plaza are the uses that do not draw people in. He agreed with Commissioner Band that they were not trying to fix Main Street. They were trying to make the whole area a vibrant place to go. He would like to include plaza and make them as vibrant as Main Street. The focus should not be to make sure 205 Main does not happen again, but rather to make sure that Old Town is a vibrant place for people to go.

Commissioner Joyce did not believe the west side of Park Avenue should be an exception. He understood the transition, but trying to explain that transition to a tourist is vague. Commissioner Joyce commented on the idea of allowing a hotel entrance but not the rooms. He thought they needed to be clear about parking lots and entrances. It somehow

needed to be addressed but he was unsure how to do it. He reiterated that he rarely favors exceptions because if they have a rule it should apply to all.

Commissioner Phillips was on the fence for both the exemption for the west side of Park Avenue and the plazas. He was leaning towards the street level plazas but after listening to the different arguments he was still forming his opinion.

Planner Whetstone noted that on the far north end of the plaza there was really nothing happening in that area. However, the Staff looked at the end where Main Street curves and discussed whether or not to exempt that portion. They determined that if the goal is to encourage commercial it should be the whole plaza.

City Attorney Harrington stated that property ownership down there gives alternatives and they may be able to work collaboratively with the owners to get a more specific amendment to the MPD. The previous minutes reflect that the goal was balance. Former Commissioner Wintzer had said, "We do not want to dictate the results down there but we want to turn the tide." Mr. Harrington noted that there was a lot of discussion regarding plazas and thought they needed a good map to know which areas they were talking about. He cautioned them about ruling out doing something specific with the other area because they may want more flexibility in that area.

Commissioner Phillips thought it would be helpful if Planner Whetstone could identify all the plazas for the next meeting. Commissioner Phillips did not want to make it difficult for the property owners to lease their spaces. Commissioner Campbell agreed. If the businesses are having problems leasing space now, they should not cut out half of their potential tenants without collaborating with first collaborating with the owners. Planner Whetstone stated that the Staff would do some outreach with the business owners. It was tentatively scheduled to come back to the Planning Commission on July 22nd, but that could be postponed if the outreach takes longer.

Chair Strachan thought the Planning Commission would agree that a private residence club on those plazas was not acceptable.

Commissioner Worel agreed with her fellow Commissioners. She applauded Commissioner Band for encouraging vibrancy. Commissioner Worel questioned why the City had not reach out to the business owners. She agreed with Commissioner Joyce about the process and not being blindsided like they were with Bonanza Park to find that the owners and tenants were the last to know what was going on and the last to provide input. Commissioner Worel believed the business owners on Main Street would provide valuable input.

Commissioner Worel recognized that it was not a discussion for this evening, but she thought Eric Nelson made an excellent point about the approval process. She thought the Planning Commission should address the process of how projects are approved by Staff to avoid the surprise they had with 205 Main Street. Chair Strachan suggested that it be a work session item.

City Attorney Harrington recalled that the process had more to do with the stakeholder meetings. He noted that past minutes reflect working groups. Mr. Harrington stated that the pendulum swung at one time and the City Council looked at streamlining the process. Ge noted that process is a policy decision to be made by the Planning Commission and the City Council. The Staff could write the Code to have everything come to the Planning Commission or the HPB and make an appellate body. It was an efficiency that the policymakers could decide.

Chair Strachan personally thought the Planning Commission should review the projects. It was one reason why they were appointed and one reason why the City Council was elected. He did not like leaving the decision to Staff. There are times when Staff approval is appropriate, but a CUP or any project over a small amount of square footage should be reviewed by the Boards and Commissions that the community agreed should have the control. Chair Strachan favored having a work session on the process and which projects could just go to the Staff.

Commissioner Joyce agreed that they do not want to hurt the businesses, but at the same time this is an opportunity to plan and to proactively try to shape what downtown becomes. He recognized that there needs to be a balance, but if they plan to shape the outcome it will require rules and guidance that may not be popular to everyone.

Planner Whetstone reiterated that the outreaches would take place before this comes back to the Planning Commission. However, it was important to get an ordinance published so they would have a broad pending ordinance for the public hearing.

Commissioner Band thought they could all agree that the highest and best use is a vibrant area. She stated that no one will be happy about getting a use taken away and the property owners would want as many broad options as possible. If they want this to be vibrant the City might have to partner with the businesses to bring vibrancy to Main Street. She encourage the Staff to phrase it in that way when they do the outreach so the business owners will be willing to listen.

MOTION: Commissioner Worel moved to CONTINUE the LMC Code Amendments regarding vertical zoning storefront regulations in Chapter 15-2.5-2, Uses in Historic Recreation Commercial and Chapter 15-2.6-2, uses in HCB and associated Definitions in

Chapter 15-15 Defined Terms, to July 22, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

4. Continued discussion on 259, 261, 263 Norfolk Avenue - Amending Conditions of Approval on Ordinance No. 06-55.

Commissioner Phillips recused himself and left the room.

Planner Astorga stated that the findings and conditions could be revised for the Planning Commission to make a recommendation, but he did not feel the Staff could support it when it goes to City Council based on the fact that Lot 1 on the north has not been disturbed. Therefore, it met the Steep Slope CUP criteria then and the Staff finds that it would still meet the Steep Slope CUP criteria. Planner Astorga pointed out that the Planning Commission addressed a number of items regarding construction mitigation, but the Steep Slope CUP addresses volume, massing, and other items not related to construction mitigation. Planner Astorga stated that if the Planning Commission moves forward this evening, but he wanted the applicant to understand that the Staff would have an alternate recommendation for the City Council. He reiterated that as written in the Code, any development on a slope 30% or greater requires the applicant to submit a Steep Slope CUP application.

Chair Strachan suggested that the Planning Commission stay with their earlier plan to send it to the City Council and let the City Council make the final decision. City Attorney Harrington stated that an alternative would be to clarify that by removing Finding of Fact #13 the Planning Commission was not saying a CUP is or is not required. They were only removing it as a statement of fact and the actual determination would be made during the application when the property is surveyed. Mr. Harrington was unclear as to why so many iterations of determinations were made outside of the normal process.

Commissioner Joyce stated that part of the problem is that when the Planning Commission reviews a plat amendment and they have questions about what it will look like once it is built, often times that discussion is deferred because they know it will go through a CUP process and they will see it again with more detail. He thought it was evident from the minutes that the previous Planning Commission made the same decision thinking that it would be coming back for a Steep Slope CUP. Commissioner Joyce thought the question was whether it is less than 30% because it was disturbed or is it more than 30% because it was disturbed.

City Attorney Harrington understood the argument; however, a Staff determination prior to having a complete application is a preliminary guess and interpretation. In his opinion, the two conflicting letters bear less weight than a final action and a finding of fact and condition of approval that is not appealed by the current applicant at the time. Mr. Harrington recommended that the Planning Commission base their decision to remove the condition for a steep slope CUP on the issues they have identified. At the same time, if the Planning Commission was affirmatively stating that a Steep Slope CUP is not required, that needs to be based on substantial evidence as well. Unless they have a complete application by which that determination is traditionally made, they did not have evidence in the record to make that determination.

Commissioner Campbell thought there was consensus among the Commissioners that the applicant was dealt an unfair hand because of the two letters. He suggested that the Planning Commission take a straw poll to let the applicant know there was support to move forward with the project and they should feel comfortable taking it to the next level of planning.

Commissioner Joyce understood from Mr. Harrington that the Commissioners could remove the Finding of Fact requiring a steep slope, without saying for certain whether or not there is a need for a Steep Slope CUP. If the survey determines that it is a steep slope, then it would come back to the Planning Commission. Commissioner Joyce preferred that approach rather than taking a straw poll. Commissioner Band concurred. Commissioner Worel favored removing Finding #13.

Mr. Fiat stated that there was a finding of fact that it was steep sloped based on a survey that was given when a house was still on the property; and he did not question or comment on it. Then a complete application was submitted and they followed the process to build a house. At that point they received a letter stating that the applicant needed to go through a steep slope CUP. He questioned it at that time and met with the Planner Astorga and former Planning Director Eddington to explain why they disagreed with the determination. After looking through survey and hearing the explanation, Planner Astorga and Director Eddington agreed that it was altered grade and that all the grades were under 30%. Mr. Fiat pointed out that they had followed the correct process and that the second letter was not a letter of confusion. The Planning Department was aware of both letters and they responded with the awareness of both letters. Mr. Fiat remarked that what the Planning Department was not aware of was the finding of fact in the ordinance that it was steep slope, and that is the part that was out of process. The finding of fact from 2006 was not the normal process because it could be easily determined that a lot is not steep slope, but what cannot be determined is whether or not it requires a CUP. Mr. Fiat explained that the criteria for a Steep Slope CUP is whether it or not it is more than 30% grade measuring a 15% distance where the lot is being disturbed. The lot might have a very steep section but

that does not mean it requires a Steep Slope CUP. In his opinion, saying that it is a Steep Slope CUP was wrong in that process. Mr. Fiat thought they had been dealt an unfair hand, but he was willing to follow what Mr. Harrington had suggested. His concern was prolonging the process further.

Chair Strachan informed Mr. Fiat that there was only so much the Planning Commission could do under the Code, but they would try to do the best they could to move this forward; recognizing that it might not be as far as Mr. Fiat would like.

Chair Strachan understood from the comments that if they were to strike Finding of Fact #13 and incorporate the conditions of approval that Planner Astorga had drafted during the break, the Planning Commission could be in a position to make a viable motion. The Commissioner concurred.

Commissioner Band understood that the only revisions were to add the construction mitigation plan to the conditions of approval and to strike Finding #13. Planner Astorga replied that other findings also needed to be removed.

The Commissioners reviewed and amended the findings and conditions and made additional corrections. Findings 23 and 24 were removed. Findings 4 and 5 were removed from the 2006 Ordinance No. 06-55.

Condition of Approval #4 was revised to read, "An agreement must be entered into with the City Engineer concerning any construction staging which occurs within platted but un-built Upper Norfolk Right-of-Way. No access and/or staging shall take place north of a line perpendicular to platted Norfolk Avenue from the northeast corner of 263 Norfolk."

Finding #4 was revised to read, "There is sufficient area on the Lots and the obtained temporary construction easement to conduct construction staging.

Condition #7 was revised to require an existing conditions landscape plan and a survey of the staging plan. Condition #8 was deleted as written and replaced with a new Condition #8 adding the construction mitigation plan in condition format.

Planner Astorga clarified that if the survey reflects 30% or greater slopes, it would be tied to specific LMC criteria. He was told this was correct. Commissioner Joyce pointed out that if the natural grade has been disturbed he believed the numbers would be subjective. Based on earlier comments by his fellow Commissioners, if it is subjective the applicant should be given the benefit of the doubt.

Planner Astorga explained that the next step would be for the applicant to record a document indicating these specific conditions of approval. They would then have to submit for a HDDR, which they would be required to submit a survey with the site plan over that survey to conduct the analysis. The question was whether the 2006 survey would be utilized or whether it should be an updated survey since the demolition of the triplex. Mr. Fiat remarked that he already an updated survey. He did not believe they could interpret anything from the survey because it is just a hole in the ground. Planner Astorga requested that Mr. Fiat provide the updated survey to the Planning Department.

Mr. Fiat was confused about the process. He understood that this would not be a plat recording that requires signatures form the City Engineer, the City Attorney and the Mayor. Planner Astorga replied that it was a full plat. This was done before with an amendment for Risner Ridge. It followed plat format but there were two or three plat notes in the middle without technical drawings that said these conditions of approval shall apply. He had spoken with the Legal Department and the City has consistently followed specific amendments to plats that need to have notes added. Mr. Fiat asked if he needed to prepare a plat. Chair Strachan answered yes.

Chair Strachan agreed that the numbers from the survey would be subjective, but he did not think there was a mechanism to give the benefit of the doubt to the applicant if the Staff concludes that the slope is greater than 30%. Commissioner Joyce agreed that if the determination is that the slope is greater than 30% it should be a Steep Slope CUP without question. However, he believed it would come down to guessing the natural slope of the land. Chair Strachan remarked that the Staff and the applicant were better experienced than the Planning Commission to gather the evidence and find the answer. Commissioner Thimm assumed that Commissioner Joyce's comment was duly noted by Staff in the event that the percentage is slightly close to 30%.

Commissioner Campbell thought it was important that the Planning Commission stay within the bounds of what they are allowed to do, and they do not have the ability to determine steep slope. However, he believed they had the right to tell the applicant that if he has to come back with a CUP they will try to make it as painless as possible. Chair Strachan was uncomfortable making that statement because if the applicant comes back with an application that does not meet the Code they would be held to the same standards as anyone else. Commissioner Campbell agreed. His point was that they would try to move the process along as quickly as possible.

MOTION: Commissioner Melissa moved to forward a POSITIVE recommendation for 259, 261, 263 Norfolk Avenue – Consideration of the first amended Upper Norfolk Subdivision plat, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously. Commissioner Phillips was recused.

Findings of Fact – 259/261/263 Norfolk Avenue

1. The properties are located at 259/261/263 Norfolk Avenue.

2. The three (3) proposed lots would share one (1) driveway.

3. The proposed lots are for the purposes of building single-family houses.

4. There is sufficient area on the Lots and the obtained temporary construction easement to conduct construction staging.

5. Norfolk Avenue is a substandard, narrow street on steep hillside.

6. On-street and off-street parking in the Upper Norfolk Avenue area is significantly limited due to the steep, narrow streets and lack of shoulder areas.

7. Snow removal and emergency access to the Upper Norfolk Avenue neighborhood is frequently difficult to maintain due to the steep, narrow streets and existing high on-street parking demand.

8. LMC § 15-7-6: Subdivisions – General Provisions, Conditions authorizes the City to attach reasonable conditions to land subdivisions which relate to design, dedication, improvement, and restrictive land use so as to conform to the physical and economic development of Park City and to the safety and general welfare of future lot owners in the subdivision and the community at large.

9. In July 2006 the City Council approved the Upper Norfolk Subdivision plat by Ordinance 06-55.

10. The plat was recorded at Summit County on June 01 2007.

11. The property owners request to remove the following two (2) conditions of approval from Ordinance 06-55:

> 4. Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements.
> 5. The construction easement agreements must be finalized and submitted to the city prior to receiving building permits.

12. All other conditions of approval in Ordinance 06-55 will remain in effect.

13. Conditions of approval 4 and 5 stipulated that construction access would be from King Road via a construction access that would cross separately owned adjacent property.

14. The access was made possible through a temporary construction access easement agreement that expired in December 2009 and the owners have been unable to secure and extension of this easement.

15. The temporary construction access easement agreement was executed and recorded in October 2006. The easement terminated in December 2009.

16. The applicant has indicated that construction for the three (3) single-family dwellings would take place at the same time and that the above statements would be in compliance with the signed agreement.

17. The proposed construction is to terminate in two (2) years or less as the easement agreement indicates such.

18. Cross access easement for the three (3) lots would also need to be executed prior to construction as the lots are built upon the available space is reduced.

19. The dimension of the Lots will not change with this Plat Amendment. The only change to the Upper Norfolk Subdivision by this First Amended Upper Norfolk Subdivision will be the plat notes and conditions of approval as contained herein.

20. The remaining conditions of approval shall continue to apply to the site. These three (3) conditions include:

- The lots are to be used for the construction of single family houses.
- A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit.
- A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots.

21. Staff recommends adding a condition of approval that indicates that the applicant shall submit a detailed existing conditions landscape plan or survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

22. The Park City Building Department has reviewed the applicant's proposed mitigation in detail and does not find that any additional items to be addressed at this time.

Conclusions of Law – 259/261/263 Norfolk Avenue

1. There is good cause for this Plat Amendment to amend the conditions of approval of executed ordinance no. 06-55 and add notes to the plat due to the expiration of the recorded temporary construction access easement.

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 – 259/261/263 Norfolk 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.

3. The remaining conditions of approval from Ordinance No: 06-55 shall continue to apply.
- The lots are to be used for the construction of single-family houses
- A Utility/Grading plan is required to be reviewed and approved by the City Engineer prior to issuance of a building permit
- A note shall be added to the plat prior to recordation that prohibits accessory apartments on the newly created lots

4. An agreement must be entered into with the City Engineer concerning any construction staging which occurs within platted but un-built Upper Norfolk Right-of-Way. No access and/or staging shall take place north of a line perpendicular to platted Norfolk Avenue from the northeast corner of 263 Norfolk.

5. Prior to plat recordation, each lot will grant the other two (2) lots construction access easements which shall be executed and recorded and which will not expire until all single-family dwelling structures are built.

6. Prior to plat recordation, the Temporary Construction Access Easement on 220 King language shall be drafted appropriately, and if necessary, the applicant shall work with the easement signee to record an accurate description of the work area identified as Exhibit D on the Easement.

7. The applicant shall submit a detailed existing conditions landscape plan and survey of the staging area prior to any construction. When the work is finished, the applicant shall be responsible of re-landscaping the disturbed area.

8. Planning Commission Conditions:

a. The applicant shall request to build all three (3) units at the same time.
b. Staging area has been secured along the rear of the properties of approximately 2,000 square feet.
c. Materials shall not be staged on the street.
d. No parking shall be permitted anywhere other than on the shared private drive and on the lots themselves. Neighborhood parking space shall not be used. The applicant shall not request any street parking passes.
e. No vehicles shall back up or down Upper Norfolk as there is sufficient room to turn all the vehicles around.
f. The applicant shall store spoils from the excavation and reuse it for back fill to reduce the loads out of the site.
g. The applicant shall encourage car-pooling to further reduce traffic.
h. The applicant shall not allow any vehicles to queue on Upper Norfolk
i. No road closures other than utility upgrades shall be needed
j. All deliveries and unloading shall be off the shared driveway, and shall not block the street.
k. All other normal Construction Mitigation Plan requirements in Old Town shall apply.

5. Land Management Code Amendments regarding 1) Setbacks for patios and hot tubs in HRL, Chapter 2.1, HR-1 Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16; 2) Annexations procedure and review in Chapter 8; 3) Non-conforming uses and non-complying structures in Chapter 9; 4) Definitions of carports, essential municipal and public utilities, facilities, and uses and others in Chapter 15; 5) Applicability of Steep Slope Conditional Use Permits in HRL, HR-1, and HR-2; 6) Conditional Use Permit review and site requirements in HRM Section 15-2.; 7) Board of Adjustment standard of review and appeals in Chapter 1 and Chapter 10; and 8) Combination of condominium units procedure in Chapter 7. (Application PL-14-02595)

Commissioner Phillips returned to the meeting.

Planner Whetstone reported that these were a collection of LMC amendments based on an annual review. The Planning Commission had already reviewed some of the amendments and provided direction to the Staff.

Planner Whetstone remarked that there were four substantive changes. The first was setbacks for hot tubs in the HRL, HR-1, HR-2 and HRC zones. The proposal is to reduce the 5' setback to a 3' setback. She noted that the Planning previously discussed this item and the minutes from the previous meeting were included in the Staff report.

The second substantive change was the applicability of the Steep Slope CUPs in the HRL, HR-1 and HR-2 zones. Planner Whetstone stated that there has been confusion in defining 1,000 square feet of construction or 1,000 square feet of structure. The Staff was proposing to eliminate the 1,000 square foot threshold and instead require construction for any structure with a building footprint in excess of 200 square feet. Planner Whetstone stated that the Staff chose the 200 square feet number because it is the size of a single car garage.

Commissioner Phillips pointed out that a single car garage has a 252 square foot footprint.

Planner Whetstone noted that language was also added to require a Steep Slope CUP for any access driveway located on a slope of 30% or greater. As currently written the reference to "access" was not clear.

Commissioner Thimm asked if the 200 square feet needed to be on the area that exceeds the 30%. Planner Whetstone answered yes. He clarified that if the house was on a 30% or greater slope but the garage or addition was not on the slope greater than 30%, this code amendment would not apply. Planner Whetstone replied that he was correct.

Commissioner Thimm read Item 2 from page 297, "A Steep Slope Conditional Use permit is required for construction of any addition to an existing Structure, when the addition has a new Building Footprint in excess of two hundred (200 sq. ft.), if the new Building Footprint is located upon an existing Slope of thirty (30%) or greater." He referred to the last phrase stating that "…if the new building footprint is located on an existing slope of 30% or greater. Based on his interpretation, having a house that is 1,000 square feet and adding 200 square feet to the footprint, means the new building footprint is 1200 square feet.

Planning Manager Sintz understood his point and suggested removing the word "new" form the language. The word "new" was replaced with "the footprint of the addition."

Planner Whetstone stated that the third item is a non-conforming use demolition. She stated that the confusion has always been the question of how much of a non-conforming building could be taken down voluntarily before it is demolished. She noted that the State Code says 50% but that has never been in the Park City LMC. The Staff recommended adding language stating, "More than 50% of gross floor area" to replace "the majority of the structure".

Chair Strachan asked why it was a problem that needed to be solved. Planning Manager Sintz stated that when someone has an existing non-conforming structure, someone removes 99% of the structure and leaves one piece to keep it an existing non-conforming structure. This amendment aligns with the Code regarding use and structure. Planner

Planner Whetstone stated that the other amendments related to process such as appeals to the Board of Adjustment regarding the HDDR if it involves a City project. If the HPB is involved in that review they should not be the review body and the appeal would go to the Board of Adjustment. She noted that the standard of review was also changed to a de Novo review.

Planner Whetstone noted that the changes regarding condo units were driven by the effort to align with the State Code.

Commissioner Campbell referred to page 298 and thought Items 2(a) and 2(b) were redundant. He also thought 2(a) regarding mechanical systems was vague and he explained the reason for his concern. Planner Whetstone believed the language was taken directly from State Code. City Attorney Harrington offered to verify that it was from State Code. If it could be changed the Staff would revise the language to address his concern and bring it back to the Planning Commission for review prior to going to City Council.

Chair Strachan called for additional comments or concerns on the amendments as proposed. Commissioner Phillips asked whether 200 square feet was the correct number for a garage or accessory structure on a steep slope or whether it should be 252 square feet. The Commissioners discussed various scenarios and decided to keep the number at 200 square feet.

Commissioner Campbell referred to page 302, 15-9-8 Appeals, and removed the period after the word "decision" so the wording reads as one sentence. The sentence was revised to read, "The City or any Person with standing adversely affected by a decision of the Board of Adjustment under this Chapter may petition the District Court in Summit County for a review of the decision, and such review shall be made according to the requirements of the Utah State Code."

Planner Whetstone referred to the amendment regarding carports. She noted that a statement in the design guidelines talks about discouraging carports, but "carport" has never been defined in the definitions. The Staff drafted a definition for a standard carport with poles and open sides and a roof. "A carport is a covered parking space attached to the house, or free standing, which is not completely enclosed by walls and does not include garage doors." Planner Whetstone stated that the definition would be used when the Design Guidelines are reviewed and amended to determine whether or not carports would be appropriate in certain circumstances.

Planner Whetstone noted that definitions were also clarified for light industrial, mixed use, and building footprint.

Planner Whetstone noted that the proposed amendment to the annexation procedure aligns with the State Code language.

The Commissioners discussed setbacks for hot tubs. The Planning Commission had a significant discussion at the last meeting and they thought Staff had captured their comments in the amendments. They had talked about a 3' setback and no screening except for mechanical. Commissioner Thimm thought the language in Item 8 regarding screening appeared to encompass more than just mechanical. For clarity, the Commissioners agreed to amend Item 8 to read, "Mechanical equipment (which must be screened), hot tubs, or similar Structures located at least three feet (3') from the Rear Lot Line."

Chair Strachan opened the public hearing.

Ruth Meintsma, 305 Woodside, stated that most of her comments were addressed in the discussion; however, her primarily issue was carports. She thought the definition was too broad and it might eliminate some good possibilities. Due to the late hour, she requested that the Planning Commission exclude the definition of carports from their recommendation this evening, and she could meet with the Staff to work on more specificity for the definition. Ms. Meintsma stated that she also had prepared visuals.

Commissioner Phillips stated that if Ms. Meintsma's suggestions would substantially change the definition, the Planning Commission should hear what she has to say versus just meeting with the Staff.

The Planning Commission agreed to remove carports from their recommendation and to table it until the July 22nd meeting when Ms. Meintsma could present what she had prepared. Planner Whetstone stated that Chapter 2.4, HRM was noticed for this meeting

but it was not on the agenda because the LMC amendments had not been finalized.

Chair Strachan closed the public hearing.

MOTION: Commissioner Band moved to forward a POSITIVE recommendation to the City Council for Land Management Code amendments regarding 1) Setbacks for patios and hot tubs in HRL; 2) Annexation Procedure and Review; 3) Non-conforming uses and non-complying structures; 5) Applicability of Steep Slope Conditional Use permits; 6) Conditional Use Permit review and site requirements in the HRM; 7) Board of Adjustment standard of review and appeals in Chapter 1 and Chapter 10; and 8) Combination of condominium units procedure in Chapter 7, as amended per their discussion. Commissioner Joyce seconded the motion.

Planner Whetstone noticed that Item 6 was the HRM item she had mentioned that was noticed but the amendments were not yet finalized for discussion this evening.

VOTE: The motion passed unanimously.

The Park City Planning Commission Meeting adjourned at 9:30 p.m.

Approved by Planning Commission: _____