



PLANNING DEPARTMENT

## Planning Commission Staff Report

**Subject:** 823 Norfolk Avenue Plat Amendment  
**Author:** Anya Grahn, Historic Preservation Planner  
**Project Number:** PL-15-02996  
**Date:** December 9, 2015  
**Type of Item:** Legislative – Plat Amendment

### Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the 823 Norfolk Plat Amendment located at the same address and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

### Description

**Applicant:** Jeremy Sheppe  
**Location:** 823 Norfolk Avenue  
**Zoning:** Historic Residential-1 (HR-1)  
**Adjacent Land Uses:** Residential  
**Reason for Review:** Plat Amendments require Planning Commission review and City Council review and action

### Proposal

The site known as 823 Norfolk Avenue consists of all of Lots 5 and 6 and a portion of Lot 7, Block 14, Snyder's Addition to the Park City. The property owner requests to combine his property into one (1) lot of record. A historic structure sits over Lots 5, 6, and 7. The entire site contains a total area of 3,925.25 square feet.

### Background

On November 4, 2015, the City received a completed Plat Amendment application for the 823 Norfolk Plat Amendment. The property is located at the same address. The property is in the Historic Residential (HR-1) District. The subject property consists of all of Lots 5 and 6 and a portion of Lot 7 of Block 14, Snyder's Addition to Park City. This site is listed on Park City's Historic Sites Inventory (HSI) and is designated as a Landmark Site. The property was built circa 1901 during the Mature Mining Historic Era (1894-1930). The historic structure was built over two (2) property lines.

The Historic Site Inventory (HSI) form identifies both the historic house along Norfolk Avenue and a historic shed along Crescent Tram. The HSI form acknowledges that the shed structure was likely constructed in 1911. It is unclear when this shed was connected to the historic house, but the craftsmanship of the addition predates the 1980s. There is also a free-standing shed in the southwest corner of the property along Crescent Tram. This is a modern addition to the site as the shed is constructed of new

building materials; it is believed that the shed was likely used for the bicycle repair shop that operated on the site from approximately 2005-2008.

Per City records, the last building permit for this site was issued in 1997 for a re-roof of the house.

The current owners submitted a Historic District Design Review (HDDR) Pre-Application in August 2015 to discuss renovation options for this historic property. The applicant has not yet submitted a HDDR application for the improvements, but has chosen to move forward with the plat amendment in order to make future site improvements.

**Purpose**

The purpose of the HR-1 District is to:

- A. preserve present land Uses and character of the Historic residential Areas of Park City,
- B. encourage the preservation of Historic Structures,
- C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- D. encourage single family Development on combinations of 25' x 75' Historic Lots,
- E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

**Analysis**

The proposed Plat Amendment creates one (1) lot of record from the existing three (3) lots. The Plat Amendment removes two (2) interior lot lines going through the historic structure. The proposed Plat Amendment combines the property into one (1) lot measuring 3,925 square feet. The site contains two (2) Old Town lots, identified as lots 5 and 6 of Block 14, and one (1) remnant parcel, approximately a 3 foot by 77.91 foot segment of Lot 7.

A single-family dwelling is an allowed use in the HR-1 District. The minimum lot area for a single-family dwelling is 1,875 square feet. The proposed lot meets the minimum lot area for single-family dwellings. The proposed lot width is 50.01 feet. The minimum lot width required in the HR-1 District is twenty-five feet (25’); the proposed lot meets the minimum lot width requirement. The following table shows applicable Land Management Code (LMC) development parameters in the HR-1 District:

Required	Existing	Permitted
Lot size	3,925.25 SF	1,875 square feet minimum <b>Complies</b>
Allowed Footprint	1,830 square feet (Including house and 2 sheds)	1,574.15 square feet, maximum. <b>Existing non-complying condition.</b>

Front/rear yard setbacks	15 feet front yard (Norfolk), 0 feet rear yard (Crescent Tram)	12 feet, for total of 25 feet <b>Complies<sup>1</sup></b>
Side yard setbacks	2 feet (north), 9 feet (south)	5 feet, minimum for total of 14 feet. <b>Complies<sup>1</sup></b>

<sup>1</sup>LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures.

The maximum building footprint of structures located on a lot is regulated by the footprint formula found in the LMC. The formula is determined by the size of the lot. The current building footprint is approximately 1,830 square feet. The proposed lot area (3,925.25 square feet) yields a maximum footprint of 1,574.15 square feet. The existing historic house is over footprint. In reviewing the development of the house, it appears that the majority of this footprint was developed during the historic period with the construction of numerous additions to the house as well as attaching the historic shed to the house. Only the non-historic shed has created additional footprint of 140 square feet of footprint on this property.

Given the existing setbacks of the historic house, the historical significance of its additions, and that the house is over footprint, it will be challenging for the applicant to build a large addition to the existing historic dwelling. Rather, staff is working with the applicant to eliminate the non-historic shed to decrease the degree of nonconformity that exists due to the footprint.

The submitted survey reveals that the historic c. 1911 shed along Crescent Tram encroaches over the rear property line and into the City right-of-way. Staff recommends that the property owner enter into an encroachment agreement with the City for this encroachment, per Condition of Approval #4. Staff has made the applicant aware of this encroachment and aware of applicable applications that would have to be resolved prior to any physical work involving the historic shed and house, i.e., a Historic District Design Review (HDDR) application.

In addition to the historic shed, other encroachments also exist on the site. There are two (2) stone retaining walls that encroach over the north and south property lines. There is also a concrete retaining wall that encroaches over the front property line into the City's right-of-way. On the southwest corner of the site, there are stone stairs and a concrete wall that appear to be constructed on the property line. Conditions of Approval #4 and #5 have been added to require that encroachments across property lines must be addressed prior to plat recordation and shall either be removed or encroachment agreements shall be provided.

The City Engineer will also require the applicant to grant two (2) – ten foot (10') snow storage easements along the front (Norfolk Avenue) and rear (Crescent Tram) property lines to address street frontages, per Condition of Approval #7.

Finally, the property backs up to Crescent Tram, a substandard street. The City Engineer will not permit drive access to 823 Norfolk via Crescent Tram, per Condition of Approval #8.

### **Good Cause**

Staff finds good cause for this Plat Amendment as the two (2) interior lot lines running through the historic structure will be removed. Public snow storage and utility easements are provided on the lots.

### **Process**

The approval of this plat amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC § 15-1-18.

### **Department Review**

This project has gone through an interdepartmental review. No further issues were brought up at that time.

### **Notice**

On November 25, 2015, the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record on November 21, 2015, according to requirements of the Land Management Code.

### **Public Input**

No public input has been received by the time of this report.

### **Alternatives**

- The Planning Commission may forward positive recommendation to the City Council for the 823 Norfolk Plat Amendment as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for the 823 Norfolk Plat Amendment and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on the 823 Norfolk Plat Amendment.

### **Significant Impacts**

There are no significant fiscal or environmental impacts from this application.

### **Consequences of not taking recommended action**

Consequences of not taking the Planning Department's recommendation are that the Site would remain as is and the historic structure would sit over two (2) lot lines. The site would continue to maintain two lots and a partial lot.

### **Summary Recommendation**

Staff recommends the Planning Commission hold a public hearing for the 823 Norfolk Plat Amendment located at the same address and consider forwarding a positive



recommendation to the City Council based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

**Exhibits**

Exhibit A – Draft Ordinance with Proposed Plat (Attachment 1)

Exhibit B – Survey

Exhibit C – County Tax Map

Exhibit D – Aerial Photographs with 500' Radius

Exhibit E– Site Photographs

Exhibit A – Draft Ordinance

**Ordinance No. 15-XX**

AN ORDINANCE APPROVING THE 823 NORFOLK AVENUE PLAT AMENDMENT LOCATED AT 823 NORFOLK AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 823 Norfolk Avenue have petitioned the City Council for approval of the Plat Amendment; and

WHEREAS, on November 25, 2015, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, on November 21, 2015, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on December 9, 2015, to receive input on plat amendment; and

WHEREAS, the Planning Commission, on December 9, 2015, forwarded a recommendation to the City Council; and,

WHEREAS, on January 7, 2016, the City Council held a public hearing to receive input on the plat amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the 823 Norfolk Avenue Plat Amendment.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

**SECTION 1. APPROVAL.** The 823 Norfolk Avenue Plat Amendment, as shown in Attachment 1, is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

**Findings of Fact:**

1. The property is located at 823 Norfolk Avenue.
2. The property is in the Historic Residential (HR-1) District.
3. The subject property consists of all of Lots 5 and 6 and a portion of Lot 7, Block 14, Snyder's Addition to Park City. The proposed plat amendment creates one (1) lot of record.
4. This site is listed on Park City's Historic Sites Inventory (HSI) and is designated as Landmark.
5. The Plat Amendment removes two (2) lot lines going through the historic structure.

6. The proposed Plat Amendment combines the property into one (1) lot measuring 3,925.25 square feet.
7. A single-family dwelling is an allowed use in the District.
8. The minimum lot area for a single-family dwelling is 1,875 square feet. The proposed lots meet the minimum lot area for single-family dwellings.
9. The proposed lot width is width is 50.01 feet along Norfolk Avenue and 50.00 along Crescent Tram; this property has two frontages.
10. The minimum lot width required is twenty-five feet (25'). The proposed lot meets the minimum lot width requirement.
11. The maximum building footprint allowed based on proposed lot size is 1,574.15 square feet. The house, historic shed, and non-historic shed equate to a footprint of approximately 1,830. The historic structures are valid non-complying.
12. The minimum front/rear yard setbacks are twelve feet (12'). The minimum total front/rear yard setbacks are twenty-five feet (25').
13. The minimum side yard setbacks are five feet (5').
14. The existing historic structure does not meet the north side yard setback or the west rear yard setback along Crescent Tram. Per LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures.
15. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

#### **Conclusions of Law:**

1. There is good cause for this Plat Amendment.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding lot combinations.
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:**

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A ten feet (10') wide public snow storage easement will be required along the Norfolk Avenue and Crescent Tram frontages of the property.
4. The property owner shall resolve the historic shed encroachment over the rear property line and concrete stairs, concrete retaining wall, and stone retaining wall over the front property line into the City Right-of-Way (ROW) by entering into an encroachment agreement with the City Engineer.
5. The remaining stone retaining walls and stone steps encroaching over the north and south property lines into private property shall either be removed or the applicant

shall enter into an encroachment agreement with their neighbors for these improvements.

6. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final Mylar prior to recordation.
7. Ten foot (10') public snow storage easements shall be granted along the front and rear property lines on Norfolk Avenue and Crescent Tram.
8. No vehicular driveway access is permitted off of Crescent Tram.

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 7th day of January, 2016.

PARK CITY MUNICIPAL CORPORATION

\_\_\_\_\_  
Jack Thomas, MAYOR

ATTEST:

\_\_\_\_\_  
City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
Mark Harrington, City Attorney

**Attachment 1 – Proposed Plat**



**SURVEYOR'S CERTIFICATE**

I, Martin A. Morrison, certify that I am a Registered Land Surveyor and that I hold authority of the owners, this record of Survey map of 823 NORFOLK AVENUE PLAT by the undersigned, was prepared under my direction and that the same has been or will be monumented or shown as shown on this plat. I further certify that the information on this plat is accurate.

**BOUNDARY DESCRIPTION**

LOTS 5 AND 6 OF BLOCK 14, SNYDER'S ADDITION TO PARK CITY, according to the official plat, located at the end of record in the Summit County Recorder's Office.

Together with a parcel more particularly described as follows:

Beginning at the northeast corner of Lot 6, Block 14, Snyder's Addition to Park City, and running North 35°59'00" West 3.00 feet, thence North 84°01' East 77.91 feet, thence South 37°21' East 3.00 feet to the point of beginning.

Less and excepting a parcel more particularly described as follows:

Beginning at the northeast corner of Lot 4, Block 14, Snyder's Addition to Park City, and running thence South 54°01' West 79.17 feet to the northeast corner of said Lot 4, thence North 35°59' West 3.00 feet, thence North 54°01' East 79.10 feet, thence South 37°21' East 3.00 feet to the point of beginning.

**OWNER'S DEDICATION AND CONSENT TO RECORD**

KNOW ALL MEN BY THESE PRESENTS that Jeremy Shappe, the undersigned owner of the herein described tract of land, to his heirs hereafter as 823 NORFOLK AVENUE PLAT, has hereby consented to the recording of this Plat, and does hereby consent to the recording of this Plat.

In witness whereof, the undersigned set his hand this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Jeremy Shappe

**ACKNOWLEDGMENT**

State of \_\_\_\_\_

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016,

personally appeared before me, the undersigned Notary Public, in and for said state the owner of the herein described tract of land, and that he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

A Notary Public commissioned in Utah

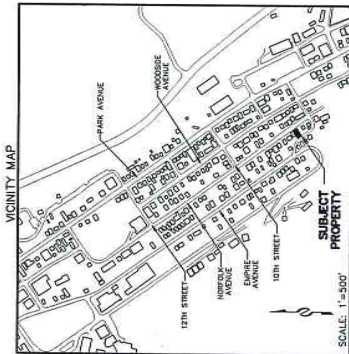
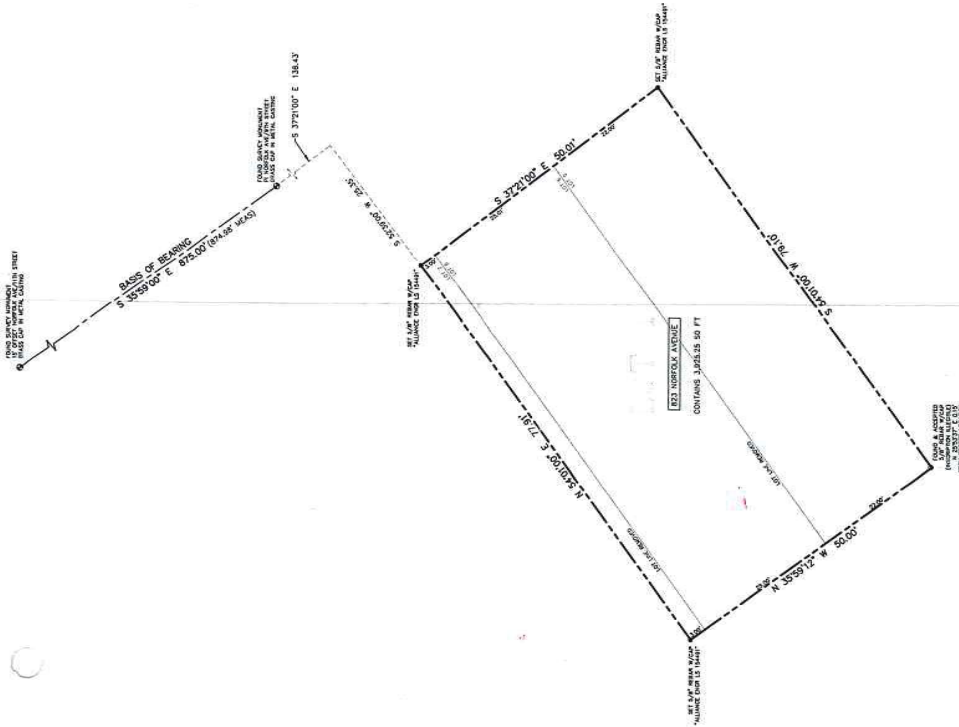
Printed Name \_\_\_\_\_

Residing in \_\_\_\_\_

My commission expires \_\_\_\_\_

**NOTE**

This submission is subject to the Conditions of Approval in Ordinance 18-\_\_\_\_\_.



**823 NORFOLK AVENUE PLAT AMENDMENT**

A COMBINATION OF LOT 6 AND PARTS OF LOTS 5 AND 7, BLOCK 14, SNYDER'S ADDITION TO PARK CITY SURVEY

LOCATED IN SECTION 16, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN PARK CITY, SUMMIT COUNTY, UTAH

FILE: X:\Survey\Addition\Map\823 NORFOLK AVENUE PLAT.amend

**CERTIFICATE OF ATTEST**  
I, CERTIFY THIS RECORD OF SURVEY WAS FILED BY PARK CITY, UTAH AT THE REQUEST OF \_\_\_\_\_ ON DATE \_\_\_\_\_ TIME \_\_\_\_\_ ENTRY NO. \_\_\_\_\_

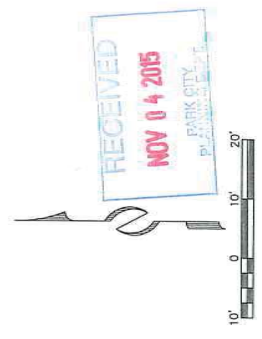
**COUNCIL APPROVAL AND ACCEPTANCE**  
APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016

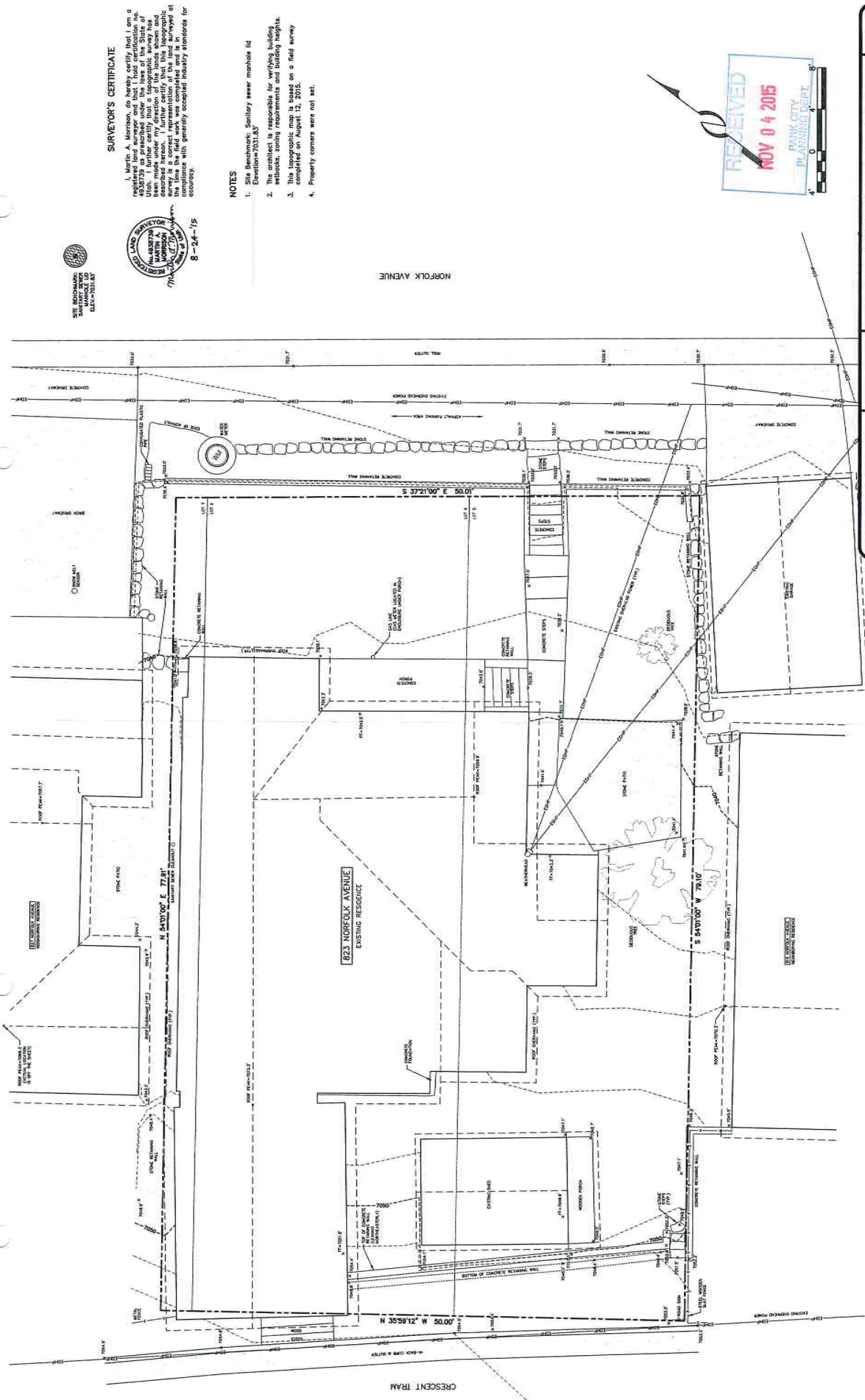
**APPROVAL AS TO FORM**  
APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016

**ENGINEER'S CERTIFICATE**  
I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016

**PLANNING COMMISSION**  
APPROVED BY THE PARK CITY PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016

**SNYDERVILLE BASIN WATER RECLAMATION DISTRICT**  
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016





**SURVEYOR'S CERTIFICATE**

I, Martin A. Morrison, do hereby certify that I am a Licensed Professional Surveyor in the State of Utah, License No. 4938793, and that I have personally supervised the execution of the survey described herein. I further certify that this topographic map is based on a field survey completed on August 12, 2015. The accuracy of this map is in compliance with generally accepted industry standards for accuracy.



**NOTES**

1. Site Benchmark, Sanitary sewer manhole lid Elevation=7031.83'
2. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
3. This topographic map is based on a field survey completed on August 12, 2015.
4. Property corners were not set.



STAFF:  
MARRIAGE, RING  
JESSE MORENO

(435) 442-3447

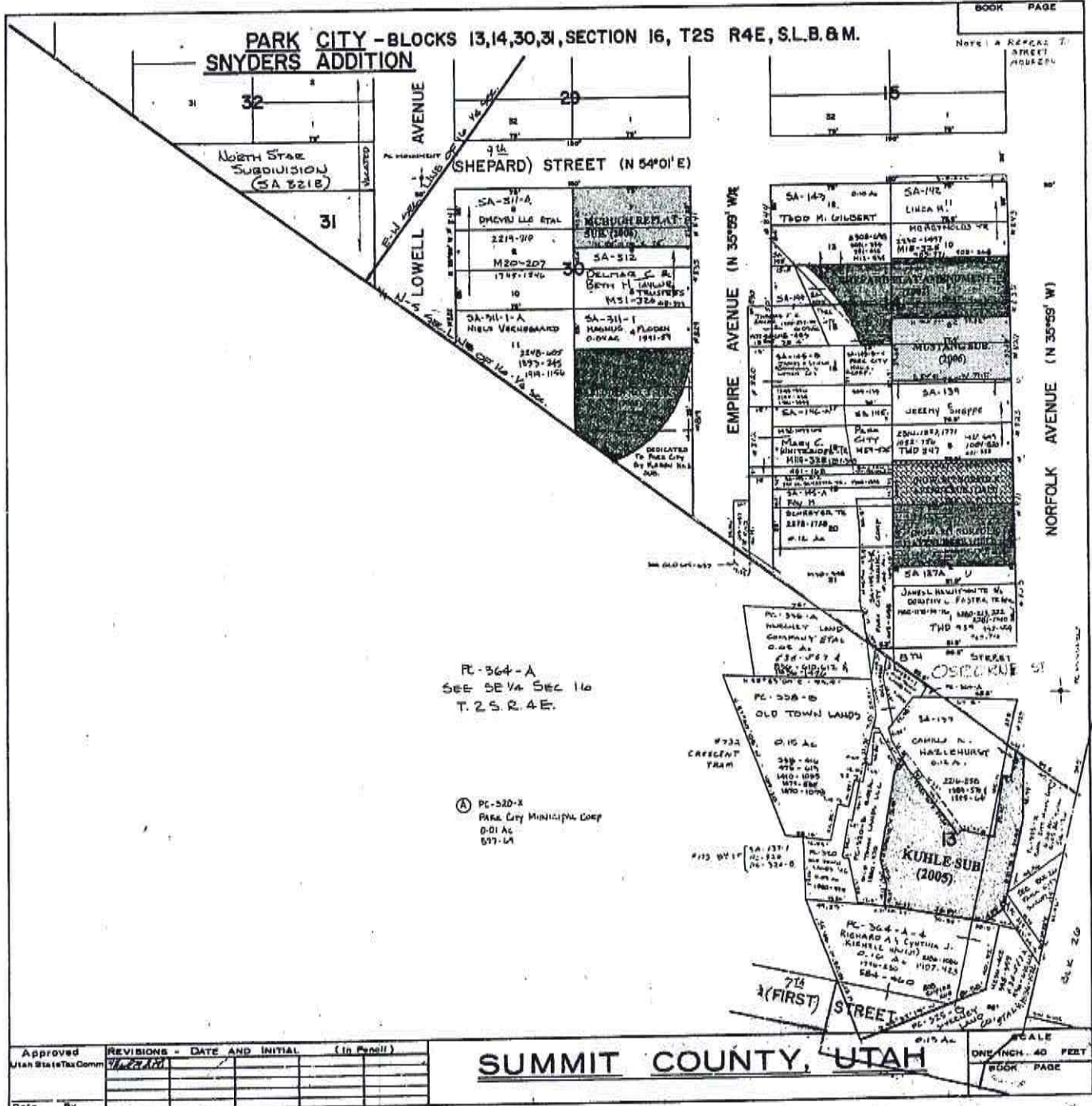
**EXISTING CONDITIONS & TOPOGRAPHIC MAP**  
823 NORFOLK AVENUE  
BLOCK 14, SNYDER'S ADDITION TO PARK CITY

FOR: JEREMY SHEPPE  
JOB NO. E 8-7-15  
DATE: 8/24/15

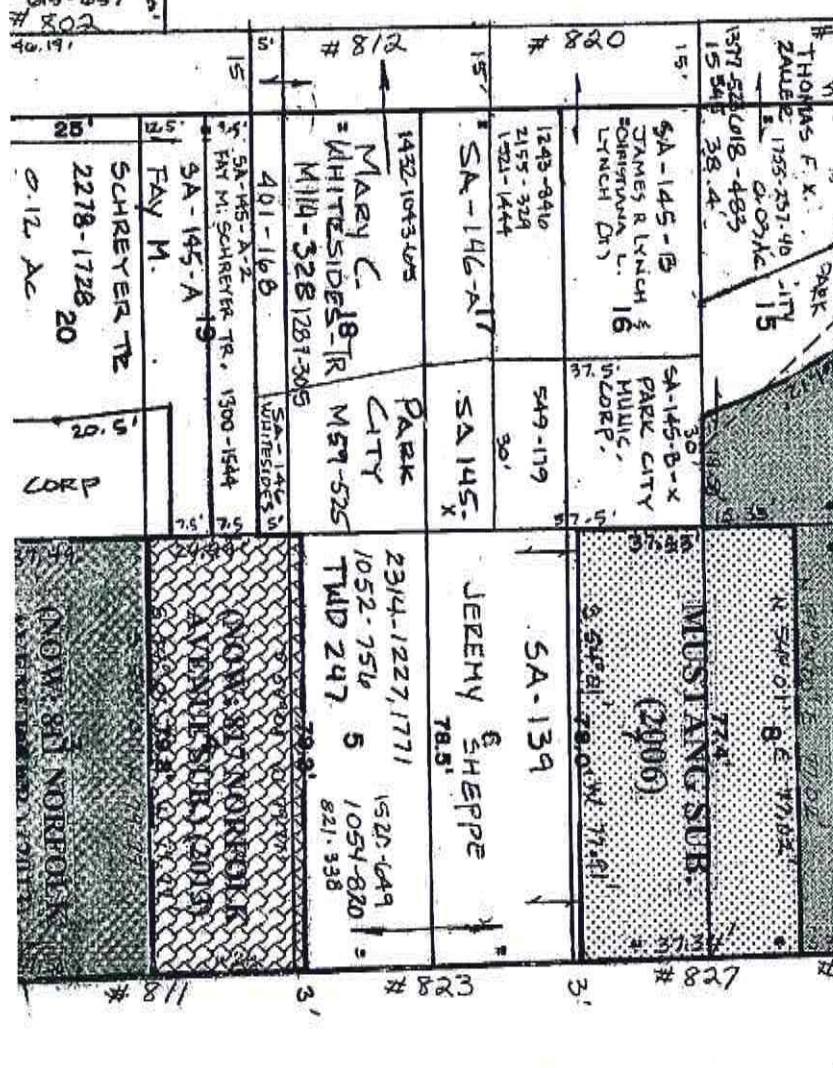
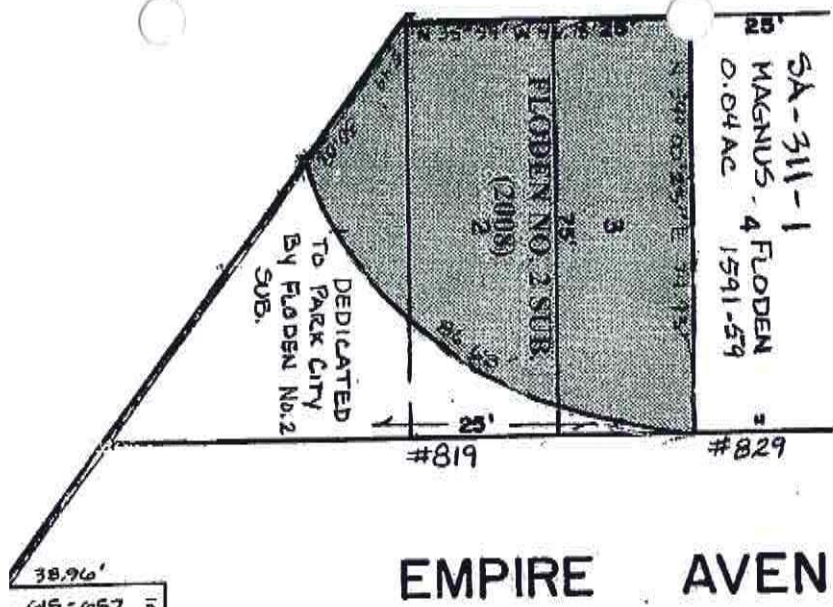
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SHEET 1 OF 1





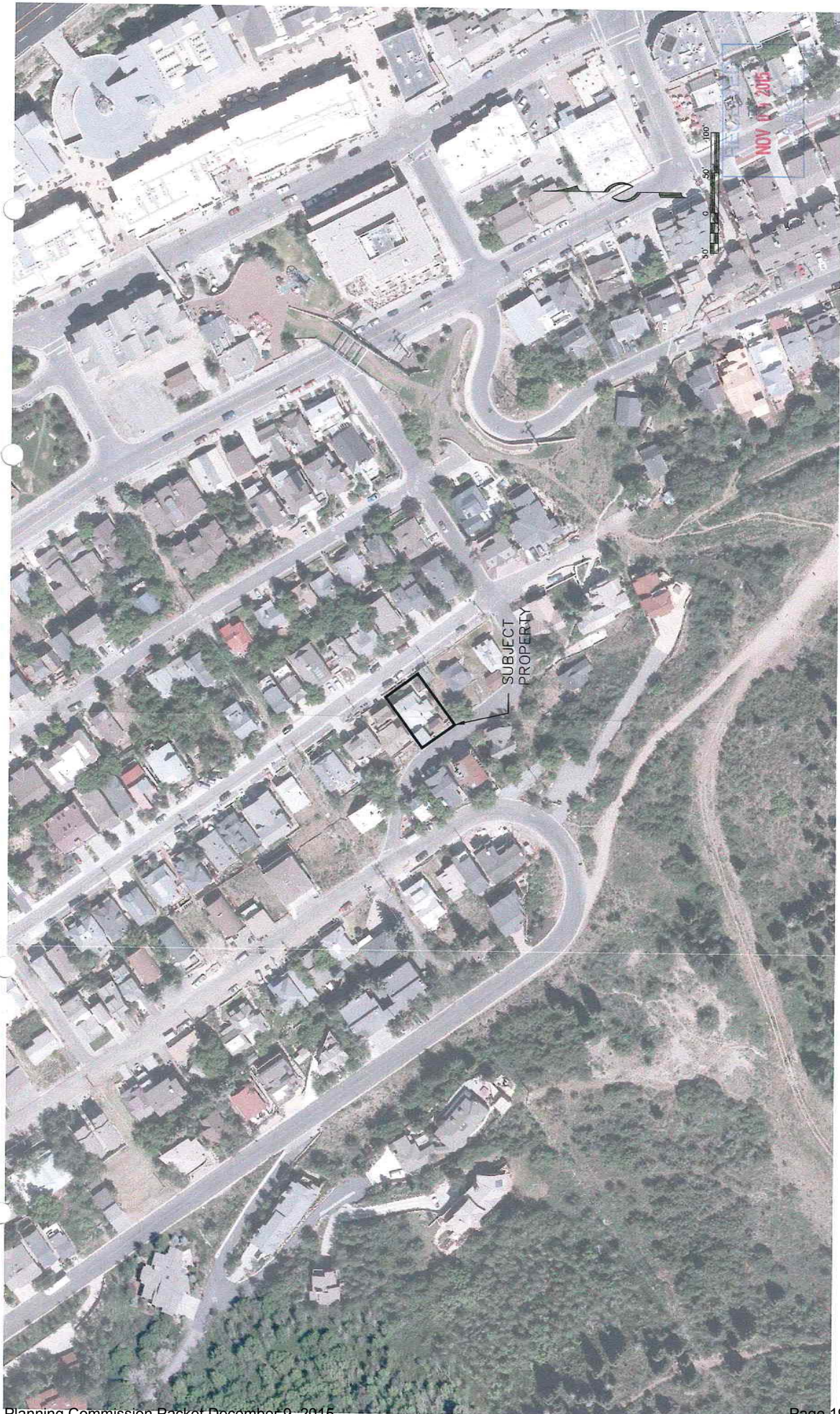
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 NOV 04 2015  
 PARK CITY  
 PLANNING DEPT.



NORFOLK AVENUE (N 35°59')







STAFF: MARSHALL KING, JESSIE MORENO  
 (435) 548-3447  
 CONSULTING ENGINEERS: LAMM ENGINEERS, INC.  
 300 West Street, P.O. Box 2044, Fort Collins, CO 80521-2044

FILE: K:\SnyderAddition\Map\Exhibit\623\_norfolk\_090909\_ortho.jpg

DATE: 10/21/15

FOR: JEREMY SIEPPE  
 JOB NO: 15-002

823 NORFOLK AVENUE  
 BLOCK 14, SNYDER'S ADDITION

1  
 OF  
 1





823 Norfolk Avenue looking southeasterly

RECEIVED  
NOV 04 2015  
PARK CITY  
PLANNING DEPT.





823 Norfolk Avenue looking westerly

RECEIVED  
NOV 04 2015  
PARK CITY  
PLANNING DEPT.





823 Norfolk Avenue looking westerly

RECEIVED  
NOV 04 2015  
PARK CITY  
PLANNING DEPT.





823 Norfolk Avenue looking easterly

RECEIVED  
NOV 04 2015  
PARK CITY  
PLANNING DEPT.



# Planning Commission Staff Report



PLANNING DEPARTMENT

**Application:** PL-15-02810  
**Subject:** Land Management Code Amendments- vertical zoning  
**Author:** Kirsten Whetstone, MS, AICP- Senior Planner  
**Date:** December 9, 2015  
**Type of Item:** Legislative

## Summary Recommendation

Staff recommends the Planning Commission conduct a public hearing, consider public input, and consider forwarding a positive recommendation to City Council on Land Management Code Amendments (LMC) to Zoning Chapters 2.5 (Historic Recreation Commercial (HRC)) and 2.6 (Historic Commercial Business (HCB)), as well as Chapter 15 (Definitions), according to the findings of fact and conclusions of law outlined in the draft Ordinance.

## Executive Summary

Proposed amendments include:

- 1) Amend the table of Uses in both Chapters 2.5 (HRC) and 2.6 (HCB) for Allowed and Conditional Uses to indicate additional uses that are not allowed within Storefront Property in these Zoning Districts.
- 2) Include language that is proactive for new construction to provide Storefront Property adjacent to Main Street, Heber Avenue, and Park Avenue in areas where the vertical zoning regulations apply, exclusive of Swede Alley where staff finds that additional study is needed before making such a recommendation.
- 3) Revise the definition of Storefront Property to make it clearer where the vertical zoning regulations apply.

Vertical zoning is a planning tool or technique that regulates the location of uses vertically within a building or site. It is desirable in downtown business districts to reserve the street level for the highest activity and revenue generating uses, such as retail shops, restaurants, bars, galleries, and similar uses. Office and residential uses are allowed on the upper floors and in basement areas.

The purpose of these LMC amendments is to clarify existing language and definitions in the Code and to provide additional regulations regarding the types of uses subject to the restrictions. These amendments expand the list of prohibited uses within Storefront Properties, clarify the definition of Storefront Property, and identify property that is subject to these regulations, as redlined and attached in Exhibits A-C.

## **Description**

Project Name: LMC Amendments related to vertical zoning for Chapter 2.5 Historic Recreation Commercial (HRC), Chapter 2.6 Historic Commercial Business (HCB), and Chapter 15 Defined Terms

Approximate Location: Historic Main Street and Lower Main Street business district, Swede Alley, Heber Avenue, and Park Avenue (HRC Zoned properties located on the east side of Park Avenue south of Ninth Street)

Reason for Review: Amendments to the Land Management Code (LMC) require Planning Commission review and recommendation with final action by the City Council.

## **Background**

On August 30, 2007, the City Council adopted an Ordinance (07-55) amending the Land Management Code (LMC) to prohibit office, residential, private event space, and other non-retail/non-restaurant uses in Storefront Property within the HRC and HCB Zoning Districts. Storefront Property was a defined term added to LMC Chapter 15; Defined Terms (see Exhibit G for background Ordinance and meeting minutes as previously provided).

Prior to adoption of the 2007 Ordinance the Planning Commission and City Council met in Joint Sessions on April 5<sup>th</sup> and May 9<sup>th</sup> 2007 to discuss the concept of vertical zoning regulations. There was lengthy discussion at the Planning Commission meetings on June 13<sup>th</sup> and June 27<sup>th</sup> 2007. The Commission ultimately forwarded a positive recommendation to City Council in favor of the amendments memorialized in Ordinance 07-55. The Council reviewed the Ordinance and conducted public hearings on August 2<sup>nd</sup> and August 9<sup>th</sup>, and adopted the vertical zoning regulations on August 30<sup>th</sup>, 2007. See attached Exhibits D and F for previous Planning Commission and City Council meeting minutes.

When the 2007 Ordinance was originally adopted the focus was to encourage retail and restaurant uses to be the predominant uses in Storefront properties along Main Street. The focus was to guide those uses that are more consistent with the resort nature of Park City to street level storefronts and to direct other complementary uses (primarily offices and non-retail uses) to locate on second or third stories or to other areas within Park City.

From review of minutes of previous meetings on this issue it appears that the excluded areas on lower Main Street, generally the addresses of the Summit Watch project, are properties that were not directly and physically adjacent to Main Street or had other physical constraints in terms of access, window location, and/or orientation. The minutes seem to indicate that these properties were thought to be of secondary concern at that time, eight (8) years ago (see attached Exhibit E for a map of the HRC and HCB Zoning Districts and excluded addresses), which is why they were excluded.



On June 24, 2015, Staff presented for public hearing and Planning Commission discussion, amendments to the existing LMC language to expand the reach of the Vertical Zoning Ordinance to lower Main Street and to include Storefront Property adjacent to Private Plazas (defined term in the LMC- See Exhibit C) as a way to strengthen the Ordinance and to increase the vibrancy of these areas.

Based on further study of the area and input from local businesses, property owners, representatives from the Historic Park City Alliance (HPCA), as well as discussion by the Planning Commission, Staff does not recommend imposing additional restrictions on uses that can occur within Storefronts facing the Private Plazas north of Heber Avenue. Staff does not propose removing the current excluded addresses at this time and recommends further study of this issue in three to five years, or earlier if warranted.

### **Planning Commission meeting of October 14, 2015**

On October 14, 2015, Staff presented revisions to the initial proposal, to exclude Storefront property that fronts onto Public Plazas, as well as Storefront property on the entire west side of Park Avenue (within the HRC Zoning District) as well as on the east side of Park Avenue north of 8<sup>th</sup> Street. Planning Commission conducted a public hearing and continued the item to November 11, 2015 (see Exhibit F for minutes).

The Commission provided the following input at the October 14<sup>th</sup> meeting (*Staff comments in italics*):

- The Commission discussed the private plaza issue and was generally in agreement regarding Staff's recommendation to not amend the regulations to include Properties that front on Private Plazas and to maintain the current exclusion for Properties within the Summit Watch project. The Commission generally agreed to re-visit this issue in 3 to 5 years, or earlier as warranted by additional activity and demonstrated viability of commercial uses in these areas. *The proposed LMC Amendments maintain the existing exclusion for certain addresses within the Summit Watch project that front on the interior private plaza, or are located above the Main Street level.*
- There was discussion about excluding the west side of Park Avenue north of Heber Avenue and general agreement that for now, this area, which is primarily historic residential properties, should be excluded from the vertical zoning regulations. *The proposed LMC Amendments continue to exclude the west side of Park Avenue. Staff finds that this area is a transitional area between HR-1 and HRC and excluding this area helps soften this transition.*
- The Commission discussed the proposal to exclude the east side of Park Avenue, north of 8<sup>th</sup> Street (generally at the ski bridge). Staff's previous recommendation would exclude two properties, 1) 820 Park Avenue CUP currently under construction on the "Rio Grande" lot and 2) the location of the current Happy Sumo restaurant that is within the Sweeney Properties Master Planned Development (MPD). *Staff reviewed the 820 Park Avenue CUP and determined that a real estate office use was approved adjacent to Park Avenue.*

*Staff reviewed the Sweeney Properties MPD and did not discover an agreement that specifically required or allowed non-commercial uses along Park Avenue. To avoid a conflict of agreements Staff now recommends that the 820 Park Avenue address be excluded from these regulations, but that the Sweeney Town Lift Storefront Properties, including the Happy Sumo space on Park Avenue and the at street grade Storefronts on Main Street be included within the regulated area. Staff also recommends that the 875 Main Street building be excluded, primarily because the only commercial spaces are situated above Main Street.*

- *The Commission discussed the issue of dark storefronts and whether the non-conforming use clause of “abandonment for a period of one year” could be shortened to 6 months or less. Legal advised that the one year timeframe is dictated by the State Code regarding non-conforming uses and recommended maintaining the one year abandonment clause.*
- *The Commission discussed private event space and requested Staff provide definitions to clarify the proposed regulation of private event space as it relates to the vertical zoning regulations. Staff has now included definitions for Private Event as well as for Private Event Facility to differentiate between activity within a Storefront Property that is primarily used for Private Events versus a Restaurant or Retail Storefront Property where a Private Event might occur for a limited duration, such as a private party within a restaurant, gallery, or retail space. Private Event Facility is added to the Use list and footnoted to be excluded from Storefront Property. Unless a Private Event is a Special Event or is part of a Master Festival License, a conditional use is not required. Therefore a restaurant or gallery that closes for a private party would not be required to obtain a conditional use permit, and would still have to meet all applicable Building and Fire Codes.*
- *The Commission was generally in agreement that the proposed LMC amendments were consistent with the goals and objectives of the General Plan.*

Public input received at the October 14, 2015 meeting included concerns about restricting Storefronts adjacent to private plazas as well as a reiteration of concerns about Main Street storefronts used primarily for private events during Sundance or other Special Events. There was also a concern raised about the vertical zoning applying to Storefronts that are within 50’ of the street edge and a concern that a building would be constructed with a greater than 50’ setback to avoid the vertical zoning regulations.

*Staff reviewed the lot dimensions of properties subject to vertical zoning and for the most part, incorporating a 50’ setback (to avoid the vertical zoning regulations) would 1) not be consistent with the Historic District Design Guidelines which require construction to match the historic rhythm and scale of buildings with Storefronts at the street/sidewalk edge and 2) leave approximately 25’ of lot depth to construct a building, which is an unlikely scenario within this business district. The 50’ language was included in the original Ordinance to ensure that all Storefront Property within 50’ of the Street was included in the regulations, e.g. this would include Storefronts from 0’ to 50’ from the Street.*

On November 11<sup>th</sup>, Staff requested the Commission continue the public hearing to November 17<sup>th</sup> to allow Staff time to finalize the language. The November 17<sup>th</sup> meeting was cancelled. The item was re-noticed for the December 9<sup>th</sup> meeting according to requirements of the LMC.

### **General Plan**

The LMC implements goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for residents and visitors and to preserve the community's unique character and values. These proposed LMC amendments were reviewed for consistency with the recently adopted Park City General Plan.

Specifically, the General Plan includes Goal 16 that states, "Maintain the Historic Main Street District as the heart of the City for residents and encourage tourism in the district for visitors." Objective 16B states, "Limit uses within the first story of buildings along Main Street to retail and restaurant establishments that are inviting to the passing pedestrian. Uses that should be discouraged include office space, real estate show rooms, parking, etc." Implementation Strategy 16.10 states, "Re-examine the City's existing Vertical Zoning Ordinance that requires commercial retail shops along Main Street; consider strengthening the Ordinance."

Additionally, the City's Economic Development Strategic Plan includes goals related to maintaining and improving a balance of Sustainable Community goals by going beyond economic initiatives to include social and environmental strategies and by protecting and preserving the historic Main Street downtown area as the heart of the region. The long-term economic sustainability of Park City depends upon the continued economic success and aesthetic attractiveness of the historic Main Street area. Uses that are not inviting to the general public, both residents and tourists, have a negative effect upon the overall economy and vitality of the historic downtown area in terms of satisfaction of visitor experience, diversity of visitors, activity on the street, and sales tax revenue generation.

These proposed LMC Amendments clarify and strengthen existing regulations to specifically address the City's adopted goals and strategies. These amendments proactively direct uses that have a more positive impact upon the economic and social vitality and activity level of the street, to street level Storefronts. Upper level spaces within the district can accommodate office and residential uses to create a more diverse, synergetic mix of uses in the historic Main Street business district.

In re-evaluating the existing exemptions from the vertical zoning regulations in the lower Main Street and Park Avenue areas, Staff concurs that general office uses and other non-retail uses in these buildings can also provide activity and vitality for the downtown area, and as suggested by the General Plan, to the plaza areas that continue to be more challenging for retail uses. The lower plaza between the two northern most Summit Watch Buildings is one such example (see Exhibit E).

## **Analysis of Proposed LMC Amendments**

1) Amend the table of Uses in Chapters 2.5 and 2.6 for both Allowed Uses and Conditional Uses to indicate additional Uses that are prohibited from being located within Storefront Property in these Zoning Districts. This restricts residential uses, parking, and private event facilities from locating within Storefront Property. Special events, conducted within a Storefront would still be subject to an MFL or Special Event permit for the duration of the event.

2) Include language in the HRC and HCB Zoning Districts to require Storefront Property adjacent to Main Street, Heber Avenue, and Park Avenue when new construction adds floor area. This regulation would not apply to Swede Alley at this time, as Staff believes that a separate study of properties and buildings that front on Swede Alley needs to be conducted first.

3) Revise the definition of Storefront Property to make it clearer where these vertical zoning regulations apply.

Existing uses that conflict with the adoption of these amendments would be considered legal non-conforming uses that could remain provided the use remains active and is not abandoned for a period of greater than one year. Non-conforming uses are regulated by the LMC according to Chapter 9. Staff finds that a six (6) month abandonment period for a non-conforming use conflicts with State Code and recommends for consistency that the one-year abandonment period remain as currently written in the LMC.

1. Chapter 2.5 Historic Recreation Commercial (HRC) (See Exhibit A for all redlined changes to Chapter 2.5. See Exhibit E for a map of the HRC Zoning District)

Staff proposes that all parking and residential uses (single family, duplex, triplex, multi-unit dwelling, guest house, secondary living quarters, group care facility, lock out units, accessory apartments, bed and breakfast inns, minor hotels, and boarding houses) be identified with a footnote to indicate that these uses are not allowed in Storefront Property, where the regulations apply. Hotels should be allowed with qualifying language that the Hotel rooms shall not be located in Storefront Property but limited area for lobbies and circulation area should be permitted.

Staff recommends that Private Event Facilities be subject to the vertical zoning regulations and prohibited in Storefront Property where the regulations apply. Staff recommends adding a definition of Private Event Facility, as well as Private Event, to Chapter 15 to clarify that these are facilities where the primary use is for Private Events that are closed to the general public or that may require an invitation and/or fee for entry. This definition would not include restaurants, bars, galleries, and other retail space that occasionally hold private events but where the primary use of the Storefront Property is for a use other than as a Private Event Facility.

In the foot-note language the following changes are proposed:

Prohibited in HRC Zoned Storefront Property adjacent to Main Street, Heber Avenue, and Park Avenue, excluding those HRC Zoned Properties on the west side of Park Avenue and also excluding those HRC Zoned Properties storefronts adjacent to the Main Street, Swede Alley, Heber Avenue or Park Avenue Rights-of-Way, excluding those HRC zoned Areas north of 8<sup>th</sup> Street; excluding without limitation, with the following addresses: contained within the following Buildings: 820 Park Avenue, 702 Main Street, 710 Main Street, 738 Main (for the plaza side storefronts), 780 Main Street, 804 Main Street, 875 Main Street, 890 Main Street, and 900 Main Street. Hotel rooms shall not be located within Storefront Property however; access, circulation, and limited lobby areas are permitted within Storefront Property.

**Staff requests discussion** regarding the revised language from the previous proposal to exclude HRC Zoned Properties on the East Side of Park Avenue north of 8<sup>th</sup> Street to the current proposed language to exclude only 820 Park Avenue. This is due to an approved Conditional Use Permit at 820 Park Avenue that allowed an office use within Storefront Property adjacent to Park Avenue. The Sweeney MPD Coalition East parcel (Sweeney Town Lift property) is currently proposed to be within the regulated area, including the Happy Sumo space on Park Avenue and the street level storefronts on Main Street. Also excluded are the currently excluded Summit Watch addresses plus the 875 Main Street building due to physical separation from the street. **Does the Commission agree that 820 Park Avenue should be excluded or should it be included and then the approved office space would be a non-conforming use? Should “limited lobby area” be further defined?**

**Staff requests discussion** regarding the following proposed language that proactively requires Storefront Property to be provided adjacent to Main Street, Heber Avenue, and the east side of Park Avenue for new construction that adds floor area. **Staff requests discussion as to whether this should be any floor area amount or an increase of 5% or 10% or more? Should this requirement apply only to the area being added onto or the entire Property or Project?** Staff proposes to add this language to 15-2.5-3 Lot and Site Requirements:

(J) Vertical Zoning. For those Properties where vertical zoning regulations apply, Construction adding Floor Area to a Building or Lot shall include Storefront Property for a minimum of seventy-five percent (75%) of the width of the Building facade.

2. Chapter 2.6 Historic Commercial Business (HCB) (See Exhibit B for all redlined changes to Chapter 2.6. See Exhibit E for a map of the HCB Zoning District.)

Similar to Chapter 2.5, Staff proposes that all parking and residential uses (single family, duplex, triplex, multi-unit dwelling, guest house, secondary living quarters, group care facility, lock out units, accessory apartments, bed and breakfast inns, minor hotels, and boarding houses) should be identified with a footnote to be prohibited in Storefront Property where the regulations apply. Hotels should be allowed with qualifying language that the Hotel rooms shall not be located in Storefront Property but limited areas for lobbies and circulation area should be permitted.

Staff recommends that Private Event Facilities be subject to the vertical zoning regulations and prohibited in Storefront Property where the regulations apply. Staff recommends adding a definition of Private Event Facility, as well as Private Event, to Chapter 15 to clarify that these are facilities where the primary use is for Private Events that are closed to the general public or that may require an invitation and/or fee for entry. This definition would not include restaurants, bars, galleries, and other retail space that occasionally hold private events but where the primary use of the Storefront Property is for a use other than as a Private Event Facility.

In the foot-note language the following changes are proposed:

Prohibited in HCB Zoned storefronts-Storefront Property adjacent to the Main Street, Heber Avenue, Grant Avenue~~or~~ and Swede Alley Rights-of-Way. Hotel rooms shall not be located within Storefront Property however; access, circulation, and limited lobby areas are permitted within Storefront Property.

**Staff requests discussion** regarding the following proposed language that proactively requires Storefront Property to be provided adjacent to Main Street and Heber Avenue for new construction that adds floor area. Staff believes that additional study of Swede Alley properties is required and therefore recommends excluding Swede Alley properties from this added regulation at this time. Existing Swede Alley Storefront Property would continue to be subject to the Vertical Zoning use restrictions. Staff proposes to add this language to 15-2.6-3 Lot and Site Requirements:

(G) Vertical Zoning. For those Properties where vertical zoning regulations apply, construction adding Floor Area to a Building or Lot shall include Storefront Property for a minimum of seventy-five percent (75%) of the width of the building facade. Exception. This regulation does not apply to Buildings and Lots on Swede Alley.

### 3. Chapter 15 Defined Terms

The LMC currently includes two definitions for Storefront Property and Staff recommends deleting Storefront Property and amending Property, Storefront. Note that the Private Plaza definition is recommended because other sections of the code refer to Private Plazas but it is not currently a defined term and this seemed as good a time as any to add it.

#### **STOREFRONT PROPERTY.** [See Property, Storefront.](#)

~~A separately enclosed space or unit that has a window or entrance that fronts on a Public Street. For purposes of this provision, the term “fronts on a Public Street” shall mean a separately enclosed space, or unit with:~~

~~(1) —A window and/or entrance within fifty lateral/horizontal feet (50') of the back, inside building edge, of the public sidewalk; and~~

~~(2) —A window and/or entrance that is not more than eight feet (8') above or below the grade of the adjacent Public Street. In the case of split-level, multi-level Buildings with only one primary entrance, only those fully enclosed spaces or units that directly front the Street as set forth above shall be designated to be a “Storefront Property.” The Planning Director or their designee shall have the final determination of applicability.~~

**PRIVATE EVENT.** [An event, gathering, party, or activity that is closed to the general public or that requires an invitation and/or fee to attend.](#)

**PRIVATE EVENT FACILITY.** [A facility where the primary Use is for staging, conducting, and holding Private Events.](#)

**PROPERTY.** Any Parcel, Lot, or tract of land, including improvements thereon, in the possession of or owned by, or recorded as the real Property of, the same Person or Persons.

(A) **Property, Storefront.** A separately enclosed space, [Floor Area,](#) [tenant space,](#) or unit that has a [storefront](#) window or [storefront](#) entrance that fronts on a Public Street. [Storefront Property includes the entire Floor Area associated with the storefront window or storefront entrance that fronts on the Public Street.](#) For purposes of this provision, the term “fronts on a Public Street” shall mean a separately enclosed space, [Floor Area,](#) [tenant space](#) or unit with:

(1) A [storefront](#) window and/or [storefront](#) entrance [at the adjacent Public Street, or](#) within fifty lateral/horizontal feet (50') of the [adjacent Public Street measured from the edge of pavement to the storefront](#)

window or storefront entrance back, inside building edge, of the public sidewalk; and

(2) A storefront window and/or storefront entrance that is not more than eight feet (8') above or below the grade of the adjacent Public Street and where such entrance is not a service or emergency entrance to the Building.

In the case of split-level, multi-level or multi-tenant Buildings with only one primary storefront entrance, only those fully enclosed spaces, Floor Areas, tenant spaces, or units that directly front on the Public Street, as set forth above, shall be designated as to be a "Storefront Property." The Planning Director or ~~their~~ designee shall have the final determination of applicability.

PRIVATE PLAZA. Private Property in excess of seven hundred and fifty (750) square feet that serves as common area to adjoining Commercial Development and is free of Structures and is hard surfaced and/or landscaped. Private Plazas generally provide an Area for pedestrian circulation, common amenities, and act as a gathering space for private or public purposes.

### **Notice**

Legal notice of this public hearing was posted in the required public spaces and public notice websites on November 21, 2015 and published in the Park Record on the same date per requirements of the Land Management Code.

### **Public Input**

Public hearings are required to be conducted by the Planning Commission and City Council prior to adoption of Land Management Code amendments. Staff previously received public input from local business owners and the HPCA (see G) based on the previous proposed amendments.

### **Alternatives**

- The Planning Commission may forward a positive recommendation to City Council on the proposed Land Management Code as presented or as amended at the meeting; or
- The Planning Commission may forward a negative recommendation to City Council to deny the proposed amendments; or
- The Planning Commission may continue the discussion to a date certain and provide direction to Staff regarding additional information, revisions, or analysis needed in order to take final action.

### **Significant Impacts**

There are perceived positive financial impacts to the City that result from these proposed LMC amendments in that the intent of the vertical zoning ordinance is to



activate Park City's core Historic Commercial Area with vibrant retail and commercial activities.

**Summary Recommendation**

Staff recommends the Planning Commission conduct a public hearing, consider public input, and consider forwarding a positive recommendation to City Council on Land Management Code Amendments to Zoning Chapters 2.5 (HRC) and 2.6 (HCB), as well as Chapter 15 (Definitions), according to the findings of fact and conclusions of law outlined in the draft Ordinance.

**Exhibits**

Ordinance

Exhibit A – Chapter 2.5- Historic Recreation Commercial (HRC)

Exhibit B – Chapter 2.6- Historic Commercial Business (HCB)

Exhibit C – Chapter 15- Defined Terms

Exhibit D – Minutes of previous Planning Commission meetings (except 10.14.15)

Exhibit E – Maps identifying the HRC and HCB Districts

Exhibit F – Minutes of the 10.14.15 PC meeting

Exhibit G – Public Input

Exhibit H – Previous Ordinance and meeting minutes (07-55)

**AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING CHAPTER 15-2.5 HISTORIC RECREATION COMMERCIAL (HRC) ZONING DISTRICT, CHAPTER 15-2.6 HISTORIC COMMERCIAL BUSINESS (HCB) ZONING DISTRICT, AND CHAPTER 15 DEFINED TERMS RELATING TO VERTICAL ZONING REGULATIONS PROHIBITING OFFICE, RESIDENTIAL, PARKING, PRIVATE EVENT FACILITIES, AND SIMILAR OR ASSOCIATED USES WITHIN STOREFRONT PROPERTY IN THE HISTORIC MAIN STREET DOWNTOWN AREA**

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owners of Park City; and

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on a regular basis and identifies necessary amendments to address planning and zoning issues that have come up; to address specific LMC issues raised by Staff, Planning Commission, and City Council; and to align the Code with the Council's goals; and

WHEREAS, Park City has an interest in promoting vibrancy and activity in the historic Main Street downtown area located in the Historic Commercial Business (HCB) and the Historic Recreation Commercial (HRC) Zoning Districts and finds this vibrancy to be essential to the City's long term economic and financial well-being; and

WHEREAS, these proposed Land Management Code (LMC) amendments were reviewed for consistency with the recently adopted Park City General Plan.

WHEREAS, the Park City General Plan includes Goal 16 that states, "Maintain the Historic Main Street District as the heart of the City for residents and encourage tourism in the district for visitors." Objective 16B states, "Limit uses within the first story of buildings along Main Street to retail and restaurant establishments that are inviting to the passing pedestrian. Uses that should be discouraged include office space, real estate show rooms, parking, etc." Implementation Strategy 16.10 states, "Re-examine the City's existing Vertical Zoning Ordinance that requires commercial retail shops along Main Street; consider strengthening the Ordinance."

WHEREAS, Park City's Economic Development Plan encourages facilitation and establishment of more attractions and areas of interest for both visitors and residents, maintaining and improving the balance of Sustainable Community goals by going beyond economic initiatives to include social and environmental strategies; and

protection and preservation of the historic Main Street downtown area as the heart of the region; and

WHEREAS, in the HRC and HCB Zoning Districts, Uses located on the main level adjacent to the street, that are not inviting to the general public, may diminish the vibrancy, diversity, and activity of the historic Main Street area; and

WHEREAS, the City monitors the downtown business mix and sales tax generation as part of its financial health assessment and finds a diversified business mix is critical to the attractiveness, vitality, and success of the historic Main Street downtown area; and

WHEREAS, the long-term economic sustainability of Park City depends upon the continued economic success and aesthetic attractiveness of the historic Main Street area; and

WHEREAS, in the HRC and HCB Districts, Uses that are not inviting to the general public may have a negative effect upon the overall economy and vitality of the historic downtown area in terms of satisfaction of visitor experience, diversity of visitors, activity on the street, and sales tax revenue generation; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meetings on June 24<sup>th</sup> , July 22<sup>nd</sup> , August 26<sup>th</sup> , October 14<sup>th</sup> , November 11<sup>th</sup> , and December 9, 2015 and forwarded a recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on January 7, 2016; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the values and goals of the Park City General Plan and the Park City Council; to protect health and safety and maintain the quality of life for its residents and visitors; to preserve and protect the vitality, attractiveness, activity and success of the historic Main Street area; to ensure compatible development; to preserve historic resources; and to preserve the community's unique character.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL OF AMENDMENTS TO TITLE 15 - Land Management Code Chapter 15-2.5 Historic Recreation Commercial (HRC) Zoning District. The recitals above are incorporated herein as findings of fact. Chapter 15-2.5 of the Land Management Code of Park City is hereby amended as redlined in Exhibit A.

SECTION 2. APPROVAL OF AMENDMENTS TO TITLE 15 - Land Management Code Chapter 15-2.6 Historic Commercial Business (HCB) Zoning District. The recitals above are incorporated herein as findings of fact. Chapter 15-2.6 of the Land Management Code of Park City is hereby amended as redlined in Exhibit B.

SECTION 3. APPROVAL OF AMENDMENTS TO TITLE 15 - Land Management Code Chapter 15 Defined Terms. The recitals above are incorporated herein as findings of fact. Chapter 15 of the Land Management Code of Park City is hereby amended as redlined in Exhibit C.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2015

PARK CITY MUNICIPAL CORPORATION

\_\_\_\_\_  
Jack Thomas, Mayor

Attest:

\_\_\_\_\_  
City Recorder

Approved as to form:

\_\_\_\_\_  
Mark Harrington, City Attorney

**Exhibits**

Exhibit A – LMC Chapter 2.5 HRC Zoning District

Exhibit B – LMC Chapter 2.6 HCB Zoning District

Exhibit C – LMC Chapter 15- Defined Terms

**TITLE 15 - LAND MANAGEMENT CODE**

**CHAPTER 2.5 - HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT**

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**TITLE 15 - LAND MANAGEMENT CODE (LMC)**  
**CHAPTER 2.5 - HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT**

*Chapter adopted by Ordinance No. 00-51*

**15-2.5-1. PURPOSE.**

The purpose of the Historic Recreation Commercial (HRC) District is to:

- (A) maintain and enhance characteristics of Historic Streetscape elements such as yards, trees, vegetation, and porches,
- (B) encourage pedestrian oriented, pedestrian-scale Development,
- (C) minimize visual impacts of automobiles and parking,
- (D) preserve and enhance landscaping and public spaces adjacent to Streets and thoroughfares,
- (E) provide a transition in scale and land Uses between the HR-1 and HCB Districts that retains the character of Historic Buildings in the Area,
- (F) provide a moderate Density bed base at the Town Lift,

(G) allow for limited retail and Commercial Uses consistent with resort bed base and the needs of the local community,

(H) encourage preservation and rehabilitation of Historic Buildings and resources.

(I) maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.

*(Amended by Ord. No. 07-55)*

**15-2.5-2. USES.**

Uses in the HRC are limited to the following:

(A) **ALLOWED USES.**

- (1) Single Family Dwelling<sup>5</sup>
- (2) Duplex Dwelling<sup>5</sup>
- (3) Secondary Living Quarters<sup>5</sup>

- (4) Lockout Unit<sup>1,5</sup>
- (5) Accessory Apartment<sup>2,5</sup>
- (6) Nightly Rental<sup>5</sup>
- (7) Home Occupation<sup>5</sup>
- (8) Child Care, In-Home Babysitting
- (9) Child Care, Family<sup>3</sup>
- (10) Child Care, Family Group<sup>3</sup>
- (11) Child Care Center<sup>3</sup>
- (12) Accessory Building and Use
- (13) Conservation Activity
- (14) Agriculture
- (15) Bed and Breakfast Inn<sup>4,5</sup>
- (16) Boarding House, Hostel<sup>5</sup>
- (17) Hotel, Minor, fewer than 16 rooms<sup>5</sup>
- (18) Office, General<sup>5</sup>

<sup>1</sup>Nightly rental of Lockout Units requires a Conditional Use permit

<sup>2</sup>See LMC Chapter 15-4, Supplementary Regulations for Accessory Apartments

<sup>3</sup>See LMC Chapter 15-4-9 for Child Care Regulations

<sup>4</sup>Requires an Administrative or Administrative Conditional Use permit, see Section 15-4.

<sup>5</sup> Prohibited in HRC Zoned Storefront Property adjacent to Main Street, Heber Avenue and Park Avenue, excluding those HRC Zoned Properties on the west side of Park Avenue and also excluding those HRC Zoned Properties with the

- (19) Parking Area or Structure, with four (4) or fewer spaces<sup>5</sup>

(B) **CONDITIONAL USES**<sup>9</sup>.

- (1) Triplex Dwelling<sup>5</sup>
- (2) Multi-Unit Dwelling<sup>5</sup>

following addresses: Storefronts adjacent to the Main Street, Swede Alley, Heber Avenue, or Park Avenue Rights-of-Way, excluding those HRC-zoned Areas north of 8<sup>th</sup> Street; excluding without limitation, addresses contained within the following Buildings: 820 Park Avenue, 702 Main Street, 710 Main Street, 738 Main Street (for the plaza side storefronts), 780 Main Street, 804 Main Street, 875 Main Street, 890 Main Street, and 900 Main Street. Hotel rooms shall not be located within Storefront Property however; access, circulation, and limited lobby areas are permitted within Storefront Property.

- (3) Guest House, on Lots one acre<sup>5</sup>
- (4) Group Care Facility<sup>5</sup>
- (5) Public and Quasi-Public Institution, Church, School
- (6) Essential Municipal Public Utility Use, Facility, Service and Structure
- (7) Telecommunication Antenna<sup>6</sup>
- (8) Satellite Dish, greater than thirty-nine inches (39") in diameter<sup>7</sup>
- (9) Plant and Nursery stock products and sales
- (10) Hotel, Major<sup>5</sup>
- (11) Timeshare Projects and Conversions<sup>5</sup>
- (12) Private Residence Club Project and Conversion<sup>4,5</sup>
- (13) Office, Intensive<sup>5</sup>
- (14) Office and Clinic, Medical<sup>5</sup>
- (15) Financial Institution, without drive-up window<sup>8</sup>

<sup>6</sup>See LMC Chapter 15-4-14, Supplemental Regulations For Telecommunication Facilities

<sup>7</sup>See LMC Chapter 15-4-13, Supplemental Regulations For Satellite Receiving Antennas

<sup>8</sup>If Gross Floor Area is less than 2,000 sq. ft., the Use shall be considered an Allowed Use

<sup>9</sup>No community locations are defined by Utah Code 32-B-1-102 (Alcoholic Beverage Control Act) are permitted within 200 feet of Main Street unless a variance is permitted for an outlet, as defined by Utah Code 32B-1-202, to obtain a liquor license.

- (16) Commercial Retail and Service, Minor<sup>8</sup>
- (17) Commercial Retail and Service, personal improvement<sup>8</sup>
- (18) Neighborhood Convenience Commercial, without gasoline sales
- (19) Café or Deli<sup>8</sup>
- (20) Restaurant, General<sup>8</sup>
- (21) Restaurant and café, Outdoor Dining<sup>4</sup>
- (22) Outdoor Events and Uses<sup>4</sup>
- (23) Bar
- (24) Parking Area or Structure, with five (5) or more spaces<sup>5</sup>
- (25) Temporary Improvement<sup>4</sup>
- (26) Passenger Tramway Station and Ski Base Facility
- (27) Ski Tow, Ski Lift, Ski Run, and Ski Bridge
- (28) Recreation Facility, Commercial, Public, and Private
- (29) Entertainment Facility, Indoor
- (30) Fences greater than six feet (6') in height from Final Grade<sup>4</sup>
- (31) Private Residence Club, Off-Site<sup>5</sup>
- (32) [Private Event Facility<sup>5</sup>](#)
- (32) Special Events<sup>4</sup>

(C) **PROHIBITED USES.** Unless otherwise allowed herein, any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

*(Amended by Ord. Nos. 04-39; 06-69; 07-55; 09-10; 12-37)*



**15-2.5-3. LOT AND SITE REQUIREMENTS.**

Except as may otherwise be provided in this Code, no Building Permit shall be issued for a Lot unless such Lot has the Area, width, and depth as required, and Frontage on a Street shown as a private or Public Street on the Streets Master Plan, or on a private easement connecting the Lot to a Street shown on the Streets Master Plan.

All Development activity must comply with the following minimum Lot and Site requirements:

(A) **FRONT YARD.** The minimum Front Yard is ten feet (10').

(B) **FRONT YARD EXCEPTIONS.**  
The Front Yard must be open and free of any Structure except:

(1) Fences, walls, and retaining walls not more than four feet (4') in height, or as permitted in Section 15-4-2. On Corner Lots, Fences more than three feet (3') in height are prohibited within twenty five feet (25') of the intersection at back of curb.

(2) Uncovered steps leading to the Main Building; provided the steps are not more than four feet (4')

Front Yard

← →

in height from Final Grade, not including any required handrail, and do not cause danger or hazard to traffic by obstructing the view of the Street or intersection.

(3) Decks, porches, and Bay Windows, not more than ten feet (10') wide, projecting not more than three feet (3') into the Front Yard.

(4) Roof overhangs, eaves, and cornices, projecting not more than three feet (3') into the Front Yard.

(5) Sidewalks, patios, and pathways.

(6) Driveways leading to a garage or Parking Area. No portion of a Front Yard, except for approved driveways, allowed Parking Areas, patios, and sidewalks may be Hard-Surfaced or graveled.

(C) **REAR YARD.** The minimum Rear Yard is ten feet (10').

(D) **REAR YARD EXCEPTIONS.**  
The Rear Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide, projecting not more than two feet (2') into the Rear

Yard.

(2) Chimneys not more than five feet (5') wide, projecting not more than two feet (2') into the Rear Yard.

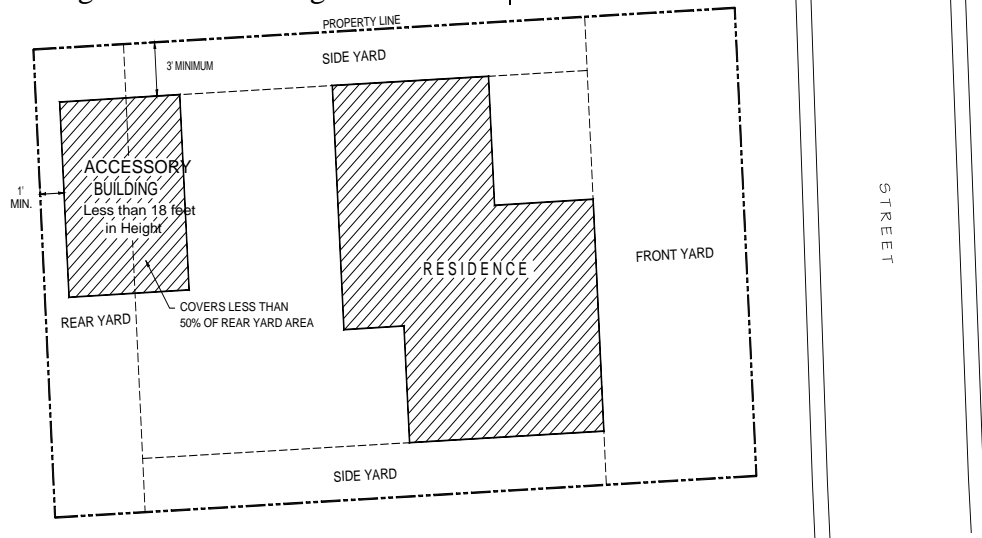
(3) Window wells and light wells projecting not more than four feet (4') into the Rear Yard.

(4) Roof overhangs and eaves projecting not more than two feet (2') into the Rear Yard.

(5) Window sills, belt courses, cornices, trim, exterior siding, or other ornamental features projecting not more than six inches (6") beyond the window or main Structure to which it is attached.

(6) A detached Accessory Building not more than eighteen feet

(18') in height, located a minimum of five feet (5') behind the front facade of the Main Building, and maintaining a minimum Rear Yard Setback of one foot (1'). Such Structure must not cover over fifty percent (50%) of the Rear Yard. See the following illustration:



(7) Hard-Surfaced Parking Areas subject to the same location

requirements as a detached Accessory Building.

(8) Screened mechanical equipment, hot tubs, and similar Structures located at least five feet (5') from the Rear Lot Line.

(9) Fences, walls, and retaining walls not more than six feet (6') in height, or as permitted in Section 15-4-2.

(10) Patios, decks, steps, pathways, and similar Structures not more than thirty inches (30") above Final Grade, located at least five feet (5') from the Rear Lot Line.

(E) **SIDE YARD.**

(1) The minimum Side Yard is five feet (5').

(2) On Corner Lots, the Side Yard that faces a Street is ten feet (10') for both main and accessory Structures.

(3) A Side Yard between connected Structures is not required where the Structures are designed with a common wall on a Property Line and the Lots are burdened with a party wall agreement in a form approved by the City Attorney and Chief Building Official. The longest dimension of a Building joined at the Side Lot Line may not exceed one hundred feet (100').

(F) **SIDE YARD EXCEPTIONS.** The Side Yard must be open and free of any

Structure except:

(1) Bay Windows, not more than ten feet (10') wide, projecting not more than two feet (2') into the Side Yard.

(2) Chimneys not more than five feet (5') wide, projecting not more than two feet (2') into the Side Yard.

(3) Window wells and light wells projecting not more than four feet (4') into the Side Yard.

(4) Window sills, belt courses, cornices, trim, exterior siding, and other ornamental features, projecting not more than six inches (6") beyond the window or main Structure to which it is attached.

(5) Roof overhangs and eaves projecting not more than two feet (2') into the Side Yard.

(6) Patios, decks, pathways, steps, and similar Structures not more than thirty inches (30") in height from Final Grade, provided there is at least a one foot (1') Setback to the Side Lot Line.

(7) Fences, walls and retaining walls not more than six feet (6'), or as permitted in Section 15-4-2.

(8) Driveways leading to a garage or approved Parking Area.

(9) Pathways and steps

connecting to a City stairway or pathway.

(10) A detached Accessory Building not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front facade of the Main Building, maintaining a minimum Side Yard Setback of three feet (3').

(11) A covered arcade between projects provided that the highest point of the arcade is not more than fifteen feet (15') above the elevation of the walk.

(G) **FLOOR AREA RATIO.** In all projects within the HRC Zone:

(1) **STRUCTURES BUILT AFTER OCTOBER 1, 1985.** Except in the Heber Avenue Sub-Zone Area, non-residential Uses are subject to a Floor Area Ratio to restrict the scope of non-residential Use within the District. For Properties located east of Park Avenue, the Floor Area Ratio for non-residential Uses is 1. For Properties located on the west side of Park Avenue, the Floor Area Ratio for non-residential Uses is 0.7.

(2) **STRUCTURES BUILT PRIOR TO OCTOBER 1, 1985.** Structures existing as of October 1, 1985 are not subject to the Floor Area Ratio, and may be used in their entirety for non-residential Uses as provided in this ordinance.

(H) **SNOW RELEASE.** Site plans and Building designs must resolve snow release issues to the satisfaction of the Chief Building Official.

(I) **CLEAR VIEW OF INTERSECTION.** No visual obstruction in excess of two feet (2') in height above road Grade shall be placed on any Corner Lot within the Site Distance Triangle. A reasonable number of trees may be allowed, if pruned high enough to permit automobile drivers an unobstructed view. This provision must not require changes in the Natural Grade on the Site.

**(J) VERTICAL ZONING.** For those Properties where vertical zoning regulations apply, Construction adding Floor Area to a Building or Lot shall include Storefront Property for a minimum of seventy-five percent (75%) of the width of the Building facade.

*(Amended by Ord. Nos. 06-69; 09-10)*

**15-2.5-4. ACCESS.**

(A) **VEHICULAR ACCESS.** A Project may have only one vehicular Access from Park Avenue, Main Street, Heber Avenue, Swede Alley, or Deer Valley Drive, unless an additional Access is approved by the Planning Commission.

(B) **PEDESTRIAN ACCESS.** An Applicant must build, and if necessary, dedicate a Sidewalk on all Street Frontages.

**15-2.5-5. BUILDING HEIGHT.**

No Structure shall be erected to a height greater than thirty-two feet (32') from Existing Grade. This is the Zone Height.

(A) **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

- (1) Gable, hip, and similar pitched roofs may extend up to five feet (5') above the Zone Height, if the roof pitch is 4:12 or greater.
- (2) Antennas, chimneys, flues, vents, and similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.
- (3) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.
- (4) Church spires, bell towers, and like architectural features subject to the Historic District Design Guidelines, may extend up to fifty percent (50%) above the Zone Height, but may not contain Habitable Space above the Zone Height. Such exception requires approval by the Planning Director.
- (5) An Elevator Penthouse may extend up to eight feet (8') above the Zone Height.

- (6) To accommodate a roof form consistent with the Historic District Design Guidelines, the Planning Director may grant additional Building Height provided that no more than twenty percent (20%) of the roof ridge line exceeds the height requirement and complies with height exception criteria in Section 15-2.2-6(B)(10).

*(Amended by Ord. Nos. 06-69; 07-25; 09-10)*

#### **15-2.5-6. EXISTING HISTORIC STRUCTURES.**

Historic Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Non-Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment. Additions must comply with Building Setbacks, driveway location standards, and Building height.

(A) **EXCEPTION.** In order to achieve new construction consistent with the Historic District Design Guidelines, the Planning Director may grant an exception to the Building Setbacks and driveway location standards for additions to Historic Buildings:

- (1) Upon approval of a Conditional Use Permit,
- (2) When the scale of the addition or driveway is Compatible

with the Historic Structure,

(3) When the addition complies with all other provisions of this Chapter, and

(4) When the addition complies with the International Building and Fire Codes.

*(Amended by Ord. No. 06-69)*

**15-2.5-7. ARCHITECTURAL REVIEW.**

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for historic Districts and Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board as outlined in Section 15-1-18 of the Code.

*(Amended by Ord. Nos. 06-69; 09-23)*

**15-2.5-8. MECHANICAL SERVICE.**

All exterior mechanical equipment must be Screened to minimize noise infiltration to adjoining Properties and to eliminate visual impacts on nearby Properties, including those Properties located above the roof tops of Structures in the HRC District.

All mechanical equipment must be shown on the plans prepared for architectural review by the Planning, Building, and Engineering Departments. The staff will approve or reject the location, Screening and painting of such equipment as part of the architectural review process.

*(Amended by Ord. No. 06-69)*

**15-2.5-9. SERVICE ACCESS.**

All Development must provide an on-Site refuse collection and loading Area. Refuse and service Areas must be properly Screened and ventilated. Refuse collection Areas may not be located in the required Yards.

**15-2.5-10. HEBER AVENUE SUB-ZONE.**

Properties fronting on the north side of Heber Avenue, and east of Park Avenue, are included in the Heber Avenue Sub-Zone for a depth of 150 feet (150') from the Street Right-of-Way. Within the Heber Avenue Sub-Zone, all of the Site Development standards and land Use limitations of the HRC District apply, except:

(A) The Allowed Uses within the sub-zones are identical to the Allowed Uses in the HCB District.

(B) The Conditional Uses within the sub-zone are identical to the Conditional Uses in the HCB District.

(C) The Floor Area Ratio

limitation of the HRC District does not apply.

**15-2.5-11. PARKING REGULATIONS.**

- (A) Tandem Parking is allowed in the Historic District.
- (B) Common driveways are allowed along shared Side Yard Property Lines to provide Access to parking in the rear of the Main Building, or below Grade, if both Properties are deed restricted to allow for the perpetual use of the shared drive.
- (C) Common Parking Structures are allowed where such a grouping facilitates:
  - (1) the Development of individual Buildings that more closely conform to the scale of Historic Structures in the District; and
  - (2) the reduction, mitigation, or elimination of garage doors at the Street edge.
- (D) A common Parking Structure may occupy below Grade Side Yards between participating Developments if the Structure maintains all Setbacks above Grade. Common Parking Structures are subject to a Conditional Use Review, Section 15-1-10.
- (E) Driveways between Structures are allowed to eliminate garage doors facing the Street, to remove cars from on-Street parking, and to reduce paved Areas, provided the driveway leads to an approved

garage or Parking Area.

- (F) Turning radii are subject to review by the City Engineer as to function and design.
- (G) See Section 15-3 Off Street Parking for additional parking requirements.

*(Amended by Ord. Nos. 06-69; 09-10)*

**15-2.5-12. CRITERIA FOR BED AND BREAKFAST INNS.**

A Bed and Breakfast Inn is an Allowed Use subject to an Administrative Conditional Use permit. No Administrative Conditional Use permit may be issued unless the following criteria are met:

- (A) The Use is in a Historic Structure or addition thereto, or a historically Compatible Structure.
- (B) The Applicant will make every attempt to rehabilitate the Historic portion of the Structure.
- (C) The Structure has at least two (2) rentable rooms. The maximum number of rooms will be determined by the Applicant's ability to mitigate neighborhood impacts.
- (D) In Historic Structures, the size and configuration of the rooms are Compatible with the Historic character of the Building and neighborhood.
- (E) The rooms are available for Nightly Rental only.



(F) An Owner/manager is living on-Site, or in Historic Structures there must be twenty-four (24) hour on-Site management and check-in.

(G) Food service is for the benefit of overnight guests only.

(H) No Kitchen is permitted within rental room(s).

(I) Parking on-Site is required at a rate of one (1) space per rentable room. The Planning Director may waive the parking requirement for Historic Structures if the Applicant proves that:

(1) no on-Site parking is possible without compromising the Historic Structure or Site, including removal of existing Significant Vegetation, and all alternatives for proximate parking have been explored and exhausted; and

(2) the Structure is not economically feasible to restore or maintain without the adaptive Use.

(J) The Use complies with Section 15-1-10, Conditional Use review.

*(Amended by Ord. No. 06-69)*

**15-2.5-13. GOODS AND USES TO BE WITHIN ENCLOSED BUILDING.**

(A) **OUTDOOR DISPLAY OF GOODS PROHIBITED.** Unless expressly allowed as an Allowed or Conditional Use, or allowed with an Administrative Permit,

all goods, including food, beverage and cigarette vending machines, must be within a completely enclosed Structure. New construction of enclosures for the storage of goods shall not have windows and/or other fenestration that exceeds a wall-to-window ratio of thirty percent (30%). This section does not preclude temporary sales in conjunction with a Master Festival License, sidewalk sale, or seasonal plant sale. See Section 15-2.5-13(B)(3) for outdoor display of bicycles, kayaks, and canoes.

(B) **OUTDOOR USES PROHIBITED/ EXCEPTIONS.** The following outdoor uses may be allowed by the Planning Department upon the issuance of an Administrative Conditional Use permit or an Administrative Permit as described herein. The Applicant must submit the required Application, pay all applicable fees, and provide all required materials and plans. Appeals of Departmental Actions are heard by the Planning Commission.

(1) **OUTDOOR DINING.** Outdoor dining requires an Administrative Conditional Use Permit and is subject to the following criteria:

(a) The proposed seating Area is located on private Property or leased public Property and does not diminish parking or landscaping.

(b) The proposed seating Area does not impede pedestrian circulation.

(c) The proposed seating Area does not impede emergency Access or circulation.

(d) The proposed furniture is Compatible with the Streetscape.

(e) No music or noise is in excess of the City Noise Ordinance, Title 6.

(f) No Use after 10:00 p.m.

(g) Review of the Restaurant's seating capacity to determine appropriate mitigation measures in the event of increased parking demand.

(2) **OUTDOOR GRILLS/BEVERAGE SERVICE STATIONS.** Outdoor grills and/or beverage service stations require an Administrative Conditional Use permit and are subject to the following criteria:

(a) The Use is on private Property or leased public Property and does not diminish parking or landscaping.

(b) The Use is only for the sale of food or beverages in a form suited for

immediate consumption.

(c) The Use is Compatible with the neighborhood.

(d) The proposed service station does not impede pedestrian circulation.

(e) The proposed service station does not impede emergency Access or circulation.

(f) Design of the service station is Compatible with the adjacent Building and Streetscape.

(g) No violation of the City Noise Ordinance, Title 6.

(h) Compliance with the City Sign Code, Title 12.

(3) **OUTDOOR STORAGE AND DISPLAY OF BICYCLES, KAYAKS, MOTORIZED SCOOTERS, AND CANOES.**

Outdoor storage and display of bicycles, kayaks, motorized scooters, and canoes, requires an Administrative Permit subject to the following criteria:

(a) The Area of the proposed bicycle, kayak, motorized scooters, or canoe storage or display is on

private Property and not in Areas of required parking or landscaped planting beds.

(b) Bicycles, kayaks, and canoes may be hung on a Historic Structure if sufficient Site Area is not available, provided the display does not impact or alter the architectural integrity or character of the Structure.

(c) No more than a total of fifteen (15) pieces of equipment may be displayed.

(d) Outdoor display is only allowed during Business hours.

(e) Additional outdoor storage Areas may be considered for rental bicycles or motorized scooters, provided there are no or only minimal impacts on landscaped Areas, Parking Spaces, and pedestrian and emergency circulation.

(4) **OUTDOOR EVENTS AND MUSIC.** Outdoor events and music require an Administrative Conditional Use permit. The Use must also comply with Section 15-1-10, Conditional Use review. The Applicant must submit a Site plan and written description of the event, addressing the following:

(a) Notification of adjacent Property Owners.

(b) No violation of the City Noise Ordinance, Title 6.

(c) Impact on adjacent residential Uses.

(d) Proposed plans for music, lighting, Structures, electrical, sign, etc.

(e) Parking demand and impacts on neighboring Properties.

(f) Duration and hours of operation.

(g) Impacts on emergency Access and circulation.

(5) **DISPLAY OF MERCHANDISE.** Display of outdoor merchandise is subject to an Administrative Permit subject to the following criteria:

(a) The display is immediately available for purchase at the Business displaying the item.

(b) The merchandise is displayed on private property directly in front of or appurtenant to the Business which displays it, so long as

the private Area is in an alcove, recess, patio, or similar location that provides a physical separation from the public sidewalk. No item of merchandise may be displayed on publicly owned Property including any sidewalk or prescriptive Right-of-Way regardless if the property Line extends into the public sidewalk. An item of merchandise may be displayed on commonly owned Property; however, written permission for the display of the merchandise must be obtained from the Owner's association.

(c) The display is prohibited from being permanently affixed to any building. Temporary fixtures may not be affixed to any Historic Building in a manner that compromises the Historic integrity or Façade Easement of the Building as determined by the Planning Director.

(d) the display does not diminish parking or landscaping.

(e) The Use does not violate the Summit County Health Code, the Fire Code, or International Building Code. The display does not

impede pedestrian circulation, sidewalks, emergency Access, or circulation. At minimum, forty-four inches (44") of clear and unobstructed Access to all fire hydrants, egress and Access points must be maintained. Merchandise may not be placed so as to block visibility of or Access to any adjacent Property.

(f) The merchandise must be removed if it becomes a hazard due to wind or weather conditions, or if it is in a state of disrepair, as determined by either the Planning Director or Building Official.

(g) The display shall not create a hazard to the public due to moving parts, sharp edges, or extension into public Rights-of-Way, including sidewalks, or pedestrian and vehicular Areas; nor shall the display restrict vision at intersections.

(h) No inflatable devices other than decorative balloons smaller than eighteen inches (18") in diameter are permitted. Balloon height may not exceed the finished floor elevation of the second floor

of the Building.

(i) No additional signs are allowed. A sales tag, four (4) square inches or smaller may appear on each display item, as well as an informational plaque or associated artwork not to exceed twelve square inches (12 sq. in.) The proposed display shall be in compliance with the City Sign Code, Municipal Code Title 12, the City's Licensing Code, Municipal Code Title 4, and all other requisite City codes.

*(Amended by Ord. Nos. 05-49; 06-69; 09-10)*

**15-2.5-14. VEGETATION PROTECTION.**

The Property Owner must protect Significant Vegetation during any Development activity. Significant Vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4 ½') above the ground, groves of small trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line. Development plans must show all Significant Vegetation within twenty feet (20') of a proposed Development. The Property Owner must demonstrate the health and viability of all large trees through a certified arborist. The Planning Director shall determine the Limits of Disturbance

and may require mitigation for loss of Significant Vegetation consistent with Landscape Criteria in LMC Chapter 15-3-3 and Title 14.

*(Amended by Ord. No. 06-69)*

**15-2.5-15. SIGNS.**

Signs are allowed in the HRC District as provided in the Park City Sign Code, Title 12.

**15-2.5-16. RELATED PROVISIONS.**

- Fences and Walls. LMC Chapter 15-4-2.
- Accessory Apartment. LMC Chapter 15-4-7.
- Satellite Receiving Antenna. LMC Chapter 15-4-13.
- Telecommunication Facility. LMC Chapter 15-4-14.
- Parking. LMC Chapter 15-3.
- Landscaping. Title 14; LMC Chapter 15-3-3(D).
- Lighting. LMC Chapters 15-3-3(C), 15-5-5(I).
- Historic Preservation Board. LMC Chapter 15-11.
- Park City Sign Code. Title 12.
- Architectural Review. LMC Chapter 15-5.
- Snow Storage. LMC Chapter 15-3-3(E).
- Parking Ratio Requirements. LMC Chapter 15-3-6.



**TITLE 15 - LAND MANAGEMENT CODE**

**CHAPTER 2.6 - HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT**

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**TITLE 15 - LAND MANAGEMENT CODE (LMC)**  
**CHAPTER 2.6 - HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT**

*Chapter adopted by Ordinance No. 00-15*

**15-2.6-1. PURPOSE.**

The purpose of the Historic Commercial Business (HCB) District is to:

- (A) preserve the cultural heritage of the City's original Business, governmental and residential center,
- (B) allow the Use of land for retail, commercial, residential, recreational, and institutional purposes to enhance and foster the economic and cultural vitality of the City,
- (C) facilitate the continuation of the visual character, scale, and Streetscape of the original Park City Historical District,
- (D) encourage the preservation of Historic Structures within the district,
- (E) encourage pedestrian-oriented, pedestrian-scale Development,
- (F) minimize the impacts of new Development on parking constraints of Old Town,

(G) minimize the impacts of commercial Uses and business activities including parking, Access, deliveries, service, mechanical equipment, and traffic, on surrounding residential neighborhoods,

(H) minimize visual impacts of automobiles and parking on Historic Buildings and Streetscapes, and

(I) support Development on Swede Alley which maintains existing parking and service/delivery operations while providing Areas for public plazas and spaces.

(J) maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.

*(Amended by Ord. No. 07-55)*

**15-2.6-2. USES.**

Uses in the Historic Commercial Business (HCB) District are limited to the following:

- (A) **ALLOWED USES.**

- (1) Single Family Dwelling<sup>1</sup>
- (2) Multi-Unit Dwelling<sup>1</sup>
- (3) Secondary Living Quarters<sup>1</sup>
- (4) Lockout Unit<sup>1,2</sup>
- (5) Accessory Apartment<sup>1,3</sup>
- (6) Nightly Rental<sup>4</sup>
- (7) Home Occupation<sup>1</sup>
- (8) Child Care, In-Home Babysitting<sup>1</sup>
- (9) Child Care, Family<sup>1,5</sup>
- (10) Child Care, Family Group<sup>1,5</sup>
- (11) Child Care Center<sup>1,5</sup>
- (12) Accessory Building and Use<sup>1</sup>
- (13) Conservation Activity
- (14) Agriculture
- (15) Bed and Breakfast Inn<sup>1,6</sup>
- (16) Boarding House, Hostel<sup>1</sup>
- (17) Hotel, Minor, fewer than 16 rooms<sup>1</sup>

<sup>1</sup> Prohibited in HCB Zoned Storefront Property storefronts adjacent to ~~the~~ Main Street, Heber Avenue, Grant Avenue or and Swede Alley. ~~Rights-of-Way~~ Hotel rooms shall not be located within Storefront Property however; access, circulation and limited lobby areas are permitted within Storefront Property.

<sup>2</sup>Nightly Rental of Lock Units requires a Conditional Use permit

<sup>3</sup>See LMC Chapter 15-4, Supplementary Regulations for Accessory Apartments

<sup>4</sup>Nightly Rental of residential dwellings does not include the Use of dwellings for Commercial Uses

<sup>5</sup> See LMC Chapter 15-4-9 for Child Care Regulations

<sup>6</sup>Requires an Administrative or Administrative Conditional Use permit

- (18) Office, General<sup>1</sup>
- (19) Office, Moderate Intensive<sup>1</sup>
- (20) Office and Clinic, Medical<sup>1</sup>
- (21) Financial Institution, without drive-up window
- (22) Commercial Retail and Service, Minor
- (23) Commercial Retail and Service, personal improvement
- (24) Commercial Neighborhood Convenience, without gasoline sales
- (25) Restaurant, Cafe or Deli
- (26) Restaurant, General
- (27) Bar
- (28) Parking Lot, Public or Private with four (4) or fewer spaces<sup>1</sup>
- (29) Entertainment Facility, Indoor
- (30) Salt Lake City 2002 Winter Olympic Games Legacy Displays<sup>7</sup>

(B) **CONDITIONAL USES<sup>10</sup>**.

- (1) Group Care Facility<sup>1</sup>
- (2) Public and Quasi-Public Institution, Church, School
- (3) Essential Municipal Public Utility Use, Facility, Service, and Structure

<sup>7</sup>Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed on the original Property set forth in the services Agreement and/or Master Festival License. Requires an Administrative Permit.

- (4) Telecommunication Antenna<sup>8</sup>
- (5) Satellite Dish, greater than thirty-nine inches (39") in diameter<sup>9</sup>
- (6) Plant and Nursery stock products and sales
- (7) Hotel, Major<sup>1</sup>
- (8) Timeshare Projects and Conversions<sup>1</sup>
- (9) Timeshare Sales Office, Off-Site within an enclosed Building<sup>1</sup>
- (10) Private Residence Club Project and Conversion<sup>1,6</sup>
- (11) Commercial Retail and Service, Major
- (12) Office, Intensive<sup>1</sup>
- (13) Restaurant, Outdoor Dining<sup>6</sup>
- (14) Outdoor Events and Uses<sup>6</sup>
- (15) Hospital, Limited Care Facility<sup>1</sup>
- (16) Parking Area or Structure for five (5) or more cars<sup>1</sup>
- (17) Temporary Improvement<sup>6</sup>
- (18) Passenger Tramway Station and Ski Base Facility
- (19) Ski Tow, Ski Lift, Ski Run, and Ski Bridge

<sup>8</sup>See LMC Chapter 15-4-14, Supplemental Regulations for Telecommunication Facilities

<sup>9</sup>See LMC Chapter 15-4-13, Supplemental Regulations for Satellite Receiving Antennas

<sup>10</sup>No community locations as defined by Utah Code 32B-1-102 (Alcoholic Beverage Control Act) are permitted within 200 feet of Main Street unless a variance is permitted for an outlet, as defined by Utah Code 32B-1-202, to obtain a liquor license.

- (20) Recreation Facility, Public or Private
- (21) Recreation Facility, Commercial
- (22) Fences greater than six feet (6') in height from Final Grade<sup>6</sup>
- (23) Private Residence Club, Off-Site<sup>1</sup>
- (24) Special Events<sup>6</sup>
- ~~(25) Private Event Facility<sup>1</sup>~~

(C) **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

*(Amended by Ord. Nos. 02-38; 04-39; 06-69; 07-55; 09-10; 12-37)*

**15-2.6-3. LOT AND SITE REQUIREMENTS.**

Except as may otherwise be provided in this Code, no Building Permit will be issued for a Lot unless such Lot has the Area, width, and depth as required, and Frontage on a Street shown as a private or Public Street on the Streets Master Plan, or on private easement connecting the Lot to a Street shown on the Streets Master Plan. All Development must comply with the following:

(A) **LOT SIZE.** The minimum Lot Area is 1250 square feet. The minimum Lot Width is twenty-five feet (25') and Minimum Lot Depth is fifty feet (50').

(B) **FRONT, REAR AND SIDE YARDS.** There are no minimum required

Front, Rear, or Side Yard dimensions in the HCB District.

(C) **SIDEWALK PROVISION.**

Buildings must be located so as to provide an unobstructed sidewalk at least nine feet (9') wide on both Main Street and Swede Alley. The sidewalk width is measured from the front face of curb to the front of the Building. The alignment of new Building fronts with adjacent Historic fronts is encouraged. A narrower sidewalk may result from the alignment of Building fronts. The Planning and Engineering Departments may grant an exception to the minimum sidewalk width to facilitate such alignment.

(D) **BALCONIES.** No Balcony may be erected, enlarged, or altered over a public pedestrian Right-of-Way without the advance approval of the City Council. Balcony supports may not exceed eighteen inches (18") square and are allowed no closer than thirty-six inches (36") from the front face of the curb. Balconies must provide vertical clearance of not less than ten feet (10') from the sidewalk and may not be enclosed. With reasonable notice, the City may require a Balcony be removed from City Property without compensating the Building Owner.

(E) **INSURANCE REQUIRED.** No Balcony projecting over City Property may be erected, re-erected, located or relocated, or enlarged or structurally modified without first receiving approval of the City Council and submitting a certificate of insurance or a continuous bond protecting the Owner and the City against all claims for personal injuries and/or Property damage in the

standard amount determined by City Council. Park City Municipal Corporation must be named in the certificate of insurance as an additional insured. A thirty (30) day obligation to provide written notice to Park City Municipal Corporation of cancellation or expiration must be included in the insurance certificate.

(F) **CLEAR VIEW OF INTERSECTION.**

No visual obstruction in excess of two feet (2') in height above road Grade shall be placed on any Corner Lot within the Site Distance Triangle. A reasonable number of trees may be allowed, if pruned high enough to permit automobile drivers an unobstructed view. This provision must not require changes in the Natural Grade on the Site.

**(G) VERTICAL ZONING.** *For those Properties where vertical zoning regulations apply, construction adding Floor Area to a Building or Lot shall include Storefront Property for a minimum of seventy-five percent (75%) of the width of the building facade. Exception. This regulation does not apply to Buildings and Lots on Swede Alley.*

*(Amended by Ord. No. 06-69)*

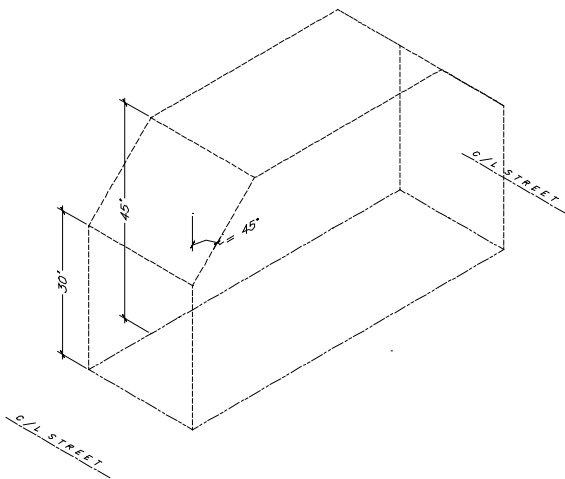
**15-2.6-4. FLOOR AREA RATIO.**

To encourage variety in Building Height, a floor Area to ground Area ratio must be used to calculate maximum buildable Area. The maximum Floor Area Ratio (FAR) is 4.0 measured as: total floor Area divided by Lot Area equals 4.0. Note that this is the potential maximum floor Area, and is not always achievable. Buildings of lesser floor

Area are encouraged. See Section 15-2.6-9: Off-Street Parking, for parking implications for Buildings that exceed 1.5 FAR.

**15-2.6-5. MAXIMUM BUILDING VOLUME AND HEIGHT.**

(A) The maximum Building volume for each Lot is defined by a plane that rises vertically at the Front Lot Line to a height of thirty feet (30') measured above the average Natural Grade and then proceeds at a forty-five degree (45°) angle toward the rear of the Property until it intersects with a point forty-five feet (45') above the Natural Grade and connects with the rear portion of the bulk plane.



(B) The rear portion of the bulk plane for each Lot that does not abut Swede Alley is defined by the plane that rises vertically at the Rear Yard Property Line to a height of thirty feet (30') measured above the average Natural Grade and then proceeds at a forty-

five degree (45°) angle toward the Front Lot Line until it intersects with a point forty-five feet (45') above the Natural Grade of the Building Site. No part of a Building shall be erected to a height greater than forty-five feet (45'), measured from Natural Grade at the Building Site. This provision must not be construed to encourage solid roofing to following the forty-five degree (45°) back plane.

(C) For Lots abutting Swede Alley, the rear portion of the bulk plane is defined by a plane that rises vertically at the Rear Yard Property Line to a height of twenty-four feet (24') measured above the average Natural Grade and then proceeds at a forty-five degree (45°) angle toward the Front Lot Line until it intersects with a point forty-five feet (45') above the Natural Grade. This provision must not be construed to encourage solid roofing to follow the forty-five degree (45°) back plane.



(D) Wherever the HCB District abuts a residential Zoning District, the abutting portion of the bulk plane is defined by a

plane that rises vertically at the abutting Lot Line to a height matching the maximum height of the abutting Zone, measured from Existing Grade, and then proceeds at a forty-five degree (45°) angle toward the opposite Lot Line until it intersects with a point forty-five feet (45') above Existing Grade.



(E) The Zone Height for the HCB District shall correspond to the maximum height of the Building plane as described in Section 15-2.6-5(A) through (D).

(F) **MAXIMUM BUILDING VOLUME AND BUILDING HEIGHT EXCEPTIONS.** The following exceptions apply:

- (1) A gable, hip, gambrel or similarly pitched roof may extend up to five feet (5') above the Zone Height.
- (2) Antennas, chimneys, flues, vents, and similar Structures may extend up to five feet (5') above the highest point of the Building to

comply with International Building Code (IBC) requirements.

(3) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

(4) Church spires, bell towers, and like architectural features, subject to the Historic District Design Guidelines, may extend up to fifty percent (50%) above the Zone Height, but may not contain Habitable Space above the Zone Height. Such exception requires approval by the Planning Director.

(5) Elevator Penthouses may extend up to eight feet (8') above the Zone Height.

(6) Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays, including Olympic way-finding towers, are permitted to a height of sixty-five feet (65').

*(Amended by Ord. No. 03-38; 06-69)*

#### **15-2.6-6. ARCHITECTURAL REVIEW.**

Prior to issuance of a Building Permit for any Conditional or Allowed Use, the Planning Department shall review the proposed plans for compliance with the Design Guidelines for Historic Districts and

Historic Sites, Historic Preservation LMC Chapter 15-11, and Architectural Review LMC Chapter 15-5.

Appeals of departmental actions on compliance with the Design Guidelines for Historic Districts and Historic Sites, LMC Chapter 15-11, and LMC Chapter 15-5 are heard by the Historic Preservation Board as outlined in Section 15-1-18 of the Code.

*(Amended by Ord. Nos. 06-69; 09-23)*

**15-2.6-7. SWEDE ALLEY DEVELOPMENT CRITERIA.**

In addition to the standards set forth in this Chapter, all Development abutting Swede Alley must comply with the following criteria:

(A) Structures must step down toward Swede Alley at an angle of forty-five degrees (45°) to a maximum height of twenty-four feet (24') at the edge of the Swede Alley Right-of-Way. A variety of one and two-Story facades are encouraged. Designs that create a strong indoor/outdoor connection at the ground level are strongly encouraged.

(B) Entrances must be pedestrian-scaled and defined with porches, awnings and other similar elements as described in the Park City Historic District Design Guidelines. Entrances must make provisions for shared public and service Access whenever possible. When Main Street additions extend to Swede Alley, the materials and colors of the new construction must be designed to coordinate with the existing Structure.

(C) Structures must continue the existing stair-step facade rhythm along Swede Alley. No more than sixty feet (60') of a Swede Alley facade may have the same height or Setback. On facades greater than sixty feet (60') wide, Structures must provide a variety of Building Setbacks, height, and Building form. Setbacks in the facades and stepping upper stories, decks, and Balconies are strongly encouraged. Uniform height and Setbacks are discouraged.

(D) Provisions for public Open Space, open courtyards, and landscaping are strongly encouraged.

(E) Pedestrian connections from Swede Alley to Main Street are encouraged whenever possible. Open and landscaped pedestrian connections are favored.

(F) Swede Alley facades must be simple, utilitarian, and subordinate in character to Main Street facades. While facades should be capped, details should be simple. Ornate details typically found on Main Street facades are prohibited. The Applicant must incorporate a mix of materials, accent trim and door treatments to provide architectural interest. Materials must be similar in character, color, texture and scale to those found on Main Street. Exposed concrete, large Areas of stucco and unfinished materials are prohibited.

(G) Window display Areas are allowed. However, the Swede Alley window Area must be subordinate in design to the Main Street window Area.



(H) Service Areas and service equipment must be Screened. Utility boxes must be painted to blend with the adjacent Structures. Group trash containers must be Screened.

**15-2.6-8. CANOPY AND AWNING.**

(A) **APPROVAL.** No awning or Canopy may be erected, enlarged, or altered over the Main Street sidewalk without the written advance approval by the City Engineer. An awning or Canopy attached to a Building may extend over the public pedestrian Right-of-Way and project a maximum of thirty-six inches (36") from the face of a Building. An awning or Canopy must provide vertical clearance of no less than eight feet (8') from the sidewalk. With reasonable notice, the City may require that an awning or Canopy be removed from over City Right-of Way without compensating the Building Owner.

(B) **INSURANCE REQUIRED.** No awning or Canopy projecting over City Property may be erected, re-erected, located or relocated, or enlarged or modified structurally, without a certificate of insurance or a continuous bond protecting the Owner and City against all claims for personal injuries and/or Property damage in the standard amount determined by City Council. Park City Municipal Corporation must be named in the certificate of insurance as an additional insured. A thirty (30) day obligation to provide written notice to Park City Municipal Corporation of cancellation or expiration must be included in the insurance certificate.

**15-2.6-9. PARKING REGULATIONS.**

New construction must provide Off-Street parking. The parking must be on-Site or paid by fee in lieu of on-Site parking set by Resolution equal to the parking obligation multiplied by the per space parking fee/in-lieu fee. The parking obligation is as follows:

(A) **RESIDENTIAL USE.** See Parking Requirements shown in Chapter 3.

(B) **NON-RESIDENTIAL USE.** Non-Residential Uses must provide parking at the rate of six (6) spaces per 1,000 square feet of Building Area, not including bathrooms, and mechanical and storage spaces<sup>10</sup>. Churches, Auditoriums, Assembly Halls and Indoor Entertainment Businesses generate a parking obligation shown in Chapter 15-3. Fully enclosed Parking Spaces and associated maneuvering spaces are not included in the Floor Area.

(C) **GENERAL PARKING REGULATIONS.** Property Owners may not install a driveway across the Main Street sidewalk to meet on-Site parking

<sup>10</sup>Mechanical and storage spaces must be in accordance with IBC requirements in order to be subtracted from the Building Area; it is the intent of this Code that closets and shelves in occupied spaces are included in the Area measured for the parking requirement. For Condominium Units, the Building Area is the total Area of the Unit.

requirements without a variance and an obligation to reconstruct adjacent portions of the Main Street sidewalk to render the driveway crossing ADA accessible and convenient to pedestrians as possible. The sidewalk reconstruction must include lighting and landscaping.

An Applicant may appeal the staff's measurement of Floor Area to determine the parking requirement to the Board of Appeals in accordance with the International Building Code.

The Planning Commission may recommend to the City Council that new additions to Historic Structures be exempt from a portion of or all parking requirements where the preservation of the Historic Structure has been guaranteed to the satisfaction of the City.

(D) **PRE 1984 PARKING EXCEPTION.** Lots, which were current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, are exempt from the parking obligation for a Floor Area Ratio (FAR) of 1.5. Buildings that are larger than 1.5 FAR are Non-Conforming Buildings for Off-Street parking purposes.

To claim the parking exemption for the 1.5 FAR, the Owner must establish payment in full to the Main Street Parking Special Improvement District prior to January 1, 1984.

Additions or remodels to Non-Conforming Churches, Auditoriums, Assembly Halls and Indoor Entertainment Businesses, that

reduce the net parking demand must not prompt an additional Off-Street parking obligation.

(E) See Section 15-3 Off Street Parking for additional parking requirements.

*(Amended by Ord. Nos. 06-69; 09-10)*

#### **15-2.6-10. MECHANICAL SERVICE.**

All exterior mechanical equipment must be Screened to minimize noise infiltration to adjoining Properties and to eliminate visual impacts on nearby Properties, including those Properties located above the roof tops of Structures in the HCB District.

All mechanical equipment must be shown on the plans prepared for architectural review by the Planning, Engineering, and Building Departments. The Planning Department will approve or reject the location, Screening and painting of such equipment as part of the architectural review process.

*(Amended by Ord. No. 06-69)*

#### **15-2.6-11. ACCESS, SERVICE AND DELIVERY.**

All Access for commercial Businesses and facilities shall be located within the HCB District. Emergency Access to the HR-1 and HR-2 Districts may be allowed by the Planning Director, with review by the Chief Building Official, but such emergency exits shall be designed in such a manner as to prohibit non-emergency Use. The primary Access to parking facilities for commercial

Uses shall not be from residential districts, such as HR-1 and HR-2.

All Structures must provide a means of storing refuse generated by the Structure's occupants. The refuse storage must be on-Site and accessible only from Main Street, for Structures on the west side of Main Street, or from either Main Street or Swede Alley, for Structures on the east side of Main Street. Non-Main Street Properties within the zone must provide service Access from the rear of the Structure. Refuse storage must be fully enclosed and properly ventilated.

Refuse shall be stored in containers made of durable metallic or plastic materials with a close-fitting lid. Refuse containers shall not be set out for collection earlier than 10:00 PM on the day prior to collection, and must be removed no later than 10:00 AM on the day of collection. Refuse containers set out for collection shall be placed on or directly in front of the Owner's Property, and shall not be placed in the street, sidewalk, or other public Right-of-Way in any manner that will interfere with vehicular or pedestrian traffic.

Except when set out for collection pursuant to this Section, refuse containers shall be placed in a location fully Screened from view from the public Rights-of-Way via Fencing and/or walls. Public trash receptacles set in the Right-of-Way by the City for Use by the public are exempt from this regulation.

All service and delivery for businesses on the west side of Main Street must be made within the HCB Zone, and shall not be made from the upper Park Avenue residential

districts (HR-1 and HR-2)

*(Amended by Ord. No. 01-28; 06-69)*

**15-2.6-12. GOODS AND USES TO BE WITHIN ENCLOSED BUILDING.**

(A) **OUTDOOR DISPLAY OF GOODS PROHIBITED.** Unless expressly allowed as an Allowed or Conditional Use, or allowed with an Administrative Permit, all goods including food, beverage and cigarette vending machines must be within a completely enclosed Structure. New construction of enclosures for the storage of goods shall not have windows and/or other fenestration, which exceeds a wall-to-window ratio of thirty percent (30%). This section does not preclude temporary sales in conjunction with a Master Festival License, sidewalk sale, or seasonal plant sale. See Section 15-2.6-12(B)(3) for outdoor display of bicycles, kayaks, and canoes.

(B) **OUTDOOR USES PROHIBITED/EXCEPTIONS.** The following outdoor Uses may be allowed by the Planning Department upon the issuance of an Administrative Conditional Use permit or an Administrative Permit as described herein. The Applicant must submit the required application, pay all applicable fees, and provide all required materials and plans. Appeals of departmental actions are heard by the Planning Commission.

(1) **OUTDOOR DINING.** Outdoor dining requires an Administrative Conditional Use permit and is subject to the following criteria:

(a) The proposed seating Area is located on private Property or leased public Property and does not diminish parking or landscaping.

(b) The proposed seating Area does not impede pedestrian circulation.

(c) The proposed seating Area does not impede emergency Access or circulation.

(d) The proposed furniture is Compatible with the Streetscape.

(e) No music or noise is in excess of the City Noise Ordinance, Title 6.

(f) No Use after 10:00 p.m.

(g) Review of the Restaurant's seating capacity to determine appropriate mitigation measures in the event of increased parking demand.

(2) **OUTDOOR GRILLS/BEVERAGE SERVICE STATIONS.** Outdoor grills and/or beverage service stations require an Administrative Permit and are subject to the following criteria:

(a) The Use is on private Property or leased public Property, and does not diminish parking or landscaping.

(b) The Use is only for the sale of food or beverages in a form suited for immediate consumption.

(c) The Use is Compatible with the neighborhood.

(d) The proposed service station does not impede pedestrian circulation.

(e) The proposed service station does not impede emergency Access or circulation.

(f) Design of the service station is Compatible with the adjacent Buildings and Streetscape.

(g) No violation of the City Noise Ordinance, Title 6.

(h) Compliance with the City Sign Code, Title 12.

(3) **OUTDOOR STORAGE AND DISPLAY OF BICYCLES, KAYAKS, MOTORIZED SCOOTERS, AND CANOES.**

Outdoor storage and display of bicycles, kayaks, motorized scooters, and canoes requires an Administrative Permit and is subject to the following criteria:

- (a) The Area of the proposed bicycle, kayak, motorized scooters, and canoe storage or display is on private Property and not in Areas of required parking or landscaped planting beds.
- (b) Bicycles, kayaks, and canoes may be hung on Buildings if sufficient Site Area is not available, provided the display does not impact or alter the architectural integrity or character of the Structure.
- (c) No more than a total of fifteen (15) pieces of equipment may be displayed.
- (d) Outdoor display is only allowed during Business hours.
- (e) Additional outdoor bicycle storage Areas may be considered for rental bicycles provided there are no or only minimal impacts on landscaped Areas, parking spaces, and pedestrian and emergency circulation.

(4) **OUTDOOR EVENTS AND**

**MUSIC.** Outdoor events and music require an Administrative Permit. The Use must also comply with Section 15-1-10, Conditional Use review. The Applicant must submit a Site plan and written description of the event, addressing the following:

- (a) Notification of adjacent Property Owners.
- (b) No violation of the City Noise Ordinance, Title 6.
- (c) Impacts on adjacent Residential Uses.
- (d) Proposed plans for music, lighting, structures, electrical signs, etc.
- (e) Parking demand and impacts on neighboring Properties.
- (f) Duration and hours of operation.
- (g) Impacts on emergency Access and circulation.

(5) **DISPLAY OF MERCHANDISE.** Display of outdoor merchandise requires an Administrative Permit and is subject to the following criteria:

- (a) The display is immediately available for purchase at the Business



displaying the item.

(b) The merchandise is displayed on private Property directly in front of or appurtenant to the Business which displays it, so long as the private Area is in an alcove, recess, patio, or similar location that provides a physical separation from the public sidewalk. No item of merchandise may be displayed on publicly owned Property including any sidewalk or prescriptive Right-of-Way regardless if the Property Line extends into the public sidewalk. An item of merchandise may be displayed on commonly owned Property; however, written permission for the display of the merchandise must be obtained from the Owner's association.

(c) The display is prohibited from being permanently affixed to any Building. Temporary fixtures may not be affixed to any Historic Building in a manner that compromises the Historic integrity or Façade Easement of the Building as determined by the Planning Director.

(d) The display does not diminish parking or

landscaping.

(e) The Use does not violate the Summit County health Code, the Fire Code, or International Building Code. The display does not impede pedestrian circulation, sidewalks, emergency Access, or circulation. At minimum, forty-four inches (44") of clear and unobstructed Access to all fire hydrants, egress and Access points must be maintained. Merchandise may not be placed so as to block visibility of or Access to any adjacent Property.

(f) The merchandise must be removed if it becomes a hazard due to wind or weather conditions, or if it is in a state of disrepair, as determined by either the Planning Director or Building Official.

(g) The display shall not create a hazard to the public due to moving parts, sharp edges, or extension into public Rights-of-Way, including sidewalks, or pedestrian and vehicular Areas; nor shall the display restrict vision at intersections.

(h) No inflatable devices

other than decorative balloons smaller than eighteen inches (18”) in diameter are permitted. Balloon height may not exceed the finished floor elevation of the second floor of the Building.

(i) No additional signs are allowed. A sales tag, four square inches (4 sq. in.) or smaller may appear on each display item, as well as an informational plaque or associated artwork not to exceed twelve square inches (12 sq. in.). The proposed display shall be in compliance with the City Sign Code, Municipal Code Title 12, the City’s Licensing Code, Municipal Code Title 4, and all other requisite City codes.

*(Amended by Ord. Nos. 05-49; 06-69; 09-10)*

**15-2.6-13. CRITERIA FOR BED AND BREAKFAST INNS.**

A Bed and Breakfast Inn is an Allowed Use subject to an Administrative Conditional Use Permit. No permit may be issued unless the following criteria are met:

(A) The Use is in a Historic Structure or addition thereto, or a Historically Compatible Structure.

(B) The Applicant will make every attempt to rehabilitate the Historic portion of the Structure.

(C) The Structure has at least two (2) rentable rooms. The maximum number of rooms will be determined by the Applicant's ability to mitigate neighborhood impacts.

(D) In Historic Structures, the size and configuration of the rooms are Compatible with the Historic character of the Building and neighborhood.

(E) The rooms are available for Nightly Rental only.

(F) An Owner/manager is living on-Site, or in Historic Structures there must be twenty-four (24) hour on-Site management and check-in.

(G) Food service is for the benefit of overnight guests only.

(H) No Kitchen is permitted within rental room(s).

(I) Parking on-Site is required at a rate of one (1) space per rentable room. The Planning Director may waive the parking requirement for Historic Structures if the Applicant proves that:

(1) no on-Site parking is possible without compromising the Historic Structure or Site, including removal of existing Significant Vegetation, and all alternatives for proximate parking have been explored and exhausted; and

(2) the Structure is not economically feasible to restore or maintain without the adaptive Use.

(J) The Use complies with Section 15-1-10, Conditional Use review.

*(Amended by Ord. No. 06-69)*

#### **15-2.6-14. VEGETATION PROTECTION.**

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

Development plans must show all Significant Vegetation within twenty feet (20') of a proposed Development. The Property Owner must demonstrate the health and viability of all large trees through a certified arborist. The Planning Director shall determine the Limits of Disturbance and may require mitigation for loss of Significant Vegetation consistent with landscape criteria in LMC Chapter 15-3-3(D) and Title 14.

*(Amended by Ord. No. 06-69)*

#### **15-2.6-15. SIGNS.**

Signs are allowed in the HCB District as provided in the Park City Sign Code, Title 12.

#### **15-2.6-16. RELATED PROVISIONS.**

- Fences and Walls. LMC Chapter 15-4-2.
- Accessory Apartment. LMC Chapter 15-4-7.
- Satellite Receiving Antenna. LMC Chapter 15-4-13.
- Telecommunication Facility. LMC Chapter 15-4-14.
- Parking. LMC Chapter 15-3.
- Landscaping. Title 14; LMC Chapter 15-3-3(D).
- Lighting. LMC Chapters 15-3-3(C), 15-5-5(I).
- Historic Preservation Board. LMC Chapter 15-11.
- Park City Sign Code. Title 12.
- Architectural Review. LMC Chapter 15-5.
- Snow Storage. LMC Chapter 15-3-3(E).
- Parking Ratio Requirements. LMC Chapter 15-3-6.
- Passenger Tramways and Ski Base Facilities. LMC Chapter 15-4-18.

**TITLE 15 - LAND MANAGEMENT CODE**

**CHAPTER 15 - DEFINED TERMS**

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**TITLE 15 - LAND MANAGEMENT CODE (LMC)**  
**CHAPTER 15 - DEFINITIONS**

*Chapter adopted by Ordinance No. 00-25*

**CHAPTER 15 - DEFINED TERMS.**

**15-15-1. DEFINITIONS.**

For the purpose of the LMC, certain numbers, abbreviations, terms, and words shall be used, interpreted, and defined as set forth herein. Defined terms will appear as proper nouns throughout this Title. Words not defined herein shall have a meaning consistent with Webster's New Collegiate Dictionary, latest edition.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations"; "used" or "occupied" as applied to any land or Building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

1.1 **ACCESS.** The provision of vehicular and/or pedestrian ingress and egress to Structures, facilities or Property.

1.2 **ACCESSORY APARTMENT.** A self-contained Apartment, with cooking, sleeping, and sanitary facilities, created either by converting part of and/or by adding on to a Single-Family Dwelling or detached garage. Accessory Apartments do not increase the residential Unit Equivalent of the Property and are an Accessory Use to the primary Dwelling.

1.3 **ACCESSORY BUILDING.** A Building on the same Lot as the principal Building and that is:

- (A) clearly incidental to, and customarily found in connection with such principal Building, such as detached garages, barns, and other similar Structures that require a Building Permit;
- (B) operated and maintained for the benefit of the principal Use;
- (C) not a Dwelling Unit; and
- (D) also includes Structures that do not require a Building Permit, such as sheds, outbuildings, or similar Ancillary Structures. See Ancillary Structure.

1.4 **ACCESSORY USE.** A land Use that is customarily incidental and subordinate to the to the primary Use located on the same Lot.

1.5 **ACTIVE BUILDING PERMIT.** Any Building Permit that has not expired.

1.6 **ADMINISTRATIVE PERMIT.** A permit issued by the Planning, Building, and Engineering Departments for specified Use upon proof of compliance with certain criteria.

1.7 **AFFORDABLE HOUSING.** Dwelling Units for rent or for sale in a price range affordable to families in the low to moderate income range.

1.8 **AGENT.** The Person with written authorization to represent an Owner.

1.9 **AGRICULTURE.** Use of land for primarily farming and related purposes such as pastures, farms, dairies, horticulture, animal husbandry, and crop production, but not the keeping or raising of domestic pets, nor any agricultural industry or business such as meat, fruit, or other food packing and/or processing plants, fur farms, livestock feeding operations, animal hospitals, or similar Uses.

1.10 **ALLOWED USE.** A Use that is permitted in a Zoning District without a Conditional Use permit, not including Non-Conforming Use.

1.11 **ALTERATION, BUILDING.** Any act or process that changes the Architectural Detail of a Building, including

but not limited to, the erection, construction, reconstruction, or removal of any Building.

1.12 **ANCILLARY STRUCTURE.** One-Story, attached or detached Structure, 250 square feet in Area or smaller, that is subordinate to and located on the same Lot as the principal Use, does not include Dwelling Area, and is not intended for sleeping or cooking. Includes Structures such as sheds, green houses, play equipment, utility Buildings, and similar Structures that may or may not require a Building Permit.

1.13 **ANEMOMETERS AND ANEMOMETER TOWERS.** A temporary tower and housing or supporting wind measuring equipment for the purpose of establishing the viability of the wind generated energy by measuring and monitoring wind velocity, direction, shear, duration, intensity, and regularity.

1.14 **ANTENNA.** A transmitting or receiving device used in Telecommunications that radiates or captures radio, television, or similar communication signals.

(A) **Antenna, Drive Test.** A temporary Antenna which is used for field testing of Telecommunications signals and for possible locations for a permanent Antenna, but does not provide Telecommunications to customers.

(B) **Antenna, Enclosed.** An Antenna or series of individual Antennas entirely enclosed inside a Structure, including but not limited to a cupola or wall of a Building or chimney.



(C) **Antenna, Freestanding.** An Antenna mounted on or within a stand alone support Structure including but not limited to a wooden pole, steel pole, lattice tower, utility pole, lift tower, light standard, flag pole, or other vertical support.

(D) **Antenna, Roof Mounted.** An Antenna or series of individual Antennas mounted on a roof of a Building.

(E) **Antenna, Temporary.** An Antenna used for a time period of less than thirty (30) days.

(F) **Antenna, Wall Mounted.** An Antenna or series of individual Antennas mounted fully against the exterior face of a Building including on the face of a chimney or penthouse. A wall or face of a Building is defined as the entire Area of all exposed vertical surfaces of a Building that are above ground and facing approximately the same direction.

1.15 **APARTMENT.** A Dwelling Unit within a Multi-Unit Dwelling Building with exclusive living, cooking, sleeping and bathroom Areas.

1.16 **APPLICANT.** The Owner of the Property that is the subject of the Application, or the Owner's Agent.

1.17 **APPLICATION.** A written request, completed in a manner prescribed in this Code, for review, approval, or issuance of a Development permit, including but not limited to Conditional Use permits, Building Permits, variances, annexation and re-zoning requests, Subdivision and record of survey

plats, plat amendments, Code amendments, design review, and Administrative Permits.

(A) **Application, Complete.** A submission that includes all information requested on the appropriate form, and payment of all applicable fees.

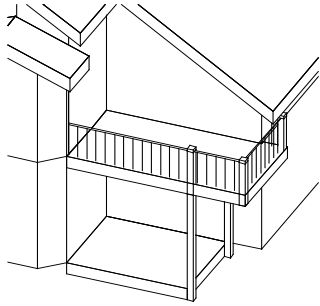
1.18 **ARCHITECTURAL DETAIL.** Physical Properties, features or components of a Building or Structure which embody distinctive characteristics of a type, period, or method of construction and refers to the way in which the Property was conceived, designed, or fabricated by a people or culture. Within a Historic District, these physical features or traits commonly recur in individual Buildings. The characteristics can be expressed in terms of form, proportion, Structure, plan, architectural style, or materials such as siding, doors, windows, or trim.

1.19 **AREA OR SITE.** A specific geographic division of Park City where the location maintains Historical, cultural or archeological value regardless of the value of any existing Structure.

1.20 **ATTIC.** The space between the ceiling joists and roof rafters.

1.21 **BAKERY.** A Business that bakes food products and sells such products primarily for off-premises consumption. May include a Café or Restaurant.

1.22 **BALCONY.** A platform that projects from the wall of a Building and is enclosed by a railing, parapet, or balustrade. See following illustration:



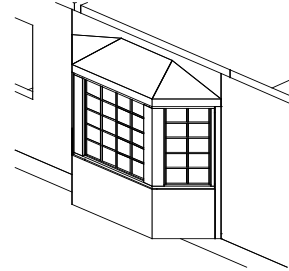
1.23 **BAR**. A Business that primarily sells alcoholic beverages for consumption on the premises; includes Private Clubs.

1.24 **BASE ZONING**. Existing zoning without the addition of the Transfer of Development Rights overlay zone.

1.25 **BASEMENT**. Any floor level below the First Story in a Building. Those floor levels in Buildings having only one floor level shall be classified as a Basement, unless that floor level qualifies as a First Story as defined herein. See First Story.



1.26 **BAY WINDOW**. A window or series of windows forming a recess or bay from a room and projecting outward from the wall. A Bay Window does not include a window directly supported by a foundation.



1.27 **BED AND BREAKFAST INN**. A Business, located in an Owner or on-Site manager occupied dwelling, in which up to ten (10) Bedrooms are rented nightly or weekly, and where one (1) or more meals are provided to the guests only, the price of which is usually included in the room rate. Bed and Breakfast Inns are considered a lodging Use where typical lodging services are provided, such as daily maid service.

1.28 **BEDROOM**. A separate room designed for or used as a sleeping room.

1.29 **BILLBOARD**. A separate room designed for or used as a sleeping room.

1.30 **BLANK WALL**. A wall of a Building faced with a single material of uniform texture and color on a single plan with less than thirty percent (30%) of the surface of the wall as openings or windows.

1.31 **BLOCK**. A tract of land bounded by Streets, or by a combination of Streets and public parks, cemeteries, railroad Rights-of-Way, shore lines of water ways, or City boundary lines, as shown on an official plat.

1.32 **BOARDING HOUSE**. A Business, within a dwelling with two (2) or more

Bedrooms where, for direct or indirect compensation, on a monthly basis, the Owner provides lodging and/or common Kitchen facilities or meals for boarders not related to the head of the household. Boarding Houses do not include the Use of Nightly Rental.

1.33 **BUILDING**. Any Structure, or any part thereof, built or used for the support, shelter, or enclosure of any Use or occupancy by Persons, animals, or chattel.

(A) **Building, Attached**. A Building connected on one (1) or more sides to an adjacent Building by a common Party Wall with a separate exterior entrance for each Building.

(B) **Building, Detached**. Any Building separated from another Building on the same Lot or Parcel.

(C) **Building, Main**. The principal Building, or one of the principal Buildings on a Lot, that is used primarily for the principal Use.

(D) **Building, Public**. A Building constructed by or intended for Use by the general public such as a library, museum, or Building of any political subdivision of the state of Utah or the United States.

1.34 **BUILDING ENVELOPE**. The Building Pad, Building Footprint, and Height restrictions that defines the maximum Building Envelope in which all Development must occur.

1.35 **BUILDING FOOTPRINT**. The

total Area of the foundation of the Structure, or the furthest exterior wall of the Structure projected to Natural Grade, not including exterior stairs, patios, decks and Accessory Buildings listed on the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building.

1.36 **BUILDING PAD**. The exclusive Area, as defined by the Yards, in which the entire Building Footprint may be located. See the following example; also see Limits of Disturbance.



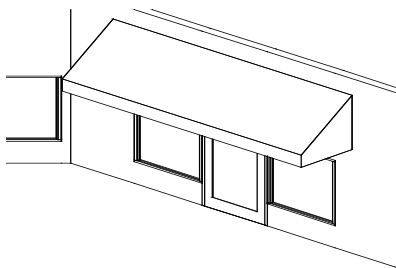
1.37 **BUILDING PERMIT**. A permit issued by the Chief Building Official authorizing Construction Activity on a Property or Lot.

1.38 **BUSINESS**. Any activity within Park City carried on for the purpose of gain or economic profit. The acts of employees rendering service to employers are not included in the term Business unless otherwise specifically prescribed. Business includes but is not limited to, the sale or rental of tangible personal or real Property, the manufacturing of goods or Property and

the rendering of personal services for others for consideration by Persons engaged in any profession trade, craft, occupation, or other calling.

1.39 **CAFE**. A Business that primarily sells beverages for on-Site consumption. May serve food prepared off-premises but does not have International Building Code (IBC) Commercial Kitchen facilities and generally does not employ hostesses, wait staff, bus staff, chefs, or other employees typically associated with a restaurant.

1.40 **CANOPY**. A roof or awning constructed of fabric or other material and extending outward from a Building to provide a protective shield for doors, windows, or other openings with supports extended to the ground directly under the Canopy or cantilevered from the Building.



1.41 **CAPITAL IMPROVEMENTS PROGRAM**. A proposed schedule and description of all proposed public works, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project.

1.42 **CERTIFICATE OF APPROPRIATENESS**. A certificate issued by the Building Department in cases of immediate public hazard, the Planning

Department in cases of architectural insignificance, or the Historic Preservation Board in all other cases, indicating approval of plans for Alteration, construction, removal, or Demolition of a Landmark or Building having architectural Significance.

1.43 **CERTIFICATE OF ECONOMIC HARDSHIP**. A certificate issued by the Historic Preservation Board authorizing an Alteration, construction, removal, or Demolition of a Historic Landmark, or Building having architectural Significance, even though a Certificate of Appropriateness has previously been denied.

1.44 **CERTIFICATE OF OCCUPANCY**. A certificate issued by the Chief Building Official authorizing occupancy of a dwelling, Business, or any other Structure requiring a Building Permit.

1.45 **CHILD CARE**. The provision, day or night, of supplemental parental care, instruction and supervision for a non-related child or children, on a regular basis, and for less than 24 hours a day.

The term does not include babysitting services on a casual, non-recurring nature or in the child's own home nor cooperative, reciprocate Child Care by a group of parents in their respective domiciles.

(A) **Child Care, In-Home Babysitting**. The provision of Child Care for four (4) or fewer children within a dwelling and within commercial Buildings outside of residential Zoning Districts.

(B) **Child Care, Family**. The provision

of Child Care for up to eight (8) children, including the provider's children who are under the age of eighteen (18), within the provider's primary residence.

(C) **Child Care, Family Group.** The provision of Child Care for nine (9) to sixteen (16) children, including the provider's children who are under the age of eighteen (18), within the provider's primary residence.

1.46 **CHILD CARE CENTER.** A Structure or Building, including outside play Areas, used for the provision of Child Care for more than four (4) children for less than twenty four (24) hours per day, meeting all State requirements for Child Care that is not also the primary residence of the care provider.

1.47 **CITY DEVELOPMENT.** Any Conditional Use permit or Master Planned Development in which Park City Municipal Corporation or corporations controlled by Park City Municipal Corporation is the Applicant.

1.48 **CLEARVIEW OF INTERSECTING STREETS.** On any Corner Lot, an Area is kept clear of Structures, Fences, or tall vegetation, to allow vehicle drivers an unobstructed view of traffic approaching on the intersecting Street. This Area is the Site Distance Triangle. See Site Distance Triangle.

1.49 **CLUB.**

(A) **Club, Amenities.** Any organization formed and operated for the primary purpose

of providing its members with social and recreational opportunities involving the access, use and enjoyment of physical amenities and services provided at or through an existing approved Hotel, including restaurants, bars, spas, spa services, pools, lounges, exercise facilities, lockers, ski facilities and services, pools, and other facilities and services.

(B) **Club, Private.** Any non-profit corporation, or organization, operating as a social club, recreational, fraternal, athletic or kindred association organized primarily for the benefit of its stockholders or members and serving alcoholic beverages and/or food.

(C) **Club, Private Residence.** Residential Use real estate within a single Condominium project, in which ownership or Use of a Condominium Dwelling Unit or group of Condominium Dwelling Units and associated common area is shared by not less than four (4) or more than twelve (12) Owners or members per Condominium Dwelling Unit and whose Use is established by a reservation system and is managed with 24 hour reservation and Property management, seven (7) days a week, providing reservation, registration, and management capabilities. Membership in a Private Residence Club may be evidenced by:

(1) a deeded interest in real Property;

(2) an interest or membership in a partnership, limited partnership, limited liability company, non-profit corporation, or other Business entity;

(3) a non-entity membership in a non-profit corporation, non-incorporated association, or other entity;

(4) beneficial interest in a trust;

(5) other arrangement providing for such Use and occupancy rights.

(D) **Club, Private Residence Conversion.** The conversion of Condominium Units and associated Common Areas within an existing Condominium project to the exclusive Use as Private Residence Club.

(E) **Club, Private Residence Off-Site.** Any Use organized for the exclusive benefit, support of, or linked to or associated with, or in any way offers exclusive hospitality services and/or concierge support to any defined Owner's association, timeshare membership, residential club, or real estate project. Hospitality includes, but is not limited to, any of the following services: real estate, restaurant, bar, gaming, locker rooms, storage, salon, personal improvement, Office.

(F) **Club, Private Residence Project.** Any Condominium Property that is subject to a Private Residence Club deed, interest, trust, or other arrangement for providing for Use and Ownership as a Private Residence Club, and contains at least four (4) units.

1.50 **CLUSTER DEVELOPMENT.** A design that concentrates Buildings in specific Areas on a Site to allow the remaining land to be used for recreation,

Open Space, and preservation of environmentally sensitive Areas.

1.51 **CODE.** The Land Management Code (LMC).

1.52 **COLLECTOR ROAD.** A road intended to move traffic from local roads to major throughways. A Collector Road generally serves a neighborhood or a large Subdivision.

1.53 **CO-LOCATION.** The location of Telecommunications Facility on an existing Structure, tower, or Building, in such a manner that precludes the need for that Telecommunications Facility to be located on a free-standing Structure of its own.

1.54 **COMMERCIAL USE.** Retail Business, service establishments, professional offices, and other enterprises that include commerce and/or trade and the buying and selling of goods and services.

(A) **Commercial Use, Support.** A Commercial Use oriented toward the internal circulation of a Development, for the purpose of serving the needs of the residents or users of that Development, and not Persons drawn from Off-Site.

(B) **Commercial Use, Resort Support.** A Commercial Use that is clearly incidental to, and customarily found in connection with, the principal resort Use, and which is operated and maintained for the benefit or convenience of the Owner, occupants, employees, customers of, or visitors to, the principal Use.



1.55 **COMMON AREA.** Facilities and yards under Common Ownership, identified within projects, for the Use and enjoyment of the residents.

1.56 **COMMON OWNERSHIP.** Ownership of the same Property by different Persons.

1.57 **COMPATIBLE OR COMPATIBILITY.** Characteristics of different Uses or designs that integrate with and relate to one another to maintain and/or enhance the context of a surrounding Area or neighborhood. Elements affecting Compatibility include, but are not limited to, Height, scale, mass and bulk of Building, pedestrian and vehicular circulation, parking, landscaping and architecture, topography, environmentally sensitive Areas, and Building patterns.

1.58 **CONDITIONAL USE.** A land Use that, because of its unique characteristics or potential impact, is allowed only if certain measures are taken to mitigate or eliminate the potential impacts.

1.59 **CONDOMINIUM.** Any Structure or Parcel that has been submitted to fractionalized Ownership under the provisions of the Utah Condominium Ownership Act.

1.60 **CONSERVATION ACTIVITY.** A process to restore, enhance, protect, and sustain the quality and quantity of ecosystems and natural resources.

1.61 **CONSERVATION EASEMENT.** An easement, covenant, restriction, or

condition in a deed, will, or other instrument signed by or on behalf of the record owner of the underlying real property for the purpose of preserving and maintaining land or water areas predominantly in a natural state, scenic, or open condition, or for recreational, agricultural, cultural, wildlife habitat, or other use or condition consistent with the protection of open land.

Conservation easement(s) granted from the Transfer of Development Rights Ordinance shall be subject to The Land Conservation Easement Act, Section 57-18-1 (et seq.), Utah Code Annotated, 1953 as amended.

1.62 **CONSTITUTIONAL TAKING.** Final Actions(s) by the City to physically take or exact private real Property that requires compensation to the Owner because of the mandates of the Fifth or Fourteenth Amendment to the Constitution of the United States, or of Article I, Section 22, of the Utah Constitution.

1.63 **CONSTRUCTION ACTIVITY.** All Grading, excavation, construction, Grubbing, mining, or other Development Activity which disturbs or changes the natural vegetation, Grade, or any existing Structure, or the act of adding an addition to an existing Structure, or the erection of a new principal or Accessory Structure on a Lot or Property.

1.64 **CONSTRUCTION MITIGATION PLAN** A written description of the method by which an Owner will ameliorate the adverse impacts of Construction Activity.

1.65 **CONSTRUCTION PLAN.** The map and drawings showing the specific

location and design of the Development.

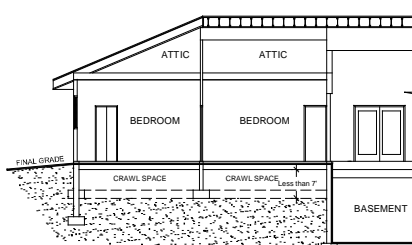
1.66 **CONTRIBUTING BUILDING, STRUCTURE, SITE/AREA OR OBJECT.**

A Building, Structure, Site, Area, of Object that reflects the Historical or architectural character of the district as designated by the Historic Preservation Board.

1.67 **COUNCIL.** Members of the City Council of Park City.

1.68 **COVER, SITE.** The Area covered by an Impervious Surface such as a Structure, deck, pool, patio, walk, or driveway.

1.69 **CRAWL SPACE.** An uninhabitable Area with no exterior windows or doors and less than seven vertical feet (7') measured from the base of the footings to the floor framing above.



1.70 **CREST OF HILL.** The highest point on a hill or Slope as measured continuously throughout the Property. Any given Property may have more than one (1) Crest of Hill.

1.71 **CUL-DE-SAC.** A local Street with only one outlet and an Area for the safe and convenient reversal of traffic.

1.72 **DELI OR DELICATESSEN.** A Business which primarily sells prepared foods and drinks for consumption on or off the premises, but does not have International Building Code (IBC) Commercial Kitchen facilities and does not employ hostesses, wait staff, bus staff, or other employees typically associated with a Restaurant.

1.73 **DEMOLISH OR DEMOLITION.** Any act or process that destroys in part or in whole a Building or Structure. Excludes Building(s) and/or Structure(s) undergoing relocation and/or reorientation pursuant to Section 15-11-13 of this Code, disassembly pursuant to Section 15-11-14 of this Code, or Reconstruction pursuant to Section 15-11-15 of this Code.

1.74 **DENSITY.** The intensity or number of non-residential and Residential Uses expressed in terms of Unit Equivalents per acre or Lot or units per acre. Density is a function of both number and type of Dwelling Units and/or non-residential units and the land Area.

1.75 **DESIGN GUIDELINE.** A standard of appropriate activity that will preserve the Historic and architectural character of a Landmark, Building, Area, or Object.

1.76 **DETACHED.** Completely separate and disconnected. Not sharing walls, roofs, foundations, or other structural elements.

1.77 **DEVELOPABLE LAND.** That portion of a Master Planned Development or Cluster Development within the Sensitive Lands Overlay that is designated for

Density.

1.78 **DEVELOPER**. The Applicant for any Development.

1.79 **DEVELOPMENT**. The act, process, or result of erecting, placing, constructing, remodeling, converting, altering, relocating, or Demolishing any Structure or improvement to Property including Grading, clearing, Grubbing, mining, excavating, or filling of such Property. Includes Construction Activity.

1.80 **DEVELOPMENT AGREEMENT**. A contract or agreement between an Applicant or Property Owner and the City pursuant to the provisions in this Code and used as an implementation document for Master Planned Developments.

1.81 **DEVELOPMENT APPROVAL APPLICATION**. Includes any Application for any Development approval including, but not limited to Grubbing, Grading, an alteration or revision to an approved MPD, Conditional Use permit (CUP), zoning or rezoning, Subdivision, or annexation. The term "Development Approval Application" shall not include any Building Permits associated with construction within an approved Subdivision or on an existing platted Lot unless otherwise specified.

1.82 **DEVELOPMENT CREDIT**. A credit measured in Unit Equivalents that denotes the amount of density on a Sending Site which may be Transferred.

1.83 **DEVELOPMENT CREDIT CERTIFICATE**. The certificate issued by

the Planning Director of Park City that represents the total number of development credits recognized for and derived from the sending site that may be Transferred.

1.84 **DEVELOPMENT RIGHT**. The right held by a fee simple property owner to build on a legally established parcel of real property. This right is limited by applicable zoning ordinances.

1.85 **DISABLED CARE**. A long-term care residential facility for disabled Persons, Persons suffering from a physical or mental impairment that substantially limits one (1) or more of a Person's major life activities, including a Person having a record of such an impairment or being regarded as having such an impairment.

1.86 **DISSIMILAR LOCATION**. A location that differs from the original location in terms of vegetation, topography, other physical features, and proximity of Structures.

1.87 **DWELLING**.

(A) **Dwelling, Duplex**. A Building containing two (2) Dwelling Units.

(B) **Dwelling, Triplex**. A Building containing three (3) Dwelling Units.

(C) **Dwelling, Multi-Unit**. A Building containing four (4) or more Dwelling Units.

(D) **Dwelling, Single Family**. A Building containing not more than one (1) Dwelling Unit.

1.88 **DWELLING UNIT**. A Building or portion thereof designed for Use as the residence or sleeping place of one (1) or more Persons or families and includes a Kitchen, but does not include a Hotel, Motel, Lodge, Nursing Home, or Lockout Unit.

1.89 **ECONOMIC HARDSHIP, SUBSTANTIAL**. Denial of all reasonable economic Use of the Property.

1.90 **ELDER CARE**. A long-term care residential facility for elderly Persons, adults sixty (60) years of age or older, who because of physical, economic, social, or emotional problems cannot function normally on an independent basis. The term does not include a health care facility.

1.91 **ELEVATOR PENTHOUSE**. The minimum Structure required to enclose the top most mechanical workings of an elevator.

1.92 **EQUIPMENT SHELTER**. See Telecommunications Facilities, Equipment Shelter 1.231(B).

1.93 **ESCROW**. A deposit of cash or approved alternate in lieu of cash with a third party held to ensure a performance, maintenance, or other Guarantee.

1.94 **ESSENTIAL HISTORICAL FORM**. The physical characteristics of a Structure that make it identifiable as existing in or relating to an important era in the past.

1.95 **EXTERIOR ARCHITECTURAL APPEARANCE**. The architectural

character and general composition of the exterior of a Building or Structure, including but not limited to the kind, color, and texture of the Building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant features.

1.96 **FACADE**.

(A) **Facade, Building**. The exterior of a Building located above ground and generally visible from public points of view.

(B) **Facade, Front**. That portion of a Building that generally faces the street and/or Front Lot Line.

1.97 **FACADE EASEMENT**. A recordable instrument, in a form approved by the City Attorney, which restricts the Owner's ability to alter the Building Facade.

1.98 **FACADE SHIFT**. A change or break in the horizontal or vertical plane of the exterior of a Building.

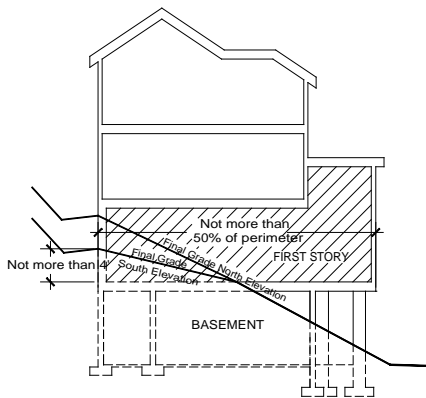
1.99 **FENCE**. A Structure to separate or divide outdoor Areas. The term Fence includes, but is not limited to, net Screening for golf balls, and masonry walls. A Fence need not be sight obscuring or light tight.

1.100 **FILTERED LIGHT FIXTURE**. Any outdoor light fixture that has a refractive light source. Quartz or clear glass do not refract light.

1.101 **FINAL ACTION**. The later of the final vote or written decision on a matter.

1.102 **FINAL PLAT.** A recordable Subdivision or Condominium map.

1.103 **FIRST STORY.** The lowest Story in a Building provided the floor level is not more than four feet (4') below Final Grade for more than fifty percent (50%) of the perimeter. Can include habitable or uninhabitable Floor Area. See the following illustration:



1.104 **FLOOD PLAIN AREA.** An Area adjoining a river, Stream, or water course, or body of standing water in which a potential flood hazard exists when the Area experiences a one hundred year storm, including, any Area designated as a Flood Plain by the Department of Housing and Urban Development or Federal Emergency Management Agency of the United States Government.

1.105 **FLOOR AREA.**

(A) **Floor Area, Gross Residential.** The Area of a Building, including all enclosed Areas, Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Residential Floor

Area. Garages, up to a maximum Area of 600 square feet<sup>1</sup>, are not considered Floor Area. Basement and Crawl Space Areas below Final Grade are not considered Floor Area. Floor Area is measured from the finished surface of the interior of the exterior boundary walls.

(B) **Floor Area, Gross Commercial.** The Area of a Building including all enclosed Areas excluding parking areas. Unenclosed porches, Balconies, patios and decks, vent shafts and courts are not calculated in Gross Commercial Floor Area. Areas below Final Grade used for commercial purposes including, but not limited to, storage, bathrooms, and meeting space, are considered Floor Area.

(C) **Floor Area, Net Leasable.** Gross Floor Area excluding common hallways, mechanical and storage Areas, parking, and restrooms.

1.106 **FLOOR AREA RATIO (FAR).** The maximum allowed Gross Floor Area divided by the Area of the Lot or Parcel.

1.107 **FOOT CANDLE.** A unit for measuring the amount of illumination on a surface. The measurement is a candle power divided by distance.

(A) **Foot Candle, Average (afc).** The level of light measured at an average point of illumination between the brightest and darkest Areas, at the ground surface or four to five feet (4' to 5') above the ground

<sup>1</sup>400 sq. ft. in Historic Districts

surface.

(B) **Foot Candle, Horizontal (hfc).** A unit of illumination produced on a horizontal surface, all points of which are one foot (1') from a uniform point source of one (1) candle.

(C) **Foot Candle, Vertical (vfc).** A unit of illumination produced on a vertical surface, all points of which are one foot (1') from a uniform point source of one (1) candle.

1.108 **FRONTAGE.** That portion of a Lot abutting a public or private Right-of-Way and ordinarily regarded as the front of the Lot.

1.109 **FULLY SHIELDED.** Luminaires that are constructed so that no light rays are emitted at angles above the horizontal plane, as certified by a photometric test report.

1.110 **GARAGE.**

(A) **Garage, Commercial.** A Building, or portion thereof, used for the storage or parking of motor vehicles for consideration.

(B) **Garage, Front Facing.** Garages that face or are generally parallel to the Street frontage.

(C) **Garage, Private.** An Accessory Building, or a portion of the Main Building, used for the storage of motor vehicles for the tenants or occupants of the Main Building and not by the general public.

(D) **Garage, Public.** A Building or a

portion thereof, used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles, that is open to the general public.

1.111 **GEOLOGIC HAZARD.** A hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, Property or improvements, due to the movement, subsidence, or shifting of the earth. The term includes but is not limited to unstable Slopes, faulting landslides, and rock fall.

1.112 **GOOD CAUSE.** Providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.

1.113 **GOVERNING BODY.** The City Council of Park City.

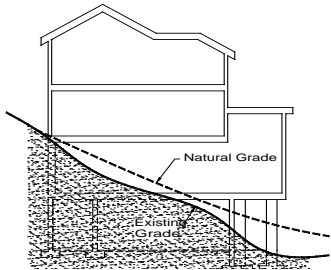
1.114 **GRADE.** The ground surface elevation of a Site or Parcel of land.

(A) **Grade, Existing.** The Grade of a Property prior to any proposed Development or Construction Activity.

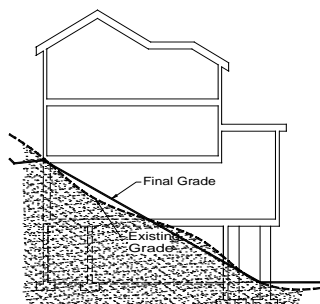
(B) **Grade, Natural.** The Grade of the surface of the land prior to any Development Activity or any other man-made disturbance



or Grading. The Planning Department shall estimate the Natural Grade, if not readily apparent, by reference elevations at points where the disturbed Area appears to meet the undisturbed portions of the Property. The estimated Natural Grade shall tie into the elevation and Slopes of adjoining Properties without creating a need for a new retaining wall, abrupt differences in the visual Slope and elevation of the land, or redirecting the flow of run-off water.



(C) **Grade, Final.** The finished or resulting Grade where earth meets the Building after completion of the proposed Development Activity.



1.115 **GRADING.** Any earthwork or activity that alters the Natural or Existing Grade, including but not limited to excavating, filling or embanking.

1.116 **GREEN ROOF.** A roof of a Building that is covered with vegetation and soil, or a growing medium, planted over a

waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems. This does not refer to roofs which are colored green, as with green roof shingles.

1.117 **GROUP CARE FACILITY.** A Building or Structure where care, protection, supervision, and limited medical care are provided on a regular schedule for up to ten (10) children or adults, including caretakers. May include multiple overnight stays.

1.118 **GRUBBING.** The removal or destruction of vegetation, including disturbance to the root system or soil surface by mechanical, chemical or other means.

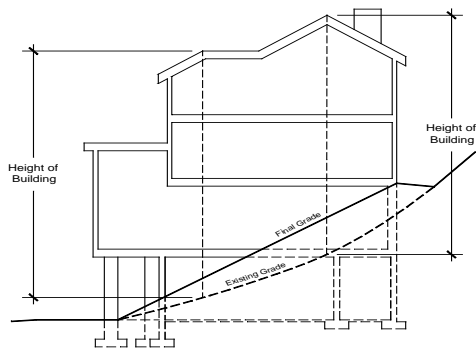
1.119 **GUARANTEE.** Any form of security including a cash deposit with the City, a letter of credit, or an Escrow agreement in an amount and form satisfactory to the City or some combination of the above as approved by the city or an approved equal, including but not limited to a lien on the Property.

1.120 **GUEST HOUSE.** An Accessory Building and dwelling intended for non-rent paying guests of the primary Dwelling Unit's residents. Guest Houses are not a lodging Use where typical lodging services are provided. Payment is not allowed.

1.121 **HABITABLE SPACE (ROOM).** Space in a Structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage, or utility space, and similar Areas are not considered Habitable Space.

1.122 **HARD-SURFACED.** Covered with concrete, brick, asphalt, or other Impervious Surface.

1.123 **HEIGHT, BUILDING.** The vertical distance under any roof or roof element to Existing Grade. See LMC Chapter 15-2, Zoning Districts, for various exceptions within the different Zoning Districts.



1.124 **HELIPAD.** A facility without the logistical support provided by a Heliport where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling, or storage of helicopters.

1.125 **HELIPORT.** Any landing Area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.

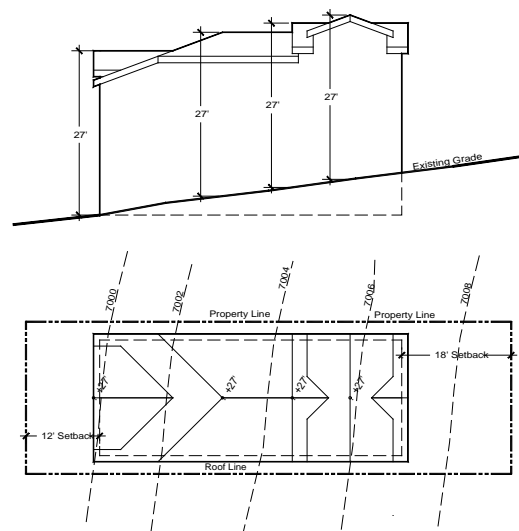
1.126 **HELISTOP.** Any landing Area used for the taking off or landing of private helicopters for the purpose of picking up and discharging passengers or cargo. This facility is not open to use by any helicopter without prior permission having been

obtained.

1.127 **HISTORIC.** That which has interest or value to the heritage, background and/or cultural character of Park City and its environs.

1.128 **HISTORIC BUILDING, STRUCTURE, SITE OR OBJECT.** Any Building, Structure, Site and/or object, as designated by the Historic Preservation Board to demonstrate Historic Significance as set forth in LMC Chapter 15-11.

1.129 **HISTORIC DISTRICT.** A geographically definable Area possessing a significant concentration, linkage, or continuity of Buildings, Structures, Sites or objects united by past events, plan or physical Development. A Historic District may comprise an individual Site or individual elements separated geographically but linked by association, plan, design, or history.



*Historic District Building Height*

1.130 **HISTORIC INTEGRITY.** The ability of a Site to retain its identity and, therefore, convey its Significance in the history of Park City. Within the concept of Historic Integrity, Park City Municipal Corporation recognizes seven (7) aspects or qualities as defined by the National Park Service, that in various combinations define integrity. They are as follows:

(A) **Location.** The place where the Historic Site was constructed or the Historical event took place.

(B) **Design.** The combination of physical elements that create the form, plan, space, Structure, and style of a Site. Design includes such considerations as the structural system, massing, arrangement of spaces, pattern of fenestration, textures and colors of surface materials, type, amount and style of ornamental detailing, and arrangement and type of plantings in the designed landscape.

(C) **Setting.** The physical environment, either natural or manmade, of a Historic Site, including vegetation, topographic features, manmade features (paths, fences, walls) and the relationship between Structures and other features or open space.

(D) **Materials.** The physical elements that were combined or deposited during a particular period of time in a particular pattern or configuration to form a Historic Site.

(E) **Workmanship.** The physical evidence of the crafts of a particular culture or people during any given period of history,

including methods of construction, plain or decorative finishes, painting, carving, joinery, tooling, and turning.

(F) **Feeling.** A Site's expression of the aesthetic of Historic sense of a particular period of time. Feeling results from the presence of physical features that, taken together, convey the Property's Historic character.

(G) **Association.** The direct link between an important Historic era or Person and a Historic Site. A Site retains association if it is in the place where the activity occurred and is sufficiently intact to convey that relationship to an observer.

1.131 **HISTORIC SITES INVENTORY.** A list of Historic Sites, as determined by the Historic Preservation Board, that meets specified criteria set form in Land Management Code Chapter 15-11.

1.132 **HOME OCCUPATION.** A Business carried on entirely within a dwelling by Persons residing within the dwelling, which Business is clearly incidental and secondary to the Use of the dwelling for residential purposes.

1.133 **HOSPITAL.** An institution specializing in clinical, temporary or emergency medical services to humans and/or licensed by the state to provide facilities and services in surgery, obstetrics, and general medical practice. Does not include Uses defined as "Office, Medical".

(A) **Hospital, Limited Care.** An institution licensed by the state to provide

out-patient medical or surgical care and related services without overnight stay.

1.134 **HOTEL/MOTEL**. A Building containing sleeping rooms for the occupancy of guests for compensation on a nightly basis that includes accessory facilities such as restaurants, bars, spas, meeting rooms, on-site check-in lobbies, recreation facilities, group dining facilities, and/or other facilities and activities customarily associated with Hotels, such as concierge services, shuttle services, room service, and daily maid service. Hotel/Motel does not include Nightly Rental Condominium projects without restaurants, bars, spas, and on-site check-in lobbies. Lockout Units or Bed and Breakfast Inns and Boarding Houses are not Hotels. Hotels are considered a lodging Use and ownership of units may be by a condominium or timeshare instrument Hotel rooms may include a Lockout as part of the Unit.

(A) **Hotel, Major**. A Hotel with more than fifteen (15) Hotel Rooms.

(B) **Hotel, Minor**. A Hotel, Motel, with fewer than sixteen (16) Hotel Rooms.

1.135 **HOTEL ROOM**. A Unit consisting of one (1) room, without a Kitchen, intended for temporary living and sleeping purposes and including a separate, exclusive bathroom.

1.136 **HOTEL SUITE**. Two (2) or more interconnected Hotel Rooms with a single corridor or exterior Access. May include a Kitchenette. See Bed and Breakfast Inn, Lockout Unit, and Boarding House.

1.137 **IMPACT ANALYSIS**. A determination of the potential effects(s), environmental, fiscal, social, etc., upon the community of a proposed Development.

1.138 **IMPERVIOUS SURFACE**. Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, sidewalks, patios, and paved recreation areas.

1.139 **INACTION**. An Application is Inactive and subject to denial on the basis of Inactivity if, through the act or omission of the Applicant and not the City:

(A) more than six (6) months has passed since a request for additional information was made by the Department staff without response from the Applicant;

(B) upon notice the Applicant is more than sixty (60) days in default of the payment of any fee assessed by ordinance, or has not paid the fee under protest;

(C) the Applicant has stated an intent to abandon the project;

(D) the Application appears to have been filed in bad faith for the purpose of attempting to vest rights prior to a zoning change, without actual intent to construct the project applied for.

1.140 **INCIDENTAL RETAIL SALES**. The sale of common items associated with a Home Occupation and not produced on the premises that might be sold along with a

product that is, such as a picture frame for a photo, or a swatch of material or extra buttons for an item of clothing, etc.

1.141 **INDOOR ENTERTAINMENT FACILITY**. An establishment or enterprise for the purpose of amusing or entertaining Persons for profit or non-profit and generally contained within a Structure. Such Uses include, but are not limited to, theater, playhouse, cinema, performing arts, planetarium, discovery center, museum, or bowling alley.

1.142 **KITCHEN**. An enclosed Area for the preparation of food and containing a sink, refrigerator, and stove.

(A) **Kitchen, IBC Commercial**. A Kitchen that is required by the International Building Code (IBC), because of the nature of the cooking or food preparation activities, to have commercial food heat-processing equipment, such as compensating hoods, grease filters, kitchen hoods, and similar types of equipment.

1.143 **KITCHENETTE**. An Area used or designed for the preparation of food and containing a sink, refrigerator and an electrical outlet which may be used for a microwave oven. No 220V outlet for a range or oven is provided. A Kitchenette is not intended to be used in such a manner as to result in the establishment of an additional Dwelling Unit.

1.144 **LANDMARK**. A Property, Building, or Structure designated as a “Landmark” by the Historic Preservation Board (HPB) pursuant to the procedures

prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its Historic and/or architectural Significance to Park City.

1.145 **LANDMARK SITE**. Any Site, including Building (main, attached, detached, or public), Accessory Building, and/or Structure that is determined by the Historic Preservation Board to meet specified criteria set forth in LMC Chapter 15-11.

1.146 **LANDSCAPING**.

(A) **Landscaping, Interior**. Planting islands located within the Parking Area.

(B) **Landscaping, Parking Area**. Includes all spaces, aisles, and drives as defined by the top-back of curb or edge of pavement.

(C) **Landscaping, Perimeter**. Planting Areas between the Property Line and Parking Area.

1.147 **LIFTWAY**. The necessary Right-of-Way, both surface and air space, for the operation of any tram or ski lift.

1.148 **LIFTWAY SETBACK**. The minimum allowable distance between the side line of the Liftway and any Structure.

1.149 **LIGHT SOURCE**. A single artificial point source of luminescence that emits a measurable radiant energy in or near the visible spectrum.

(A) **Light Source, Refractive**. A Light

Source that controls the Vertical and Horizontal Foot Candles and eliminates glare.

1.150 **LIMITS OF DISTURBANCE.** The designated Area in which all Construction Activity must be contained.

1.151 **LOCKOUT UNIT.** An Area of a dwelling with separate exterior Access and toilet facilities, but no Kitchen.

1.152 **LOT.** A unit of land described in a recorded Subdivision Plat.

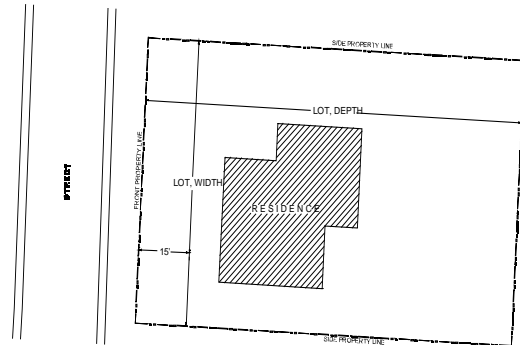
(A) **Lot, Corner.** A Lot situated at the intersection of two (2) Streets, the interior angle of such intersection not exceeding 135 degrees (135°).

1.153 **LOT DEPTH.** The minimum distance measured from the Front Property Line to the Rear Property Line of the same Lot.

1.154 **LOT LINE.** Any line defining the boundaries of a Lot.

1.155 **LOT LINE ADJUSTMENT.** The relocation of the Property Line between two (2) adjoining Lots.

1.156 **LOT WIDTH.** The minimum distance between the Side Lot Lines at the Front Yard or Front Building Façade. See the following illustration:



1.157 **LUMEN.** A measurement of light output or the amount of light emitting from a Luminaire.

1.158 **LUMINAIRE.** A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

(A) **Luminaire, Cutoff-Type.** A Luminaire with shields, reflectors, refractors, or other such elements that direct and cut-off emitted light at an angle less than ninety degrees (90°).

(B) **Luminaire, Fully Shielded.** Luminaires that are constructed so that no light rays are emitted at angles above the horizontal plane, as certified by a photometric test report.

(C) **Luminaire, Partially Shielded.** Luminaires that are constructed so that no more than ten percent (10%) of the light rays are emitted at angles above the horizontal plane, as certified by a photometric test report.

1.159 **MASTER FESTIVAL.** Any event



held on public or private Property in which the general public is invited with or without charge and which creates significant public impacts through any of the following:

- (A) The attraction of large crowds;
- (B) Necessity for Street closures on Main Street or any arterial Street necessary for the safe and efficient flow of traffic in Park City;
- (C) Use of public Property;
- (D) Use of City transportation services;
- (E) Use of off-Site parking facility, or;
- (F) Use of amplified music in or adjacent to a residential neighborhood.

1.160 **MASTER PLANNED DEVELOPMENT (MPD)**. A form of Development characterized by a comprehensive and unified Site plan and design reviewed under the Master Planned Development review processes described in LMC Chapter 15-6. The MPD generally includes a number of housing units; a mix of Building types and land Uses; clustering Buildings and providing Open Space; flexibility in Setback, Height, and Density allocations; and providing additional valued community amenities.

1.161 **MAXIMUM EXTENT FEASIBLE**. The maximum mitigation where no prudent, practical and feasible alternative exists to completely mitigate the adverse impact. Economic considerations may be taken into account but shall not be

the overriding factor in determining “Maximum Extent Feasible”.

1.162 **MAXIMUM HOUSE SIZE**. A measurement of Gross Floor Area.

1.163 **MODEL HOME**. A Dwelling Unit used initially for display or marketing purposes which typifies the units that will be constructed.

1.164 **NEIGHBORHOOD CONVENIENCE, COMMERCIAL**. Any retail establishment offering for sale prepackaged or fresh food products, beverages, household items, or other goods commonly associated with the same, not including automobile fuel sales, and having a maximum Gross Floor Area of 3,500 square feet.

1.165 **NIGHTLY RENTAL**. The rental of a Dwelling Unit or any portion thereof, including a Lockout Unit for less than thirty (30) days to a single entity or Person. Nightly Rental does not include the Use of Dwelling Units for Commercial Uses.

1.166 **NON-COMPLYING STRUCTURE**. A Structure that:

- (A) legally existed before its current zoning designation; and
- (B) because of subsequent zoning changes, does not conform to the zoning regulation’s Setback, Height restrictions, or other regulations that govern the Structure.

1.167 **NON-CONFORMING USE**. A Use of land that:

(A) legally existed before its current zoning designation;

(B) has been maintained continuously since the time the zoning regulation governing the land changed; and

(C) because of subsequent zoning changes, does not conform to the zoning regulations that now govern the land.

1.168 **NOTEWORTHY**. Deserving notice or attention because of uniqueness, excellence, or Significance.

1.169 **NURSERY, GREENHOUSE**. A Business where young plants are raised for experimental horticultural purposes, for transplanting, or for sale.

1.170 **NURSING HOME**. A Business described also as a “rest home”, or “convalescent home”, other than a Hospital in which Persons are generally lodged long-term and furnished with care rather than diagnoses or treatment. Also see Group Care Facility.

1.171 **OFF-SITE**. Any premises not located within the Property to be Developed or Subdivided, whether or not in the same ownership of the Applicant for Development or Subdivision approval.

1.172 **OFF-STREET**. Entirely outside of any City Right-of-Way, Street, Access easement, or any private Access drive, or Street required by this Title.

1.173 **OFFICE**.

(A) **Office, General**. A Building offering executive, administrative, professional, or clerical services, or portion of a Building wherein services are performed involving predominately operations with limited client visits and limited traffic generated by employees and/or clients.

(B) **Office, Intensive**. Businesses offering executive, administrative, professional or clerical services which are performed with a high level of client interaction and traffic generated by employees and/or clients; and/or the intensity of employees if five (5) or more employees per 1000 sq. ft. of net leasable office space. These Uses include real estate, telemarketing, and other similar Uses.

(C) **Office, Medical**. A Business wherein services are performed for the diagnosis and treatment of human and animal patients, with a moderate to high level of client interaction and traffic generated by employees and/or clients. A Medical Office includes Veterinarian clinics. A Medical Office does not include an overnight care facility for humans, but would allow overnight care for small animals associated with a Veterinarian clinic, but does not include pet boarding Uses for non-medical related reasons.

(D) **Office, Moderately Intensive**. A Business offering executive, administration, professional, or clerical services which are performed with a moderate level of client interaction and traffic generated by employee and/or clients.

1.174 **OFFICIAL STREETS MASTER PLAN**. As adopted by the City Council, the designation of each existing and planned Street and Right-of-Way, and those located on approved and filed plats, for the purpose of providing for the Development of the Streets, highways, roads, and Rights-of-Way and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks. The classification of each Street and Right-of-Way is based upon its location in the respective Zoning District of the City, its present and estimated future traffic volume and its relative importance and function.

1.175 **OFFICIAL ZONING MAP**. The map adopted by the City Council pursuant to law showing the Streets, Zoning Districts, and City boundaries; and any amendments or additions thereto resulting from the approval of Subdivision or Annexation Plats and the subsequent filing of such approved plats.

1.176 **ONE BEDROOM APARTMENT**. A Dwelling Unit consisting of a living room, a Kitchen, which may be a part of the living room, a separate room designed and intended as a Bedroom, and a bathroom for the exclusive Use of that unit.

1.177 **OPEN SPACE**.

(A) **Open Space, Landscaped**. Landscaped Areas, which may include local government facilities, necessary public improvements, and playground equipment, recreation amenities, public landscaped and

hard-scaped plazas, and public pedestrian amenities, but excluding Buildings or Structures.

(B) **Open Space, Natural**. A natural, undisturbed Area with little or no improvements. Open space may include, but is not limited to, such Areas as Ridge Line Area, Slopes over thirty percent (30%), wetlands, Stream Corridors, trail linkages, Subdivision or Condominium Common Area, or view corridors.

(C) **Open Space, Transferred Development Right (TDR)**. That portion of a Master Planned Development, PUD, Cluster Plan or other Development plan from which Density is permanently Transferred. This Area may be either Natural or Landscaped Open Space.

1.178 **ORDINARY HIGH WATER MARK**. The line on the bank to which the high water ordinarily rises annually in season as indicated by changes in the characteristics of soil, vegetation, or other appropriate means which consider the characteristics of the surrounding Areas. Where the ordinary high water mark cannot be found, the top of the channel bank shall be substituted. In braided channels, the ordinary high water mark or substitute shall be measured so as to include the entire stream feature.

1.179 **ORDINARY REPAIRS AND MAINTENANCE**. Work done on a Building in order to correct any deterioration, decay, or damage to a Building or any part thereof in order to restore same as or nearly as practical to its

condition prior to such deterioration, decay, or damage.

1.180 **OUTDOOR USE OR EVENT.**

Any land Use, Business or activity that is not conducted entirely within an enclosed Building or Structure, not including outdoor recreation activities and those Uses customarily associated with indoor Uses, such as parking, drive-up windows, ATM's, gas pumps, playgrounds, and such. Outdoor Uses include outdoor dining; outdoor food and beverage service stations and carts; outdoor storage and display of bicycles, kayaks, and canoes; and outdoor events and music.

1.181 **OWNER.** Any Person, or group of Persons, having record title to a Property, and the Owner's Agent.

1.182 **PARCEL.** An unplatted unit of land described by metes and bounds and designated by the County Recorder's Office with a unique tax identification number.

1.183 **PARKING.**

(A) **Parking, Public.** A Parking Area or parking facility to be used by the public for fee or otherwise.

(B) **Parking, Residential.** A Parking Area or Structure used exclusively for residential, non-commercial Uses.

(C) **Parking, Shared.** The Development and Use of Parking Areas on two (2) or more separate Properties for joint Use by the businesses or residents on those Properties.

1.184 **PARKING AREA.** An unenclosed Area or Lot other than a Street used or designed for parking.

1.185 **PARKING LOT, COMMERCIAL.** A Parking Lot in which motor vehicles are parked for compensation or for Commercial Uses.

1.186 **PARKING SPACE.** An Area maintained for parking or storing an automobile or other vehicle, which is Graded for proper drainage and is Hard-Surfaced or Porous Paved.

1.187 **PARKING STRUCTURE.** A fully enclosed Structure designed and intended for parking.

1.188 **PASSENGER TRAMWAY.** A mechanical device to transport passengers and cargo by means of chairs or enclosed compartments attached to a cable or to rails, including each of the devices described in Section 72-11-102 of the Utah Code Annotated, as amended. Includes ski tows and ski lifts.

1.189 **PERIOD OF HISTORIC SIGNIFICANCE.** A specific period of time that provides a context for Historic Sites based on a shared theme.

1.190 **PERSON.** An individual, corporation, partnership, or incorporated association of individuals such as a club.

1.191 **PET SERVICES**

(A) **Household Pets-**Household pets include dogs, cats, rabbits, birds,

other small companion animals such as gerbils and ferrets, and other similar animals owned for non-commercial use.

(B) **Household Pet Boarding**-A commercial establishment for overnight boarding and care of four (4) or fewer dogs as well as other Household Pets, not under the care of a veterinarian, in purposely-designed establishment.

(C) **Household Pet Daycare**-A commercial establishment that has a primary purpose of providing same day, short-term daycare of Household Pets in a purposely-designed establishment.

(D) **Household Pet Grooming**-A commercial establishment where Household Pets are bathed, clipped, combed, or similarly cared for, for the purpose of enhancing their aesthetic value and/or health, and for which a fee is charged. Pet grooming also includes any self-service pet washing business where the customer washes his/her own pet or where other self-service grooming tasks are provided.

(E) **Veterinary Clinic**- A facility maintained by or for the use of a licensed veterinarian in the care and treatment of animals wherein overnight care is prohibited except when necessary for medical purposes.

*(Amended by Ord. No 14-57)*

1.192 **PLANNED UNIT DEVELOPMENT (PUD)**. Multiple,

Single-Family or Duplex Dwelling Units, averaging no greater than 3,900 square feet per Dwelling Unit, clustered as much as possible with TDR Open Space and in which the overall design, size, mass, scale, Setback, materials, colors and visual character are integrated one with another.

1.193 **PHYSICAL MINE HAZARDS**. Any shaft, adit, tunnel, portal, building, improvement or other opening or structure related to mining activity.

1.194 **POROUS PAVING**. A substantial surfacing material designed and intended to support light vehicular movement. Porous Paving includes paving systems such as modular pavers which provide at least fifty percent (50%) surface exposure suitable for the establishment of plant materials and which substantially abates surface water runoff. Gravel and/or compacted soil are not Porous Paving. Porous paving includes pervious paving.

1.195 **PRELIMINARY PLAT**. The preliminary drawings of a proposed Subdivision, specifying the layout, Uses, and restrictions.

1.196 **PRESERVATION**. The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a Historic Property. Work, including preliminary measures to protect and stabilize the Property, generally focuses upon ongoing maintenance and repair of Historic materials and features rather than extensive replacement and new construction.

1.197 **PRESERVATION EASEMENT**.

An easement that includes, as minimum stipulations, a conveyance of design approval for exterior changes, and a program whereby the Owner commits to restore and maintain a Structure following the Secretary of Interior's Standards for rehabilitation, in a form approved by the City. A time frame for completion of the restoration program may be specified in the easement agreement.

1.198 PRIVATE EVENT. An event, gathering, party or activity that is closed to the general public or that requires and invitation and/or fee to attend.

1.199 PRIVATE EVENT FACILITY. A facility where the primary Use is for staging, conducting, and holding Private Events.

1.200 PRIVATE PLAZA. Private Property in excess of seven hundred and fifty (750) square feet that serves as common area to adjoining Commercial Development and is free of Structures and is hard surfaced and/or landscaped. Private Plazas generally provide an Area for pedestrian circulation, common amenities, and act as a gathering space for private or public purposes.

(Note- will need to change all numbering)

1.198 **PROPERTY.** Any Parcel, Lot, or tract of land, including improvements thereon, in the possession of or owned by, or recorded as the real Property of, the same Person or Persons.

(A) **Property, Storefront.** A separately enclosed space, Floor Area, tenant space or unit that has a storefront window or

storefront entrance that fronts on a Public Street. Storefront Property includes the entire Floor Area associated with the storefront window or storefront entrance that fronts on the Public Street. For purposes of this provision, the term "fronts on a Public Street" shall mean a separately enclosed space, Floor Area, tenant space or unit with:

(1) A storefront window and/or storefront entrance at the adjacent Public Street, or within fifty lateral/horizontal feet (50') of the adjacent Public Street measured from the edge of pavement to the storefront window or storefront entrance, back, inside building edge, of the public sidewalk; and

(2) A storefront window and/or storefront entrance that is not more than eight feet (8') above or below the grade of the adjacent Public Street and where such entrance is not a service or emergency entrance to the Building.

In the case of split-level, multi-level or multi-tenant Buildings with only one primary storefront entrance, only those fully enclosed spaces, Floor Areas, tenant spaces, or units that directly front on the Public Street, as set forth above, shall be designated ~~as to be a~~ "Storefront Property." The Planning Director or ~~their~~ designee shall have the final determination of applicability.

1.199 **PROPERTY LINE.** The boundary line of a Parcel or Lot.

(A) **Property Line, Front.** That part of

a Parcel or Lot which abuts a Street.

1.200 **PROPERTY OWNER**. Any Person, or group of Persons, having record title to a Property, and the Owner's Agent.

1.201 **PUBLIC ART**. Any visual work of art displayed for two weeks or more in an open city-owned area, on the exterior of any city-owned facility, inside any city-owned facility in areas designated as public areas, or on non-city property if the work of art is installed or financed, either wholly or in part, with city funds or grants procured by the city.

1.202 **PUBLIC IMPROVEMENT**. Any Building, water system drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, Off-Street Parking Lot, space or Structure, Lot improvement, or other facility for which the City may ultimately assume responsibility, or which may effect a City improvement.

1.203 **PUBLIC USE**. A Use operated exclusively by a public body, to serve the public health, safety, or general welfare.

1.204 **QUALIFIED PROFESSIONAL**. A professionally trained Person with the requisite academic degree, experience, and professional certification or license in the field or fields relating to the matter being studied or analyzed.

1.205 **QUASI-PUBLIC USE**. A Use operated by a private nonprofit educational, religious, recreational, charitable, or philanthropic institution, serving the general public.

1.206 **RECEIVING SITE**. A Parcel of real property denoted as a receiving site in the Transfer of Development Rights Overlay Zone, as shown on the Park City zoning map. A receiving site is the site to which Development Credits may be Transferred.

1.207 **RECONSTRUCTION**. The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving Site, landscape, Building, Structure or object for the purpose of replicating its appearance at a specific period of time and in its Historic location.

1.208 **RECREATION EQUIPMENT, OUTDOOR**. Playground equipment and accessory park related amenities, such as swing sets, slides, jungle gyms, sand boxes, picnic tables, volleyball nets, baseball backstops, basketball standards, frisbee golf holes, soccer goals, and similar amenities.

1.209 **RECREATION FACILITIES**.

(A) **Recreation Facilities, Commercial**. Recreation Facilities operated as a Business on private or public Property and open to the public for a fee.

(B) **Recreation Facilities, Private**. Recreation facilities operated on private Property and not open to the general public. Including Recreation Facilities typically associated with a homeowner or Condominium association, such as pools, tennis courts, playgrounds, spas, picnic Areas, similar facilities for the Use by Owners and guests.



(C) **Recreation Facilities, Public.**

Recreation facilities operated by a public agency and open to the general public with or without a fee.

1.210 **RECYCLING FACILITY.** A building, structure or land area used for the collection, processing or transfer of recyclable materials such as glass, paper, plastic, cans, or other household scrap materials.

(A) **Recycling Facility, Class I.**

Recycling containers totaling up to 60 cubic yards of capacity per residential lot or business used for the collection and temporary storage of recyclable materials such as glass, plastic, aluminum, mixed metals, fiber, and cardboard. These facilities are generally, but not limited to the use by a specific residential neighborhood, civic facility, or commercial business park, and can be for the use of the entire community.

1.211 **REFRACTIVE LIGHT SOURCE.**

A light source that controls the Vertical and Horizontal Foot Candles and eliminates glare.

1.212 **REGULATED USE.** A Use that is allowed, subject to certain regulations and restrictions as prescribed in this Code.

1.213 **REHABILITATION.** The act or process of making possible a compatible Use for a Property through repair, alterations, and additions while preserving those portions or features which convey its Historical, cultural, or architectural values.

1.214 **RESIDENTIAL USE.** Uses and project that consist primarily of activities

that are residential in nature that may include other support Uses, such as support commercial, but where the primary Use is for human habitation and associated activities. Residential Use includes occupancy of a dwelling as living quarters and all associated Uses, but not including temporary Structures such as tents, railroad cars, trailers, or similar units.

1.215 **RESORT SUPPORT**

**COMMERCIAL.** Use that is clearly incidental to, and customarily found in connection with, the principal Building or Use, and that is operated and maintained for the benefit and convenience of the Owners, occupants, employees, customers, or visitors to the principal Use or Building.

1.216 **RESTAURANT.** A Business in which food is prepared and sold for consumption.

(A) **Restaurant, Drive-Through.** A Restaurant, Deli, Café, fast food Restaurant, or other similar Business that includes a window or similar feature which allows food to be ordered and taken from the premises for consumption elsewhere, without leaving a vehicle.

1.217 **RESTORATION.** The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of removal of features from other periods in its history and Reconstruction of missing features from the restoration period.

1.218 **RESUBDIVISION.** A change in a map of an approved or recorded Subdivision

Plat if such change affects any Right-of-Way, or Lot Line; or any change in a map or plan legally recorded prior to the adoption of regulations controlling Subdivisions.

1.219 **RETAIL AND SERVICE.**

(A) **Retail and Service, Commercial-Auto Related.** An establishment primarily engaged in the sale or rental of goods, merchandise, and services related to the automobile, such a auto repair, auto body work, painting, detailing, auto and auto related equipment sales, with moderate to high volume of customer turnover and moderate to high parking demand. These Uses do not include auto dismantling, salvage, junk yards, and similar Uses. Self-service car washes are included.

(B) **Retail and Service, Commercial-Major.** A large scale Business engaged primarily in the sale or rental of goods, merchandise, or services with a high customer turnover and high parking demand. These establishments may have large interior showrooms or semi-truck loading docks. Examples of these Uses include large department, grocery, variety, drug, super stores. Fully-enclosed car washes are included.

(C) **Retail and Service, Commercial-Minor.** A Business primarily engaged in the sale or rental of goods, merchandise, or services with a low volume of customer turnover, low parking demand, and no outdoor storage of goods. These Uses do not include automobile or large equipment rental or sales. Such Uses include antique stores, art galleries, art supply stores, bakeries, book stores, clothing stores, candy

stores, florists, gift shops, liquor stores, pharmacies, sporting goods stores, auto parts stores, interior design stores, and home furnishing stores.

(D) **Retail and Service, Commercial-Personal Improvement.** A Business engaged in or offering courses and services for the enhancement of personal recreational interests, Business skills, vocational training, dance training, art and drama classes, public speaking, and similar Uses where the class or session meets as a group.

1.220 **RIDGE LINE AREA.** The top, ridge or Crest of Hill, or Slope plus the land located within one hundred fifty feet (150') on both sides of the top, crest or ridge.

1.221 **RIDING STABLE, COMMERCIAL.** A Structure and/or Site for horses, ponies, and/or mules, that is rented or used for compensation.

1.222 **RIGHT-OF-WAY.** A strip of land, dedicated to public Use that is occupied or intended to be occupied by a Street, crosswalk, trail, stairway, ski lift, railroad, road, utilities, or for another special Use.

1.223 **ROAD.**

(A) **Road, Collector.** A road intended to move traffic from local roads to major thoroughways. A Collector Road serves a neighborhood or a large Subdivision.

1.224 **ROAD CLASSIFICATION.** The Streets, highways, Roads, and Rights-of-Way designated on the Streets master plan.

1.225 **ROAD RIGHT-OF-WAY WIDTH.** The distance between Property Lines measured at right angles to the center line of the Street.

1.226 **SALT LAKE CITY 2002 WINTER OLYMPIC GAMES OLYMPIC LEGACY DISPLAYS.** Official exhibits from the Salt Lake City 2002 Winter Olympic Games created and/or provided by the Salt Lake Organizing Committee (SLOC) as part of the SLOC/Park City Municipal Corporation Olympic Services agreement and/or Olympic Master Festival License and approved by the City Council for installation on City Property, public Rights-of-Way and/or within the Areas that were Olympic venue Sites during the 2002 Winter Olympic Games at Park City Mountain Resort and Deer Valley Resort, or replacement exhibits that expressly commemorate the Salt lake City 2002 Olympic Winter Games. Olympic Legacy Displays may include the following additional information:

(A) Park City Municipal Corporation or Venue name and/or logo provided said information does not exceed twenty percent (20%) of the display area; and/or

(B) Master Festival Event identification provided said information does not exceed twenty percent (20%) of the display area, and is not displayed for more than two (2) weeks unless otherwise approved as part of the Master Festival License.

1.227 **SATELLITE RECEIVING STATION.** Any apparatus or device designed for the purpose of transmitting

and/or receiving radio, television, satellite microwave, or other electromagnetic energy signals between terrestrially and/or orbitally based Uses. This definition includes but is limited to what are commonly referred to as satellite earth stations, satellite microwave Antennas, TVRO's or dish Antennas. This definition does not include conventional television Antennae.

1.228 **SBWRD.** Snyderville Basin Water Reclamation District.

1.229 **SCREEN OR SCREENED.** The act, process, or result of visually and/or audibly shielding or obscuring a Structure or Use from adjacent Property by Fencing, walls, berms, densely planted vegetation or other landscaping features.

1.230 **SECONDARY LIVING QUARTERS.** An Area within a main dwelling which is used by the Property Owner or primary tenant as a dwelling for the private Use of the Property Owner's relatives, domestic help, caretakers, nursing staff, house guest, or similar user.

1.231 **SENDING SITE.** A Parcel of real property denoted as a sending site in the Transfer of Development Rights Overlay Zone, as shown on the Park City zoning map. A Sending Site is the Site from which Development Credits may be Trasnferred.

1.232 **SENSITIVE LAND.** Land designated as such by a Sensitive Lands Analysis and as reflected on the Official Zoning Map.

1.233 **SENSITIVE LANDS ANALYSIS.**

A comprehensive analysis performed by a qualified professional(s) that examines, identifies, and delineates on a map and in a written report all Areas of a Property deemed to be environmentally and aesthetically important to the community as expressed in the Park City General Plan, including, but not limited to, Steep Slopes, Very Steep Slopes, Significant Ridge Line Areas, wetlands, streams and lakes, wildlife habitat Areas, entry corridors, Vantage Points, Significant Vegetation, and Wildfire/Wildland Interface Zones.

1.234 **SENSITIVE OR SPECIALLY VALUED SPECIES.** Federally Threatened and Endangered Species; State of Utah Threatened and Endangered Species; State of Utah Species of Concern as identified in the document; animals and plants of special concern to the Park City Community as identified in the General Plan and in need of special protection.

1.235 **SETBACK.** The required minimum distance between a Building Pad and the closest of the following:

- (A) Property Line;
- (B) platted Street; or
- (C) existing curb or edge of a Street.

1.236 **SEXUALLY ORIENTED BUSINESSES.** Businesses defined as such according to Municipal Code Section 4-9-4.

1.237 **SIGNIFICANCE.** The quality of having Historical consequence or being regarded as having great architectural value.

1.238 **SIGNIFICANT RIDGE LINE**

**AREA.** Ridge lines in Areas deemed to be significant or sensitive as determined during the Sensitive Lands Analysis, the significance of these ridge lines is to be determined during the sensitive lands visual analysis process.

1.239 **SIGNIFICANT SITE.** Any Site, including a Building (main, attached, detached or public), Accessory Building, and/or Structure that is determined by the Historic Preservation Board to meet specified criteria set forth in LMC Chapter 15-11.

1.240 **SIGNIFICANT VEGETATION.** Includes all large trees six inches (6") in diameter or greater measured four and one-half feet (4.5') above the ground, all groves of small trees, and all clumps of oak or maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

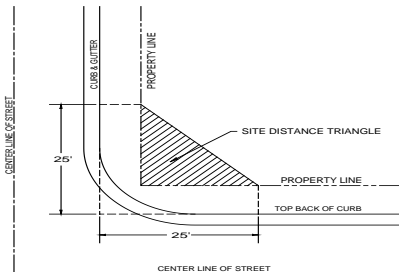
1.241 **SINGLE FAMILY SUBDIVISION.** A Development consisting of primarily, although not exclusively, of Single Family Dwellings.

1.242 **SITE.** An Area, Lot, or piece of land where a Building (main, attached, detached or public), Accessory Building, and/or Structure was, is, or will be located.

1.243 **SITE DEVELOPMENT STANDARDS.** Regulations unique to each zone concerning standards for Development including, but not limited to Lot Areas, Setbacks, Building Height, Lot coverage, open space.

1.244 **SITE DISTANCE TRIANGLE.** A

triangular Area at the intersection of two Streets formed by the Streets at Property Line and a line connecting them at points twenty-five feet (25') from the intersection of the Street lines.

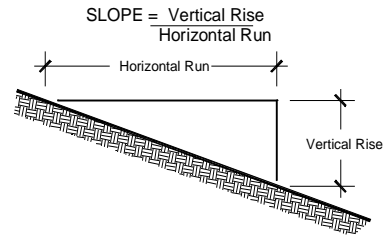


**1.245 SITE SUITABILITY ANALYSIS.**

A comprehensive analysis of a Property or Site used in making a determination of appropriate Density considering such factors as Sensitive Lands, existing and proposed utilities and transportation systems, and other community objectives as stated in the General Plan.

**1.246 SKETCH PLAT.** A Sketch preparatory to the Preliminary Plat, or Subdivision Plat in the case of Minor Subdivisions, to enable the Owner to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat.

**1.247 SLOPE.** The level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.



(A) **Slope, Steep.** Slope greater than fifteen percent (15%).

(B) **Slope, Very Steep.** Slope greater than forty percent (40%).

**1.248 SPACING.** Distance between the closer edges of adjoining driveways or driveways and Right-of-Way lines of intersecting Streets.

**1.249 SPECIAL EVENT.** Any event, public or private, with either public or private venues, requiring City licensing beyond the scope of normal Business and/or liquor regulations, as defined by this Code, or creates public impacts through any of the following:

- (A) The use of City personnel;
- (B) Impacts via disturbance to adjacent residents;
- (C) Traffic/parking;
- (D) Disruption of the normal routine of the community or affected neighborhood; or
- (E) Necessitates Special Event temporary beer or liquor licensing in conjunction with the public impacts, neighborhood block parties or other events

requiring Street closure of any residential Street that is not necessary for the safe and efficient flow of traffic in Park City for a duration of less than one (1) day shall be considered a Special Event.

1.250 **STEALTH.** A Telecommunications Facility which is disguised as another object or otherwise concealed from public view.

~~1.251~~ **STOREFRONT PROPERTY.** *See Property, Storefront.*

~~A separately enclosed space or unit that has a window or entrance that fronts on a Public Street. For purposes of this provision, the term “fronts on a Public Street” shall mean a separately enclosed space or unit with:~~

~~(1) — A window and/or entrance within fifty lateral/horizontal feet (50’) of the back, inside building edge, of the public sidewalk; and~~

~~(2) — A window and/or entrance that is not more than eight feet (8’) above or below the grade of the adjacent Public Street.~~

~~In the case of split level, multi-level Buildings with only one primary entrance, only those fully enclosed spaces or units that directly front the Street as set forth above, shall be designated to be a “Storefront Property.” The Planning Director or their designee shall have the final determination of applicability.~~

~~1.251~~1.252 **STORY.** The vertical measurement between floors taken from finish floor to finish floor. For the top most Story, the vertical measurement is taken from the top finish floor to the top of the wall plate for the roof Structure.

~~1.252~~1.253 **STREAM.** A naturally-fed water course, that flows year round or intermittently during years of normal rainfall. This definition excludes ditches and canals constructed for irrigation and drainage purposes.

~~1.253~~1.254 **STREAM CORRIDOR.** The Corridor defined by the Stream’s Ordinary High Water Mark.

~~1.254~~1.255 **STREET.** Any highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, easement, or other way.

(A) **Street, Public.** A Street that has been dedicated to and accepted by the City Council; that the City has acquired and accepted by prescriptive right; or that the City owns in fee.

~~1.255~~1.256 **STREETSCAPE.** The distinguishing characteristics of a particular Street including paving materials, adjacent space on both sides of the Street, landscaping, retaining walls, sidewalks, Building Facades, lighting, medians, Street furniture, and signs.

(A) **Streetscape, Architectural.** The Architectural Streetscape required as part of the Historic District Design Review process and Steep Slope CUP process.

~~1.256~~1.257 **STRUCTURE.** Anything constructed, the Use of which requires a fixed location on or in the ground, or attached to something having a fixed location on the ground and which imposes

an impervious material on or above the ground; definition includes “Building”.

~~1.257~~1.258 **STUDIO APARTMENT.** A Dwelling Unit consisting of a single room equipped for cooking, living, and sleeping, having a separate bathroom or Kitchen for the exclusive Use of the dwelling, and a Floor Area of not more than one thousand square feet (1,000 sq. ft.).

~~1.258~~1.259 **SUBDIVISION.** Any land, vacant or improved, which is divided or proposed to be divided or combined into one (1) or more Lots, Parcels, Site, Units, plots, or interests for the purpose of offer, sale, lease, or Development, either on the installment plan or upon any all other plans, terms, and conditions, including Resubdivision. Subdivision includes the division or Development of residential and nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. Subdivision includes the creation of a single lot of record from a Lot, Parcel, Site, Unit, plot, or other division of land.

(A) **Subdivision, Major.** All Subdivisions of four (4) or more Lots, or any size Subdivision requiring any new Street or extension of municipal facilities, or the creation of any Public Improvements.

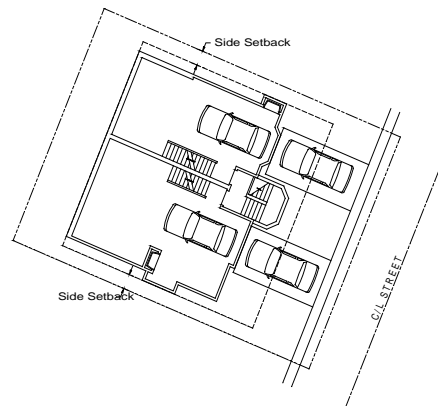
(B) **Subdivision, Minor.** Any Subdivision containing not more than three (3) Lots fronting on an existing Street, not involving any new Street, or the extension of municipal facilities, or the creation of any Public Improvements, and not adversely

affecting the remainder of the Parcel or adjoining Property, and not in conflict with any provision or portion of the General Plan, Official Zoning Map, Streets Master Plan, or these regulations.

~~1.259~~1.260 **SUBDIVISION PLAT.** The final map or drawing, on which the Applicant’s plan of Subdivision is presented to the City Council for approval and which, if approved, may be submitted to the Summit County Recorder for filing.

~~1.260~~1.261 **SUITABILITY DETERMINATION.** A determination by the Planning Director whether Development at increased Densities due to a Density Transfer from a Sensitive Area is Compatible with Development on surrounding or adjacent Property.

~~1.261~~1.262 **TANDEM PARKING.** A parking design which allows parking one (1) vehicle behind another. Such parking may not include more than two (2) cars in depth, and may not require occupants of separate Dwelling Units to park behind one another.





~~1.262~~1.263 **TELECOMMUNICATION**

**S.** The transmission between or among points specified by a user, of information of the user's choosing, without change in the form or content of the information as sent or received.

~~1.263~~1.264 **TELECOMMUNICATION S FACILITY.**

A Telecommunications Facility consists of Antenna, Equipment Shelters, and related Structures used for transmitting and/or receiving Telecommunications and/or radio signals.

(A) **Telecommunications Facility, Co-Location.** The location of Telecommunications Facility on an existing Structure, tower, or Building, in such a manner that precludes the need for that Telecommunications Facility to be located on a free-standing Structure of its own.

(B) **Telecommunications Facility, Equipment Shelter.** A cabinet or Building used to house equipment for Telecommunications Facilities.

(C) **Telecommunications Facility, Stealth.** A Telecommunications Facility which is disguised as another object or otherwise concealed from public view.

(D) **Telecommunications Facility, Technical Necessity.** A particular design, placement, construction, or location of a Telecommunications Facility that is technically necessary for Telecommunications consistent with the Federal Telecommunications Act of 1996, as amended.

~~1.264~~1.265 **TEMPORARY**

**IMPROVEMENT.** A Structure built, or installed, and maintained during construction of a Development, or during a Special Event or activity and then removed prior to release of the performance Guarantee. Does not include temporary storage units, such as PODS or other similar structures used for temporary storage that are not related to a Building Permit for construction of a Development and are not part of an approved Special Event or activity.

~~1.265~~1.266 **TIMESHARE**

**CONVERSION.** The conversion into a Timeshare Project of any Property and the existing Structure(s) attached thereto.

~~1.266~~1.267 **TIMESHARE ESTATE.** A Timeshare Estate shall be defined in accordance with Utah Code Section 57-19-2, as amended, excluding Private Residence Club ownership.

~~1.267~~1.268 **TIMESHARE**

**INSTRUMENT.** Any instrument whereby the Use, occupancy, or possession of real Property has been made subject to either a Timeshare Estate or Timeshare Use, and whereby such Use, occupancy, or possession circulates among three (3) or more purchasers of the Timeshare Intervals according to a fixed or floating time schedule on a periodic basis occurring annually over a period of time in excess of three (3) years in duration.

~~1.268~~1.269 **TIMESHARE INTERVAL.**

A Timeshare Estate or a Timeshare Use.

~~1.269~~1.270 **TIMESHARE OFF-PREMISES CONTACTING ACTIVITY.**

Activity occurring outside of a Timeshare Project that is engaged in by off-premises timeshare contacting personnel in an effort to induce Persons to attend a Timeshare Sales Presentation. Off-Premises Timeshare Contacting Activity must be confined to a fully enclosed Building.

~~1.270~~1.271 **TIMESHARE OFF-PREMISES SALES ACTIVITY.** Original timeshare sales and resale activity occurring outside of a Timeshare Project. Off-Premises Timeshare Sales shall be confined to a fully enclosed Building and is subject to business license regulation.

~~1.271~~1.272 **TIMESHARE OFF-PREMISES SALES OFFICE.** An office outside of a Timeshare Project, wherein Timeshare Sales Presentations are made and other marketing related activities are conducted in an effort to generate Timeshare Interval sales or resales.

~~1.272~~1.273 **TIMESHARE ON-SITE SALES ACTIVITY.** Timeshare sales activity occurring within a Timeshare Project.

~~1.273~~1.274 **TIMESHARE ON-SITE SALES OFFICE.** An office located within a Timeshare Project wherein Timeshare Sales Presentations are made and other marketing related activities are conducted in an effort to generate Timeshare Interval sales.

~~1.274~~1.275 **TIMESHARE PROJECT.**

Any Property that is subject to a Timeshare Instrument, including a Timeshare Conversion.

~~1.275~~1.276 **TIMESHARE SALES PRESENTATION.**

- (A) An offer to sell or reserve a Timeshare Interval;
- (B) An offer to sell an option to purchase a Timeshare Interval;
- (C) The sale of a Timeshare Interval, or an option to purchase a Timeshare Interval; or
- (D) The reservation of a Timeshare Interval, whether the Timeshare Interval is located within or without the State of Utah.

~~1.276~~1.277 **TIMESHARE UNIT.** That unit of Property and time where possession and Use are allowed under a contract from seller to purchaser, excluding Private Residence Club units.

~~1.277~~1.278 **TIMESHARE USE.** Any contractual right of exclusive occupancy created by a Timeshare Instrument which does not fall within the definition of "Timeshare Estate", including, without limitation, a vacation license, general partnership interest, limited partnership interest, vacation bond, or beneficial interest in a trust, and the documents by which the right of exclusive occupancy is transferred, excluding Private Residence Club Use.

~~1.278~~1.279 **TRANSFER.** Any action which results in the sale, exchange, or joint

venturing of development credits from one property to another property.

~~1.279~~1.280 **TRANSFERRED DEVELOPMENT RIGHT (TDR) OPEN SPACE.** That portion of a Master Planned Development, PUD, Cluster Plan or other Development plan from which Density is permanently Transferred. This Area may be either Natural or Landscaped Open Space.

~~1.280~~1.281 **TRANSPORTATION SERVICES.** A Business involving transit operations, taxis, shuttle services, rental cars, or similar transit-related services.

~~1.281~~1.282 **UDOT.** Utah State Department of Transportation, an agency that maintains and regulates State Highways.

~~1.282~~1.283 **UNIFORMITY RATIO.** The ratio between the average and minimum light distribution or luminance across a given Area.

~~1.283~~1.284 **UNIT EQUIVALENT.** The Density factor applied to different sizes and configurations of Dwelling Units and commercial spaces.

~~1.284~~1.285 **USE.** The purpose or purposes for which land or Structures are occupied, maintained, arranged, designed, or intended.

(A) **Use, Intensity of.** The maximum number of residential units, or commercial, or industrial space within a specified land Area designated for that purpose.

~~1.285~~1.286 **VANTAGE POINTS.** A

height of five feet (5') above a set reference marker in the following designated Vantage Points within Park City that function to assist in analyzing the visual impact of Development on hillsides and Steep Slopes:

- (A) Osguthorpe Barn;
- (B) Treasure Mountain Middle School;
- (C) Intersection of Main Street and Heber Avenue;
- (D) Park City Ski Area Base;
- (E) Snow Park Lodge;
- (F) Park City Golf Course Clubhouse;
- (G) Park Meadows Golf Course Clubhouse;
- (H) State Road 248 at the turn-out one quarter mile west from U.S. Highway 40;
- (I) State Road 224, one-half mile south of the intersection with Kilby Road;
- (J) Intersection of Thaynes Canyon Drive and State Road 224; and
- (K) Across valley view.

~~1.286~~1.287 **VEHICLE CONTROL GATE.** Any gate, barrier, or other mechanism to limit vehicular Access on or across a Street.

~~1.287~~1.288 **WETLAND, SIGNIFICANT.** All wetlands that occupy a surface Area greater than one-tenth (1/10) acre or are associated with permanent surface water or that are adjacent to, or contiguous with, a Stream Corridor.

~~1.288~~1.289 **WILDFIRE/WILDLAND INTERFACE ZONE.** All Areas within the Sensitive Areas Overlay Zone are within the Wildfire/Wildlife Interface Zone unless the City Fire Marshal determines otherwise

based upon the amount of vegetative cover, including coniferous or deciduous trees, gamble oak or high shrub, and mixed forest, and steepness.

~~1.289~~1.290 **WIND ENERGY SYSTEM,**

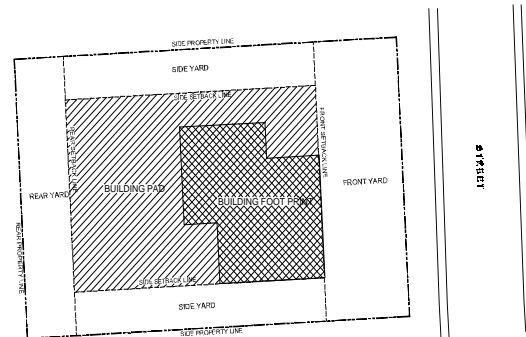
**SMALL.** All equipment, machinery, and Structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and Access roads, and one (1) or more wind turbines, which has a rated nameplate capacity of 100kW or less.

~~1.290~~1.291 **YARD.**

(A) **Yard, Front.** The Area between the front of the closest Building and the Front Lot Line or closer Right-of-Way, extending the full width of the Lot. The “depth” of the Front Yard is the minimum distance between the Front Lot Line and the front line of the closest Structure.

(B) **Yard, Rear.** The Area between the rear line of the closest Building and the Rear Lot Line, or closer Right-of-Way, and extending the full width of the Lot. The “depth” of the Rear Yard is the minimum distance between the Rear Lot Line and the rear line of the closest Structure.

(C) **Yard, Side.** The Area between the side line of the Building and the Side Lot Line and extending from the Front Yard to the Rear Yard. The “width” of the Side Yard shall be the minimum distance between the Side Lot Line and the side line of the closest Structure. See the following illustration:



~~1.292~~1.293 **ZONING DISTRICT.** An Area identified on the Official Zoning Map to which a uniform set of regulations applies as set forth herein, which districts are co-terminus with, and which are designed to implement the Park City General Plan.

~~1.293~~1.294 **ZONING MAP,**  
**OFFICIAL.** The map adopted by the City Council depicting the geographic scope of the City’s land Use designations.

~~1.294~~1.295 **XERISCAPE.** A landscaping method developed especially for arid and semiarid climates utilizing water – conserving techniques (such as the use of drought-tolerant plants, mulch, and efficient irrigation).

*(Amended by Ord. Nos. 02-07; Ord. No. 02-38; 04-39; 05-01; 06-86; 07-25; 07-55; 08-07; 09-05; 09-09; 09-10; 09-14; 09-23; 09-40; 11-05; 11-12; 12-37)*

**15-15-2. LIST OF DEFINED TERMS.**

**-A-**

Access  
Accessory Apartment  
Accessory Building  
Accessory Use  
Active Building Permit  
Administrative Permit  
Affordable Housing  
Agent  
Agriculture  
Allowed Use  
Alteration, Building  
Ancillary Structure  
Anemometers and Anemometer Towers  
Antenna  
Antenna, Test Drive  
Antenna, Enclosed  
Antenna, Freestanding  
Antenna, Roof Mounted  
Antenna, Temporary  
Antenna, Wall Mounted  
Apartment  
Applicant  
Application  
Application, Complete  
Architectural Detail  
Area or Site  
Attic

**-B-**

Bakery  
Balcony  
Bar  
Base Zoning  
Basement  
Bay Window  
Bed and Breakfast Inn  
Bedroom  
Billboard  
Blank Wall  
Block  
Boarding House

Building  
Building, Attached  
Building, Detached  
Building, Main  
Building, Public  
Building Alteration (see Alteration,  
Building)  
Building Envelope  
Building Footprint  
Building Pad  
Building Permit  
Business

**-C-**

Café  
Canopy  
Capital Improvements Program  
Certificate of Appropriateness  
Certificate of Economic Hardship  
Certificate of Occupancy  
Child Care  
Child Care, In-Home Babysitting  
Child Care, Family  
Child Care, Family Group  
Child Care Center  
City Development  
Clearview of Intersecting Streets  
Club  
Club, Private  
Club, Private Residence  
Club, Private Residence Conversion  
Club, Private Residence Off-Site  
Club, Private Residence Project  
Cluster Development  
Code  
Collector Road  
Co-Location (see Telecommunications  
Facility, Co-Location)  
Commercial Use  
Commercial Use, Support  
Commercial Use, Resort Support

Common Area  
Common Ownership  
Compatible or Compatibility  
Conditional Use  
Condominium  
Conservation Activity  
Conservation Easement  
Constitutional Taking  
Construction Activity  
Construction Mitigation Plan  
Construction Plan  
Contributing Building, Structure, Site/Area  
or Object  
Council  
Cover, Site  
Crawl Space  
Crest of Hill  
Cul-de-sac

**-D-**

Deli or Delicatessen  
Demolish or Demolition  
Density  
Design Guideline  
Detached  
Developable Land  
Developer  
Development  
Development Agreement  
Development Approval Application  
Development Credit  
Development Credit Certificate  
Development Right  
Disabled Care  
Dissimilar Location  
 Dwelling, Duplex  
 Dwelling, Triplex  
 Dwelling, Multi-Unit  
 Dwelling, Single Family  
 Dwelling Unit

**-E-**

Economic Hardship, Substantial  
Elder Care  
Elevator Penthouse  
Equipment Shelter (see Telecommunications  
Facility, Equipment Shelter  
Escrow  
Essential Historical Form  
Exterior Architectural Appearance

**-F-**

Facade, Building  
Façade, Front  
Facade Easement  
Facade Shift  
Fence  
Filtered Light Fixture  
Final Action  
Final Plat  
First Story  
Flood Plain Area  
Floor Area, Gross Commercial  
Floor Area, Gross Residential  
Floor Area, Net Leasable  
Floor Area Ratio (FAR)  
Foot Candle  
Foot Candle, Average (afc)  
Foot Candle, Horizontal (hfc)  
Foot Candle, Vertical (vfc)  
Frontage  
Fully Shielded

**-G-**

Garage, Commercial  
Garage, Front Facing  
Garage, Private  
Garage, Public  
Geologic Hazard  
Good Cause  
Governing Body  
Grade

Grade, Existing  
Grade, Natural  
Grade, Final  
Grading  
Green Roof  
Group Care Facility  
Grubbing  
Guarantee  
Guest House

**-H-**

Habitable Space (Room)  
Hard-Surfaced  
Height, Building  
Helipad  
Heliport  
Helistop  
Historic  
Historic Building, Structure, Site or Object  
Historic District  
Historic Integrity  
Historic Significance, Period of  
Historic Sites Inventory  
Historical Form, Essential (see Essential  
Historical Form)  
Home Occupation  
Hospital  
Hospital, Limited Care  
Hotel/Motel  
Hotel/Motel, Major  
Hotel/Motel, Minor  
Hotel Room  
Hotel Suite

**-I-**

Impact Analysis  
Impervious Surface  
Inaction  
Incidental Retail Sales  
Indoor Entertainment Facility

**-K-**

Kitchen  
Kitchen, IBC Commercial  
Kitchenette

**-L-**

Landmark  
Landmark Site  
Landscaping, Interior  
Landscaping, Parking Area  
Landscaping, Perimeter  
Liftway  
Liftway Setback  
Light Source  
Light Source, Refractive  
Limits of Disturbance  
Lockout Unit  
Lot  
Lot, Corner  
Lot Depth  
Lot Line  
Lot Line Adjustment  
Lot Width  
Lumen  
Luminaire  
Luminaire, Cutoff Type  
Luminaire, Fully Shielded  
Luminaire, Partially Shielded

**-M-**

Master Festival  
Master Planned Development (MPD)  
Maximum Extent Feasible  
Maximum House Size  
Model Home

**-N-**

Neighborhood Convenience, Commercial  
Nightly Rental  
Non-Complying Structure  
Non-Conforming Use



Noteworthy  
Nursery, Greenhouse  
Nursing Home

**-O-**

Off-Site  
Off-Street  
Office, General  
Office, Intensive  
Office, Medical  
Office, Moderately Intensive  
Official Streets Master Plan  
Official Zoning Map  
One Bedroom Apartment  
Open Space, Landscaped  
Open Space, Natural  
Open Space, Transferred Development  
Right (TDR)  
Ordinary High Water Mark  
Ordinary Repairs and Maintenance  
Outdoor Use  
Outdoor Recreation Equipment (see  
Recreation Equipment, Outdoor)  
Owner

**-P-**

Parcel  
Parking, Public  
Parking, Residential  
Parking, Shared  
Parking Area  
Parking Lot, Commercial  
Parking Space  
Parking Structure  
Passenger Tramway  
Period of Historic Significance  
Person  
Physical Mine Hazard  
Planned Unit Development (PUD)  
Porous Paving  
Preliminary Plat

Preservation  
Preservation Easement  
Private Club (see Club, Private)  
Private Residence Club (see Club, Private  
Residence)  
Private Residence Club Conversion (see  
Club, Private Residence Conversion)  
Private Residence Club Project (see Club,  
Private Residence Project)

Property  
Property, Storefront  
Property Line  
Property Line, Front  
Property Owner (see Owner)  
Public Art  
Public Improvement  
Public Use

**-Q-**

Qualified Professional  
Quasi-Public Use

**-R-**

Receiving Site  
Reconstruction  
Recreation Equipment, Outdoor  
Recreation Facilities, Commercial  
Recreation Facilities, Private  
Recreation Facilities, Public  
Recycling Facility  
Recycling Facility, Class I  
Refractive Light Source  
Regulated Use  
Rehabilitation  
Residential Use  
Resort Support Commercial  
Restaurant  
Restaurant, Drive-Through  
Restoration  
Resubdivision  
Retail and Service, Commercial-Auto

Related  
Retail and Service, Commercial-Major  
Retail and Service, Commercial-Minor  
Retail and Service, Commercial-  
Personal Improvement  
Ridge Line Area  
Riding Stable, Commercial  
Right-of-Way  
Road, Collector  
Road Classification  
Road Right-of-Way Width

**-S-**  
Salt Lake City 2002 Winter Olympic Games  
Olympic Legacy Displays  
Satellite Receiving Station  
SBWRD  
Screen or Screened  
Secondary Living Quarters  
Sending Site  
Sensitive Land  
Sensitive Land Analysis  
Sensitive or Specially Valued Species  
Setback  
Sexually Oriented Businesses  
Significance  
Significance, Period of Historic  
Significant Ridge Line Area  
Significant Site  
Significant Vegetation  
Single Family Subdivision  
Site  
Site Development Standards  
Site Distance Triangle  
Site Suitability Analysis  
Sketch Plat  
Slope  
Slope, Steep  
Slope, Very Steep  
Spacing  
Special Event

Storefront Property (see Property,  
Storefront)  
Story  
Stream  
Stream Corridor  
Street  
Street, Public  
Streetscape  
Streetscape, Architectural  
Structure  
Studio Apartment  
Subdivision  
Subdivision, Major  
Subdivision, Minor  
Subdivision Plat  
Substantial Economic Hardship (see  
Economic Hardship, Substantial)  
Suitability Determination

**-T-**  
Tandem Parking  
Telecommunications  
Telecommunications Facility  
Telecommunications Facility, Co-Location  
Telecommunications Facility, Equipment  
Shelter  
Telecommunications Facility, Stealth  
Telecommunications Facility, Technical  
Necessity  
Temporary Improvement  
Timeshare Conversion  
Timeshare Estate  
Timeshare Instrument  
Timeshare Interval  
Timeshare Off-Premises Contacting Activity  
Timeshare Off-Premises Sales Activity  
Timeshare Off-Premises Sales Office  
Timeshare On-Site Sales Activity  
Timeshare On-Site Sales Office  
Timeshare Project  
Timeshare Sales Presentation

Timeshare Unit  
Timeshare Use  
Transfer  
Transferred Development Right (TDR)  
    Open Space  
Transportation Services

**-U-**  
UDOT  
Uniformity Ratio  
Unit Equivalent  
Use  
Use, Intensity of

**-V-**  
Vantage Points  
Vehicle Control Gate

**-W-**  
Wetland, Significant  
Wildfire/Wildland Interface Zone  
Wind Energy System, Small

**-X-**  
Xeriscape

**-Y-**  
Yard, Front  
Yard, Rear  
Yard, Side

**-Z-**  
Zone Height  
Zoning District  
Zoning Map, Official

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 22<sup>nd</sup> 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 22<sup>nd</sup>, 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 1<sup>st</sup> 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 want 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 22<sup>nd</sup>, 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. He 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.

Commissioner Worel thanked Mr. Root for his update because it was helpful for everyone to understand the rules. Mr. Root encouraged the Commissioners to call him if they had further questions.

Capital Improvement Projects – Yearly report given to the Planning Commission regarding the Capital Improvement Projects approved by City Council.

City Engineer Matt Cassel, noted that the list of CIP projects was provided to the Planning Commission at a previous meeting. He apologized for not being at that meeting. He understood that the Commissioners had some questions regarding the CIP list and he was prepared to answer them this evening.

Commissioner Worel wanted to know if the items on the list were prioritized and how the projects make it to the list. Mr. Cassel explained that the list was in numerical order, and they are prioritized from top to bottom through the evaluation process. He stated that the Budget Department determines the amount of available funding. There is a cut-off line and the items above the line are funded for this year and the ones below the line are not.

Vice-Chair Joyce asked Mr. Cassel to explain the different line items for affordable housing. Mr. Cassel stated that there was a huge request this year based on the City Council direction and goals for affordable housing. He recalled that most of the affordable housing requests were at the top of the priority list.

Commissioner Phillips referred to 1450-1460 Park Avenue and noted that a digit was missing in the development cost Item CP366. Mr. Cassel offered to look into it and insert the correct number.

Vice-Chair Joyce referred to CP318, which was the \$1.5 million for the power station. Since Form Based Code was currently off the table, he asked how that played out. Mr. Cassel stated that Nate Rockwood had kept that money aside. As they moved forward in the BOPA area there was a possibility of the City helping to support some of the construction of infrastructure, and Nate was hoping to earmark those funds for that purpose. With the new direction for BOPA, Mr. Cassel was unsure what Nate intended to do with the money. He assumed the City Council would decide how to spend the money.

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

1. Land Management Code Amendments regarding vertical zoning storefront regulations in Chapter 15-2.5-2 Uses in Historic Recreation Commercial (HRC).

Chapter 15-3.6-2 Uses in Historic Commercial Business (HCB), and associated Definitions in Chapter 15-15 Defined Terms (Application PL-15-02810)

Planner Whetstone noted that the Staff was working on some of the language related to vertical zoning and she requested that this item be continued to August 26<sup>th</sup>.

Vice-Chair Joyce opened the public hearing.

Allison Butz with the Historic Park City Alliance Board, stated that Planner Whetstone had attended their Board meeting on Tuesday and provided a full overview of the zoning changes and amendments. Ms. Butz stated that the HPCA was pleased that both the Staff and the Planning Commission were looking at adding vibrancy and activity to Main Street, and encouraging tourism. With regards to the Staff report, the Board was comfortable with the revision of uses prohibited within the storefront properties in both the HCB and the HRC. They were also comfortable with the modifications to the definitions. She pointed out that there is a new definition for private plaza and because it is only a definition and does not have regulations within it, they were also comfortable with that definition. However, their concern is with the addition of public or private plazas within the definition of both property storefront and storefront property. They are two different definitions. Ms. Butz noted that it begins to add the Town Lift and the interior of Summit Watch into the understanding that only retail and restaurant type uses are allowed. Office and other accessory uses would then be prohibited. Ms. Butz understood that those areas are lacking activity and that it is difficult to draw people in, but they feel that the success that is seen by allowing those spaces within the interior spaces to remain office allows for use of those spaces. Ms. Butz remarked that restricting the spaces to restaurant and retail use within those plazas will not add activity. She believed additional things such as public amenities need to be included, which will take time to draw that in. She suggested that they come back in five years and look at restricting the type of uses. However, at this time the HPCA does not support the proposed restriction of uses.

Ms. Butz stated that in regards to vertical zoning the Board continues to support the location of sales tax generating businesses and storefronts along the public streets. They would like to explore with the City the opportunities to support the location of offices on second floors because they believe it could add additional vibrancy to the area, particularly during the daytime. Ms. Butz stated that the Board would also like to look at how to promote nightly rentals in the District because bed base and hot beds can draw more people to the area.

Ms. Butz remarked that the Board supports discussion regarding Special Event space on the street. She noted that a number of buildings are only occupied during the Sundance

Film Festival and they would like to see if those spaces could be activated during additional times of the year.

Mike Sweeney stated that he was speaking on behalf of the landowners on Lower Main Street, which included the Caldonian, the Sweeney Property, the owner of the Summit Watch commercial space, and the owner of the Sky Lodge. Mr. Sweeney pointed out that it included everything on Lower Main Street except for the Lift Lodge, which has two commercial spaces; a snowboard/ski shop and the Victory Ranch Clubhouse. Mr. Sweeney echoed the HPCA. He had concerns about the definition of public and about his private plaza, particularly given the easements that have been granted to the City for public use of his property, and how that may impact his ability to have a certain type of tenant. Mr. Sweeney stated that in 17 years the plaza has been available to the Town Lift and he worries about the kinds of business that could go into that particular location. He has already seen five or six businesses struggle to make it work. Mr. Sweeney stated that when they went through this process in 2006, the City Council agreed to exclude any kind of limitation on types of tenants. He did not want that to suddenly change because it was part of the conditional use permits and MPDs for all of these locations on lower Main Street. Mr. Sweeney believed the City was trying to cure the problem that occurred at 205 Main; however, the people on lower Main Street are the ones who will be affected.

Eric Nelson believed that this discussion over the LMC was absolutely triggered by what happened at 205 Main Street. Mr. Nelson commended Planner Whetstone for her work on the ordinance. However, in his view, the ordinance is not the problem. The process is the problem. When a project like 205 Main Street is not reviewed by the Planning Commission and the City Council, and there is no opportunity for public input, it is a real problem. Mr. Nelson stated that he was assured by a few Council members that the issue would be addressed; and he sincerely hoped that was true, because it is a real problem when one person on a planning staff can make that decision. Mr. Nelson was certain that 205 Main Street would have been dead on arrival if it had gone through the public review process.

Regarding the ordinance, Mr. Nelson remarked that currently there are owners on Main Street who make more money renting their property during Sundance than they do renting to a tenant all year. He believed that was a serious problem that needed to be addressed in the new ordinance. Mr. Nelson stated that it was becoming a trend and they would see more of it if they did nothing about it. Mr. Nelson commented on the Silver King, which is an iconic location, and noted that nothing has been done on the building for six months. He thought the public had a right to know what was going on and what the City was doing to move it forward.

Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Phillips moved to CONTINUE the LMC Amendments for vertical zoning and uses in the HRC and HCB to August 26, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

2. 281 & 283 Deer Valley Drive – Bee Plat Amendment to combine Lot 4 and Lot 26 and combine Lot 2 and Lot 27 to create two (2) lots of record in Block 66, of the Amended Plat of Park City Survey (Application PL-15-02808)

Vice-Chair Joyce opened the public hearing. There were no comments. Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Band moved to CONTINUE 281 and 283 Deer Valley Drive Bee Plat Amendment to a date uncertain. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

3. Land Management Code Amendment regarding Nightly Rentals use in the HR-L Chapter 2.1 and green roof definition and application in HR-L Chapter 2.1, HR-1, Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16, and Definitions of Chapter 15. (Application PL-15-02817)

Vice-Chair Joyce opened the public hearing. There were no comments. Chair Joyce closed the public hearing.

MOTION: Commissioner Phillips moved to CONTINUE the LMC Code Amendments regarding Nightly Rentals in the HRL and the green roof definition and the definitions in Chapter 15 to September 23<sup>rd</sup>. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

4. 162 Ridge Avenue – Steep Slope Conditional Use Permit for a new single-family home on a vacant lot. (Application PL-15-02761)

Vice Chair Joyce opened the public hearing. There were no comments. Chair Joyce closed the public hearing.



**Council member Simpson moved to approve consideration of  
naming of city property in honor of Bob Wells  
Council member Beerman seconded  
Approved unanimously**

3. Land Management Code Amendments - Vertical Zoning

Public Hearing – Continued to a date uncertain

**Council member Simpson moved to continue the public hearing on  
land management code amendments pertaining to  
vertical zoning to a date uncertain  
Council member Henney seconded  
Approved Unanimously**

**VI. ADJOURNMENT**

**Council member Henney moved to adjourn  
Council member Beerman seconded  
Approved Unanimously**

**CLOSED SESSION MEMORANDUM**

The City Council met in a closed session at approximately 2:00 p.m. Members in attendance were Mayor Jack Thomas, Council members Andy Beerman, Dick Peek, Tim Henney, Liza Simpson and Cindy Matsumoto. Staff members present were: Diane Foster, City Manager; Mark Harrington, City Attorney; Matt Dias, Assistant City Manager; Lori Collet, Finance Manager; Tom Daley, Deputy City Attorney; Clint McAfee, Water Manager; Heinrich Dieters, Sustainability; Jason Glidden, Special Events Director and Bruce Ericksen, Interim Planning Manager. **Council member Beerman moved to close the meeting to discuss Property, Litigation and Personnel. Council member Henney seconded. Motion Carried.**

The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Katie Madsen.

Chair Strachan opened the public hearing.

Pat Fortune, a resident at 2102 Webster Drive, spoke on behalf of his neighborhood. Mr. Fortune emphasized that there is a parking problem and the applicant's admission of their parking situation is a failure. He stated that 119 cars were parked in their neighborhood last week. They cannot get their mail delivered and a week ago the garbage truck only picked up half the garbage because the vehicles cannot access their neighborhood. Mr. Fortune stated that cars are parked on both sides of the road and the police have had to tow cars that blocked private driveways. Mr. Fortune stated that the golf course shares partial blame but they are not entirely to blame because parking is also an issue in the winter during cross country events. However, for cross country events the cars park diagonally on driving range which alleviates some of the problem. Mr. Fortune stated that his neighborhood is not a commercial parking lot for a commercial venture. They are currently working with the City to make their neighborhood permit parking only like Old Town. He noted that a project was approved in 1987 that created a burdensome situation, but they have no recourse until the Code is changed allowing the police to write tickets or remove cars. Mr. Fortune pointed out that in addition to being in the hotel and restaurant business, Hotel Park City is also in the swim club business, the health club business and the conference business, and there is not enough parking. He remarked that adding 109 spaces as a solution to the problem is ridiculous. Mr. Fortune noted that the hotel and the golf course have been very successful and the neighbors do not want to hinder that success, but the parking problem is becoming a health and safety issue and it needs to be addressed.

Chair Strachan closed the public hearing.

MOTION: Commissioner Thimm moved to CONTINUE 2001 Park Avenue – Pre-Master Planned Development review for an amendment to the Hotel Park City MPD to September 9, 2015. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

2. 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-15-02800)

Chair Strachan opened the public hearing.

Mike Sweeney stated that he was representing all of the property owners below Heber Avenue, and also the Sky Lodge regarding this issue. The property owners took exception to increasing and changing the current vertical zoning, which they obtained under their MPDs and CUPs. Mr. Sweeney believed the HPCA shared their concern. Mr. Sweeney stated that if any of the Commissioners were interested in seeing and learning how they actually conduct business on Lower Main Street, he would be happy to walk them through it. He has had 20 years of experience on Lower Main and he welcomed the opportunity to speak with any of the Commissioners.

Chair Strachan closed the public hearing.

MOTION: Commissioner Worel moved to CONTINUE 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 to October 15, 2015. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

### **CONSENT AGENDA**

1. 281 & 283 Deer Valley Drive – Plat Amendment to combine four lots into two single lots of record. (Application PL-15-02808)
2. 415 Main Street Plat Amendment to combine all of Lots 3 and 4, and a portion of Lot 5 into one (1) lot of record located in Block 10 of the Amended Plat of the Park City Survey (Application PL-15-02851)

Chair Strachan opened the public hearing on the Consent Agenda items.

There were no comments or requests to remove an item from the Consent Agenda.

There was some confusion as to whether or not a public hearing was necessary for Consent Agenda items, as well as the process for removing items from the Consent Agenda. Chair Strachan and Mr. Erickson stated that they would research the proper procedure and report back to the Planning Commission. Planner Whetstone stated that the Staff should also research proper noticing procedures for Consent Agenda items

Planning Department was comfortable with the structures at this point. He noted that the EPA is in Park City remediating soil and the City did not want to waste money starting remediation on mine structures in the event that it would have to be started over again. Mr. Erickson stated that the City has the money in escrow and they only pay for the work that is accomplished.

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

1. 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 requested that the Planning Commission continue this item to December 9, 2015 and not November 17<sup>th</sup> as shown on the agenda.

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

MOTION: Commissioner Worel moved to CONTINUE the LMC Amendments regarding vertical zoning regulations in storefronts in the HRC and HCB zoning districts to December 9, 2015. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

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

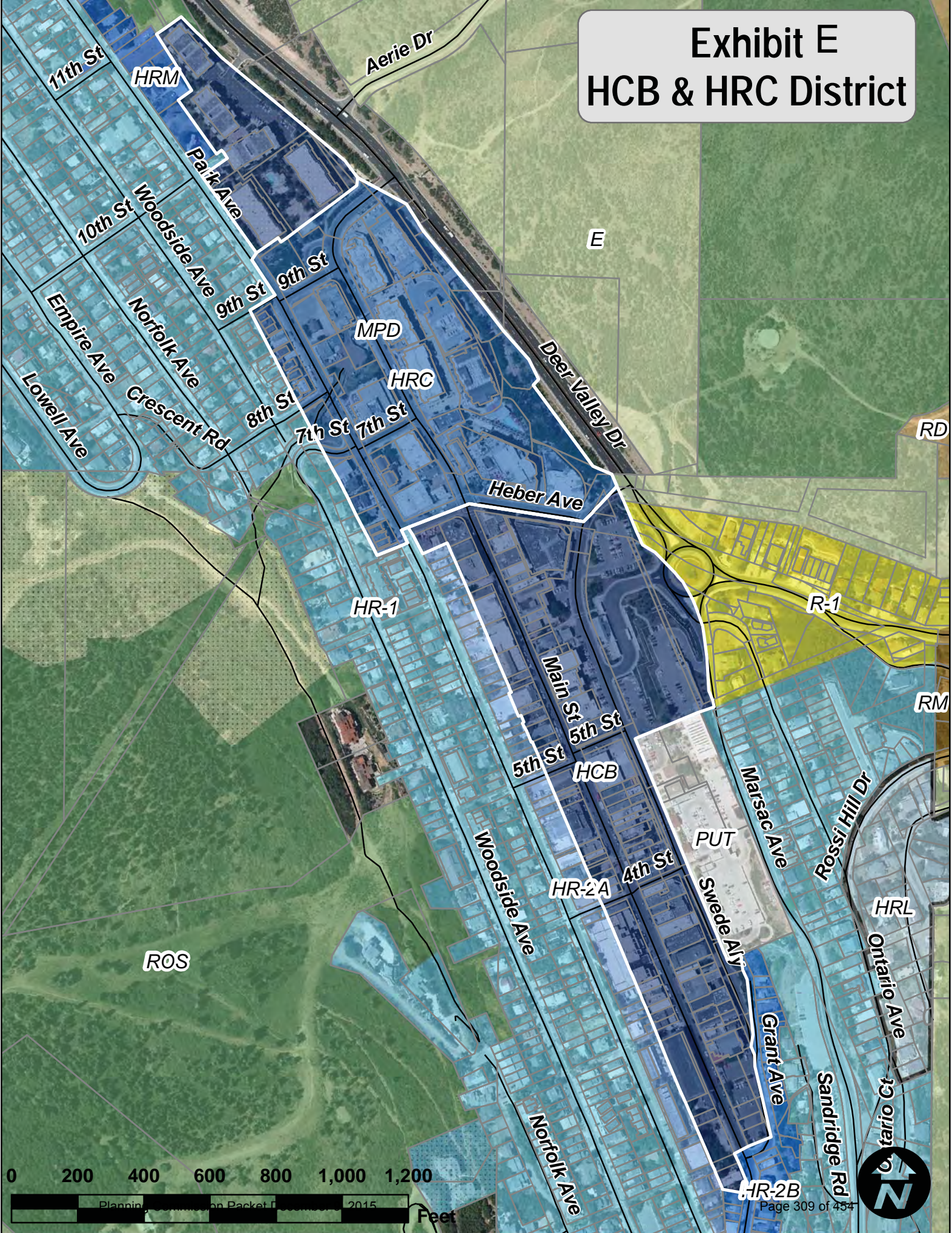
1. 1114 Park Avenue – 1114 Park Avenue Plat Amendment – proposal to remove interior lot lines to combine three (3) existing parcels into one (1) legal lot of record. (Application PL-15-02950)

Planner Turpen reviewed the application for a plat amendment at 1114 Park Avenue. The applicant intends to combine one parcel with two remnant parcels to create one legal lot of record. As proposed, Lot 1 would contain 3,615 square feet. A historic single-family home and a historic garage are located on the property and listed as Significant on the Historic Sites Inventory.

The Staff found good cause for this plat amendment as it would allow eliminate existing interior lot lines and create one legal lot of record. The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive

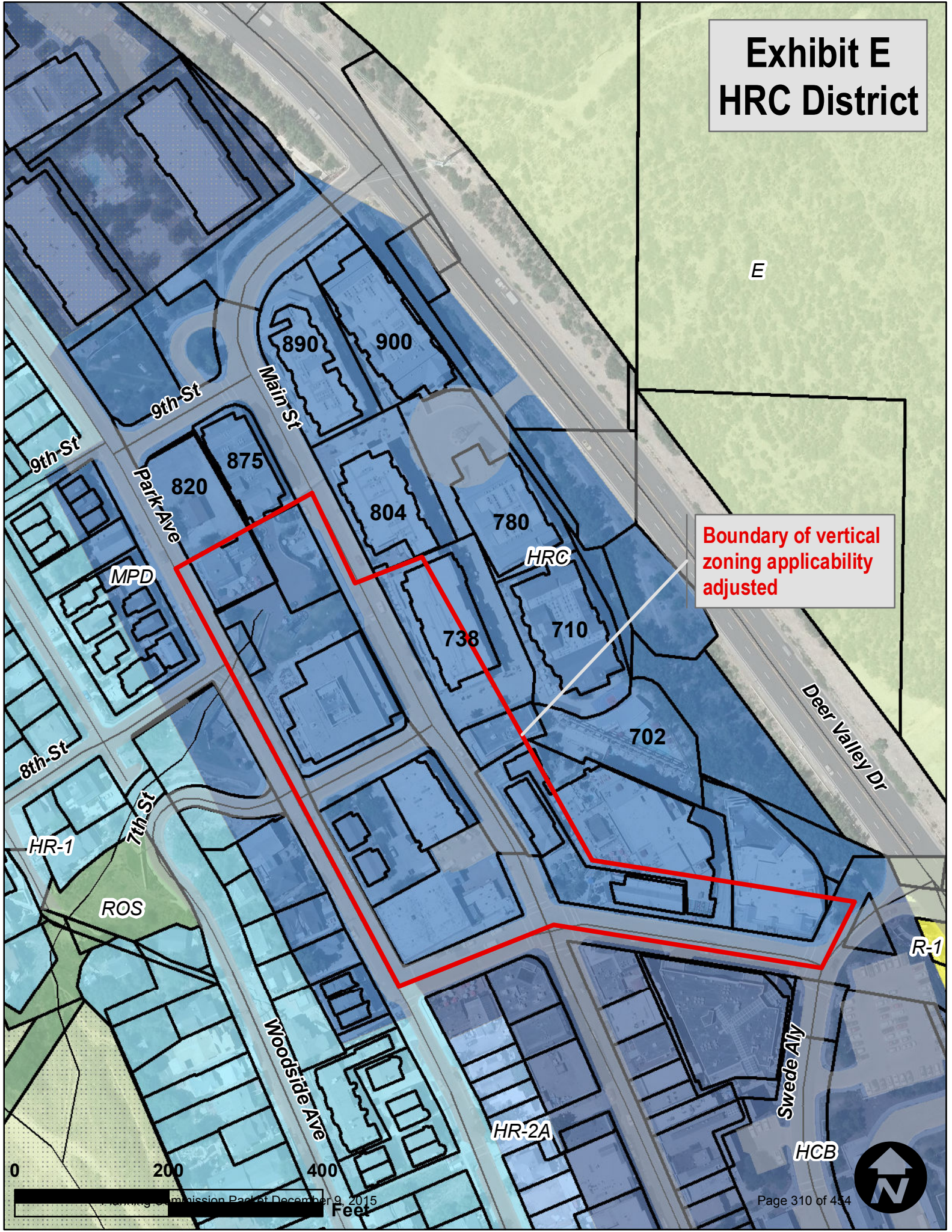


# Exhibit E HCB & HRC District





# Exhibit E HRC District



Boundary of vertical zoning applicability adjusted



# EXHIBIT F

Planning Commission Meeting  
October 14, 2015  
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Director Erickson stated that substandard streets needed to be read in combination with the other criteria in the LMC, such as neighborhood character, which they determine through public input, and preservation of a mix of housing types in the district, etc. He noted that the Findings were crafted to include all of the requirements from the LMC and the General Plan for neighborhood protection in that area. Commissioner Joyce was satisfied with that explanation.

Commissioner Phillips favored the amendment and he specifically agreed with the comments made by Commissioners Thimm and Band. He would like the Staff to research whether other areas were suitable for this type of neighborhood because it is a good way to preserve Park City. It is a main mission for the community as it evolves and continues to evolve. Commissioner Phillips felt this was preserving a neighborhood just as they like to preserve historic homes.

Commissioner Worel stated that as she read the Staff report she was reminded of the Sampson Avenue request for nightly rentals that the Planning Commission denied. She was on the Planning Commission at that time and the main concern were the impacts that additional traffic and parking would create for snow removal and emergency vehicles. She has been on McHenry and she sees the same situation. Commissioner Worel stated that asking people to park at China Bridge in the middle of winter and walk is not an option because people will not do it. She did not believe it was fair to put the burden of enforcement on the neighbors, which was another issue that was raised when they looked at the nightly rental on Sampson Avenue. It is unpleasant for anyone to have to call the police or a tow truck and the neighbors should not have to bear that burden. Commissioner Worel was in favor of enforcing no nightly rentals in the McHenry Avenue neighborhood.

MOTION: Commissioner Band moved to CONTINUE the Land Management Code amendment regarding night rentals use in the HRL East neighborhood, Chapter 2.1 and Definitions Chapter 15 to October 28, 2015. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

6. **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 (HDB), and associated definitions in Chapter 15-15, Defined Terms (Application PL-15-02810)**

Planner Whetstone requested that the Planning Commission review amendments to Chapter 2.5 which is the Historic Recreation Commercial (HRC) zone, the lower Main

Street area, as well as Chapter 2.6, the Historic Commercial Business (HCB) zone, which is basically Main Street and includes Heber and Swede Alley.

The Staff recommended that the Planning Commission conduct a public hearing, provide direction and continue this item to November 11<sup>th</sup>.

Planner Whetstone noted that this item came before the Planning Commission in June at which time they discussed changing the language to include storefronts on private plazas. After hearing public input, attending HCPA meetings and visiting the sites, the Staff removed the language regarding plazas from the amendment.

Planner Whetstone stated that vertical zoning is a planning tool that regulates the location of uses vertically within a building or site. It is desirable in downtown business districts to reserve the street level for high level activity and revenue generating uses that promote the vitality of the street. Those uses include retail shops, restaurants, bars, galleries and similar uses. Office and residential uses would be on the floors above the storefront.

Planner Whetstone stated that the purpose of the proposed amendments is to amend and clarify language in the zoning sections to have a footnote that excludes specific uses from storefront property, as well as clarifying the definition of storefront property. Planner Whetstone reiterated that the Staff originally proposed to include private plazas but that language has since been removed.

Planner Whetstone referred to Goal 16, Objective 16B and Strategy 16.1-10 of the General Plan, which talks about historic Main Street being the heart of the City for residents and to encourage tourism in the District. The Objective says to limit uses within the first story of building along Main Street to retail and restaurant establishments that are inviting to the passing pedestrian, and to discourage office uses, real estate show rooms, parking, etc. Planner Whetstone noted that the Implementation Strategy states that the City should re-examine the existing vertical zoning ordinance from 2007 that requires commercial retail shops along Main Street, and consider strengthening the ordinance. Planner Whetstone noted that the City's Economic Development Strategic Plan had similar language and suggests that uses that are not inviting to the general public and have a negative impact on the economy and the vitality should be removed from storefront properties.

Planner Whetstone stated that the objective of these amendments is to clarify and strengthen the existing regulations to specifically address the adopted Goals and Strategies of the General Plan.

Planner Whetstone referred to the language changes outlined on page 97 of the Staff report. She noted that one change that was different from the existing language was to



exclude the west side of Park Avenue from the HRC zoned storefront properties. She pointed out that the uses on the west side back up to the HR-1 zone, which is a residential zone, where offices and other compatible uses and have worked well. Planner Whetstone stated that language excluding the HRC zoned areas north of 8<sup>th</sup> Street currently exists. The remaining language was consistent and the Staff no longer suggested removing the buildings of the Summit Watch Plaza at 702, 710, 780, 804, 890 and 900 Main Street. Those storefronts face the private plaza and based on input from the HPCA, property owners, business owners and others, the Staff determined that this was not the time to consider this type of a regulation. However, the Staff recommended revisiting the issue in 3-5 years.

Planner Whetstone stated that one change in the HCB zone is to clarify in the tables that hotels are not allowed in storefront areas. Lobbies and access for uses on the second floor would be allowed in a small storefront with a door. Planner Whetstone commented on a change that was not presented at the Planning Commission meeting in June, which is to relook at private event space and consider adding it to the list of conditional uses in these two zones as an administrative conditional use. They should also consider including vertical zoning for that use. Planner Whetstone noted that typically event spaces are active a few times during the year and sit empty the rest of the time. The Staff would like the Planning Commission to consider allowing a private event space to be located within storefront property with an approved MFL or Special Event permit for the duration of the event as part of the footnote. Otherwise it would require an Administrative CUP and be subject to vertical zoning.

Planner Whetstone stated that when a definition appears in two places in the Code and the definition is amended, there is a risk of not wording it exactly the same in both places. She recommended removing the definition of Storefront Property under "S" and leave it under Property Storefront with an amended definition to read, "A separately enclosed space area or unit that fronts on a public street. The term "fronts on a public street" shall mean a separate enclosed space area or unit with 1) a window or entrance within 50 feet of the adjacent public street measured from the edge of pavement to the window or entrance; and 2) a window or entrance that is not more than eight feet above or below grade of the adjacent public street."

Planner Whetstone noted that there are split level and multi-level properties on Main Street. The Staff was not proposing to regulate areas that are right at the street but within the basement.

Planner Whetstone clarified that the definition of Private Plaza on page 99 of the Staff report was added because the term Private Plaza is used in some of the regulations but it

is not defined by definition. She emphasized that Private Plaza would not be added to the Vertical Zoning Ordinance.

Planner Whetstone requested input from the Commissioners on discussion items listed on page 99 of the Staff report. She presented a revised HRC map. Director Erickson noted that there was some imprecision in the mapping, particularly relating to the Building at 738, Marriott Plaza. He indicated the section that would be regulated on Main Street. The private plaza on the backside would not be regulated. Director Erickson stated that once the plaza goes above six feet it is not regulated with the storefront. He also commented on 692 Main Street and clarified that the intent is to regulate the street side of that building but not the private plaza side.

Commissioner Joyce asked for the logic of why so many specific buildings were excluded, particularly since they already agreed not include plazas and the rules that are in place give exclusions. Planner Whetstone stated that it was primarily due to previous agreements within Master Planned Developments. The previous language specifically excluded HRC zoned properties north of 8<sup>th</sup> Street. Director Erickson explained that the intent was to achieve a balance between storefront activities and other activities that would bring people to Main Street on a more regular basis. In the past they over-regulated storefronts and conceptualized drop-off and restaurant business because there were less people on the lower streets. They heard from the business community that allowing additional office spaces in that area would bring more people to Main Street on a regular basis.

Commissioner Joyce asked why that would not apply to all of Main Street. Director Erickson replied that it varies in tourist attractiveness. Commissioner Joyce stated in his time on the Planning Commission he has learned that anytime something is done a third of the people are unhappy. In this case, Lower Main Street did not want vertical zoning because they would be negatively affected. At the same time those on Upper Main Street complain that there is no activity at the top of the street. Commissioner Joyce noted that there will always be pushback whenever a change is proposed.

Director Erickson understood the point Commissioner Joyce was making. He explained that this was an economic test to drive the broadest possible sector of people to the businesses in HRC and HCB. When it was originally instituted it was over-regulated and that regulation was not accomplishing what it was intended to do, which was to encourage business use on lower Main Street in the HCB District. Director Erickson stated that conceptually the west side of Park is a transition zone designed to be a mix of uses in that location. On the east side of Park Avenue they wanted to preserve the storefront facades because that was the Main Street business district. Director Erickson pointed out that this was the type of discussion they wanted from the Planning Commission and he appreciated the question regarding Staff strategy. He explained that the Staff's strategy was 1)

deregulate the places where the current regulation was not working; and 2) have a defined business district with storefronts in the District and the option to do storefronts on the margins; with the idea of driving four or five of the market sectors to the streets on upper or lower Main.

Planner Whetstone requested input from the Commissioners regarding the west side of Park Avenue. She pointed out that the properties north of 8<sup>th</sup> Street on the west side were all residential properties in the HRC.

Commissioner Band stated that she was the one who initially said that if they wanted to create vitality they should not allow offices in storefronts. They talked about plazas and that the highest and best use for those areas was retail, commercial, etc. However, after walking the area with Alison Butz she recognized that there were serious problems that were not conducive to uses. Commissioner Band strongly believed they should go towards the highest and best use, but at the same time she thought they needed to look at the reality and understand that some of these are not great spots. If they could entice a business that has employees who would use the rest of Main Street she would be comfortable with that solution. Commissioner Band liked the idea of revisiting the issue in three to five years because things change and they do not know what will happen over time. She reiterated her previous position of not allowing private clubs on the street level.

Chair Strachan opened the public hearing.

Alison Butz representing the Historic Park City Alliance stated that HPCA was 100% in favor of the regulations outlined in the Staff report. They appreciate the Staff walking the area and understanding some of the concerns about the plazas. Ms. Butz was happy to relook at this in three years. She believed that if the market continues they would see business move down there anyway. However, to require someone to open a retail store in some of those challenging spaces would result in businesses failing. Ms. Butz favored giving opportunities for success with an office use within the next few years. Regarding event space in storefront property, she noted the HPCA was supportive of that only being allowed during a Master Festival License or a Special Event Permit. What they currently see is a decrease in vibrancy around those larger spaces that are only occupied during January. She hoped that by restricting events during the other times of years it would spur on some year-around uses in those areas. It was part of a larger discussion by the HPCA regarding tenant mix of how to maintain authenticity, local businesses, the mom and pop shops, and maintain historic Park City and Main Street as a shopping and entertainment District. It is harder to sell that idea when buildings are vacant. Ms. Butz appreciated the work the Staff had done.

Mike Sweeney stated he carefully read the Staff report and he generally agreed with Ms. Butz except for special events. He noted that there are places where special events should occur, but the issue that the HPCA was raising situations like the Claimjumper, where the building owner does not need the money and only uses the space for special events or private event. Mr. Sweeney noted that there were no definitions for a public event and a private event. He thought they needed to think about these things because currently every restaurant can hold a private event without obtaining an Administrative CUP because they sell out their restaurant for one night. In reality, they are doing what the HPCA wants to do, which is bring more people to Main Street. Mr. Sweeney suggested that some of the language in the document needed to be clarified. In general, he was very pleased with what Director Erickson and Planner Whetstone had drafted but they needed to work on specific definitions. Mr. Sweeney stated that he holds private and public events on his deck. He pulled an Administrative CUP that he pulled in 2006 which allows him to do certain things on the deck, subject to the rest of the Code and making sure it is a safe event. Mr. Sweeney requested the opportunity to spend more time with the Staff and walk through this process. He also had issue with the 50' horizontal off of public streets. He did not want to encourage people to have a 50' setback on Main Street or any other commercial area streets. Mr. Sweeney thought the language should be clarified. He liked what was currently in place. He did not think it was acceptable to encourage people who have vacant spaces to go back 50 feet on Main Street. A 50' setback did not make sense. Mr. Sweeney stated that if there is a hole on Main Street, for example the Kimball Art Center, it stops the transition of people moving across the street, which is not good. They need to keep the continuity of the shops all the way along the street.

Mr. Sweeney commented on the question regarding Park Avenue on the west side. He stated that there is an approved project by the bridge which has commercial space, but it was questionable whether someone would spend the money to do the project. Mr. Sweeney commented on projects on the east side of Park Avenue below the Sumo Restaurant and noted that they now have commercial space all the way down to 9<sup>th</sup> Street. He would like to see that evolve into something special.

Chair Strachan closed the public hearing.

Commissioner Band thought the Staff had done a great job. In terms of the discussion points on page 99 she was satisfied with Items 1 and 2. Item 3, she liked that they defined Public Plaza even though she agreed that they should not force that issue at this time. Commissioner Band was in agreement with Items 4, 5 and 6.

Commissioner Thimm believed that excluding the plaza areas was the right thing to do. He has been on those plazas and even during the busy season it was always very quiet. He thought allowing office uses on the plazas was appropriate. Commissioner Thimm

reviewed the list of discussion points. He agreed with Item 1. Item 2, talks about lobbies and access points being appropriate at street level for prohibited uses, and he thought they should also include exits. Commissioner Thimm was not opposed to limiting to a certain percentage, but he suggesting adding the caveat that there could be a minimum allowable size depending on the size of the building. For example, a three-foot wide lobby would not be appropriate if the intent is to have an access point where people can connect to that space and out to the sidewalk.

Planner Whetstone noted that the Staff had that same thought, and the question was how to clarify the size of a lobby to avoid having an entire storefront lobby. The Staff still needed to work out the details.

Commissioner Thimm thought the suggestion in Item 3 to revisit the lower Main Street area in three to five years was a good idea. Regarding Item 4, Commissioner Thimm asked why exclusions were being looked at. Planner Whetstone clarified that it was primarily the plaza space. Item 5 addressed transitional edges. Commissioner Thimm agreed with providing a transition at the edge of the zone. He believed that softening the edge of a zone when there is a drastic change to the next zone was appropriate. With regard to Item 6, whether new construction and remodels should create storefronts, Commissioner Thimm agreed with the language providing that there was enough latitude to allow for replacement in kind to improve the aesthetics, even if there was not a change in use. Planner Whetstone reported that the Staff was still working with the Legal Department on where that regulation would fit in the Code.

Assistant City Attorney McLean stated that the Legal Department was thinking about requiring storefront property in the zone where this applies, and anything pre-existing would fall under the non-conforming status, and the non-complying structure would match the State Code. If more than 50% of the building was renovated or changed, it would lose that non-conforming status and they would have to put in a storefront.

Commissioner Campbell thought they needed to support whatever occurs in the Plazas regardless of whether or not they like the design in the lower Main Street area. Anything they could do to make it more viable was worth doing. Commissioner Campbell understood from the discussion that an office could go into plaza space now, but when this is reviewed in three years it might not be allowed. Assistant City Attorney McLean replied that if it is changed in three years, the existing offices would be grandfathered. Ms. McLean noted that currently there are real estate offices on Main Street because they were in existence prior to the 2009 LMC amendments. As long as they continue that use and do not abandon it for more than one year, they are allowed to continue that use.

Commissioner Joyce was comfortable with everything except what was excluded. He thought the west side of Park Avenue could become an issue. Currently there is a lot of residential, which is fine, because it would all be grandfathered until the use is abandoned. However, he was concerned about the possibility of tearing down residential houses to build commercial that is allowed in the zone. Commissioner Joyce understood the cut off at 9<sup>th</sup> Street because it is the end of Main Street, but he did not understand 8<sup>th</sup> Street on Main Street or Park Avenue because it seemed unusually artificial.

Director Erickson suggested that they reconsider the HRC designation on the west side because vertical zoning would not have the controls Commissioner Joyce was looking for. Director Erickson thought that was a discussion worth having at a different time if the Commissioners agreed that additional study needed to be done on whether vertical zoning was appropriate for the west side of Park Avenue. He is an advocate of the free market, but he questioned whether the free market would work well on the west side or if some regulation was needed.

Commissioner Joyce asked if they make the changes and include down to 9<sup>th</sup> Street whether that would be included anyway because they were MPDs. Director Erickson believed they would be grandfathered in because they were previous MPDs. Planner Whetstone thought it would depend on what was specified in the Development Agreement. She pointed out that since there is less activity going further away from Main Street north towards 9th, the Staff did not feel that this was the appropriate time to look at it.

Director Erickson stated that the Staff could come back with more strategy clarification. The Staff was pushing towards free market north of 8<sup>th</sup>, but if regulatory affairs are needed the Commissioners could make that decision. Commissioner Joyce appreciated the offer to come back with additional strategies because unless they do something different they could risk losing it. He was primarily interested in looking at the east side of Park Avenue and Main Street.

Chair Strachan wanted to know if an MPD would be subject to vertical zoning. Assistant City Attorney McLean agreed with Planner Whetstone that it would depend on the development agreement. If the developer agreement is silent and just says commercial then it would be subject to the regulations of the zone. She would look at the wording in the development agreement.

Commissioner Phillips favored the idea of getting more information. He thought the Staff had done a good job. Commissioner Phillips liked the removal of the plaza and the idea of revisiting the issue. However, instead of a three to five year time frame he suggested relooking at it when the buildings fill up to a certain point.

Director Erickson stated that this District is under constant review by the Historic Main Street Business Alliance and the two organizations managed by the City Council. It is an ongoing, constant review. Director Erickson noted that the three to five year period would allow enough time to gather evidence without being too long. Commissioner Phillips agreed with the comments made by his fellow Commissioners. He believed the amendment was in line with the intention of the General Plan.

Commissioner Worel echoed the comments of her fellow Commissioners. She thought it would be helpful to get more strategic information on why this all came to be the way it is. Commissioner Worel appreciated the comment by Mike Sweeney in regards to needing more definitions. She noted that page 96 of the Staff report talks about abandonment of buildings. She asked if someone has a business license and only open three months a year, whether the remainder of the year would be considered abandonment. Assistant City Attorney McLean stated that it would depend on the use. However, if the owner has an active business license for three weeks of the year it would not be considered abandonment. Commissioner Worel noted that it would not protect from all the dark spaces on the street. Ms. McLean stated that dark spaces would be a separate conversation. Commissioner Worel was still not clear on what would constitute abandonment. Chair Strachan believed that abandonment would be the intent to abandon the use. Ms. McLean remarked that abandonment has to do with being grandfathered in. An existing non-conforming use is allowed to continue until it is abandoned for 12 months. She pointed out that there is no way to equate that an empty building was not a use. Ms. McLean stated that the question has been raised in the past and there is a large concern by the Main Street Merchants regarding those dark spaces. She was unsure how a City could tell someone that they must have an active business inside of their building. Commissioner Worel thought there could be a way but this was not the time to discuss it.

MOTION: Commissioner Band moved to CONTINUE the Land Management Code Amendments regarding vertical zoning storefront regulations in Chapter 15-2.5-2, Chapter 15-2.6-2 and the associated definitions in Chapter 15-15 to November 11, 2015. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

7. **Consideration of an ordinance amending the Land Management Code Section 15, Chapter 11 and all historic zones to expand the Historic Sites Inventory and require review by the Historic Preservation Board of any demolition permit in a historic district and associated definitions in Chapter 1515.**  
**(Application PL-15-02895)**

**Kirsten Whetstone**

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**From:** James Dumas <james@highwest.com>  
**Sent:** Tuesday, October 20, 2015 10:57 AM  
**To:** Kirsten Whetstone  
**Subject:** Re: Land Management Code changes

Hi Kirsten:

thanks for your prompt reply and explanation. Big sigh of relief to know that you are looking at the restaurant private event business. A CUP would be hard to weave into the multiple small events we have.

thx

james

> On Oct 20, 2015, at 10:27 AM, Kirsten Whetstone <[kirsten@parkcity.org](mailto:kirsten@parkcity.org)> wrote:

>

> Good morning James

>

> We are proposing some changes to the HRC zone regarding the Vertical Zoning.

> We've proposed excluding the west side of Park Avenue from the Vertical Zoning.

>

> We are exploring ways to ensure that private event space in the Main Street area does not leave the street with dark spaces for much of the year. One way was to not allow private event space within storefronts (defined in the code as the first 50 feet of store front area, floor area, as measured from the street... working on this definition as well).

>

> We had proposed an admin cup for private events so we would be able to regulate the duration... but it is something we are rethinking because we do not intend for restaurants who will close for a private event on occasion, to have to have an admin CUP... nor do we really intend to require an admin CUP for such activities that are a normal part of a restaurant business.

>

> Stay tuned because we did hear these comments at the last Planning Commission meeting and we are currently working on better language. The next scheduled meeting with the Commission is November 11th.

>

> Kirsten



## Kirsten Whetstone

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**From:** eric nelson <enelson1213@gmail.com>  
**Sent:** Wednesday, July 01, 2015 11:53 AM  
**To:** Kirsten Whetstone  
**Subject:** Vertical Zoning

Kirsten: Thought I would way in on your revised vertical zoning ordinance. There is a phenomena happening on Main Street that should concern the City. Retail/store front space is not being leased to long term tenants but are being used as event centers for Sundance. Building owners can make more money leasing to a Sundance tenant than they can leasing to a retail tenant for one year. Two properties on Main Street fall into that category. The Silver Queen Hotel and the Claimjumper. Two iconic properties. There are more property owners looking at this. These Sundance uses do nothing for Main Street and create no sales tax revenue for the City. This issue should be looked at. There are a number of ideas to prevent this.

# Memo



**To:** HPCA Board  
**From:** Alison Butz  
**Date:** July 21, 2015  
**Subject:** Vertical Zoning Talking Points

This memo is being provided as a reference to talking points that will be communicated to the Planning Department during their discussions on Vertical Zoning.

**Revision of Uses Prohibited within Storefront Properties**

**HRC: Prohibited Uses in Storefront Property on Main Street, Swede Alley, Heber Avenue and Park Avenue.**

Allowed Use	Conditional Uses
Single Family Dwelling	Triplex Dwelling
Duplex Dwelling	Multi-Unit Dwelling
Secondary Living Quarters	Guest House, on Lots one acre
Lockout Unit	Group Care Facility
Accessory Apartment	Recreational Facility, Commercial, Public, and Private

All uses listed above are prohibited in HRC Zoned Storefront Property on Main Street, Swede Alley, Heber Avenue, and Park Avenue, excluding those HRC zoned Areas on the west side of Park Avenue north of Heber Avenue. Hotel rooms shall not be located within Storefront Property. Access and Lobbies for prohibited Uses are permitted within Storefront Property provided they take up no more than 25% of the total Storefront Area. Buildings shall not be designed, redesigned, or constructed to eliminate Storefront Property on Main Street, Swede Alley, Heber Avenue and Park Avenue.

HPCA Comments: The HPCA supports the amendment to prohibit these uses within Storefronts.

**HCB: Prohibited Uses in Storefront Property on Main Street, Swede Alley, Heber Avenue and Park Avenue.**

Allowed Uses	Conditional Uses
Single Family Dwelling	Group Care Facility
Multi-Unit Dwelling	Timeshare Projects and Conversions
Secondary Living Quarters	Timeshare Sales Office, Off-Site within an enclosed Building
Lockout Unit	Private Residence Club Project and Conversion
Accessory Apartment	Office, Intensive
Home Occupation	Hospital, Limited Care Facility
Child Care, In-Home Babysitting	Parking Area or Structure for five (5) or more cars
Child Care, Family	
Child Care, Family Group	
Child Care Center	
Accessory Building and Use	
Bed and Breakfast Inn	
Boarding House, Hostel	
Hotel, Minor, fewer than 16 rooms	
Office, Moderate Intensive	
Office and Clinic, Medical	
Parking Lot, Public or Private with four (4) or fewer spaces	



All uses listed above are prohibited in HCB Zoned Storefront Property on Main Street, Heber Avenue and Swede Alley. Hotel rooms shall not be located within Storefront Property. Access and Lobbies for prohibited Uses are permitted within Storefront property provided they take up no more than 25% of the total Storefront Area. Buildings shall not be designed, redesigned, or constructed to eliminate Storefront Property on Main Street, Swede Alley, Heber Avenue and Park Avenue.

HPCA Comments: The HPCA supports the amendment to prohibit these uses within Storefronts.

### **Definitions**

**Private Plaza.** Private Property in excess of 1,000 square feet that generally serves as common area to adjoining Commercial Development and is free of Structures, is hard surfaced and/or landscaped. Private Plazas generally provide an area for pedestrian circulation, common amenities, and act as a gathering space for private or public purposes.

HPCA Comments: This is a new definition within the Land Management Code. It is strictly a definition so the HPCA supports the addition.

### **Property, Storefront**

A separately enclosed space or unit that has a window or entrance that fronts on a Public Street or on a Public or Private Plaza. For purposes of this provision, the term "fronts on a Public Street or on a Public or Private Plaza" shall mean a separately enclosed space or unit with:

- (1) A window and/or entrance within fifty lateral/horizontal feet (50') of the adjacent Public Street or Public or Private Plaza; and
- (2) A window and/or entrance that is not more than eight (8') above or below the grade of the adjacent Public Street or Public or Private Plaza.

In the case of split-level, multi-level Buildings with only one primary entrance, only those fully enclosed spaces or units that directly front the Street or Public or Private Plaza as set forth above, shall be designated to be a "Storefront Property". The Planning Director or designee shall have the final determination of applicability.

HPCA Comments: The HPCA opposes the addition of language that includes "Private Plaza". Areas such as the Marriott Summit Watch do not draw pedestrian traffic. Even with the addition of amenities that would appeal to pedestrians, it is unlikely that a retail establishment can thrive in the area. Offices uses have been what historically have been located there. These types of destination businesses can succeed in this environment.

**Storefront Property.** A separately enclosed space or unit that has a window or entrance that fronts on a Public Street or on a Public or Private Plaza. For purposes of this provision, the term "fronts on a Public Street or on a Public or Private Plaza" shall mean a separately enclosed space or unit with:

- (1) A window and/or entrance within fifty lateral/horizontal feet (50') of the adjacent Public Street or Public or Private Plaza; and
- (2) A window and/or entrance that is not more than eight feet (8') above or below the grade of the adjacent Public Street or Public or Private Plaza.

In the case of split-level, multi-level Buildings with only one primary entrance, only those fully enclosed spaces or units that directly front the Street or Public or Private Plaza as set forth above, shall be designated to be a "Storefront Property". The Planning Director or designee shall have the final determination of applicability.

HPCA Comments: The HPCA opposes the addition of language that includes "Private Plaza". Areas such as the Marriott Summit Watch do not draw pedestrian traffic. Even with the addition of amenities that would appeal to pedestrians, it is unlikely that a retail establishment can thrive in the area. Offices uses have been what historically have been located there. These types of destination businesses can succeed in this environment.

### **Additional Comments**

The HPCA is interested in participating in the vertical zoning discussion further. We continue to support the location of sales tax generating businesses in storefronts along public streets to ensure continued vibrancy of the area.

The HPCA would like to explore with the City opportunities to support the location of offices on second floors in the district and the ability to promote nightly rentals in the district.

Furthermore, the HPCA supports further discussion regarding special event space on the street. There are a number of buildings that are only occupied during the Sundance Film Festival. The HPCA wants to see these spaces activated at additional times during the year.



## Kirsten Whetstone

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**From:** Craig Elliott <celliott@elliottworkgroup.com>  
**Sent:** Tuesday, July 21, 2015 4:11 PM  
**To:** Kirsten Whetstone; thenneygc@gmail.com  
**Subject:** Storefront Property Definition

Kirsten and Tim:

Thanks for joining HPCA today for the discussion. The discussion seemed to go a bit out of the overall intended direction, but that's how it goes with such a large invested and diverse group. I am available and willing to discuss these issues, so feel free to ask anytime the opinion of a frequent code user.

I didn't want to bring up the issues with the code changes in the HPCA meeting as it is a bit too code geek for that particular venue. Here are my comments about the language below.

The problem lies with the definition of "Storefront Property" and the subtext below the Allowed Uses.

1. Subtext: "*Buildings shall not be designed, redesigned or constructed to **eliminate** Storefront Property...*". If there is no existing storefront, then designing a building without storefront would be OK because it does not **eliminate** Storefront Property. Change the language to require what is desired instead of eliminating what is not desired.
2. Definition: Storefront Property. If the space fronting onto a Public Street or Public Way does not have a window or door, it will not be classified as Storefront and thus not required to meet the desired outcome. Change the language to require a certain percentage of the street area to be window and/or door. This way what is desired will be required and actually qualify as Storefront.

By the way and for what it is worth, these changes are very form based code like. A code that describes the desired outcome.

Craig Elliott, AIA  
ELLIOTT WORKGROUP  
364 Main Street  
P.O. Box 3419  
Park City, Utah 84060  
801.415.1839 ext 301  
[elliottworkgroup.com](http://elliottworkgroup.com)

## Kirsten Whetstone

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**From:** Michael Sweeney <mikesweeneygold@me.com>  
**Sent:** Monday, October 12, 2015 1:50 PM  
**To:** Kirsten Whetstone  
**Cc:** Alison Butz (alison@prospectorsquare.com)  
**Subject:** Re: Verrtical Zoning LMC Amendments going to Planning Commission on Wednesday

Kirsten,

Thanks for the heads up.

I took a quick read and have only one question pertaining to the definition of "Property, Storefront (A) (1) A window and/or entrance within fifty (50) of the adjacent Public Street measured from the edge of pavement to the window or entrance." This definition is confusing. If I recall correctly, there are no buildings with an entrance or window that is 50 feet from the pavement, i.e., there is no fifty foot setback from the pavement in the HCB or HCR zones on Main Street, Swede Alley, Heber and Park Avenue. Most of the buildings are built to the side walk or road curb if there are no side walks.

Regards,

Michael Sweeney  
[mikesweeneygold@me.com](mailto:mikesweeneygold@me.com)  
PO Box 2045 Park City, UT 84060  
1 (801) 244-9696

On Oct 12, 2015, at 10:22 AM, Kirsten Whetstone <[kirsten@parkcity.org](mailto:kirsten@parkcity.org)> wrote:

Hi Mike and Alison

I wanted to give you a heads up regarding the amended Vertical Zoning Ordinance. The Planning Commission is scheduled to hear the revised, proposed LMC Amendments for Vertical Zoning. The item is noticed for a public hearing, discussion, and continuation to November 11<sup>th</sup> for possible recommendation to City Council. The City Council meeting would likely be December 3, 2015.

I've attached the staff report and exhibits. They are also available on line. Please forward or share with anyone else you think has an interest. Let me know if you have any comments that you would like to pass along to the Commission.

The item is near the end of the regular meeting, but difficult to say what time it will actually come up (most likely after 6 or even 6:30pm but the meeting officially starts at 5:30 pm).

Kirsten

Kirsten A. Whetstone, MS, AICP

Senior Planner

Park City Planning Department  
PO Box 1480  
Park City, UT 84060

<image003.jpg>

<PL-15-02810 LMC Amendments Vertical Zoning RPT and EX for PC 10 14 15 Final.pdf>

## Ordinance No. 07-55

**AN ORDINANCE APPROVING AMENDMENTS TO THE PARK CITY LAND MANAGEMENT CODE TO CHAPTERS 15-2.6: HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT AND 15-2.5 HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT, RELATING TO PROHIBITING OFFICE, RESIDENTIAL, NON-SALES TAX GENERATING USES AND OTHER SIMILAR OR ASSOCIATED USES IN THE HCB DISTRICT AND HRC DISTRICT STOREFRONTS; ALSO RELATED AMENDMENT TO LAND MANAGEMENT CODE CHAPTER 15-15-1: DEFINITIONS.**

WHEREAS, the Land Management Code is designed and enacted to implement the objectives of the Park City General Plan; to protect the general health, safety, and welfare of Park City's citizen's and property owners; to maintain the quality of life and experience for its residents and visitors; and to preserve the community's unique character and values;

WHEREAS, Park City has an interest in promoting vibrancy and activity in the historic Main Street downtown area located in the Historic Commercial Business (HCB) and the Historic Recreation Commercial (HRC) Districts and finds it is essential to the City's long term economic and financial well-being; and

WHEREAS, The Community Economy Element of the Park City General Plan states that "Temporary or transient real estate project offices should be encouraged to locate in other areas of the City in order for Main Street to retain its primary functions"; and goes on to say Park City should "Maintain and improve the resort ambiance, which includes adequate opportunities for recreation, shopping, dining and culture"; and

WHEREAS, the 2003 Hyett Palma Park City Downtown Economic Study recommends pursuing a broad variety of uses and attractions to draw locals and visitors; and

WHEREAS, The City's Budget Department and The Main Street Business Alliance have submitted Affidavits that support these amendments; and

WHEREAS, Park City's Economic Development Plan identifies the following as Top Priorities: Facilitation and establishment of more "attractions/areas of interest" for both visitors and residents; Maintain and improve the balance of Sustainable Community goals by going beyond just economic initiatives to include social and environmental strategies; and Protect, preserve, and promote the historic Main Street downtown area as the heart of the region; and

WHEREAS, Park City's Economic Development Strategic Plan identifies the following as High Priorities: Further develop and market the uniqueness of Park City and why it is set apart from other mountain resort communities; Proactively target



business sectors that will fill voids left by departing companies or for smart redevelopment reasons; and

WHEREAS, in the HCB and HRC Districts, Office uses that are not inviting to the general public to access them will diminish the diverse and eclectic mix of uses and attractions necessary to sustain Park City's unique vibrant Main Street core for the general public, visitors, quests, and locals; and

WHEREAS, the City monitors the downtown business mix and sales tax generation as part of its financial health assessment and finds a diversified business mix is an element of Main Street's attractiveness and a destination center for visitors and locals; and

WHEREAS, the long-term economic sustainability of Park City depends upon the continued economic success and aesthetic attractiveness of commercial and mixed-use buildings and districts in and near the downtown core; and

WHEREAS, a preliminary discussion was held at the joint Planning Commission/City Council work session on April 5, 2007 regarding legislative remedies available to ensure the continuation of a successful business mix on historic Main Street; and

WHEREAS, in the HCB and HRC Districts, Office uses that are not inviting to the general public to access them will have a negative effect upon the overall economy and vitality of the downtown core as visitors find fewer businesses in which to shop or restaurants in which to eat. A reduction in visitor traffic will have a net negative impact to sales tax overall. A reduction in visitor numbers will also signal a change in the culture of Main Street into an elite area that is less inviting to the majority of Park City's visitors, guests, and locals; and

WHEREAS it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Utah State Code and the Park City General Plan, and to be consistent with the values and identified goals of the Park City community to protect health and safety, maintain the quality of life for its residents, and to preserve the community's unique character.

WHEREAS, the Council determines after evaluating issues of fairness and the overall intent of the regulation that the application of pending ordinance doctrine shall be revoked up to the date of adoption;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

**SECTION 1. APPROVAL OF AMENDMENT.** CHAPTERS 15-2.5  
Historic Recreation Commercial (HRC) District, 15-2.6 Historic Commercial Business

(HCB) District, and 15-15-1 Definitions, of the Land Management Code are hereby amended to read as attached hereto on Exhibits "A", "B" and "C".

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall become effective upon publication and the pending ordinance rule shall become effective as of the date of adoption.

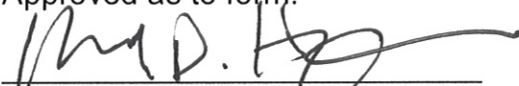
PASSED AND ADOPTED this 30<sup>th</sup> day of August, 2007.

PARK CITY MUNICIPAL CORPORATION

  
\_\_\_\_\_  
Dana Williams, Mayor

Attest:

  
\_\_\_\_\_  
Janet M. Scott, City Recorder

Approved as to form:  
  
\_\_\_\_\_  
Mark D. Harrington, City Attorney



## EXHIBIT A - HRC

### **TITLE 15 - LAND MANAGEMENT CODE (LMC)** **CHAPTER 2.5 - HISTORIC RECREATION COMMERCIAL (HRC) DISTRICT**

*Chapter adopted by Ordinance No. 00-51*

#### **15-2.5-1. PURPOSE.**

The purpose of the Historic Recreation Commercial (HRC) District is to:

- (A) maintain and enhance characteristics of Historic Streetscape elements such as yards, trees, vegetation, and porches,
- (B) encourage pedestrian oriented, pedestrian-scale Development,
- (C) minimize visual impacts of automobiles and parking,
- (D) preserve and enhance landscaping and public spaces adjacent to Streets and thoroughfares,
- (E) provide a transition in scale and land Uses between the HR-1 and HCB Districts that retains the character of Historic Buildings in the Area,
- (F) provide a moderate Density bed base at the Town Lift,
- (G) allow for limited retail and Commercial Uses consistent with resort bed base and the needs of the local community,
- (H) encourage preservation and rehabilitation of Historic Buildings and resources.
- (I) maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.**

#### **15-2.5-2. USES.**

Uses in the HRC are limited to the following:

- (A) **ALLOWED USES.**
  - (1) Single Family Dwelling
  - (2) Duplex Dwelling
  - (3) Secondary Living Quarters

- (4) Lockout Unit<sup>1</sup>
- (5) Accessory Apartment<sup>2</sup>
- (6) Nightly Rental
- (7) Home Occupation
- (8) Child Care, In-Home Babysitting
- (9) Child Care, Family<sup>3</sup>
- (10) Child Care, Family Group<sup>3</sup>
- (11) Child Care Center<sup>3</sup>
- (12) Accessory Building and Use
- (13) Conservation Activity
- (14) Agriculture
- (15) Bed and Breakfast Inn<sup>4</sup>
- (16) Boarding House, Hostel
- (17) Hotel, Minor, fewer than 16 rooms
- (18) Office, General<sup>5</sup>
- (19) Parking Area or Structure, with four (4) or fewer spaces

(B) **CONDITIONAL USES.**

- (1) Triplex Dwelling
- (2) Multi-Unit Dwelling
- (3) Guest House, on Lots one acre
- (4) Group Care Facility
- (5) Public and Quasi-Public Institution, Church, School
- (6) Essential Municipal Public Utility Use, Facility, Service and Structure
- (7) Telecommunication Antenna<sup>6</sup>
- (8) Satellite Dish, greater than thirty-nine inches (39") in diameter<sup>7</sup>
- (9) Plant and Nursery stock products and sales
- (10) Hotel, Major
- (11) Timeshare Projects and Conversions

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<sup>1</sup>Nightly rental of Lockout Units requires a Conditional Use permit

<sup>2</sup>See LMC Chapter 15-4, Supplementary Regulations for Accessory Apartments

<sup>3</sup>See LMC Chapter 15-4-9 for Child Care Regulations

<sup>4</sup>Requires an Administrative Conditional Use permit

<sup>5</sup>**Prohibited in Storefronts adjacent to the Main Street, Swede Alley, Heber Avenue, or Park Avenue (excluding those HRC zoned areas north of the 8<sup>th</sup> Street) rights-of-way; excluding without limitation, addresses contained within the following Buildings: 702 Main Street, 710 Main Street, 780 Main Street, 804 Main Street, 890 Main Street, and 900 Main Street.**

<sup>6</sup>See LMC Chapter 15-4-14, Supplemental Regulations For Telecommunication Facilities

<sup>7</sup>See LMC Chapter 15-4-13, Supplemental Regulations For Satellite Receiving Antennas

- (12) Private Residence Club Project and Conversion<sup>4</sup>
- (13) Office, Intensive
- (14) Office and Clinic, Medical
- (15) Financial Institution, without drive-up window<sup>8</sup>
- (16) Commercial Retail and Service, Minor<sup>7</sup>
- (17) Commercial Retail and Service, personal improvement<sup>7</sup>
- (18) Neighborhood Convenience Commercial, without gasoline sales
- (19) Café or Deli<sup>7</sup>
- (20) Restaurant, General<sup>7</sup>
- (21) Restaurant and café, Outdoor Dining<sup>4</sup>
- (22) Outdoor Events<sup>4</sup>
- (23) Bar
- (24) Parking Area or Structure, with five (5) or more spaces
- (25) Temporary Improvement
- (26) Passenger Tramway Station and Ski Base Facility
- (27) Ski Tow, Ski Lift, Ski Run, and Ski Bridge
- (28) Recreation Facility, Commercial, Public, and Private
- (29) Entertainment Facility, Indoor
- (30) Fences greater than six feet (6') in height from Final Grade<sup>4</sup>
- (31) Private Residence Club, Off-Site<sup>5</sup>**

(C) **PROHIBITED USES**. Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

*(Amended by Ord. Nos. 04-39; 06-69)*

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<sup>8</sup>If Gross Floor Area is less than 2,000 sq. ft., the Use shall be considered an Allowed Use

## EXHIBIT B

### TITLE 15 - LAND MANAGEMENT CODE (LMC) CHAPTER 2.6 - HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT

*Chapter adopted by Ordinance No. 00-15*

#### **15-2.6-1. PURPOSE.**

The purpose of the Historic Commercial Business (HCB) District is to:

- (A) preserve the cultural heritage of the City's original Business, governmental and residential center,
- (B) allow the Use of land for retail, commercial, residential, recreational, and institutional purposes to enhance and foster the economic and cultural vitality of the City,
- (C) facilitate the continuation of the visual character, scale, and Streetscape of the original Park City Historical District,
- (D) encourage the preservation of Historic Structures within the district,
- (E) encourage pedestrian-oriented, pedestrian-scale Development,
- (F) minimize the impacts of new Development on parking constraints of Old Town,
- (G) minimize the impacts of commercial Uses and business activities including parking, Access, deliveries, service, mechanical equipment, and traffic, on surrounding residential neighborhoods,
- (H) minimize visual impacts of automobiles and parking on Historic Buildings and Streetscapes, and
- (I) support Development on Swede Alley which maintains existing parking and service/delivery operations while providing Areas for public plazas and spaces.
- (J) maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.**

#### **15-2.6-2. USES.**

Uses in the Historic Commercial Business (HCB) District are limited to the following:

(A) **ALLOWED USES.**

- (1) Single Family Dwelling<sup>9</sup>
- (2) Multi-Unit Dwelling<sup>1</sup>
- (3) Secondary Living Quarters<sup>1</sup>
- (4) Lockout Unit<sup>1,10</sup>
- (5) Accessory Apartment<sup>1,11</sup>
- (6) Nightly Rental<sup>12</sup>
- (7) Home Occupation<sup>1</sup>
- (8) Child Care, In-Home Babysitting<sup>1</sup>
- (9) Child Care, Family<sup>1,13</sup>
- (10) Child Care, Family Group<sup>1,5</sup>
- (11) Child Care Center<sup>1,5</sup>
- (12) Accessory Building and Use<sup>1</sup>
- (13) Conservation Activity
- (14) Agriculture
- (15) Bed and Breakfast Inn<sup>14</sup>
- (16) Boarding House, Hostel
- (17) Hotel, Minor, fewer than 16 rooms
- (18) Office, General<sup>1</sup>
- (19) Office, Moderate Intensive<sup>1</sup>
- (20) Office and Clinic, Medical<sup>1</sup>
- (21) Financial Institution, without drive-up window
- (22) Commercial Retail and Service, Minor
- (23) Commercial Retail and Service, personal improvement
- (24) Commercial Neighborhood Convenience, without gasoline sales
- (25) Restaurant, Cafe or Deli
- (26) Restaurant, General
- (27) Bar
- (28) Parking Lot, Public or Private with four (4) or fewer spaces
- (29) Entertainment Facility, Indoor
- (30) Salt Lake City 2002 Winter Olympic Games Legacy Display<sup>15</sup>

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<sup>9</sup>**Prohibited in Storefronts adjacent to the Main Street, Heber Avenue, or Swede Alley Rights-of-Way.**

<sup>10</sup>Nightly Rental of Lock Units requires a Conditional Use permit

<sup>11</sup>See LMC Chapter 15-4, Supplementary Regulations for Accessory Apartments

<sup>12</sup>Nightly Rental of residential dwellings does not include the Use of dwellings for Commercial Uses

<sup>13</sup> See LMC Chapter 15-4-9 for Child Care Regulations

<sup>14</sup>Requires an Administrative Conditional Use permit

<sup>15</sup>Olympic Legacy Displays limited to those specific Structures approved under the SLOC/Park City Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed on the original Property set forth in the services Agreement and/or Master Festival License.



(B) **CONDITIONAL USES.**

- (1) Group Care Facility<sup>1</sup>
- (2) Public and Quasi-Public Institution, Church, School
- (3) Essential Municipal Public Utility Use, Facility, Service, and Structure
- (4) Telecommunication Antenna<sup>7</sup>
- (5) Satellite Dish, greater than thirty-nine inches (39") in diameter<sup>8</sup>
- (6) Plant and Nursery stock products and sales
- (7) Hotel, Major
- (8) Timeshare Projects and Conversions<sup>1</sup>
- (9) Timeshare Sales Office, Off-Site within an enclosed Building<sup>1</sup>
- (10) Private Residence Club Project and Conversion<sup>5</sup>
- (11) Commercial Retail and Service, Major
- (12) Office, Intensive
- (13) Restaurant, Outdoor Dining<sup>5</sup>
- (14) Outdoor Events
- (15) Hospital, Limited Care Facility
- (16) Parking Area or Structure for five (5) or more cars
- (17) Temporary Improvement
- (18) Passenger Tramway Station and Ski Base Facility
- (19) Ski Tow, Ski Lift, Ski Run, and Ski Bridge
- (20) Recreation Facility, Public or Private
- (21) Recreation Facility, Commercial
- (22) Fences greater than six feet (6') in height from Final Grade<sup>5</sup>
- (23) Salt Lake City 2002 Winter Olympic Games Olympic Legacy Displays<sup>9</sup>
- (24) Private Residence Club, Off-Site<sup>1</sup>

(C) **PROHIBITED USES.** Any Use not listed above as an Allowed or Conditional Use is a prohibited Use.

*(Amended by Ord. No. 02-38; 04-39; 06-69)*

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<sup>7</sup>See LMC Chapter 15-4-14, Supplemental Regulations for Telecommunication Facilities

<sup>8</sup>See LMC Chapter 15-4-13, Supplemental Regulations for Satellite Receiving Antennas

<sup>9</sup>Olympic Legacy Displays limited to those specific Structures approved under the SLOC/ Park City Municipal Corporation Olympic Services Agreement and/or Olympic Master Festival License and placed in an Area other than the original location set forth in the services agreement and/or Master Festival License.

## Exhibit C

### TITLE 15 - LAND MANAGEMENT CODE (LMC) CHAPTER 15 - DEFINITIONS

*Chapter adopted by Ordinance No. 00-25*

#### CHAPTER 15 - DEFINED TERMS.

##### 15-15-1.44. Club.

(E) Club, Private Residence, Off-Site. Any Use organized for the exclusive benefit, support of, or linked to or associated with, or in any way offers exclusive hospitality services and/or concierge support to any defined Owner's association, timeshare membership, residential club, or real estate project. Hospitality includes but is not limited to any of the following services: real estate, restaurant, bar, gaming, locker rooms, storage, salon, personal improvement, Office.

##### Storefront Property

A separately enclosed space or unit that has a window or entrance that fronts on a Public Street. For purposes of this provision, the term "fronts on a Public Street" shall mean a separately enclosed space or unit with:

1. A window and/or entrance within 50 lateral/horizontal feet of the back (inside building edge) of the public sidewalk; and
2. A window and/or entrance that is not more than 8 feet above or below the grade of the adjacent Public Street.

In the case of split-level, multi-level buildings with only one primary entrance, only those fully enclosed spaces or units that directly front the street as set forth above shall be designated to be a "Storefront Property." The Planning Director or their designee shall have the final determination of applicability.

**PARK CITY PLANNING COMMISSION  
JOINT WORK SESSION WITH CITY COUNCIL  
MAY 9, 2007**

PRESENT: Jim Barth, Michael O'Hara, Evan Russack, Mark Sletten, Jack Thomas, Charlie Wintzer

CITY COUNCIL: Mayor Dana Williams, Marianne Cone, Roger Harlan, Jim Hier

STAFF: Patrick Putt, Alison Butz, Brooks Robinson, Ray Milliner, Katie Cattan, Mark Harrington, Tom Bakaly

**WORK SESSION ITEMS**

**Discussion on Historic District and Main Street Land Management Code Issues, including but not limited to, Vertical Zoning, Steep-Slope CUP, and Plat Amendments**

Vice-Chair Thomas assumed the chair and opened the work session. Chair O'Hara arrived later in the meeting.

Planning Director Patrick Putt reported that a month ago the Planning Commission and City Council met in a joint meeting. At that meeting they asked him to research the Historic District and come back with a presentation on what is built out in the Historic District, how that evolved over time, and how the Land Management Code played a role in shaping what was built over several decades.

Director Putt reviewed exhibits showing pictures of various homes and architecture from different eras in Old Town. He explained his attempt to address the size of buildings through floor area ratio by comparing the size of the building with the size of the overall property. Director Putt stated that .9 was the floor area that existed in the Historic District for over a decade. On an Old Town lot of 18' x 75' you would be able to build a 1,687 square foot house.

Director Putt explained that he used hard files and information from the County Assessor to determine the building sizes shown on the exhibits.

Director Putt presented the first era, which was the historic era. He believes the community has the strongest emotional attachment to this era. During the historic period structures were built according to resources and needs. There was employee housing and manager housing. People built what they could afford and if they had the resources, they built something more permanent and more significant with a stronger architectural statement. Director Putt stated that historically in Old Town you did not see just small houses. He showed photos of larger structures built during that time ranging in size from 1800 square feet to 2400 square feet. There was a variety of building and building sizes and all were built when there was no Land Management Code or zoning regulations.

The second era was the 1970's to mid-1980's. During that time Park City went through a boom period and a lot of temporary housing was constructed for mine workers. Some could afford to build well; but those who could not, built what they needed to get by. Over the course of the 1940's to the early 1960's, as mining began to subside as an economic driver, Park City went through a ghost town period. Looking at photographs from the 1890's to the turn of the century, a lot of the wooden tents began to disappear leaving a landscape that appeared to be much less dense to those who moved to Park City in the 1960's and 1970's. In the 1970's and 1980's, when more

people came into town, Park City was a new resort and ski area. At that time it was important to build housing for resort guests and for the influx of employees. Director Putt remarked that during that period there was not a strong consciousness of Park City's historic character. The focus of the community was on the ski industry. He noted that the largest residential structures and the buildings that have no relation to what was built historically were built in the 1970's and 1980's. He presented photographs from that time period and indicated the variety of FAR's that resulted in substantially larger structures than what was built 10 years earlier. Director Putt pointed out that the square footage achievable at that point in time brought the structures down to the street and went up to the vertical maximum of 33 feet. He cautioned them to be careful about assigning value or importance to just height or just square footage. Director Putt stated that the structures built during the 1970's and 1980's were not what the City was hoping to achieve from a historic architectural standpoint.

Director Putt stated that by the mid-1980's the resort had been running approximately 20 years and people began to recognize the economic importance of the Historic District. They saw the creation of the National Historic District on Main Street and 1983 saw the creation and adoption of the Historic District guidelines. The community began to realize there was real value in the historic fabric and architecture in Old Town and that it was important to protect it. They started to move back to the historic form of architecture. Director Putt stated that besides being the right thing to do, it sold Park City as a different community from other ski resorts because they also had history. At that time, the community decided to solve the problem through height and bulk regulations and through zoning.

In the mid 1980's and the 1990's, Park City went through a series of changes that affected the building height. As they moved into the 1990's they dropped the 33 foot height to 27 feet. Director Putt presented a series of photographs that typify that ten year period. He stated that in trying to be black and white in an area as complex as Old Town, you begin to recognize that hard and fast numbers for building heights and square footage do not necessarily create the desired architecture. Director Putt noted that in order to achieve smaller buildings, the building size was regulated by a floor area ratio of .9. If you had more than one lot, you got the .9 for the first lot and .66 for each additional lot. That acted as a disincentive for people to combine lots to create the space for better architecture. This resulted in a series of buildings that were 19 feet wide and 33 feet high. The City made a conscious decision that smaller or shorter was not better architecture.

Recognizing that this problem needed to be resolved, the City decided to take an aggressive approach and in the late 1990's the Floor Area Ratio was eliminated to create the incentive to combine lots for better architecture and more flexibility. Director Putt stated that many of the problems had to do with the topography of the lot and at that time the Code was amended and the Steep Slope process was developed. He noted that the steep slope process was intended to have a set of specific criteria and building elements to help the Staff and Planning Commission set the intent of what they wanted to achieve in terms of appropriate infill in Old Town. He noted that the height was 27 feet; however a height exception could be considered to achieve some trade off. The trade off may be things such as additional architectural features or additional setback. In exchange, people could have particular roof forms that exceed the 27 foot height limit. The intent was for buildings to move back to the historic era.

Director Putt stated that contrary to what people are saying, Park City is not allowing 6,000 square foot houses to be built in Old Town. A few houses around the perimeter such as the Sweeney MPD are completely different subject matters and are really separate from Old Town. He believes the larger homes in Old Town are in the 3,000 square foot range.

Director Putt presented photos of houses that are six feet lower than anything built 10 to 20 years ago. Proportionately, those houses matched the old floor area ratios that were in existence 10 years ago.

Director Putt stated that the architectural forms of today attempt to solve the problems from the 1980's and are more in keeping with the Historic District Guidelines. He concluded that they are definitely heading in the right direction and they may be closer to what they want than they think.

Director Putt reviewed 10 Fundamental Concepts for getting Old Town back on track.

He believed that if they follow these 10 concepts, along with 6 recommendations he planned to present later in the presentation, it would significantly help to resolve the problem. He presented photos to demonstrate these concepts.

1. Look at a 1890 to 1900 era photograph of Park City and ponder its compact urban form, mixed uses, pedestrian staircases and walkways to establish its context. That is the model that needs to be reestablished.
2. History that can be seen, touched, and experienced has value. Don't tear down historic buildings.
3. Be authentic but be respectful. Seek new infill construction that responds to comparative historic surroundings, while expressing the values of the present community.
4. Read the definition of "addition" in the dictionary and apply those concepts when adding on to historic buildings.
5. People seek attachment to what is interesting and unique. Maintain, enhance and connect private and public open spaces.
6. Automobiles are acquired vices and are not historic. Do everything to reduce the visual impact of the vehicles. Emphasize everything that makes transit and walking practical and desirable.
7. Old Town is not for everyone. Cease the grieving, move on and accept it.
8. Eliminate or reduce visual blight along street and other public ways.
9. Mixed use is good and sustainable. Disproportional impacts are bad. Businesses on Main Street and Swede Alley must keep commercial services, deliveries, employee and patron parking out of residential neighborhoods.

10. If the Historic District is not livable it will not be viable.

Director Putt reviewed six recommendations that he thinks will address some of the ongoing problems in Old Town.

1. Establish limits or caps on the maximum building footprint achievable for any lot or lot combination.
2. Establish standards for attachments to historic buildings preserving the primary and secondary facade, as well as the roof.
3. Establish standards and criteria relating to how and when it may be appropriate to move, lift, or turn an historic building.
4. Establish greater clarity in the Historic District Design Guidelines for design elements including garages, exterior materials, building scale, form, and proportion.
5. Carefully review and apply steep slope conditional use criteria as written.
6. Establish a policy relating to the dismantling and panelization of historic buildings. Dismantling and panelization should be the last option in preservation.

Director Putt recommended moving forward with the above recommendations. He stated that it is not about square footage or height. It is about everything combined relating to proportion, scale, color, texture, detail, etc. The buildings are getting smaller and lower and they just need to consciously execute the plan more carefully.

Director Putt stated that he had asked everyone to identify buildings they would like to see analyzed.

One that came in several times was 633 Park Avenue. He noted that the overall lot size is 5600 square feet and the overall building size for all of the units is approximately 10,500 square feet with a FAR of 1.86. Director Putt remarked that this structure is in the HRC zone and is not subject to the maximum building footprint. It also has a building height of 37 feet.

Commissioner Wintzer stated that the only difference he could see is that the lots are getting steeper. He wondered if they have the necessary tools to address those lots as they move closer to vertical. Director Putt stated that an immediate tool would be lower height or a smaller entitlement.

He did not believe they have seen anything that extreme yet. Director Putt felt they should be careful before drawing the conclusion that the building should be smaller or lower. He suggested that they first ask if it is a question of proportion or massing.

Commissioner Sletten referred to the exhibits and noticed that the variation in detail and finishes was more like Deer Valley. As they see more of that Deer Valley look proposed for Old Town, he felt the Planning Commission should start requiring better renderings in order to make a judgment on whether or not it is consistent with Old Town. Director Putt noted that the recommendations

include moving forward with updating the Historic District Guidelines.

Commissioner O'Hara wanted to see the six recommendations come back to the Planning Commission. Commissioner O'Hara referred to Recommendation #5 and understood that the steep slope criteria applies to a small miners shack of 1,000 square feet or less. Director Putt replied that this was correct. Commissioner O'Hara referred to Recommendation #6, and stated that typically when someone wants to dismantle or panelize a historic building, it is because they have requested a conditional use permit to enlarge the house. In addition, typically when an application comes before the City to restore the building it is a benefit to the City and it is usually granted. Commissioner O'Hara commented on the number of times the applicant comes back requesting panelization because they could not afford to restore the home as originally proposed. The Planning Commission has the ability to require the applicant to demonstrate that the historic preservation can be done before an application is approved. However, that policy is not in writing.

City Council Member, Marianne Cone, asked if there were specifics on how deep someone could excavate into the hillside. Director Putt stated that the excavation is dictated by the building setbacks and the geo-technical aspects associated with retaining the cut during construction.

Commissioner Wintzer remarked that most of the streetscapes that come before the Planning Commission are sketches and there is no way to determine the scale and detail of the building. He wondered if it would be better to ask the applicants to do a photograph of the street and insert their drawings into that photo. Director Putt felt it would be appropriate to set aside a small amount of time during a work session for the Planning Commission to dialogue with the design community and get their input on better ways to display the streetscape. Director Putt remarked that nothing is better than visiting the site prior to the meeting.

City Council Member, Jim Hier, remarked that the more they establish site specific criteria, the less they can codify what they have done and precedents get set. Director Putt stated that the finding of fact is the bullet for precedent. Every time a decision is made to do something different, the reason for that decision can be explained in the finding of fact. How they write the findings will help support better design.

Commissioner Barth commented on an issue raised by the Planning Commission about doing plat amendments in concert with a CUP. Director Putt noted that they were running short on time this evening and stated that plat amendments will be discussed at the May 23<sup>rd</sup> meeting.

City Council Member, Hier, suggested that they move towards maximum size criteria rather than limit the lot size. He was comfortable with lot combinations as long as it does not increase the size of the house that could be built on that lot.

Council Member Cone remarked that some architects are more thorough than others about doing a streetscape. She asked if it was possible to require that one be done. In her opinion, even if you walk the site, it is helpful to have a streetscape in front of you when considering the project. Director Putt clarified that he was only suggesting that there may be other more useful ways of conveying that information rather than just through a conventional streetscape.



City Manager, Tom Bakaly, pointed out that a month ago they met in joint session and that brought them to this point. He wanted to know where they go from here and whether they should go through a longer stakeholder process or make more immediate changes.

Commissioner Russack commented on the additional challenge of plat amendments. He felt the presentation this evening helps them get to the point of identifying the low hanging fruit; however much of it has to do with design and materials in relation to the context of the area.

Commissioner O'Hara reiterated his preference to follow the 6 recommendations from Director Putt. He intended to hold a courtesy public hearing during the regular meeting this evening for anyone wishing to make public comment on the presentation and work session discussion. Commissioner O'Hara felt it was important to hear those comments because it could change their direction.

Council Member Hier asked if Director Putt intended to prioritize the issues based on ease of completion and what could be accomplished in a short amount of time. Director Putt stated that he would do that and report back to the Planning Commission and the City Council.

Commissioner Barth liked the language proposed by Planner Robinson; however his issue is still the fact that the sidewalk has already been approved and Little Kate and Lucky John will be expanded five feet. He reiterated his comment that this plan has failed and he believes the City can do better. Mr. Weidenhamer commented on his need to balance fiscal responsibility with narrowing a street and he favored the language proposed by Planner Robinson that suggests looking at alternatives without making a specific commitment.

Commissioner Sletten remarked that the walkability/bikeability issue is a critical element for making Park City better. He shared the same concerns as Commissioner Barth and Commissioner Russack. He felt they needed more definitive language because approving this document this evening would essentially approve widening the road. With regards to aesthetics, Commissioner Sletten commented on the need for pedestrian access over major thoroughfares such as Bonanza, Park Avenue, and Highway 224. He wanted to make sure that in an effort to promote pedestrian safety they are not authorizing pedestrian bridges and other things that would have significant aesthetic impacts on the entry corridor. Commissioner Sletten preferred to have more time to discuss some of the issues before making a recommendation.

Commissioner Wintzer agreed with all the comments from his fellow Commissioners. He suggested that they continue this item and ask the Staff to come back with more specific details.

Commissioner Weidenhamer summarized that the Staff should look at fine tuning some of the language in Goal 1, specifically related to widening or narrowing streets, and more specificity in what they are looking for to accomplish that goal. Secondly, to get more into the aesthetic issue; specifically related to major infrastructure projects, realizing that the existing plan addresses some streetscape look and feel elements at a more pedestrian level.

Commissioner Wintzer understood from the comments that one of the goals should be to reduce traffic speed and potential vehicle/pedestrian conflicts. Commissioner Barth disclosed that he lives in Park Meadows and he knows from personal experience the amount of traffic and the potential dangers for children on Little Kate and Lucky John.

Mr. Weidenhamer thought it would take a couple of months to compile all the information and details requested by the Planning Commission.

MOTION: Commissioner Barth moved to CONTINUE this item to a date uncertain. Commissioner Russack seconded the motion.

VOTE: The motion passed unanimously.

#### 7. LMC Amendments related to HCB - Vertical Zoning

Chair O'Hara stated that these amendments to the Park City Land Management Code would prohibit office, residential, off-site private residence clubs and other non-sales tax generating uses in the HCB and HRC Districts in storefronts; as well as related definitional changes.

Jonathan Weidenhamer requested that the Planning Commission forward a recommendation to the City Council to approve the legislation as stated by Chair O'Hara. He noted that the Planning Commission and City Council have reviewed these amendments a number of times in joint meetings and looked at quantitative data in the past. In an effort to shorten the length of the Staff report for the June 13<sup>th</sup> meeting, some of the quantitative data was omitted and the Planning Commission had requested that it be included for this meeting.

Mr. Weidenhamer reported that the Staff tried to find the easiest and most simple method to accomplish the direction they heard from the City Council and Planning Commission. That direction was to limit storefronts in downtown to sales tax generating businesses and prohibit offices, residential, and residence club uses in storefronts. On June 13, the Planning Commission requested additional background information and the City's vision for Swede Alley.

Mr. Weidenhamer stated that the LMC language in the HCB zone, as well as the City's commitment to capital funding, suggests redevelopment of Swede Alley as a goal and sees it as an important transition zone between Main Street and the transit center versus the residential going up the hill on Marsac. At the same time, it recognizes that redevelopment must still facilitate a service and delivery access and the intent is to find a balance between commercial and residential. The Staff had included Swede Alley and recommends that it continue to be included in their considered legislation. Mr. Weidenhamer clarified that on June 13<sup>th</sup> the Planning Commission was generally comfortable with the language contained in the ordinance and how the land use tables were footnoted to indicate that specific types of uses are not allowed in Main Street storefronts. He stated that if there is any concern or disagreement on what a storefront is, the Planning Director would have the final call on the matter. Mr. Weidenhamer clarified that the Staff had exempted residential uses from being prohibited in the HRC District due to the number of existing residential uses in that zone. The Staff also defined an off-site private residence club as an "off-site residential subdivision that would have a membership club in a Main Street storefront." He reiterated that this use would be prohibited in a Main Street storefront.

Mr. Weidenhamer commented on questions he had fielded from the Historic Main Street Business Alliance prior to this meeting. The first question addressed a store front at Summit Watch, now called The Village at Main. He stated that as he walked along the street, his opinion was that he could still see the front door of a shop across from the bottom of the town lift.

He was unsure if there would be any more clarity in the ordinance and pointed out that the ultimate decision would be made by the Planning Director. The second issue addressed liquor licensing. On May 24<sup>th</sup> the City Council amended the Municipal Code to require an establishment to show that they would have a temporary membership available for \$50 or less, prior to receiving local consent on a liquor license. Mr. Weidenhamer noted that this issue would be addressed at the City Council level. The third question addressed convention and sales licenses that are issued during Sundance and other special events and allows temporary uses of existing businesses. Mr. Weidenhamer stated that this amendment is not intended to preclude or prohibit the ability to continue that temporary use and suggested that this may need to be clarified at the City Council level. He was unprepared to respond to that question this evening.

Chair O'Hara opened the public hearing.

Hollie Stray-Gundersen, representing Triple Net Properties, the new owner of the Village on Main, formerly known as the Marriott Summit Watch. Ms. Stray-Gundersen named several of the businesses at the Village on Main. She clarified that Triple Net Properties is not against the private residence clubs and they appreciate what the City is trying to do in maintaining the Main Street charm. If the City moves forward with the ordinance to ban the private clubs in storefronts, Ms. Stray-Gundersen asked that they relook at the Village on Main area because it is very unique property, it is off Main Street, and it is difficult to get foot traffic to the plaza area. Ms. Stray-Gundersen requested that the City give the Village on Main an exemption to the ordinance because of their location. She pointed out that private residence clubs would help maintain the value of the area because they already have office space and retail is difficult to attract.

Robert Weiner stated that he has owned property in Park City since 1986 and he currently lives at Promontory, which is his primary residence. For the last three years he has had a season pass at Deer Valley primarily because of the Alpine Room at Silver Lake. Mr. Weiner stated that while skiing he has met many people who own property at Promontory but stay in town and treat it like a resort. Mr. Weiner remarked that in Vail, Aspen, or European areas, you can ski to the parking lot when you are ready to go home. He believes that the inability to do this is a major design fault of Park City. Mr. Weiner stated that one advantage of the Town Lift is that you can ski into town and the advantage of Promontory having something at the base of Main Street would draw people to start and finish their skiing in that area. Mr. Weiner understands that getting foot traffic to the bottom of Main Street is a huge problem and to eat at Mustang is really out of the way. It is a destination restaurant and not some place you would patronize on impulse. He believes that the traffic the restaurants and art gallery attract during the day are from people who are members of Promontory. Mr. Wiener believes that exempting The Village on Main would be a win/win situation for everyone. He pointed out that If they allow Promontory to use this facility, the lease is not chiseled in stone and changes could be made. He believes it is better to have a residence club in a storefront than to have nothing all.

Mike Sweeney, stated that he was speaking on behalf of himself and as a representative of the HMBA. Mr. Sweeney remarked that the HMBA signed an affidavit and the Board of Directors voted to support this concept. He read from paragraph 11, "The HMBA supports programs and events that display Main Street as visitor friendly. We encourage the City to legislate in a manner that insures that businesses in storefronts on Main Street remain open to all visitors." Mr. Sweeney stated that Jonathan Weidenhamer had done a nice job in writing the ordinance and he read the main purpose, "Maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring the business mix that encourages a high level of vitality, public access, vibrant activity, and public/resort related attractions." Mr. Sweeney believed this purpose statement was right on target. Mr. Sweeney clarified that there was not unity among the HMBA organization. Some were very concerned that the City might be over reacting in trying to program the street too much. He remarked that the Business Alliance cares about the Main Street level store frontage but they do not care what happens on the second level or above.

On a personal level, Mr. Sweeney stated that he and his brothers helped build lower Main Street and they spent a tremendous amount of money designing what they thought was the right project. Early on they developed the Town Lift Plaza and the Marriott Plaza. Originally there were no storefronts on the plaza and at some point that was changed by the Marriott Corporation. Mr. Sweeney stated that from his perspective, if the Code is specific, that area is not Main Street storefront property. Mr. Sweeney remarked that he has had dealings with Promontory and they are a great group of people. However, when they asked to take space on his side of the street for a restaurant and club, he and his brothers said no because they did not think it complimented what they wanted, which was something that accommodated visitors and residents. They told Promontory that the restaurant would have to be open to the public and they never got past that point of view. Mr. Sweeney believes the location Promontory is looking at now is a good location for their clubhouse because it is off of Main Street and it would bring people into town.

Commissioner Russack asked if the HMBA included Lower Main Street. Mr. Sweeney replied that the HMBA includes 9<sup>th</sup> Street going south all the way to the top of Main Street, it includes all of Park Avenue from 9<sup>th</sup> Street up to Woodside and back down, and Swede Alley. It comes back and connects to 9<sup>th</sup> Street again down Deer Valley Drive. The Village on Main is part of the HMBA and Triple Net has paid for every tenant in that space.

Mr. Sweeney stated that the requirement Mr. Weidenhamer mentioned regarding the liquor license is in conflict with the concept of allowing activities on the second level on Main Street in the Historic District. He encouraged the Staff to address this with the City Council to make sure the LMC is in compliance.

Commissioner Sletten asked Mr. Sweeney if limiting a potential use would diminish the value of a building for the owner. He wanted to know how this would impact the building owners on Main Street in terms of the economic health of Main Street. As the owner of a building on Main Street, Mr. Sweeney did not believe it would have a negative impact. In 50 years he would like to see Main Street as charming as it is today and part of that charm is the fact that there is an eclectic group of business owners who make Main Street fun.

Chair O'Hara closed the public hearing.

Mr. Weidenhamer commented on non-complying uses. Any storefront business that has a current business license and does not let it expire for longer than 365 days would be allowed to continue that use, even if this ordinance were adopted.

Mr. Weidenhamer stated that he had been talking to the Planning Director and the Assistant City Attorney about clarifying how this ordinance would apply to The Village on Main. He noted that interior spaces are not considered storefronts on Main Street if they front interior plazas or the roundabout on Deer Valley Drive. Some of the stores have dual frontages. Mr. Weidenhamer stated that his personal opinion is if the business is north of the Prime Steak House, which is across from the Town Lift, that is the point where you begin to differentiate from a store front at street level versus an elevated level that does not participate in the pedestrian experience.

Chair O'Hara stated that after re-reading the footnote and the definition in the LMC, he believes the definition is more than adequate to address a storefront.

Commissioner Wintzer asked Assistant City Attorney, Polly Samuels McLean, if she felt the definition was clear enough to address the Village at Main. Ms. McLean believed it was clear because the pedestrian level does not adjoin a right-of-way.

Scott Thompson was granted permission by the Chair to ask a question. He wanted to know what would happen in a Main Street Mall situation where it is located on Main Street but you need to go inside the Mall to access any of the space. Mr. Weidenhamer replied that the few stores who front Main Street would be bound by this ordinance but all other interior spaces and upper level spaces would not be considered. Mr. Thompson asked about the Poison Creek Building on Heber Avenue. Mr. Weidenhamer replied that the same explanation would apply to the Poison Creek Building. As Mike Sweeney had pointed out, the HRC language needs to include Swede Alley. Mr. Thompson clarified that he was speaking on behalf of a friend who owns a condo in the Poison Creek building and he is currently looking at purchasing the lower spaces to create a work/live situation. Chair O'Hara suggested that Mr. Thompson discuss this issue with the Staff outside of this meeting.

Commissioner Barth stated that the problem with complete prohibition is the issue of balance. Commissioner Sletten remarked that in his view, this was a legislative approach to devaluing Main Street over time. He believes a quick knee jerk reaction right now could have long term impacts. Commissioner Sletten stated that he does not own property on Main Street but feels that prohibiting access to a specific type of use in a general commercial environment is a disadvantage to those owners and he would most likely vote against this ordinance.

Commissioner Wintzer agreed that the jewel of Main Street is its diversity and if they lose that diversity they will lose Main Street. As a property owner who owns property where he can dictate what uses go in, he finds that sometimes it is necessary to be a "little Hitler" and decide what does and does not fit. Without having some type of regulation for properties that are individually owned, the result is that the tenant with the best rent gets the space. Commissioner Wintzer was unsure if this was the best thing for Main Street and for that reason he supports this ordinance. If it proves to be wrong, they can always look at it again in the future. In his opinion, they should do whatever they can to keep Main Street as diverse as possible.

Commissioner Russack agreed with Commissioner Wintzer. He also believes the storefront definition is very clear. Commissioner Russack was concerned that not including Park Avenue and the HCB zone would only push everything down there. Mr. Weidenhamer clarified that the HCB zone and Park Avenue were included in the amendments specifically to address that concern. He explained that the language indicating that the HCB and Park Avenue were not included only applied to residential use. Commissioner Russack was very comfortable with the amendments as proposed.

Chair O'Hara favored these amendments and noted that he has gone on record for promoting these changes for a number of years. He pointed out that the amendments only prohibit uses in storefronts and not on Main Street in general. He felt it was important to make that distinction.

Chair O'Hara preferred to return at a later date and admit they made a mistake, rather than to do nothing and risk the privatization of Main Street.

Mr. Weidenhamer stated that he had inadvertently omitted Swede Alley from the HRC zone and asked the Planning Commission to include Swede Alley in their motion.

MOTION: Commissioner Russack moved to forward a POSITIVE recommendation to the City Council on the proposed amendments to the Land Management Code prohibiting office, residential, off-site private residence clubs and other non-sales tax generating uses in the HCB and HRC Districts, including Swede Alley, in storefronts; as well as related definitional changes. Commissioner Wintzer seconded the motion.

VOTE: The motion passed 3-1. Commissioner Sletten voted against the motion.

8. Amendment to the Land Management Code regarding Accessory Apartments
9. 621 Woodside Avenue - Plat Amendment
10. General Plan Amendments - Park Bonanza Planning District and Transportation Element

Chair O'Hara opened the public hearing on the above items.

There was no comment.

Chair O'Hara closed the public hearing.

Assistant City Attorney, McLean requested that the amendments to the LMC be continued to July 25, 2007. This item would be re-noticed since the discussion will be broader than what was originally intended.

MOTION: Commissioner Russack moved to CONTINUE the Amendments to the LMC regarding Accessory Apartments to July 25, 2007; and to CONTINUE 621 Woodside Avenue and the General Plan Amendments for the Park Bonanza Planning District and Transportation Element to July 11, 2007. Commissioner Barth seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 8:05 p.m.

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



**PARK CITY COUNCIL WORK SESSION NOTES  
SUMMIT COUNTY, UTAH  
AUGUST 30, 2007**

Present: Mayor Dana Williams and Council members Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier and Joe Kernan.

Tom Bakaly, City Manager and Mark Harrington, City Attorney ; Patrick Putt; Planning Director; Brooks Robinson; Principal Planner; Jerry Gibbs, Public Works Director; Kathy Lundborg, Water Manager; Max Paap, Special Events; Matt Twombly, Project Manager; Jonathan Weidenhamer, Economic Development and Special Projects Manager; Gary Hill, Budget Manager

**1. Council questions/comments.** Marianne Cone participated in Leadership's Ride the Bus Day and suggested holding events at the Transit Center more often. She also participated in the AARP events.

Roger Harlan reported the City/County Joint Transit Task Force was moving ahead on projects. Due to unprecedented ridership, the County is motivated to continue cooperative efforts with the City. He noted the contractor was making great strides on the Kearns sidewalk. He stressed that Summit and Wasatch Counties had been fortunate in not having major fire problems and stressed the importance of water conservation to maintain adequate fire flows.

Candace Erickson announced Wind Power Week and highlighted various planned activities. The Friends of the Library are holding their annual book sale on Labor Day weekend.

Jim Hier attended the HMBA Executive Board meeting where they discussed the BID fees and the Chamber Board meeting where they reviewed a plan to disseminate information on the availability of seasonal housing.

Mayor Williams congratulated Leadership Class XIII for "ride the bus day". He and Councilman Harlan, along with Manager Bakaly met with the new Hill Air Force Base General. The Governor's Blue Ribbon Advisory Panel on Climate concluded and the final report will be presented to the Governor in September. He will be attending a Mayor's Conference on Climate Change at Sundance, and his trip to China will occur in October.

**2. Review of regular meeting.** Council and Staff reviewed contracts and leases that would be acted on during Regular Meeting.

**Boys and Girls Club** – Max Paap, Special Events and Facilities, explained the request for renewal of the lease for the City Park Recreation Building for two nine-month terms. Issues to be resolved include non-exclusive use of space, the lease rate, and insurance

requirements. Staff recognizes operational difficulties for the Club to store their supplies on a nightly basis and has built in a five day written notice period for use of the facility after 6 PM. Staff anticipates that space would be used for a dog obedience program and other occasional uses. In consideration of the non-exclusive facility use, Council members agreed to reduce the lease to \$18,344.81. Regarding the request for compensation related to increased insurance requirements, Staff recommended the Club offset that from their savings from the lease.

There was no discussion on the Wintzer-Wolfe Properties Lease, **Harris and Associates Contract**, and **Nelson Brothers Contract**.

Joe Kernan requested discussion regarding the **agreement with Jordanelle Special Services District**. Public Works Director Jerry Gibbs explained it was a design contract for a connection along Hwy. 40 to connect with JSSD's tank at the Summit/Wasatch County Line. It would tie into the line at Quinn's Junction and provide redundancy required for the IHC Hospital. In addition to the existing emergency connection near Snow Park Lodge, this provides the City the ability to take more water and to enter into future discussions for buying water. Emergency connections do not supply water to the system beyond the 1,000 gallons under contract with JSSD; they allow the City to open connections for temporary relief, not long term use. Although the estimated pipeline cost is \$2.4 million, and the Hospital is contributing a portion, it provides vital additional connection to other areas of the City's water system. The contract amount is \$301,000.

**Park Bonanza Planning Area** – Patrick Putt, Planning Director, recapped the August 2, 2007 Work Session on General Plan amendments relating to the Park Bonanza District which is comprised of portion of community bounded by Park Avenue, Kearns Boulevard, Bonanza Drive and Deer Valley Drive. At Council's suggestion, Staff made revisions to: strengthen language discouraging big box retail; strengthen language to discourage small and medium sized tenant spaces from being combined and redeveloped into big box spaces; and included language that projects built within the area be sustainable in their design and building practices. These amendments serve as a supplement to the General Plan and would be incorporated upon Council's approval of the resolution for adoption.

**Business Improvement District (BID) for downtown core in Park City** – Joe Kernan expressed concern about all businesses in the district paying an equal charge. He suggested developing a formula to calculate charges based on business types and sizes. Upon direction from Council, Staff would return to seek adoption of the tax on September 13, 2007. Candace Erickson understood Mr. Kernan's concept but was uncertain how they would divide the overall cost among businesses, since the success of businesses varied depending on the types of events they promote. Jim Hier explained the majority of the cost was for administrative services, not specific event

concepts. If it grew in the future to a significant fee, it may be appropriate to do something like that, but based on the current scope, the flat fee seemed to be a cost effective way to implement the program. Gary Hill, Budget Manager, explained the HMBA proposed the flat amount of \$156 per business.

### **3. Joint work session with Planning Commission to discuss the proposed vacation of platted McHenry Avenue in conjunction with a plat amendment - Echo Spur on Rossi Hill**

Planning Commission members Jack Thomas, Evan Russak, Julia Pettit, Jim Barth, Michael O'Hara, joined City Council members.

Principal Planner Brooks Robinson explained the proposal for a plat amendment involving 16 lots on Rossi Hill and requesting the vacation of platted, unbuilt McHenry Avenue from Rossi Hill Drive to platted Third Street. The Planning Commission held a work session and took public input in July, 007, and requested a joint meeting to seek Council direction on the merits of the proposed street vacation.

Mr. Robinson stated Resolution 8-98, "resolution adopting a policy statement regarding the vacation of public rights-of-way within Park City, Utah" contained three sections; each with reviewable criteria necessary for a finding of compliance.

Section 1 Good Cause, allows the City to find "good cause" when a proposal evaluated as a whole demonstrates a "net tangible benefit" to the immediate neighborhood and to the City as a whole. *Criteria 1* requires no increase in density; *criteria 2* requires neighborhood compatibility; and, *criteria 3* requires consideration. Section 2 Material Injury, demands that no person nor the public is "materially injured" by the proposal. Section 3. Joint Meetings. He reviewed analysis found in the Staff Report and requested discussion on several points: density/ compatibility with neighborhood development pattern; is the consideration provided by the applicant sufficient to justify the vacation; and, is there a net tangible benefit to the neighborhood and to the City as a whole?

Mr. Robinson stated the applicant was asking for about 8,000 square feet of Old Town property without any financial consideration given to the City. The vacation request only affects one side of the right-of-way.

Applicants Chad and Connie Bilbrey questioned the definition of property vacation which contained no provision for money to change hands. They further believed there had been a fundamental misunderstanding in what they were requesting and believed they were giving up more than they were getting.

Roger Harlan noted the City had received compensate for past street vacations. Mr. Bilbrey stated the compensatory route was different than a vacation. City Attorney Mark Harrington explained it was appropriate for the City to consider consideration and exchange for foregoing future uses of right-of-way.

Planning Commission members stressed they were interested in a discussion of what constituted cause, consideration and density. Residents from the neighborhood requested that Council and Planning Commission consider the comments from neighbors that had been submitted. Council encouraged subsequent meetings between the neighborhood and the developer and suggested creation of a sub-committee comprised of Planning Commission members and the City Council liaison.

*Note: Council and Planning Commission conducted a lengthy discussion and received input from Rossi Hill and Silver Pointe residents. Due to a broken tape, it was necessary for the recording clerk to summarize based on notes taken during the meeting.*

Mayor Williams recapped that the neighborhood and developer appeared to be willing to spend more time talking about the proposal. There were enough questions about vacation of the right-of-way to justify spending additional time reviewing the issues. Planning Commission Chair Michael O'Hara stressed that the Commission sought direction on the net tangible benefits to the neighborhood and to the City as a whole, and what constitutes consideration. Joe Kernan stressed the neighbors must ultimately be happy with what was built there. He requested examples showing how the City applied consideration in the past.

At this point, Mayor Williams left the meeting. Mayor Pro-Tem Marianne Cone recommended that the applicants meet with the neighbors, and requested that the Planning Commission report back to Council after they have been able to work out additional details.

City Attorney Mark Harrington suggested that Planning Commission should continue their review, assisted by a sub-committee who can review any site plan recommendations that may result from changes following neighborhood meetings. Consideration is a factor that will greatly vary depending on the proposal and will be based on values as defined by its consistency with the General Plan and neighborhood compatibility. He noted the neighborhood had done an excellent job presenting comments in the context of the Land Management Code and the General Plan.

Helen Alvarez questioned whether discussion about consideration meant they had already agreed to vacation. Mr. Hier explained it was a means to establishing some

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basis for whether a vacation would be appropriate. Ms. Alvarez implored Council to preserve the open space with natural vegetation on Rossi Hill.

**PARK CITY COUNCIL MEETING  
SUMMIT COUNTY, UTAH  
AUGUST 30, 2007**

**I ROLL CALL**

Mayor ProTem Marianne Cone called the regular meeting of the City Council to order at 6:15 p.m. at the Marsac Municipal Building on Thursday, August 30, 2007. Members in attendance were Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier and Joe Kernan. Mayor Dana Williams was excused. Staff present was Tom Bakaly, City Manager and Mark Harrington, City Attorney ; Patrick Putt; Planning Director; Brooks Robinson; Principal Planner; Jerry Gibbs, Public Works Director; Kathy Lundborg, Water Manager; Max Paap, Special Events; Matt Twombly, Project Manager; Jonathan Weidenhamer, Economic Development and Special Projects Manager; Gary Hill, Budget Manager

**II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF**

Joe Kernan disclosed he owned a recycling business. Candace Erickson disclosed she is married to the consultant for the General Plan Park/Bonanza amendments.

Patrick Putt announced a community open house to receive public input on Historic District Design Guidelines on September 24, 2007 at 5:00 p.m.

**III PUBLIC INPUT (any matter of City business not scheduled on agenda)**

Michael Kaplan stated he lives on the "real" McHenry Avenue and expressed concern about a similar street name in the Echo Spur Subdivision when it is approved.

Leslie Miller urged Council to insulate Ella Sorenson from the construction disturbance next to her home.

**IV WORK SESSION NOTES AND MINUTES OF MEETING OF AUGUST 9, 2007**

Roger Harlan, "I move approval of the Work Session Notes and Minutes of August 9, 2007". Candace Erickson seconded. Motion unanimously carried.

**V CONSENT AGENDA PUBLIC HEARINGS (items listed will be open for public hearing prior to consideration for adoption or rejection; hearings may also be continued by vote of the Council)**

Jim Hier, "I move to continue Items 1 and 2 to dates as noted". Joe Kernan seconded. Motion unanimously carried.

1. Consideration of an Ordinance approving a plat amendment at 1617/1621 Lakeside Circle, Park City, Utah (motion to continue to October 4, 2007)
2. Consideration of a recommendation to deny a plat amendment for 255 Ridge Avenue, King Ridge Estates (motion to continue to September 20, 2007)

3. Consideration of a Master Festival License to be held on September 2, 2007 including a temporary street closure of Doc Holiday Drive on September 2, 2007 from 1 p.m. to 8 p.m. and to allow amplified music for a block party from 2 p.m. to 8 p.m. - Max Paap explained this was a first time community event that was being reviewed as a Master Festival License due to requests for amplified music, variance from the noise ordinance, and a temporary street closure. The applicant explained invitations had been sent to the entire neighborhood. Mayor ProTem Cone opened the public hearing. Receiving no input, the hearing was closed.

4. Consideration of an Ordinance approving a one year extension of the amended Lots 1-3, Block 30 of Snyder's Addition to the Park City Survey plat amendment located at 819 Empire Avenue, Park City, Utah - Ray Milliner explained the request for a one year extension of a plat amendment. Staff recommended approval and noted the applicant has demonstrated good cause for extension. Mayor ProTem Cone opened the public hearing. Receiving no input, the hearing was closed.

**VI CONSENT AGENDA (items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon under "Additional Discussion – Agenda Items")**

City Attorney Mark Harrington, disclosed that the landlords for Item 3, and both City Officials serving on the Planning Commission and the Board of Adjustment.

Joe Kernan, "I move to approve Consent Agenda Items 1, 2, and 3". Roger Harlan seconded. Motion unanimously carried.

1. Master Festival License to be held on September 2, 2007 including a temporary street closure of Doc Holiday Drive on September 2, 2007 from 1 p.m. to 8 p.m. and to allow amplified music for a block party from 2 p.m. to 8 p.m.

2. Ordinance approving a one year extension of the amended Lots 1-3, Block 30 of Snyder's Addition to the Park City Survey plat amendment located at 819 Empire Avenue, Park City, Utah

3. Lease with Wintzer-Wolfe Properties, in a form approved by the City Attorney, for space located at 1255 Ironhorse Drive

**VII NEW BUSINESS (new items with presentations and/or anticipated detailed discussions)**

1. Lease with the Boys and Girls Club, in a form approved by the City Attorney, for space located in the City Park Recreation Building – See Work Session Notes and Staff



Report for a discussion of the issues. Max Paap confirmed that Staff recommends a two-year lease renewal of the City Park Recreation Building to the Boys and Girls Club of Greater Salt Lake. The lease amount for the two nine-month leases is \$18,344.81.

Jim Hier, "I move to approve the Lease with the Boys and Firls Club in a form approved by the City Attorney for space located in the City Park Recreation Building in the amount of \$18,344.81 as modified". Candace Erickson seconded. Motion unanimously carried.

2. Consideration to authorize the City Manager to execute a construction contract, in a form approved by the City Attorney, to Nelson Brothers Construction Company, in the amount of \$71,697 – Project Manager Matt Twombly explained the contract was for the Prospector Drain Vault Construction which will be used in the remediation efforts in the Silver Creek Tailings Site. Water will be diverted into an anaerobic treatment unit where it currently runs into the Silver Creek Watershed.

Roger Harlan, "I move to authorize the City Manager to excute a construction contract, in a form approved by the City Attorney, to Nelson Brothers Construction Company, in the amount of \$71,697". Joe Kernan seconded. Motion unanimously carried.

3. Consideration to authorize the City Manager to approve Addendum No. 1 to the Professional Services Agreement with Harris and Associates for a total contract amount of \$301,425 – Public Works Director Jerry Gibbs explained this addendum constituted an increase of \$183,375 for total contract amount of \$301,425 for professional engineering services.

Candace Erickson, "I move to authorize the City Manager to approve Addendum No. 1 to the Professional Services Agreement with Harris and Associated for a total contract amount of \$301,425". Roger Harlan seconded. Motion unanimously carried.

4. Consideration to authorize the City Manager to enter into an agreement with Jordanelle Special Service District in the amount of \$240,000 to design an emergency water supply connection to Quinn's Junction – See Work Session Discussion and Staff Report for additional details. Jerry Gibbs restated this was for engineering services to design an emergency connection that will provide adequate capacity to meet redundancy issues with the IHC Hospital, a future connection for water purchases; and an emergency connection.

Jim Hier, "I move to authorize the City Manager to enter into an agreement with Jordanelle Special Service District in the amount of \$240,000 to design an emergency water supply connection to Quinn's Junction". Joe Kernan seconded. Motion unanimously carried.

5. Consideration of a Resolution amending the Park City General Plan creating the Park Bonanza Neighborhood Planning Area and amending related policies in General Plan Elements relating Park City direction, community character, open space, land use, growth management, transportation, environment, and housing – See Work Session Discussion and Staff Report. Planning Director Patrick Putt and Consultant Bruce Erickson, explained that Park City has three fundamental mixed use development areas: the Resorts, Main Street area, and Park Bonanza District. The current General Plan lacks clear direction for the Park/Bonanza area. This plan is intended to provide direction to accommodate change in the area, redevelopment of existing properties, and infill properties. The Plan creates a strong emphasis on pedestrian improvements, and the housing component is intended for primary residents.

The planning process began in June, 2006 with a public open house, followed by public hearings, joint work sessions between Planning Commission and City Council and discussion during the Council visioning retreat. Planning Commission forwarded a unanimous recommendation to adopt the changes in July, 2007. At Council's suggestion, following the August 2, 2007 work session, Staff made revisions to: strengthen language discouraging big box retail; strengthen language to discourage small and medium sized tenant spaces from being combined and redeveloped into big box spaces; and included language that projects built within the area be sustainable in their design and building practices. These amendments serve as a supplement to the General Plan and would be incorporated upon Council's approval of the resolution for adoption. Staff recommended that Council adopt the recommendations in the General Plan following the public hearing.

Mayor ProTem Cone opened the public hearing. Cindy Matsumoto, business owner, requested clarification of business sizes. Consultant Bruce Erickson explained big box was defined as over 50,000–60,000 square feet; mid box was larger than 12,000–15,000 square feet, and base sizes were approximately 2,000 square feet. She clarified that her three combined business spaces were acceptable.

Mark Fisher thanked the Consultant, Planning Commission, City Council and Staff for their efforts and stated they were going to strive to cooperate with the City to create a world class solution.

With no further input, the hearing was closed.

Jim Hier, "I move to approve the Resolution approving amendments and revisions to the Park City General Plan and creation of a Park Bonanza Neighborhood Planning Area as added to the packet and incorporated in modifications provided by Stantec Engineering dated August 16, 2007". Roger Harlan seconded. Motion unanimously carried.

VIII OLD BUSINESS (items continued from a previous meeting)

1. Consideration of a Resolution forming a Business Improvement District for the downtown core in Park City, Utah – Budget Manager Gary Hill noted that Council began the public hearing on August 16, 2007 and discussed a proposal to create a Business Improvement District for Main Street. This will act as a mechanism for establishing a single service provider for trash services, and will provide for business promotion services with the district. The cost of those administrative services is \$156 per business, as requested by the HMBA. Trash service fees will be billed directly by the provider.

Staff requests that Council continue hearing and consider adoption of a resolution that would create the Business Improvement District based upon the boundaries that are provided in the resolution. Adoption of the resolution begins a 15 day protest period, signals Council's intention to impose a per business tax of \$156, and signals the City's intent to hold a public hearing before any change in the tax or change in business activities. If Council approves the Resolution, Staff will return on September 16, 2007 with an Ordinance to impose the tax and an amendment to the Business Licensing Ordinance.

Mayor ProTem Cone opened the public hearing. Receiving no input, the hearing was closed.

Joe Kernan, "I move to approve the Resolution forming a Business Improvement District for the downtown core in Park City, Utah". Jim Hier seconded. Motion unanimously carried.

2. Consideration of awarding of three year contract to Allied Waste, in a form approved by the City Attorney, for hauling services within the Main Street area and City facilities and to implement a \$150 tax per license – Jerry Gibbs noted the request was continued from previous meeting until formation of BID was approved by Council. Staff requested approval of Option 2 of the BID rate structure, and Addendum 1 which related to City Facilities. Candace Erickson asked whether all businesses were aware of the fees that would be charged for hauling services, and whether the City should enter into the agreement prior to the end of the protest period.

Mr. Gibbs explained the contract would not go into effect until the effective date of the Business Improvement District (BID). Individual notices were not distributed but public notice had been given and the HMBA had reviewed contract language and was comfortable with the rate structure. He stressed that all businesses would have to pay this fee, but they were not restricted from contracting separately for supplemental trash services. At the time business licenses are renewed, businesses must provide proof

that they are current on their trash collection payments before new licenses will be issued.

Jim Hier, “I move to approve the City Manager to enter into a contract in a form approved by the City Attorney, setting the rate structure for commercial trash services for Main Street with the effective date of the Business Improvement District (BID), and City facilities rate structures, to Allied Waste for a three year term renewable at the City’s election for an additional three years as outlined in the Staff Report.” Roger Harlan seconded. Motion unanimously carried.

3. Consideration of an Ordinance approving amendments to the Park City Land Management Code to Chapter 15-2.6 – Historic Commercial Business District and 15-2.5 – Historic Recreation Commercial District relating to prohibiting office, residential, or other non-sales tax generating uses and other similar or associated uses in the HCB and HRC Districts in storefronts as well as related definitional changes to the LMC Chapter 15-15-1 – Definitions. Jonathan Weidenhamer stated Council provided direction on August 9, 2007, to exclude portions of Park Avenue north of 8<sup>th</sup> Street from the area affected by the proposed ordinance, and directed Staff to define and clarify “storefront” as it pertained to the ordinance. Staff has defined Storefront as the area 50’ back from the back of sidewalk and 8’ above or below the street grade. When applied to typical Old Town 25’x75’ lots, the intent was to promote the intent of the ordinance for areas directly adjacent to or visible from downtown street and address split-level storefronts. Separate businesses occupying the rear portion of any ground floor would have to be 50’ back from the sidewalk and in separately enclosed areas.

Mr. Weidenhamer highlighted Staff’s analysis of pending applications and identified two business license applications which were received after the May 26, 2007 notice of the proposed ordinance, as well as a third application submitted on August 30, 2007. Staff believes the intent and direction from Planning Commission and City Council had been clear. He noted Council has legislative authority to consider the request so long as its decision is reasonable and not arbitrary. Staff does not find that allowing the specific spaces to convert to office uses will significantly affect the overall percentage of non-tax generating uses in downtown storefronts.

Previous Public Input has suggested that the previous change to the Municipal Code that prohibited local consent for Liquor Licenses that do not allow general public to apply for membership should be amended to only affect storefronts. Staff will return in the future for direction.

Ted Barnes, colleague of Bob Dillon who had previously spoken to Council, addressed two pending applications and introduced Jeff Edwards, principal of CS Financial, one of applicants. He encouraged Council to date the effectiveness of the ordinance as of

August 30, 2007. His client contracted to purchase office space one year ago and pursued SBA loans to maintain and operate a mortgage office and would suffer significant hardship if not allowed to continue his business. These plans were begun prior to the date the pending ordinance was noticed. He stated they support the policy, but request that it be tempered with regard to these instances. He reiterated their assertion that business licenses are not land use applications.

Joe Kernan asked Mr. Edwards to explain where he would be located and how the ordinance impacted his situation. Jeff Edwards explained his intent to occupy a front space in the Poison Creek Mercantile location, and to live upstairs. His SBA loans have large prepayment penalties and he would face serious financial issues if he were forced to rent the space for retail or to sell.

Bill Shoaf, Sky Lodge, relayed his attempts to relocate to a smaller space on Main Street from which to market the Sky Lodge because they intended to re-open the restaurant. He explained several communications with Staff that ended in him being denied a business license because he applied after the May 26<sup>th</sup> deadline. His Sky Lodge project represented a significant contribution to the community and he asked Council to consider his request for exemption from the "pending ordinance" deadline.

Jana Potter supported Mr. Shoaf's request. She addressed her convertible space in the Silver Queen on Main Street and requested similar consideration so she could move forward with development plans within her space.

Marcy Davis, property and business owner, and realtor, supported Bill Shoaf's request. He will only be selling the Sky Lodge project, a project that is solely about Old Town.

Philo Smith former owner of Zoom and Easy Street, and partner in Sky Lodge, urged Council to consider the hardship that a punitive effective date for the ordinance will have for these three individuals.

Ken Davis, Historic Main Street Business Alliance, commented the zoning changes will be beneficial for the street, however extenuating circumstance deserve consideration.

Jim Whitney, Sky Lodge owner, asked Council to consider the request from Bill Shoaf. The ability to sell that property is critical to Park City and to his investment.

Mike Sweeney, encouraged Council to accommodate Mr. Shoaf's request, noting that it would be a short term exercise. He reiterated prior requests regarding the private club ordinance to make it more consistent with vertical zoning in relation to storefronts.

With no further input, the public hearing was closed.

Candace Erickson believed all three parties had valid complaints. Typically, they draw the line at the date notification is published, but they had revised the ordinance a number of times since that date. She supported amending the effective date to August 30, 2007, and after that date no new applications can be accepted.

Jim Hier noted uses run with the property not the applicant and asked if there were a way to allow temporary uses, for a particular scenario, that would expire with the business license. Attorney Harrington stated it would be inconsistent. If Council moves the pending ordinance date to the adoption date, these uses technically become non-conforming uses governed by a separate ordinance section of the Land Management Code. Under State Code, Council does have the ability to phase out non-conforming uses and if acceptable to these applicants they could condition the Ordinance effective date with phasing out requirements for the three non-conforming uses. He stressed the request must be valued on the broad sense of fairness and general applicability of the doctrine, not on individual cases of hardship. Mr. Hier supported Ms. Erickson's suggestion that they make the ordinance effective upon date of adoption.

City Attorney Harrington suggested additional Ordinance language: "Whereas, the Council determines after evaluating issues of fairness and the overall intent of the regulation, that the application of pending ordinance doctrine shall be revoked and the effective date of the Ordinance shall be the date of adoption."

Candace Erickson, "I move to approve the amendments to the Park City Land Management Code Chapters 15-2.6 - Historic Commercial Business District and 15-2.5 prohibiting office, residential, or other non-sales tax generating uses and other similar or associated uses in the HCB and HRC Districts in storefronts as well as related definitional changes to the LMC Chapter 15-5-1 - Definitions, with the addition of the whereas noted by the City Attorney therefore making the adoption date August 30, 2007". Joe Kernan seconded. Motion unanimously carried.

4. Consideration of an addendum to the lease with Park City Historical Society for property located at 528 Main Street (continued from Municipal Building Authority meeting) - Jonathan Weidenhamer explained Staff was seeking Council direction regarding an addendum to the Park City Historical Society lease. In 2003, the City and the Society entered into a 99 year lease for the use of Old City Hall. This addendum identifies a blueprint for tenant improvements necessary to allow the Society to move forward with the expansion of the building and turnover of operations and building maintenance to the Society. The City has expressed a serious commitment to their goals for economic development and expansion. Research of past discussions and

agreements does not indicate that the City intended to re-open the lease and assume additional operational costs in order to accommodate the museum expansion.

Mr. Weidenhamer reported that Planning Staff has issued administrative design approval in August for the proposed addition. As building owner, Council's approval of the lease cements that design approval. He noted Council had the ability to provide input on the design, indicating that any substantive changes would require reconsideration by the Planning Staff to ensure it met the guidelines. Laura Blake of Mark Cavagnero Architects has a presentation focusing on the rear elevation and design details, pedestrian experience, finish materials and landscaping for Council's review.

Mr. Weidenhamer stated the Historical Society had proposed the City pay for and be responsible for insurance, operations and maintenance. Additional discussion has centered on the design and access of the restrooms. The lease will address increased square footage post-construction. Rent will be reduced to \$1.00 per year annually. Tenant improvements will be installed by the Society at its expense. The lease addresses the City's both the public art and green policy initiatives of the City.

Mr. Weidenhamer reviewed areas of the lease where the City and Society did not agree.

Insurance. In the past, the City has provided general liability insurance for the building as well as insurance for exhibits. Staff recommends the Society be responsible for paying the premium to add coverage for exhibits to the City's policy and that they be responsible for obtaining insurance for any other sub-leases and administrative duties as necessary.

Operations and maintenance. The City does not currently clean inside the building, but provides maintenance for restrooms and long-term maintenance of the structure. The building is included in the City's asset management program, which covers structural upgrades. Staff supports maintenance and cleaning of the restrooms if they are publicly accessible; however, that would require installation of a lift for ADA accessibility, which may affect the design. Staff also recommends that the Society assume responsibility for annual maintenance of operating systems and utility bills. All told, costs to the Society would increase an additional \$16,000 in addition to their current costs. The prior lease was \$18,000 and it has been reduced to \$1.00 annually.

Mr. Weidenhamer addressed additional issues, including the need for a lay-down yard in Swede Alley, which results in a loss of 34 parking spaces for fifteen months. Parking Services typically charges \$9 per space for reserved use and Staff requests discussion regarding waivers of those fees.

Staff has learned that the Society may request conduit financing and asked Council to consider the possibility subject to criteria recently established to assist USSA, which was subject to a letter of credit assuming liability in case of default. It is a City building, which raises the question of whether it is a City project subject to bidding requirements. Mr. Weidenhamer explained this would be a policy question to be determined by Council in the future.

Mayor ProTem requested input from the Historical Society representatives prior to reviewing the architect's presentation and further discussion.

Richard Pick, President of the Board; Harry Reed, member; and Sandra Morrison, Executive Director, indicated their pleasure to meet with Council. They are grateful for the City's support and for Staff's assistance through the process. The project is a partnership that has come a long way since its formation in 2003. Mr. Pick distributed a handout that compared the City's contribution of \$2,601,000 to the PCHS contribution of \$4,303,000 (\$4.2 million of which is for the building expansion) and emphasized that the expansion will provide economic benefits by providing a destination Main Street attraction.

Mr. Pick indicated their insurance agent had been working with City staff. Mark Harrington reported they were close to resolving the general liability issue, although Staff recommends the Society administer their exhibit insurance.

Laura Blake, Mark Cavagnero Associates, reiterated Mr. Pick's thanks for Council's support, which has enabled them to raise an additional \$1 million. She recapped the March presentation and reviewed the design that had been reviewed and approved by Planning Staff and the Historic Preservation Board.

Ms. Blake reviewed Secretary of Interior Standards Guidelines for Treatment of Historic Building, as they pertain to new additions, which they used to develop their design. The Main Street elevations will be preserved and the Swede Alley elevation will be preserved on the interior and visible through the addition. The new addition provides a plane break behind Old City Hall and uses stone that relates to Old City Hall and the old library building.

Marianne Cone expressed concern about the rear of the building and questioned the difficulty of snow removal. Mike Lennon, Building Maintenance, explained the new area would probably be more helpful since they use a small plow that fits in the area.

Ms Cone also questioned the raised walkway at the rear and asked whether additional landscaping could be installed. Ms. Blake explained the terrace was added to provide



views of the exhibits as one walks along the rear of the building. The design incorporates core ten steel that provides a softer texture, finish and color. She explained they could add additional landscaping on Dolly's Plaza. Ms. Cone felt the raised walkway created a sense of isolation from the rest of the street and encouraged additional landscaping.

Planning Director Patrick Putt explained Staff, Historical Society representatives and their architecture team had spent considerable time on this issue. They concurred that eliminating the walkway created a disconnect between the pedestrian level and the glass area would make the building look taller and would diminish the pedestrian experience. In addition, they did not believe the narrow planting area that would have been created would provide an optimum area for plants to thrive. Ms. Cone questioned the need for a nine-foot wide sidewalk since it did not connect to anything.

Candace Erickson was thrilled with the design and believed the glass area would draw people in and suggested planters on the Dolly's sidewalk. Council members expressed support of the design as approved by the Planning Department.

Jonathan Weidenhamer requested direction regarding insurance for exhibits and third party leases. Mr. Pick stated the Society maintain liability insurance and will continue to do so. Their concerns center on exhibit insurance. Mark Harrington stated they were close on the general liability issue and Staff is working with the Society's insurance agent. Staff's concern is coverage for visiting exhibits and administration of the policy to ensure that nothing was overlooked. Jim Hier encouraged Staff and the Historical Society to work out the requirements in the lease.

Mr. Weidenhamer stated Staff's recommended that the City continue to be responsible for asset management, long-term structural upgrades, and exterior maintenance, snow removal, etc. Staff recommends that the Society assume responsibility for cleaning, as well as operations and maintenance for mechanical systems, and the restrooms because they are best managed by the occupants. He explained the expansion will remove the existing public restrooms at the rear of the building and the City requests that the museum provide unobstructed public access to the new restrooms during operating hours, providing ADA access through the building during operating hours. The museum does not want to provide maintenance because they feel they lack the ability to monitor and control them because of the public access. They feel it would be cheaper for the City to continue to provide maintenance of the restrooms.

Jim Hier expressed concern about underground restrooms being open 24/7. Jon explained they had agreed to have them open during museum hours, but had not been able to agree on maintenance responsibility. He clarified that a lift for ADA accessibility was not necessary if the restrooms were only open during operating hours.

Mr. Hier supported the City covering O&M for the restrooms. Mark Harrington suggested having someone from the ADA community review the functionality of the access.

Sandra Morrison stressed it was a liability issue for them because they are not protected by the Utah Governmental Immunity Act.

Jon Weidenhamer summarized Council's support for the City to provide maintenance of the restrooms; no lift will be installed because there is ADA accessibility from inside the Museum; and they are subject to review to ensure they are acceptable under ADA accessibility guidelines.

Mr. Weidenhamer continued discussion on the Society's request for the City to assume responsibility for the operations and mechanical systems. Staff has estimated these costs to be \$12,700 annually.

Mr. Pick suggested the City should assume responsibility for proper maintenance of those items in order to extend the life of such expensive equipment. Sandra Morrison explained the Museum would have to pursue fund raising to meet these additional expenses.

Jim Hier stated the City was assuming responsibility for the restrooms and the Museum should pick up the costs for operations and maintenance. Candace Erickson understood the reason for the Society's request; however, Council must balance it against costs to taxpayers. As a tenant, one expects the landlord to assume responsibilities for maintenance; however, this tenant will only be paying \$1 per year. They do provide educational program and generate some sales tax dollars. Roger Harlan suggested a compromise where the Museum would pay the City a flat fee, based on a calculation of operations and maintenance costs, to manage the maintenance. Council members concurred and directed Staff to analyze the costs and develop a flat rate for Council's consideration.

Mr. Weidenhamer stated they would need a construction staging yard and they have identified a need for 34 spaces in Swede Alley, ten immediately behind the museum and 24 in the historic wall lot. Roger Harlan commented on building practices in New York City where construction staging occupied much smaller space. Jon requested direction from Council as to the City's parking policy. Staff recommends that the ten adjacent spots be provided, but spaces in the historic wall lot be assessed at 50% of the normal \$9 per day fee. Councilors encouraged minimization of the staging area but did not want to impose charges for use of the spaces. Mr. Weidenhamer stated Staff would return with a plan, not to exceed 34 spaces.

Council and staff held a brief discussion regarding options for assist the society with financing. They concurred it was appropriate to table the issue until later.

Jon Weidenhamer stated the Historical Society had requested that they be allowed to display *artifacts* of their choice, without going through the Public Art Advisory Board process, in lieu of the requirement to pay 1% for public art. Council members directed Staff to include 1% for artifacts in the lease.

Mayor ProTem Cone opened the public hearing.

Alex Butwinski outlined various methods to charge tenants for daily operating expenses. He believed 34 spaces was excessive and requested reconsideration of the contractor's request.

Mike Sweeney, business owner, requested that restrooms be inside the museum. He also suggested using a material other than sandstone that was more impervious to the elements.

Kacy Quinley, Sunday Museum volunteer, urged that restrooms remain outside, since she often is the only one working inside the Museum.

Bill Coleman encouraged the Council to build flexibility into the lease to offset annual costs. The museum has limited revenue capacity and they appreciate everything the City can do support them.

Krista Perry, Park City Mountain Resort, expressed the importance of providing an educational experience for visitors. She stated the museum was a big part of the town's authenticity.

The public hearing was closed.

#### IX ADDITIONAL DISCUSSION – AGENDA ITEMS

There was no additional discussion.

#### X ADJOURNMENT

With no further business, the City Council meeting adjourned at 9:45 p.m.

#### **MEMORANDUM OF CLOSED SESSION**

The City Council met in closed session at 2:00 p.m. Members in attendance were Mayor Dana Williams, Marianne Cone, Candace Erickson, Roger Harlan, Jim Hier, and

Joe Kernan. Staff present were Tom Bakaly, City Manager; Mark Harrington, City Attorney; Tom Daley, Assistant City Attorney; Jerry Gibbs, Public Works Director; Kathy Lundborg, Water Manager; Myles Rademan, Public Affairs Specialist; Kent Cashel, Deputy Public Works Director; Phyllis Robinson, Community and Public Affairs Manager; and Alison Butz, Environmental Affairs and Project Manager.

Marianne Cone, "I move to close the meeting to discuss personnel, property and litigation." Candace Erickson seconded. Motion carried unanimously.

The meeting opened at 3:50 p.m. Marianne Cone, "I move to open the meeting." Jim Hier seconded. Motion carried unanimously.

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The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Sharon Bauman

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Sharon C. Bauman, Analyst II

## Planning Commission Staff Report

**Subject:** Main Street Balcony Enclosure Amendments  
**Author:** Anya Grahn, Historic Preservation Planner  
**Project Number:** PL-15-03021  
**Date:** December 9, 2015  
**Type of Item:** Legislative – LMC Changes

### Summary Recommendations

Staff is requesting that the Planning Commission open a public hearing, review the possible Land Management Code amendments regarding balcony enclosures on Main Street, and consider forwarding a positive recommendation to City Council.

### Description

**Project Name:** LMC Amendment to permit temporary enclosure of balconies, not to exceed 180 days (November 15<sup>th</sup>- April 30<sup>th</sup>)  
**Applicant:** Planning Department  
**Proposal:** Revisions to the Land Management Code

### Proposal

City Council wishes to develop a pilot program to allow Main Street restaurateurs to construct temporary, seasonal enclosures on their balconies that would provide additional restaurant seating space during the winter months (November 15<sup>th</sup> through April 30<sup>th</sup>). The pilot program would be available only to those balconies directly attached to restaurant space on non-historic structures. Staff has collaborated with the Building, Planning, Engineering, Finance, Sustainability, and Legal Departments to develop a pilot program proposal for the 2015-2016 winter season. Balcony enclosures may be constructed starting on November 15<sup>th</sup> and must be removed no later than April 30<sup>th</sup>; the duration of the balcony enclosures shall not exceed 180 days.

In order to move forward with the pilot program, the Land Management Code (LMC) needs to be amended to permit the temporary enclosure of balconies. Staff requests that the Planning Commission review staff's proposed modifications to the LMC and forward a positive recommendation to City Council. Any design guideline amendments for the balcony enclosures will be adopted through a City Council resolution amending the Design Guidelines for Historic Districts and Historic Sites (June 19, 2009).

### Purpose

The purpose of the Historic Commercial Business (HCB) District:

- (A) preserve the cultural heritage of the City's original Business, governmental and residential center,
- (B) allow the Use of land for retail, commercial, residential, recreational, and institutional purposes to enhance and foster the economic and cultural vitality of the City,

- (C) facilitate the continuation of the visual character, scale, and Streetscape of the original Park City Historical District,
- (D) encourage the preservation of Historic Structures within the district,
- (E) encourage pedestrian-oriented, pedestrian-scale Development,
- (F) minimize the impacts of new Development on parking constraints of Old Town,
- (G) minimize the impacts of commercial Uses and business activities including parking, Access, deliveries, service, mechanical equipment, and traffic, on surrounding residential neighborhoods,
- (H) minimize visual impacts of automobiles and parking on Historic Buildings and Streetscapes, and
- (I) support Development on Swede Alley which maintains existing parking and service/delivery operations while providing Areas for public plazas and spaces.
- (J) maintain and enhance the long term viability of the downtown core as a destination for residents and tourists by ensuring a Business mix that encourages a high level of vitality, public Access, vibrancy, activity, and public/resort-related attractions.

### **Background**

On September 18, 2014, Seth Adams of the Riverhorse presented to City Council his concept for a winter balcony enclosure program. Riverhorse hopes to imitate the success of their tent's use during special events by constructing a temporary (not to exceed 180-days) enclosure on the balcony from November 15th through April 30th that would promote winter-time use. The temporary enclosure would add approximately 350 square feet of restaurant space on their balcony and seat approximately twenty (20) patrons, or about five (5) tables of four (4).

Staff met with City Council on November 13, 2014, to discuss creating a Winter Balcony Enclosure program, similar to that of the Street Dining on Main's summer dining decks. City Council directed staff to meet with the Historic Preservation Board (HPB) for feedback on this program. Staff met with the HPB on January 7 and March 4, 2015, to discuss necessary changes to the Land Management Code (LMC) and Design Guidelines in order to accommodate the winter balcony enclosure program. The input provided by the HPB is reflected in the attached staff reports and exhibits.

Staff strongly recommended that the balcony enclosures not be permitted as staff found the enclosures would detract from the look and feel of Historic Main Street; however, the majority of City Council and the HPB found the enclosures to be an aesthetic improvement to the white tents currently used during the winter months. Further, City Council and the HPB found that the balcony enclosures would maintain the high quality of customer service and support for increased seasonal occupant loads of Main Street restaurants.

Staff has moved forward with developing a pilot program for the 2015-2016 Winter Season which would permit balcony enclosures only on those balconies facing Main Street that are on non-historic structures and directly attached to restaurant space. Thus far, staff has found that only Riverhorse on Main is interested in constructing a balcony enclosure. This year's pilot program will occur from January through April

following changes to the LMC. Following the removal of the balcony enclosures on April 30<sup>th</sup>, staff will assess the merits and challenges of the program and review these with City Council in May.

### **Analysis**

Balconies are defined by the Land Management Code (LMC) as a platform that projects from the wall of a building and is enclosed by a railing, parapet, or balustrade. There are approximately twenty-one (21) balconies on Main Street that extend over the City ROW. This program would only allow enclosures to be constructed on those balconies directly attached to restaurant space on non-historic structures that are not designated on the Historic Sites Inventory (HSI). Currently, only three (3) restaurant balconies would be eligible for the pilot program.

Outdoor dining is a conditional use in the Historic Commercial Business (HCB) District for restaurants. Any outdoor dining must be approved through an Administrative Conditional Use Permit (Admin-CUP). Riverhorse and Wahso both have Admin-CUPs for their outdoor dining for summertime balcony dining. No other restaurants currently have approvals. For more information, please review the Analysis section of Exhibit 3--6.25.15 City Council Report.

#### *Current Balcony Requirements*

The Land Management Code (LMC) 15-2.6-3 requires that no balcony projecting over City ROW may be erected, re-erected, located or relocated, enlarged, or structurally modified without first receiving approval from City Council. LMC 15-2.6-3(D) specifically states that "Balconies . . . may not be enclosed." Because City Council has directed staff to move forward with the pilot Winter Balcony Enclosure program, the LMC will need to be amended to allow for these temporary, seasonal balcony enclosures. Property owners are required to provide insurance for their balconies.

#### *Current Temporary Structure Requirements*

The LMC defines a temporary improvement as a structure built or installed, and maintained during the construction of a development, or during a special event or activity and then removed prior to release of the performance guarantee. Staff finds that the proposed balcony enclosures meet the definition of a temporary improvement, BUT extend beyond the duration of construction activity or a special event or activity as currently allowed by code. The winter season is not a special event.

LMC 15-4-16(A)(4) limits temporary structures, such as tents, to a duration no longer than 14 days and for more than five (5) times per year on the same property or site, unless a longer duration or greater frequency is approved by the Planning Commission consistent with the Conditional Use Criteria or as approved by City Council as part of a Master Festival. The intent of this provision in the code was to allow events to run together if necessary, but each 14 day period would count toward the total allowed amount of five (5) times per year, or 70 days total. This limits temporary structures, such as tents, from standing indefinitely by allowing them to stand for only 70 days per

year. The Planning Commission, however, may currently approve a longer duration or greater frequency through a Conditional Use Permit (CUP).

The Land Management Code (LMC) was revised to address the duration of temporary structures in 2009. At that time, there were several temporary structures located on hotel properties in town that had been approved as temporary structures, but were left standing in virtual perpetuity. To ensure this trend would not continue, new duration parameters were adopted in 2009.

There have been instances where a temporary structure has been approved to stay up for greater than 14 days, such as the 2013 Planning Commission approval of a CUP at the Montage allowing construction of temporary structures for up to 15 times per year of which 4 structures were allowed for a maximum of 60 days due to the high frequency of weddings and outdoor parties.

#### *Required Changes to the Land Management Code (LMC)*

During the November 2014 and June 2015 City Council work session and the January and March 2015 HPB work sessions, staff expressed concern that the proposal was in direct opposition to the current LMC, and the LMC does not make exception for temporary, seasonal structures. The LMC needs to be amended in order to accommodate an exception for temporary, seasonal structures. Staff proposes that LMC 15-2.6-3(D) Balconies be amended to state:

#### **(D) BALCONIES AND TEMPORARY WINTER BALCONY ENCLOSURES.**

(1) No Balcony may be erected, enlarged, or altered over a public pedestrian Right-of-Way without the advance approval of the City Council. Balcony supports may not exceed eighteen inches (18") square and are allowed no closer than thirty-six inches (36") from the front face of the curb. Balconies must provide vertical clearance of not less than ten feet (10') from the sidewalk and may not be enclosed permanently. With reasonable notice, the City may require a Balcony be removed from City property without compensating the Building Owner.

(2) Temporary Winter Balcony Enclosures may only be permitted on existing balconies on structures which are not on the Historic Sites Inventory. Temporary Winter Balcony Enclosures are only permitted from November 15<sup>th</sup> through April 30<sup>th</sup> on balconies facing Main Street.

*Note: Language was added to the existing LMC section. No language was eliminated.*

#### *Application Process for Pilot Program*

Those restaurants intending to construct a temporary, seasonal balcony enclosure will be required to complete an Administrative Conditional Use Permit (Admin-CUP). This is a one-time application that runs with the land. Much like the summer Dining Deck program, applicants will only be required to re-apply for the Admin-CUP if substantial changes are made to their balcony enclosure. Temporary structures, per the



International Building Code (IBC), are limited to a 180-day duration, and, so, staff has limited the balcony enclosures to November 15<sup>th</sup> through April 30<sup>th</sup> to ensure that the enclosures are not considered permanent under the IBC.

The applicant will also be required to obtain a building permit for the balcony enclosure. This will allow the Building Department to ensure that the enclosure meets the International Building Code (IBC) and addresses such issues as:

- Lighting and ventilation
- Engineering for live loads, wind, roof capacity
- Fire safety
- Drainage and snow shedding on public right-of-way (Main Street)
- Energy efficiency
- Recalculations for increased occupancy loads will impact sanitation facility requirements, upgrading the design of existing occupancy loads,
- Adequate heating and ventilation

Staff has also discussed additional concerns with our internal Development Review Committee. Staff finds that the balcony enclosures should not further aggravate parking demands as the balconies are already in use during the summer for outdoor dining. The Building Department will also address increased water usage and requirements for the increased occupancy loads at the building permit stage. Further, no new signage may be installed on the balcony enclosure.

The balcony enclosure would have to be constructed as a semi-permanent structure in order to meet the International Building Code. Further, the Building Department will require annual building permits for installation and removal of the enclosures. Each property has its unique challenges and the enclosures will need to be reviewed on a case-by-case basis.

Any modifications to existing buildings or balconies to accommodate the balcony enclosure will be reviewed through a Historic District Design Review application subject to the Design Guidelines and Land Management Code.

Unlike the summer dining decks, City Council will not require a lease agreement with the property owner for the construction of the Temporary Winter Balcony Enclosure. The only fees associated with the Winter Balcony Enclosure will be the one-time Admin-CUP and annual Building Permits for installation and removal of the enclosures. Staff will work with the applicants at the time of the application to ensure that any existing balconies have a recorded encroachment agreement with the City Engineer's Office, if one does not already exist.

### **Good Cause**

Planning Staff finds there is good cause for these LMC amendments as City Council has expressed interest in pursuing a pilot Winter Balcony Enclosure program. The pilot program will run from January through April 2016. Following removal of any balcony enclosures on April 30<sup>th</sup>, staff will evaluate the success of the program and return to City Council in May with a summary of the program, evaluating its merit and challenges at

that time. City Council may then decide whether or not to continue the program as a pilot program or make it full-time.

### **Department Review**

This report has been reviewed by the Planning, Building, Engineering, and Legal Departments.

### **Notice**

Legal notice of a public hearing was posted in the required public spaces and public notice websites on November 25, 2015, and published in the Park Record on November 21, 2015 per requirements of the Land Management Code.

### **Public Input**

Public input is outlined in the attached staff reports and minutes of previous Historic Preservation Board and City Council meetings. No new public input was submitted for the Planning Commission at the time of writing this report.

### **Process**

Amendments to the Land Management Code require Planning Commission recommendation and City Council adoption. City Council action may be appealed to a court of competent jurisdiction per LMC § 15-1-18.

### **Significant Impacts**

There are no significant fiscal or environmental impacts from this application.

### **Recommendation**

Staff is requesting that the Planning Commission open a public hearing, review the possible Land Management Code amendments, and consider forwarding a positive recommendation to City Council.

### **Exhibits**

Exhibit 1—Ordinance (will include Exhibits redlining each LMC Section that is being amended)

Exhibit 2 – Winter Balcony Enclosure Informational Sheet

Exhibit 3 – 6.25.15 City Council Report

Exhibit 4 – 6.25.15 City Council Minutes

Exhibit 5- Riverhorse Proposed Balcony Enclosure Plans

Exhibit 1

Draft Ordinance 16-XX

**AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, AMENDING SECTION 15-2.6-3(D) BALCONIES IN THE HISTORIC COMMERCIAL BUSINESS (HCB) DISTRICT.**

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owners of Park City; and

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code and identifies necessary amendments to address planning and zoning issues that have come up in the past, and to address specific Land Management Code issues raised by the public, Staff, and the Commission, and to align the Code with the Council's goals; implementing the General Plan; and

WHEREAS, the City's goals include preservation of Park City's character regarding Old Town improvements, historic preservation, sustainability, affordable housing, and protecting Park City's residential neighborhoods and commercial districts; and

WHEREAS, Chapters 2.6, Historic Commercial Business (HCB) provides a description of requirements, provisions and procedures specific to this zoning district that the City desires to revise; and

WHEREAS, by permitting Temporary Winter Balcony Enclosures, it will meet the City's goal of maintaining the Historic Main Street District as the heart of the City for residents and encourage tourism in the district for visitors and encourage local oriented businesses to remain in the Historic Main Street District; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meeting on December 9, 2015; and forwarded a recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on January 7, 2015; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Park City General Plan and to be

consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, preserve and protect the residential neighborhoods, and preserve the community's unique character.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.6 Section 3. The recitals above are incorporated herein as findings of fact. Section 15-2.6-3 of the Land Management Code of Park City is hereby amended as redlined (see Attachment 1).

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2016

PARK CITY MUNICIPAL CORPORATION

\_\_\_\_\_  
Jack Thomas, Mayor

Attest:

\_\_\_\_\_  
Acting City Recorder

Approved as to form:

\_\_\_\_\_  
Mark Harrington, City Attorney

## Attachment 1

### 15-2.6-3 (D). Balconies.

#### (D) BALCONIES AND TEMPORARY WINTER BALCONY ENCLOSURES.

(1) No Balcony may be erected, enlarged, or altered over a public pedestrian Right-of-Way without the advance approval of the City Council. Balcony supports may not exceed eighteen inches (18") square and are allowed no closer than thirty-six inches (36") from the front face of the curb. Balconies must provide vertical clearance of not less than ten feet (10') from the sidewalk and may not be enclosed permanently. With reasonable notice, the City may require a Balcony be removed from City property without compensating the Building Owner.

(2) Temporary Winter Balcony Enclosures may only be permitted on existing balconies which are on structures which are not on the Historic Sites Inventory. Temporary Winter Balcony Enclosures are only permitted from November 15<sup>th</sup> through April 30<sup>th</sup> on balconies facing Main Street.

# Temporary Winter Balcony Enclosures on Main Street for Your Restaurant

In an effort to aid Main Street businesses to continue providing exceptional customer service to Main Street visitors, City Council has created an opportunity for restaurant owners to temporarily enclose their balconies for the winter months. In 2015, the City Council authorized the Planning Department to begin working with interested Applicants and assist them with the approval process. In short, Temporary Winter Balcony Enclosures may be permitted for your existing restaurant upon the issuance of an Administrative Conditional Use Permit (CUP), to be completed through the Planning Department. Temporary Winter Balcony Enclosures are only permitted on non-historic buildings. Applicants must submit an application, pay an application fee, and provide all required materials and plans as noted prior to October 15, 2016 at 5pm.

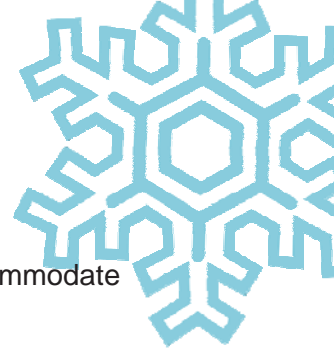
## WHAT YOU NEED IN ORDER TO SUBMIT:

- Administrative Conditional Use Permit Application
- Certified topographical boundary survey of the existing site prepared by a licensed surveyor at an approved scale which includes the following—current conditions, utility locations, building footprint(s) of all existing structures and improvements on site, drainage facilities, on- and off-site circulation and parking, existing physical encroachments on and off-site, and all structures within 20' of the subject property
- Floor plans drawn at quarter-inch scale, including property lines and footprint square footage.
- Building Elevations illustrating the proposed work at quarter-inch scale with elevations referenced to USGS datum points; elevation drawings may be limited to sides and façade elevations.
- Dining Site Plan— this plan shall be to scale and indicate accurate locations of proposed chairs, tables, planters, and any other improvements.

## Design Guidelines and Criteria for Temporary Winter Balcony Enclosures

1. There may be times when it is not appropriate to construct a Temporary Winter Balcony Enclosure on a non-historic building due to unique conditions, including but not limited to health and safety concerns, as found by the Planning Director or Chief Building Official.
2. The Temporary Winter Balcony Enclosures and the balcony should respect the architectural style of the building.
3. The Temporary Winter Balcony Enclosures should retain existing balcony railings in order to achieve a design consistent with open balconies and maintain the character of the original building.

Design Guidelines and Criteria for Temporary Winter Balcony Enclosures (continued)



4. The existing exterior wall of the building may not be removed seasonally in order to accommodate the balcony enclosure.
5. The Temporary Winter Balcony Enclosures must not block existing door and window openings on neighboring buildings.
6. Temporary Winter Balcony Enclosures should consist of clear glazing set in window frames that generally match the mass, scale, and materials of those used for the glazing frames of the building.
7. Sunscreens are permitted and should only be used in times of extreme sun, but should not be obtrusive.
8. The balcony must be situated so as not to interfere with pedestrian movement on the sidewalk.
9. The Temporary Winter Balcony Enclosures must have direct access to the restaurant's dining area.
10. Temporary Winter Balcony Enclosures designs must address snow shedding.
11. Any changes to the exterior façade of the building, proposed changes to the existing balcony, or construction of a new balcony shall be reviewed by staff as part of the Historic District Design Review. New balconies extending over the City right-of-way will require approval of the City Council.
12. The construction of any temporary tents should be approved through an Administrative Conditional Use Permit for up to fourteen (14) days. Free-standing tents will not be considered the same as balcony enclosures.
13. No signage is allowed on any Temporary Winter Balcony Enclosures.
14. Any new Temporary Winter Balcony Enclosures will require a building permit.
15. Temporary Winter Balcony Enclosures will only be permitted November 15th through April 15th.





**DATE: June 25, 2015**

**TO HONORABLE MAYOR AND COUNCIL**

Riverhorse on Main wishes to construct a temporary, seasonal enclosure on their balcony that would provide additional restaurant space during the winter months (November 1<sup>st</sup> through April 30<sup>th</sup>). They believe other restaurants on Main Street would also benefit by having the ability to enclose their balconies, and the Riverhorse proposed that City Council develop a seasonal program similar to Street Dining on Main-the dining deck program. Staff has collaborated with the Building, Planning, Engineering, Finance, Sustainability, and Legal Departments to develop a pilot program proposal for the 2015-2016 winter season. Staff is requesting City Council review staff's proposed Winter Balcony Enclosure Program and provide input and direction for staff to move forward.

**Respectfully:**

Anya Grahn, Planner II





# City Council Staff Report

**Subject:** Winter Balcony Enclosures on Main  
**Author:** Anya Grahn, Historic Preservation Planner  
**Department:** Planning Department  
**Date:** June 25, 2015  
**Type of Item:** Work Session

### Summary Recommendations:

Staff recommends City Council review staff’s analysis of the proposed balcony enclosures over the Main Street right-of-way during the winter months (November through April). If, consistent with Council direction in November 2014, City Council wishes to pursue a Winter Balcony Enclosure program, similar to the summer Street Dining on Main program, then City Council should provide input to staff regarding the proposed program.

### List of Acronyms:

Administrative Conditional Use Permit	Admin-CUP
Common Area Maintenance fees	CAM
Conditional Use Permit	CUP
Historic Commercial Business District	HCB
Historic Preservation Board	HPB
Land Management Code	LMC
Right-of-Way	ROW
Square Foot	SF

### Executive Summary:

Riverhorse on Main wishes to construct a temporary, seasonal enclosure on their balcony that would provide additional restaurant space during the winter months (November 1<sup>st</sup> through April 30<sup>th</sup>). They believe other restaurants on Main Street would also benefit by having the ability to enclose their balconies, and the Riverhorse proposed that City Council develop a seasonal program similar to Street Dining on Main—the dining deck program. Staff has collaborated with the Building, Planning, Engineering, Finance, Sustainability, and Legal Departments to develop a pilot program proposal for the 2015-2016 winter season. Staff is requesting City Council review staff’s proposed Winter Balcony Enclosure Program and provide input and direction for staff to move forward.

### Background:

On September 18, 2014, Seth Adams of the Riverhorse presented to City Council his concept for a winter balcony enclosure program. Riverhorse hopes to imitate the success of their tent’s use during special events by constructing a temporary 120-day enclosure on the balcony from approximately November 15<sup>th</sup> through April 15<sup>th</sup> that would promote winter-time use. The temporary enclosure would add approximately 350

square feet of restaurant space on the balcony and seat approximately twenty (20) patrons, or about five (5) tables of four (4).

Staff met with City Council on November 13, 2014, to discuss creating a Winter Balcony Enclosure program, similar to that of the Street Dining on Main’s summer dining decks. A majority of City Council was supportive of the idea of the enclosure program. City Council directed staff to meet with the Historic Preservation Board (HPB) for feedback on this program. Staff met with the HPB on January 7 and March 4, 2015, to discuss necessary changes to the Land Management Code (LMC) and Design Guidelines in order to accommodate the winter balcony enclosure program. The input provided by the HPB is reflected in the analysis section of this report.

At the November 13, 2014 meeting with City Council, staff strongly recommended that the balcony enclosures not be permitted as they would detract from the look and feel of Historic Main Street; however, the majority of City Council and the HPB found the enclosures to be an aesthetic improvement to the white tents currently used during the winter months. However, City Council and the HPB found that the balcony enclosures could be done in a manner with minimal aesthetic impacts, would maintain the high quality of customer service, and support increased seasonal occupant loads of Main Street restaurants.

**Analysis:**

Balconies are defined by the Land Management Code (LMC) as a platform that projects from the wall of a building and is enclosed by a railing, parapet, or balustrade. There are approximately twenty-one (21) balconies on Main Street that extend over the City ROW.

Outdoor dining is a conditional use in the Historic Commercial Business (HCB) District for restaurants. Any outdoor dining must be approved through an Administrative Conditional Use Permit (Admin-CUP). Riverhorse and Wahso both have Admin-CUPs for their outdoor dining for summertime balcony dining. No other restaurants currently have approvals.

The following chart outlines the location, historic designation, and existence of Admin-CUPs for the existing balconies:

Business Name:	Address:	Use:	Historic Designation:	Admin CUP for Outdoor Dining
TMI	255 Main St	Multiple	Not Historic	No
Red Banjo Pizza	322 Main St	Restaurant	Landmark	No
Berkshire Hathaway Home Services	354 Main St	Real Estate	Significant	No
Burns Cowboy Shop	361 Main St	Retail	Landmark	No
Woodbury Jewelers	421 Main St	Retail	Not Historic	No
Flannagans	438 Main St	Restaurant	Landmark	No
Robert Kelly Home	449 Main St	Retail	Significant	No
501 on Main	501 Main St	Restaurant	Not Historic	<i>Under review</i>

The Expanding Heart	505 Main St	Retail	Not Historic	No
The Cunningham Building	537 Main St	Office	Not Historic	No
River Horse	530-540 Main St	Restaurant	Landmark (Balcony is on the addition)	Yes
Quicksilver	570 Main St	Retail	Not Historic	Yes
Wahso	577 Main St	Restaurant	Not Historic	Yes
GaUCHO/Above Condo	591 Main St	Retail/Residential	Significant	No
Destiny	608 Main St	Retail	Not Historic	No
Montgomery Life Fine Art	608 Main St	Retail	Not Historic	No
Condos	613 Main St	Residential (2 <sup>nd</sup> level)	Not Historic	No
Condos	614 Main St	Residential (2 <sup>nd</sup> level)	Not Historic	No
Summit Sotherby's International Realty	625 Main St	Residential/Realty	Not Historic	No
Bahnhof Sport	639 Main St.	Retain	Not Historic	No
Town Lift Condominiums	693 Main St	Commercial/Residential	Not Historic	No
Caledonian Hotel	751 Main St	Commercial	Not Historic	No

There are approximately twenty-one (21) balconies on Upper and Lower Main Street. Of these:

- Seven (7) are constructed on historic buildings, but only one (1) balcony is historic (361 Main Street).
- Only five (5) balconies are associated with restaurant use.

***Does City Council wish to pursue the proposed Winter Balcony Enclosure program, consistent with Council direction in November 2014?***

**LAND MANAGEMENT CODE:**

*Current Balcony Requirements*

The Land Management Code (LMC) 15-2.6-3 requires that no balcony projecting over City ROW may be erected, re-erected, located or relocated, enlarged, or structurally modified without first receiving approval from City Council. LMC 15-2.6-3(D) specifically states that “Balconies . . . may not be enclosed.” Should City Council decide to pursue a Winter Balcony Enclosure program, the LMC will need to be amended to allow for temporary balcony enclosures. Property owners are required to provide insurance for their balconies.

The Land Management Code (LMC) was revised to address the duration of temporary structures in 2009. At that time, there were several temporary structures located on hotel properties in town that had been approved as temporary structures, but were left standing in virtual perpetuity. To ensure this trend would not continue, new duration parameters were adopted in 2009.

*Current Temporary Structure Requirements*

The LMC defines a temporary improvement as a structure built or installed, and maintained during the construction of a development, or during a special event or

activity and then removed prior to release of the performance guarantee. Staff finds that the proposed balcony enclosures meet the definition of a temporary improvement, BUT extend beyond the duration of construction activity or a special event or activity as currently allowed by code. The winter season is not a special event.

The LMC limits temporary structures, such as tents, to a duration no longer than 14 days and for more than five (5) times per year on the same property or site, unless a longer duration or greater frequency is approved by the Planning Commission consistent with the Conditional Use Criteria or as approved by City Council as part of a Master Festival. The intent of this provision in the code was to allow events to run together if necessary, but each 14 day period would count toward the total allowed amount of five (5) times per year, or 70 days total. This limits temporary structures, such as tents, from standing indefinitely by allowing them to stand for only 70 days per year. The Planning Commission, however, may approve a longer duration or greater frequency through a Conditional Use Permit (CUP).

There have been instances where a temporary structure has been approved to stay up for greater than 14 days, such as the 2013 Planning Commission approval of a CUP at the Montage allowing construction of temporary structures for up to 15 times per year of which 4 structures were allowed for a maximum of 60 days due to the high frequency of weddings and outdoor parties.

*Required Changes to The Land Management Code (LMC)*

During the November 2014 City Council work session and the January and March 2015 HPB work sessions, staff expressed concern that the proposal was in direct opposition to the current LMC, and the LMC does not make exception for temporary, seasonal structures. The LMC needs to be amended in order to accommodate an exception for temporary, seasonal structures. Staff proposes that LMC 15-2.6-3(D) Balconies be amended to state:

(D) BALCONIES. No Balcony may be erected, enlarged, or altered over a public pedestrian Right-of-Way without the advance approval of the City Council. Balcony supports may not exceed eighteen inches (18") square and are allowed no closer than thirty-six inches (36") from the front face of the curb. Balconies must provide vertical clearance of not less than ten feet (10') from the sidewalk and may not be enclosed permanently. Temporary Winter Balcony Enclosures may be appropriate on some Main Street Buildings. With reasonable notice, the City may require a Balcony be removed from City property without compensating the Building Owner.

A building is defined by the Land Management Code as any Structure, or any part thereof, built or used for the support, shelter, or enclosure of any Use or occupancy by Persons, animals, or chattel.

***Does City Council agree with these changes to the LMC? Does City Council wish to see any changes to these proposed amendments?***

#### DESIGN GUIDELINE CHANGES:

Planning Staff's professional opinion is that the enclosure of the balconies detracts from the historic "western" appearance of our Mining Era Main Street. The appearance of balconies over the sidewalks adds appeal and interest to the rhythm and patterning of the Main Street historic district. These enclosures would change the massing of the structure and create the perception of the second floor extending beyond the plane of the façade and over the City right-of-way. By extending beyond the front plane of the façade, these Winter Balcony Enclosures would also be blocking the views of neighboring historic buildings when looking up or down Main Street. Park City's Main Street is characterized by in-line facades with limited breaks in their massing. Staff finds that building over the balconies would break the well-articulated street wall along the sidewalk and will greatly disrupt the continuity of the street wall.

The Historic Preservation Board (HPB) found that the balcony enclosures allowed the buildings within the historic district to provide for contemporary needs. They thought this was an ingenious solution that will allow Park City restaurateurs to continue providing exceptional customer service to Main Street visitors, as many patrons are turned away from restaurants during peak load times in the winter. Additionally, the HPB favored the balcony enclosures replacing the unattractive white vinyl tents that are currently used on Main Street balconies in the winter to expand dining space.

The HPB determined that winter balcony enclosures should be limited to non-historic buildings only. The HPB was concerned that the continuous construction and removal of the enclosure would have a detrimental impact on historic building materials. Further, the temporary additions would obscure the view of the historic structure. Should City Council support the Winter Balcony Enclosure program and limit the enclosures to only non-historic buildings or additions of buildings with restaurant use, there would currently only be three (3) balcony enclosures permitted at:

- 501 on Main (501 Main)
- Riverhorse (530-540 Main)
- Wahso (577 Main)

***Does City Council agree that the balcony enclosures should be limited to only non-historic buildings? Or, does City Council wish to see the program available to all Main Street restaurants no matter their historic designation?***

The HPB understood the need to devise guidelines that would help control the appearance of the balcony enclosures, prevent damage to adjacent historic buildings, and not negatively impact the look and feel of our historic Main Street.

If City Council supports temporary balcony enclosures, then staff recommends revising the following guidelines recommended by the HPB to limit the impacts of the seasonal structures:

MSSH1. The proposed project must not cause the building or district to be removed from the National Register of Historic Places. Temporary structures are not subject to review of the National Register of Historic Places.

MSSH8. Temporary winter balcony enclosures are reviewed by the program's criteria and are not addressed by these Specific Design Guidelines.

Other guidelines should be included that manage the design of the balcony enclosures. These include:

1. The City reserves the right to reject an application for a balcony enclosure if any of the following are met:
  - The proposed deck creates too much private use of the public right-of-way that may be deemed detrimental to the health, safety, welfare of the area;
  - The Building, Planning, and Engineering Departments find that the location, proximity, and spacing of each balcony enclosure pose traffic and public safety concerns.
2. The enclosure and balcony are compatible with the architectural style of the building.
3. The enclosure retains existing railings in order to achieve a design consistent with open balconies and maintain the character of the original building.
4. The existing exterior façade wall may not be removed seasonally in order to accommodate the balcony enclosure.
5. The enclosure must not block existing door and window openings on neighboring buildings.
6. Enclosures should consist of clear glazing set in window frames that generally match the mass, scale, and material as those used for the glazing frames of the building.
7. Sunscreens are permitted and should only be used in times of extreme sun, but should not be obstructive.
8. The balcony must be situated so as not to interfere with pedestrian movement on the sidewalk.
9. The enclosure must have direct access to the restaurant's dining area.
10. The design must address snow shedding to the satisfaction of the Chief Building Official.
11. Changes to the exterior façade are discouraged. Any changes to the exterior façade of the building, proposed changes to the existing balcony, or construction of a new balcony shall be reviewed by staff as part of the Historic District Design



Review. New balconies extending over the City right-of-way will require the approval of City Council.

12. The construction of any temporary tents should be approved through an Administrative Conditional Use Permit (Admin-CUP) for up to fourteen (14) days. Free-standing tents will not be considered the same as balcony enclosures.
13. No signage shall be allowed on temporary enclosure/balcony enclosure.
14. Any new balcony enclosures will require a building permit.
15. Balcony enclosures will only be permitted from November 15<sup>th</sup> to April 15<sup>th</sup>.

***Does City Council agree to these proposed Design Guidelines for managing the appearance of the balcony enclosures? Are there any modifications City Council would like to make or additional guidelines they would like to add?***

#### LEASING THE RIGHT-OF-WAY (ROW)

It will be necessary for restaurant owners to enter into a lease agreement with the City for any balcony space located within the City ROW. The lease to restaurant owners to use the City ROW on Main Street for on-street dining includes provisions which regulate the time and duration of the use, provide for consistency in look and materials of the Winter Balcony Enclosures which are placed in the ROW, mitigate for conflicting uses in the public ROW, ensure for clean sidewalks, and provide an ongoing monitoring mechanism and revocation provision for failure to comply with regulations. In addition to the lease, the Lessee is required to receive an Administrative CUP which regulates the operation of the on-street dining.

Staff has prepared a draft lease template that would be executed with each applicant prior to approving any Winter Balcony Enclosure (Exhibit A). Staff has also prepared updated operational restrictions (Attachment 1). If City Council chooses to move forward with the program, Staff recommends that the three (3) restaurants with balconies on Main Street be permitted to participate in a pilot program for the 2015-2016 winter season.

***Does City Council wish to pursue a pilot Winter Balcony Enclosure program for the winter of 2015-2016 with the three (3) eligible restaurant balconies?***

#### RENTAL RATES & BUSINESS LICENSING

Currently, the dining deck program charges \$550 per parking space of 20 feet. This was calculated based upon the loss amount of funds generated by the parking space during the summer season. Staff finds that it would be appropriate to request a rental rate similar to that of commercial square footage as the seasonal enclosure would expand the gross floor area of the commercial space. This is roughly \$42-\$60 per square foot annually, before Common Area Maintenance (CAM) fees. (This equates to approximately \$3.50 to \$5 per square foot monthly, before CAM fees.) Using the Riverhorse as an example, the rental income generated for the City would be

approximately \$1,225 to \$1,750 per month for a balcony enclosure that is roughly 350 square feet in area over the City ROW. Staff recommends setting the rental fee at \$4.25 per square foot (SF), the median of \$3.50 to \$5.00. Staff finds that the rent should be prorated by the number of days the balcony enclosure exists, but would roughly equate to:

$$\$4.25 \times \text{___SF} \times \text{___ months (construction through demolition)} = \text{___ (Rental Income)*}$$

*\*Fractions of a month would be rounded to the nearest hundredth. For example, four (4) days out of 30 would equate to .13 months.*

The applicant's business license should reflect the additional square footage of the balcony. Working with the Finance Department, staff finds that it is best to address the Winter Balcony Enclosures as part of an Outdoor Dining Admin-CUP. Currently, those restaurants with outdoor dining CUPs purchase a business license that is good for one (1) year. If the restaurant already has an Admin-CUP for outdoor dining, then there would be no additional business licensing fees required. Any new Outdoor Dining Admin-CUPs would require new business licensing.

#### ADMINISTRATIVE CUP

The Administrative CUPs do not have an expiration date, and run with the land, or until City Council provides direction to not allow use of City-streets for outdoor dining. Currently, the Main Street Summer Dining Program only requires that applicants enter into an Admin-CUP for outdoor dining and then a lease agreement with the City for the dining deck's use of the ROW. Similarly, staff recommends that applicants submit an Admin-CUP for the Winter Balcony Enclosure and then enter into a lease agreement with the City for use of the ROW. Because the Admin-CUP runs with the land, the applicant would not be required to submit the Admin-CUP annually. They would only be required to submit a new Admin-CUP if they were making modifications to the original approval. After the initial pilot program, City Council would be required to hold a public hearing and approve the lease agreements annually in the same manner that the Summer Dining Deck leases are approved.

#### INTERNATIONAL BUILDING CODE

The International Building Code (IBC) defines temporary as less than 180 days. In reviewing the Riverhorse's proposal, the Building Department found the following requirements will impact temporary winter balcony enclosures:

- Additional life safety notification devices, including but not limited to fire sprinklers
- Exits within fifty feet (50')
- Lighting and ventilation
- Engineering for live loads, wind, roof capacity
- Fire separation on windows and roofing (the enclosure cannot be entirely constructed of glass in order to meet 1-hour fire rated wall requirements of the IBC)
- Drainage and snow shedding on public right-of-way (Main Street)



- Energy efficiency
- Recalculations for increased occupancy loads will impact sanitation facility requirements, upgrading the design of existing occupancy loads,
- Must meet the structural requirements for permanent structures
- Common wall agreements with neighboring properties
- Traffic mitigation for installation and removal of temporary enclosure
- Adequate heating and ventilation
- Energy efficiency
- Additional water impact and utility fees
- Fire resistive rated-wall construction at exit stairs

Any temporary structure greater than 200 square feet in area would require a building permit. The balcony enclosure would have to be constructed as a permanent structure in order to meet the International Building Code, making it difficult and costly to construct and take down seasonally. Further, the Building Department will require annual building permits for installation and removal of the enclosures. Each property has its unique challenges and the enclosures will need to be reviewed on a case-by-case basis.

#### Other Concerns





In meeting with our Development Review Committee—comprised of the Building, Engineering, Public Works, Water, Legal, Snyderville Water Reclamation District (SBWRD), Fire District, and Sustainability Departments—the group identified other potential issues such as:

- Increased use of sewer and water;
- Parking demands generated by additional tables within enclosures;
- Increased strain on city resources for reviewing and monitoring enclosures;
- Encroachment agreements for construction over city right-of-way;
- Insurance and liability; and
- Glare and reflection caused by balcony enclosure windows

#### **Department Review**

The Building, Planning, Engineering, Finance, Special Events, Legal, and Executive Departments have reviewed this staff report.

**Significant Impacts:**

	<b>World Class Multi-Seasonal Resort Destination (Economic Impact)</b>	<b>Preserving &amp; Enhancing the Natural Environment (Environmental Impact)</b>	<b>An Inclusive Community of Diverse Economic &amp; Cultural Opportunities (Social Equity Impact)</b>	<b>Responsive, Cutting-Edge &amp; Effective Government</b>
Which Desired Outcomes might the Recommended Action Impact?	<ul style="list-style-type: none"> <li>+ Balance between tourism and local quality of life</li> <li>+ Varied and extensive event offerings</li> <li>+ Unique and diverse businesses</li> <li>+ Accessibility during peak seasonal times</li> </ul>	(+/-)	<ul style="list-style-type: none"> <li>+ Preserved and celebrated history; protected National Historic District</li> <li>+ Shared use of Main Street by locals and visitors</li> </ul>	<ul style="list-style-type: none"> <li>+ Fiscally and legally sound</li> <li>+ Well-maintained assets and infrastructure</li> </ul> (+/-)
Assessment of Overall Impact on Council Priority (Quality of Life Impact)	Very Positive 	Neutral 	Very Positive 	Positive 
<p><b>Comments:</b> This program is very unique in that it utilizes the shoulder season to bring more people to Main Street. After researching other Historic Districts around the nation we have found that Park City is the only one that utilizes the street for constructions of these dining decks. We have received several inquiries by other cities as to how we manage this program.</p>				

**Funding Source:**

Not applicable.

**Consequences of not taking the recommended action:**

The City Council may provide direction to end the Winter Balcony Enclosure program which would not allow any owners to enclose their balconies from November 15<sup>th</sup> through April 15<sup>th</sup>. The City Council may continue this item to another date for more information and/or discussion.

**Recommendation:**

Staff recommends City Council review staff’s analysis of the proposed balcony enclosures over the Main Street right-of-way during the winter months (November through April). If, consistent with Council direction in November 2014, City Council wishes to pursue a winter balcony enclosure program similar to the summer Street Dining on Main program, then City Council should provide input to staff regarding the proposed program.

**Exhibits:**

Exhibit A – Updated Lease Agreements & Attachment 1 - Operational Restrictions

Exhibit B – Historic Preservation Board Report + Exhibits 3.4.15

Exhibit C – Historic Preservation Board (HPB) minutes, 1.7.15 and 3.4.15

## Exhibit A

### WINTER BALCONY ENCLOSURE ON MAIN PUBLIC RIGHT-OF-WAY LEASE

This LEASE AGREEMENT is made and executed this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between Park City Municipal Corporation, a municipal corporation and political subdivision of the state of Utah ("Park City") and \_\_\_\_\_, located at \_\_\_\_\_, Park City, Utah ("Tenant").

#### *RECITALS*

WHEREAS, the City wishes to enable opportunities for restaurants on Main Street to be able to provide additional outdoor dining opportunities; and

WHEREAS, the City's goals include the establishment of new and creative opportunities to facilitate the Main Street experience for residents and visitors alike during the shoulder and winter seasons; and

WHEREAS, the City's goals include the preservation and enhancement of Park City's character regarding Old Town and the desire to strengthen the pedestrian experience along Main Street; and

WHEREAS, the City recognizes the desire of many restaurant owners to accommodate the increased occupation loads during the winter months along historic Main Street; and

WHEREAS, the goal of the City's General Plan is to maintain the Historic Main Street District as the heart of the City for residents and encourage tourism in the district for visitors; and

WHEREAS, the City's goals include maintaining and furthering the resort community's economic opportunities, as well as enhancing the economic viability of Park City's Main Street Business District;

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

#### *TERMS & CONDITIONS OF LEASE*

Based upon good and valuable mutual consideration, the Parties agree as follows:

1. **PROPERTY.** The property affected by this lease is generally described as the balcony area directly fronting Tenant's building located at \_\_\_\_\_ Main Street, and more specifically described in site plan Exhibit A, attached hereto and incorporated herein by this reference (hereinafter referred to as the "Premises").
2. **RENT.** Annual rent is for the use of the street for the balcony enclosure is four dollars and twenty-five cents per square foot (\$4.25) per month. This rent may be prorated based upon initial installation and final removal dates; however the rent reduction shall not exceed one (1) month. Payment is due prior to installation and any prorated amount due upon removal shall be refunded by the City. If a balcony enclosure covers a fraction of one square foot the rent will be calculated by the percentage of the square foot on the right-of-way space. Tenant shall be solely responsible for payment of any and all costs

associated with Tenant's performance under this lease, including but not limited to City rent, additional business licensing fees, insurance, sales taxes, and other expenses.

3. **TERM.** The term of this Agreement shall commence on November 15, 2015 and shall terminate on April 15, 2016 unless terminated earlier as provided herein. The Property may only be utilized for a five (5) month period commencing on November 15, 2015, and terminating on April 15, 2016, . Additional term restrictions are attached hereto and incorporated herein by this reference in Attachment 1 (Winter Balcony Enclosure Operation Restrictions). This Agreement may be terminated by Park City upon a finding of non-compliance of this lease or the attached operational restrictions.

The Property must be vacated (i.e. removal of enclosure) no later than end of the business day (5pm) on April 15<sup>th</sup>.

4. **USE OF PREMISES.** Tenant may use the Premises only for dining services in a manner consistent with Section 15-2.6-12(B)(1) of the Park City Land Management Code and the terms of this Agreement. From installation until removed, the Additional operational restrictions which must be complied with as part of the conditions of this lease are attached hereto and incorporated herein in Attachment 1. Park City makes no representations regarding the premises and Tenant accepts the premises "as is."
5. **IMPROVEMENTS TO THE PREMISES.** Tenant shall not make any improvements to the Premises without first obtaining Park City's written consent. Any improvements approved by Park City shall be completed at Tenant's sole expense and removed at Tenant's sole expense upon expiration of this Agreement. No permanent alterations to the City's property are permitted.
6. **SIGNS.** No signs shall be permitted on the Premises except as specifically approved by the Park City Municipal Corporation Planning Department pursuant to the Park City Sign Code and/or Tenant's Master Sign Plan.
7. **INSURANCE.** Tenant shall, at Tenant's sole expense, carry a policy of general liability insurance in an amount of at least Two Million Dollars (\$2,000,000) per combined single limit per occurrence and Three Million Dollars (\$3,000,000) per aggregate for personal injury, bodily injury, and property damage. Park City shall be named as an additional insured by endorsement on each policy. Tenant's insurance is to be primary to Park City's and Park City's insurance shall be noncontributory. A certificate of insurance with a thirty (30) day cancellation notice provision shall be provided to Park City on or before the lease commencement date, and maintained continuously during the term of the lease. Tenant may carry whatever other insurance Tenant deems appropriate. The parties agree that Tenant's sole remedy in the event of business interruptions, fire, windstorm, or other loss from hazard shall be its own insurance and Tenant will have no action against Park City. Park City is protected by the Utah Governmental Immunity Act, and nothing herein is intended to waive or limit the protection of the Act in behalf of either entity, but to the extent it is consistent with this intent, it is the purpose of this provision to protect Park City for liability or allegations arising out of the Tenant's use of the Premises.
8. **HOLD HARMLESS.** Tenant covenants and agrees to defend, indemnify, hold Park City harmless from all claims, loss damage, injury or liability (hereafter "Liability") resulting from Tenant' use and occupancy of the Premises to the full extent permitted by law

and/or the Utah Governmental Immunity Act, including reasonable attorney's fees, but excluding any Liability resulting from acts or omissions of Park City, its officers, employees or agents. Nothing herein shall be construed as a waiver of any of the rights or defenses under the Utah Governmental Immunity Act (Utah Code Ann. Sections 63-30-1, et seq.), as amended. The obligations hereunder shall be determined under principles of tort law including, but not limited to, the Governmental Immunity Act. In case of an emergency including but not limited to a flood, storm drain, utility, the structure may be removed or damaged by response teams at the cost of the owner.

Tenant shall indemnify, protect and hold the Landlord harmless from and defend (by counsel reasonably acceptable to Landlord) the Landlord against any and all claims, causes of action, liability, damage, loss or expense (including reasonable attorneys' fees and costs and court costs), statutory or otherwise arising out of or incurred in connection with (i) the use, operation, occupancy or existence of the Premises or the presence of visitors, or any other person, at the Premises during the Term or the Renewal Term, (ii) any activity, work or thing done or permitted or suffered by Tenant in or about the Premises, (iii) any acts, omissions or negligence of Tenant, any person claiming through Tenant, or the contractors, agents, employees, members of the public, invitees, or visitors of Tenant or any other such person ("Tenant Party" or "Tenant Parties"), (iv) any breach, violation or nonperformance by any Tenant Party of any provision of this Lease or of any law of any kind, or (v) except to the extent resulting from any negligence or intentional torts of Landlord.

9. ASSIGNABILITY. Tenant shall not assign or transfer any interest in this Agreement without the prior written consent of Park City. Any assignment or transfer without written approval is void.
10. PROFESSIONAL PERFORMANCE. Tenant agrees to perform services under this contract at the highest professional standards, and to the satisfaction of Park City.
11. APPLICABLE LAW. This Agreement shall be governed by the laws of the state of Utah.
12. ENTIRE AGREEMENT. This Agreement constitutes the entire and only agreement between parties and it cannot be altered or amended except by written instrument, signed by both parties.

Executed the day and year first above written.

**Tenant:**

\_\_\_\_\_  
By:

\_\_\_\_\_  
Its:

\_\_\_\_\_  
Date:

**ACKNOWLEDGMENT**

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SUMMIT            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, who being duly sworn, did say that he is the Owner of \_\_\_\_\_, and acknowledged to me that the preceding Agreement was signed on behalf of \_\_\_\_\_, and he acknowledged that the company did execute the same for its stated purpose.

\_\_\_\_\_  
Notary Public

**PARK CITY MUNICIPAL CORPORATION**

\_\_\_\_\_  
Jack Thomas, Mayor

Attest:

\_\_\_\_\_  
Marci Heil, City Recorder

Approved as to form:

\_\_\_\_\_  
City Attorney's Office

## **Attachment 1**

### **Winter Balcony Enclosure Operation Restrictions**

Winter Balcony Enclosures may be allowed by the Planning Department upon issuance of an Administrative Conditional Use Permit. Winter Balcony Enclosures are permitted from November 15th, and shall terminate on April 15<sup>th</sup> of each year. A total of three (3) Winter Balcony Enclosures will be accommodated on Main Street based on the layout of the existing balconies. The Applicant must submit an application, pay an application fee, and provide all required materials and plans. Ongoing monitoring will be provided to ensure compliance with these parameters. The Administrative Conditional Use Permit or the Lease may be revoked for failure to comply with these restrictions.

#### Required Submittals:

- Dining Site Plan – This plan shall be to scale and indicate: applicant’s existing restaurant space and location of new balcony enclosure; accurate locations for ingress/egress, restrooms, etc.; accurate locations for proposed chairs, tables, planters, etc.
- Details/specifications sheets – Shall be submitted for each piece of equipment proposed with the street dining is application. This will include all tables, chairs, umbrellas, etc.

#### Design Standards:

16. Size. The Winter Balcony Enclosure shall be limited to the linear frontage a building has on Main Street and shall not exceed the depth of the restaurant’s balcony. Any encroachment into the City right-of-way will require that the applicant enter into encroachment agreement with the City Engineer.
17. Location/Proximity/Spacing. The City reserves the right to reject an application for an Winter Balcony Enclosure:
  - If the proposed enclosure is too close to a previously existing neighboring balcony enclosure and would eliminate needed parallel parking along Main Street thus creating a concentrated parking issue.
  - If the proposed Winter Balcony Enclosure is for a restaurant balcony that does not have direct access to the restaurant’s dining area.
  - If the proposed balcony enclosure creates too much private use of the public right-of-way that may be deemed detrimental to the health, safety, welfare of the area.
  - The Building, Planning, and Engineering Departments will review the location, proximity, and spacing of each balcony enclosure as well as impacts of traffic and public safety concerns. A recommendation will be given to the City Council for final review and approval.
18. Hours of Operation. The winter balcony enclosures shall be utilized for dining only and must be adjacent to existing restaurant space.
19. Material. The Winter Balcony Enclosure shall be constructed of materials complementary of the existing structure. The design shall complement the style of the building. The railing shall be painted solid to complement the building. While the Winter



Balcony Enclosure is not subject to a complete Historic District Design Review (HDDR), the guidelines are applicable to the project.

20. Height. The maximum height of the Winter Balcony Enclosure shall not exceed one story in height, and shall be subordinate in mass, scale, and height to the existing structure. The height of the Winter Balcony Enclosure shall not exceed the height of the building's second story or cornice, whichever is shorter in height
21. Advertising. Additional signing or advertising beyond what is allowed by the Park City Sign Code is prohibited. Any new signage will require a sign permit.
22. Lighting. No additional exterior electric lighting is permitted on the outside of the balcony enclosure.
23. Use. The terms and scheduling of the use of the Winter Balcony Enclosure are limited to November 15<sup>th</sup> through April 15<sup>th</sup>. If the Winter Balcony Enclosure is not removed as required by end of the business day (5pm) on April 15th, Park City will remove the structure at cost to compensate for the employees and equipment needed to complete the task.
24. Licensing. The additional square footage of the dining area must be added to the existing licensed area for the restaurant. The Applicant shall also adhere to other applicable City and State licensing ordinances, including the Department of Alcoholic Beverage Control. It is the responsibility of the Applicant to ensure that all licenses are properly obtained and adhered to.
25. Duration. Winter Balcony Enclosures are permitted from November 15th, and shall terminate on April 15th, each year.
26. Health & Safety. The Use shall not violate the Summit County Health Code, the Fire Code, or International Building Code.
27. Music. The use of outdoor speakers and music is prohibited.
28. Maintenance. The Winter Balcony Enclosure shall be maintained in a neat and orderly fashion.
29. Storage. All equipment and other associated materials must be removed and stored on private property during prohibited times (off season). No material associated with the Winter Balcony Enclosure may be stored outdoors on-site during the off-season.
30. Removal. Winter Balcony Enclosures must be completely removed from the Right-of-Way prior to the end of business day April 15th. If the Winter Balcony Enclosure is not removed as required, the City will remove the structure at cost to compensate for the employees and equipment needed to complete the task.
31. Drainage. Design of the Winter Balcony Enclosure and its skirting shall not interfere with the existing street drainage. Winter Balcony Enclosure plans shall be reviewed by the



City for drainage and may be modified so as not to interfere with the existing drainage patterns of the street.

32. Utilities. Access to utilities shall not be hindered by the structures. No Winter Balcony Enclosures will be approved if located in an area that blocks access to fire hydrants, etc. No new utility lines shall be installed as a result of the proposed Winter Balcony Enclosure.
33. Insurance Requirement. The tenant shall carry a policy of liability insurance in an amount of at least \$2 million per combined single limit per occurrence and \$3 million per aggregate for personal injury, bodily injury, and property damage. Park City Municipal Corporation shall be named as additional insured by endorsement of each policy.
34. Main Street Improvements. Due to possible conflicts due to the Main Street Improvements the balcony business owner will be notified by the City when the enclosure may be placed and/or removed. The City will give each affected balcony business owner two (2) weeks to let them know of possible mitigation that needs to take place to ensure the safety of the construction of the various Main Street improvements. The business owner shall be responsible of removing their balcony enclosure in a reasonable timeframe so that the improvements are not delayed.



## Historic Preservation Board Staff Report

**Subject:** Temporary Winter Balcony Enclosures  
**Author:** Anya Grahn, Historic Preservation Planner  
**Department:** Planning Department  
**Date:** March 4, 2015  
**Type of Item:** Work Session

### Summary Recommendations:

Staff recommends the Historic Preservation Board (HPB) review staff's analysis of the proposed balcony enclosures over the Main Street right-of-way during the winter months (November through April) as well as proposed Design Guidelines, and the HPB make recommendations to City Council.

### Topic/Description:

The Riverhorse on Main wishes to construct a temporary, seasonal enclosure on their balcony that would provide additional restaurant space during the winter months (November 1<sup>st</sup> through April 30<sup>th</sup>). They believe other restaurants on Main Street would also benefit by having the ability to enclose their balconies, and the Riverhorse has proposed that City Council develop a seasonal program similar to Street Dining on Main—the dining deck program.

### Background:

On September 18, 2014, Seth Adams of the Riverhorse presented to City Council his concept for a winter balcony enclosure program. The applicant requested that property owners be permitted to enter into a lease agreement with the City for the enclosure of balcony space above the City right-of-way (ROW). This program would be similar to Street Dining on Main's summer dining decks. Staff met with City Council on November 13, 2014, to discuss this program and expressed their concern for these balcony enclosures; City Council directed staff to meet with the HPB for feedback on this program.

The HPB briefly discussed their interest in seasonal balcony enclosures during the January 7, 2015 meeting, and expressed interest in discussing the topic further during their next meeting.

There are approximately twenty-one (21) balconies on Main Street that extend over the City ROW. Of these, seven (7) are constructed on historic buildings, but only one (1) balcony is historic (361 Main Street). Land Management Code (LMC) 15-2.6-3 requires that no balcony projecting over City ROW may be erected, re-erected, located or relocated, enlarged, or structurally modified without first receiving approval from City Council. LMC 15-2.6-3(D) specifically states that "Balconies . . . may not be enclosed." Should City Council decide to pursue a seasonal balcony enclosure program, the LMC will need to be amended to allow for temporary balcony enclosures. Property owners are required to provide insurance for their balconies.

Outdoor dining is a conditional use in the Historic Commercial Business (HCB) District for restaurants. Any outdoor dining must be approved through an Administrative Conditional Use Permit (Admin-CUP). Riverhorse and Wahso both have Admin-CUPs for their outdoor dining for summertime balcony dining. No other restaurants currently have approvals.

The following chart outlines the location, historic designation, and existence of Admin-CUPs for the existing balconies:

Business Name:	Address:	Use:	Historic Designation:	Admin CUP for Outdoor Dining
TMI	255 Main St	Multiple	Not Historic	No
Red Banjo Pizza	322 Main St	Restaurant	Landmark	No
Berkshire Hathaway Home Services	354 Main St	Real Estate	Significant	No
Burns Cowboy Shop	361 Main St	Retail	Landmark	No
Woodbury Jewelers	421 Main St	Retail	Not Historic	No
Flannagans	438 Main St	Restaurant	Landmark	No
Robert Kelly Home	449 Main St	Retail	Significant	No
501 on Main	501 Main St	Restaurant	Not Historic	<i>Under review</i>
The Expanding Heart	505 Main St	Retail	Not Historic	No
The Cunningham Building	537 Main St	Office	Not Historic	No
River Horse	530-540 Main St	Restaurant	Landmark (Balcony is on the addition)	Yes
Quicksilver	570 Main St	Retail	Not Historic	Yes
Wahso	577 Main St	Restaurant	Not Historic	Yes
Gaucha/Above Condo	591 Main St	Retail/Residential	Significant	No
Destiny	608 Main St	Retail	Not Historic	No
Montgomery Life Fine Art	608 Main St	Retail	Not Historic	No
Condos	613 Main St	Residential (2 <sup>nd</sup> level)	Not Historic	No
Condos	614 Main St	Residential (2 <sup>nd</sup> level)	Not Historic	No
Summit Sotherby's International Realty	625 Main St	Residential/Realty	Not Historic	No
Bahnof Sport	639 Main St.	Retain	Not Historic	No
Town Lift Condominiums	693 Main St	Commercial/Residential	Not Historic	No
Caledonian Hotel	751 Main St	Commercial	Not Historic	No

**Analysis:**

A balcony is a platform that projects from the wall of a Building and is enclosed by a railing, parapet, or balustrade. It typically does not have a roof. Usually, balconies are incorporated into the design of a building for functional and aesthetic reasons. In some cases, the balcony offsets the massing of the commercial building while embellishing the façade of the structure with additional architectural detailing. The balcony is one of the most visible elements of the building and significantly contributes to the style, appearance, and relationship of the structure to the streetscape.

Balconies traditionally serve as open-air spaces. They are an extension of the interior yet provide a clear transitional space between the private interior spaces and public exterior spaces of the building. Balconies are an outside room during warm weather and provide a covered entrance to the lower level during adverse weather conditions.

Staff's professional opinion is that the enclosure of this space—even temporarily during the winter months—changes the historic character of the Main Street district as a whole. The enclosure of balcony spaces substantially alters the architectural design of the building, light and shade of the building design, and the rhythm and pattern of the streetscape. The visual character of the original building (historic or non-historic) will be substantially altered due to changes in its overall shape, roof design, projections, recesses, and solid-to-void ratio. On historic structures, the balcony enclosure would obscure and detract from historic details of the balcony and the corresponding historic building. In other cases, balconies that were not originally designed to meet the requirements of interior spaces and enclosures may require substantial structural changes and reconstruction.

*Design Guidelines for Historic Districts and Historic Sites*

Staff does not believe that the seasonal enclosures of balconies over Main Street complies with the current *Design Guidelines for Historic Sites and Structures*.

The Design Guidelines specify that new additions on historic buildings be visually subordinate to the historic building from the primary public right-of-way, including incorporating rooftop additions that are not visible from the street. The guidelines also recommend that the new addition does not obscure or significantly contribute to the loss of historic materials. Staff finds that these balcony enclosures are a very visible addition to the existing structure, conceal historic building facades, and threaten historic materials.

Staff is concerned that the annual construction and removal of the balcony enclosures will be detrimental to historic building materials. Nails, screws, sealants, and other materials used at connections will leave behind holes, scratches, stains, and other signs of damage on the historic materials that will need to be patched and repaired annually when the enclosure is removed. Staff finds that this will intensify normal wear and tear on historic materials and cause the materials to deteriorate faster.

Staff also finds that the proposed balcony enclosures will visually modify or alter the original building design. The majority of historic buildings with existing balconies already have second-level doors accessing the balcony; however, these doors are not original to the building. Most buildings would not be permitted to add a new door to access their non-historic balcony. As new doors and balconies would not be permitted to be constructed without a Historic District Design Review (HDDR) approval and permission from City Council to construct over the public right-of-way, staff finds that only a limited number of balcony enclosures would be permitted for those decks already existing.

Staff has met with the Legal, Building, Finance, and Engineering Department to identify other issues that will need to be addressed in order to establish this program. These include:

- The applicant must submit a full architectural and engineering plan to the Building Department that addresses energy efficiency, structural loads on the cantilevered deck, emergency egress plans, seating plan, weather proofing, electrical plans, etc. Additional electrical upgrades must be permanent and electrical outlets will need to be concealed from the view of the public right-of-way.
- The applicant will also need to provide a snow shed plan. Snow will need to be retained on the roof and the applicant shall show how the melted snow will be diverted to the public way without draining across the sidewalk.
- Building permits will be required for the assembly and disassembly of the seasonal balcony enclosures.
- Increased water and sewer impact fees will require Snyderville Basin Water Reclamation District sign-off.
- There will be increased fees for business licensing due to the additional square footage.
- Additional fire safety requirements will require approval by Park City Fire District.
- The applicant will assume all liability for the seasonal enclosures and need to provide insurance for the balcony and enclosure.

***Does the HPB wish to see balcony enclosures on both historic and non-historic buildings? Or, would the HPB prefer that the new enclosures be limited to non-historic structures only so as not to increase annual wear and tear on historic materials?***

*Developing a program similar to summer dining decks*

In order to accommodate such a program, the Design Guidelines and the Land Management Code (LMC) will need to be amended in order to allow for the temporary, seasonal enclosure of the balconies. LMC 15-2.6-3(D) Balconies should be amended to state:

(D) BALCONIES. No Balcony may be erected, enlarged, or altered over a public pedestrian Right-of-Way without the advance approval of the City Council. Balcony supports may not exceed eighteen inches (18”) square and are allowed no closer than thirty-six inches (36”) from the front face of the curb. Balconies must provide vertical clearance of not less than ten feet (10’) from the sidewalk and may not be enclosed permanently. Temporary seasonal balcony enclosures may be appropriate on some structures. With reasonable notice, the City may require a Balcony be removed from City property without compensating the Building Owner.

If City Council supports temporary balcony enclosures, than Staff recommends altering the following guidelines to specify that these guidelines are not impacted by temporary structures:

*Design Guidelines for Historic Sites in Park City:*

MSHS1. The proposed project must not cause the building or district to be removed from the National Register of Historic Places. Temporary structures are not subject to review of the National Register of Historic Places.

MSHS8. Temporary winter balcony enclosures are reviewed by the program's criteria and are not addressed by these Specific Design Guidelines.

*Design Guidelines for New Construction in Park City's Historic Districts*

MSNC1. New construction in the Main Street National Register Historic should be approved only after it has been determined by the Planning Department that the proposed project will not jeopardize the integrity of the surrounding Historic Sites. Temporary structures are not subject to review of the National Register of Historic Places.

MSNC9. Temporary winter balcony enclosures are reviewed by the program's criteria and are not addressed by these Specific Design Guidelines.

Should the HPB believe such enclosures are appropriate along Historic Main Street, staff finds that there need to be some basic guidelines in order to protect the historic integrity of the Main Street Historic District. Staff is recommending that the HPB review and provide feedback on the following proposed guidelines for balcony enclosures:

General Requirements for Balcony Enclosures

1. The enclosure must be constructed on a balcony on Main Street.
2. There may be times when it is not appropriate to enclose a balcony due to the unique historic character and architectural detailing of the historic building.
3. The applicant must demonstrate that the temporary enclosure will not damage the existing façade and/or side walls with repeated attachment and detachment.
4. The enclosure and balcony should respect the architectural style of the building.
5. The enclosure should retain existing railings in order to achieve a design consistent with open balconies and maintain the character of the original building.
6. The existing exterior wall may not be removed seasonally in order to accommodate the balcony enclosure.
7. The enclosure must not block existing door and window openings on neighboring buildings.
8. Enclosures should consist of clear glazing set in window frames that generally match the mass, scale, and material as those used for the glazing frames of the building.
9. Draperies, blinds, and/or screens must be located in a traditional manner above doors and windows. Draperies, blinds, and/or screens should not be used within the



balcony enclosure if they increase the bulk appearance of the enclosure. The use of these must blend with the architecture of the building and should not detract from it. Materials should be high-quality, colorfast, and sunfade resistant.

10. The balcony must be situated so as not to interfere with pedestrian movement on the sidewalk.
11. The enclosure must have direct access to the restaurant's dining area.
12. The design must address snow shedding.
13. Any changes to the exterior façade of the building, proposed changes to the existing balcony, or construction of a new balcony shall be reviewed by staff as part of the Historic District Design Review. New balconies extending over the City right-of-way will require the approval of City Council.
14. The construction of any temporary tents should be approved through an Administrative Conditional Use Permit for up to fourteen (14) days. Free-standing tents will not be considered the same as balcony enclosures.
15. Any new signage will require a Sign Permit application.

***Does the Historic Preservation Board approve of these proposed Design Guidelines for Balcony Enclosures? Are there any other Design Guidelines that should be incorporated?***

**Recommendation:**

Staff recommends the Historic Preservation Board (HPB) review staff's analysis of the proposed balcony enclosures over the Main Street right-of-way during the winter months (November through April) as well as proposed Design Guidelines, and the HPB make recommendations to City Council.

**Exhibits:**

- Exhibit A – City Council Staff Report and Minutes
- Exhibit B – HPCA input for balcony enclosures
- Exhibit C – Additional renderings of proposed enclosure at Riverhorse







## City Council Staff Report

**Subject:** Temporary Winter Balcony Enclosures  
**Author:** Anya Grahn, Historic Preservation Planner  
**Department:** Planning Department  
**Date:** November 13, 2014  
**Type of Item:** Work Session

### Summary Recommendations:

Staff recommends City Council review staff's analysis of the proposed balcony enclosures over the Main Street right-of-way during the winter months (November through April). If City Council wishes to pursue a winter balcony enclosure program similar to the summer Street Dining on Main program, then City Council should provide direction to staff for moving forward.

### Topic/Description:

The Riverhorse on Main wishes to construct a temporary, seasonal enclosure on their balcony that would provide additional restaurant space during the winter months (November 1<sup>st</sup> through April 30<sup>th</sup>). They believe other restaurants on Main Street would also benefit by having the ability to enclose their balconies, and the Riverhorse has proposed that City Council develop a seasonal program similar to Street Dining on Main—the dining deck program.

### Background:

Riverhorse on Main submitted a Conditional Use Permit (CUP) application on September 13, 2013, to construct a "temporary" six (6) month structure that would enclose their balcony over the City right-of-way during the winter months. Staff found that though the structure would only be up during the winter months, the enclosure of balcony space over city-owned property detracted from the historic character of Main Street and would have recommended to the Planning Commission denial of a temporary structure that would be in place longer than fourteen (14) days and more than five (5) times per year. The applicant and staff agreed to defer the hearing before the Planning Commission in order to get direction from Council on this larger policy discussion.

On September 18, 2014, Seth Adams of the Riverhorse presented to City Council his concept for a winter balcony enclosure program (see Exhibit A for meeting minutes). The applicant requested that property owners be permitted to enter into a lease agreement with the City for the enclosure of balcony space above the City right-of-way (ROW). This program would be similar to Street Dining on Main's summer dining decks.

There are approximately twenty-one (21) balconies on Main Street that extend over the City ROW. Of these, seven (7) are constructed on historic buildings, but only one (1) balcony is historic (361 Main Street). Land Management Code (LMC) 15-2.6-3 requires

that no balcony projecting over City ROW may be erected, re-erected, located or relocated, enlarged, or structurally modified without first receiving approval from City Council. Finally, LMC 15-2.6-3(D) specifically states that “Balconies . . . may not be enclosed.”

Additionally, the LMC requires that the property owner submit a certificate of insurance or continuous bond protecting the owner and the City against all claims for personal injuries and/or property damage. Should the balcony encroach over the Public ROW, the owner is required to enter into an encroachment agreement with the City Engineer. Currently encroachment agreements exist for only two (2) balconies—255 and 530 Main Street. (City Engineer Matt Cassel has been diligent about obtaining encroachment agreements as they come up. It is unclear why they were not consistently attained in the past.)

Outdoor dining is a conditional use in the Historic Commercial Business (HCB) District for restaurants. Any outdoor dining must be approved through an Administrative Conditional Use Permit (Admin-CUP). Riverhorse and Wahso both have Admin-CUPs for their outdoor dining for summertime balcony dining. No other restaurants currently have approvals.

The following chart outlines the location, historic designation, and existence of Admin-CUPs for the existing balconies:

Business Name:	Address:	Use:	Historic Designation:	Admin CUP for Outdoor Dining
TMI	255 Main St	Multiple	Not Historic	
Red Banjo Pizza	322 Main St	Restaurant	Landmark	No
Berkshire Hathaway Home Services	354 Main St	Real Estate	Significant	No
Burns Cowboy Shop	361 Main St	Retail	Landmark	No
Woodbury Jewelers	421 Main St	Retail	Not Historic	No
Flannagans	438 Main St	Restaurant	Landmark	No
Robert Kelly Home	449 Main St	Retail	Significant	No
501 on Main	501 Main St	Restaurant	Not Historic	<i>Under review</i>
The Expanding Heart	505 Main St	Retail	Not Historic	No
The Cunningham Building	537 Main St	Office	Not Historic	No
River Horse	530-540 Main St	Restaurant	Landmark (Balcony is on the addition)	Yes
Quicksilver	570 Main St	Retail	Not Historic	Yes
Wahso	577 Main St	Restaurant	Not Historic	Yes
Gaucha/Above Condo	591 Main St	Retail/Residential	Significant	No
Destiny	608 Main St	Retail	Not Historic	No
Montgomery Life Fine Art	608 Main St	Retail	Not Historic	No
Condos	613 Main St	Residential (2 <sup>nd</sup> level)	Not Historic	No
Condos	614 Main St	Residential (2 <sup>nd</sup> level)	Not Historic	No
Summit Sotherby's International Realty	625 Main St	Residential/Realty	Not Historic	No

Bahnof Sport	639 Main St.	Retail	Not Historic	No
Town Lift Condominiums	693 Main St	Commercial/Residential	Not Historic	No
Caledonian Hotel	751 Main St	Commercial	Not Historic	No

**Analysis:**

*Design Guidelines for Historic Districts and Historic Sites*

Staff does not believe that these seasonal enclosures of balconies over Main Street complies with the *Design Guidelines for Historic Sites and Structures* and conflicts with our goals for historic preservation.

Planning Staff’s professional opinion is that the enclosure of the balconies detracts from the historic “western” appearance of our Mining Era Main Street. The appearance of balconies over the sidewalks adds appeal and interest to the rhythm and patterning of the Main Street historic district. These enclosures would change the massing of the structure and create the perception of the second floor extending beyond the plane of the façade and over the City right-of-way. By extending beyond the front plane of the façade, these seasonal balcony enclosures would also be blocking the views of neighboring historic buildings when looking up Main Street. Park City’s Main Street is characterized by in-line facades with limited breaks in their massing. Staff finds that building over the balconies would break the well-articulated street wall along the sidewalk and will greatly disrupt the continuity of the street wall.



**Scenario 1.** The balcony projects over Main Street adding interest to the street wall overall, but the balcony is also transparent and does not impede the view of the neighboring historic buildings.



**Scenario 2.** The seasonal enclosure extends over the city right-of-way. On the second level, the enclosure disrupts the continuity of the street wall and blocks the view of the Park City Museum.

These balcony enclosures also threaten the historic integrity of historic commercial buildings. Staff finds that the proposed enclosures do not meet the *Design Guidelines for Historic Sites*. The construction of the enclosures would require the enclosure to be constructed atop historic exterior materials. Depending on the materials and the

connection, this construction could severely impact and damage the historic materials, components, finishes, and examples of craftsmanship.

Staff also finds that the proposed balcony enclosures will visually modify or alter the original building design. The majority of historic buildings with existing balconies already have second-level doors accessing the balcony; however, these doors are not original to the building. Flannigan's at 435 Main Street, for instance, would not be permitted to add a new door to access their balcony.

As will be discussed further in the next section, the Building Department will require the temporary enclosures to be constructed as permanent structures. Not only will this cause substantial damage to the historic building materials, but it will also require extensive restoration work to patch any damage made while connecting the new enclosure to the historic building. This may threaten the historic integrity of the building.

Should City Council wish to pursue the seasonal enclosures, staff would need to revise the Design Guidelines; however, staff believes that these seasonal enclosures conflict with our goals to preserve the historic character of Main Street. Should staff deny an individual application for a balcony enclosure HDDR because it does not meet the Design Guidelines, the applicant could appeal staff's determination to the Historic Preservation Board (HPB).

#### *Land Management Code & International Building Code*

The Land Management Code (LMC) was revised to address the duration of temporary structures in 2009. At that time, there were several temporary structures located on hotel properties in town that had been approved as temporary structures, but were left standing in virtual perpetuity. To ensure this trend would not continue, new duration parameters were adopted in 2009.

The LMC defines a temporary improvement as a structure built or installed, and maintained during the construction of a development, or during a special event or activity and then removed prior to release of the performance guarantee. Staff finds that the proposed balcony enclosures meet the definition of a temporary improvement, BUT extend beyond the duration of construction activity or a special event or activity as currently allowed by code. The winter season is not a special event.

The LMC stipulates that:

- All temporary structures greater than 200 square feet in floor area must submit structural calculations, wind load information, fire ratings, etc.
- A building permit is required for temporary structures greater than 200 square feet in area, or as determined by the Chief Building Official upon review of size, materials, location, weather, and proposed use.
- Temporary structures, such as tents, in no case may be installed for a duration longer than 14 days and for more than five (5) times per year on the same property or site, unless a longer duration or greater frequency is approved by the

Planning Commission consistent with the Conditional Use Criteria or as approved by City Council as part of a Master Festival.

\*There have been instances where a temporary structure has been approved to stay up for greater than 14 days. Most recently, in 2013, the Planning Commission approved a Conditional Use Permit (CUP) at the Montage to allow for the construction of temporary structures for up to 15 times per year of which 4 structures would be allowed for a maximum of 60 days due to the high frequency of weddings and outdoor parties. The yurt at Park City Hotel was approved in 2007 for an extended duration for the benefit it provide to cross-country skiers, and the tent at the Yarrow Hotel was also approved to for up to twice (2) per year and a maximum of 180 days (i.e. the tent could be up 180 days consecutively, up to two (2) times per year)

The intent of this provision in the code was to allow events to run together if necessary, but each 14 day period would count toward the total allowed amount of five (5) times per year, or 70 days total. This limits temporary structures, such as tents, from standing indefinitely by allowing them to stand for only 70 days per year. The Planning Commission, however, may approve a longer duration or greater frequency through a Conditional Use Permit (CUP).

Permits have been issued in the past to permit temporary tent structures in order to allow restaurants additional tempered space on its balcony and permit wintertime use during special events, such as Sundance. During these special events and Master Festivals, tents have been approved through Administrative Conditional Use Permits (Admin-CUP). Tents are typically held in place on the balcony by water ballasts, heated by propane, and lit internally to meet the International Building Code (IBC). The duration of the tent has not exceeded fourteen (14) days.

Riverhorse hopes to imitate the success of their tent's use during special events by constructing a temporary 180-day enclosure on the balcony from approximately November 1<sup>st</sup> through April 30<sup>th</sup> that would promote winter-time use. The temporary enclosure would add approximately 350 square feet of restaurant space on the balcony and seat approximately twenty (20) patrons, or about five (5) tables of four (4). Given the duration of the proposed enclosure (180 days), staff finds that such a structure would be a permanent fixture during the winter season and should comply with the Historic District Design Guidelines.

As previously noted, LMC 15-2.6-3 (D) specifies that Balconies may not be erected, enlarged, or altered over a public pedestrian Right-of-Way without the advance approval of City Council. It goes on to specify that "Balconies...may not be enclosed." Staff finds that this proposal is in direct opposition to the current LMC. The LMC does not make exception for temporary, seasonal structures. The LMC would need to be amended in order to allow for balcony enclosures.



### International Building Code

The International Building Code (IBC) defines temporary as less than 180 days. In reviewing the Riverhorse's proposal, the Building Department found the following requirements will impact temporary winter balcony enclosures:

- Fire sprinklers
- Exits within fifty feet (50')
- Lighting and ventilation
- Engineering for live loads, wind, roof capacity
- Fire separation on windows and roofing
- Snow shedding on public right-of-way (Main Street)
- Energy efficiency

Any temporary structure greater than 200 square feet in area would require a building permit. The balcony enclosure would have to be constructed as a permanent structure in order to meet the International Building Code, making it difficult and costly to construct and take down seasonally.

### Other Concerns

In meeting with our Development Review Committee—comprised of the Building, Engineering, Public Works, Water, Legal, Snyderville Water Reclamation District (SBWRD), Fire District, and Sustainability Departments—the group identified other potential issues such as:

- Increased use of sewer and water
- Parking demands generated by additional tables within enclosures
- Increased strain on city resources for reviewing and monitoring enclosures
- Encroachment agreements for construction over city right-of-way
- Insurance and liability

### Developing a program similar to summer dining decks

Riverhorse has suggested that the winter balcony enclosures could be approved through a program similar Summer Dining on Main. Overall, staff is not in support of the balcony enclosures; however, if City Council wished to pursue the balcony enclosures, staff has compared and contrasted the two programs and has found:

- The Summer Dining on Main program was developed to promote street activity and outdoor dining on Main Street. Though the dining decks are not subject to a complete Historic District Design Review application, the Design Guidelines are applicable to the project. The dining decks are required to complement the style of the existing building with which they are associated.
- Similar to the dining deck program which operates six (6) months from May through October, the proposed winter balcony enclosure program could operate approximately six (6) months from November through April.

- Currently, the dining deck program charges \$550 per parking space of 20 feet. This was calculated based upon the loss amount of funds generated by the parking space during the summer season. Staff finds that it would be appropriate to request a rental rate similar to that of commercial square footage as the seasonal enclosure would expand the gross floor area of the commercial space. This is roughly \$42-\$60 per square foot annually, before Common Area Maintenance (CAM) fees. (This equates to approximately \$3.50 to \$5 per square foot monthly, before CAM fees.) Using the Riverhorse as an example, the rental income generated for the City would be approximately \$1,225 to \$1,750 per month for a balcony enclosure that is roughly 350 square feet in area.
- Currently, the dining decks are only permitted to those restaurants that serve lunch and dinner seven (7) days a week as long as the structure exists in the right-of-way (ROW). This promotes activity on the street. Staff finds that the balcony enclosures do not promote street activity and thus, there would be no need to limit the enclosures to only restaurants or to only businesses that are open seven (7) days per week.
- The Dining Deck Program requires the City to give a minimum of 72 hour notice to dining deck owners so that the decks may be removed to allow for street improvements. Staff finds that it is unlikely that any street improvements would be occurring during the winter months; however, in case of such an instance, it may be difficult to remove the balcony enclosure on such short notice if it is constructed as a “temporary” permanent feature. Such a provision could be part of the standard contract language.
- The code does not allow any improvements or permanent alterations to be made to City property without City Council consent. Staff finds that many of the existing balconies would need to be restructured in order to carry the load of a seasonal balcony enclosure. This would require City Council review and consent.
- No signs are permitted on the dining decks, except as approved by the Planning Department. Staff finds that no existing signs would be obstructed by the balcony enclosures; however, any new signs would be approved through a Sign Permit.
- Insurance is required for the dining decks, and the LMC stipulates that property owners insure their balconies. The enclosures would also require insurance.
- Snow shed issues onto sidewalk or parking areas on Main Street must be resolved prior to construction and approved by the Chief Building Official.
- The Design Guidelines and the Land Management Code will need to be amended in order to allow for the temporary, seasonal enclosure of the balconies.

In summary, staff has created a following chart to document the pros and cons of such a wintertime program:





Pros:	Cons:
<ul style="list-style-type: none"> <li>• Rental income generated by balconies up to \$3.50-\$5.00 per square foot per month.</li> <li>• Expansion of Main Street businesses during peak occupancy during the winter</li> <li>• Extended use of balconies during the winter season</li> </ul>	<ul style="list-style-type: none"> <li>• Does not comply with the Design Guidelines for New Construction as the new enclosures will disrupt the rhythm and patterning of the street wall.</li> <li>• Does not comply with the Design Guidelines for Historic Sites as the construction of the enclosure will likely damage historic, exterior building materials</li> <li>• It will be difficult to design an aesthetically-pleasing enclosure that meets the International Building Code’s requirements for fire safety, live loads, etc.</li> <li>• Snow shed issues will have to be addressed to avoid shedding onto sidewalks and parking areas.</li> <li>• Increased use of sewer and water</li> <li>• Increased parking demands</li> <li>• Increased strain on city resources and staff time for reviewing and monitoring the enclosures</li> <li>• The Design Guidelines and Land Management Code would need to be amended to allow for balcony enclosures.</li> </ul>

**Significant Impacts:**

Staff finds that the enclosure of the balconies during the winter months would have a significant impact on the historic integrity of Main Street. In addition to opposing the enclosures due to aesthetic values, staff finds that the enclosures would require



additional inspections by the Building Department, cause greater water demands, and etc.

	<b>World Class Multi-Seasonal Resort Destination (Economic Impact)</b>	<b>Preserving &amp; Enhancing the Natural Environment (Environmental Impact)</b>	<b>An Inclusive Community of Diverse Economic &amp; Cultural Opportunities (Social Equity Impact)</b>	<b>Responsive, Cutting-Edge &amp; Effective Government</b>
Which Desired Outcomes might the Recommended Action Impact?	<ul style="list-style-type: none"> <li>~ Varied and extensive event offerings</li> <li>+ Accessibility during peak seasonal times</li> <li>~ Multi-seasonal destination for recreational opportunities</li> </ul>	<ul style="list-style-type: none"> <li>- Effective water conservation program</li> <li>- Reduced municipal, business and community carbon footprints</li> <li>- Enhanced conservation efforts for new and rehabilitated buildings</li> </ul>	<ul style="list-style-type: none"> <li>- Preserved and celebrated history; protected National Historic District</li> <li>~ Cluster development while preserving open space</li> <li>~ Shared use of Main Street by locals and visitors</li> <li>~ Community gathering spaces and places</li> <li>- Primarily locally owned businesses</li> </ul>	<ul style="list-style-type: none"> <li>~ Fiscally and legally sound</li> <li>~ Streamlined and flexible operating processes</li> </ul>
Assessment of Overall Impact on Council Priority (Quality of Life Impact)	Neutral 	Negative 	Neutral 	Neutral 
<b>Comments:</b>				

**Consequences of not taking the recommended action:**

Should City Council find that they would like to pursue this topic further, staff recommends that they receive input from the Historic Preservation Board (HPB) regarding compliance with the Design Guidelines. If the HPB supported the enclosures, staff would then return to City Council with a proposed lease agreement and policy for the program as well as a summary of the HPB's comments.

**Recommendation:**

Staff recommends that City Council support staff's decision that the seasonal enclosure of balconies above Main Street is not appropriate for our historic Main Street given the health and safety issues, demands on staff time, as well as the look and feel of our commercial core.

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Council member Beerman has attended many Mountain Accord meetings. Stated that the December 3<sup>rd</sup> Community Outreach meeting has been postponed until early January. Live PC Give PC killed it and he is very proud of the community for raising over a million dollars.

**2015 Legislative Update**

Matt Dias spoke to the Council gearing up to the upcoming Legislative session. Spoke to the platform he created in the staff report discussing transportation, land use. Mayor and Council feel that the framework is a great idea and feel comfortable with the outline presented to Council. Dias stated that he did not want to look into the crystal ball but feels that there will be a push for transportation as well as the usual hot topics of clean air, health care. Discussed a proposed resolution that he will be bringing back to Council next week. Council member Beerman stated that he got a preview of the proposed transportation tax stating that it will be a very broad definition of transportation with this bill. He inquired about what the tax would mean to Park City. Dias stated that he will have a better number next week following the kickoff meeting. Council member Simpson inquired if this money will stay within our City. Dias stated that a city-wide option is available and he will have more information next week as well. Simpson inquired if there is any LGBT movement this time as the door was closed on those bills last year awaiting the Supreme Court ruling. Dias stated that anything is possible. Dias will be bringing back updates at each Council meeting until the close of the session.

**Temporary Winter Balcony enclosure discussion**

Planner Grahn stated that in September 2013 the Riverhorse approached the City regarding winter balcony enclosures. Staff is not in favor of the temporary winter enclosures as they would interrupt the view along Main Street as well as cause possible damage to the historic structures. Grahn outlined the LMC and International Building Code that would be against permitting these temporary enclosures. John Allen, Building Department, stated that he can agree that there is not a desire for the tent structures, as well as being unsightly they have energy efficiency deficits. Mayor Thomas feels that this winter program would be redesigning Main Street for the winter season and he agrees with Staff.

Council member Matsumoto stated that she does not have a problem with the dining decks and stated that there are only 5 restaurants with decks and they may not all want to participate and would be inclined to a shorter period of time. She also thanked staff for the wonderful report but does not see this as a negative aspect. Council member Peek stated that he feels that it will change the architectural pattern of Main and feels with the snow load impacts would be too great. Council member Henney stated he agrees with Matsumoto and would like to think that staff could make certain adjustments to make this work. Council member Simpson agrees with the Mayor. Council member Beerman agrees with Matsumoto and Henney and feels that there is not an impact and feels that during the summer there are large umbrellas up that interrupt the vibe and flow and also remembers the hurdles we had with the summer decks. Allison Butz spoke for the HPCA stating that they do not have a problem with adding square footage to the restaurants during the winter season.

Mayor Thomas spoke to the structural design and snow load issues of the property. Allen stated that each deck would have to go through a design review. Mayor Thomas stated that even with

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a pilot program it would still impact the character of Main Street. Council member Simpson stated that she feels that this will be a lot of pain for not a lot of gain. Council member Matsumoto stated that she does not feel it should be allowed up year-round and looks at health and safety as a paramount issue and would suggest the HPCA take a look at this item but is still in favor. Sintz suggested a compromise that would allow the restaurants to keep the tents up for longer than the currently allowed 14 days to allow for more seating during the winter season. Council agreed that the proposed enclosures looked nicer than the tents. Mayor and Peek spoke again to the architectural load.

Seth Adams, Riverhorse, stated that he has worked with architects and have looked at the snow load and fire codes. They are looking at just adding time through the ski season and would like to give a different perspective to our visitors. Spoke to the impact to the adjacent buildings as well as the process of taking the structure up and down.

Kasey Crawford, business owner, spoke to the tent structure stating that it detracts from the appeal of Main Street.

Mike Sweeny took this from a perspective as a business owner and stated that he supports creative and innovative ideas to bring people into Main Street.

Mayor Thomas expressed his continued concern regarding this item. Foster spoke to the items staff will bring back a proposed lease agreement and a policy program as well as a read from the HPCA and the Historic Preservation Board as well as building guidelines.

**Main Street Employee Parking Initiative**

Blake Fonesbeck, Public Works Director; Brian Anderson, Transportation and Allison Butz, HPCA spoke to the parking initiative stating that this has been an evolving plan to better serve our parking issues. Fonesbeck stated that the Task Force that included HPCA members as well as staff looking at peak hour/peak day data to develop a final recommendation for Council. Fonesbeck recognized the parking problem apparent in Park City. Outlined the recommendations stating that they looked at China Bridge proposing 6 hours per vehicle instead of the current 6 hours per space where they have identified spot jumping in the garage.

Council member Henney thanked staff for looking at resolving actual parking issues. Fonesbeck outlined the changes for the China Bridge Pass with increased fee and restrictions on Friday and Saturday reserving the current restrictions during Sundance and Arts Fest. Council member Simpson stated her concerns with the transferrable pass and will exacerbate the problem. Council member Peek stated that in his mind the goal is to free up parking for visitors and feels that if there are problems then the task force should be able to change those restrictions. Council member Henney stated that he feels this is an appropriate step to help mitigate the issue. Fonesbeck outlined the transportation system that will help encourage people to use the bus routes and the shuttle service. Mayor Thomas thanked staff and looks forward to the item coming back in a future meeting.

**Introduction of new Park City Mountain Resort Chief Operating Officer Bill Rock**

Mike Gore introduced Bill Rock as the Chief Operating Officer of Park City Mountain Resort sharing that the Council and Community will find his involvement outstanding. Gore asked the record to reflect that Bill brought the snow storm this evening. Rock thanked Gore for the great introduction and is very excited to be in the Community. Stated that his family is so excited to



December 19, 2014

Anya Grahn  
Park City Municipal Planning Department  
445 Marsac Avenue,  
PO Box 1480  
Park City, UT 84060

**RE: Riverhorse on Main Balcony Enclosure**

Dear Anya:

The Historic Park City Alliance reviewed Riverhorse on Main's request to seasonally enclose their balcony to provide additional restaurant space during the winter months (November 1st through April 30th). The HPCA Board reviewed the submitted visuals showing the deck from both north and south perspectives, with and without the enclosure, at their December Board Meeting.

At the meeting, the HPCA Board unanimously supported the seasonal enclosure of the Riverhorse's deck. Puggy Holmgren abstained from the vote due to her role on the HPB Board. Support was also given generally for deck enclosures on non-historic buildings with restaurant uses.

We thank you for the opportunity to provide input on this item.

Best regards,

A handwritten signature in black ink that reads "Alison Butz".

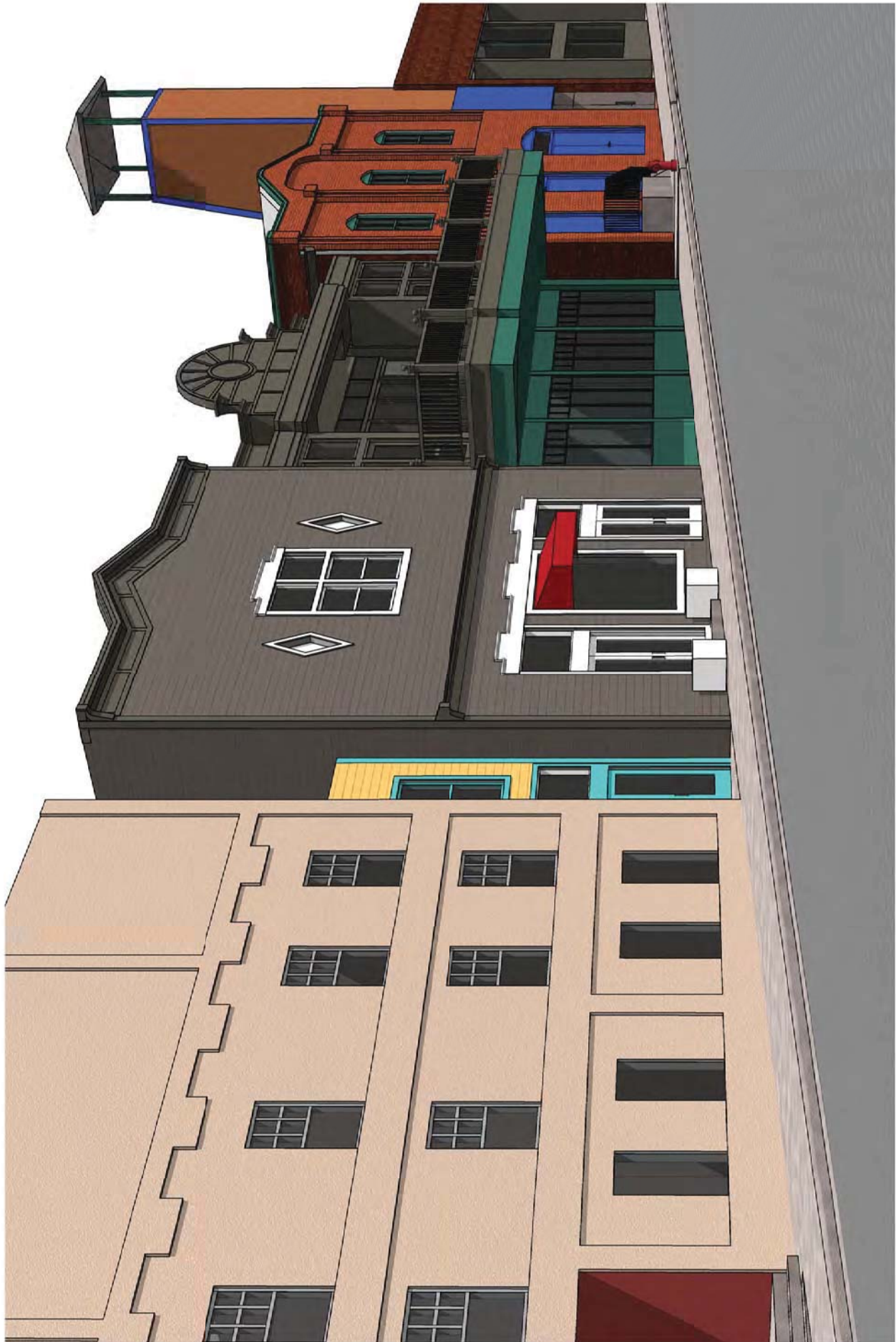
Alison Butz  
Executive Director

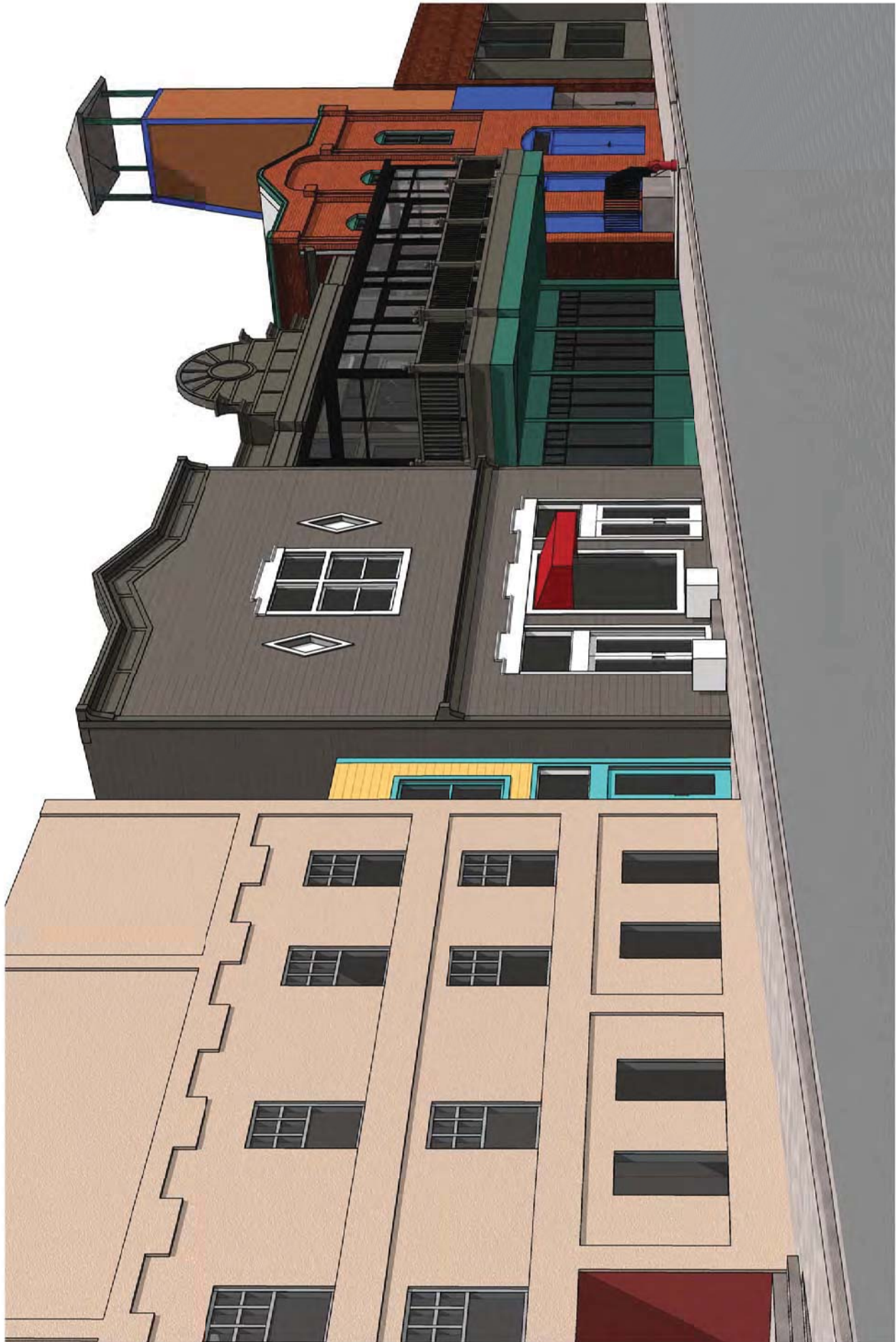














Historic Preservation Board Meeting  
January 7, 2014

Staff) erred.

54.The appellant fails to specifically indicate how staff erred.

55.Staff found that both LMC standards and Historic District Design Guidelines for Historic Districts were met.

56.The appellant outlines the purpose statement of the HR-1 District.

57.The purpose statement serves as a preamble of the following LMC regulations as they do not mention any specific standards.

58.Staff does not find that the proposed use does not preserve present land uses or the character of the historic residential areas.

59.The proposed structure is not near any historic structures and does not discourage the preservation of historic structures.

60.Given the location of the site, the size of the structures provides a transition from the area east of echo spur towards Ontario Avenue.

61.The Plat Amendment combined single family development on combination of 25' x 75' historic lots.

62.The Planning Commission found that the proposed structure was properly mitigated for new development on steep slopes which mitigate impacts to mass and scale and the environment.

Conclusions of Law – 491 Echo Spur

1. The HDDR application complies with the Park City Design Guidelines for Historic Districts and Historic Sites.
2. The proposal complies with the Land Management Code requirements pursuant to the Historic Residential (HR-1).

Order

1. The appeal is denied and Staff's determination is upheld.

WORK SESSION

The Board revised the agenda and moved Temporary Winter Balcony Enclosures as the first item on the Work Session.

### Temporary Winter Balcony Enclosures

Board Member Crosby recused herself from this discussion and left the room.

The Staff recommended that the Historic Preservation Board review the Staff's analysis of the proposed balcony enclosures over the Main Street right-of-way during the winter months, November through April, as well as proposed Design Guidelines. The HPB was being asked to make recommendations to City Council.

Planner Anya Grahn reported that the Staff's professional opinion is that the balcony enclosures are a threat to the look and feel of the historic character. Per the definition, a balcony provides coverage when entering from the ground level; and it is also a transitional space between exterior and interior and outdoors and indoors.

Planner Grahn understood that balcony enclosures were only temporary and the plan is to only keep them up for six months during the winter months. However, she was concerned that enclosing the balconies would alter the look and feel of Main Street and take away from the western appearance that exists. It alters the architectural design, the light and shade created by the design of the building, and the rhythm and pattern on the streetscape. Planner Grahn stated that a balcony overall contributes to the visual qualities of the building design. Enclosing the balcony changes the overall form and shape of the building. She was very concerned about enclosing balconies on historic structures because the seasonal removal and construction of the balcony enclosure could damage historic building materials.

Planner Grahn pointed out that the Riverhorse was proposing to enclose the balcony on the new portion of the building; however, their request would result in a program that would encompass all the restaurants on Main Street.

Another issue is that any new balconies would have to go before the City Council for approval. In some instances, if a building were to put on a new balcony, Planner Grahn was unsure whether the Staff would support changing the door and window configurations on the second level so the balcony could be enclosed during the winter season.

Planner Grahn reported that for historic structures the Guidelines are very specific about keeping new additions being subordinate and not being visible in the public right-of-way. Enclosing the balcony changes the form of the building and adds an addition to the front, which is something that would normally not be approved. Planner Grahn remarked that even a roof top addition on a historic building needs to be shielded and not visible. She noted that the Staff report contained a chart showing which balconies were historic and which were not.

Most of the balconies on Main Street are not historic and were added to the historic structure at a later time.

Planner Grahn asked if the HPB was interested in pursuing this program.

Seth Adams from Riverhorse on Main stated that the balcony enclosure they were suggesting would not be on a historic building and it would not connect to any historic buildings. He noted that they have looked at drainage, snow removal and other aspects associated with adding the balcony enclosure. Mr. Adams remarked that it was simply a matter of trying to make the most out of the winter season. The surrounding restaurants have that capability in the summer and he was looking to do that in the winter time. Mr. Adams thought 180 days was a generous time frame because winter is not that long and he specifically wants the balcony for the winter season. He would like the balcony to add to the historical integrity of people being out there in the summer, but adding the balcony for winter use allows people to perceive the historic nature in a way they have never experienced before. Mr. Adams remarked that they waited a long time for this to come before the HPB, and they were looking forward to a favorable opinion in order to compete in a seasonal town. Mr. Adams believed the process would address wind load, fire and other safety aspects and any issues could be worked through with the Fire Marshall and the Building Department.

Mr. Adams presented drawings and photos. He referred to comments about the balcony blocking the view of the Museum. Mr. Adams stated that he works closely with the Museum and he had asked Sandra Morrison to attend this meeting because she was in favor of their proposal. Mr. Adams expressed a willingness to work with any recommendations from the HPB that would allow them to move forward.

Chair Kenworthy pointed out that the Riverhorse has done this in the past. Mr. Adams replied that they are allowed to put up a tent for a two week period up to five times per year, but the tent does not hold up to the weather elements. A semi-permanent structure would give them the ability to ensure that their guests are warm and comfortable on the patio year-round.

Chair Kenworthy understood that the Staff was not looking for a final answer. The question was whether or not the Board thought it was something that should be pursued as policy. Planner Grahn answered yes. If the HPB is interested in pursuing it, it would be looked at as a possible change to the LMC and the Design Guidelines so if this program moves forward the Staff would have a mechanism to evaluate the structures.

Chair Kenworthy asked if the businesses who construct the temporary tents need to obtain approval each time. Director Eddington replied that approval for any tents must be obtained from the Planning and Building Departments.

Chair Kenworthy called for public input.

John Lundell stated that he has been an owner in Park City since 1997 and he has lived in Park City full-time for 12 years. Mr. Lundell was in favor of this proposal for several reasons. According to the Mountain Accord data, Summit County is the second fastest growing county in the Country and like it or not they can expect a lot of growth. Main Street is a particular problem because the businesses on Main Street cannot go up beyond 27' and they cannot go wide because there is no space. Mr. Lundell thought this proposal was a minimally invasive way to allow existing businesses some growth opportunities. A second reason is that outdoor dining has already been approved during the summer months, which is more disruptive to the historic look and feel. An enclosed balcony would be less intrusive. Mr. Lundell stated that by not allowing people to use their decks in the winter penalizes those without a ground floor. From the drawings he saw, it would not be intrusive to the historic atmosphere they were trying to maintain.

Ruth Meintsma, a resident at 305 Woodside, referred to the comments that a balcony tent would be something similar to the summer dining decks. She disagreed with that comment because the summer dining decks engage people with the historic character of the street. An enclosed tent would do the opposite and actually shut off humanity from the street. Ms. Meintsma remarked that summer dining also engages the people on the street with the humanity dining. During the discussions about summer dining, she recalled comments from the City Council about intrusive umbrellas on the street that could compare with the tent. Ms. Meintsma also disagreed with that comment because umbrellas are over people's head while the people are sitting in the open air; whereas the tents would be enclosed. Ms. Meintsma thought the images shown did not give any indication of the feel of what the enclosed balcony would do. She agreed with an earlier comment by Board Member Holmgren that computer images do not show what you need to see. Ms. Meintsma stated that the reasons for enclosing the deck when it is cold outside could be the same argument for summer. Park City has cold nights and there are times when it rains or even snows in July. She was also concerned about setting a precedent for a proliferation of balconies. Ms. Meintsma found it interesting that the historic buildings on each side of the Riverhorse building are slightly proud. She wondered if when that structure was approved some of the Planners had the forethought of setting the building slightly back to show off those historic buildings. She noted that a tent would eliminate that effect where the historic buildings are proud and show themselves off.

Planner Grahn clarified that even though the Riverhorse was the first to bring this forward, the program would be for balcony enclosures up and down Main Street.

Casey Adams stated that Ms. Meintsma was right in saying that the balconies would not be the same as in the summer because it is a winter program. It is also a short timeframe. Ms. Adams thought it would benefit more people than just the Riverhorse because although they all agree that historic Main Street needs to be preserved, people who come to Park City to spend money would be benefitted as well. The Riverhorse was looking out for the people who come to support this town. Ms. Adams remarked that the architects have worked very hard on snow removal and other issues and concerns that have been presented.

Chair Kenworthy closed public input.

Planner Grahn reiterated that the question for the Board was whether or not they supported pursuing this program.

Board Member Melville understood that the City Council was asking the HPB for their recommendation. She wanted to know what criteria the Board should use to base their recommendation.

Assistant City Attorney McLean stated that it was actually a policy issue that would require amendments to the LMC and the Guidelines. These discussions were a kick-off from a policy standpoint of whether or not the program was something to consider. Ms. McLean recommended that they look for consistency with the General Plan and their thoughts of the Historic District. Currently, the proposal would not meet the Guidelines or the Code, so they could not use those to aid in their decision.

Mr. Adams stated that he is allowed to have temporary structures on the patio for 70 days a year. However, he could not remove it for one day and put it back up the next day to make it comfortable for his guests. He clarified that he was requesting an amendment to the Land Management Code, and he would follow whatever number of days the City would allow it to stay up if he could create a better atmosphere for his guests than a vinyl tent.

Board Member Melville asked Planner Grahn to show the renderings on Exhibit C. Ms. Melville referred to the picture of the open deck which has a western look. She pointed out that the picture of the enclosed deck eliminates the western look of the street. Ms. Melville remarked that the deck shown is not what the deck currently looks like. She asked Mr. Adams why he would not just build out to the property line to gain more square footage. Mr. Adams explained that it would affect the entrance to the Riverhorse and impact what they do at the top of the stairs. Obtaining this requested approval would change the master plan and the flow of the interior of the restaurant. They would still make the improvements shown, but it would make the cost worthwhile for making those improvements. Ms. Melville asked if the photo with the enclosure was showing exactly what the enclosure would look like. She was concerned about snow loading on the top.

Mr. Adams replied that they have talked about heat trays and guttering the water underneath the sidewalk. Ms. Melville clarified that Mr. Adams would have to do a lot more to create the permanent structure that was shown. She asked if there would need to be pillars on the sidewalk to support the extra weight. Mr. Adams answered no. Board Member Melville understood that in order to make this a permanent structure, they would have to build out more than what was being shown. Mr. Adams reiterated that they would have to have heating and air and gutters, but no additional support would be required.

Board Member Hewett clarified that the enclosure would only be temporary. Mr. Adams answered yes. He explained that it would be a tongue and groove type with aluminum poles and plexiglass windows.

Board Member Melville remarked that it could come off, but the visitors on Main Street during the winter would see it as a permanent structure rather than a temporary structure. If someone came in requesting a new building, she questioned whether the City would allow them to build a permanent structure out over the sidewalk because it would change the view of Main Street significantly. Planner Grahn stated that if the structure was proposed to be permanent it would not be approved because it is built over the City right-of-way and because of the form of the building.

Board Member Melville Ms. Melville stated that her concern is that an open deck has a western mining town look. Enclose the deck and that look is lost. Having that up and down Main Street would create a different look. She asked if the Board was willing to go with a different look for Main Street. Ms. Melville was concerned about setting a precedent. She named the buildings that already have decks and the ones that could build decks. Ms. Melville believed these were different from dining decks. Dining decks are clearly temporary because you can see through them and around them. Ms. Melville stated that because the Building Department would require a dining deck that is enclosed for six months to be built to permanent standards, it will look like the permanent way the building was designed.

Board Member Holmgren stated that she is a strong proponent of the dining decks during the summer, but there was controversy to allow those. She still hears people complain as she walks up and down the street. Ms. Holmgren believed this was another step in the right direction. She thought it was fabulous, particularly the fact that it is all tongue and groove and they have addressed snow removal and other issues. It would only be up for 180 days. She would not care if a visitor thought it was permanent because she knows that by Spring she would be sitting on an outdoor deck.

Board Member Hewett concurred with Board Member Holmgren. She thought it was a good idea and she believed people would look at it as a way to make



something historic current. Ms. Hewett thought people would be able to interpret the difference.

Board Member Holmgren stated that if someone wants to do something that is safe and good looking they should be allowed do it. She pointed out that all decks go through a design review and they have to be approved. She was not opposed to having more decks. Ms. Holmgren remarked that this was one of the best innovations she has seen in a long time that was good for Main Street.

Chair Kenworthy expressed his appreciation for the independence and the diversity of this Board. It opens his eyes and he hoped it benefits the Staff.

Board Member Beatlebrox did not have a definite opinion either way, but she could see no harm in looking into it further.

Chair Kenworthy disclosed that he is a restaurant owner with a dining deck and for that reason he would decline to make comment.

Board Member White asked if the roof of the temporary structure was glass or plexiglass. Mr. Adams stated that it was designed to be see-through plexiglass or some type of polyurethane. Mr. White stated that if it is see-through glass or plexiglass it would have very little or no snowload. It would have moisture but gutters and downspouts would take care of it. Mr. White stated that if it is metal and glass and they would no longer have to look at the vinyl tents, he favored pursuing it.

Assistant City Attorney McLean stated that because this matter is legislative, Chair Kenworthy could participate. Chair Kenworthy preferred to abstain. Ms. McLean encouraged his comments.

Chair Kenworthy thought it would open up a can of worms that could be looked into down the road. He did not want to be a hypocrite because this type of policy could work to his benefit. Chair Kenworthy understood that during the winter months the establishments are full to capacity and many people are turned away. As long as it is temporary and it looks better than what they are currently allowed to do, he thought it was worth pursuing. Chair Kenworthy thought it would be a slippery slope through the process, but he admires people who come in with different ideas.

Planner Grahn stated that since the majority of the Board were in favor of pursuing it further, they needed to review the changes that should be made and create guidelines for balcony enclosure throughout Main Street.

Board Member Melville understood that the majority rules, but she wanted it clear that she was adamantly against moving forward because it would change the



look of the architecture. She asked if they had consulted with the Historical Consultant to see if it would affect their designation as a Historic District. Planner Grahn stated that she spoke with Corey Jensen and the State Historic Preservation Office and he told her that if it is temporary it would not impact the National Register. Ms. Melville stated that temporary was one thing in terms of the Building Code definition of less than six months. However, temporary in terms of built upon standards and the majority of the visitors who come in the winter seeing a permanent structure attached to the outside of buildings changing the look of the architecture is a different issue. She pointed out that if the structures were permanent it would jeopardize the National Register; therefore it is an architectural change.

Chair Kenworthy personally preferred something closer to 120 days rather than 180 days.

Board Member Holmgren stated that when the City discussed outdoor dining decks guidelines were written on how they should be built. Ms. Holmgren was excited about the decks and she was excited about this next step. She remarked that Park City is historic but they also needed to be realistic.

Board Member Hewett liked the fact that the ceilings would be clear. She thought the timing was good and she had no concerns.

Given the late hour, Planner Grahn suggested that the discussion regarding changes to the LMC and the Design Guidelines for temporary winter balconies enclosures be continued to another meeting. The Board concurred.

#### Historic District Grant Program – Policy Review

Board Member Crosby returned to the meeting.

Planner Grahn stated that the goal for establishing guidelines is to give the HPB some criteria as a basis for deciding whether a project qualifies for going from Significant to a Landmark status. She reminded the Board that Landmark means the site is National Register eligible and it must be pristine.

Planner Grahn reviewed each guideline.

1. The building shall not have been reconstructed, panelized, relocated, or re-oriented.

In speaking with Ms. Meintsma this evening, Planner Grahn believed there were unique circumstances such as High West where this works and it can remain National Register eligible. However, in the majority of cases it is very rare for a structure to remain on the National Register if it is reconstructed or relocated.

Board Member Melville asked Ms. Meintsma and Board Member White for their suggestions based on their research and experience. She was unsure if the proposed guidelines would work when put into practice.

Ms. Meintsma noted that there was a footnote in the packet that explained the high West situation. It was unique because it was panelized, but they went to great lengths to keep the historic material and the interior, which the National Register is particularly interested in.

Board Member Melville understood that a site would not have to meet the National Register in order to go back to Landmark status. Planner Grahn replied that Landmark is a local designation. However, one of the criteria for being Landmark is eligibility for the National Register. It is a current criteria and that would not change.

Board Member White pointed out that restoration does not necessarily mean that the interior floor plan has to be historic. Planner Grahn stated that from the standpoint of the Planning Department they could not monitor interiors. However, a site that they believe is Landmark Status could be reviewed by Utah State History and they could say that because the interior was changed the site would not be eligible. She could not be able to make that determination but the State could. Mr. White stated that in all of the historic homes he worked on, they never worried about the interior.

Board Member Melville pointed out that there are Landmark structures on the HSI that she assumed had altered interiors. Planner Grahn stated that there are situations where a site could be eligible for the National Register because the exterior contributes to a district as a whole; or it could be eligible because individually the site is in pristine condition. She noted that the surveyors do not look at the interiors but they do look at the form of the building and how the interior has been altered. For example, if a structure was historically a hall-parlor and the walls were removed to make one room, it is no longer a hall-parlor design and it would not be eligible for the National Register.

Director Eddington clarified that the local criteria for a Landmark designation are looser than the National criteria. He believed they were equal to the National criteria for exteriors, but the criteria differs for interiors and that is where a structure designated Landmark by Park City could lose its National Register eligibility when reviewed by the State.

Board Member Melville recalled that the Board has looked at giving incentives for those who take their buildings from Significant to Landmark. Ms. Meintsma commented on two specific applicants to help put the criteria into perspective. She believed the limitations for reconstruction were clear because there is no

historic material. Panelization does not seem to work because too much material is lost. However, High West went to such extremes to save the materials and the interior in the process of panelization that they remained on the list. Ms. Meintsma did not believe an owner should be given the 10% for panelization, but it could be considered on a case by case basis for situations where extreme measures are taken. She liked the notation on the panelization and suggested that it should also apply to relocation.

The Board was comfortable with reviewing unique circumstances on a case by case basis.

2. If a new basement addition is constructed, no more than six inches (6") of the new foundation should be visible from the public right-of-way. If a historic foundation previously existed, then any new foundation shall match the historic in material, texture, composition, and color. The height of the original foundation above Existing Grade shall be retained—the new foundation shall not be shorter or taller above Finished Grade than what previously existed. No new underground garages are permitted.

Planner Grahn noted that currently basement additions are allowed to be raised two feet. The problem is when too much of the foundation is visible. She presented two scenarios. One showed a basement addition that was low to the ground and less visible. The second had added a basement but it was easy to see how much it was significantly raised and how much of the foundation was visible.

The Board was comfortable with Criteria 2 as proposed.

3. The transitional element used to connect the historic house to the new addition shall not consume more than twenty-five percent (25%) of the length of the historic wall. The length of the transitional element shall be fifty percent (50%) of the length of the two (2) sides of the historic building.

Planner Grahn stated that the Preservation Brief that talks about what additions to National Register listed buildings are, talks about making a clear transition and keeping the new addition subordinate. Planner Grahn remarked that the Staff suggests that instead of losing the entire rear wall, the transitional element should be limited to 25% of the length of the historic wall. That would allow more of the historic material to remain intact. Planner Grahn referred to the length of the transitional elements and provided an example to support the Staff suggestion for the criteria.

Board Member White stated that the transitional element needs to be visible and separate. He concurred with the Staff.

Ms. Meintsma liked the concept of the guidelines but she suggested removing the wording “of the length” and just say, “...25% of the historic wall.” If it is a two-story building they could make it a half-story and the entire connecting feature would be 25% total and not just the length. She also changed the wording from “historic wall” to “connecting wall”, because if the sidewalls and the façade are all historic but the back wall is new, the language “historic wall” would not work.

Planner Grahn stated that her concern is that sometimes the materials of the historic wall has changed and she would not want there to be any confusion as to when the rule should be followed.

Board Member Crosby used the Kimball Arts Center as an example and the plans of the previous drawings. She noted that the connector was relative small. However, now there is an empty lot with a new developer. If they propose to develop the plaza and lot adjacent to the historic portion on the corner, she asked if 75% of that wall would be undevelopable due to the connector. Planner Grahn replied that it would only be applied to grant applications. Ms. Crosby clarified that the criteria would not be part of the HDDR. Planner Grahn stated that it is only if an applicant wants the extra 10% boost. The reason for being so strict is to make sure the 10% is only given to those who make the extra effort to preserve the historic material.

The Board was comfortable with the language as written by Staff. For clarification, Planner Grahn suggested changing the language to read, “...the historic connecting wall”.

4. The footprint of the addition should not exceed fifty percent (50%) of the historic footprint.

Planner Grahn clarified that only the grant applicants who want the 10% boost would have to meet this criteria. It only addressed footprint and not height. It is an effort to keep the addition smaller and more subordinate. It would only apply to the footprint of the addition. Ms. Meintsma pointed out that the structure could be three or four stories and it could also have a basement

Board Member White thought 75% was more reasonable. Planner Grahn pointed out that if someone came in with a grant application, they could deny giving the extra 10% if they thought the mass and scale had been maximized.

The Board was comfortable increasing the percentage to 75%.

5. The addition should not be visible from the primary right-of-way unless the property is a corner lot.

Planner Grahn suggested changing the language to read, "The visibility of the addition should be minimized from the primary public right-of-way." Side additions could be reviewed on a case by case basis. The Board concurred.

6. Any later additions to the roof form such as dormers, sky lights, or changes to roof pitch must be removed and the historic roof form restored.

The Board concurred with the criteria as written.

7. Porch posts, railings, and materials shall be restored based on sufficient documentation.

The Board concurred with the criteria as written.

8. Window and door openings and configurations on primary and secondary facades shall be restored based on sufficient documentation.

The Board concurred with the criteria as written.

9. The existing grade shall be substantially unchanged following the project.

The Board concurred with the criteria as written.

10. Following completion of the project and issuance of a Certificate of Occupancy, but prior to grant payout, staff will return to the Historic Preservation Board with a Determination of Significance to ensure that the project meets the criteria in which to be designated a Landmark Structure

The Board concurred with the criteria as written.

Board Member Melville noted that 1063 Norfolk was one of the last houses that received a grant. She walked by the house the other day and notice a very modern front door and a very modern garage door. The retaining wall is metal rather than stone. She believed the owners had done the house correctly, but these visibly modern elements distract from the historic and they should not have been approved under the grant application. Ms. Melville asked Planner Grahn to look at the structure. If those elements are acceptable, she suggested that the Board should review what they were allowing with historic grants.

The meeting adjourned at 9:55 p.m.

Approved by \_\_\_\_\_

Historic Preservation Board Meeting  
January 7, 2014

John Kenworthy Chair  
Historic Preservation Board

Planner Grahn reported that the structure is associated with Parkite Martin Prisk and its expansion is related to the boom before the panic of 1893. The structure also survived the great fire of 1898. The materials used were commonly found in Park City during this era. She pointed out that the Third Street Frontage is unique and speaks to how Park City was developing during this era.

Planner Grahn did not believe the structure meets the criteria for Landmark designation because it is not eligible for the National Register of Historic places. The post-1941 addition changes the rear roof form and has obliterated the significant character defining features of the historic house. However, the structure is significant to local history.

Chair Kenworthy opened the public hearing.

There were no comments.

Chair Kenworthy closed the public hearing.

Board Member Beatlebrox thought the HPB should support the Significant designation because it was supported before in all of its iterations.

MOTION: Board Member Beatlebrox moved to designate the house at 316 Woodside Avenue as a Significant Site on the Park City Historic Sites Inventory. Board Member White seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact 316 Woodside Avenue

1. The Park City Historic Sites Inventory (HSI), adopted February 4, 2009, includes 405 sites of which 192 sites meet the criteria for designation as Landmark Sites and 213 sites meet the criteria for designation as Significant Sites. This site was not included on the 2009 HSI.
2. The house at 316 Woodside Avenue is within the Historic Residential-1 (HR-1) zoning district.
3. There is wood-frame T-shaped cottage at 316 Woodside Avenue.
4. The existing house structure has been in existence at 316 Woodside Avenue since circa 1889. The structure appears in the 1889, 1907, 1929, and 1941 Sanborn Fire Insurance maps. A 1904-1904 tax photo of Park City also demonstrates that the overall form of the structure has not been altered.
5. The house was built c. 1889 during the Settlement and Mining Boom Era (1868-1893) by Martin Prisk, an employee of the Marsac Company. Between 1907 and 1929, a rear addition was constructed to fill-in the wing of the T-shape cottage. Staff finds that these changes have gained historical significance in their own right, and that the house is historic. A later, post-1941 addition was also



constructed across the rear of the house.

6. The house is clad in drop novelty siding, simple wood trim, and Victorian-inspired details reminiscent of the Settlement and Mining Boom Era.

7. The structure is T-shape plan and typical of the types of residential structures built during the Settlement and Mining Boom Era. Further, T-shape cottages were part of a national Romantic movement towards the picturesque and dynamic plans in Victorian art and architecture.

8. The site meets the criteria as Significant on the City's Historic Sites Inventory.

9. Built circa 1889, the structure is over fifty (50) years old and has achieved Significance in the past fifty (50) years.

10. Though the post-1941 addition to the house has altered the rear roof form, the structure has retained its Essential Historical Form. The Land Management Code defines the Essential Historical Form as the physical characteristics of a Structure that make it identifiable as existing in or relating to an important era in the past.

11. The house structure is important in local or regional history because it is associated with an era of historic importance to the community, the Settlement and Mining Boom Era (1868-1893)

#### Conclusions of Law – 316 Woodside Avenue

1. The existing house structure located at 316 Woodside Avenue meets all of the criteria for a Significant Site as set forth in LMC Section 15-11-10(A)(2) which includes:

(a) It is at least fifty (50) years old or has achieved Significance in the past fifty (50) years if the Site is of exceptional importance to the community; and  
(b) It retains its Essential Historical Form, meaning there are no major alterations that have destroyed the Essential Historical Form. Major alterations that destroy the Essential Historical Form include:

(i) Changes in pitch of the main roof of the primary façade if 1) the change was made after the Period of Historic Significance; 2) the change is not due to any structural failure; or 3) the change is not due to collapse as a result of inadequate maintenance on the part of the Applicant or a previous Owner,  
or

(ii) Addition of upper stories or the removal of original upper stories occurred after the Period of Historic Significance, or

(iii) Moving it from its original location to a Dissimilar Location, or

(iv) Addition(s) that significantly obscures the Essential Historical Form when viewed from the primary public Right-of-Way.

(c) It is important in local or regional history, architecture, engineering, or culture associated with at least one (1) of the following:

(i) An era of Historic importance to the community, or

(ii) Lives of Persons who were of Historic importance to the community, or

(iii) Noteworthy methods of construction, materials, or craftsmanship used during the Historic period.

2. The existing house structure located at 316 Woodside Avenue does not comply with all of the criteria for a Landmark Site as set forth in Land Management Code (LMC) Section 15-11-10(A)(1). The structure does not meet the criteria for landmark designation as it is not eligible for the National Register of Historic Places due to post 1941 alterations that have damaged and obliterated significant character-defining features of the historic structure.

## WORK SESSION

### Temporary Winter Balcony Enclosures

Board Member Crosby recused herself and left the room.

Planner Grahn reported that the Riverhorse had approached the City Council about the possibility of creating a seasonal balcony enclosure program. In November the City Council requested feedback from the Historic Preservation Board. The HPB had a brief discussion but tabled further discussion due to the late hour.

Planner Grahn stated that currently there were a few conflicts with balcony enclosures in the Design Guidelines. The Guidelines are strict about new additions being visually subordinate to historic buildings when viewed from the public right-of-way. The Staff is concerned that annual construction and removal could be detrimental to historic building materials and intensify wear and tear. They also believe that the proposed balcony enclosures visualize and alter the original building design. Additional concerns include energy-efficiency, snow shedding of shed roofs on to Main Street, the seasonal assembly and disassembly, increased water and sewer impact fees to name a few.

Planner Grahn asked whether the Board was comfortable with having seasonal balcony enclosures on both historic and non-historic buildings, or whether it should be limited to non-historic buildings given the amount of wear and tear of attaching and removing temporary structures.

Chair Kenworth asked Planner Grahn to define the current tent situation that the City allows for these balconies. Planner Grahn stated that currently if someone wants to put up a tent on their balcony during the winter months it goes through Administrative Conditional Use Permit process. The applicant is allowed to up a tent for a two-week period. She recalled that one applicant can have five Administrative CUPs for a total of 70 days combined. The tent should be taken down between each CUP or the owner will be fined.

Board Member Holmgren recalled that the temporary structures have to be built as though they were permanent. Planner Grahn answered yes. Ms. Melville asked about the balcony itself. Planner Grahn remarked that in some cases the

balcony itself may need to be upgraded for structural supports. She believed it would have to be reviewed on a case by case basis because each building is unique and different.

Board Member Melville stated that in her personal opinion it putting up and taking down a permanent enclosure on a historic façade would be very detrimental. She was opposed to allowing enclosures on historic structures. Ms. Melville stated that she was also generally opposed to balcony enclosures on newer buildings because the enclosures visually modify and alter the original building design. She also thought the enclosures would have an impact on the historic district. Planner Grahn stated that it would not impact the historic district because the enclosures would be seasonal. If they were to permanently enclose balconies there would be an issue with the National Register. She noted that the State Historic Preservation Office was adamant that temporary structures do not get considered for the National Register. Ms. Melville stated that at least visually it would alter the Historic District. Planner Grahn agreed.

Chair Kenworthy pointed out that the tents that are currently allowed also alter the visual. He asked the representatives from Riverhorse to offer their opinion.

Seth Adams with Riverhorse thought the tents were much more of a detriment to the visual appearance. He did not put up a tent this year and he was lucky the weather was nice. However, they would like to have the ability to use the balcony all the time, which was why they were making this request. Mr. Adams did not believe the enclosure impacted the visual integrity of what people on the street see walking on Main Street. Mr. Adams remarked that one of the objectives for the enclosure is to get people out on the deck to look up and down Main Street.

Chair Kenworthy asked Mr. Adams if the building was historic. Mr. Adams stated that where the balcony is was not historic. The entrance of the Riverhorse on the Main Street level is historic. Chair Kenworthy asked what percentage the business would increase with the enclosure. Mr. Adams estimated 10%. He clarified that it allows them to take the waiting space in the restaurant and convert it into seats. The balcony would be used to corral people in order to create more dining space inside the restaurant, but there would not be tables on the balcony. Chair Kenworthy asked if the enclosure was needed for six months. Mr. Adams answered no. He thought December 15<sup>th</sup> through April 15<sup>th</sup> would be sufficient.

Board Member Melville referred to page 295 of the Staff report and noted that the balcony was currently curved and the building façade is further back. She understood that Mr. Adams was proposing to rebuild the balcony to square it up. He replied that this was correct. Squaring up the corners would add a few square feet to the size. The reason was to make the temporary structure fit

better. Ms. Melville understood that they were also proposing to bring the façade out further than where it currently sits. Mr. Adams replied that it would only be the corners beneath the archway.

Board Member Melville clarified that the building shown on page 296 with the enclosure would not be allowed to be constructed as a permanent structure. Planner Grahn answered yes. If the Riverhorse was to propose this permanently it would not be supported by the Guidelines. Planner Grahn pointed out that Mr. Adams is the only one who has proposed the enclosure, but they need to look at it holistically in terms of how it could be managed up and down Main Street.

Board Member White noted from the table on page 277 of the Staff report that only three properties wanted this type of structure. Planner Grahn explained that the Staff looked at who on Main Street has an Administrative CUP, which is required for outdoor dining in the summer. Of all the businesses on Main Street only three do, and one was under review last year. Mr. White asked if the businesses that said no could change their mind. Director Eddington answered yes. He pointed out that the three identified were the ones who have applied for an Administrative Conditional Use Permit. The rest would have that ability. Director Eddington stated that there were 15 non-historic structures out of 21 shown on the table.

Board Member Melville assumed other buildings could build a balcony as well. Director Eddington stated that they could but they would need permission from the City Engineer to encroach over the public right-of-way. Planner Grahn noted that balconies need City Council approval because they do extend over the City right-of-way. Director Eddington agreed that with City approval more balconies could be built on Main Street if they apply for an Administrative CUP for outdoor dining.

Board Member White how many properties would have to do structural work in order to enclose their balconies. Director Eddington stated that the Staff had not done that analysis, but he assumed that most would require some type of structural work for both historic and non-historic structures. Mr. White asked if the same applied for tents. Director Eddington believed the tents still needed to meet load capacity for the number of people. However, that situation was different than connecting a new structure to a building. The temporary structure would have more connections and structural challenges to the existing façade, but the requirements for load capacity would be about the same.

Chair Kenworthy asked how this would affect Grappa. They were not on the list but they put up tents all the time on their patio. Director Eddington replied that this was only for balconies. Chair Kenworthy noted that TMI was not listed but they have outdoor dining. He names others that were not listed.

Board Member White clarified that the only visual example they have is for Riverhorse. Director Eddington stated that Riverhorse was the only application they had received. Board Member Holmgren thought it needed to be determined on a case by case basis. Mr. White thought the temporary structure looked better than a white tent. However, he was apprehensive about putting glass and steel temporary structures on historic buildings. Planner Grahn stated that the Staff had drafted guidelines to address the issues and to be consistent when applicants come in with an application for a balcony enclosure. The guidelines would also ensure that they protect the look and feel of Main Street.

Board Member White thought it was obvious that whether it was a tent or an enclosure these structures would not go away. Planner Grahn explained that if someone has a balcony on Main Street and they wanted something more permanent than a tent for the winter months, they could apply for that type of enclosure. She stated that the Staff would treat the process similar to the dining deck program except that it would be a winter balcony enclosure program. Mr. White clarified that each structure would be reviewed on a case by case basis. Planner Grahn answered yes, but guidelines need to be in place for consistency.

Board Member Beatlebrox asked if the guidelines on page 280 of the Staff report were enforceable. Planner Grahn replied that it was an issue they needed to discuss.

Planner Grahn reiterated her earlier question about limiting enclosures to new buildings versus historic buildings, or whether it should be allowed on all structures.

Board Member Holmgren did not believe they should delineate between old and new. Board Member Melville disagreed. She thought it would be even worse if they were allowed on historic buildings. Board Member Beatlebrox agreed. Board Member White concurred with Ms. Melville and Ms. Beatlebrox. He was not comfortable putting that type of temporary structure on a historic building.

Planner Grahn summarized that the answer was No on historic structures but Yes on non-historic buildings. Board Member Melville stated that she was generally opposed to the structures on any building on Main Street at this point.

Planner Grahn read proposed language to the LMC to say that, "Balconies may not be enclosed permanently. Temporary seasonal balcony enclosures may be appropriate on some structures." She thought that gave some leeway for structures where the Staff did not believe it would be appropriate. Chair Kenworthy understood that this would only pertain to the ones on public pedestrian right-of-ways. Planner Grahn answered yes. Board Member Holmgren asked how the language ensures that the enclosures would not be



allowed on historic buildings. Planner Grahn stated that additional language could be added to exclude historic structures. Ms. Melville suggested specifying non-historic buildings.

Chair Kenworthy stated that the Flanagan's Building is a Landmark historic building and he would never want to see a temporary structure on it for any reason. He noted that the balcony is probably 99% over a public right-of-way which would eliminate the opportunity. Since it was his building he was very comfortable not having the enclosure.

Planner Grahn reviewed the proposed revisions to the Design Guidelines for the Main Street District as outlined on page 180 of the Staff report. She noted that new construction is everything that was not designated as historic on the HSI.

The first guideline addressed historic sites in Park City. She added, "Temporary structures are not subject to review of the National Register of Historic Places" which is true by the national Park Service.

She added a new Guidelines, "Temporary winter balcony enclosures are reviewed by the programs criteria and are not addressed by these specific Design Guidelines."

Board Member Melville questioned why they would say it was not addressed by the Design Guideline. Planner Grahn stated that the Staff thought it was better to have a separate set of guidelines for review because it is less confusing than having them incorporated into the Design Guidelines. Director Eddington clarified that there were so many conflicting guidelines relative to a new temporary structure that it would not work well and could cause confusion. Planner Grahn noted that summer dining decks have a separate set of guidelines. This would fall under that category.

Chair Kenworthy stated that Flanagan's has a dining deck and they have to go through the requirements and permitting process. From his point of view and a business standpoint, they are providing a customer service. He understands that there is opposition to dining decks and he respects those opinions. However, in a situation like the Riverhorse it allows the owner to provide customer service in a resort town and people enjoy the dining decks on the street. Contrary to popular belief they do not make a lot of money from dining decks, but the reward is happy customers. Chair Kenworthy remarked that in granting his request, Mr. Adams would be able to provide an operational solution in a historic building to improve customer service. Chair Kenworthy thought six months was too long and would prefer a four-month time frame. He thought it was important to balance historic preservation with the ability to provide better customer service.

Board Member Holmgren understood from previous conversations that Mr. Adams was addressing the issues of snow shedding and removal and other safety factors. She thought this was positive for Main Street. It is a piece of magic and people who experience it will never forget it. Ms. Holmgren felt strongly that they should allow this to happen. However, she agreed that the time limit should be less than six months. She felt positive that this was brilliant, new and innovative for Historic Main Street and she would like to see it approved.

Mr. Adams favored a shorter time period as well. He would be comfortable if the winter was 180 days.

Planner Grahn reviewed the proposed guidelines for balcony enclosures and requested feedback from the Board on each one.

1) The enclosure must be constructed on a balcony on Main Street. There would be no balconies on Swede Alley or any side streets.

The Board pointed out balconies that already exist on Swede Alley. They noted that the Caledonia is on a side street and they have a balcony. Chair Kenworthy thought it would be difficult to limit it to Main Street. Planner Grahn suggested that they eliminate the guideline.

2) There may be times when it is not appropriate to enclose a balcony due to the unique historic character and architectural detailing of the historic building. Planner Grahn noted that the guideline no longer applied based on their discussion and the decision not to allow it on historic buildings.

The Board discussed whether or not the guideline could apply to non-historic structures. Planner Grahn suggested changing the language to say, "...due to unique conditions or circumstances" to address an unforeseen situations where enclosing a balcony may cause life/safety issues. The Board concurred.

Planner Grahn read the language as revised, "There may be times when it is not appropriate to enclose a balcony on a non-historic building due to the unique conditions or circumstances".

Board Member Beatlebrox asked if they needed to define unique circumstances. Planner Grahn stated that currently the Planning Director and Chief Building Official are the ones who determine a unique circumstance and she thought they should make that determination for the enclosures as well. The Board agreed.

3) The applicant must demonstrate that the temporary enclosure will not damage the existing façade and/or side walls with repeated attachment and detachment.



Planner Grahn stated that this guideline was no longer necessary based on their earlier decision.

4) The enclosure and balcony shall respect the architectural style of the building. Planner Grahn clarified that even on new buildings they would not want something that did not match what exists or keep with the theme. The Board agreed.

Chair Kenworthy suggested that they prohibit signage. Planner Grahn asked if they wanted to prohibits signs completely or whether they should include language stating that any new signage will required a sign permit application. The Board unanimously wanted signage prohibited for the temporary enclosures.

5) The enclosure shall retain existing railings in order to achieve a design consistent with open balconies and maintain the character of the original building. She asked if the Board agreed that the railings should not be removed.

Director Eddington suggested that they keep the railings on the balconies to keep it looking like a balcony. The Board agreed.

6) The existing exterior wall may not be removed seasonally in order to accommodate the balcony enclosure. The Board agreed.

7) The enclosure must not block existing door and window openings on neighboring buildings. The Board agreed.

8) Enclosures should consist of clear glazing set in window frames that generally match the mass, scale and material as those used for the glazing frames of the building itself. The Board agreed.

9) Draperies, blinds and/or screens must be located in a traditional manner above doors and windows. Draperies, blinds and/or screens should not be used within the balcony enclosure if they increase the bulk appearance of the enclosure. The use of these must blend with the architecture of the building and should not detract from it. Materials should be high quality, color-fast and sun fade resistant.

Planner Grahn stated that she had borrowed the guideline from Vancouver, where they have balcony enclosures on condo buildings. The concern is that when people drape the interior of the glass, it appears to be bulky and heavier, and less open. She was unsure whether that would occur on Main Street, but the language could protect it from occurring.

Board Member Beatlebrox suggested saying that draperies, blinds or screens are not required. Board Member Holmgren preferred not to allow them at all. They would still want people to be able to look in or look out.

Mr. Adams stated that the only reason he would consider a blind would be the hour or two as protection from the blinding sun. Other than that he could see no reason to have them.

Board Member Holmgren did not favor the concept at all. The Board discussed potential language to address the issue of blocking the sun like Mr. Adams had suggested, but not using them as a barrier.

Board Member Beatlebrox suggested language to say, "Sun screens permitted and should be used only during times of extreme sun and should not be obstructive." The Board was comfortable with that language.

10) The balcony must be situated so as not to interfere with pedestrian movement on the sidewalk. The Board agreed.

11) The closure must have direct access to the restaurant's dining area. The Board agreed.

12) The design must address snow shedding.

Board Member Melville asked where in the language it says that a building permit is required and it must comply with Building Department requirements.

Planner Grahn stated that if they add language indicating that a building permit is required, the Building Department would make sure it complies with the International Building Code. The Board favored adding language regarding the building permit.

13. Any changes to the exterior façade of the building, proposed changes to the existing balcony, or construction of a new balcony shall be reviewed by Staff as part of the Historic District Design Review. New balconies extending over the City right-of-way will require approval of the City Council. The Board agreed.

14. The construction of any temporary tents should be approved through an Administrative Conditional Use Permit for up to fourteen (14) days. Free-standing tents will not be considered the same as balcony enclosures.

Planner Grahn clarified that tents would still be treated as tents and balcony enclosures would be a separate program.

15. Any new signage will require a Sign Permit application.

Planner Grahn noted that this guideline was no longer necessary because signage was addressed in a previous guideline where the Board agreed to prohibit signage.

In terms of the time frame for having the enclosure, The Board agreed on four months. Director Eddington preferred to have specific dates and suggested December 15<sup>th</sup> to April 15<sup>th</sup>.

Mr. Adams noted that the time frame for summer dining decks was 180 days. Board Member Beatlebrox thought 120 days was sufficient. Director Eddington pointed out that dining decks have specific dates so everyone knows when they are allowed to go up and when they have to come down.

Chair Kenworthy suggested a maximum four month window between December 1<sup>st</sup> through April 30<sup>th</sup>. Director Eddington asked if they wanted to limit it to four months. Mr. Adams stated that personally he would like to put it up right after Thanksgiving and take it down when PCMR closes.

Board Member White suggested November 15<sup>th</sup> to April 15<sup>th</sup>. Director Eddington recommended specifying dates and not talk about a four month limit. It would be consistent for everyone and it would make it easier for Building and Code Enforcement to monitor.

The Board was comfortable with a November 15<sup>th</sup> to April 15<sup>th</sup> time frame.

Chair Kenworthy thanked Mr. Adams for his input.

The meeting adjourned at 8:47 p.m.

Approved by \_\_\_\_\_  
John Kenworthy, Chair  
Historic Preservation Board

**PARK CITY COUNCIL MEETING**  
**SUMMIT COUNTY, UTAH**  
**June 25, 2015**  
 Page | 3

better, engaging the public in solutions, developing strategies and implementing TDM measures to make more effective use of the existing system. Contract for this study was awarded this past May and is scheduled to be completed in January 2016.

Regarding the Parking Siting and Transportation Plan for Bonanza Park and Lower Park Avenue, the study will look to provide non-automotive transportation links and will explore various transit modes to determine the most attractive and effective mode to serve city needs short and long term. Contract was awarded April 2015 and is scheduled for completion in December 2015.

Regarding the SR-248 corridor plan, objectives will be to update 2009 assumptions and future projections, identify preferred alternatives, develop comprehensive long-term solution, provide priority to transit/HOV's and utilization for Richardson Flat Park and Ride, and to meet 2019 construction schedule STIP programming. Contract for the study was awarded to Fehr and Peers March 2015 with a completion date of August 2015.

Regarding other efforts, they are analyzing weather responsive refinement solutions; intelligent transportation systems such as Sydney Coordinated Adaptive Traffic Signal (SCATS), automated traffic counters, traffic cameras, etc; ongoing monitoring for Main Street circulation; working with transportation management associations, both public and private; transit improvements and services such as SLC/PC connect and Kimball Transit Facility.

Council member Simpson asked about the status of the Kimball facility. Knotts states they are still on schedule for completion of spring 2016. Council member Simpson states the U of U is working on including Park City as a destination with their employee/student package for the SLC/PC connect, to which Knotts states he will look in to. Council member Beerman asks if they settled on a final location for the Kimball Transit Facility, to which Knotts reports it's still going in behind the Richins Building. Mayor Thomas asked if the presentation could be posted on the website; Knotts said he would post.

Jamie Mackey, P.E., UDOT Statewide Signal Engineer, gave a presentation on the SCATS system. McKay explained their traffic operations center in Salt Lake and all the data that is handled and processed there. She spoke to different types of traffic signals detection and traffic signal timing mechanisms. She also explained the SCATS system, stating Park City's SCAT system operates differently than anywhere else because of the city's unpredictable traffic patterns.

### **Main Street Balcony Enclosure Program**

#### **Proposal**

Anya Grahm, Planning, and Kurt Simister, Building, spoke to the winter balcony enclosures on Main Street that would run from Nov 1st to April 30th. Grahm states only three building on Main Street currently qualify to have balconies, and in general we are likely to see balconies only on non-historic buildings. Grahm discussed design guidelines issues such as enclosures distracting from the historic western appearance, accelerating breakdown of the buildings due to enclosures being put up and down, break-up of existing street walls, glare from the sun, etc. Council member Henney asked about transparency concerns of the tents and canvases. Council member Beerman asked about the recommendation from the Historic Preservation Board on the issue. Grahm states the only concern from HPB was

damage to historic buildings; they are supportive of allowing them on new buildings only. Council member Simpson asked Mark Harrington about making changes to the Land Management Code regarding the dining decks. Harrington explains the LMC will have to be amended regardless, but implementation changes can be drafted according to Council's desires. Council member Henney asked Grahn if the balconies would compromise the structural integrity of older buildings. Grahn states older buildings may not meet structural codes and could therefore be damaged; she further stated the goal of the restriction is to protect those buildings that are not up to code.

Mayor Thomas opened the public hearing.

Cheryl Watson states she is in favor of the balconies.

Ruth Meitsma (sic) states the Building department originally said there would be a negative environmental impact by the balconies but there was no discussion about it, so she researched the topic and found the energy usage for these structures is massive, hard to control and can upset energy efficiency. She states the heat loss is high for these semi-permanent structures. She referenced a recent study that listed Park City as one of the worst-polluting mountain towns and says she is concerned that we have a long way to go in reducing greenhouse gas emissions and our carbon footprint. She feels these balconies move us in the wrong direction in our aim for the Georgetown Prize. Lastly, she stated concern that if these balconies are allowed on Main Street will they eventually be allowed in town as well.

Michael, Fryuegel (sic) states the power needed to keep the tents heated is very high and probably very costly, but feels what the River Horse is trying to do is a great use of the patio to accommodate winter visitors. States Seth Adam is taking measures to make the structure as aesthetically pleasing as possible and he is in favor of having the balconies.

Becca Gerber, speaking for the HPCA, is in support of the balconies, especially since it only impacts three buildings.

Mike Sweeney states he supports this trial concept to see if it will work. Regarding greenhouse emissions, he feels we can make it work as the city of Toronto, which is farther north than Park City, has many of these features and reports success with them. Regarding attachment to historic buildings, Sweeney says the technology is there to construct these features without causing damage. Feels the three-year trial period is a sufficient amount of time and that this program will give us another tool to help businesses on Main Street be successful.

Mayor Thomas closed the public hearing.

Council member Peek agrees with Staff's concerns and wants to be clear that these balconies are not appropriate for historic structures; also, he doesn't believe the enclosures can meet heating requirements. Council member Matsumoto asks Seth Adams of River Horse if all the factors under the international building codes have been worked out. Adams states he feels they can meet all the requirements. Council member Matsumoto is comfortable going forward with the pilot program if all requirements are met but not on



historic buildings. Simister states a plan has not yet been submitted by River Horse for them to analyze to see if all the requirements have been met. Council member Henney asks Adams if they have done any analyses on heating the tents. Adams says they have not. Simister states the tents would have to be studied to see what is required and that it all depends on duration of use. Henney pointed out that commercial property energy usage does not count towards the Georgetown Energy Prize. Council member Beerman agrees with the HPB in that these should not be on historic buildings but is OK with them being on newer buildings. Regarding energy usage, these structures are minor users compared to other buildings on Main Street and that if this is done right it can be a successful advantage for businesses. Feels we don't need to charge businesses fees for use of private balconies over the right of way.

Council member Simpson agrees these structures don't belong on historic buildings but we should try the three-year pilot program.

Mayor Thomas states the River Horse rendering obscures the view of the adjacent buildings and asks if it can be built without the obstruction, to which Adams states they will make them with as less an impact as possible. Mayor Thomas feels these structures impact the visual impact, diminish the historic value of Main Street and surrounding buildings. Feels glass and tents do not hold energy, are absurd to heat and that these balconies are totally inconsistent with our goals of being environmentally conservative. Thomas asks if Council is supportive of narrowing the facade so as not to obstruct the street view. Council member Simpson states the renderings are not necessarily accurate and she is not concerned about it. Council member Peek supports the narrowing. Council members Matsumoto and Henney agree with Simpson and are OK with the facade the way it is. Council member Beerman states the mayor's suggestions are valid and asks Adams to take them into consideration for their final design.

#### **Victim Advocacy Program Update**

Malena Stevens came before Council to update them on the Victim Advocacy Program since it is the end of the fiscal year and as a requirement stipulated in their Victims of Crime Act grant. Stevens spoke to her Staff report, in which she included specific numbers of how many incidents they had and how many victims they served. The report also includes services provided such as filing protective orders and going with victims to court. Stevens states the program is still seeking Spanish-speaking translators. She has looked to other agencies and reports they have the same problem retaining Spanish-speaking help. Council member Simpson asked why all assault victims were not serviced. Stevens explained the reasons are varied such as not having appropriate contact information or victims refusing help. Council member Matsumoto asked if the program coordinates with other agencies, such as the Peace House, to share resources so that services are not duplicated. Stevens says they do work closely with Peace House to make sure there is no duplication.

## **REGULAR MEETING**

- I. **ROLL CALL – MAYOR JACK THOMAS CALLED THE REGULAR MEETING OF THE CITY COUNCIL TO ORDER AT APPROXIMATELY 6:20 P.M. AT THE MARSAC**



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Design Development  
Riverhorse Restaurant  
Seasonal Deck Canopy  
540 Main Street

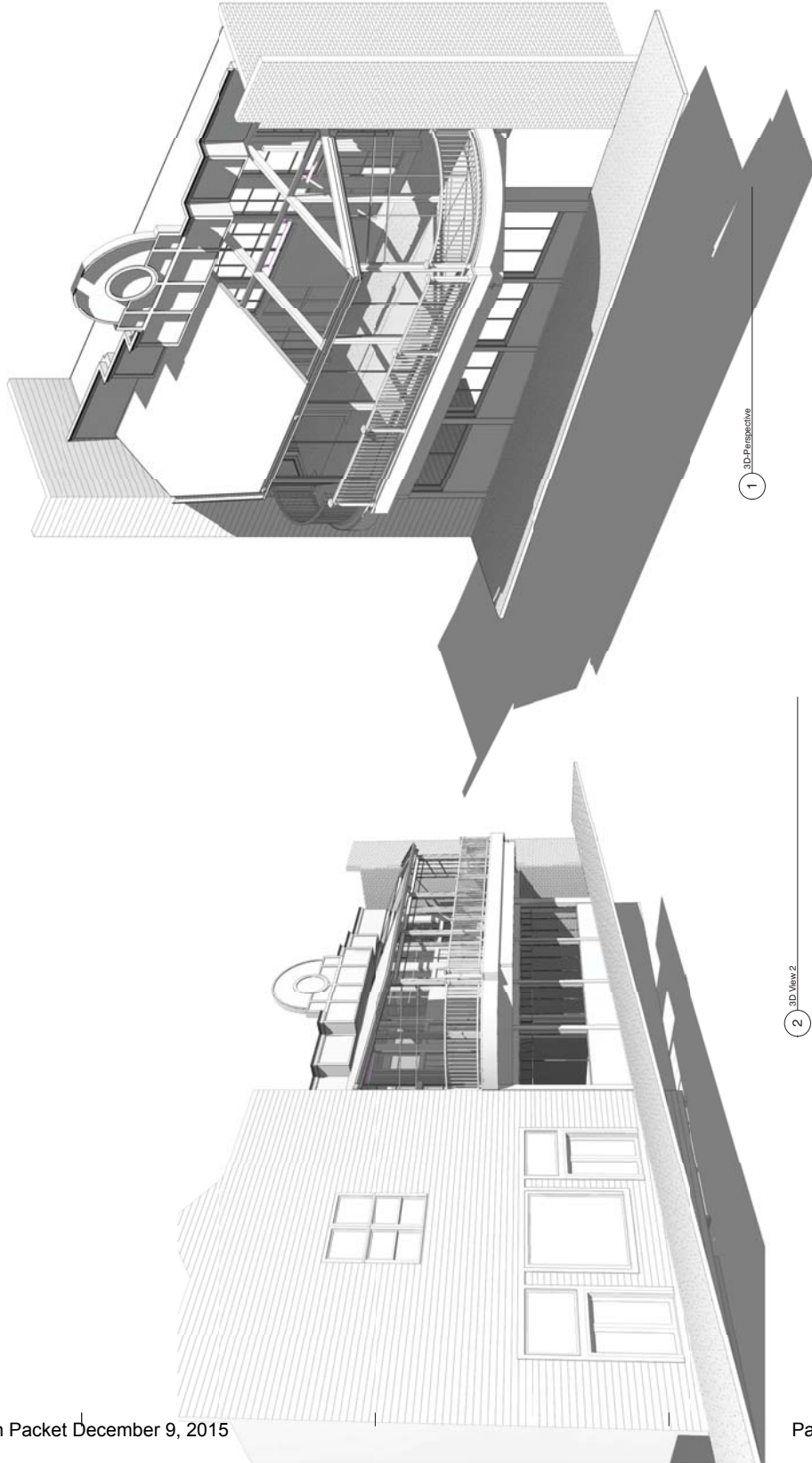
Sheet

No.	Date	Description

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CONTRACT NO.:	
DRAWN BY:	Author
CHECKED BY:	Checker
DESIGNED BY:	Designer
BWG PROJECT NO.:	2015.28.a
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SHEET TITLE	
Unnamed	

AE-.02

SHEET OF





No.	Date	Description

ISSUE DATE:	10.15.2015
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DRAWN BY:	BVM
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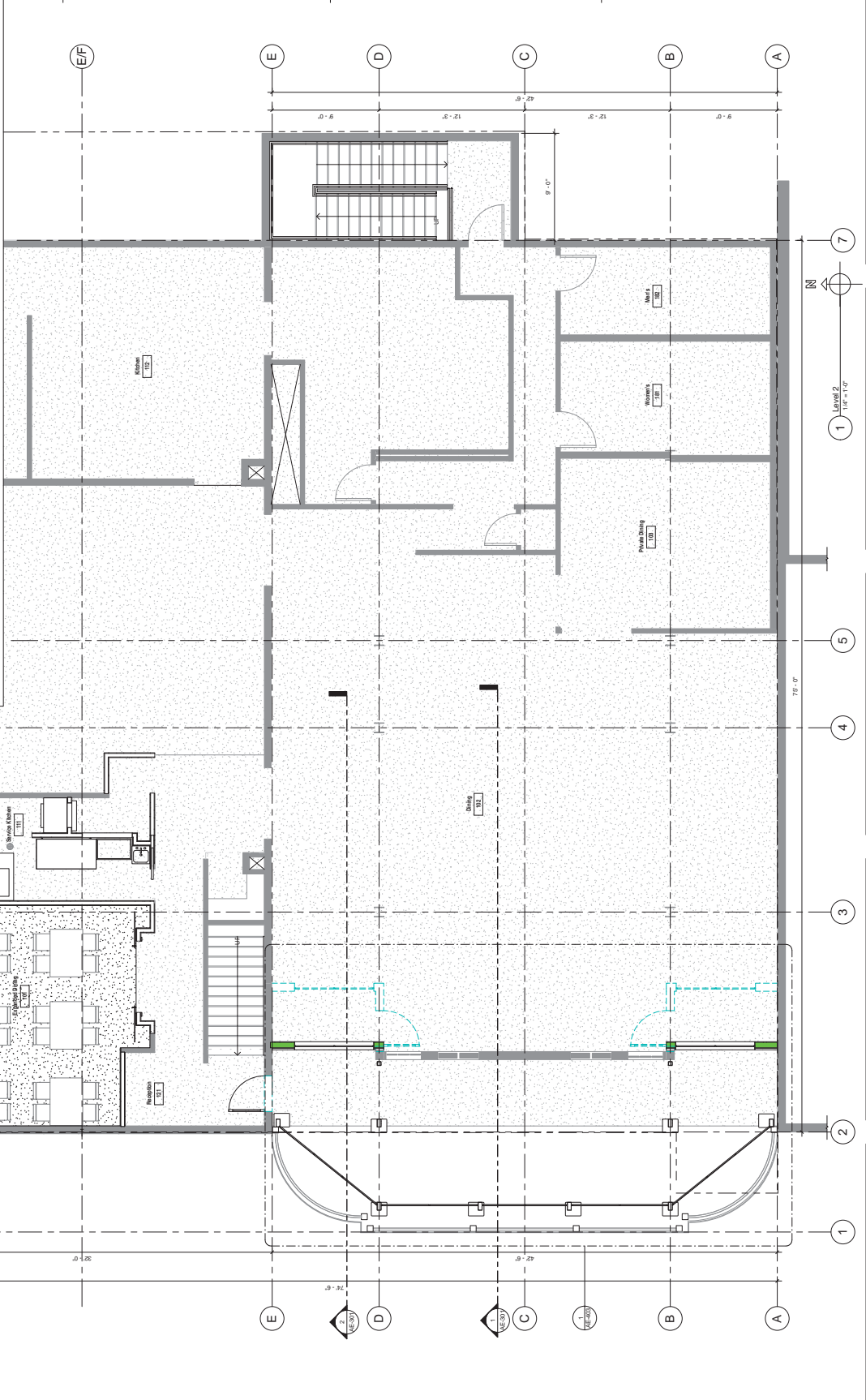
FLOOR PLANS

AE-102

SHEET OF

- GENERAL NOTES**
- FOR ENLARGED PANELS, DETAILS, AND SCHEDULES, REFER TO THE ENLARGED FLOOR PLANS.
  - UNLESS NOTED OTHERWISE, WALL DIMENSIONS ARE TO FACE OF FINISH MATERIALS AT DOORS AND WINDOWS ARE TO CENTERLINE OF OPENING.
  - WATCH FACE OF FINISH AT CONNECTIONS BETWEEN CMU/CONCRETE WALL AND STUD WALLS.
  - PROVIDE BLOSSING (OR OTHER APPROVED METHOD) FOR SUPPORT OF STUD WALLS. PROVIDE BLOSSING AT ALL WALL JOINTS. PROVIDE MOUNTING OF FLAT PANEL TELEVISIONS, COORDINATE WITH INTERIOR ELECTRICAL AND TELEPHONICAL PLANS.
  - KITCHEN, MECHANICAL, PLUMBING AND ELECTRICAL DRAWINGS.
  - OTHER WALL TYPES MAY BE USED IN lieu OF TILE DEPENDING ON STC CONSTRUCTION REQUIRED. SEE WALL TYPES ON AE-102.
  - FLOOR SURFACE FINISHES TO BE NON-ABSORBENT TILE OR APPROVED COATING.
  - FLOOR SURFACE FINISHES TO BE NON-ABSORBENT TILE OR APPROVED COATING.
  - APPLIANCES MUST MEET NSF SPECIFICATIONS.
  - OPEN STAINLESS STEEL SINKS AND SUPPORTS TO BE USED ABOVE COUNTERS. PROVIDE SINKS AND SUPPORTS TO BE USED ABOVE COUNTERS. PROVIDE SINKS AND SUPPORTS TO BE USED ABOVE COUNTERS. PROVIDE SINKS AND SUPPORTS TO BE USED ABOVE COUNTERS.
  - CABINETS TO BE CONSTRUCTED OF MEANWHE OR OTHER EASILY CLEANABLE AND RESISTANT MATERIAL.
  - REFER TO ALL APPLICABLE CODES AND SPECIFICATIONS TO THE 2015 INTERNATIONAL PLUMBING CODE (IPC) AND 2015 INTERNATIONAL ELECTRICAL CODE (NEC).
  - NEW WALLS TO BE CONSTRUCTED OF 3.5" METAL STUDS WITH 5/8" SPACING AND 1/2" GYPSUM BOARD ON BOTH SIDES. IN WET AREAS, WET SIDE TO BE SHEATHED WITH 1/2" GYPSUM BOARD.

- LEGEND**
- WALL TAG: REFER TO AE-601 THRU AE-606 FOR DETAILS  
 ROOM NAME AND NUMBER  
 SPOT ELEVATION MARKER
- 





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Design Development  
Riverhorse Restaurant  
Seasonal Deck Canopy  
540 Main Street

Sheet

No.	Date	Description

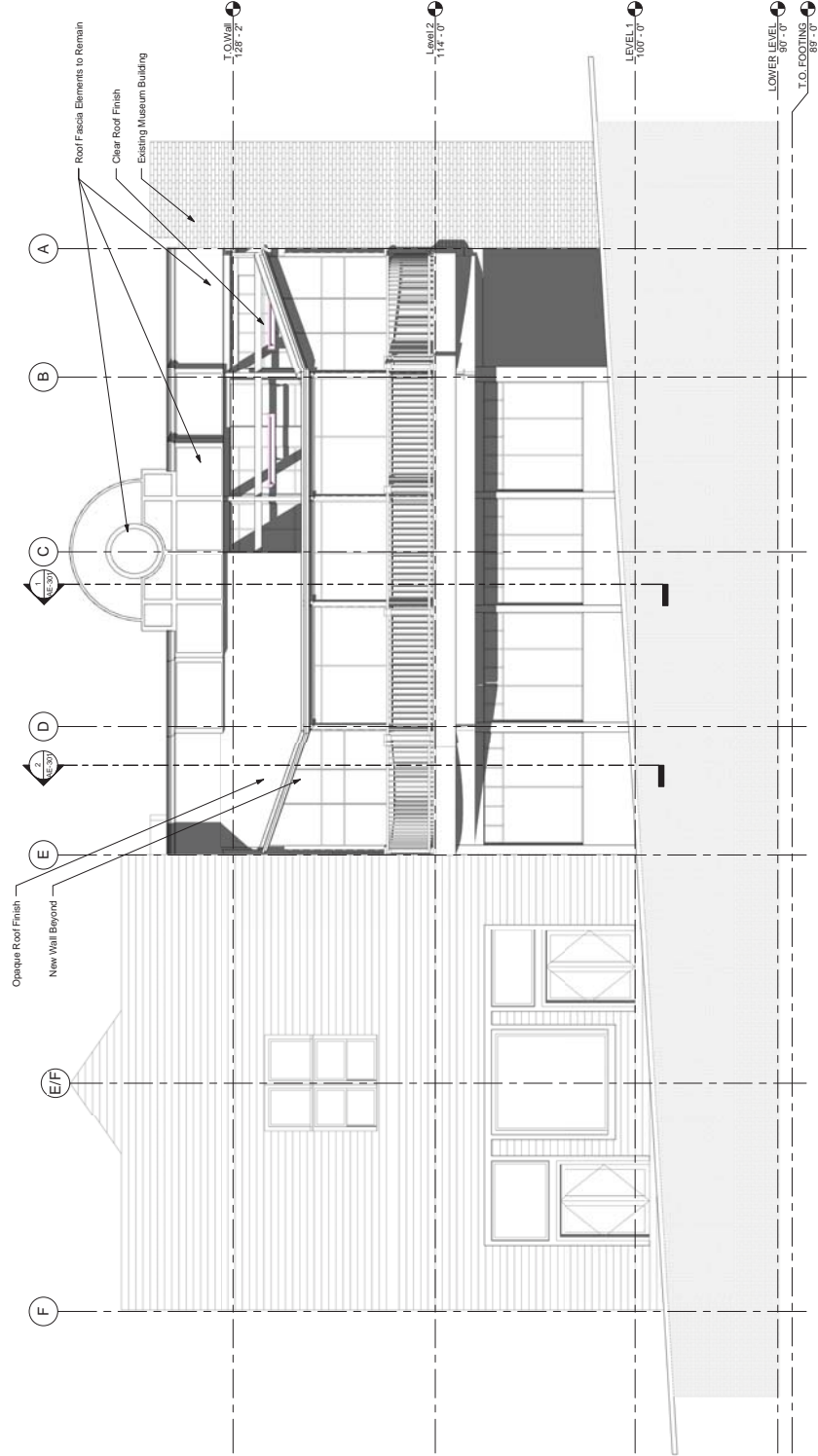
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DESIGNED BY:  
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SHEET TITLE

ELEVATIONS

AE-201

SHEET OF



1 WEST ELEVATION  
1/4" = 1'-0"

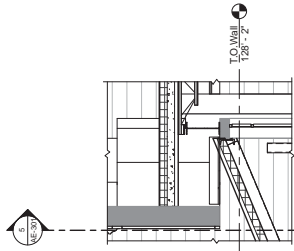


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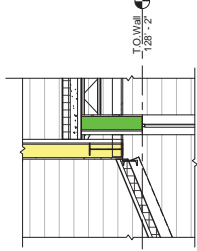
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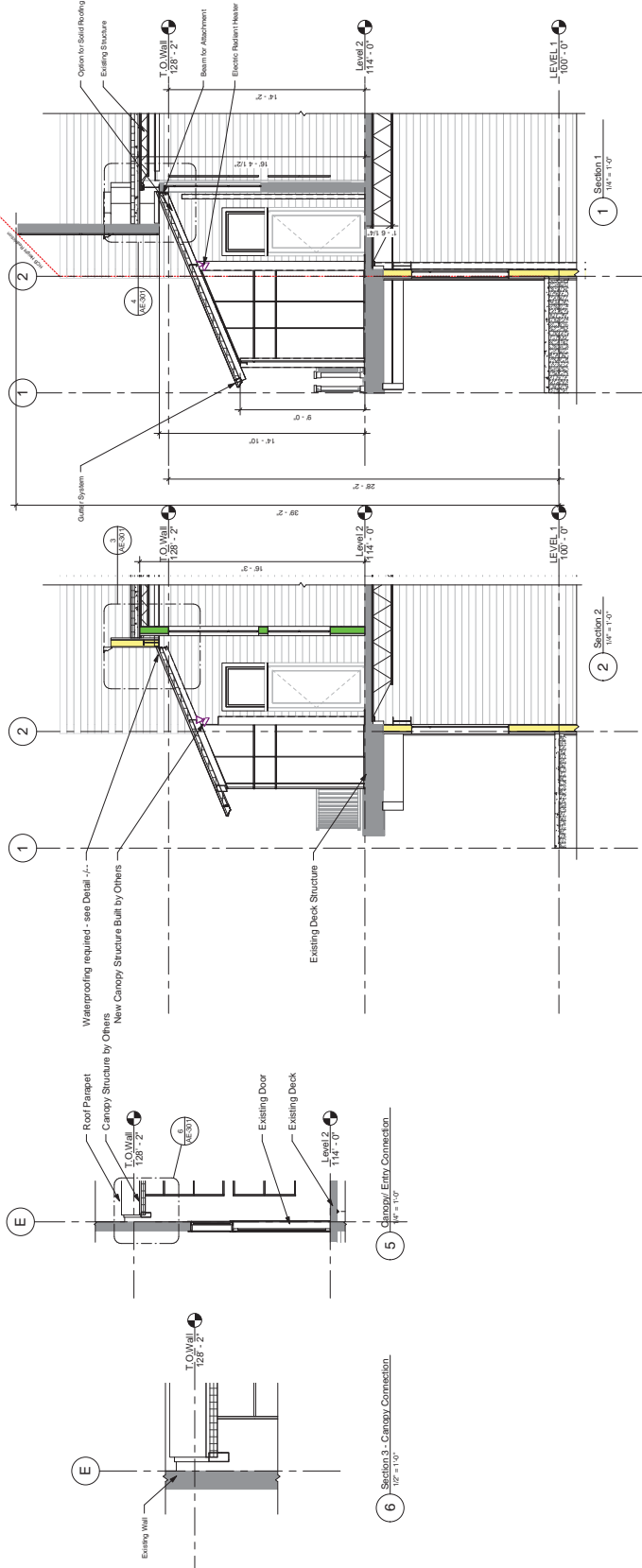
Design Development  
Riverhorse Restaurant  
Seasonal Deck Canopy  
540 Main Street



3 Section 1 - Canopy Connection  
1/2" = 1'-0"



4 Section 2 - Canopy Connection  
1/2" = 1'-0"



5 Section 3 - Canopy Connection  
1/2" = 1'-0"

6 Canopy/Entr. Connection  
1/2" = 1'-0"

7 Section 2  
1/4" = 1'-0"

8 Section 1  
1/4" = 1'-0"

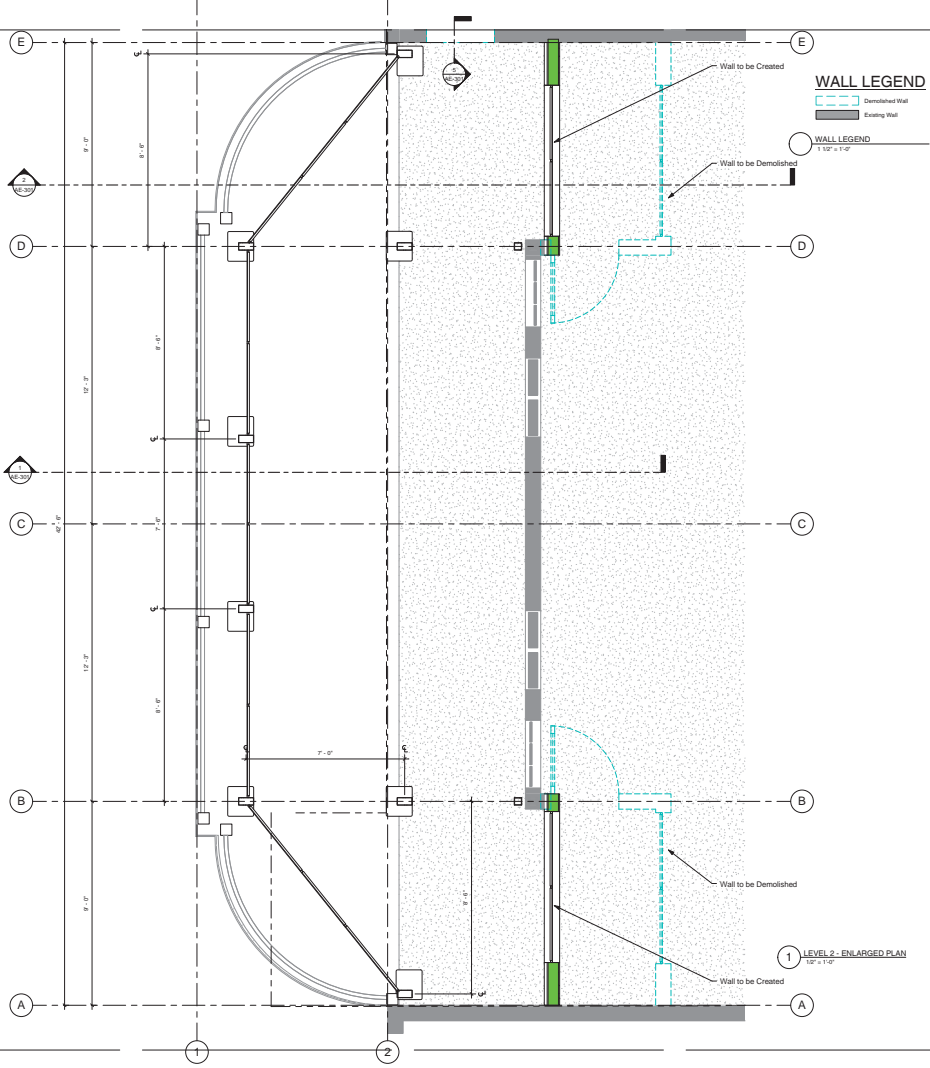
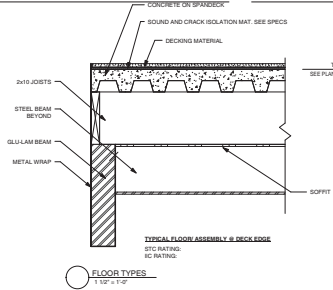
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**BUILDING SECTIONS**

**AE-301**

SHEET OF



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Design Development  
**Riverhorse Restaurant**  
Seasonal Deck Canopy  
540 Main Street

No.	Date	Description

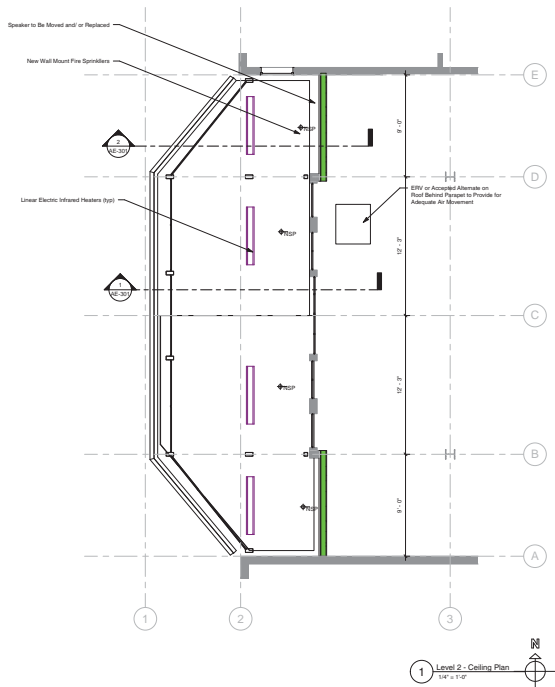
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DESIGNED BY: BM  
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SHEET TITLE  
**ENLARGED PLAN**  
**AE-403**  
SHEET OF

**GENERAL NOTES**

1. SUSPENDED CEILING INSTALLATION SHALL COMPLY WITH REQUIREMENTS OF I.B.C. 2012 SECTION 903, ASTM C-425 & ASTM C-638.
2. CEILING AREAS OF 14 SQ. FT. OR LESS SURROUNDED BY WALLS WHICH CONNECT DIRECTLY TO THE STRUCTURE ABOVE SHALL NOT REQUIRE THE DIAGONAL BRACING WIRES.
3. EACH VERTICAL WIRE SHALL BE ATTACHED EACH END WITH MIN. 3 TURNS.
4. CEILING GRID SHALL BE INSTALLED LEVEL TO WITHIN 1/8" IN 12 FEET.
5. LOCAL KINKS OR BENDS SHALL NOT BE MADE IN HANGER WIRES AS A MEANS OF LEVELING MAIN RUNNERS.
6. ALL WIRE LOOPS SHALL BE TIGHTLY WRAPPED AND SHARPLY BENT.
7. ALL CEILING MOUNTED LIGHT FIXTURES SHALL BE ATTACHED TO SUSPENDED CEILING GRID. IN ADDITION 12 GA. HANGER WIRES SHALL BE ATTACHED TO THE GRID WITHIN 7" OF EACH CORNER OF THE FIXTURE. TWO ADDITIONAL WIRES SHALL BE CONNECTED TO THE LIGHT HOODING AND TO THE STRUCTURE ABOVE.
8. WIRES SHALL NOT ATTACH TO OR BE IN CONTACT WITH INTERFERING MATERIAL OR EQUIPMENT. NOR SHALL THEY BE CLOSER THAN 4" FROM ANY UN-SUPPORTED HORIZONTAL PIPING OR DUCTWORK. A TRIPWIRE OR SIMILAR DEVICE SHALL BE USED WHERE OBSTRUCTIONS OCCUR.

9. LIGHT FIXTURES TO HAVE FOUR (4) WIRES FOR BRACING.
10. GRID MUST BE ATTACHED TO TWO ADJACENT WALLS - OPPOSITE WALLS MUST HAVE MIN CLEARANCE PER DETAILS.
11. ENDS OF MAIN BEAMS AND CROSS TEES MUST BE TIED TOGETHER TO PREVENT THEIR SPREADING.
12. PROVIDE PERIMETER SUPPORT WIRES.
13. CEILING OVER 1200 SF MUST HAVE HORIZONTAL RESTRAINT WIRE OR RIGID BRACING. CEILING NOT REQUIRING RIGID BRACING MUST HAVE 2 OVERSIZE TRIM RINGS FOR SPRINKLERS AND OTHER PENETRATIONS.
14. THE SPRINKLERS TO BE ADDED & LOCATED OR VERIFIED BY A QUALIFIED PROFESSIONAL. ANY NECESSARY CHANGES WILL BE SUBMITTED ON A DEFERRED SUBMITTAL.



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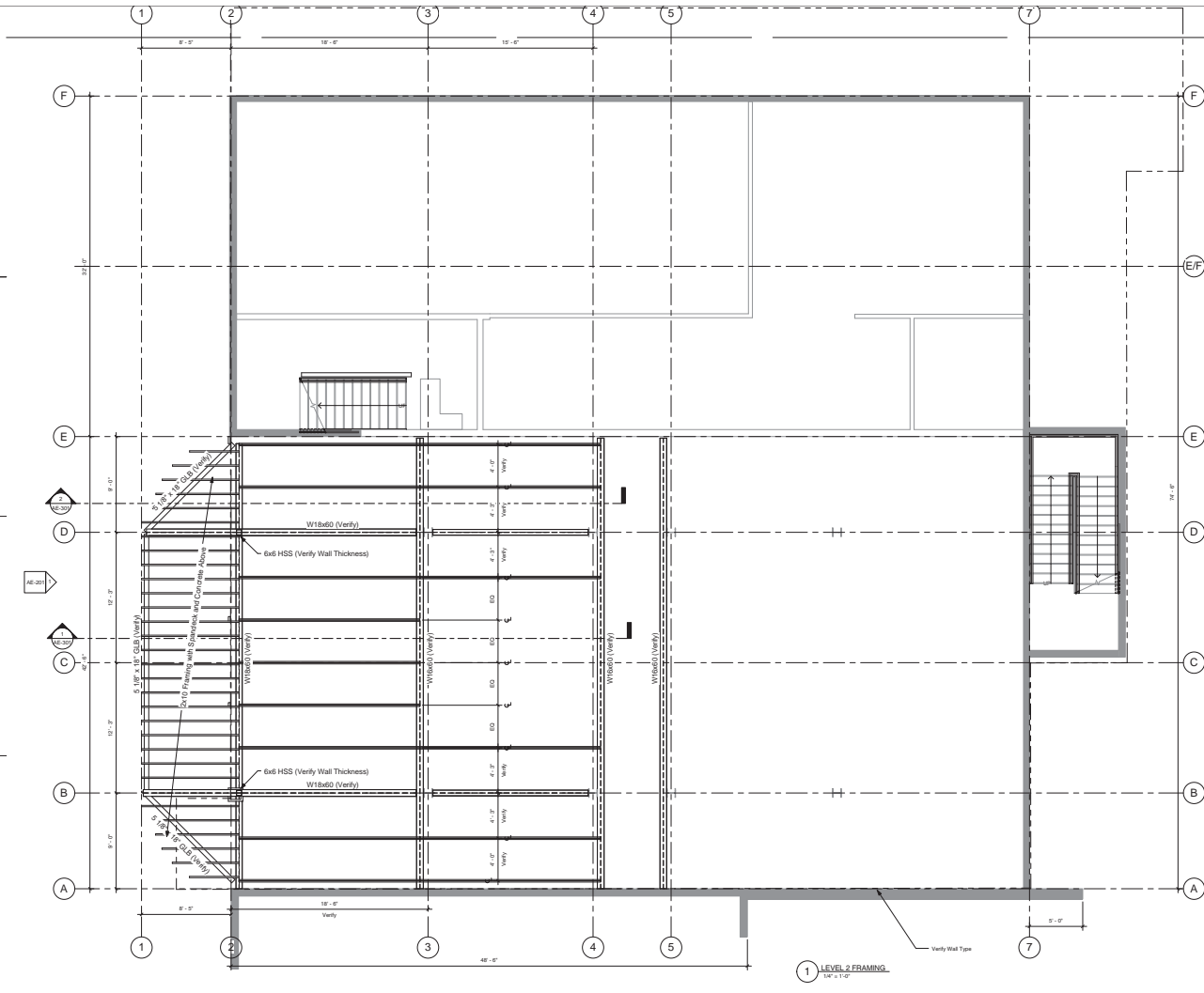
**RIVERHORSE**  
 GIN MAUI

Design Development  
**Riverhorse Restaurant**  
 Seasonal Deck Canopy  
 540 Main Street

No.	Date	Description

ISSUE DATE:	10.15.2015
OWNER PROJECT NO:	
CONTRACT NO.:	
DRAWN BY:	BVM
CHECKED BY:	CE
DESIGNED BY:	BVM
ENG. PROJECT NO.:	2015.28.a
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Design Development  
**Riverhorse Restaurant**  
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**LEVEL 2 FRAMING PLAN**

**S-002**

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