PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JUNE 22, 2016

COMMISSIONERS IN ATTENDANCE:

Chair Pro Tem Melissa Band, Preston Campbell, John Phillips, Laura Suesser, Doug Thimm

EX OFFICIO:

Bruce Erickson, Planning Director, Kirsten Whetstone, Planner; Anya Grahn, Planner; Makena Hawley, Planning Tech; Polly Samuels McLean, Assistant City Attorney
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REGULAR MEETING

Director Erickson noted that two Commissioners were absent this evening and other Commissioners would be recusing themselves from different matters on the agenda. The Planning Commission would have a quorum throughout the evening; however, the Commissioners needed to nominate a Chair Pro Tem to conduct the meeting.

MOTION: Commission Phillips nominated Melissa Band as the Chair Pro Tem. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

Director Erickson noted that Commissioner Band would be recused from one agenda item and the Commissioners needed to nominate a Vice-Chair Pro Tem.

MOTION: Commissioner Campbell nominated John Phillips as the Vice-Chair Pro Tem. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

ROLL CALL

Chair Pro Tem Band called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except Commissioners Joyce and Strachan who were excused.

ADOPTION OF MINUTES

<u>June 8, 2016</u>

Commissioner Thimm referred to page 22 of the Staff report, page 19 of the Minutes regarding his comments. The minutes reflect that He agreed with Commission Thimm and that should be changed to correctly read, **He agreed with Commissioner Joyce.**

MOTION: Commissioner Phillips moved to APPROVE the minutes of June 8, 2016 as amended. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT
There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Erickson reminded the Commissions of their joint meeting with the City Council on June 29th to discuss housing policy. He would send an email with the approximate time once the Council agenda is published. The discussion would focus on the Blue Ribbon Commission report, as well as a discussion regarding policies and changes to the LMC.

NOTE: Later in the meeting Director Erickson noted that the correct date for the joint meeting was June 30th and not June 29th as he originally stated.

Director Erickson stated that given the size of the Staff report for this meeting, he decided not to include the transportation report. He would email the transportation report to the Commissioners the next day so they would have the weekend to read it. Director Erickson pointed out that a date had not yet been set for that discussion.

Chair Pro Tem Band disclosed that she would be recusing herself from the 215 Park Avenue Steep Slope CUP.

Commissioner Thimm disclosed that the architectural firm he works for was recently awarded the architectural contract for the 1000 Ability Way National Ability Center. For that reason he would recuse himself from participating on that agenda item.

Commissioner Suesser would recuse herself from 700 Round Valley Drive due to a previous involvement.

CONTINUATION(S) – (conduct a public hearing and Continue to date specified)

1. 263 Norfolk Avenue – A Conditional Use Permit proposing an engineering design of a shared driveway for Lots 1, 2, and 3 of the Upper Norfolk Subdivision that will

service 3 future residences. The location of the proposed shared driveway is approximately 15-20 feet outside of the asphalt roadway, but within the 50 foot Norfolk Right of Way. (PL-16-03145)

Chair Pro Tem Band opened the public hearing. There were no comments. Chair Pro Tem Band closed the public hearing.

MOTION: Commissioner Suesser moved to CONTINUE 263 Norfolk Avenue Conditional Use Permit to July 13, 2016. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

2. 2392 Holiday Ranch Loop Road – Conditional Use Permit for a new well filtration building that if approved will replace the old well filtration buildings at Creekside Park in the Recreation Open Space (ROS) zone. (Application PL-16-03198)

Chair Pro Tem Band opened the public hearing. There were no comments. Chair Pro Tem Band closed the public hearing.

MOTION: Commissioner Suesser moved to CONTINUE 2392 Holiday Ranch Loop Road to July 13, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

3. 1401 & 1415 Kearns Blvd., 1415, 1635, 1665, 1685, & 1705 Bonanza Dr., 1420 & 1490 W Munchkin Rd., – Bonanza Park North East Master Planned Development (MPD) Pre-Application determination in the General Commercial (GC) District. Project consists of a mixed-use development containing commercial space on the first floor and office or residential uses on the upper levels. Project includes surface parking and one level of underground parking. (PL-15-02997)

Chair Pro Tem opened the public hearing.

Mark Fischer thanked the Planning Commission for continuing to work on this item. He supported the idea of taking extra time to get it right in hopes of coming back to the Planning Commission next month. Mr. Fischer announced that he recently added Rory Murphy to his team and he will be working with them throughout the entitlement process. Mr. Murphy is an authorized representative and he may reach out to the Planning Commission to hear their concerns and ideas. Mr. Fischer believed Mr. Murphy's past experiences would be a great benefit in helping them

find the right compromises. He has great respect for Mr. Murphy and appreciates the fact that he was willing to join their team.

Chair Pro Tem Band closed the public hearing.

MOTION: Commissioner Suesser moved to CONTINUE 1401 & 1415 Kearns Blvd., the northeast MPD pre-application to a date uncertain. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 632 Deer Valley Loop – Plat Amendment for the Lilac Hill Subdivision located at 632 Deer Valley Loop (Application PL-16-03153)

Planner Anya Grahn presented an aerial showing the project location.

Planner Grahn noted that this property has had a long and complicated history. The house is listed on the Historic Sites Inventory and is commonly known as the "burnt out house" on Rossi Hill Drive. The fire damaged occurred in 1999. The house was originally constructed around 1900 and renovated between 1912 and 1918. The property was purchased by William and Julie Bertagnole in 1981. At that time they purchased the house but the land itself was still owned by the BLM. The Bertagnole's were in a legal battle with the BLM for almost 30 years before they retained a land patent for the ownership in 2013. At that time the Bertagnole's were considering developing the property and they wanted to tear down the house. However, the Historic Preservation Board did a determination of significance and found that the house was historic could not be demolished. Following that determination the Bertagnole's sold the property to 632 Deer Valley Loop LLC in February of 2016.

Planner Grahn introduced Matt Mullin, the applicant representative for 632 Deer Valley Loop LLC.

Planner Grahn reviewed the proposal for a plat amendment to create one legal lot of record which would contain 14,446 square feet. A small portion of Deer Valley Loop cuts across the parcel. A portion of Rossi Hill also cuts across the property. Planner Grahn stated that the property where the roads are actually build is owned by the BLM. However, the BLM has granted the City a right-of-way easement for these streets.

The City has also requested that the applicant dedicate the portion of the land they own to the City for these street dedications, as well as an easement for a water line that runs across Deer Valley Loop. The property is located in the RDM zone. Planner Grahn understood that the three houses on Lower Deer Valley Driver are stilled owned by the BLM.

Planner Grahn stated that due to the historic nature of this site the Staff wanted to ensure that new development would not detract from the historic character of the site. Therefore a condition of approval was drafted as dictated by the General Plan. The General Plan outlines the Old Town neighborhood and it includes the Deer Valley Loop area. The General Plan also talks about preserving the historic character of the neighborhoods. It discusses compatible infill and neighborhood context, and making sure infill is subordinate to historic structures. The General Plan also calls for preventing the loss of historic structures and preserving the aesthetic of the Old Town character.

Planner Grahn noted that the RM District purpose statements also encourage new development that is compatible infill and rehab of existing structures; and it encourages developments that provide a transition of use and scale between the historic district and resort development.

Planner Grahn reported that the applicant believes the condition of approval is premature since any new development would likely require a second subdivision for single family housing or condominiums.

Matt Mullin, representing the applicant, explained that his concern with the HDDR review standard for this property is that it is premature and it can be applied later on when the house is rebuilt or development occurs. At this stage they were only trying to create a lot of record. Since no development was proposed at this time he could understand why they were addressing design issues.

Mr. Mullin also stated that the language Planner Grahn referenced for requesting the condition of approval comes from another zone which is two zones away. He was concerned about setting a precedent for property owners to have to check the Code across all zones in town and then determine which pieces of the Code would be applied to their piece of property.

Mr. Mullin stated that even in the RC zone it should be two blocks away from a historic Zones. He noted that a block is not easily defined in the LMC; however, even using the liberal definition, this property is more than two blocks away from a historic zone. Mr. Mullin commented on the geographic and topographic separation. He pointed out that this property cannot be accessed either walking or driving, without passing entire zones of new

construction or contemporary construction. He believed the standards that should only apply to the renovation of the house if that should occur were being applied to the entire property, and the Staff was supporting that argument by referencing Code language from other parts of town. Mr. Mullin stated that even if this were not premature, he had issues with taking language from other zones and putting it into the RM zone where it does not currently exist.

Director Erickson clarified that the RM Zone in which this project is located has requirements for preserving historic character. Those requirements were outlined in the Staff report. He explained that the difference is that this condition of approval was brought in from other applications where this condition of approval was used in order to support the current zone language. Director Erickson emphasized that it was a consistent application of the condition of approval. This property is in a zone that requires preservation and integration with the historic character of the neighborhood and the Staff wrote a consistent recommendation for a condition of approval.

Commissioner Suesser read language in the Staff report, "Staff has based this condition of approval on existing language in districts neighboring the H-Districts. Director Erickson replied that it was a condition of approval in support of the underlying zone. He clarified that the HDDR process was not on this particular application, and it would not take place until an application for a building is submitted.

Chair Pro Tem Band believed that everyone agrees that there is historic character and these gems are the last in that part of the neighborhood. She asked if those protections were sufficient without the condition of approval. Director Erickson stated that in the absence of a similar condition of approval they would need to rely on the zone requirements. If someone brings in an application it would be reviewed against the zone requirements for neighborhood compatibility. What the Staff was recommending would give the Planning Commission an additional condition of approval.

Commissioner Suesser asked if it would include the Design Guidelines for Historic Districts. Director Erickson replied that it would not. Planner Grahn remarked that the site is one lot of record with a historic house, and it falls under the Historic District Design Review process because it is a historic site designated on the Historic Sites Inventory. If the property was subdivided in the future, the lot with the historic house would still have to comply with the Design Guidelines because the house is on the HSI. However, other lots created by a subdivision would only have to meet the requirements outlined in LMC 15-2.15, which is the RM zoning District.

Chair Pro Tem Band thought it made more sense to wait until the applicant comes in with an application to re-subdivide the lot to add the condition of approval. She understood that

this application was only creating one lot of record. She was struggling to find a reason for doing it now. Assistant City Attorney McLean stated that Planning Commission had the purview to decide whether to require this condition of approval at all; and whether to do it now or later. Ms. McLean explained that doing it now would make subsequent owners or potential buyers aware of the Planning Commission's intention. Without the condition, the individual lot with the minimum lot size around that historic house would have the protection of the Design Guidelines, but future lots surrounding the existing lot would not be bound by the requirements of the Guidelines. The zone has purpose statements but not specific guidelines; and the purpose statements are difficult to enforce. Chair Pro Tem Band thought they were using the purpose statements to add the condition of approval. Assistant City Attorney answered no. In addition to the purpose statements they also have the fact that currently the house sits on the entire lot and it has been on that lot historically. The Staff was recommending the condition of approval because the historic sites encompasses the entire lot and future subdivisions would affect the context of the historic home.

Commissioner Campbell thought they could accomplish the same purpose if they added the condition of approval at the time of subdivision application. He agreed that the subdivision was a better time to address the issue.

Mr. Mullin stated that if it was the intent of the Planning Commission to make their views clear for future Planning Commissions or Staff, he suggested that they write it into the Code for the RM zone. Revising the Code would make everyone aware that language from other zones could randomly be applied.

Planner Grahn handed out public comment from the Tesch Law Office that was related to this application.

Chair Pro Tem Band opened the public hearing.

Diane Bernhardt, a Park City resident and homeowner at 630 Coalition View Court, stated that she was representing the Snow Park HOA, the Portico HOA, and a group of additional neighbors and homeowners a short distance from 632 Deer Valley Loop. Ms. Bernhardt read a letter expressing their concerns about the proposed plat amendment.

"As an overview, the subject property recently put into private ownership is part of a much larger parcel which has been owned for the BLM for over 100 years. This parcel is a one of a kind piece of heritage land with remarkable variety. It holds historic significance for the cluster of National Historic Register and Mining Boom houses with their notorious red light district past. It includes an established trailhead and well-loved recreational trails which were built by the Mountain and Trails Foundation, and are an integral part of the Park City

Trail Network. In addition, it is the last available passage for moose and wildlife to make their way to their only accessible source of drinking water. This BLM Hillside is an extremely important civic asset with a powerful potential to increase civic value. Our position is that a well-planned development of this property is the only way to preserve its historical, recreational and natural community heritage, and to improve its availability to the public. To improve the plat amendment the Planning Commission needs sufficient demonstration of good cause, particularly in light of the detriments that would occur. We believe that good cause, as documented in the Staff report, is inadequate. The good cause portion of tonight's planning packet is set forth on page 33 and it reads as follows: Staff finds good cause for this plat amendment as the plat amendment will create a legal lot of record from the government parcel, and a portion of Deer Valley Loop and Rossi Hill rights-of-way will be dedicated to the City. Public snow storage and utility easement will also be provided in the lot. Our view of this finding by Staff is that is an illusion and in fact no good cause has been shown. Let's address the good cause item by item. One, good cause by creating a legal lot of record. Creation of a single lot without planning the entire BLM hillside creates benefit only for the applicant, not for the City. Number two, good cause by dedicating rights-of-way to the City. The City already has ownership of those roads and the additional dedication really provides nothing. We understand that under Utah Law a road becomes a State Road when it has been used by the General Public for ten consecutive years. These road have been used much longer than that, and under case law decisions the City already has vested rights to these roads. Therefore, the City is getting nothing. Number three, good cause by providing snow storage and utilities easements. No building permit will be issued without dedicating ten foot snow storage and public utility easement. Since the City is already entitled to the snow, snow storage and easement there is no benefit. Good cause is not a simple reiteration of what the City of Park City already have, or something to which they are already entitled, as we find in this proposed plat amendment. A showing of good cause must illustrate that the citizens of Park City gain more than they originally had. It requires a donation of significant value to the City. For example, dedication of open space and safe passage for the protection and preservation of wildlife, restoration and preservation of historic structures, dedication of new recreation trails and trailheads, dedication of pedestrian sidewalks and stairways. Dedication of new roads or improvements to an existing road, or agreement to a smaller footprint, square footage or building height that is otherwise permitted. Due to the subject property's inclusion within this historic BLM parcel, the proposed plat amendment and its show of good cause must illustrate how its approval contributes to a big picture plan for the whole of this one of a kind property. First, applicants should be required to comply with open space plan providing for the accommodation of the existing BLM wildlife corridor, which is Rossi Hill's Wildlife last and only access to their source of drinking water. Applicant should be required to show good cause by documenting how the subject property contributes to the open space plane. Second, applicant should be required to comply with a historic preservation plan providing for the restoration and preservation of the collection

of four architecturally and historically significant homes. Applicant should be required to show good cause by documenting how the subject property contributes to the historic preservation plan. Additionally, approval of the plat amendment should be made conditional and the renovation and preservation of the existing single family home located at 630 Deer Valley Loop. Its renovation should approximate its current size, location and scale. Its historic attributes and significance should be restored. Its setting, landscape and surroundings, including potential new development there should reflect its historic era. This, applicant should be required to comply with the pedestrian pathway plan providing for the dedication and preservation of pedestrian walkways, stairways, recreational trails and trail heads. Applicant should be required to show good cause by documenting how the subject property contributes to the pathway plan. Fourth, applicant should be required to comply with a plan providing for sufficient infrastructure associated with the growth and development of the BLM parcel with respect to traffic, parking, water, sewer, utilities, snow management and transportation. documenting how the subject property contributes to the infrastructure plan. Finally, as residents of this neighborhood we would like the City to get out in front of the development of the BLM Land. We are asking for the Planning Commission to direct Staff to take a proactive leadership role by creating an intelligent, long sighted development plan which advocates for community considerations and respects the rights of the eventual land owners of the BLM Land. Once created, applicants should be required to comply with this master development plan and should be required to show good cause by documenting how the subject property contributes to the overall development plan. Without this show of good cause supporting an overarching plan for well-considered development, this application should be tabled pending BLM's transfer of the remainder of the parcel pursuant to federal law, so that the entirety of the parcel can be made part a master development plan. If the Planning Commission were to approve this plat amendment it would appear that this prize, BLM open space is being sliced, diced, and lots of record being approved simply because it was formerly subdivided by the federal government for its convenience rather than for the best interest of the municipality in which it is located. The City is not bound to honor the federal subdivision of the BLM parcel as if it were buildable lots. Had the BLM parcel been owned by a private owner the City would require that the entire parcel be planned. The members of this Planning Commission have illustrated in their previous decisions that the extent of benefits necessary for the finding of the good cause requires significantly more donated benefits than is offered in the proposed plat amendment. We encourage the Planning Commission to find that the applicant has not shown good cause and refuse to take action without establishing a master plan for the entire BLM parcel. Thank you for your time and attention."

Ms. Bernhardt stated that a number of neighbors would have attended this evening but they had conflicts. If necessary, she could provide a list of the neighbors she was representing.

Robert Gurss, a resident at 654 Rossi Hill Drive, echoed support for the comments read by Ms. Bernhardt. Mr. Gurss stated that the other owners of his condominium agree with this statement, as do many of the other neighbors. It is important that this piece of property is carefully looked at and that they do not make mistakes today that could be regretted five or ten years from now. It is one of the rare historic properties that has certain environmental benefits, and over-development of this area could have devastating impacts overall.

Alison Kitching stated that she lives directly across from this property in the Portico units. She is also on the Board of the Portico HOA. Ms. Kitching remarked that she was personally looking forward to having the historic home renovated, but her concern is that the property would be over-developed. Ms. Kitching stated that Matt Mullin is her neighbor and he lives directly above. She understood that the temptation to over-develop the lot is financially beneficial and she was concerned that it might outweigh the concerns of the neighborhood in terms of density. Ms. Kitching asked the Planning Commission to consider whether there was a way to ensure that only the historic structure would be renovated or integrated into something that would fit into the neighborhood. She supported the comments read by Ms. Bernhardt. She sits on her patio every day and she sees deer come down off the hill going to the creek. She has heard comments on the radio several times that if something is not in the Code there is nothing the City can do to stop development that does not support what the City wants to see for a certain property. Ms. Kitching suggested that this was the time for the City to make extra assurances that this would be developed in alignment with the City's values.
Christina Shiebler, a resident at 638 Coalition View Court, stated that she backed the comments by Ms. Bernhardt as a representative of their neighborhood.

Chair Pro Tem Band closed the public hearing.

Commissioner Suesser asked Planner Grahn to respond to the good cause argument and whether or not the Staff has adequately looked at that issue. Planner Grahn replied that the Staff looked at it as they would any traditional plat amendment application. They always look at what the City would achieve. In this case they are getting dedications for the street. The City does not own the street and the BLM has granted right-of-way easements for the portions on their property. The City is also getting a utility easement and snow storage. Planner Grahn appreciated the neighbor's comments and concerns regarding the development; however, that would be the next step if this plat amendment is approved.

Mr. Mullin pointed out that renovation of the burned out historic house was another benefit to the City for good cause. He noted that during public input everyone wanted a proper, well thought out, well contemplated development, and that could only occur if the lot is platted.

Commissioner Thimm recalled a previous comment by Director Erickson about using language from other zone ordinances for structuring conditions of approval. He asked if there was a specific precedent for using language with regard to historic preservation. Director Erickson replied that when the Staff writes conditions of approval, they try to use standardized conditions from all other applications in an effort to consistently apply the rules. He explained that the distinction is taking a relatively standard condition of approval from a number of past approvals and using it to substantiate the requirements of the zone and the General Plan for neighborhood character and preservation of historic sites. He emphasized that it was a standard condition of approval from projects already approved in the zone. They were not taking language from one zone and applying it to another.

Commissioner Campbell pointed out that the historic house is already protected without the condition of approval. He understood that the intent is to protect the area beside it that could one day become another one or more lots. He pointed out that if this owner or a future owner came back to further subdivide, the Planning Commission would have the opportunity to add appropriate conditions at that time. Director Erickson stated that if their discussion focuses on the recommendation for approval and public comment, the Planning Commission could craft a condition of approval stating that any further subdivision would be required to demonstrate compliance with the Historic District Guidelines and Universal Standards.

Chair Pro Tem Band stated that in the meantime they could amend the LMC and add language to this particular zone before another subdivision application came forth. Director Erickson agreed. He clarified that the Staff was only trying to make it clear that in terms of how the RM zone is structured, they would be reviewing any development on this parcel consistent with maintaining the historic character.

Commissioner Campbell stated that he was not trying to do away with the controls. He was only looking for a way to be consistent. He preferred to have language in the LMC for that zone.

Assistant City Attorney McLean stated that there are only a handful of historic houses in that zone in the old red light district. Therefore, the zone itself is not designated as a historic zone. However, because the historic house sits on the larger site, in order to preserve the context of the house the Staff decided to add a condition of approval to say that the entire site should be treated under the guidelines. Ms. McLean clarified that the idea was to preserve that small area and give people notice.

Commissioner Campbell suggested that they do a zone change and make that area part of HR-1. Assistant City Attorney McLean noted that the lot sizes are different and the

restrictions are different in the HR-1. Director Erickson thought they would achieve more density rezoning to a standard HR-1 lot than what is allowed in the RM zone. He remarked that the Planning Commission has the obligation in reviewing the zone requirements to make sure it would not degrade the context of the BLM homes as well. That is the second part of the argument for saying that at some point they need to make sure that neighborhood compatibility, mass, materials and scale consistent with the RM zone are maintained on this parcel and the next one as well, due to the proximity to the listed homes. It is important not to degrade the integrity of the homes.

Commissioner Thimm agreed with the Staff regarding good cause. Defining right-of-way and defining land, shape and form has importance. Establishing utility easements and establishing this as a true lot is appropriate. Commissioner Thimm felt that keeping this property in a waiting posture for actions on other BLM property is out of their control in terms of when it might happen. In looking at this property and the preservation elements he preferred the idea of defining the property. With regard to the preservation of the historic aspect of the site, Commissioner Thimm wanted to see that happen but he was not convince this was the appropriate time. As he read through the zone it appeared that protections are in place as actual development decisions are brought forth to the Planning Commission.

Commissioner Suesser concurred with Commissioner Thimm. She thought the good cause arguments made by the Staff were appropriate; but she believed the strongest argument for good cause was the need for a plat amendment to preserve the historic structure. Commissioner Suesser preferred to amend the condition of approval proposed by Staff to change the last sentence to read, “The purpose of the RM District is to encourage development that is compatible with historic structures in the surrounding area.” She thought it was better to state that in the condition of approval as opposed to saying that the proposed plans will be in compliance with the design guidelines for historic districts. Director Erickson suggested revising the last sentence of the condition of approval to read, “The Staff will review for consistency with the purposes of the RM zone.” Commissioner Suesser added, “Specifically to encourage development that is compatible with historic structures in the surrounding area.”

Commissioner Campbell agreed with amending the last sentence of the condition. He also believed that the best reason for good cause is to preserve a historic structure that would not survive many more winters. He thought all the neighbors would be happy to see the historic house rebuilt in accordance with the guidelines.

Commissioner Phillips agreed with his fellow Commissioners. He understood the perspective of the neighbors because it is a very sensitive property and an important part of Park City. Commissioner Phillips thought it was important to make sure no mistakes are

made. He pointed out that Park City does more plat amendments that most places. Commissioner Phillips agreed with the Staff on the reasons for good cause. He also realized that the plat amendment needs to occur in order to rehab the historic house. Commissioner Phillips understood that Mr. Mullins believed the Staff's approach was premature, but it was inevitable and they would have to go through the process either now or later. He asked Mr. Mullin what impact it would have on the applicant moving forward. Commissioner Phillips favored the idea of adding the condition now so the intent is clear to future owners of the property.

Mr. Mullins stated that he is in the real estate industry in Park City and he feels strongly about the consistency and predictability of the Code. He lives to see regulations applied at the right time so landowners and future landowners know what to expect when they make a decision to buy or sell property. For this particular property, Mr. Mullin thought the more accurate time to address the issue is when a proposal comes in. It may not be necessary at that time or the Staff may want to more from the development relative to specific issues of renovating the house. In his opinion, adding the condition now would be making a decision without definitive information regarding potential development. Mr. Mullin summarized that his issues were consistency of Code and the fact that this application was to plat a lot without any kind of construction.

Director Erickson clarified that the purpose of recommending the condition of approval is to make sure that when someone does their due diligence in advance of making a purchase, the property is readily identified early in the process before the purchase has been completed and the owner submits for development. He explained that the subdivision plat would be approved with conditions of approval. A potential buyer doing their due diligence would review the subdivision plat and the conditions, which would reflect Condition of Approval #4. Director Erickson stated that the Staff was trying to be proactive given the sensitive nature of the site.

Commissioner Phillips understood both perspectives. Mr. Mullin noted that he and Planner Grahn have talked about this at length and they have a difference of opinion. Commissioner Phillips stated that his biggest concern is when someone purchases the property without knowing all the facts it puts the Planning Commission in a difficult position when development is proposed. Commissioner Phillips agreed with the proposed amendment to Condition #4.

Chair Pro Tem Band understood there was consensus among the Planning Commission that there is good cause to approve the plat amendment; and that they all have concerns regarding the future of this parcel because of the significance of the historic home and wanting to protect that particular area. Chair Pro Tem Band believed there was consensus to amend Condition #4 as suggested by Commissioner Suesser and Director Erickson.

Mr. Mullin requested that the Planning Commission read the revision being proposed. Commissioner Suesser stated that the last sentence of Condition #4 would be revised to read, “The Planning Department shall review the proposed plans for compliance with the purpose of the RM District, which specifically is to encourage development that is compatible with historic structures in the surrounding area.”

Assistant City Attorney McLean stated that the Planning Commission could add that language and it was consistent with the zone. However, it would not require that the Historic District Guidelines be applied to the remainder of the lot. Commissioner Campbell pointed out that the property is not in the Historic District. Ms. McLean replied that it is currently a historic site. If the property is not subdivided and developed on one lot it would be subject to the Design Guidelines. Planner Grahn agreed that it would be subject to the Guidelines because the house and the site are considered a historic site. If the property is subdivided, the new lots would only be required to meet the LMC and not the design guidelines. Ms. McLean stated that legally purpose statements are helpful in reviewing applications, but they are not mandatory. If the intent of the Planning Commission is to make sure that if the property is subdivided a potential developer would have notice that development must be compatible with the area around it, she recommended that they add that condition now so a future owner would be aware of that. They could also leave it for the next Planning Commission to address if development comes forward. She pointed out that protection currently exists on the lot because it is a historic site.

Chair Pro Tem Band asked if Ms. McLean was suggesting that the proposed language to amend the condition was not strong enough to protect a future subdivided lot. Ms. Mclean did not believe the language would be very effective in terms of a condition of approval.

Commissioner Campbell asked about Condition #9. Planner Grahn replied that it was the standard language of what would be required by the zone. Mr. Mullin clarified that Condition #9 related to the RM zone and Condition #4 had the added language of the design guidelines from the neighboring district.

Chair Pro Tem Band preferred to err on the side of caution. She agreed with the applicant on the issue of consistency and Code. She believed this property was a special circumstance and it should be protected. Chair Pro Tem noted that the Planning Commission has added conditions of approval in the past on that were out of the ordinary for historic sites.

Commissioner Campbell was concerned that if they want this level of detail and try to think of what every applicant might ever do, nothing would ever get accomplished. He thought

the Planning Commission should agree to modify Condition #4 and move forward because they will have the opportunity to review this again if the property is ever subdivided.

MOTION: Commissioner Suesser moved to forward a POSITIVE recommendation to the City Council for the Lilac Hills Subdivision at 632 Deer Valley Loop based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended to replace the last sentence of Condition #4 in the draft ordinance to read, "The Planning Department shall review the proposed plans for compliance with the purpose of the RM District, which specifically encourages development that is compatible with historic structures in the surrounding area." Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 632 Deer valley Loop – Plat Amendment for the Lilac Hill Subdivision located at 532 Deer Valley Loop (Application PL-16-03153)

1. The property is located at 632 Deer Valley Loop.

2. The property is in the Residential Medium (RM) zoning district.

3. The subject property consists of all of Government Lot 26 in Section 15, Township 2 South, Range 4 East, Salt Lake Base and Meridian. It was formerly known as the 11th House on the south side of Deer Valley, 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 Significant.

5. The Plat Amendment creates a legal lot of record from the government lot.

6. The proposed Plat Amendment combines the property into one (1) lot measuring 14,319 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 2,812 square feet. The proposed lot meets the minimum lot area for single-family dwellings.

9. The proposed lot width is width is 116.38 feet along the north property line (facing Deer Valley Drive) and 129.41 feet along the south property line (Rossie Hill).

10. The minimum lot width required is 37.50 feet. The proposed lot meets the minimum lot width requirement.

11. LMC § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures.

12. The minimum front yard setbacks are fifteen feet (15') and rear yard setbacks are 10 feet. The historic house has a front yard setback of 35 feet and rear yard setback of 52 feet.

13.The minimum side yard setbacks are five feet (5'). The historic house has a side yard setback of 17 feet on the west and 65 feet on the east.

14. Deer Valley Loop consumes 64.27 square feet of the northwest corner of the lot and Rossie Hill Drive consumes 62.72 square feet of the southeast corner of the lot.

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

Conclusions of Law – 632 Deer Valley Loop

1. There is good cause for this Subdivision.
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 – 632 Deer Valley Loop

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. The applicant shall dedicate a portion of the property that consists of Deer Valley

Loop and Rossie Hill Drive to the City as part of this plat amendment.

4. Any development on this lot or future subdivided lots within this lot shall provide a transition in scale between the historic structures in this neighborhood, the Historic District, and Deer Valley Resort. The Planning Department shall review the proposed plans for compliance with the purpose of the RM District, which specifically encourages development that is compatible with historic structures in the surrounding area.

2. 215 Park Avenue – Steep Slope Conditional Use Permit for construction of a new single-family home on a vacant lot (Application PL-16-03141)

Commissioner Band recused herself and left the room. Commissioner Phillips assumed the Chair.

Planner Grahn reviewed the application for a Steep Slope CUP at 215 Park Avenue. The applicant, David Houston, and his architect, Jonathan DeGray were present.

Planner Grahn noted that the application had gone through plat amendment process and it was approved by the City Council on December 3, 2015. The plat was still going through the redlined process and had not yet been recorded with Summit County. The applicant was still working on encroachment agreements and other issues.

Planner Grahn stated that the Steep Slope CUP and the HDDR applications are conditioned to the recording of the plat amendment. No building permit can be issued until the plat amendment has been recorded at the County.

Planner Grahn corrected a misprint in the Staff report regarding the total house size. It was correct in the Findings of Fact, but in the narrative it should read 2,758 square feet. The total lot size is actually 2044.5 square feet.

The Staff had reviewed the Steep Slope CUP criteria of the LMC and the Design Guidelines and found no unmitigated issues. Planner Grahn thought the elevation drawings of the house were misleading because it looked at the house straight on, which makes it appear very tall. However, in looking at the side elevations, she believed the applicant had done a good job burying most of the mass into the hillside. Planner Grahn indicated how the building mass was broken up by stepping up the grade. She presented renderings showing how the house steps up the hill, as well as showing the gable pitch, the shed dormer and other elements that contribute to the Historic District.

Planner Grahn reported that the applicant has met the parking requirement. Single family homes in this District are required to provide two parking spaces. One will be in the garage

and the second one is outside on the driveway. It also complies with the 27' above existing grade, as well as the interior height of 35 feet from the lowest finished floor to the top of the wall plate.

Planner Grahn requested an additional finding of fact. She noted that the property address is currently 215 Park Avenue. However, once the plat amendment is recorded the address would be 217 Park Avenue, which corresponds with the name of the plat. She proposed adding a Finding of Fact stating, "The property address is currently 215 Park Avenue per the Summit County Recorder's Office; the address will be changed to 217 Park Avenue following the recording of the plat".

Planner Grahn provided the Planning Commissioners with three letters of public comment she had received. The Commissioners took a few minutes to read the letter before taking public input.

David Houston, the property owner and applicant, stated that it was brought to his attention that there was a licensing agreement between himself and the Snyderville Basin Water Reclamation District. Mr. Houston stated that the Snyderville Basin attorney helped to write the agreement and record it. However, it was recorded against the Davidson property, the Paul property and the Kenworthy property. Mr. Houston intended to terminate the original license and replace it with one that did not record against those properties because it was improperly done. He believed it would eliminate that aspect of the objections expressed by Kenworthy, Davidson and Paul.

Commissioner Suesser asked the applicant to address some of the concerns raised in the letters they received; specifically the encroachment issue, removal of the existing retaining wall that helps to structurally support their foundation, and parking concerns.

Mr. Houston stated that in terms of the parking concern, he has met the parking requirements. Regarding the foundation, his architect is extremely competent and he has one of the best builders in Park City. The foundation would not be undermined because he would be liable if that occurred. Mr. Houston believed the encroachments were the primary dispute. He wanted it clear that his lot is bare land that does not encroach on anyone else. However, he is encroached on at every border of his property. To the south, the eve of the Duffaut's house encroaches approximately one foot over the lot line. On the westerly side, several years ago Snyderville Basin Water Reclamation had to access for some type of construction, and he assumed the contractor built a log wall to retain those properties. That log wall encroaches on his property approximately 3 to 3-1/2 inches across the back of his property. Mr. Houston stated that there is another retaining wall on the northerly side of his property, which was built for the garage next door and the wall was extended around the corner and on to his property. There are also concrete stairs on that property that

were abandoned years ago and they do not start or end on any habitable area. They sit on the slope of the hill. Mr. Houston reiterated that he encroaches on no one.

Mr. Houston stated that the Duffaut's have two surveys. One from 1968 says there is no encroachment. However, it is not stamped which makes it invalid. Another survey was done later on. Mr. Houston stated that there are different measuring stakes for surveying depending on whether the survey goes north or south of the posts. His surveyor was JD from Alpine Survey who did the original survey and discovered these encroachments. It was later confirmed by Marshall Kind with Alliance Engineering. Mr. Houston remarked that his survey that was done by Alpine Survey is correct because JD followed the guidelines in the monument map in terms of which monuments you are supposed to move off of. He noted that Marshall King was present this evening if the Commissioners had questions or needed further explanation.

Mr. Houston stated that he tried to write licenses to allow everyone to leave everything as it exists, but it was not acceptable to anyone other than people in the Condominium Association. Mr. Houston understood that the objections by Mr. Kenworthy and Mr. Paul was primarily due to the issue of recording the license by Snyderville Basin Water Reclamation, and that would be remedied tomorrow. Regarding the Duffaut objection, Mr. Houston did not believe they have any claim for a prescriptive easement for adverse possession because they overhang his property but not touch it. In addition, they have not paid taxes on the property which, per Utah Law, is required in order to have an adverse possession claim. Mr. Houston reiterated that the Duffaut surveys were discredited and Marshall King could speak to that claim. He has spoken with Planners Grahn and Turpen and the Planning Department took the position of accepting the Alpine Survey as confirmed by Mr. King.

Commissioner Thimm asked for an explanation of the significance of the document with the Snyderville Basin Water Reclamation Sewer District. Planner Grahn replied that she was not the planner on the plat amendment. However, she spoke with Brian Atwood at Snyderville Basin and he explained that the Sewer District put in a water line several years ago. Snyderville is saying that there was an existing retaining wall on site at that time that was encroaching over to the property now owned by Mr. Houston. When the water line was put in to provide utilities to properties on Woodside, the Sewer District reconstructed the wall. When it was reconstructed they moved it closer to the property line, and based on the survey it appears to be right on the property line. Planner Grahn reported that Mr. Atwood had confirmed that Snyderville was willing to work with the neighbors and address any confusing. He was also willing to rescind the easement that was record with Mr. Houston and rewrite it to be specific to the Houston property. Planner Grahn clarified that these issues need to be resolved prior to recording the plat amendment.

Vice-Chair Pro Tem Phillips opened the public hearing.

John Kenworthy stated that he is the co-owner of 220 Woodside Avenue, which abuts the Houston property to the west. Mr. Kenworthy stated that he was also speaking on behalf of his wife, Nancy Davidson, the owner of 214 Woodside, which abuts to the west approximately one foot. Mr. Kenworthy noted that he did not support Mr. Houston's survey; however, according to that survey the one foot that abuts on 214 Woodside abuts somewhere between 1-1/2" and 3". Mr. Kenworthy stated that Brian Atwood approached them about a year after they purchased these properties ten or twelve years ago and requested an easement through the back of their property to run the sewer for new houses that were being built. He and his wife agreed and signed over the easement in an effort to be good neighbors in the community. Mr. Atwood promised that he would indemnify them anytime they needed to work on the sewer. Mr. Kenworthy could not recall Mr. Atwood saying anything about the location or type of wall when they used the easement. However, it is a fact that the Sewer District built the wall after they were given an easement to build it on their property. Mr. Kenworthy emphasized that his property did not encroach on anything. The wall moved 1-1/2 inches and it does lean towards Mr. Houston's vacant lots, and he believed that occurred over time. Mr. Kenworthy pointed out that different survey markers will have different results in encroachment issues and he doubted whether there was an encroachment. However, if there is an encroachment Snyderville Basin was to indemnify them and he believed that was evident in the agreements. He reiterated that the wall belongs to Snyderville Basin Sewer District regardless of the previous situation on the back of the lot. On May 13th Mr. Kenworthy was surprised to find that there was a recorded document against his properties. He had spoken with Mr. Atwood, who apologized, but no one knows how it got recorded against their properties. Mr. Kenworthy stated that they were trying to sell 220 Woodside and they were in the process of obtaining financing on 214 Woodside. They were blindsided when they discovered that there was an encroachment agreement with a neighbor that was recorded against their property. Mr. Kenworthy requested that the Planning Commission not allow this plat amendment to move forward until the issues are rectified. He understood that everyone was working to resolve the problem and that it will be removed, but it will take time. In the meantime their property values are diminished.

Mr. Kenworthy noted that his wife had submitted a letter with her comments.

For clarification purposes, Planner Grahn explained that the plat amendment had been approved by the City Council and it was currently in the red line stage where it goes through the Engineering and Legal Departments for corrections to the paper proposed plat amendment. Once the red lines are corrected and all of the conditions of approval that were set on the plat have been met, it goes through the mylar stage where it is signed off by the City Engineer, the Planning Commission Chair, the City Attorney and others. Once

the mylar has all of the required signatures the plat is recorded. The encroachments and other issues are being addressed in the red line phase.

Director Erickson noted that the Staff was proposing Condition of Approval #4 stating that no building permit would be issued until the plat was recorded.

Ronald Duffaut stated that he has owned his property at 213 Park Avenue since 1971. He had submitted his objections in a written letter. Mr. Duffaut believed that Mr. Houston has the right to build on his property, however, his residence should conform to the guidelines for the Historic District rather than a monster building that overpowers other buildings on upper Park Avenue and does not blend with the neighborhood. Mr. Duffaut stated that a there is already a parking problem on upper Park Avenue due to the number of rentals in the area. This project would take away some of the existing parking, and even though Mr. Houston is only required to provide two off-site spaces, he believed the size of his structure would generate the need for more parking. Mr. Duffaut commented on the property line disagreements that were mentioned. It was dismayed to hear Mr. Houston say that his surveys were not legal or proper because his first survey was stamped by a surveyor in 1968 and with the surveyor's number and certificate, showing that his property did not encroach on the other property lines. Mr. Duffaut noted that a second survey was done by another reputable firm, Jack Johnson, when he and his wife were thinking of building on their property. That survey also showed that there were no encroachments on other properties. Now that there is a new owner on the adjacent property they have been receiving letters talking about an encroachment up to a foot. Mr. Duffaut noted that there was a pin on the property placed by Jack Johnson. The new surveyor put a stake in the ground showing the property line when there was three feet of snow, and it shows the property line going into his property. Now that the snow is gone a pin is visible. Mr. Duffaut was previously told by the Planning Department that the stake only indicated that the property line was near there and he should not worry about it. However, now there is a pin near the stake and he was unsure when that was put down. Mr. Duffaut pointed out that he has two 25' lots. Mr. Houston claims that he is into his property by one foot, which means that Mr. Duffaut would only have 24 feet on one of his lots. It would be a problem if at any time he wished to build or wanted to sell his lot for someone else to build. Mr. Duffaut stated that Mr. Houston wanted him to sign an agreement stating that within 90 days that agreement could be disregarded. In addition, if he spent $1,000 on is property that easement was no longer valid. Mr. Duffaut noted that he refused to sign that agreement and he would not be willing to sign it. Mr. Duffaut stated that he did not object when Mr. Houston asked for the property line in the center to be moved because it was his property and he deserved the right to remove the line to give him enough room to build. However, he thought the rendering of the front face of the building was incompatible with the other buildings on the street and much taller.

Planner Grahn presented another rendering of the building showing how it was stepped into the hillside.

Mr. Duffaut thought the stepping made the building look better, but from his point of view the architecture did not blend in with any of the architecture in the area.

Paula Duffaut, 213 Park Avenue, reiterated that she and her husband bought 213 and 214 Park Avenue in 1970. Lots 1 and 2 was owned by the Gorgios and there was one house with places for the miners. It was quite historic. Ms. Duffaut stated that there was a house on 215 Park Avenue that burned but was not destroyed. The house is now gone but the concrete steps are still there. She pointed out that if the steps have been there longer than 50 years it would put Mr. Houston's property in a different category. Ms. Duffaut agreed that Mr. Houston has the right to build, but she questioned why he did not make his two lots equal when he applied for the plat amendment. Instead one lot is larger than the other. Ms. Duffaut was not familiar with how the City makes decisions regarding steep slopes, but if the normal height is 27 feet and Mr. Houston can build to 35 feet she was against the steep slope CUP because he would be allowed to build a taller building. She was also concerned that the owner would present one plan but something else might be build. The neighbors would like to keep the historic nature of the neighborhood. Ms. Duffaut thought Mr. Houston should be held to the same standards as everyone else who built on their property. She was amazed and impressed by the concerns expressed by the Planning Commission on these matters and she thanked them for their time.

Nancy Davidson presented a photo used by the National and International Press whenever there is an article written about Historic Old Town Park City. Ms. Davidson was concerned that Mr. Houston's mountain contemporary homes would not conform to the neighborhood. She thought it was important for Mr. Houston to revisit his plans and enhance what is going to be the photo of Historic Old Town. Mr. Davidson was also concerned about the lien against her home even though she understood that it was being resolved. She also pointed out the three historic remnants from the old farm that was located on the property, which are the stairs and two walls. The two walls were difficult to see because the property is overgrown. However, the stairs are visible from Park Avenue. Ms. Davidson would like Mr. Houston to find a way to incorporate those remnants into his home plans so they do not lose that bit of history.

Ruth Meintsma, a resident t 305 Woodside, expressed concern with the amount of outdoor heated space on the proposed home. She noted that there were three decks on the front and the total surface was approximately 20' x 27' and it would all be heated. The driveway is also heated. The driveway looks to be about 12' x 20'. Ten feet is in the property line and the rest is in the City easement. The area under the first deck, which is covered, is another 20' x 10' and that is also heated. Ms. Meintsma did not believe the amount of

heated outdoor space fits with the City's environmental efforts to save energy. She noted that the back patio is not heated but it is below grade from two to four feet and it will fill up with snow. If this project is approved, it would be a small change through the Building Department to heat the back patio. Ms. Meintsma had not researched the Code to see if environmental concerns may apply to this project. However, if nothing in the Code applies at this time she encouraged the Planning Commission to address it. She asked them to keep in mind that Park City is snow country in the winter and that much heated space would eliminate the snow and create dry spaces when everything else is covered with snow. Ms. Meintsma pointed out that even though the heated elements are supposed to have sensors it does not always work and most often the heat is on even when it is not snowing.

Tom Hansen, a resident at 161 Park Avenue, stated that parking is a major issue. Mr. Houston provides two off-site parking spots but he was also taking away two existing spots. Mr. Hansen commented on the number of rentals in the area that use those two parking spaces in front of Mr. Houston's lot. He was concerned that the parking in front of his house would become a major issue because people would be trying to take the few available spots. Mr. Hansen was concerned about the parking that would be provided on site when Mr. Houston builds the second house with less space in front. Mr. Hansen did not understand why Mr. Houston would be allowed additional height because of the steep slope. He asked for clarification so he could have a better understanding of what was occurring.

Director Erickson explained that the Steep Slope CUP is an additional mechanism to review where the building sits on the site. It does not allow for an increase in height. The 27' and 35' are different measurements. Planner Grahn stated that the 27' height is based on the existing grade. The 35' rule is an interior height measured from the lowest finished floor plane to the top of the wall plate. Director Erickson clarified that no additional height is being considered with this Steep Slope CUP.

Vice-Chair Pro Tem Phillips closed the public hearing.

Mr. Houston stated that he first came to Utah in 1972 and he worked at Solitude for $100 a month. He has not been in Park City as long as others but his lifelong dream is to own a home in Park City and he has the right to build his home in Park City. He has been trying to figure out the rules to make sure he is doing everything right. Mr. Houston pointed out that this discussion was about a Steep Slope CUP. They were not talking about design issues or parking. There is specific ordinance criteria that the Planning Commission is expected to apply at this stage and those have all been addressed by the Planning Department. As indicated in the Staff report the Staff found that there were no unmitigated impacts for each of the criteria. Mr. Houston remarked that the Staff agrees that this

Steep Slope CUP is proper. He noted that none of the public comments this evening related to the Steep Slope criteria.

Mr. Houston pointed out that none of the structures or houses in the area are historic. It is nice to have fanciful ideas about being historic or what a new structure would do to effect the historic, but the surrounding properties are not historic. Mr. Houston noted that his lots are overgrown and create an eyesore. His intent is to develop the lot and make it look better, and he wants to build the house that he is entitled to build. Mr. Houston commented on several other houses in the neighborhood, particularly the ones behind his house that are much taller than what he was proposing. His house meets all the guidelines. Mr. Houston recalled that Ms. Davidson wants to preserve the historic appearance of the neighborhood. He understands her point and he respects it. However, things will not remain unchanged forever and he understood that the Duffaut's have talked about tearing down their house and building a new house. In terms of the icon photograph Ms. Davidson talked about, Mr. Houston did not believe he should lose his rights because his property happens to be in a photograph. Mr. Houston referred to the comments regarding heated outdoor space. He explained that he was forced by the other design criteria to use all the setbacks and also to avoid the wall effect that the Planning Commission discourages. It is difficult to build a house without shedding to the side or having setbacks with heated platforms. Mr. Houston respects the environment and he did not disagree with Ms. Meintsma, but what he was proposing in his plan is permitted. In addition, the slope of the roof would eliminate any snow shedding on to adjacent structures.

Mr. Houston asked the Planning Commission to allow him to build his house. He currently lives in Michigan and his hope was that he would not have to come from Michigan to Utah on the spur of the moment like he had to do this time to attend another meeting. He requested their support and approval this evening.

In response to Mr. Houston's claim that there are no historic homes on the street, Mr. Duffaut noted that the Treasure Mountain Inn was across the street from his property and the Jefferson Inn was next to the Treasure Mountain Inn. His home would face those two historic buildings. In addition, Tom Hansen's home is a historic home on the street. The church higher up is historic. Mr. Duffaut stated that much of Park Avenue is historic which is why the neighbors keep raising that issue.

Mr. Houston clarified his comment about no historic structures. He was unaware that Mr. Hansen's home was historic, but none of the other people who gave public comment live in historic homes.

Commissioner Suesser asked Planner Grahn to repeat the size of the proposed single family dwelling. Planner Grahn replied that 2758 square feet is the total size of the house. The lot is 2044.5 per the approved plat amendment. Commissioner Suesser asked for the height of the red building to the right. The project architect, Jonathan DeGray, did not know for certain but he assumed that it was 30' with three stories and a peaked roof. Mr. Houston pointed out that it also had the wall affect.

Commissioner Thimm remarked that the property line disputes that were mentioned and the ongoing resolutions do not fall under the purview of the Steep Slope Conditional Use Permit. With regard to the building itself, he did not think the front view rendering was a flattering view of the structure. Commissioner Thimm thought the character of the house was better told with the perspective views that actually show the house stepping back with the land as it goes up. It puts a lot of the square footage back into the hillside consistent with other homes the Planning Commission has looked at in terms of conditional use permits. He likes the roof design and how it cascades down to the street to keep snow shedding within the property. When he first read the Staff report he thought it was sensitive to the requirements.

Commissioner Thimm strongly recommended that the City consider energy in terms of exterior elements as they moved forward with City initiatives.

In looking at how the house is situated and the way the heights are generated, Commissioner Thimm thought it appeared to be compliant. The scale and mass in comparison to other houses along this side of the street did not seem out of character.

Commissioner Suesser agreed with Commissioner Thimm. She thought the applicant did a good job stepping the house into the hill. The driveway and the decks reduces the visual impact of the house because it does not create the wall effect. Commissioner Suesser preferred to let the HDDR address whether or not it is compatible with the historic nature of the surrounding homes.

Commissioner Campbell stated that he has been on the Planning Commission for two and a half years and what helped him most were their training sessions. He asked if it was possible to have classes for the public on contentious projects. Commissioner Campbell did not want to seem unsympathetic to the issues raised by the neighbors, but they were out of the purview of the Planning Commission. He understood that the parking everyone has used for years in front of this lot will be eliminated, but that is not a reason for denying someone the ability to build on their property. Early in their training session the Commissioners learned that they do not have to like a project or think it looks good but if it meets the law they have to approve it. He believed Mr. Houston had met all the conditions and there was nothing he could object to as a Commissioner. Commissioner Campbell

stated that the neighbors did not have to like this project, but the same laws that protect Mr. Houston also protect them. For those reasons he would vote in support of this application.

Commissioner Suesser remarked that the Staff reports outline the criteria and lay it out for public review. She recognized that it is cumbersome for the public to take time to read the Staff report but it is important and necessary. When people want to voice sound arguments against a project they have to look at the criteria and what the Planning Commission is obligated to find if the project meets the criteria.

Vice-Chair Pro Tem Phillips agreed with his fellow Commissioners. He sympathized with the neighbors but the job of the Planning Commission is to follow the Code. He believed this projects met the criteria and there was no reason not to support it.

Vice-Chair Pro Tem Phillips noted that the applicant had not maximized the site and built a larger home that he could have potentially built.

Planner Grahn reminded the Planning Commission to add the Finding of Fact regarding the address change that she read during her presentation.

MOTION: Commissioner Thimm moved to APPROVE the Steep Slope Conditional Use for 215 Park Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended to add a Finding of Fact regarding the change in address.

Mr. Kenworthy asked what the Planning Commission intended to do about the encroachment agreement, and whether he would have to suffer through the next six months with the encroachment agreement against his properties.

Assistant City Attorney McLean explained that the encroachment agreements would have to be resolved as part of the platting process. It would have to be resolved between him and his neighbor. She understood that Snyderville Basin was being very pro-active, and she would also ask for an update the next time she meets with the Sewer District. Mr. Kenworthy asked for some requirement that this issue would be resolved in a timely manner.

Director Erickson noted that there was a pending motion on the table. Vice-Chair Pro Tem Phillips called for a second on the motion.

Commissioner Suesser seconded the motion.

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

Findings of Fact – 215 Park Avenue

1. The property is located on 215 Park Avenue. The legal description is Lot 5 of Block 2 of the Park City Survey.

2. The Park City Council approved the 217 & 221 Park Avenue Plat Amendment on December 3, 2015; the plat has not yet been recorded.

3. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.

4. There is a vacant lot; the applicant is proposing to construct approximately 2,758 square feet of new space. The proposed footprint of this addition is 903 square feet.

5. A single family dwelling is an allowed use in the HR-1 District.

6. Following recording of the plat amendment, the lot will contain 2,044.8 square feet. This is an uphill lot with a slope of approximately 46% at the back of the lot, where the grade rises steadily uphill.

7. A Historic District Design Review (HDDR) application is currently under review.

8. Access to the property is from Park Avenue, a public street.

9. Two (2) parking spaces are proposed on site. The applicant is proposing a single-car garage and one uncovered parking space in the driveway.

10. The neighborhood is characterized by a mix of historic and non-historic residential structures, single family homes, and duplexes. The streetscape on the west, uphill side of the road, is dominated by garages and pedestrian entryways.

11. The proposal will create a single family dwelling of approximately 2,758 square feet, including the basement area and one-car garage.

12. An overall building footprint of 903 square feet is proposed following construction of the addition. The maximum allowed footprint for this lot is 911.4 square feet.

13. The proposed addition complies with all setbacks. The minimum front and rear yard setbacks are ten feet (10’). The minimum side yard setbacks are three feet (3’).

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

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

16. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography. There are three (3) existing overgrown trees on this lot. The applicant proposes to replace these with one thin leaf alder, two aspens, and two big tooth maples.

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

18. The design includes setback variations as well as lower building heights for portions of the structure on the front and side elevations where facades are less than twenty-seven feet (27') in height. The stepping of the mass and scale of the new structure follows the uphill topography of the lot.

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

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

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

22. On April 12, 2016, the Planning Department received an application for a Steep Slope Conditional Use Permit (CUP); the application was deemed complete on May

9, 2016.

23. The property was posted and notice was mailed to property owners within 300 feet on June 8, 2016. Legal notice was also published in the Park Record in accordance with requirements of the LMC on June 4, 2016.

24. The property is located outside of the Soils Ordinance.

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

26. The property address is currently 215 Park Avenue per the Summit County Recorder's Office; the address will be changed to 217 Park Avenue following the recording of the plat.

Conclusions of Law – 215 Park Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B)
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass, and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 215 Park Avenue

1. All Standard Project Conditions shall apply.

2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The CMP shall include language regarding the method of protecting adjacent structures.

3. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.

4. No building permit shall be issued until the 217 & 221 Park Avenue Plat is recorded.

5. This approval will expire on June 22, 2017, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by

the Planning Director.

6. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission on June 22, 2016, and the Final HDDR Design.

7. All retaining walls within any of the setback areas shall not exceed more than six feet (6') in height measured from final grade, except that retaining walls in the front yard shall not exceed four feet (4') in height, unless an exception is granted by the City Engineer per the LMC, Chapter 4.

8. Modified 13-D residential fire sprinklers are required for all new construction on this lot.

9. All exterior lighting, on porches, decks, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way and shall be subdued in nature. Light trespass into the night sky is prohibited. Final lighting details will be reviewed by the Planning Staff prior to installation.

10. Construction waste should be diverted from the landfill and recycled when possible.

11. All excavation work to construct the foundation shall start on or after April 15th and be completed on or prior to October 15th. The Planning Director may make a written determination to extend this period up to 30 additional days if, after consultation with the Historic Preservation Planner, Chief Building Official, and City Engineer, he determines that it is necessary based upon specific site conditions such as access, or lack thereof, exist, or in an effort to reduce impacts on adjacent properties.

12. Final landscape plan shall be provided at the time of the building permit and shall include existing vegetation, and include a replacement plan for any significant vegetation proposed to be removed.

13. The property is located outside the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance to State and Federal law.

3. 1385 Lowell Avenue Unit A1-com 7- Conditional Use Permit request for an office in an existing building. (Application PL-16-03132)

Commissioner Band returned to the meeting and assumed the Chair.

Planning Tech Makena Hawley reviewed the application for a conditional use permit for an office in an existing building. Planner Hawley stated that the Planning Commission was looking at two issues. The first related to two definitions in the Code. The first falls with Office General where it describes this particular office being discussed this evening. It includes low client visits and low traffic. The definition for Office Intensive describes a different type of office; however, it includes the word "real estate" in the definition.

Planner Hawley stated that if the Planning Commission decides that this is an Office General the Staff found no unmitigated impacts. If they determine it is Office Intensive, it would be a prohibited use.

Mark Sletten, the applicant, thought the intended use was the crux of the issue. It could be Office General or possibly Office Moderate, which are two allowed conditional uses. Mr. Sletten provided some background. He had a real estate office at the Resort Center continuously since 1994 until January 2016 when he tried to move his office. He was unable to obtain a building permit and was required to go through this conditional use permit process. Mr. Sletten commented on the number of real estate brokerages that have existed over the years, as well as the 440 residential condominiums at the base of the Resort which represents approximately 400 owners. Real estate needs get ingrained into the fabric of the Resort Center. His request is not new or unique. It is a historic use that has gone a long way towards maintaining a reasonable balance.

Mr. Sletten noticed that a condition of approval recommended by Staff should the Planning Commission approve this application, has to do with what he calls the Westgate Provision. When he was a Planning Commissioner in the mid-2000s Westgate had an office on lower Main Street and they literally manhandled people physically and verbally. The police were involved and it eventually went to the Planning Commission and the City Council. Mr. Sletten noted that a condition of approval says they will not use any horns, sirens, or any other means to grab clients. He promised that if the Planning Commission approves this conditional use permit he would never do anything offensive to pull in clients.

Mr. Sletten read a letter he had written at the request of the Planning Staff outlining the proposed business use for their office. The letter was included as Exhibit A on page 93 of the Staff report. He pointed out that Office General, a defined term in the LMC, defines precisely what his operations would entail. It is a building offering executive, administrative, professional and clerical services, or a portion of a building wherein services

are performed involving predominantly operations with limited client visits and limited traffic generated by employees and/or clients. In terms of parking and traffic, Mr. Sletten stated that he and his team have four unassigned but allocated parking spaces. For all intent and purposes, their clients are already at the Resort. They are not a destination office. Over his tenure at the Resort Center they average two walk-in client visits per day during the winter, and those are primarily from people at the Resort Center. Over the course of a year approximately one dozen destination clients come to the Resort Center specifically to meet with him or his team.

Mr. Sletten stated that a second part of his business is the commercial aspect. He represents the Davis Family, the ownership of a substantial amount of the commercial real estate at the base of Park City Mountain Resort. Through their father also developed the majority of the residential real estate as well. The family has a long-term involvement in the Resort Center. His involvement with the Davis Family on the commercial side has to do with managing rent roles, and managing existing tenants, perspective tenants and perspective buyers. He can walk whenever he needs to talk to ownership or tenants at the Resort Center, which lessens traffic and other impacts.

Mr. Sletten commented on the Office Intensive issue and read the definition from the LMC as found on page 84 of the Staff report. “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 the intensity of employees if five or more employees per 1000 square feet of net leasable office space”. Mr. Sletten believed the last sentence was the crux of the issue. “These uses include real estate, telemarketing and other similar uses”. Mr. Sletten noted that there are currently three property management companies doing business in the Resort Center. He stated that a property management in the State of Utah is regulated the same way he is. He asked if they should also be included. Mr. Sletten believed that last sentence was intended to give future Planning Commissions a framework of what might be included. The difference between real estate and telemarketing is significant and many uses could fall under that classification.

Mr. Sletten remarked that if the original writers had intended it to be a definition it would have been much more substantive and more specific and much less open to interpretation. Also, as stated in the Staff report the Staff recognizes this conflict within the Code and therefore proposes an amendment to the LMC definitions to correct this by striking the last sentence of the Office Intensive definition, which states “The difference between real estate and telemarketing and other similar uses”.

Chair Pro Tem Band opened the public hearing.

There were no comments.

Chair Pro Tem Band closed the public hearing.

Chair Pro Tem Band believed that real estate was the issue because the definition calls out a real estate office as an intensive use. She thought that may have been the case years ago. However, as a real estate agent herself who has an office that is not an intensive use, she thought real estate was more appropriate as a general use.

Chair Pro Tem Band noted that Intensive Office Use was one of the LMC changes on the agenda this evening to strike real estate from the definition. If the Commissioners were comfortable with it they could approve the CUP this evening. If they preferred to wait until after the LMC discussion Mr. Sletten would have to wait until the LMC is changed.

Commissioner Suesser agreed that real estate office should fall within the General Office Use due to limited amount of traffic and client visits and the low number of employees. She thought the impacts were mitigated as outlined in LMC 15-1-10 and she was comfortable approving the conditional use permit on those grounds.

Commissioners Thimm and Phillips agreed with all the comments.

MOTION: Commissioner Suesser moved to APPROVE the Conditional Use Permit for an Office General at 1385 Lowell Avenue, Unit 1A in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - Office, General

1. Applicant requests to remodel the existing unit, interior only (tenant improvement) to have a real estate sales office at 1385 Lowell Avenue, Unit COM7.

2. The proposed use requires a Conditional Use Permit in the Recreation Commercial (RC) District.

3. Only the interior is proposed to be remodeled and exterior areas will not be changed.

4. The space was previously used as a restaurant.

5. The entire unit, COM7, or Parcel PVC-1A-C7, is 2,968 square feet.

6. The entire unit is not requested to be utilized as the requested use.

7. The applicant requests to utilize a portion of COM7 as a real estate office which equates to 950 square feet.

8. The unit was platted as Retail Space Commercial Unit 7 of the Park City Village Condominiums recorded in 1983.

9. The site is also known as The Lodge at the Mountain Village formerly known as The Resort Center Condominiums.

10.The project was known as the Park City Village Master Plan.

11.Land Management Code (LMC) § 15-2.16-2(B)(13) indicates that an Office, General is a conditional use in the RC District.

12.Unit COM7 is shown on the master plan as part of the commercial area designation.

13.The Condominium Plat for this project notes residential and commercial units. All of the commercial units are noted as retail space. The proposed office space would be located within the proposed retail – commercial space noted on the Plat.

14.The Land Management Code defines the Office, General as 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. (LMC § 15-15-1.176)(A).

15.Due to the size of the requested use, staff does not find any impacts that need to be mitigated regarding size and location.

16.The requested use of the space is similar in nature to the support uses to the primary development/use in the area. Staff does not find that additional impacts need to be mitigated in terms of traffic considerations due to the small size and lower number of clients expected to visit the space of the requested use.

17.No additional utility capacity is required for the requested use.

18.Emergency vehicles can easily access the unit and no additional access is required.

19.The requested use, considered an office, general, triggers a parking requirement of three (3) parking spaces based on the maximum floor area of 950 square feet.

20.The former use, a restaurant, triggers a parking requirement of nine (9) parking spaces based on the maximum floor area of 950 square feet.

21.There is a parking reduction based on the required parking spaces of the former use and the current parking requirement based on the proposed use of six (6) parking spaces.

22.The applicant indicated that there are approximately 700 parking spaces in the parking garage that is part of the same structure that houses the subject space, 120 of those parking spaces are allocated to the Lodge at the Mountain Village, the building/development where this space is located.

23.The parking area/driveway is directly accessed off Lowell Avenue.

24.Fencing, screening, and landscaping are not proposed at this time and are not needed to separate uses as the uses are fully enclosed within the building.

25.The requested use will not affect the existing building mass, bulk, orientation and the location on site, including orientation to adjacent building, as there are no exterior changes proposed to the building.

26.No useable open space will be affected with the requested use from what is currently found on site.

27.No signs and lighting are associated with this proposal.

28.Any new exterior lighting is subject to the LMC development standards related to lighting and will be reviewed for compliance with the LMC at the time of application.

29.All signs are subject to the Park City Sign Code and sign permits are required prior to installation of any exterior signs..

30.The requested use will not affect the existing physical design and compatibility

with surrounding structures in mass, scale and style.

31.Noise, vibration, odors, steam or mechanical factors are anticipated that are normally associated within the retail/commercial/office use.

32.The proposal will not affect any control of delivery and service vehicles, loading/unloading, and screening.

33.The expected ownership and management of the property is not projected to add impacts that would need additional mitigation.

34.The entire unit is owned by Village Venture, Ltd., both spaces, the Cutting Board, next door, and this requested space are being leased.

35.The proposal is not located within the Sensitive Lands Overlay.

36.Unit COM7 is shown on the master plan as part of the commercial area designation. The master plan identifies two (2) categories: residential and commercial. Commercial areas include retail, meeting rooms, and restaurants.

37.The Condominium Plat for this project notes residential and commercial units. All of the commercial units are noted as retail space. The proposed office space would be located within the proposed retail – commercial space noted on the Plat.

38.The Land Management Code does not authorize the requested use to be conducted outside of the area.

39.The Municipal Code does not allow the requested use, to be conducted outside the enclosed building on private or public property.

40.The Municipal Code indicates that it is unlawful for a business to attract people by calling, shouting, hawking, ringing any bells, horn, sounding any siren or other noise making device, or by displaying any light or lantern, or by waving, hailing or otherwise signaling to passersby or by touching or physically detaining them.

41.The Municipal Code indicates that it is unlawful to pass handbills, flyers, or other advertising material by handing such material to passersby, or placing them on porches or vehicles, or attaching them to light or sign posts, or poles.

<u>Conclusions of Law – Office General</u>

1. The application complies with all requirements of the Land Management Code.

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

3. The use is consistent with the Park City General, as amended.

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

Conditions of Approval – Office General

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

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

3. The requested use shall be in full compliance with Park City Municipal Code § 4-3-15 which states the following: It shall be unlawful for any person, business, corporation, partnership or other entity to attract or attempt to attract people to that person or that licensee's place of business by calling, shouting, hawking, ringing any bells, horn, sounding any siren or other noise making device, or by displaying any light or lantern, or by waving, hailing or otherwise signaling to passersby or by touching or physically detaining them. It shall be unlawful to pass handbills, flyers, or other advertising material by handing such material to passersby, or placing them on porches or vehicles, or attaching them to light or sign posts, or poles.

4. 7800 Royal Street East #16 – Condominium Amendment for Building E Unit 16 of Sterlingwood Condos. This Amendment will change a common staircase to private area in order to enclose it. (Application PL-16-03140)

Planning Tech Hawley reviewed the proposal to enclose an open stairway that is common area and convert it to private area. Planner Hawley stated that there is a discrepancy in the first original plat where a section view shows the garage as private area and a plan view shows it as limited common. In the CC&Rs it is clear that the area was intended as limited common. That would also be changed to reflect the correct limited common area.

Chair Pro Tem Band opened the public hearing.

Catherine Blanken stated that she and her husband are the property managers for the Schwartz's who lives next door. They were here as their representatives to make sure there was no other structural changes. Ms. Blanken understood what was being proposed she only wanted to confirm it so they could report back to the homeowner that nothing was different.

Planner Hawley clarified that in one area the exterior staircase was being enclosed. Nothing else was being proposed. She recalled that slightly less than 300 square feet was being added.

Chair Pro Tem Band closed the public hearing.

Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the Sterlingwood Condominiums second amended, amending Unit 16, based upon the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 7800 Royal Street East #16

1. The property is located at 7800 Royal Street East #16 within the Residential Development (RD) District.

2. The Sterlingwood Condominium Plat was originally approved by City Council on December 12, 1979 and recorded on December 17, 1984.

3. The Sterlingwood First Amended Condominium Plat was approved by City Council on June 27, 2002 and recorded on October 25, 2002.

4. The total area of the Sterlingwood condos is 2.48 acres.

5. There are eighteen (18) units in the Sterlingwood Condominium Plat consistent with the density allowed by the Deer Valley Master Planned Development.

6. On March 8, 2016, the applicant submitted an application to amend the existing Sterlingwood Condo Condominium Plat.

7. The Sterlingwood Homeowners Association have met and consented with a two thirds (2/3rds) vote to allow the transfer of limited common to private area ownership

to Unit 16.

8. The application was deemed complete on May 18, 2016.

9. The proposed plat amendment would memorialize the proper ownership of the existing garage to limited Common Area for Unit 16 as well as change a Common Area stairwell to private area for Unit 16 of the Sterlingwood Condos.

10.Enclosing the stairwell area within the existing building does not change the existing building setbacks, height, or building footprint.

11.The square footage of Unit 16 will change from 2,861 to 3,103.

12.On June 27, 2002 the City Council approved the First Amended Sterlingwood Condominium Plat which was then recorded on October 25, 2002. This amendment only referenced 6 of the 18 units, Buildings 'F', 'G', and 'H' which clarified these unit's Limit common garage areas.

Conclusions of Law – 7800 Royal Street East #16

1. There is good cause for this plat amendment.

2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions and condominium plats.

3. Neither the public nor any person will be materially injured by the proposed condominium plat amendment.

4. Approval of the condominium 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 – 7800 Royal Street East #16

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, Planning Commission Packet June 22, 2016 Page 112 of 228

this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. The Sterlingwood Condominium Plat and First Amended Sterlingwood Condominium Plat shall otherwise continue to apply.

5. 1000 Ability Way – National Ability Center Subdivision plat – to create one lot of record from a metes and bounds parcel (Application PL-16-03140)

Commissioner Thimm recused himself and left the room.

Planner Kirsten Whetstone reviewed the application for a proposed subdivision for the National Ability Center creating one platted lot of record for the entire property of 26.2 acres located in the Quinn's Junction neighborhood at 1000 Ability Way. The proposed one lot plat is consistent in size and location with the metes and bounds described property. The applicant is not adding anything to it or making changes to any of the existing roads. The property is accessed by a public road and a private drive.

Planner Whetstone noted that the application is consistent with the Chapter 15.7 – Subdivision, as well at the Community Transition Zone (CT). It is also consistent with the National Ability Center SPA, which was approved by the Summit County Commission. The plat does not create any remnant parcels.

The Staff found good cause and recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council pursuant to the findings of fact, conclusions of law and conditions of approval in the draft ordinance.

Michael Barille, representing the applicant, had not seen the draft ordinance with the recommended conditions. However, he responded to three references in the Staff report. The first was public trails, which he had no issue with. The second talked about setback from any wetlands on the site for development. Mr. Barille suggested that it read "new development" to avoid confusion over the existing roadway that crosses the wetland corridor or any existing improvements on the site. The last reference talks about dry utility boxes and that in any future development the dry utility boxes are screened appropriately. Mr. Barille stated that without knowing exactly what the utility plan will look like, he suggested that it be held until the conditional use permit review. At that time they would have a better plan to look at and the applicant would have a better idea of what to propose.

Planner Whetstone noted that it was a standard condition recommended by the City Engineer. She read Condition #3, "Dry utility infrastructure must be located on the property and shown on the building plans prior to building permit issuance to ensure that utility companies verify the areas provided for their facilities are viable and exposed meter boxes can be screened with landscaped elements". Director Erickson pointed out that the utility box issue is pushed out to the conditional use and building permit per the condition, and it has no effect on this plat. He clarified that it is a normal condition of approval for every plat.

Chair Pro Tem Band opened the public hearing.

There were no comments.

Chair Pro Tem Band closed the public hearing.

Commissioner Suesser asked if the Staff had any objections to changing Condition #7 to add the word "new" as suggested by Mr. Barille. Director Erickson stated that the Staff was going to recommend that the condition of approval with respect to wetlands be modified to indicate that the setbacks apply for any new construction.

MOTION: Commissioner Suesser moved to forward a POSITIVE recommendation to the City Council for the 1000 National Ability Center Subdivision plat to create one lot of record according to the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance and as amended to revise Condition #7 to indicate the setback from wetlands for "new" construction. Commissioner Phillips seconded the motion.

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

<u>Findings of Fact – 1000 Ability Way</u>

1. The property is located at 1000 Ability Way.

2. The zoning is Recreation Open Space (ROS), subject to the Park City Recreation Complex Annexation Ordinance.

3. The site is described as Parcel # PCA-97-B, a metes and bounds parcel of land located in the Quinn's Junction neighborhood of Park City.

4. Access to the property is from Round Valley Drive and Gillmor Way, which are public streets and Ability Way, which is a private access drive.

5. On July 26, 1999, prior to annexation, the property received approval of a Specially Planned Area (SPA) by the Summit County Commission, as well as a Conditional Use Permit. The NAC Specially Planned Area (SPA) was recorded at Planning Commission Packet June 22, 2016 Page 132 of 228
Summit County on August 3, 1999. The SPA and CUP allow for development of various uses and buildings.

6. The 26.2 acre parcel was annexed to Park City in 2004 as part of the National Ability Center and Quinn's Recreation Complex Annexation.

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

8. The National Ability Center (NAC) is a non-profit organization specializing in community sports, recreation, therapy, and education programming. Overnight lodging is also provided for participants.

9. The property currently includes a 24,800 sf equestrian arena (17,150 sf indoor arena and 7,650 sf of stalls and offices) an outdoor challenge course, a playground area, an outdoor equestrian arena, a 2,200 sf archery pavilion, a gazebo, various barns and storage buildings, an 18,300 sf residential dormitory building, a 12,780 sf support administrative building, and 113 parking spaces.

10.A Conditional Use Permit for a hay storage barn was approved in 2015 and constructed in 2016.

11.On December 10, 2014, the Planning Commission held a public hearing, discussed a pre-MPD application for proposed expansion of the National Ability Center and

12.The Pre- MPD application was found to be generally consistent with the purpose statements of the ROS Zoning District and the goals and objectives of the General Plan.

13.On January 26, 2016, the City received a complete application for a Master Planned Development (MPD) located at 1000 Ability Way. The MPD application proposed additional lodging (22,266 sf), expansion of the indoor equestrian arena (12,188 sf), an addition to the existing administration building for office uses (3,400 sf), center campus activity/multi-purpose area (7,000 sf), and new archery pavilion, classrooms, and restrooms (2,200 sf).

14.An additional 101 parking spaces were requested with the MPD application, along with future improvements to the stables, equipment and storage sheds, challenge ropes course, interior plaza and landscaping, a small greenhouse for gardening programming, a test track area, and a tent platform/single room camping cabins area to foster self-reliance in camping and outdoor skills.

15.The proposed MPD was noticed for an April 13, 2016, Planning Commission meeting. The item was continued to May 11, 2016, where it was continued to a date uncertain to allow additional time for staff to research the existing zoning in greater detail to address the Planning Director's determined that the ROS Zone does not specifically allow a Master Plan Development or lodging uses. Staff is preparing an analysis of a future rezone of the property from Recreation Open Space (ROS) to Community Transition (CT).

16.On April 12, 2016, the applicant submitted a complete application for National Ability Center Subdivision plat proposing one platted lot of record (Lot 1) consisting of 26.2 acres.

17.The property is currently developed in part with structures and parking and undeveloped in part consisting of native grasses, shrubs and other low vegetation and with areas of delineated wetlands.

18.The wetlands delineation was recently updated and the May 2015 report was submitted to the City with the MPD application.

19.Any wetlands delineation that is more than five years old is required to be updated, re-delineated and re-submitted to the Corp and the City prior to issuance of a building permit.

20.All development, such as buildings and parking areas, are required to comply with the LMC required setbacks from delineated wetlands. The current requirement is a 50' wide wetlands protection buffer area.

21. Access to the site is from Round Valley Drive, an existing public street that intersects with State Road 248 at a signalized intersection approximately a half mile to the south.

22.There are existing public utilities on the property, as well as existing easements that will be memorialized on this subdivision plat prior to recordation, to ensure that public utilities, access, and trails are located within adequate easements.

23.Utility easements are necessary along property boundaries for potential future utility installations

24.A twenty foot (20') wide public trail easement is required for the existing public trail on the southwest corner of the property.

25.A thirty foot (30') wide water and public utility easement is shown on the plat as an existing easement for utilities at the southeast corner of the lot.

26.A twenty foot (20') wide sanitary sewer easement is shown on the plat as an existing easement for sewer at the southeast corner of the lot.

27.No changes are proposed to the existing property lines or to the location of platted Round Valley Drive or to platted Gillmor Way.

28.Snow storage easements are not required along private streets.

29.Attention to the location of visible dry utility boxes and installations is an important consideration when designing a site in order to ensure that adequate area is available for landscape elements to provide adequate screening from public view.

30.The Analysis section of this staff report is incorporated herein.

Conclusions of Law – 1000 Ability Way

1. There is good cause for this subdivision plat amendment.

2. The subdivision is consistent with the Park City Land Management Code and applicable State law regarding subdivisions, the Park City General Plan, and the NAC SPA.

3. Neither the public nor any person will be materially injured by the proposed subdivision plat amendment.

4. Approval of the subdivision 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 – 1000 Ability Way

1. The City Attorney and City Engineer will review and approve the final form and content of the subdivision plat for compliance with the Land Management Code, and these conditions of approval, prior to recordation of the plat.

2. The applicant will record the subdivision plat at Summit County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is submitted in writing prior to expiration and is approved by the City Council.

3. Dry utility infrastructure must be located on the property and shown on the building plans prior to building permit issuance to ensure that utility companies verify that the areas provided for their facilities are viable and that exposed meters and boxes can be screened with landscaping elements.

4. Final utility, storm water, and grading plans must be approved by the City Engineer prior to building permit issuance.

5. A financial guarantee for any required public improvements in an amount approved by the City Engineer and in a form approved by the City Attorney shall be in place prior to plat recordation.

6. Any wetlands delineation older than five (5) years shall be updated and submitted to the City prior to building permit issuance for new development on the lots. All required Corps of Engineer approvals and permits shall be submitted prior to issuance of a building permit on the lots.

7. A note shall be included on the plat prior to recordation stating that all new development, such as buildings and parking areas, proposed on these lots shall comply with LMC required wetlands protection buffer areas in effect at the time of building permit application.

8. A ten foot (10') wide non-exclusive public utility easements shall be shown along the property lines as required by the City Engineer during final plat review. A public trail easement shall be shown on the plat for public trails located on the property. Utility easements, for SBWRD shall be provided at the direction of SBWRD. Public utility easements shall be provided as required by utility providers and shall be shown on the plat prior to recordation.

6. 700 Round Valley Drive – Park City Medical Center Lot 8 Subdivision plat to create two lots of record from Lot 8 of the Second Amended Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Subdivision plat. (Application PL-16-03115)

Commissioner Thimm returned to the meeting. Commissioner Suesser recused herself and left the room.

Planner Whetstone handed out copies of a revised plat, Exhibit A. Morgan Bush, representing the applicant, noted that the revised plat also included the two additional notes that were requested to address snow removal and other items.

Planner Whetstone reviewed the application to amend the Second Amended Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility subdivision. The applicant was requesting a plat amendment to divide the existing Lot 8 into Lot 8 and Lot 12. She reported that in January the Planning Commission approved a conditional use permit for the Peace House on Lot 8. Both lots are subject to the IHC Master Planned Development. A Finding states that Lot 12 has no assigned density under the current IHC Amended Master Planned Development. Lot 8 is subject to a CUP.

The Staff reviewed the plat amendment and found that it was in compliance with LMC Section 15-7, Subdivision, subsection Plat Amendments. It also meets all the requirements of the Community Transition (CT) Zone. The proposed lots are consistent in size and location with uses contemplated during the approved amendment to the IHC master plan and the Peace House CUP.

The Staff found good cause for the plat amendment and recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council pursuant to the findings of fact, conclusions of law and conditions of approval in the draft ordinance.

Morgan Bush had questions on some of the proposed conditions of approval found in the Staff report. He understood from the discussion on the last item that Conditions #4 and #5 are required to be put on plats. Condition #6 requires a financial guarantee for any public improvements prior to plat recordation. Mr. Bush noted that any improvements would be associated with the Peace House project; however, the condition implies that it is the responsibility of Intermountain Healthcare to provide the financial guarantee.

Assistant City Attorney McLean replied that the responsibility is on the owner, but IHC can work out an agreement with their tenant. As long as the City has the financial guarantee it does not matter who puts up the money. Mr. Bush referred to Conditions #7 and #8

regarding the wetlands and had requested the same modification that was made in the previous item to add the word “new” so it only applies to new development. Mr. Bush stated that Condition #9 says “a ten-foot wide non-exclusive public utility and snow storage easement shall be shown along the frontages of Round Valley Drive and Gilmore Way. He noted that the revised plat shows the existing public utility easement along Round Valley Drive on Lot 8 and a small section of Lot 12. There is no current public utility easement on Gilmore Way along the side of Lot 12. However, since no density is associated with that lot, he asked if it was necessary to include that easement.

Planner Whetstone stated that it is a standard requirement to put public utility easements and snow storage along the frontage of any public right-of-way. The condition was added at the request of the City Engineer.

Mr. Morgan stated that he basically wanted clarification of the conditions before this moved forward to City Council. He was satisfied with the explanations.

Chair Pro Tem Band understood that the only revisions to the conditions was to add the word “new” to Conditions 7 and 8. Director Erickson explained that Condition 7 affects the wetland delineation and Condition 8 affects the development.

Chair Pro Tem Band opened the public hearing.

There were no comments.

Chair Pro Tem Band closed the public hearing.

MOTION: Commissioner Phillips moved to forward as POSITIVE recommendation to the City Council on the Third Amended Subdivision Plat for the Intermountain Healthcare Park City Medical Campus/USSA Training Facility, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended to add the word “new” before the word “development” in Conditions #7 and #8. Commissioner Thimm seconded the motion.

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

<u>Findings of Fact – 700 Round Valley</u>

1. The property is located at 700 Round Valley Drive (location of Lot 8).

2. The zoning is Community Transition (CT) within the IHC Master Planned Development (CT-MPD).

3. On December 7, 2006, City Council approved an annexation ordinance and annexation agreement for the property. The annexation agreement was recorded on January 23, 2007.

4. The annexation agreement sets forth maximum building floor areas, development location, and conditions related to developer-provided amenities on the various lots of the Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Subdivision plat, such as roads, utilities, and trails.

5. On January 11, 2007, the City Council approved the Intermountain Healthcare Park City Medical Campus / USSA Headquarters and Training Facility Subdivision plat for the purpose of creating lots of record so that associated property sale and property transfers could be completed. The plat was recorded at Summit County on January 23, 2007 and consisted of 5 lots of record.

6. The IHC Master Planned Development was approved by the Planning Commission on May 23, 2007.

7. The First Amended Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Subdivision was approved by the City Council on October 11, 2007 and recorded at Summit County on May 20, 2008. The first amended plat memorialized various easements and road layouts and adjusted the location of various lots consistent with the approved MPD. The plat consisted of nine lots of record.

8. The Second Amended Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Subdivision plat was approved by the City Council on July 31, 2008 and recorded at Summit County on November 25, 2008. The second amended plat created new Lots 10 and 11 out of the previous Lot 8. Lot 10 was created for the Summit County Health Department and the People's Health Clinic building and Lot 11 was created as a separate lot for IHC as it was located south of Victory Lane. The plat consisted of eleven lots of record.

9. The property is subject to the Amended Intermountain Healthcare Master Planned Development (IHC MPD), originally approved on December 7, 2006 and amended in 2014 to transfer support medical office uses and density from Lots 6 and 8 to Lot 1.

10.A second MPD amendment was approved on January 13, 2016 to identify Lot 8

for the Peace House facility, address affordable housing requirements, and address administrative amendments of the first MPD amendment.

11.The MPD amendments were found to be consistent with the purpose statements of the CT Zoning District and the goals and objectives of the General Plan.

12.On November 10, 2015, a Conditional Use Permit for the Peace House on a portion of Lot 8 was submitted to the Planning Department.

13.On January 13, 2016, the Planning Commission approved the Peace House CUP located on a portion of Lot 8.

14.On April 25, 2016, the applicant submitted a complete application for this Third Amended Subdivision Plat for Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility to divide the 9.934 acre Lot 8 of the Second Amended Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Subdivision plat into two platted lots of record, namely Lot 8 consisting of 3.6 acres and Lot 12 consisting of 6.334 acres.

15.The amended subdivision plat consist of twelve lots with ownership, acres, and use consistent with the amended IHC MPD as follows:
Lot 1 and Lot 2: IHC- Intermountain Healthcare Campus MPD (107.551 acres)
Lot 3: USSA- Headquarters and Training Facility MPD (5 acres)
Lot 4: PCMC- previous affordable housing site (5 acres)
Lot 5: PCMC- Ice Facility/Fields Complex Expansion (15 acres)
Lot 6: IHC MPD- no assigned density or uses (density transferred to Lot 1) (3.041 acres)
Lot 7: Physicians Holding- Support Medical Office CUP (3.396 acres)
Lot 8: IHC- Peace House CUP (3.632 acres) (previously 9.934 acres- rest to new Lot 12)
Lot 9: Questar facility (0.174 acres)
Lot 10: Community Medical Summit County Health and People's Health Clinic CUP (3.088 acres)
Lot 11: IHC, no assigned density or uses (0.951 acres)
Lot 12 (new lot): IHC, no assigned density or uses (6.302 acres) (previously part of Lot 8)

16.Development of each lot requires a Conditional Use Permit.

17.Existing Lot 8 includes a total lot area of approximately 9.934 acres. Peace House has recently entered into a 50 year ground lease from IHC on the eastern 3.63 acres of existing Lot 8, which is proposed Lot 8.

18.The property is currently undeveloped and consists of native grasses and low vegetation with areas of delineated wetlands located on the north and west portion of Lot 8 and a majority of Lot 12.

19.The wetlands delineation was done more than five years ago and will need to updated, re-delineated and re-submitted to the Corp prior to issuance of a building permit.

20.All development, such as buildings and parking areas, are required to comply with the LMC required setbacks from delineated wetlands. The current requirement is a 50' wide wetlands protection buffer area.

21. Access to the site is from Round Valley Drive, an existing public street that intersects with State Road 248 at a signalized intersection approximately a half mile to the south. Lot 12 will have frontage and access on both Round Valley Drive and Gillmor Way, accessed from the north.

22.There are existing sidewalks along the street frontage as well as interconnecting paved trails throughout the subdivision.

23.There are existing utilities within the streets and within platted public utility easements along the front lot lines. Utility and snow storage easements are necessary along public street frontages for installation of utilities and snow storage.

24.A twenty-foot (20') wide public trail easement is located on existing Lot 8. The trail will remain and the twenty-foot (20') wide public trail easement will be included on the amended plat, on Lot 12, in the location of the paved trail.

25.No changes are proposed to the location of platted Round Valley Drive or to platted Gillmor Way.

26.Attention to the location of visible dry utility boxes and installations is an important consideration when designing a site in order to ensure that adequate area is available for landscape elements to provide adequate screening from public view.

27.The Analysis section of this staff report is incorporated herein.

Conclusions of Law – 700 Round Valley Drive

1. There is good cause for this subdivision plat amendment.

2. The subdivision is consistent with the Park City Land Management Code and applicable State law regarding subdivisions, the Park City General Plan, and the IHC Annexation and Master Planned Development.

3. Neither the public nor any person will be materially injured by the proposed subdivision plat amendment.

4. Approval of the subdivision 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 – 700 Round Valley Drive

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with the Annexation Agreement, State law, the Land Management Code, and these conditions of approval, prior to recordation of the plat.

2. The applicant will record the subdivision plat at Summit County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is submitted in writing prior to expiration and is approved by the City Council.

3. All conditions of approval of the IHC Annexation and IHC/USSA Subdivision, as amended, shall continue to apply.

4. Dry utility infrastructure must be located on the property and shown on the building plans prior to building permit issuance to ensure that utility companies verify that the areas provided for their facilities are viable and that exposed meters and boxes can be screened with landscaping elements.

5. Final utility, storm water, and grading plans must be approved by the City Engineer prior to Building Permit issuance.

6. A financial guarantee for any required public improvements in an amount approved by the City Engineer and in a form approved by the City Attorney shall be in place prior to plat recordation.

7. Any wetlands delineation older than five (5) years shall be updated and submitted to the City prior to building permit issuance for new development on the lots. All required Corps of Engineer approvals and permits shall be submitted prior to issuance of a building permit on the lots.

8. A note shall be included on the plat prior to recordation stating that all new development, such as buildings and parking areas, proposed on these lots shall comply with LMC required wetlands protection buffer areas in effect at the time of the building permit application.

9. A 10' wide non-exclusive public utility and snow storage easement shall be shown along the frontages of Round Valley Drive and Gillmor Way prior to plat recordation.

7. Land Management Code (LMC) amendments- various administrative and substantive amendments to the Park City Development Code regarding 1) standard of review for appeals and noticing,; 2) standard of review for applications with regard to the General Plan; 3) Steep Slope CUP applicability; 4) common wall development (in HR-1, HR-2, and CT Districts); 5) exceptions to building height and footprint for Historic Sites as valid Complying Structures in HRL, HR-1, HR2 and RC; 6) mechanical service, delivery, and loading areas (GC, LI Districts); 7) lighting requirements or reducing glare and landscape mulch materials; 8) specifications for barrel roofs; 9) require historic site information in MPD applications and review; 10) clarify review criteria to be met when making a determination of historic significance, 11) administrative corrections for consistency and clarity between Chapters such as noticing requirements; and 12) definitions for barrel roof, billboard, glare, and intensive office. (Application PL-16-03115)

Commissioner Suesser returned to the meeting.

Planner Whetstone stated that if the Planning Commission forwards a positive recommendation to the City Council for the proposed amendments the Motion should be pursuant to the Ordinance as opposed to pursuant to the Findings of Fact and Conclusions of Law.

Chair Pro Tem Band suggested that the Planning Commission review the LMC amendments item by item as listed in the Staff report.

1. Standards of Review for Appeals and Noticing

Planner Whetstone noted that the noticing changes were reflected in Exhibit A. The changes were primarily for consistency with change to the State Code.

Commissioner Suesser stated that she did not have the opportunity to review the amendments closely prior to the meeting, and she was not prepared to comment this evening.

Chair Pro Tem asked if these amendments were noticed for action. Assistant City Attorney stated that it was noticed for public hearing and action and the Planning Commission could forward a recommendation to the City Council or continue to another meeting. They could also forward the amendments where there was agreement and continue the ones that need further discussion.

Planner Whetstone explained that this was the only process in Appeals that had a seven day noticing requirements. On appeals the State does not specify a period. Planner Whetstone stated that most of the noticing processes for Park City are 14 days. The Staff recommended changing to a 14 day notice for consistency, unless the State Code has a different requirement, since 14 days is standard in the Code.

Commissioner Suesser referred to the added language in 151-18K, and suggested that "Staff determination" should be plural, to read "Appeals of Staff determinations."

Planner Whetstone noted that another change consistent with State Law is to post to the Utah Public Notice website, which is a State requirement.

Commissioner Suesser asked if there were multiple hearings in these appeals. Planner Whetstone stated that the requirement is for the first hearing. If the public hearing is continued and the public hearing is not closed on any item that has been noticed, a republication of notice is not required. Assistant City Attorney McLean stated that this was the current practice. Before the first hearing before the Planning Commission the item will be noticed 14 days prior. If it is continued to a date certain it is not re-posted or re-

published in the paper. It is always re-noticed on the Park City website and on the Utah Public Notice website, along with the agenda. That is done for every meeting under the Open Public Meetings Act laws. The only distinction is that the language clarifies that before the first meeting before City Council there will be a published noticed. That has not been consistently done in the past.

The Commissioners were comfortable with Item 1.

2. Standards of Review for applications with regard to the General Plan

Planner Whetstone stated that this amendment was a recommendation from the City Attorney. Under D, Standards of Review, having the use consistent with the Park City General Plan was struck in that section and inserted under the Review Criteria, where an application is reviewed for consistency with the goals and objectives of the Park City General Plan. She noted that it changes the standard of review for an MPD or CUP application. The Code is supposed to reflect the General Plan. Planner Whetstone read the added language, "...review for consistency with the goals and objectives of the General Plan, however, such review for consistency shall not alone be binding."

Planner Whetstone replied that the same language applies to MPDs. It was removed from 15-6-6, under Required Findings and Conclusions of Law and added under General Review. The change was reflected on page 213 of the Staff report.

Director Erickson clarified that the amendments were cleaning up the language to reflect that the General Plan is guidance and not regulation.

Commissioners were comfortable with Item 2, with the exception of Commissioner Suesser who was not prepared to sign off on the proposed change.

Chair Pro Tem Band stated that this item could be removed for action if the Commissioners wanted to discuss it further when Commissioners Joyce and Strachan were present. The Commissioners agreed to continue this amendment for further discussion.

3. Steep Slope CUP applicability

Planner Whetstone remarked that this amendment would increase the regulation in Historic Districts for what counts as footprint for steep slopes. Director Erickson stated that the issue is when a Steep Slope CUP would be required. If the steep area was a horizontal plane and something projected over it, it would not be regulated. Based on the new language, if it is a vertical plane and a deck projects into it, it would require a steep slope

CUP. Planner Whetstone pointed out that it would not apply to decks because decks are not building footprint.

Commissioner Campbell noted that a cantilever floor counts as a footprint. Director Erickson remarked that floor area is different than regulating for Steep Slope. Commissioner Campbell was unsure why the proposed language was necessary. Director Erickson explained that if someone tried to avoid doing a steep slope CUP and maximizing building volume, he would design the footings and foundation and the first floor to not impact the sleep slope, and then on the second floor cantilever a deck over it. Commissioner Campbell stated that his understanding of building footprint is that if you shine a light from above directly down, anything in the shadow of that was part of the building footprint. Planner Whetstone stated that if the house cannot project over the steep slope area. Commissioner Campbell thought the existing footprint rule would catch it if that occurred. Planner Whetstone noted that the current language only states "If the footprint is located upon an existing slope", meaning that the footprint actually touches the steep slope.

Director Erickson suggested that the Staff might need to further consider this amendment. The intent was to clarify that a Steep Slope CUP could not be avoided. Commissioner Campbell favored the intent but he questioned the necessity of the added language. Commissioner Phillips agreed with Commissioner Campbell that it was already regulated by the footprint rule. However, he was not opposed to leaving in the added language for additional clarification. The Commissioners concurred.

4. Common Wall Development

Planner Whetstone stated that this amendment would not apply in the HR-L zone because only single-family is allowed in the HR-L zone. Reference to the HR-L should be stricken from the language. The proposed amendment would apply to HR-1, HR-2 and CT zones. It also currently applies in the other zones.

Planner Whetstone revised the proposed language on page 214 of the Staff report, "A side yard between connected structures is not required where structures are designed with a common wall on a property line, each structure is on an individual lot, and the lots are burdened with a party wall agreement in a form approved by the City Attorney, Chief Building Official, and all applicable Building and Fire Code requirements are met." She clarified that IBC was replaced with Building.

Assistant City Attorney recalled that the Staff had an internal discussion on policy issues in terms of setbacks and new construction versus old construction. She explained the issues that were created by this amendment related to setbacks and the common wall. Another

issue is whether this amendment is meant to clean up the non-conformities that were historically done and preventing having to go through the condominium process; or whether the Planning Commission thinks this should be allowed in the future.

Chair Pro Tem Band thought this item needed further consideration and discussion. The Commissioner agreed to continue item 4 for discussion.

5. Exceptions to building height and footprint for Historic Sites as valid complying Structures in HRL, HR-1, HR2 and RC.

Chair Pro Tem understood from the Staff that this item was not ready to be forwarded to the City Council.

Planner Whetstone explained that the intent of this language was to say that a historic structure should not have to be modified to have a ten foot step at 23 feet to meet the Code. It should be a legal complying structure if it does not have a stepback.

Planner Whetstone stated that another exception is when you have a historic structure 35 feet below grade with a garage at the top, there would be an exception to the 35 feet. Another exception is a historic structure that does not meet the total 35 feet in height from finish floor to the wall plane because that is how it sits as an existing historic structure and it is non-complying. The proposed amendment recognizes that if something is historic they are legally non-complying structures. However, additions must comply with building setbacks, building footprint, driveway location standards and building height. That language did not change.

Planner Whetstone stated that the exception has always been used for a basement under a historic structure. A basement or driveway location could be approved with a conditional use permit if all the other criteria are met. Planner Whetstone remarked that one additional criteria was added requiring that it comply with the Design Guidelines. The second exception related to a house being so far below the street that a new garage would keep it from meeting the overall building height.

The Commissioners agreed to continue this item for further discussion. Director Erickson suggested a drawing or a site tour to help with the discussion.

6. Mechanical service, delivery and loading areas (GC, LI Districts).

Planner Whetstone stated that the language is currently in the LI District and the Staff was proposing to put the same language into the GC zone. The only change to the language is

to replace eliminate the view with mitigate the view from nearby properties. The Commission recommended this item be forwarded to City Council.

7. Lighting requirements for reducing glare and landscape mulch materials

Commissioner Campbell thought lighting and landscaping were important issue and he suggested that they wait until all the Commissioners were present to have the discussion.

Commissioner Phillips asked if there is a way to measure lighting. Director Erickson replied that there are three different ways of measuring three different kinds of lighting including glare. He noted that Community Development Director, Anne Laurent has a proposed lighting ordinance that carries a full suite of measurements, including for glare, which is defined in the amendments as the difference between how dark it is and how light it is.

Planner Whetstone remarked that the amendment upgrades the purpose statements and adds a definition for “Glare”. It also add LEDs as an approved light source and the temperature for LEDs should be less than 3000K.

The Commissioner agreed to continue this item, for additional information and discussion with the rest of the Commission.

8. Specifications for barrel roofs.

Director Erickson suggested that the definition of barrel roofs could be moved forward subject to removing the phrase, “such as cathedrals, railroad station, theaters and sports venue arenas”, because it was intended to address residential structures.

Chair Pro Tem Band stated that unless the Commissioner had other issues this item would be forwarded to the City Council as amended by Director Erickson.

9. Require historic site information in MPD applications and review.

Director Erickson believed this item would need input from the public as well as discussion by the planning Commission. He noted that they require MPDs to identify mine sites and mine hazards, but they do not require identification of potentially historic structures. Director Erickson recalled that the Planning Commission required a new inventory at Park City Mountain Resort; however, it was not required on Alice Claim and it was later discovered that there was a historic site. This would require historic sites to be identified in an MPD.

Planner Whetstone read the proposed language under (O) on page 220 of the Staff report. "All MPD applications shall include a map and a list of known historic sites on the property and a historic Structures Report, as further described on the MPD applicant. The Report shall be prepared by a qualified historic preservation professional".

Director Erickson stated that the Planning Commission should decide whether or not to give the Planning Director the authority to waive the requirement on small MPDs. Planner Whetstone did not think it should be waived if the intent is to know all historic sites in an MPD.

Commissioner Thimm remarked that those types of things become difficult in terms of defining when it is waivable. Chair Pro Tem Band thought this amendment helps more than it hurts and if they find that it causes problems with smaller developments it could always be amended.

Commissioner Suesser asked if there was a requirement to have the property inspected for historic sites. She noted that the proposed language says "a map and list of known historic sites on the property". She noted that it does not require someone going out to the site to look at it. Planner Whetstone stated that the remainder of that language requires a report to be prepared by a qualified professional, which would require someone going to the site. Commissioner Suesser wanted to know what the report would entail. Director Erickson explained that there is a professional standard for an inventory of known historic sites which involves using the Historic Sites Inventory and mapping anything on the MPD. He pointed out that this language does not require a reconnaissance of new sites. If they want a reconnaissance the Staff would need to revise the language.

Commissioner Campbell thought the language was vague. Chair Pro Tem Band noted that the language requires a report to be prepared by a qualified historic preservation professional. Commissioner Suesser thought reconnaissance was important and it should possibly be required.

Planner Whetstone noted that the language came from the Historic Planners and they may have a definition for a Historic Structures Report. Commissioner Campbell suggested a definition for a qualified historic preservation professional.

Chair Pro Tem Band suggested that they continue this item to discuss some of the issues that were raised.

10. <u>Clarify review criteria to be met when making a determination of historic significance</u>.

Planner Whetstone presented an exhibit from Chapter 11-11 – Criteria for designating sites to the Historic Sites Inventory. She indicated where “and’s” and “or’s” were corrected in the language after review by the Historic Preservation Planners and Assistant City Attorney McLean.

Chair Pro Tem Band asked for the essential change in this section. Assistant City Attorney McLean stated that Essential Historic Form is a defined term in the Code but it was not clear. The intent was to clarify that it was the same term. Planner Whetstone stated that Essential Historical Form was incorrect and it was changed in the definition to Essential Historic Form.
Commissioner Suesser understood that the changes might not be significant, but not having had the opportunity to review it she was not prepared to sign off on it.

This item was continued this item for further discussion.

11. Administrative corrections for consistency and clarity between Chapters such as noticing requirements.

Planner Whetstone referred to the notice matrix and noted that that the changes were made to be consistent with State Code. Assistant City Attorney referred to noticing for Zoning and Rezoning and noted that after “first hearing”, language should be added to say, “of the Planning Commission and the City Council”.

Chair Pro Tem Band suggested that the Planning Commission continue this item for further changes and clarification.

12. Definitions for barrel roof, billboard, glare and intensive office.

Planner Whetstone added a definition of Affected Entity and handed out a sheet to the Commissioners with the definition and what it involves. She requested that it be included in the definitions being forwarded to the City Council. Assistant City Attorney McLean noted that the language for Affected Entity was directly from the State Code.

Chair Pro Tem Band noted that the language for barrel roofs was revised earlier in this discussion and the same revision applied.

The Commissioners discussed the definition of a billboard and what constitutes a billboard. Due to various regulations related to billboards, Director Erickson suggested that they pull billboard from this list of definitions.

Chair Pro Tem Band added Affected Entity to the definitions.

Regarding the definition for glare, Commissioner Campbell remarked that excessive and uncontrolled is hard to define and could be argued. He asked if they revise the language to say "caused by brightness". Chair Pro Tem Band stated that anything could be considered brightness. Planner Whetstone stated that if the light bulb is not shielded and in an opaque it creates glare. Director Erickson believed the definition for glare was taken from the International Lighting Code. Commissioner Campbell asked Ms. McLean if she could defend the words "excessive and uncontrolled" by someone who argues that they do have control of their light bulb. Ms. McLean agreed that the more definitive the better.

Director Erickson stated that there are standards coming forward that define the contrast in terms of luminosity. He was not opposed to continuing the definition for glare for further discussion. Commissioner Suesser was not comfortable with the word "sensation". She recommending using "impact" instead of "sensation".

The Commissioners agreed to continue the definition of glare for further discussion.

Chair Pro Tem Band opened the public hearing.

There were no comments.

Chair Pro Tem Band closed the public hearing.

Chair Pro Tem Band summarized that Items 1, 3, 6 and 8 as amended and a portion of item 12, would be forwarded to the City Council. The remaining items would be continued.

MOTION: Commissioner Campbell moved to forward a POSITIVE recommendation to the City Council for the LMC Amendments Items 1, 3, 6 and 8 as amended and a portion of Item 12, the definitions for Affected Entity, and Barrel Roof, Office, General, Office Intensive, and Office, Moderately Intensive. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Campbell made a motion to CONTINUE LMC Amendments Items 2, 4, 5, 7, 9, 10 and 11, and a portion of Item 12, the definitions for glare and billboard, to a date uncertain. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission Meeting adjourned at 9:15 p.m.

Approved by Planning Commission: _____