PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
AUGUST 23,2017

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Melissa Band, Preston Campbell, Steve Joyce, John Phillips, Laura Suesser, Doug Thimm,

EX OFFICIO:

Planning Director, Bruce Erickson; Kirsten Whetstone, Planner; Tippe Morlan, Planner; Hannah Tyler, Planner; Anya Grahn, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

**ROLL CALL**

Chair Strachan called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except Commissioner Phillips who was expected to arrive later in the meeting. Commissioner Band was present but would be leaving early.

**ADOPTION OF MINUTES**

July 12, 2017

MOTION: Commissioner Joyce moved to APPROVE the Minutes of August 9, 2017 as written. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously. Commissioner Phillips was not present for the vote.

**PUBLIC INPUT**
There were no comments.

**STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Director Erickson reported on page numbering errors and the placement of the exhibits in the Staff report. Luis Rodriguez was on vacation and preparation of the Staff report was a joint effort between the City Recorders Office and the Planning Department. The Staff report was put together in City Council format.

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

**1. 1800 Park Avenue - The applicant has requested a modification to an approved Conditional Use Permit for a temporary tent structure located within the interior courtyard of the Double Tree by Hilton hotel. (Application PL-17-03537)**

Planner Tippe Morlan reviewed the application for a modification to an existing CUP for a temporary tent at 1800 Park Avenue, the Yarrow Doubletree by Hilton. She reported that the original application was approved in May 2014, at which time a 60' x 40' tent was approved in the interior ballroom courtyard at the Yarrow. In the original approval the tent was allowed for no more than 260 days in a one-year period, and expired after three years unless an extension or modification was filed. The tent was allowed to be erected up to two times per year.

Planner Morlan stated that the proposed modifications to the CUP would reduce the number days from 260 days in a one-year period to 180 days in a one-year period. This was an effort to comply with the definition of temporary structures in the International Building Code and International Fire Code, which made it easier for the Staff to recognize it as a temporary structure as opposed to a permanent structure. The applicant was also proposing that there not be an expiration date. Therefore, if this modification is approved, every year the Yarrow could put up a 40' x 60' tent in the interior ballroom courtyard for up to 180 days. The tent may be erected as needed with valid fire permits as long as they do not exceed the 180-day period.

Planner Morlan noted that a condition of approval was added stating that the tent shall be used in conjunction with the existing meeting space. The condition ensures that the tent will not increase the impact of use and parking at this location. The same people using the building would be using the tent structure.

The Staff recommended that the Planning Commission conduct a public hearing and approve the CUP finding that the proposed modifications bring the CUP more in line with the definition of temporary structures, and follows all other aspects of the Code.

Nicole Sharp, representing the Doubletree Hilton Park City/Yarrow, understood that since the CUP was previously issued, there has been a greater analysis and modification to the International Fire Code, and they understand it. The applicant is agreeable to the 180-day consecutive time period, and with the associated fire permits. It should satisfy their needs as it coordinates with their existing functions and with the Sundance Film Festival.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Suesser moved to APPROVE the Conditional Use Permit for 1800 Park Avenue, according to the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the Staff report. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously. Commissioner Phillips was not present for the vote.



Findings of Fact – 1800 Park Avenue

1. On May 14, 2014, the Planning Commission unanimously approved a CUP to allow a temporary tent structure at this location within the hotel courtyard up to two times per year for no longer than 180 consecutive days at a time.

2. The 2014 CUP approval was limited to three years and included an allowance for the applicant to request an extension.

3. On May 10, 2017, the applicant submitted a complete application for a modification to their Conditional Use Permit.

4. Temporary structures require a CUP in the General Commercial (GC) Zone.

5. No signs or lighting are proposed with this application.

6. The proposed modifications to the CUP include removing a condition of expiration and reducing the number of days the tent is allowed in a one-year period from 260 days to 180 days.

7. In 2013, before the original CUP was approved, the hotel pulled five (5) separate Administrative CUPs for temporary structures.

8. Within the Land Management Code (LMC) section 15-4-16(A) (7) a temporary structure may not be installed for a duration longer than fourteen (14) days and for more than five (5) times a year, unless a longer duration or greater frequency is approved by the Planning Commission consistent with CUP

criteria in LMC section 15-1-10 and the criteria for temporary structures in LMC section 15-4- 16(C).

9. Under the International Building Code and International Fire Code, temporary structures are defined as temporary if they are erected for no more than 180 days in a one-year period.

10. Each time the structure is erected, the applicant needs to first obtain a new building permit with safety and fire inspections before rebuilding the temporary structure and check in with the Planning Department to record the timeframe in the Temporary Tent log book.

11. The hotel has one (1) location for a temporary structure, and that is within the interior courtyard.

12. The hotel may be accessed via Park Avenue and Kearns Boulevard. People using the temporary structures would have to abide by the same parking restrictions as other hotel guests.

13. Police records indicate no parking-related complaints from events held at this location.

14. According to the International Fire Code Section 3101.5 'Temporary Tents and Membrane Structures', the use period of the tent shall not be erected for a period of more than 180 days within a 12-month period on a single premises.

15. The applicant has consistently come to the City to receive Fire Permits and received all necessary inspections in order to operate the tent properly.

16. The Planning Department has signed off and held record of every Fire Permit requested by the applicant for their tent.

17. The applicant has not had the tent up for more than the allotted 260 days per year.

18. The applicant has not violated any terms of the original CUP approval.

19. The applicant submitted an application April 19, 2017 and received a complete application notice on May 10, 2017. The deadline for submittal was May 14, 2017.

20. There have been no unresolved complaints filed about violations of the noise ordinance specific to the temporary tent.

21. No exterior signage is proposed with the tent. All lighting has been constant with the LMC and any additional lighting on the exterior would still require approval of the Planning Department.

22. The applicant has not operated the tent under expired permits.

23. On May 31, 2017, the property was posted and notice was mailed to affected property owners within 300 feet.

24. Legal notice was published in the Park Record on August 5, 2017.

25. As of this date, no public input has been received by Staff.

26. The Findings in the Analysis Section are incorporated herein.

27. The applicant stipulates to the conditions of approval.

Conclusions of Law – 1800 Park Avenue

1. The Use, as conditioned complies with all requirements of the Land Management Code, Section 15-1-10.

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

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

4. The Application complies with all requirements outlined in the applicable sections of the Land Management Code, specifically Sections 15-1-10 review criteria for Conditional Use Permits and 15-4-16(C) review criteria for temporary structures.

Conditions of Approval – 1800 Park Avenue

1. All temporary structures require a permit issued by the Building Department. All temporary structures must be inspected by the Building Department prior to occupancy. The Building Department will inspect the structure, circulation, emergency access, and all other applicable public safety measures.

2. Prior to installing a temporary structure, the Planning Department must sign off on a building permit and record the date within the CUP Temporary Tent application logbook folder found at the Planning Department front counter.

3. The temporary structure within the Hotel courtyard shall be operable for a maximum of one-hundred and eighty (180) days in a calendar year.

4. The use shall not violate the City noise ordinance. Any violation of the City noise ordinance may result in the CUP becoming void.

5. The temporary tent shall only be used in the enclosed ballroom courtyard area and may not exceed the 60' x 40' size as approved with the original CUP.

6. The tent shall be used in conjunction with the existing meeting space and not leased out separately, unless leased to guests of the hotel, to ensure that the use of this temporary space does not cause overflow parking onto adjacent properties. Any complaints regarding overflow parking issues may result in the CUP becoming void.

7. Exterior signage must be approved by the Planning Department consistent with the City Municipal Code. All new exterior lighting must be approved by the Planning Department and comply with the Land Management Code. All existing exterior lighting shall comply with the Land Management Code prior to approval of a permit from the Building Department for installation of the tent.

8. Operation of the temporary structure with expired permits from any applicable City Department may result in the CUP becoming void. Building and Fire Permits must be up to date to operate the temporary structure.

9. All Standard Project Conditions shall apply.

**2. 352 Woodside Avenue – The applicant is requesting a Steep Slope Conditional Use Permit for the construction of a single-family home on a vacant lot and a height exception to construct a garage on a downhill lot. (Application PL-17-03532)**

Planner Morlan reported that the applicant was requesting a Steep Slope CUP for construction of a new single-family dwelling at 352 Woodside, and a building height exception for 8' for a garage on a downhill lot.

Planner Morlan noted that the slope on this lot reaches up to 66% in some areas and an average of approximately 40% throughout the site. The lot is 3700 square feet and the house is proposed at 4,287 square feet. The building footprint and all other standards for the HR-1 zone were met.

Planner Morlan commented on the building height exception. She stated that the HR-1 zone allows additional building height on downhill lots to accommodate a single-car side tandem garage. She noted that the Code previously allowed the Planning Director to make the determination; however, that clause in the Code was recently changed to allow the Planning Commission to approve these types of exceptions. This was the first height exception to be reviewed by the Planning Commission since the Code change.

Planner Morlan stated that the only limiting stipulation is that the building height may not exceed 35 feet from existing grade. The other aspects of building height were not limited; however, the Staff was proposing that eight additional feet be allowed for the interior building height measurement. Planner Morlan explained that there are two different measurements for building height; one for exterior height and one for interior height. In this zone the exterior building height is 27' and the interior building height is 35'. She pointed out that this exception would allow eight additional feet on each of those.

Planner Morlan remarked that the height exception allows a garage and associated circulation space and entry area above the standard building height maximum. All of the areas proposed above the 27' building height maximum were the tandem single car wide garage area, entry area and circulation area on this house plan. She pointed out that the exception also stipulates that the depth of the garage may not exceed the minimum depth for internal parking spaces. Planner Morlan explained that in the off-street parking requirements, the minimum standard depth for a garage one car deep is 20' feet wide. There are no codified depth minimum or maximums for a tandem garage; however, they have always allowed a 40-feet deep garage for a tandem garage; 20' plus 20'. The applicant was proposing 40-feet deep, which meets the standard according to the Staff review.

Planner Morlan reviewed the Steep Slope CUP. Per the Staff analysis, the proposed house meets all setbacks and HR-1 Code requirements, except for the proposed building height exception for the garage. That would need to change if the building height exception was not approved this evening.

Planner Morlan stated that street, aerial and cross canyon views of the proposed house show minimal visual impact on the existing site. The proposed house is similar in mass and size to the surrounding houses. It has a smaller impact on the street view in terms of

height. It is just large enough to fit the garage on the top of the house. The house comes up to the 10' setback line. The garage is stepped one foot back from the rest of the front of the house as well, giving slight variation along the frontage. The building is designed to allow access to the street without a steep driveway. Planner Morlan stated that the applicant tried to design it as high as possible meeting the standards, but also preventing it from being steeper than it could be. It is currently at 12% grade.

Planner Morlan presented slides showing a small step where the garage would be, and the front entry area on the north side up along the 10' setback.

The Staff recommended that the Planning Commission conduct a public hearing and approve both the Steep Slope CUP and the building height exception, finding that the proposed single family dwelling meets requirements for development on a steep slope in the HR-1 zone, and that the proposed height exception meets the requirements in the LMC for a garage on a downhill lot.

The applicant's representatives, Don Shirley with THINK Architecture and Joe Tesch were present to answer questions. Mr. Shirley thought Planner Morlan had done a wonderful job with the Staff report and her presentation and he had nothing to add.

Commissioner Joyce referred to page 141 of the Staff report, and the deck in the photo at the bottom left corner of the page. He asked for the elevation of the deck, and asked if it was on top of the third floor. Mr. Shirley replied that the deck comes right off the entry door. It actually sits on the roof. Commissioner Joyce understood that it was three stories up or 30+ feet up. Mr. Shirley clarified that it was the third level.

Commissioner Joyce noted that the Planning Commission had not forwarded a recommendation to the City Council on the proposed changes to flat roofs at a previous meeting. However, he believed this design would not meet the criteria for that flat roof ordinance. Director Erickson stated that the deck has to be 23' above natural grade. Commissioner Joyce understood that if the flat roof ordinance was in place, the deck would be too high and the front façade would not have the appropriate roof lines. Director Erickson replied that he was correct. Commissioner Joyce clarified that his question was for his own understanding of the proposed flat roof ordinance; and it was not directed to this application. Director Erickson pointed out that this application came in before the ordinance was proposed.

Assistant City Attorney McLean requested that the Commissioners keep their comments focused on the subject applications. If they wanted to better understand the flat roof ordinance, they could request that the Staff provide examples at a future meeting.

Commissioner Campbell referred to page 141 and photo #1 at the top and asked about the concrete colored cube to the right of the photo. Mr. Shirley replied that it was the mass of the neighboring home. He explained that they do not model all of the existing homes. Instead they put in cubes to show the height and mass.

Chair Strachan recalled when the Code was changed to remove the discretion of the Planning Director. He asked Director Erickson whether or not he would grant the height exception if that discretion was still in place. Director Erickson stated that Planner Moran had done a great job negotiating with the applicant for almost a year to achieve what they have now. Based on that work and Planner Morlan's recommendation, he would have granted the height exception.

Chair Strachan read from the LMC 15-2.2-5, "The following exceptions may apply: antennas, chimneys, flues, vents or similar structures, water towers, mechanical screening equipment…." He further read, "garage on a downhill lot to accommodate a single car wide garage in a tandem parking configuration to accommodate circulation such as stairs and/or an ADA elevator, and to accommodate a reasonably sized front area and front porch that provide a compatible streetscape design". He asked Planner Morlan what she thought was a reasonably sized front area and a front porch that provided compatible streetscape design. He wanted to know her findings to meet this height exception.

Planner Morlan stated that the elevator shaft was a big issue with the design for the HDDR review, because the applicant had ADA needs that needed to be met with this house. The major reason for needing the height exception and the entry area was to allow for the ADA access. The front entry area did not have a very big space to go between the garage and the elevator area. She believed it was intentionally written to be flexible, depending on the layout of the house. If the applicant had not needed the elevator the height would have been lower in a smaller space. Chair Strachan asked if there had not been an ADA issue whether Planner Morlan would find this reasonable. Planner Morlan clarified that without the elevator it would have definitely been smaller. Chair Strachan agreed.

Mr. Shirley stated that because of the exception in the Guidelines for the ADA elevator, he had shown where they have access compatibility for ADA compliance on every floor and in every room. He clarified that per Code, in addition to being compatible in terms of accessing an ADA elevator, they have to show compliance throughout the entire house. That also addressed the 15' width of the garage. The ADA access is in the garage as well as through the door, to the elevator and down through every floor. Mr. Shirley pointed out that the stairs were configured to wrap the elevator. Given the program for accessibility, he believed the footprint was as small as it could get.

Commissioner Thimm noted that Planner Morlan had explained the length as 20' plus 20' for a standard tandem stall. He commented on the width in terms of accessibility. He was perplexed with trying to get an 11' wide stall plus a 5' loading area. Mr. Shirley replied that it was a 9' stall plus a 5' loading area, which was the requirement. Commissioner Thimm understood that it was 16' wide. In looking at the diagram on page 144 of the Staff report, it appeared to be an 11' width plus 5' for a 60-inch circle. He questioned how they arrived at 16'. Mr. Shirley stated that it was 15' inside, and they worked through that width with the Staff based on ADA requirements. Commissioner Thimm asked if it was 15' less the wall. Mr. Shirley answered yes. It was an inside dimension. He explained that the Federal mandate for an accessible stall is 15'.

Planner Morlan indicated the 11' width as shown on the plan, as well as the additional 4' for the ADA vehicle unload area. Commissioner Thimm was satisfied with the explanation.

**Commissioner Phillips joined the meeting.**

Chair Strachan opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside, addressed the massing and articulation. One was under the heading of the 35' interior measurement, which is lowest floor plane to highest wall plane. The second was the double deep garage. She noted that her comments would be in the context of the neighborhood. Ms. Meintsma presented images and photos of historic homes in the area and surrounding 352 Woodside Avenue. The Landmark structures were identified with stars. She noted that 352 Woodside looks directly over four Landmark houses. Those houses will always remain a lower height because of their Landmark status. She noted that this was the neighborhood this house would be sitting in.

Ms. Meintsma commented on the double deep garage, and how required parking for two vehicles and the ADA requirements can all be accomplished with a lot less mass than what was showing. She also commented on the cross canyon view that was in the Staff report, as well as the reverence to the adjacent four Landmark structures sitting below 352 Woodside. Ms. Meintsma pointed out that the Code says tandem parking. It does not say tandem garage. She noted that up and down Woodside all the garages are for one car, and the second car is parked outside the garage. Ms. Meintsma had stated that she changed the design to one interior parking with the ADA requirement intact, 20' deep, which is the minimum required. There was a 10' front yard setback. She moved the front 8' back to give the required 18' of parking. She believed that redesign would give articulation on the street in this historic neighborhood. Ms. Meintsma clarified that she was pro flat roofs, recognizing that it is controversial subject in the community and definitely in this neighborhood. She thought her suggestion would help with some level of articulation.

Ms. Meintsma remarked that on the other side, the mass that looms out and hangs over would probably cut off some of the sun from those houses below. With her suggestion, all that mass is eliminated, the parking requirements are fulfilled, and the ADA requirements is fulfilled. There is less mass and more articulation. Ms. Meintsma stated that she had drawn everything to scale to show how it all works.

Ms. Meintsma addressed the 35' interior height. She took the south section and put in how the floors exist in the current design with a 43' interior height. She pointed out the 9' ceilings, a 9' ceiling, and a 12' ceiling that steps down in the front to 11', and then a 10' ceiling. She presented the north elevation showing the 43' interior height. The green line identified the driveway location. Ms. Meintsma stated that she was at the meeting when the Planning Commission came up with the 35' interior height. It was a struggle because the limit was three stories only. Everything was being stepped and it crawled up the side of the hill. A three-story structure started to look like a four and five story structure. Ms. Meintsma stated that based on the measurement you can have four stories in a structure instead of three, but in order to have the fourth story, there must be compromises. You can add more living space and more square footage, but the only way to stay within Code is to have 8' ceilings. She noted that most people want 9' and 13' ceilings, but if the ceiling goes that high, it has to go three floors and step. Ms. Meintsma stated that she took the driveway as the center point to keep it in its current location for access from the street and she made an 8' ceiling. She pointed to the blue parts which showed where she had eliminated the mass that would stick out if there was a garage. On the left side where the garage steps in, she designed it so the other part of the structure was behind it. Ms. Meintsma stated that she went down feet for every floor, which is an 8' ceiling and came up lower. By doing that she accomplished the 35' interior height. She noted that the ceilings were 8', but the footprint did not change and the square footage did not change. The bonus was pulling the house out of the ground as opposed to being deep into the basement.

Ms. Meintsma remarked that in her reading of the Code, she believes that exceptions are granted when you cannot accomplish what you need to accomplish, unless you have the exception. She thought this house could be built beautifully without the 35' interior exemption. Ms. Meintsma noted that going to 8' foot ceilings eliminates a whole floor. She assumed they would still need the 35' garage from grade exception. Ms. Meintsma presented the east view, which would be looking down upon the historic Landmark houses. She pointed out how the height was reduced from the top and it comes up from the bottom. The mass was reduced a small amount, with a larger mass reduction on the side with the garage. Accomplishing the 35' interior height will give the house a smaller, more broken up aesthetic.

Ms. Meintsma referred to the conceptual drawing on the streetscape in the Staff report, and the cross canyon view on the same page. She remarked that the small amount of articulation would make this house fit better in the neighborhood. She reiterated that she is pro flat roof for storm water, insulation, to keep snow from falling off and filling the sides of the yard, as well as other advantages. She thought the green roof was positive.

Chair Strachan closed the public hearing.

Commissioner Phillips stated that he had noticed that the ceiling heights were very spacious, and also the parking. He believed the exception was only when nothing else was possible. He liked the design of the house, but he has personally gone through this process and he ended up with 7'8" ceilings. Commissioner Phillips stated that in his opinion this would be granting an exception of height to achieve additional interior space. He thought the design needed more work, and the parking needed to be brought to a minimum. He remarked that having two inside stalls was a luxury, not a given. He thought the same applied to the ceiling heights.

Commissioner Phillips stated that in looking at the streetscape it is easy to see how a flat roof can create a smaller façade. However, from the back, especially with the exception, it was difficult to see and he suggested that Mr. Shirley do a sketch similar to the streetscape so they can see it in a similar fashion. He thought the house appears to tower over the neighboring homes. With those houses being historic, he thought they needed to be particularly sensitive to the neighborhood.

Commissioner Joyce stated that he was not able to figure out the solutions, but one of his biggest issues was the massing of a flat roof, where instead of losing the top of the roof, there is a big four-story square. From the cross-canyon view he thought it would be very visible and incompatible with the surrounding houses and the façade coming down the east side definitely needed to be broken up.

Commissioner Campbell thanked Ms. Meintsma for the time she spent preparing her comments. He asked Mr. Shirley what would happen to the garage level versus the street level if they were to drop the interior ceiling heights. Mr. Shirley replied that the site is so steep that in order to comply with the 12% or the maximum for the driveway coming down, it elevates the floor. They are not in a position to create fill at the bottom, which is what the surrounding homes have historically done. The Code no longer allows that because the grade can only be adjusted by 4'. Ms. Shirley remarked that this is a very steep lot and the challenge has been not only the grade from street to the bottom of the lot, but also the fact that it is a compound slope and it slopes from corner to corner. The shape of the home with the garage and the entrance was designed to not only go down the hill, but also to adjust the heights from side to side as well. Mr. Shirley explained that in order to reach the

ground to come up to get to the garage to get to the street, is what established the heights to the house. If they lower the ceilings it raises the house out of the ground and they would not meet Code in terms of adjusting the grade. He noted that they have worked with the Staff for over a year to achieve the current design.

Mr. Shirley remarked that they initially came in with a smaller garage. He did not believe the Guidelines defined the depth of the garage. They could reduce the depth of the garage, but when someone builds a new home the preference is for a two-car garage or two covered stalls, which was the interpretation they were getting from the Staff as they developed the garage.

Commissioner Campbell asked if Mr. Shirley could mitigate some of the cross canyon view that appeared to be the objection of how large it appears from the back. He asked if there was enough room to plant trees in the back, or for some other type of screening. Mr. Shirley pointed to the side elevation and noted that the home steps with the grade and it meets the requirement of a 10' step with a maximum 23' height in the back. He thought that because it tiers down, it would have less impact than the existing homes on each side because they were under previous guidelines and do not have the stepping.

Commissioner Campbell thought this design felt compatible with the homes on either side from the backside.

Commissioner Joyce referred to an image where it looked like the bottom floor was almost completely underground, except for where it was dug out with some retaining walls for ingress/egress. He stated that if they leave the garage level where it is and if they cut back to 8' or 9' ceiling and pulled it up, he thought it looked like they would only be pulling the bottom of the lowest part up to ground level. Mr. Shirley explained that because it is a compound slope, the opposite corner where the hot tub is shown is at least 4' lower than the other side of the house. They have to go from the lowest point to the highest point, which is one of the nuances of this site.

Planner Morlan clarified that per Code they could only vary from existing grade up to 4'. Commissioner Joyce was confused because from the image it looked like the lowest point was actually dug into the ground. Planner Morlan explained that the dashed line was the existing grade and the solid line was the final grade. On one side of the house it departs a lot more than 4'. Mr. Shirley stated that the northeast corner governs more than the southeast. Commissioner Joyce commented on the fog study. Mr. Shirley pointed out that the fog study was based on existing grade. Planner Morlan remarked that the green color identified existing grade and the fog area was the 27' height limit. She noted that Mr. Shirley had shown both the 35' exception and the 27' standard height.

Commissioner Phillips asked if Mr. Shirley could confirm the driveway was at 12%. Mr. Shirley replied that it was at 12% grade. Commissioner Phillips stated that he has a lot that slopes in two directions but he only has 25' to work with. He understood the complications of the site. In his opinion, the second interior stall is really the biggest problem. Mr. Shirley stated that they could go to a 36' depth rather than 40' to get the articulation in the front.

Joe Tesch stated that a second stall would be a benefit in Old Town versus outside parking because it is better for the neighborhood. He has lived in communities where they do not allow outside parking because it junks up the neighborhood. The ideal of having two inside spaces hidden from the neighborhood is an advantage. Mr. Shirley noted that street parking is already a problem in Old Town. Commissioner Phillips agreed. Commissioner Joyce pointed out that they were not talking about street parking. Mr. Shirley stated that there would be two parking stalls in the garage plus one in the driveway. Commissioner Phillips reiterated that having two interior stalls is a luxury. If the owner really wanted that he should have purchased a different lot.

Mr. Shirley stated that he has been working with the Staff for over a year and this was the first time he has heard that a tandem stall was just tandem parking. It was always a tandem stall as a tandem parking garage, according to the definitions within the Guidelines. From the beginning they have been working with a tandem garage, not tandem stalls.

Commissioner Phillips did not believe it was a tandem garage. Planner Morlan read from 15-2.2-5, "The Planning Commission may allow additional building height, (see entire Section 15-2.2-5), on a downhill lot to accommodate a single car wide garage in a tandem parking configuration. She noted that the language does not specify either way. She was unsure whether they could require one or the other.

Commissioner Phillips stated that he would still argue that they could get two off-street parking with one being inside and one being out front. Mr. Shirley stated that he specifically asked for that interpretation nearly a year ago and he was told that it was a tandem garage with two interior spaces. The conversation was then how deep it had to be because it refers to standard depths. They were unable to find a specific depth except for an exterior parking stall which is 20' deep. The applicant originally suggested two 18' feet stalls rather than two 20' stalls. Planner Morlan understood that the practice from when this was previously allowed by the Planning Director that 40' deep tandem parking garages were allowed for this exception. Commissioner Phillips expressed an interest in seeing some examples of what was done in the past in this same situation. He suggested that Mr. Shirley tweak the design to address their concerns and show what the two 18' stalls would look like. He would also like to see a better illustration of the cross canyon view.

Commissioner Thimm stated that in looking at the street scene and elevation on page 153 of the Staff report, as well as some of the cross sections, he thought it was clear that the overall building height expressed is driven by the garage and the entry to the garage off the street. He was unsure what bringing it up out of the ground on the backside of the house would do. Commissioner Thimm thought it was more important to look at the façade on the street scene. On the issue of granting an exception, the idea of articulating the face has a lot of merit. He noted that many municipalities recognize 18' depth as a legitimate parking stall. Therefore, 36' or two 18' depths would afford the ability to have somewhat of an articulated face, and a greater amount of shadow line cast across the front. In terms of looking at the exception, he believed that allowing for breaking down that face of the building would be an enhancement.

Director Erickson clarified that the parking section of the LMC defines a tandem space as one car parked in or behind. It does not necessarily say whether it has to be inside or outside to achieve the tandem.

Chair Strachan pointed out that the picture in that LMC section showed the tandem as one covered car in a garage and the other car outside. Chair Strachan agreed that the language does not say that one car has to be outside, but the definition of tandem parking says, "A parking design which allows parking one vehicle behind another. Such parking may not include more than two cars in depth and may not require occupants of separate dwelling units to park behind one another." He again referred to the diagram. Chair Strachan also thought the tandem parking proposed might violate the section that reads, "Such parking may not include more than two cars in depth", because as designed they would be parking three cars.

Director Erickson noted that without pulling the garage back they only have ten feet of setback. Planner Morlan pointed out that there was additional space between the front property line and the road; therefore, there is a large buffer but it is in the City right-of-way. Chair Strachan thought the setbacks drawn in the diagram under the definition of tandem parking showed the two cars outside in the driveway were also in the setback.

Planner Morlan pulled up the slide with the defined terms. Commissioner Phillips agreed that the diagram clearly shows one car being out in front. In his opinion, it was an illustration of tandem parking, but it did not mean that both stalls could not be inside. However, he would argue that two stalls would fit, regardless of whether they are inside or outside, without having to push the garage out. It still may need an exception, but not an 8' exception.

Chair Strachan pointed to the north fog study and stated that he would be more comfortable granting the exception for the circulation space required for the ADA

garage on the northeast side, but not an exception on the southeast side. He clarified that the southeast side was only an exception to allow an additional parking space, but it was not related to ADA. Planner Morlan noted that the Code allows an exception for a garage on a downhill lot; and regardless of whether it is inside or outside it can be up to 8'.

Commissioner Phillips stated that he sees an exception as being absolutely necessary. It does not mean that just because there is an exception, anyone can request an exception to achieve their preference. He was concerned about setting a precedent.

Planner Morlan stated that the Planning Commission could condition the exception on having one stall inside and one stall outside.

Commissioner Campbell pointed out that the roof already steps down at the nose of the first car. He asked Mr. Shirley for the ceiling height at the back of the garage. Mr. Shirley replied that where the back of the garage steps down was 6'. Commissioner Phillips stated that he has seen that in other places, but the second parking stall was placed next to the garage but it was not as deep. He struggled with the fact that it was not necessary to have the two stalls in the garage. The exception is for when the applicant cannot accomplish two off-street parking spaces without an exception.

Mr. Shirley understood what Commissioner Phillips was saying, but for nearly a year he was told that it was a tandem garage. Director Erickson wanted it clear that the Staff said they would allow a tandem garage, but they did not give design direction to do a tandem garage. Mr. Shirley noted that they had discussed the depth of the garage and what was required. He might have misconstrued the Staff's comments, but he has been showing it for a long time and the only feedback was to make it deeper, not shallower.

Mr. Shirley thought the notion that more than a one-car garage is a luxury was counter-productive on a street that currently has a severe parking shortage. Commissioner Phillips emphasized that Mr. Shirley could accomplish two off-street parking on-site with one car in the garage and still meet the Code requirements. With this plan, the applicant was achieving three off-street parking. Mr. Shirley pointed out that everybody has a stall in the right-of-way because of the width of the driveway. No one is ever told they cannot park in their driveway because it is on City property. Commissioner Phillips thought the LMC showed a clear illustration of how tandem parking is defined, and it shows one car nearly to the road. Mr. Shirley stated that it also shows the depth of the garage much deeper than a single car. Commissioner Phillips remarked that it also did not show it 8' out of the height limit.

Commissioner Joyce thought there were two issues. He assumed that the Planning Commission was comfortable with the height exception for the ADA piece. Commissioner Joyce believed that the street façade was close to flat. There was a small setback but not significant. He thought the Planning Commission could look for more articulation in that area to get more view from the street. The second issue was on the backside. Having the back of the garage in line with the floor below results in a lot of mass that is already on the third and fourth story. It is a big wall even though it is half the width of the house. Commissioner Joyce stated that if they were looking for one or the other, if the Staff and the applicant were willing to drop to 18' parking stalls, they should be able to get to either better articulation in either the front or the back, whichever they were trying to fix, and the applicant could keep their two inside stalls. Commissioner Joyce clarified that he was not opposed to two stalls unless it causes a different problem.

Commissioner Campbell asked if the applicant would be willing to push the garage door back two feet and pushing the back wall of the garage closer to the street two feet. Mr. Shirley answered yes. Commissioner Campbell stated that he was in favor of doing whatever was necessary to take action this evening. He was not comfortable putting up a roadblock at the last minute after the applicant has worked with the Staff for nearly a year.

Director Erickson stated that the City Engineer has the authority to vary the size of parking spaces. It was a Staff determination that the inside spaces were 2 times 20, in accordance with the Code, and not 2 times 18. There was double dipping in the calculation and there was some wiggle room.

Commissioner Thimm asked if there was room in this proceeding to move to a 36' depth. Planner Morlan noted that the exception for a garage on a downhill lot says that the depth may not exceed the minimum depth for internal parking spaces as dimensioned within this Code Section 15-3. That section states that single-car garages are 11' x 20' for single family residences inside. She explained that they doubled that size to get the total depth of 40'. Director Erickson reiterated that the City Engineer has the discretion to vary the parking size. Reading further down into the Code, "Passenger cars are not allowed to park in the right-of-way with certain exceptions in the Historic District at the discretion of the City Engineer". He explained that the City Engineer would have to grant the exception to have a tandem with less than an 18' long driveway on private property.

Commissioner Joyce pointed out that if the garage is reduced from a two-car garage to a one-car garage and the front of the garage is moved back, there would be a lot of indoor room and a lot of outdoor room without going into the right-of-way. He believed

the only time the right-of-way is an issue is when three cars are stacked; two in a garage and one in the driveway. He did not think that was an issue in this case.

Chair Strachan stated that the Planning Commission was being asked for an exception to the rule, but the problem is that the applicant wanted something that was technically not allowed in the Code. Aside from the compatibility issue, there was not a physical limitation on what could be done on this site. Chair Strachan recalled that the Code section was changed because building height exceptions were granted under previous Planning Directors in circumstances that neither the Planning Commission nor the City Council thought were appropriate. The direction from the public and the elected officials was to tighten the reins. Chair Strachan remarked that he was skeptical about the exception when he read the Staff report. He thought there were valid grounds for having a height exception for the ADA accessible areas, but there was no link between the ADA access and having a second stall inside the garage.

MOTION: Commissioner Suesser moved to APPROVE the Steep Slope Conditional Use Permit and the Building Height Exception for the garage for 352 Woodside Avenue, provided that the length of the garage is reduced from 40' to 36', and in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Campbell seconded the motion.

Chair Strachan asked if clarification was needed on the motion and whether everyone understood the measurements. Commissioner Thimm did not believe the motion fully describes the measurements. Going to a 36' clear depth should mean an adjustment of 2' on both the east and west sides of the house, rather than 4' on one side.

Commissioner Suesser stated that she personally did not have a preference, but she was not opposed to the clarification.

AMENDMENT: Commissioner Suesser amended her motion to specify that the 4' reduction in the length of the garage should be 2' on the east side and 2' on the west side. Commissioner Campbell accepted the amendment to the motion.

VOTE: The motion passed 5-1. Commissioner Phillips voted against the motion.

<u>General Findings of Fact for SS CUP and Height Exception</u>

1. The site is located at 325 Woodside Avenue.
2. The site is located in the Historic Residential-1 (HR-1) zoning district.
3. The site is currently an undeveloped lot of 3,757.5 square feet.
4. The City Council approved the Gill Subdivision Plat Amendment at this location

on July 13, 2017 and the plat is pending recordation.
5. A Historic District Design Review (HDDR) application is currently under review.
6. The applicant requests to build a new single-family dwelling at this location.
7. Single-family dwellings are allowed uses in the HR-1 zone.
8. The proposed single-family dwelling consists of 4,287 square feet. Including the garage and unfinished area, the size is 5,049 square feet.
9. The proposed building footprint is 1,505 square feet which complies with the maximum allowable footprint of 1,521 square feet.
10. The new construction takes place over slopes that are thirty percent (30%) or greater.
11. The applicant is requesting a height exception of 8 feet for a garage on a downhill lot.
12. This is a downhill lot with an average slope of approximately 40%. The greatest slope on the property occurs in the west of the property toward the front of the lot, where the slope can reach up to 66.7%.
13. The proposed front yard setback of ten (10') complies with the minimum front yard setback of ten feet (10').
14. The proposed rear yard setback of ten (10') complies with the minimum rear yard setback of ten feet (10').
15. The proposed side yard setbacks of five feet (5') to the north and nine feet (9') to the south comply with the minimum side yard setbacks of five feet (5') including a total setback of fourteen feet (14').
16. With the exception of the garage on the top floor (pending a height exception approval), the proposed structure complies with the maximum building height, including the following provisions: final grade, thirty-five-foot rule, vertical articulation, roof pitch.
17. This property is located outside of the Soils Ordinance Zone.



<u>Steep Slope CUP Findings of Fact – 352 Woodside</u>

1. The applicant submitted plans including a streetscape showing how the four (4) story structure will be observed when viewed from Woodside Avenue.
2. The proposed structure cannot be seen from the key vantage points as indicated in the LMC Section 15-15-1.283.
3. The proposed house is located within the building pad and outside of all setbacks required on the lot.
4. The proposed garage on the top floor of the home requires a height exception and allows the applicant to have access to Woodside Avenue without a steep driveway.
5. The applicant has provided elevations and a height study to show how the house sits on the slope in relation to existing grade and the zoning height requirements

(Exhibit D) and cross canyon views (Exhibit J) to show a minimal visual impact
6. The proposed addition has a garage accessed directly from Woodside Avenue.
7. The proposed structure provides two tandem parking spaces in the garage on the top floor.
8. The proposed driveway slope is at twelve percent (12%).
9. The proposal includes a retaining wall at the lowest level of the structure extending up toward the second level and around the deck and hot tub area.
10. Proposed retaining walls are in the side and rear yard setback areas but do not exceed 6 feet in height measured from Final Grade.
11. The structure of the house follows the topography of the lot and maintains the maximum building height of 27 feet with the exception of the garage floor, which would meet the maximum building height of 35 feet if the proposed height exception is granted for a garage on a downhill lot. The structure is located on the lot in a manner that least impacts the natural topography of the lot.
12. The proposed building is designed in a manner that is broken into the required series of individual smaller components to reduce the perceived overall massing.
13. The proposed structure has a front yard setback of ten feet (10') consistent with other houses on this street. Increasing the front yard setback would increase overall building height at the rear of the structure due to the steepness of the existing grade.
14. The rear setback of ten feet (10') also meets the zone's rear setback requirements.
15. A proposed patio/deck and hot tub area also extends into the rear and side setback area as allowed by LMC Section 15-2.2-3. The hot tub and decks are located three feet (3') from the rear and north side property lines, and all patio and deck structures do not and do not extend greater than thirty inches (30") above Final Grade.
16. The proposed massing and architectural design components are compatible with both the volume and massing of single-family dwellings in the area comprised of four (4) story dwellings
17. The top floor/garage level is located as closely to the street level as possible with the roof heights measuring between 6½ and 10½ feet above the existing street height.
18. The overall building height ranges from 19 feet to 27 feet, with the garage, front entryway, and circulation area on the top floor proposed at 35 feet from existing grade. This would only be allowed if the height exception is granted.

<u>Height Exception Findings of Fact – 352 Woodside</u>

1. The HR-1 zoning district allows a building height exception for garages on downhill lots.

2. 352 Woodside Avenue is a downhill lot.
3. Such exceptions are allowed to accommodate a single car wide garage in a tandem parking configuration including circulation and a reasonably sized entry area and front porch. If approved, all other areas of the structure must meet HR-1 building height requirements.
4. The applicant is proposing a single car wide garage with an ADA loading area in a tandem parking configuration including a small entry area of 137 square feet and an elevator and stairway circulation area of 161 square feet.
5. The depth of a garage under this exception may not exceed 40 feet, the minimum depth for internal parking spaces.
6. The proposed garage is 40 feet in depth.
7. The additional building height may not exceed 35 feet from existing grade.
8. The applicant is proposing an 8-foot height exception to allow a maximum building height of 35 feet with a maximum interior height of 43 feet.

Conclusions of Law – 352 Woodside

1. The Application complies with all requirements of this LMC.
2. The Use will be Compatible with surrounding Structures in Use, scale, mass and circulation.
3. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval – 352 Woodside

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. A final utility plan, including a drainage plan for utility installation, public improvements, and drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers prior to issuance of a building permit.
4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
5. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
6. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the Design Guidelines for Historic Districts and Historic Sites.

7. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges to confirm that the building complies with all height restrictions.
8. The applicant shall submit a detailed shoring plan prior to the issue of a building permit. The shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer.
9. All retaining walls in setback areas shall not exceed 6 feet in height without an amendment to this CUP approval.
10. This approval will expire on August 23, 2018 if a building permit has not issued by the building department before the expiration date, unless an extension of this approval has been granted by the Planning Director.
11. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission, subject to additional changes related more specifically to the architectural design made during the Historic District Design Review.

**Commissioner Band left the meeting.**

**3. <u>606 Mellow Mountain Road - Second Amendment to the Sunnyside Subdivision to add an adjacent remnant parcel to Lot 11</u>. (Applicant PL-17-03584)**

Planner Whetstone reviewed the plat amendment request to amend the Sunnyside Subdivision to add a 6,200 square foot remnant parcel to the adjacent and existing platted Lot 11, which is approximately 11,600 square feet. The lot and the parcel are owned by the same property owner. For many years the Summit County Recorder has recognized this lot and parcel as one parcel as SNS #11, which is the Sunnyside subdivision #11.

Planner Whetstone reported that an existing house that was constructed on Lot 11 straddles the property line. She identified the lot line that was proposed to be removed. The house was constructed in 1986, which was prior to plat amendments and not being able to build across property lines. Planner Whetstone noted that a similar plat amendment was approved in 2016 for Lot 10 on the south side of Mellow Mountain Road.

Planner Whetstone stated that the plat amendment revolves around a historic error in the recordation of the original subdivision plat and the way that it was surveyed. The east boundary was supposed to align with the MS 5665 Lily No. 3 Mining Claim; however, it did not align in that way. Therefore, the 31' portion on the east side was always attached to

Lot 11 and Lot 10 in the Sunnyside Subdivision. The history was reflected in the Findings attached to the Staff report.

Planner Whetstone stated that situations of non-compliance would not be created by adding the remnant parcel. The house would still have the proper side setback as well as the decks. Minor encroachments exist from rock walls in the right-of-way on Mellow Mountain Road, which will be resolved prior to recordation. The encroachments were addressed in the Conditions of Approval.

The Staff 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 as stated in the Staff report.

Michael Demkowitz with Alliance Engineering was present to answer questions on behalf of the applicant.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Joyce thought Finding of Fact #24, which required that the final mylars be signed by Snyderville Basin, should be a condition of approval rather than a finding. Planner Whetstone stated that it was a standard requirement and she was not opposed to adding it as a condition of approval.

Assistant City Attorney McLean pointed out that it was addressed in Condition of Approval #7. Ms. McLean asked if the snow storage was included as a condition of approval. Planner Whetstone replied that snow storage was addressed in Condition #4. Chair Strachan noted that snow storage was also addressed in Finding #25. Planner Whetstone explained that the requirements are included as facts, and the conditions of approval ensure that the requirements are met.

Commissioner Joyce could not recall seeing that in the past. Planner Whetstone stated that it was being requested more often. Director Erickson offered to look at clarifying the language on future projects.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for the Sunnyside Subdivision Lot 11 plat amendment based on the

Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously. Commissioner Band was not present for the vote.

Findings of Fact – 606 Mellow Mountain Road

1. The property is located at 606 Mellow Mountain Road.

2. The property is in the Single Family (SF) Zoning District.

3. The subject property consists of platted Lot 11 of the Sunnyside Subdivision and a remnant parcel located adjacent to the easterly boundary of Lot 11.

4. The property, including Lot 11 and the remnant parcel, is recognized by Summit County as Parcel SNS-11 (Tax ID).

5. The property is currently developed with a single family house that straddles the common lot line between Lot 11 and the remnant parcel.

6. The proposed plat amendment creates one (1) 17,884 square foot (sf), platted lot of record, by combining the 11,648 sf existing Lot 11 and the 6,236 sf remnant parcel under common ownership.

7. There are no minimum or maximum lot sizes in the SF District.

8. Lots in Sunnyside Subdivision range in area from 8,596 sf to 23,860 sf.

9. Sunnyside Subdivision was approved by City Council on July 19, 1979 and recorded at Summit County on August 3, 1979.

10. At the time of original plat recordation in 1979, land adjacent and to the east, was by error not included in the subdivision plat drafted for recordation. The eastern boundary of the subdivision was to coincide with the eastern boundary of the MS 5665 Lilly No. 3 Mining Claim.

11. The Sunnyside Subdivision plat was drawn up excluding this approximately 31' wide strip of property on the eastern boundary. The strip of land runs north/south from the southern boundary of Lot 10 to the northern boundary of Lot 11 across Mellow Mountain Road.

12. The platting error was discovered in December of 1979 and the 31' wide strip was quit claimed from the original land owner/developer (Royal Street Land Company) to the owner of the recorded subdivision (Park City Alliance, James Gaddis Investment Company, LTD, etc.), as Entry No 161985, Book M147, Page 467 at the Summit County Recorder's Office.

13. On August 27, 1980, a warranty deed, Entry No. 169813, Book M 165, Page 247, was recorded at the Summit County Recorder's office conveying a parcel approximately 31 feet wide extending the length of Lot 11 from the southerly boundary to the northerly boundary. This parcel is the 6,236 sf remnant parcel subject to the requested plat amendment.

14. A similar warranty deed was entered into the records for Lot 10 and the remnant parcel adjacent to Lot 10 was combined by the First Amended Sunnyside Subdivision Lot 10, approved by the City Council on March 24, 2016 and recorded at Summit County on October 27, 2016.

15. In 1986 a building permit was issued for construction of a single family house on Lot 11 located at 606 Mellow Mountain Road. The house was constructed across the warranty deed line and there was no requirement for a plat amendment at that time. The house on Lot 11 was constructed with a side setback measured from the eastern boundary of the warranty deed description, which is the eastern boundary of TAX ID number SNS-11.

16. The applicant desires to resolve the remnant parcel issue.

17. There is no maximum building footprint or house size identified for the Sunnyside Subdivision and all requirements of Land Management Code Section 15-2.11 (SF District) apply.

18. A single-family dwelling is an allowed use in the Single Family (SF) District.

19. There is not a minimum or maximum lot width identified in the SF District. The existing lot is approximately 106.5 feet wide and the proposed lot is 140.7 feet wide.

20. Access to the property is from Mellow Mountain Road, a public street. No changes are proposed to the existing driveway.

21. A low stacked sandstone retaining wall encroaches 2' over the front property line

onto Mellow Mountain Road right-of-way for a distance of approximately twenty feet. Larger, loose individual sandstone boulders to the left of the driveway also encroach into the right-of-way.

22. Utility easements recorded on the Sunnyside Subdivision plat are required to be shown on the amended plat, including 5' wide non-exclusive utility and drainage easements along the front, rear and side lot lines.

23. Summit County documents show that the 5' easement was moved to the eastern boundary of the warranty deed. The applicant will verify that there are no existing utilities in the platted 5' non-exclusive utility easement along the existing Lot 11 easterly property boundary.

24. The final mylar plat is required to be signed by the Snyderville Basin Water Reclamation District to ensure that requirements of the District are addressed prior to plat recordation.

25. Snow storage area is required along public streets and rights-of-way due to the possibility of large amounts of snowfall in this location.

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



Conclusions of Law – 606 Mellow Mountain Road

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 plat amendments.
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 – 606 Mellow Mountain Road

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

2. The applicant will record the plat at the County within one year from the date of

City Council approval. If the plat is not recorded 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. All new construction shall comply with LMC setback regulations in effect at the time of building permit issuance.

4. A ten foot (10') wide public snow storage easement is required along the Mellow Mountain Road frontage of the property and shall be shown on the plat prior to recordation.

5. A five foot (5') wide non-exclusive public utilities, drainage, and SBWRD easement is required along the front, rear and side lot lines of the new lot.

6. Modified 13-D sprinklers are required for any new construction and shall be noted on the plat.

7. All requirements of the Snyderville Basin Water Reclamation District shall be satisfied prior to recordation of the plat.

8. Prior to plat recordation, letters from utility providers (Questar, Rocky Mountain Power, and communications entities) shall be submitted indicating approval of utility easements associated with the new property lines.

9. Staff recommends a condition of approval that the identified encroachments be resolved to the satisfaction of the City Engineer prior to plat recordation.



**4. 1333 Park Avenue, 1353 Park Avenue, and 1364 Woodside Avenue – Woodside Park Affordable Housing Project Phase I – Master Planned Development – A proposed affordable housing project will be located at the site of the former Park Avenue Fire Station Parcel and will consist of four (4) single family dwellings, an eight-unit (8-unit) Multi-Family Dwelling, a thirteen-car (13-car) Parking Lot, and a Pedestrian Easement running east-west. (Application PL-17-03454)**

**5. 1333 Park Avenue, 1353 Park Avenue, and 1364 Woodside Avenue – Woodside Park Affordable Housing Project Phase I – Plat Amendment – Proposal for a three-lot (3-lot) subdivision to create the Woodside Park Subdivision Phase I. (Application PL-17-03439)**

**6. 1353 Park Avenue (actual building to be located at 1354 Woodside Avenue)– Woodside Park Affordable Housing Project Phase I – Conditional Use Permit – Proposal for an eight-unit (8-unit) Multi-Family Dwelling as a part of the Woodside Park Affordable Housing Project Phase I and a Conditional Use Permit at 1364 Woodside Avenue for a Parking Area with five (5) or more spaces for use by the Woodside Park Affordable Housing Project Phase I. (Application PL-17-03453 and PL-17-03452)**

The Planning Commissioner reviewed the three items for the MPD, the Plat Amendment and the two CUPs in one discussion. Separate actions were taken.

Planner Hannah Tyler reviewed the four applications before the Planning Commission this evening; the Master Planned Development, the two conditional use permits and the Plat Amendment. The Staff recommended approval and/or positive recommendations, depending on the type of action required.

The applicant, Park City Municipal Corp, was being represented by Jason Glidden, the Economic Development Programs Manager; Rhoda Stauffer, Affordable Housing Project Manager; and Craig Elliott and Steve Bruemmer, the project architects.

Planner Tyler reported that this was Woodside Park Phase 1 of the affordable housing project. The Planning Commission previously reviewed this project during a work session on July 12th. The Commissioners provided feedback and based on those comments the architects provided additional information, and the Staff provided additional analysis based on that information. The analysis was contained in the Staff report.

Craig Elliott with Elliott Work Group stated that during the work session on July 12th there were specific questions related to the overall scope of the adjacent properties. Mr. Elliott stated that he would begin his presentation with the larger scale and work down to the smaller information.

Mr. Elliott presented an overview of the site starting from Park Avenue, crossing over Woodside, and showing how the overall parcel goes all the way up to Empire and abuts across the street from the primary parking lot at the Park City Base area. Mr. Elliott noted that the parcel was straightened out to follow the grid of the streets. He indicated Park Avenue, Woodside in the middle, how it stretches across the abandoned Norfolk Avenue right-of-way, and up to Empire Avenue.

Mr. Elliott noted that they were working on the first phase of the MPD, which was the master plan with four single-family homes, four townhouses, and four studio units. He recalled that one question raised during the work session was how this works in the overall

context of the site, in the neighborhood, and within the project. He stated that they master planned the property from Park Avenue by maintaining the historic nature and scale with the smaller houses along Park Avenue. It moves to the west with larger single family and then a townhouse multi-family project. Moving across Woodside Avenue are townhouses that are larger in scale and have their own garages. It then goes to a stacked flat structure going up to Empire Avenue. Mr. Elliott believed it was consistent with the development in the neighborhood as it moves from the small scale of City Park and Park Avenue and moves across Woodside to the larger developments. As it moves closer to the resort the density becomes greater. Mr. Elliott thought the plan made sense and allows them to deal with some of the grade change.

Mr. Elliott presented a section which showed more study. He noted that they were trying to work on proof of concept in master planning. As they looked at design projects they take the macro scale down to the micro scale. The micro scale refines the details. The idea of the macro scale is to confirm the capability of the site, to prove that they can get the circulation pattern to move through the site, that they can provide parking, that it fits within the height and context, and not to worry too much about the design concept except for appropriate use, density and shapes of the buildings.

Mr. Elliott noted that the large yellow arrows indicated the connection that goes across from Empire Avenue to Park Avenue, and ultimately to City Park and Miners Hospital. The goal throughout this project has been to create that pedestrian connection. Mr. Elliott stated that those at the Park City base area feel isolated and separated from things close by because there are no good connections between the two areas. Improving that connection creates a better flow of people and experience through the space from the Park City Mountain Base area to City Park. The circulation pattern comes to the corner of the intersection and provides the perfect location to go up the sidewalk into the base area. It also provides the opportunity to come straight across to the Miners Hospital and City Park. Mr. Elliott remarked that it also provides another access from the base area into Old Town, and vice-versa, via the buses going up and down Park Avenue.

Mr. Elliott stated that the next phase of the project will come in with more development as the City releases that project out for design. Phase 1 were the studies that were done to prove concept, the densities, and what the holding of the property would be. He noted that they took it into some detail to understand the different pieces. Seven or eight versions were studied to prove that this could work in Phase 2. He explained that Phase 1 was not about architectural design and expression, but more about the planning portions of the project.

Commissioner Joyce indicated the Phase 2 area shown on the screen and the larger buildings on both side. He stated that in a topo view from Empire they looked like

single family houses on both sides. Mr. Elliott indicated the Acorn property, and Sweetwater across the street. There were other large and dense units. Moving further up was the Marriott Mountainside. Commissioner Joyce clarified that in terms of the continuity of mass and scale, he was looking at the other side of the street, and not the Marriott that was a parking lot away. Mr. Elliott pointed to undeveloped parcels, which he anticipated would be developed at some point. He indicated lodge-type resort housing in another location.

Chair Strachan remarked that the zone was RC, Resort Commercial and those single family homes were built in the RC zone. He recalled that the Planning Commission had this discussion several times with the affordable housing project at 1440 Empire. He commented on existing multi-unit developments going down Empire further to the north. Chair Strachan did not think they could say that everything on that street was single-family, but they also could not say that everything on that street were like the stacked-flats building. There was not a consistent pattern. Mr. Elliott agreed. He remarked that they primarily looked at how to make the transition to the Resort.

Mr. Elliott commented on issues that were raised at the last meeting regarding sound transmission, and solar glare. He had provided additional information to help address those issues, and that information was included in the Staff report.

Mr. Elliott presented the survey and the existing conditions report. He indicated the fire station and the currently vacant parcel, a garage made of concrete block and a historic structure. Mr. Elliott had highlighted the snow storage locations. They have the ability to push the parking lot snow and they have additional snow storage space. Spaces on the side of the primary circulation route goes from Woodside to Park Avenue provides a place to keep the sidewalk clear through that space.

Mr. Elliott recalled discussions during the work session in terms of what they were trying to do with the townhomes and the parking areas located to the north. He indicated where the townhomes were located where the development was concentrated. Mr. Elliott stated that they had assessed the property and derived a couple of different approaches. One was a baseline approach that carves up individual single-family or duplex units along Woodside and Park Avenue. As they looked at it, they realized they would end up with a series of garage doors and entry doors, which resulted in a garage barrage experience that separates people from the street and does not contribute to building a community. They studied a number of different approaches and came up with the idea of creating townhouses that had a parking area to the north, and created covered parking that could be used to generate electricity with solar panels. That allows for porches, stoops and front doors on Woodside and on the open space that was created as a common green area. It will allow porches on the back of the historic

houses and the smaller single family, and maintain them along Park Avenue. Mr. Elliott remarked that the intent was not to just build a place to house people. The goal was to create a community in this location. In order to do that they took away all the things that tend to push people away from each other and consolidated the parking into one location. Mr. Elliott explained that going through the MPD process allowed the removal of all the driveways, which would have had cars parked on them. There would have been a garage with one car, and a second car between the property line and the garage. Six to eight cars would have been parked in the driveways along Woodside Avenue. Instead, they put all the cars in the parking lot. Mr. Elliott believed the small exception they were asking for on the corner for the setback outweighed the six to eight cars that would have been parked in the setback. Mr. Elliott wanted the Commissioners to understand why they approached it this way from a design perspective and why he believes it improves the quality of that space.

Mr. Elliott recalled that at the last meeting they talked about the densities, how the units are configured, how they work and how they are interlocked. There are four two-bedroom townhouses that are two-stories and one studio that is interconnected that accesses on one side or the other. He noted that the entries were flipped. There is a townhouse entry on Woodside, and a studio entry off the common green area. Another slide shows a studio having a porch and entry off of Woodside and the townhouse entering off of the greenspace. Since they were all coming from the parking lots, sidewalks service both sides. Mr. Elliott remarked that they were able to create variety in the building shape and form, create interest on each side, and provide a different experience from studio to townhouse. He thought it was an interesting way to create a different dynamic in that space in terms of design and use.

Mr. Elliott provide overall aerial images of the project. He presented a short video of the exterior, as well as a video that showed the interior of one of the townhouses and one of the studios. He believed the videos would help the Commissioners understand how the project functions. Mr. Elliott noted that all the furnishings in the studios are built in, which helps to provide quality space in a small studio space. Mr. Elliott used another video to walk through the project using the sidewalks and going to the parking area.

Mr. Elliott reiterated the reasons behind this design concept, and the goal to connect the base area of the Park City Resort to the overall town.

Commissioner Suesser asked Mr. Elliott to point out the access to the storage area that was underneath each unit. Mr. Elliott replied that it was exterior access that comes in between the parking area on the north side. It is a covered entrance where people can come in and out with their gear. Commissioner Joyce asked if there was storage for four townhouses or whether the studios also have storage underneath their unit. Mr.

Elliott assumed the studio units would be included in that storage space. He stated that the space had not yet been divided up, but here was plenty of room to accommodate the entire project.

Commissioner Joyce stated that Commissioner Band had asked him to find out if this parcel was in the flood zone. Mr. Elliott stated that it was currently in the flood zone but it was mapped to be out of it if that change actually occurs with the Corp. Assuming that it does not change, Commissioner Joyce asked if there was a plan for handling flood insurance. Mr. Elliott replied that it was designed such that all of the main living spaces are above the flood plain. Certain types of uses can be in the flood zone and they had already met with the City Engineer.

Commissioner Joyce asked about flood insurance. Rhoda Stauffer explained that by law the HOA would have to hold the flood insurance. Commissioner Joyce assumed it would be bundled with the HOA fee for the residents.

Commissioner Joyce asked if the studio renters would pay HOA fees and taxes, or whether it would be strictly a rental arrangement and the townhouse owners pays the fee and taxes. Jason Glidden replied that the concept is to treat the townhome and the studio as one large unit. The studio is a rental, but owned by the owner of the townhome. The townhome owner would assume those expenses, similar to any other property with an auxiliary unit or room that is rented out.

Commissioner Joyce commented on a question in the Staff report where the Planning Commission previously asked the applicant to provide an explanation of the multi-unit dwelling ownership/studio unit allocation. He noted that the applicant had provided the answer. Commissioner Joyce did not understand the mechanics of how renting the studio would work. For example, if he qualifies for a townhouse and he wants to rent his studio, it appears that he would be limited to who he could rent to because they can only earn 30-60% of the AMI, must be working full-time in the school district boundary, and the rent varies based on salary and the AMI percentages. Commissioner Joyce stated that as a townhome owner he could not certify where someone works or their salary. In addition, he would not want to rent to the person who could only afford to pay $515 when he could rent to another person who can pay $1,024.

Ms. Stauffer replied that there would be an application process that the City would help administer and evaluate. Commissioner Joyce asked if the City would be picking the renter. Mr. Glidden thought it was important to understand that the purpose of this concept is to make sure they were getting affordable housing, and at the same time creating affordable rental units. Commissioner Joyce understood the goal, but he thought they were putting the rental responsibilities on to four individuals versus the City

managing it. They would be required to do things that individual owners do not normally have the right to do when they rent space. Mr. Glidden pointed out that Ms. Stauffer had said the City would help and assist in the application and verification of the applicants. There needs to be assurance and compliance to make sure the units are being used for the intended purpose of an affordable rental unit. The deed restrictions and the City assisting with the vetting process will take some of the burden off of those homeowners.

Commissioner Joyce reiterated his concern that even with City assistance, it would be burdening individual homeowners in an awkward way. The rent is variable based on salary and not market value. Ms. Stauffer clarified that the rents were not set yet, but they would be set before the townhomes units are sold. The rent would not be variable for the unit owner. What Commissioner Joyce was referring to in the Staff report was a range, but they had not determined what the specific rent would be within that range. Commissioner Thimm asked if the studio units would all rent for the same amount. Ms. Stauffer thought it was very likely that they would.

Assistant City Attorney McLean advised the Planning Commission to focus the conversation on the MPD. She noted that the actual rental program was a decision by the City Council and it was out of their purview. Commissioner Joyce agreed to a point. However, the Planning Commission was being asked to look at a very strange structure that was part of the design implementation. It would be the owner's tenant, not the City's tenant, and there were significant responsibilities attached to the implementation.

Commissioner Joyce clarified that he did not have issues with the buildings and he thought the project looked very nice; but he seriously questioned whether the proposal for the townhome and studio units was viable. He was unsure how forcing deed restrictions could possibly be managed. Commissioner Joyce believed this was part of the MPD discussion.

Mr. Glidden remarked that another goal was a source of revenue for the owners to help make the townhome units affordable. That was a main goal in addition to creating affordable apartment units. Ms. Stauffer stated that in other models where this has been done successfully for many years, it is viewed as a wealth building model for the person who buys the double unit. It is not nearly as restrictive as Commissioner Joyce suggests, and it works very well. She pointed out that the websites listed in the Staff report should provide more details on how it works across the nation.

Commissioner Joyce understood the rental piece of the affordable housing, but he thought the deed restriction, the requirement to work in Park City, and the salary income limits lead to another set of questions and issues.

Community Development Director, Anne Laurent, was willing to take these policy issues to the next level, and she did not believe it affected the design choices presented this evening. Ms. Laurent agreed that there was a lot to consider to make sure there were options; for example, allowing a family member to live there without charging rent. If there were problems selling the units, that would show up at the time of application, and the City would have to revisit the policy at that point. Ms. Laurent reiterated that these were policy questions that would not affect the design. She suggested that the Commissioners document their concerns and the Staff would take them to the next level as they move forward.

Chair Strachan opened the public hearing on the MPD, the plat amendment and the two CUP applications.

There were no comments.

Chair Strachan closed the public hearing.

Chair Strachan liked the direction this was going and thought the planning was remarkable. He appreciated being informed looking forward to Phases 2 and 3, because it helps him understand what they are doing overall in a broader perspective. Chair Strachan felt his concerns at the last meeting had been addressed.

Chair Strachan still struggled with the covered parking area, even though it would be solar. In his opinion it did not look like Park Avenue or Woodside, and he could think of nowhere else on Park Avenue or Woodside that had it. If the intent was to design something unique and desirable for the City, he believed they had designed it to the maximum. Chair Strachan stated that he had a difficult time coming to a compatible conclusion on the parking. However, overall he thought the benefits of the project outweigh any compatible issues. He also recognized that they were mitigating it with solar.

Mr. Elliott stated that during the public comment sessions they held on the project, the abutting neighbors were excited to have the parking rather than adjacent buildings because it left the open space to the west and their views of the mountain unobstructed.

Chair Strachan remarked that another more expensive option would be underground parking. Commissioner Phillips asked if underground parking had been discussed. Mr. Elliott replied that they had looked at underground parking, but that area is very flat and it was difficult to find a plan that worked.

Chair Strachan agreed with Ms. Laurent and Ms. McLean that the Planning Commission should not be involved in policy discussion. The MPD section of the LMC envisions mixed rental and owner/occupant projects. A requirement to be economically feasible is not one of the MPD findings that the Planning Commission needed to make, and he did not feel qualified to render an opinion. He deferred that decision to Ms. Stauffer, Mr. Glidden, and Staff.

Planner Suesser stated that she had the same concerns about the parking structure because it is unusual. She was pleased that they had explored below ground parking; however, she assumed being in the flood plain was also an issue for underground parking. Planner Suesser had similar concerns as Commissioner Joyce regarding the structure of the studio apartments, but she held her comments since they were not going to address the policy issue. Overall, she thought it was a good-looking project.

Commissioner Phillips agreed with the comments regarding parking; but understanding why it is there and what it achieves, it was a very good decision. He was pleased to know that the neighbors supported it. Commissioner Phillips noted that the applicant came back with the correct information after hearing their comments at the work session. He commended the architects on a well-designed project. Commissioner Phillips thought it would be an active space and he was excited about the project.

Commissioner Phillips was not aware of the timing for Phase 2, but if it is more than a two-year delay from the completion of Phase 1 to the beginning of Phase 2, he would like the City to explore doing a temporary set of stairs to activate the connection to Park Avenue and City Park. Chair Strachan and Commissioner Suesser concurred. Commissioner Phillips stated that in his four years on the Planning Commission this ranked with some of his favorite projects and he was excited about it.

Commissioner Joyce stated that in another project they talked about electric car charging. He noted that the City is pushing people towards electric cars, and if electric cars take off the way the manufacturers are pushing, having one E-charging space was not sufficient. Commissioner Joyce asked if the City had a plan for five or ten years down the road when 70% of people have electric cars.

Mr. Glidden stated that they continue to work with the Environmental Sustainability Manager, and he was currently working to find the best solutions and options for charging stations. The plan would be to stub out for that so they could install whatever the Sustainability Manager decides is the proper approach for these units. Mr. Glidden remarked that it was a City Council priority to include that in the designs moving

forward. He pointed out that charging stations were not designed into this project as of yet, but it has been discussed. Being a parking lot, it would be easy to add it.

Mr. Elliott remarked that they also talked about car sharing as an option in that location. There are several things in the process they have been trying to get input on as they get into the construction documents.

Commissioner Joyce would like the City to take the lead in setting a good example as part of their bigger development projects. He thought it was important to plan for it now rather than waiting until there is a need.

Director Erickson stated that if the rest of the Commissioners agreed, they could make a recommendation that the City put in the basic infrastructure. The could add transformers and conduit, but not wire the charging stations until they have been selected.

Commissioner Thimm stated that in terms of EV stations, as long as there is a PV array to support it, it would be good. If the City requires EV stations which involves plugging a car into a coal fired power plant, he has read studies that indicate it could potentially worsen the carbon footprint. Director Erickson replied that Sustainability, Housing, and Planning were trying to address the issue of plugging into a coal fired plant. However, he thought it was appropriate to prepare the basic infrastructure. Commissioner Thimm agreed with putting in the infrastructure. Director Erickson stated that once the infrastructure is resolved, they could deal with the other issues moving forward. Commissioner Thimm requested that they add that stipulation.

Commissioner Joyce thought the applicant had addressed the snow storage issues. However, he noted that one of the two roofs sluffs out into the parking lot, and the other one sluffs out on to the sidewalk that everyone will use to and from the parking lot. Commissioner Joyce asked for an explanation of how the snow storage would work. Mr. Elliott explained that they would have a snow management plan. The sloped roof is relatively flat and the solar panels would help melt the snow on the roof. One reason for locating the snow storage at the end of the parking was to reduce some of the issues encountered in a typical parking lot where they have to move cars to remove the snow. Mr. Elliott remarked that the snow storage is set up to be managed relatively easy.

Commissioner Joyce stated that his primary concern was with the one that dumped the snow into the sidewalk between the parking and the townhouses. Mr. Glidden stated that the City Staff had the same concern when they looked at the design. Based on some of the calculations with the pitch of the roof and how far that sidewalk is off of

those buildings, they were comfortable that the snow would not come on to the sidewalk area. Mr. Elliott showed the section through the townhomes, and the snow coming off and projecting. He indicated the walkway and showed how the opening was protected with a roof. He explained that the way snow is calculated it does not shoot straight off across. He thought they had addressed most of those issues when they looked at the details. Mr. Elliott pointed out that there are always unexpected conditions, but for the majority of the time this was a good solution.

Commissioner Thimm thought the planning was very well done and it achieves excellent goals from massing and desirable locations for the various densities. Creating the mid-block connection and the circulation are important issues and he was grateful for what was achieved. Commissioner Thimm thought the openings and doorways on different sides of the building support a community environment and are attentive to that goal. He believed that was an excellent part of the design.

Commissioner Thimm stated that as he looked at the project, he saw the PV array as a positive because it shows a commitment to sustainability that they want to endorse in the community. With respect to the structure of the townhomes/studio units, in looking at affordable housing and finding solutions, he believed that thinking out of the box and creating solutions that provide opportunities that might not otherwise exist is very positive. He would like the City Council to look into a way to monitor the structure year to year or across a specified time period to determine its actual success for this community.

Commissioner Campbell thought it was obvious that a lot of thought went into a great plan. He agreed that when they give approval to a multi-phased project it helps if they can see a rough outline of what the rest of the project will look like; understanding that the applicant retains the right to make changes. It helps to see the overall plan and he thanked them for providing it.

Commissioner Campbell echoed the comments regarding electric cars. He is a builder and he has not built a house in the last five or six years that did not have a 100-amp car charging station. A knows that a lot of people only put in 30 or 40 amps but that is not enough. If they multiply the number of car spaces by 100 amps it would be difficult to retrofit for it later. Commissioner Campbell recommended that they plan for it in advance and he supported the idea moving forward. He believed that the power issue would be sorted out and resolved at a higher level.

Commissioner Campbell thought there was more need for affordable rentals than affordable ownership. He suggested that for these units or in other projects, that they consider selling the units to people who might want to own them but not occupy them.

However, most people would not want to manage the rental aspect and he suggested that the City put a management structure in place that would manage the hassle of renting for the owners. He would like the City to look into whether or not that was feasible.

Chair Strachan understood that there was agreement for putting in the infrastructure for EV capability, and he recommended that they also include E-bikes. Director Erickson suggested that they make that recommendation and let the City and the applicant determine the best way to handle it.

Commissioner Joyce commented on the second phase. He thought it looked like they were bringing in all the traffic to the underground parking and the garage parking off of Woodside. Since Woodside is another substandard road, he asked if they had looked at the impacts. Mr. Glidden stated that the City was in the early stages of getting ready to release a new RFP for the design of this property. They could definitely look at it.

Commissioner Joyce clarified that when they look at other projects like King's Crown and Treasure Hill, they try to anticipate all the upcoming projects that will put traffic on to those intersections. If this project intended to filter one or more of its larger density pieces out on to Empire or even Woodside, that would be important to know for the other discussions. Mr. Elliott explained that it was put on Woodside because of an elevation issue. In addition, the turning radius of all the bus routes was right on that intersection and having a driveway in that location was not safe. For those reasons the access point coming from Woodside seemed to be the best place, but they have not looked beyond those reasons.

Community Development Director Laurent stated that they would be looking at traffic impacts and working with the City Engineer.

Ms. Laurent also clarified that when they do deed-restricted affordable housing it has to be owner-occupied. If it is a rental project it must be long-term rentals. They are focusing the development on permanent residents in the community. Commissioner Joyce did not believe that changed the traffic numbers. Director Erickson replied that it affects trip generation. A permanent house has a different trip generation rate than a condominium. However, in their review the Staff has said that the Phase 2 MPD restricts driveway accesses on to Empire and Woodside and; therefore, reduces the friction of the people trying to back out onto those street. The density is not over the what the RC density allows in that location, and the trip generation is already in the models. It just reduces the friction by reducing the driveways.

Commissioner Joyce asked if the traffic information provided by Alfred Knotts and Matt Cassel during the Treasure Hill discussion included this project. Director Erickson stated that he would verify it, but he believed they used the baseline density for trip generation, which is the RC zone densities.

Director Erickson noted that the motion for the MPD should include the addition of two conditions of approval. 1) That the basic infrastructure for electronic charges to be installed in the parking lot and for e-chargers to be installed at a later date. 2) An e-bike location should be located somewhere on the site.

Planner Tyler asked if they wanted the e-bike locations in place on the day the units are sold or whether it was just a general plan. Chair Strachan thought the need would drive itself.

MOTION: Commissioner Joyce moved to APPROVE the Master Planned Development for the Woodside Park Affordable Housing Project Phase I with a recommendation to provide the basic power required for e-charging cars, based on the Findings of Fact, Conclusions of Law and Conditions of Approval. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously. Commissioner Band was not present for the vote.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for the Woodside Park Subdivision Phase I located at 1333 Park Avenue, 1353 Park Avenue, and 1364 Park Avenue, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously. Commissioner Band was not present for the vote.

MOTION: Commissioner Suesser moved to APPROVE the Conditional Use Permit for the Multi-unit dwelling unit at 1353 Park Avenue, The Woodside Park Affordable Housing Project, Phase 1, based on the Findings of Fact, Conclusions of Law and Conditions of Approval described in the Staff report. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously. Commissioner Band was not present for the vote.

MOTION: Commissioner Suesser moved to APPROVE the Conditional Use Permit for the parking area with five or more spaces with regard to 1353 Park Avenue, the Woodside

Park Affordable Housing Project Phase I, based on the Findings of Fact, Conclusions of Law and Conditions of Approval described in the Staff report. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously. Commissioner Band was not present for the vote.

Findings of Fact – MPD – Woodside Park Affordable Housing Phase I

1. The proposed site location consists of 1333 Park Avenue ("Significant" Single-Family Dwelling), 1353 Park Avenue (the former Park Avenue Fire Station parcel), and 1364 Woodside Avenue (vacant lot)
2. The site is known as the Woodside Park Affordable Housing Project Phase I.
3. Phase I of the Woodside Park Affordable Housing Project will consist of 10.68 Unit Equivalents to be located between Woodside Avenue and Park Avenue. The scope will include: Demolition of the former Park Avenue Fire Station; Four (4) Single-Family Dwellings; An eight-unit (8-unit) Multi-Unit Dwelling; A Thirteen-car (13-car) Parking Lot and an Access Easement running east-west.
4. During a Work Session on August 25, 2016, City Council provided the Lower Park Avenue Affordable Housing Project Team (Elliot Workgroup, Economic Development, Housing, Planning, and Community Development) with direction to pursue a preferred concept for affordable housing on the former Park Avenue Fire Station Parcel.
5. At the October 20th, 2016 meeting, City Council provided affirmative direction to pursue the preferred concept, as amended, and begin the Land Use process.
6. The Project Team met weekly to develop the required Land Use application submittals and conduct further LMC pre-reviews with Planning Department staff as required by the Land Management Code 15-6-4.
7. There are eight (8) applications total for the entire scope of Phase I.
8. On January 26, 2017 Elliot Workgroup submitted the MPD application as the representative for Park City Municipal Corporation. The application was deemed complete on March 2, 2017 after staff worked with the applicant on the requirements for the submittal.
9. The Planning Commission reviewed and continued this Master Planned Development application during a Work Session on July 12th, 2017. The Planning Commission held a public hearing and continued the Master Planned Development application on July 26th, 2017.
10. On June 28th, 2017, July 12th, 2016, August 9th, 2017 the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published on the Utah Public Notice Website and Park Record on June 24th, 2017, July 8th, 2017, and August 5th, 2017 according to requirements of the Land

Management Code.
11. At the July 12th, 2017 Work Session, the Planning Commission reviewed the entire scope of the project and discussed specific items with the applicant. The specific discussion items included, but were not limited to Snow storage, Area context on a neighborhood scale, Parking Requirements based on unit type, Solar panel glare, Other examples of similar Affordable Housing projects, and Sound mitigation between units of the Multi-Unit Dwelling.
12. On March 1, 2017, the Historic Preservation Board (HPB) reviewed the Historic District Design Review (HDDR) application and approved the Material Deconstruction and Relocation of the “Significant” Single-Family Dwelling at 1323 Woodside Avenue to 1353 Park Avenue.
13. On March 1, 2017, the HPB reviewed the HDDR application and approved the Material Deconstruction of the “Significant” Single-Family Dwelling located at 1333 Park Avenue.
14. The remaining HDDR applications are under review by Planning Staff pending additional modifications and/or reviews by Planning Commission for the Conditional
15. The proposal complies with Land Management Code (LMC) § 15-6-5(A) Density as the proposed Density of the MPD does not exceed the maximum Density in the zone. The proposed MPD consists of 5.25 Residential Unit Equivalents.
16. Land Management Code (LMC) § 15-6-5(B) Building Footprint is not applicable as the site is not located in the HR-1 or HR-2 District. The proposed MPD is located in the HR-M Zoning District.
17. The proposal complies with Land Management Code (LMC) § 15-6-5(C) Setbacks as Per LMC 15-6-5(C)(2), for parcels less than one (1) acre in size and located inside the HRM, HR-1, HR-2, HR-L, HRC, and HCB, Districts, the minimum Setback around the exterior boundary of an MPD shall be determined by the Planning Commission in order to remain consistent with the contextual streetscape of adjacent Structures.
18. The Woodside Park Affordable Housing Phase I MPD area is less than one (1) acre in size in the HRM Zoning District, therefore, the setbacks shall be determined by the Planning Commission.
19. The two (2) Single-Family Dwellings located on Lot 1 abutting Park Avenue (1343 Park Avenue and 1353 Park Avenue) shall have a 10 foot rather than the Zone required15 foot Front Yard Setback which is consistent with many of the existing single-family dwellings on Park Avenue (including the neighboring “Significant” Single-Family Dwelling located at 1359 Park Avenue).
20. The two (2) Single-Family Dwellings (1343 Park Avenue and 1353 Park Avenue) will comply with all other applicable Setbacks, will comply with the minimum Uniform Building Code and Fire Code requirements, does not increase project Density, maintains the general character of the surrounding neighborhood in terms of mass, scale and spacing between houses, and meets open space criteria set forth in

Section 15-6-5(D). No additional density is achieved by the decreased setback and all other requirements will still be met.
21. Parking Space 13 of the Parking Lot abutting Woodside Avenue on Lot 1 shall have a minimum Front Yard setback of12 foot 8 inches. The remainder of the Parking Lot will comply with all applicable Setbacks. Parking Space 13 encroaches into the Front Yard Setback by a maximum of approximately 2 feet 4 inches. The Parking Lot is compatible with the streetscape and is appropriately screened. The Carport Structure will comply with all applicable HRM Zone required Setbacks.
22. The Front Yard setback of 12 feet 8 inches for Parking Space will not result in greater project density and will be properly buffered/visually mitigated through vegetative and fenced screening that is compatible with the Design Guidelines for Historic Districts and Historic Sites.
23. The Setback for Parking Space 13 will result in an additional Parking Space for the project, which the project team is contemplating potential uses as electric car charging station, car-share, and other uses that are compatible with goals set forth in the General Plan (ex. Goal 5 - Environmental Mitigation objectives and implementation strategies). Parking Space 13 will allow for one (1) additional car to park off-street rather than on the street.
24. The proposal complies with Land Management Code (LMC) § 15-6-5(D) Open Space because the proposed MPD is considered a redevelopment of existing Development; therefore, the Planning Commission shall reduce the required open Use Permits.
space to 30% in exchange for project enhancements. The proposed MPD area is a total of 26,940 square feet. The applicant is proposing 52.41% Open Space which equates to 14,119 square feet.
25. The total required Parking Spaces of the entire project is 13.5 (14 when rounded to the next whole number) Parking Spaces. The total number of Parking Spaces provided by the project is 15 Parking Spaces.
26. The proposed MPD is providing one (1) additional Parking Space in excess of what is required by the Land Management Code.
27. The two (2) Historic Single-Family Dwellings located on Park Avenue (1333 Park Avenue and 1353 Park Avenue) do not have a Parking Requirement per LMC 15-2.4-6 Existing Historic Structures; therefore, no parking is provided for these structures.
28. The non-Historic Single-Family Dwelling located at1334 Woodside Avenue has a single-car garage and driveway providing the required two (2) parking spaces on its own site.
29. The Multi-Family Dwelling (1354 Woodside Avenue) and non-historic Single-Family Dwelling (1343 Park Avenue) combine for a total of 11.5 Parking Spaces required which will be provided in the 13-car Parking Lot.
30. One (1) of the Parking Spaces is ADA compliant for van accessibility in accordance

with the ADA requirements.
31. Per LMC 15-3-9 Bicycle Parking Requirements, the Multi-Unit Dwelling must provide at least three (3) bicycle Parking Spaces or ten percent (10%) of the required off-Street Parking Spaces, whichever is greater, for the temporary storage of bicycles. The applicant is proposing to provide five (5) Bicycle Parking Spaces.
32. The proposal complies with Land Management Code (LMC) § 15-6-5(F) Building Height because the proposed MPD complies with the Building Height requirements for the HRM Zoning District. No Height exception is requested.
Staff has provided analysis for the applicable criteria above:
33. The proposal complies with Land Management Code (LMC) § 15-6-5(G) Site Planning because; the units are sited in such a way that is compatible with other residential structures in the Historic District, specifically respecting the Historic rhythm and scale of the streetscape on both Woodside Avenue and Park Avenue; Due to the relatively flat topography, very little retaining will be necessary. All retaining walls on site are no higher than 4 feet in total height. All retaining walls will be stacked stone consistent with those found in the Historic District; Roads, utility lines, and Buildings are designed to work with the Existing Grade. Cuts and fills are minimized; The project scope includes an Access Easement running east-west which will link the City Park and Park Avenue bus stops to Woodside Avenue; ample snow storage areas are provided in accordance with the requirements of the LMC for the Access Easement, internal sidewalks, and Parking Lot; An enclosed trash and recycling structure has been provided on site which included a total of 12 cans (6 Recycling and 6 Trash).
34. The proposal complies with Land Management Code (LMC) § 15-6-5(H) Landscape and Street Scape because there is no existing significant vegetation. There is a landscape buffer for the Parking Lot and landscaping throughout the remainder of the project that is consistent with that found in the Historic District, including, but not limited to, natural turf, native grasses, deciduous trees, shrubs, and other alpine perennials.
35. Land Management Code (LMC) § 15-6-5(I) Sensitive Lands Compliance is not applicable as the site is not located within the Sensitive Lands Overly District.
36. Land Management Code (LMC) § 15-6-5(J) Employee/Affordable Housing is not applicable as Eleven (11) of the twelve (12) proposed units are designated as Affordable Housing.
37. Land Management Code (LMC) § 15-6-5(K) Child Care is not applicable as the scale of this project is minor and much less than the allowed Zone Density. The Park City Library has Child Care which is located within walking distance and there is significant open space within the vicinity and on the proposed project site (City Park, Library Park, etc.).
38. Land Management Code (LMC) § 15-6-5(L) Mine Hazards is not applicable as there are no known Physical Mine Hazards on the property.

39. Land Management Code (LMC) § 15-6-5(M) Historic Mine Waste Mitigation is not applicable as there are no known Physical Mine Hazards on the property. The site is within the Soils Ordinance Boundary and the site will have to meet the Soils Ordinance which is standard for all Development and is Condition of Approval #5 of the Plat Amendment.
40. The proposal complies with Land Management Code (LMC) § 15-6-5(N) General Plan Review as the proposed MPD fulfills the following Goals 3, 5, 7, 8, 15 of the General Plan and the applicable Objectives and/or Implantation Strategies of each as further described in the Analysis section of this report.
41. The proposal complies with Land Management Code (LMC) § 15-6-5(O) Historic Sites as the applicant submitted a Historic Preservation Plan and Physical Conditions Report for the Historic Single Family Dwellings located at 1333 Park Avenue and 1353 Park Avenue. 1333 Park Avenue will be rehabilitated and 1353 Park Avenue will be relocated from 1323 Woodside Avenue and reconstructed at the new site. As a part of the Plat Amendment application, Condition of Approval #4 requires that both structures (1333 Park Avenue and 1353 Park Avenue) shall have Façade Preservation Easements placed on them prior to sale to a new property owner. Both structures are already listed as “Significant” on Park City’s Historic Sites Inventory.
42. The property is located in a FEMA Flood Zone A.

<u>Conclusions of Law – MPD – Woodside Park Affordable Housing Phase I</u>.

A. The MPD, as conditioned, complies with all the requirements of the Land Management Code;
B. The MPD, as conditioned, meets the minimum requirements of Section 15-6-5 herein;
C. The MPD, as conditioned, provides the highest value of Open Space, as determined by the Planning Commission;
D. The MPD, as conditioned, strengthens and enhances the resort character of Park City;
E. The MPD, as conditioned, compliments the natural features on the Site and preserves significant features or vegetation to the extent possible;
F. The MPD, as conditioned, is Compatible in Use, scale, and mass with adjacent Properties, and promotes neighborhood Compatibility, and Historic Compatibility, where appropriate, and protects residential neighborhoods and Uses;
G. The MPD, as conditioned, provides amenities to the community so that there is no net loss of community amenities;
H. The MPD, as conditioned, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.
I. The MPD, as conditioned, meets the Sensitive Lands requirements of the Land

Management Code. The project has been designed to place Development on the most developable land and least visually obtrusive portions of the Site;
J. The MPD, as conditioned, promotes the Use of non-vehicular forms of transportation through design and by providing trail connections; and
K. The MPD has been noticed and public hearing held in accordance with this Code.
L. The MPD, as conditioned, incorporates best planning practices for sustainable development, including water conservation measures and energy efficient design and construction, per the Residential and Commercial Energy and Green Building program and codes adopted by the Park City Building Department in effect at the time of the Application.
M. The MPD, as conditioned, addresses and mitigates Physical Mine Hazards according to accepted City regulations and policies.
N. The MPD, as conditioned, addresses and mitigates Historic Mine Waste and complies with the requirements of the Park City Soils Boundary Ordinance.
O. The MPD, as conditioned, addresses Historic Structures and Sites on the Property, according to accepted City regulations and policies, and any applicable Historic Preservation Plan.



Conditions of Approval – MPD – Woodside Park Affordable Housing Phase I

1. The project shall fully comply with any provisions indicated in the LMC or approved MPD regarding lighting, trash/recycling enclosures, mechanical equipment, etc.
2. A conditional use permit is required for the Multi-Unit Dwelling and Parking Area of five (5) or more spaces prior to issuance of a building permit.
3. A development agreement as described in LMC Section 15-6-4(G) shall be ratified by the Planning Commission within 6 months of this approval and prior to issuance of a building permit for the project.
4. All vehicle access to the site shall be off of Woodside Avenue.
5. Parking Space Allocation within the Parking Area shall be established as a part of the CC&Rs.
6. The basic infrastructure for electronic charges to be installed in the parking lot and for e-chargers to be installed at a later date.
7. An e-bike location should be located somewhere on the site.

Findings of Fact – Plat Amendment – Woodside Park Affordable Housing Phase I

1. The property is located at 1333 Park Avenue, 1353 Park Avenue, and 1364 Woodside Avenue in the Historic Residential-Medium Density (HR-M) District.
2. The proposed site location consists of 1333 Park Avenue (“Significant” Single-Family Dwelling), 1353 Park Avenue (the former Park Avenue Fire Station parcel), and 1364 Woodside Avenue (vacant lot).

3. The subject property location currently consists of three (3) existing lots. Existing 1333 and 1353 Park Avenue are each single lots abutting both Park Avenue and Woodside Avenue. Existing 1364 Woodside Avenue consists of Lot 2 of the Sernyak Subdivision which was approved and recorded at Summit County in 2005.
4. The proposed Plat Amendment creates a three-lot (3-lot) subdivision from three (3) existing lots.
5. Existing 1364 Woodside Avenue and 1353 Park Avenue will be combined to create Lot 1. Existing 1333 Park Avenue will be subdivided halfway between Park Avenue and Woodside Avenue to create Lot 2 (abutting Park Avenue) and Lot 3 (abutting Woodside Avenue).
6. A portion (74.3 square feet) of the western boundary of existing 1353 Park Avenue will be dedicated as Right-of-Way for Woodside Avenue.
7. The east-west Access and Utility Easement will run along the southern boundary of Lot 1 and the northern boundary of Lots 2 and 3.
8. The Plat Amendment application was submitted on January 10, 2017 for the Woodside Park Subdivision - Phase I. The application was deemed complete on February 15, 2017 after staff worked with the applicant on the requirements for the submittal.
9. The minimum lot width in the HRM District is 37.5 feet; the lot width of Lot 1 will be 100.99 feet (east boundary) and approx. 167.5 feet (west boundary). The lot width of Lot 2 and Lot 3 is 41 feet each.
10. Per LMC 15-6-5(C) MPD Requirements - Setbacks, the minimum Setback around the exterior boundary of an MPD shall be twenty-five feet (25') for Parcels greater than one (1) acre in size. The Woodside Park Affordable Housing Phase I MPD area is less than one (1) acre in size, therefore, the applicant is requesting that the setbacks be reduced to that of the Zone Setbacks for all Uses.
11. For lots over 75 feet in depth, the required Front Yard Setback for the Single-Family Dwellings and the Parking Lot is 15 feet in the HRM Zoning District.
12. As a part of the Master Planned Development application, the applicant is requesting an additional Front Yard setback reduction for the two (2) Single-Family Dwellings located on Lot 1 abutting Park Avenue. The two (2) Single-Family Dwellings on Lot 1 are proposing 10 feet rather than the Zone required 15 feet Front Yard Setback which is consistent with many of the existing single-family dwellings on Park Avenue (including the neighboring “Significant” Single-Family Dwelling located at 1359 Park Avenue). No additional density is achieved by the decreased setback and all other requirements will still be met.
13. As a part of the Master Planned Development application, the applicant is requesting an additional Front Yard setback reduction for one (1) Parking Space of the Parking Lot abutting Woodside Avenue on Lot 1. The minimum Front Yard Setback for a Parking Lot is 15 feet in the HR-M Zoning District. The applicant is

proposing a Front Yard Setback for the Parking Lot of 15 feet on the south and 12 feet 8 inches on the north. Parking Space 13 encroaches into the Front Yard Setback by a maximum of 2 feet 4 inches. The Parking Requirement for the entire project requires that the Parking Lot provide 11.5 Parking Spaces (for complete Parking Analysis, please reference the MPD Staff Report in this Planning Commission Meeting Packet); therefore, Parking Space 13 is not required to fulfill a Parking Requirement.
14. If the Lot depth is 75 feet or less, then the minimum Front Yard 10 feet.
15. The required Front Yard Setback for the Multi-Unit Dwelling is 20 feet.
16. The required rear yard setback for the Single-Family Dwellings and the Parking Lot is 10 feet in the HRM District. The applicant is proposing a 10-foot rear yard setback for the Single-Family Dwellings and Parking Lot.
17. The required side yard setback for the Single-Family Dwellings is 5 feet in the HRM District. The applicant is proposing a minimum of 5 feet side yard setbacks for the Single-Family Dwellings.
18. The required side yard setback for the Multi-Unit Dwelling and Parking Lot is 10 feet in the HRM District. The applicant is proposing a minimum of 10 feet side yard setbacks for the Multi-Unit Dwelling and Parking Lot.
19. A single-family dwelling is an allowed use in the HRM Zoning District.
20. A Parking Lot and Multi-Unit Dwelling are Conditional Uses in the HRM Zoning District. The Conditional Use Staff Reports can be found within this Planning Commission meeting packet.
21. Staff finds good cause for this Plat Amendment as the proposed subdivision will create the necessary lot configurations for a compatible infill of Affordable Housing in the Historic District.
22. The site is not located within the Sensitive Lands Overly District. There are no known physical mine hazards. The site is within the Soils Ordinance Boundary and the site will have to meet requirements of the Soils Ordinance.
23. The Planning Commission reviewed and continued this Plat Amendment application on July 12th, 2017 and July 26th, 2017.
24. On June 28th, 2017, July 12th, 2016, August 9th, 2017 the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published on the Utah Public Notice Website and Park Record on June 24th, 2017, July 8th, 2017, and August 5th, 2017 according to requirements of the Land Management Code.
25. Property is located in a FEMA Flood Zone A.
26. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

<u>Conclusions of Law – Plat Amendment – Woodside Park Affordable Housing Phase I</u>

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

Conditions of Approval – Plat Amendment – Woodside Park Affordable Housing Phase I

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's 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 façade preservation easement to the City for the historic structures at 1333 and 1353 Park Avenue following their restoration and prior to sale of the historic buildings to private property owners.
4. The property is located within the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) boundary. Final construction must comply with requirements of the Soils Ordinance.
5. The applicant shall show and label their easement with Snyderville Basin Water Reclamation District (SBWRD) on the plat amendment.
6. A ten feet (10') wide public snow storage easement will be required along the Park Avenue and Woodside Avenue frontage of the property.
7. No vehicular access or curb cuts are allowed from Park Avenue.
8. Modified 13-D sprinklers,
9. All at grade utility facilities for this development shall be located on the property and not in the adjacent ROW.

Findings of Fact – CUP for Multi-unit dwelling–Woodside Park Affordable Housing Phase 1

1. The proposed site location of the Woodside Park Affordable Housing Project – Phase I, consists of 1333 Park Avenue ("Significant" Single-Family Dwelling), 1353 Park Avenue (the former Park Avenue Fire Station parcel), and 1364 Woodside Avenue (vacant lot).
2. The property is located in the Historic Residential-Medium Density (HR-M) Zoning District.

3. Per LMC 15-2.4-2(B) Conditional Uses, a Multi-Unit Dwelling is a Conditional Use. In the HR-M District, Conditional Uses are subject to review according to the Conditional Use Permit Criteria set forth in LMC 15-1-10 and LMC 15-2.4-3 Conditional Use Review (HR-M).
4. The Conditional Use Permit applications were submitted on January 26, 2017 for the Multi-Unit Dwelling and Parking Area (Parking Lot) with five (5) or more spaces. The applications were deemed complete on February 6, 2017.
5. The Multi-Unit Dwelling will contain eight-units (8-units) and will be located at 1354 Woodside Avenue (the current legal address is 1353 Park Avenue).
6. The site is located in a FEMA Flood Zone A.
7. There are eight (8) applications total for the entire scope of Phase I.
8. A Historic District Design Review (HDDR) application has been submitted for the Parking Lot and Multi-Unit Dwelling. The application is under review pending Planning Commission review of the Conditional Use Permits.
9. The applicant has submitted a Plat Amendment application for the Woodside Park Phase I Subdivision creating a 3-lot subdivision. The Multi-Unit Dwelling and Parking Lot will be located on Lot 1 of the proposed Woodside Park Phase I Subdivision.
10. The Lot containing the Multi-Unit Dwelling is 20,752.11 square feet.
11. The Multi-Unit Dwelling will be Deed Restricted affordable housing.
12. The Multi-Unit Dwelling contains eight (8) units. There will be four (4) units ranging from approximately 1177 square feet to 1194 square feet and four (4) units ranging from approximately 258 square feet to 265 square feet.
13. In total, the entire Woodside Park Affordable Housing Project requires 13.5 Parking Spaces to fulfill the Parking Requirement. Two (2) of the required 13.5 Parking Spaces will be provided on Lot 3 as a part of the Single-Family Dwelling design at 1334 Woodside Avenue. The Parking Lot will then fulfill the remaining 11.5 Parking Spaces. The Multi-Unit Dwelling requires ten (10) Parking Spaces. The Parking Lot contains a total of 13 Parking Spaces.
14. There are no unmitigated impacts to LMC 15-1-10(E)(1) Size and location of the site, as the Lot containing the Multi-Unit Dwelling is 20,752.11 square feet. Per LMC 15-2.4-4 Lot And Site Requirements, Developments consisting of more than four (4) Dwelling Units require a Lot Area at least equal to 5,625 square feet plus an additional 1,000 square feet per each additional Dwelling Unit over four (4) units. All Setback, height, parking, Open Space, and architectural requirements must be met.
15. There are no unmitigated impacts to LMC 15-1-10(E)(2) Traffic considerations including capacity of the existing Streets in the Area, as the proposed design meets the requirements for parking and the proposed Density of the entire MPD Project, is less than what is permitted under the LMC.
16. There are no unmitigated impacts to LMC 15-1-10(E)(3) Utility capacity, the applicant has submitted a Utility Plan and reached out to local utility agencies for

their initial review. No issues have been identified at this time.
17. There are no unmitigated impacts to LMC 15-1-10(E)(4) Emergency vehicle access as Emergency vehicles will access the site directly from Woodside Avenue and Park Avenue. No issues have been identified at this time. The access easement will be thickened concrete capable of supporting emergency vehicles.
18. There are no unmitigated impacts to LMC 15-1-10(E)(5) Location and amount of off street parking, as the Parking Lot contains a total of 13 Parking Spaces.
19. There are no unmitigated impacts to LMC 15-1-10(E)(6) Internal vehicular and pedestrian circulation system, as Vehicular access to the site is from Woodside Avenue, a public road. Pedestrian access is from Woodside Avenue and Park Avenue. The project scope includes an Access Easement running east-west which will link the City Park and Park Avenue bus stops to Woodside Avenue, eventually creating a pedestrian thoroughfare to Park City Mountain Resort after Phase II is completed.
20. There are no unmitigated impacts to LMC 15-1-10(E)(7) Fencing, Screening and landscaping to separate the Use from adjoining Uses, as Fencing and/or screening has been proposed for the Parking Lot.
There are no unmitigated impacts to LMC 15-1-10(E)(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots, as the proposed Multi-Unit Dwelling has broken up the perceived Building mass and bulk by adding articulation in the west (front) façade. The Building, as viewed from the exterior, has been broken up into smaller modules to appear like a series of smaller buildings rather than a large mass.
21. There are no unmitigated impacts to LMC 15-1-10(E)(9) Usable Open Space, as the proposal complies with the Open Space requirement as 14,119 square feet has been provided which equates to 52.41%.
22. There are no unmitigated impacts to LMC 15-1-10(E)(10) Signs and lighting, as the project has not yet proposed any signs for the project. The HR-M District allows signs as provided in the Park City Sign Code, Title 12.
23. There are no unmitigated impacts to LMC 15-1-10(E)(11) Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing, as the proposed design is architecturally compatible with all surrounding structures.
24. There are no unmitigated impacts to LMC 15-1-10(E)(12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and property Off-site, as the applicant will be required to meet all standards and codes in regards to mechanical systems. Mechanical factors beyond normal scope are not expected from a project of this type.
25. There are no unmitigated impacts to LMC 15-1-10(E)(13) Control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas, as the Service area (which would include trash receptacles) is located near the

Parking Lot in an enclosed structure. Delivery and service vehicles outside of trash collection are not anticipated.
26. There are no unmitigated impacts to LMC 15-1-10(E)(14) Expected Ownership and management of the project as primary residences, Condominiums, time interval ownership, nightly rental, or commercial tenancies, how the form of ownership affects taxing entities, as this Multi-Unit Dwelling and Single-Family Dwelling abutting Park Avenue are expected to be deed restricted as a Condominium Project under individual ownership and will be compliant with the Affordable Housing Resolution. The Parking Lot will facilitate parking spaces for these structures.
27. There are no unmitigated impacts to LMC 15-1-10(E)(15) Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site, as the site is not located within the Sensitive Lands Overly District.
28. There are no unmitigated impacts to LMC 15-1-10(E)(16) Reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding, as the proposed MPD fulfills the following Goals, Objectives, and/or Implantation Strategies of the General Plan.
29. There are no unmitigated impacts to LMC 15-2.4-3(A) as the proposed Parking Lot has been screened in such a manner to mitigate any negative visual impacts from the Public Right-of-Way.
30. There are no unmitigated impacts to LMC 15-2.4-3(B) as the Parking Lot will be constructed on vacant lots. No Historic Structures are physically impacted by the Conditional Uses.
31. There are no unmitigated impacts to LMC 15-2.4-3(C) as the Multi-Unit Dwelling is new construction.
32. There are no unmitigated impacts to LMC 15-2.4-3(D) as the Multi-Unit Dwelling complies with the Design Guidelines for New Construction, specifically the Universal Guidelines and the Mass, Scale, and Height provisions of B. Primary Structures. The scale and height of the proposed building follows the predominant pattern of the neighborhood, especially with the use of the 12:12 pitch roof form.
33. There are no unmitigated impacts to LMC 15-2.4-3(E) as the Parking for this CUP is based on the size of the units as indicated table LMC 15-3-6.
34. There are no unmitigated impacts to LMC 15-2.4-3(F) as the applicant has proposed ample vegetative screening for the Parking Lot which can be seen in the Landscape Plan (Sheet MPD-L200 in Exhibit A) and the Architectural Drawings for the Parking Lot.
35. There are no unmitigated impacts to LMC 15-2.4-3(G) as the applicant is proposing a six foot (6') fence which is intended to screen the Parking Lot and internal areas of the development from the residential property owners to the north of the subject property. In addition, the applicant is proposing a four foot (4') fence which is intended to screen the Parking Lot from view from the Public Right of Way.

36. There are no unmitigated impacts to LMC 15-2.4-3(H) as the proposed utility equipment and service areas are enclosed and screened.
37. The Planning Commission reviewed and continued the Conditional Use Permit applications on July 12th, 2017 and July 26th, 2017. There was no discussion from the Planning Commission regarding the Conditional Use Permits at either of the meetings.
38. On June 28th, 2017, July 12th, 2016, August 9th, 2017 the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published on the Utah Public Notice Website and Park Record on June 24th, 2017, July 8th, 2017, and August 5th, 2017 according to requirements of the Land Management Code.
39. The Findings in the Analysis section of this report are incorporated herein.

Conclusions of Law – CUP for Multi-Unit Dwelling-Woodside Park Affordable Housing

1. The application complies with all requirements of the LMC and satisfies all Conditional Use Permit review criteria for a Multi-Unit Dwelling as established by the LMC 15-1-10 and LMC 15-2.4-3(E) Conditional Use Review (HR-M).
2. The Use, as conditioned, is Compatible with surrounding Structures in Use, scale, mass and circulation; and
3. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval – CUP for Multi-Unit Dwelling-Woodside Park Affordable Housing

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards, to include driveway and Parking Area layout, is a condition precedent to building permit issuance. An approved shoring plan is required prior to excavation.
4. A landscape plan is required to be submitted with the building permit. Changes to an approved landscape plan must be reviewed and approved by the Planning Department prior to landscape installation.
5. This approval will expire on July 12, 2018, if a complete building permit submittal has not been received, unless a written request for an extension is received and approved by the Planning Director prior to the date of expiration
6. Recordation of the Plat is required prior to building permit issuance.
7. Modified 13-D fire sprinkler system is required.

8. Any modification of approved unit layout which changes the number of bedrooms configuration or unit size will require amendment to Conditional Use Permit.
9. An approved tenant/owner parking management plan is required prior to building permit issuance that limits the occupant's vehicles per unit to those required in the LMC. Said plan must include a deed restriction and responsible party for enforcement.
10. All above grade utility facilities shall be located on the property and properly screened.

Findings of Fact – CUP for parking area of five spaces or more

1. The proposed site location of the Woodside Park Affordable Housing Project – Phase I, consists of 1333 Park Avenue ("Significant" Single-Family Dwelling), 1353 Park Avenue (the former Park Avenue Fire Station parcel), and 1364 Woodside Avenue (vacant lot).
2. The property is located in the Historic Residential-Medium Density (HR-M) Zoning District.
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3. Per LMC 15-2.4-2(B) Conditional Uses, a Parking Area with five (5) or more spaces (Parking Lot) is a Conditional Use. In the HR-M District, Conditional Uses are subject to review according to the Conditional Use Permit Criteria set forth in LMC 15-1-10 and LMC 15-2.4-3 Conditional Use Review (HR-M).
4. The Conditional Use Permit application was submitted on January 26, 2017 for the Parking Area (Parking Lot) with five (5) or more spaces. The application was deemed complete on February 6, 2017.
The Parking Lot will be located at 1364 Woodside Avenue and will contain 13 Parking Spaces. The site is located in a FEMA Flood Zone A.
5. There are eight (8) applications total for the entire scope of Phase I.
6. A Historic District Design Review (HDDR) application has been submitted for the Parking Lot. The application is under review pending Planning Commission review of the Conditional Use Permits.
7. The applicant has submitted a Plat Amendment application for the Woodside Park Phase I Subdivision creating a 3-lot subdivision. The Parking Lot will be located on Lot 1 of the proposed Woodside Park Phase I Subdivision.
8. The Lot containing the Parking Lot is 20,752.11 square feet.
9. In total, the entire Woodside Park Affordable Housing Project requires 13.5 Parking Spaces to fulfill the Parking Requirement. Two (2) of the required 13.5 Parking Spaces will be provided on Lot 3 as a part of the Single-Family Dwelling design at 1334 Woodside Avenue. The Parking Lot will then fulfill the remaining 11.5 Parking Spaces. The Multi-Unit Dwelling requires ten (10) Parking Spaces. The Parking Lot contains a total of 13 Parking Spaces.

10. The proposal complies with the Conditional Use Criteria set forth in LMC 15-1-10 and LMC 15-2.4-3 Conditional Use Review (HR-M).
11. There are no unmitigated impacts to LMC 15-1-10(E)(1) Size and location of the site, as The Lot containing the Parking Lot is 20,752.11 square feet. All Setbacks, height, parking, Open Space, and architectural requirements must be met. There is no minimum lot size for the Parking Lot.
12. There are no unmitigated impacts to LMC 15-1-10(E)(2) Traffic considerations including capacity of the existing Streets in the Area, as the proposed design meets the requirements for parking as indicated in the Section E. Off-Street Parking of the Master Planned Development and the proposed Density of the entire MPD Project, is less than what is permitted under the LMC.
13. There are no unmitigated impacts to LMC 15-1-10(E)(3) Utility capacity, the applicant has submitted a Utility Plan and reached out to local utility agencies for their initial review. No issues have been identified at this time.
14. There are no unmitigated impacts to LMC 15-1-10(E)(4) Emergency vehicle access as Emergency vehicles will access the site directly from Woodside Avenue and Park Avenue. No issues have been identified at this time. The access easement will be thickened concrete capable of supporting emergency vehicles.
15. There are no unmitigated impacts to LMC 15-1-10(E)(5) Location and amount of off street parking, as the Parking Lot contains a total of 13 Parking Spaces.
16. There are no unmitigated impacts to LMC 15-1-10(E)(6) Internal vehicular and pedestrian circulation system, as Vehicular access to the site is from Woodside Avenue, a public road. Pedestrian access is from Woodside Avenue and Park Avenue. The project scope includes an Access Easement running east-west which will link the City Park and Park Avenue bus stops to Woodside Avenue, eventually creating a pedestrian thoroughfare to Park City Mountain Resort after Phase II is completed.
17. There are no unmitigated impacts to LMC 15-1-10(E)(7) Fencing, Screening and landscaping to separate the Use from adjoining Uses, as Fencing and/or screening has been proposed for the Parking Lot.
18. There are no unmitigated impacts to LMC 15-1-10(E)(8) Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots, as the applicant does not exceed the Zone Height for any of the buildings in the Woodside Park Affordable Housing Project – Phase I.
19. There are no unmitigated impacts to LMC 15-1-10(E)(9) Usable Open Space, as the proposal complies with the Open Space requirement as 14,119 square feet has been provided which equates to 52.41%.
20. There are no unmitigated impacts to LMC 15-1-10(E)(10) Signs and lighting, as the project has not yet proposed any signs for the project. The HR-M District allows signs as provided in the Park City Sign Code, Title 12.
21. There are no unmitigated impacts to LMC 15-1-10(E)(11) Physical design and

Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing, as the proposed design is architecturally compatible with all surrounding structures.
22. There are no unmitigated impacts to LMC 15-1-10(E)(12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and property Off-site, as the applicant will be required to meet all standards and codes in regards to mechanical systems. Mechanical factors beyond normal scope are not expected from a project of this type.
23. There are no unmitigated impacts to LMC 15-1-10(E)(13) Control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas, as the Service area (which would include trash receptacles) is located near the Parking Lot in an enclosed structure. Delivery and service vehicles outside of trash collection are not anticipated.
24. There are no unmitigated impacts to LMC 15-1-10(E)(14) Expected Ownership and management of the project as primary residences, Condominiums, time interval ownership, nightly rental, or commercial tenancies, how the form of ownership affects taxing entities, as this Multi-Unit Dwelling and Single-Family Dwelling abutting Park Avenue are expected to be deed restricted as a Condominium Project under individual ownership and will be compliant with the Affordable Housing Resolution. The Parking Lot will facilitate parking spaces for these structures.
25. There are no unmitigated impacts to LMC 15-1-10(E)(15) Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site, as the site is not located within the Sensitive Lands Overly District.
26. There are no unmitigated impacts to LMC 15-1-10(E)(16) Reviewed for consistency with the goals and objectives of the Park City General Plan; however, such review for consistency shall not alone be binding, as the proposed MPD fulfills the following Goals, Objectives, and/or Implantation Strategies of the General Plan.
27. There are no unmitigated impacts to LMC 15-2.4-3(A) as the proposed Parking Lot has been screened in such a manner to mitigate any negative visual impacts from the Public Right-of-Way.
28. There are no unmitigated impacts to LMC 15-2.4-3(B) as the Parking Lot will be constructed on vacant lots. No Historic Structures are physically impacted by the Conditional Uses.
29. There are no unmitigated impacts to LMC 15-2.4-3(C) as the Parking Lot is new construction.
30. There are no unmitigated impacts to LMC 15-2.4-3(D) as the carport and Parking Lot comply with the Design Guidelines for New Construction, specifically the Universal Guidelines and the Mass, Scale, and Height provisions of B. Primary Structures.
31. There are no unmitigated impacts to LMC 15-2.4-3(E) as the Parking for this CUP is based on the size of the units as indicated table LMC 15-3-6.

32. There are no unmitigated impacts to LMC 15-2.4-3(F) as the applicant has proposed ample vegetative screening for the Parking Lot which can be seen in the Landscape Plan (Sheet MPD-L200 in Exhibit A) and the Architectural Drawings for the Parking Lot.
33. There are no unmitigated impacts to LMC 15-2.4-3(G) as the applicant is proposing a six foot (6') fence which is intended to screen the Parking Lot and internal areas of the development from the residential property owners to the north of the subject property. In addition, the applicant is proposing a four foot (4') fence which is intended to screen the Parking Lot from view from the Public Right of Way.
34. There are no unmitigated impacts to LMC 15-2.4-3(H) as the proposed utility equipment and service areas are enclosed and screened.
35. The proposed Parking Lot complies with the maximum height requirement of the HRM.
36. The proposed Parking Lot complies with the minimum Front Yard, Rear Yard, and Side Yard Setbacks.
37. The Planning Commission reviewed and continued the Conditional Use Permit applications on July 12th, 2017 and July 26th, 2017. There was no discussion from the Planning Commission regarding the Conditional Use Permits at either of the meetings.
38. On June 28th, 2017, July 12th, 2016, August 9th, 2017 the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published on the Utah Public Notice Website and Park Record on June 24th, 2017, July 8th, 2017, and August 5th, 2017 according to requirements of the Land Management Code.
39. The Findings in the Analysis section of this report are incorporated herein.



Conclusions of Law – CUP for five parking spaces or more

1. The application complies with all requirements of the LMC and satisfies all Conditional Use Permit review criteria for a Parking Area as established by the LMC 15-1-10 and LMC 15-2.4-3(E) Conditional Use Review (HR-M).
2. The Use, as conditioned, is Compatible with surrounding Structures in Use, scale, mass and circulation; and
3. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval – CUP for parking area of five spaces or more.

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.

3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards, to include driveway and Parking Area layout, is a condition precedent to building permit issuance. An approved shoring plan is required prior to excavation.
4. A landscape plan is required to be submitted with the building permit. Changes to an approved landscape plan must be reviewed and approved by the Planning Department prior to landscape installation.
5. This approval will expire on July 12, 2018, if a complete building permit submittal has not been received, unless a written request for an extension is received and approved by the Planning Director prior to the date of expiration
6. Recordation of the Plat is required prior to building permit issuance.
7. Modified 13-D fire sprinkler system is required.
8. Any modification of approved unit layout which changes the number of bedrooms configuration or unit size will require amendment to Conditional Use Permit.
9. An approved tenant/owner parking management plan is required prior to building permit issuance that limits the occupant's vehicles per unit to those required in the LMC. Said plan must include a deed restriction and responsible party for enforcement.
10. All above grade utility facilities shall be located on the property and properly screened.

**7. <u>227 Main Street – Appeal of Planning Director's determination that the site at 227 Main Street was not current in their assessment to the Main Street Parking Special Improvement District and does not comply with Land Management Code (LMC) 15-2.6-9(D) Pre-1984 Parking Exception.</u> (Application PL-17-03619)**

Chair Strachan noted that this item was a quasi-judicial hearing. He outlined the procedure for this type of hearing, and pointed out that because this was not a legislative hearing public input is allowed.

Planner Grahn reported that the Planning Department was currently reviewing a Historic District Design Review application for the Star Hotel on Main Street. As part of the review they had to determine whether or not it complied with the Land Management Code. One of the issues being determined was whether or not it complied with parking. There is currently no parking on the site and the Planning Director made a determination that the applicant did not comply with LMC 15-2.69(D), as there was no evidence that the previous owners, the Rixey's, had made a payment in full to the 1984 parking assessment. Both the Staff and the applicant had provided exhibits with documentation about the parking assessment.

Planner Grahn stated that the Planning Commission has the responsibility to review the appeal as presented in the Staff report, and determine whether or not the Planning Director erred in his determination that the parking assessment had not been paid.

Todd Cusick, the manager and owner of Westlake Land, introduced Scott DeGraffenried, legal counsel with Holland and Hart, and Bryan Markkanen with Elliott Work Group.

Mr. Cusick presented a slide showing the first page of the Staff report, and pointed to the red underlining he had done to highlight specific language on the page. Mr. Cusick read the original language in the Staff report, "Planning Commission review of petitions of appeal shall be limited consideration of only those matters raised by the petition, unless Planning Commission, by motion, enlarges the scope of the appeal to accept information on other matters". Mr. Cusick asked if the petition referred to was the petition that Scott DeGraffenried filed on his behalf on July 17th, that was shown as Exhibit B on page 465 of the Staff report. Chair Strachan clarified that it was the Holland and Hall document dated July 17, 2017.

Mr. Cusick wanted it clear that Exhibit B was his petition. Planner Grahn stated that it was the petition appealing the Planning Director's determination. Chair Strachan asked if there were any other petition documents. Planner Grahn was not aware of any other documents.

Mr. Cusick identified what was inside of the petition. Item 1 was the preliminary statement. Item 2 was the statement of facts. The remaining items were issues that they were asking the Planning Commission to look at in their petition. Item 3 was the issue of whether the record was clear on whether or not the assessment was paid. Item 4 was their position that ordinance 5-74 has to be given a chance to work. Item 5 was whether the City has been equitably estopped, from assessing the rights in 5-74. Item 6 was whether the Section 15 fee was not properly measured, and therefore, unenforceable. Item 7 related to the fee framework and whether or not there are constitutional law issues. Item 8 was whether the fee is reasonable. Item 9 was whether the applicant, Westlake Land, should be charged with the fee. Item 10, whether or not there is an exemption that should be in play.

Mr. Cusick stated that in reading the first page of the Staff report and the directions for what should occur this evening, it was evident that there were seven issues to address. He thought the Staff report was very prejudicial, it overly narrows the issues and it is unfair to Westlake Lands as the applicant. For example, page 455 of the Staff report states that, "This appeal is only to decide if the owner established that there was payment in full of the Assessment of the Main Street Special Improvements District prior to January 1, 1984". Mr. Cusick pointed out that based on that statement the Staff believes there is only one issue to be decided this evening. He found that to be a problem because he believed they

needed to deal with six or seven issues. If the Planning Commission read the Staff report and thought they were fully informed, that was not the case. Mr. Cusick hoped that the Commissioners had also read Exhibit B, which was the petition document, and Exhibit A, which was Director Erickson's decision.

Mr. Cusick indicated other places he had underlined in the Staff report that he thought were leaps of logic. He reiterated that the language falsely says that the only issue for discussion was whether or not the payment was made. The language then leaps into several things that need to occur because there is no proof of payment. Mr. Cusick felt there were giant leaps of logic in the Staff report that were not true. It references LMC 15-3. He read from 15-3.2, "If any land, structure, or use is changed to create more off-street parking, the owner must provide such additional off-street parking for the new use". Mr. Cusick emphasized "if anything has changed". He stated that the Planning Commission would find out later in their presentation that they were not increasing parking with the proposal that has gone through the public comment period. Mr. Cusick stated that if you use the word "more", there has to be something to compare it to. That means they need to measure where they are right now to see if they are "more" in what they propose. He pointed out that Mr. DeGraffenried would explain where they are right now, and give the actual numbers. Mr. Cusick believed it was about a 60% decrease; not more.

Mr. Cusick stated that he objected to the way this appeal was framed, including the way the agenda was written. According to the agenda, the only item was whether or not the prior owner, Mrs. Rixey, wrote a check.

Mr. Cusick provide a brief background to help the Planning Commission understand his experience with this project. Over time he has been the owner of 205 Main Street, 221 Main Street and 227 Main Street. To put it in visual context, 205 is the new condominium project that was built in the pocket park area in between the Grappa and the Imperial. The next one, 221 Main Street is the Imperial. The next one is 227 Main Street, the Star Hotel. Mr. Cusick stated that he purchased the Star hotel because it was an eyesore. Mr. Rixey's son had no interest in doing anything with the property and it was an eyesore. He bought it because he wanted to improve the area.

Mr. Cusick remarked that one of the issues at hand was whether or not he, as the purchaser and landowner of the property, had sufficient notice about the issue they were here to talk about tonight. He bought the Imperial at 221 Main in July of 2013. Within six months he could see that 227 was going to be a problem for his property value. He struck up a friendship with Mr. Rixey, they worked a deal and he purchased the property. Mr. Cusick stated that when he bought 221 Main there was a note on his title report. He presented a slide of the title report and had underlined the only issue that was on the title report was the entry, "affidavit confirming ordinance levying the assessment of Main

Street…" He noted that it was Ordinance 5-74, as stated in their petition. Mr. Cusick stated that Ordinance 5-74 comes to life for him as an owner, through Entry 231175. When he received the notice he called Park City to ask what it was. He was told that it was the Special Improvement District where they built the Brew Pub. Other things were done to Main Street and those places had a place to park because they built the Brew Pub parking lot. Mr. Cusick stated that after that conversation he started looking through it in detail, and he was prepared to do the same for the Planning Commission this evening. He emphasized that 231175 was his notice about this issue, and he believed that any reasonable person could only come to the conclusion that 227 Main Street, the Star Hotel, followed ordinance 5-74 by what is public record and by what he was given as notice. Mr. Cusick thought it was important to understand that he had already gone through this once when he purchased 221 Main. He clarified that it was the only thing on his title report. There was nothing else regarding this problem.

Mr. Cusick presented the Star Hotel title report, which was included in the Staff report. He noted that the underlined area was an exact replica of what was on the title report for the Imperial. As a property owner, he assumed that because it was in the same district and they were neighboring properties, the issues were the same and the properties were taxed the same. He noted that 231175 was recorded 2/28/85. Mr. Cusick gave his interpretation from reading 231175. In 1974 there was Ordinance 5-74. The City raised taxes on certain people and levied taxes against these properties and built a parking lot, in addition to curb and gutter and other improvements on Upper Main Street. Those properties benefitted and it was fair to tax these properties to use the facilities. Mr. Cusick pointed out that it was 11 years later when it was recorded. He noted that Item 5 gives a clue that in 1974 the recordkeeping was inept and the records did not exist. In order to preserve the clarity of the records, it was recorded so everyone was clear on what was done.

Mr. Cusick skipped further down in the document to the page book 333, page 97. Leading up to that page and to the underlined portion the document explained why they were taxing, what they were building and how the property owners would pay. On the question of what happens if someone did not pay, Mr. Cusick read from 333 97, "Default in the payment of any installment of principle or interest when due shall cause the whole of the unpaid principle and interest to become due and payable immediately, and the whole amount of the unpaid principle shall thereafter draw interest at the rate of 10% per annum until paid, but at any time prior to the date of sale or foreclosure, the owner may pay the unpaid amount of all unpaid installments past due with interest at the rate of 10% per annum to date of payment on the delinquent installments, and approved costs, and shall thereupon be restored to their right thereafter to pay in installments in the same manner as if default had not occurred." Mr. Cusick stated

when he read the document he thought it was clear that they were taxed, and for non-payment the City would place a lien and foreclose.

Mr. Cusick stated that he looked at the title report for 221 Imperial and there were no liens or foreclosures. He therefore was left to assume that the taxes had been paid on the Imperial. Parking spaces were allocated across the street and all these years later they were still parking there. Mr. Cusick stated that six months later he purchased the Star and there was the same entry. He checked the title report and there was no lien and no foreclosure. He remarked that 221 Main and 227 Main are neighbors and they have identical title reports with the respect to the issue being discussed this evening. He stated that the Staff report suggests that he had notice that the entry 231175 meant one thing for the Star and the opposite for the Imperial. Mr. Cusick noted that he learned today that the Imperial had paid and there was no issue with that property. Mr. Cusick believed any reasonable person would assume that the Star Hotel had also paid because there was no lien and no foreclosure. Both properties are identical in that respect.

Mr. Cusick clarified that he did not learn that the Star had an issue until a few months ago. He noted that earlier this year the Star went under contract and the contracted party was going through due diligence. He called the City and talked to a Staff member who told him there was no parking for the property and a $900,000 assessment was due. Mr. Cusick received a letter from that person's attorney threatening to sue him for hiding an unpaid tax assessment on the property. That was how he learned about this problem. There was no other way he would have known that money was owed.

Chair Strachan asked when the potential buyer of the Staff first approached Mr. Cusick about this issue. Mr. Cusick recalled that it was April or May. Chair Strachan wanted to know when the potential buyer made the call to the City. Mr. Cusick believed it was within moments before he contacted him because he was very angry. Mr. Cusick clarified that it was in the Spring of this year but he could not remember the exact timing.

Mr. Cusick stated that yesterday he received additional documents that were supposed to imply that he should have had notice of this issue. He noted that the documents were included in the Staff report and acknowledged that he may have received them earlier but he did not see them until yesterday. One example was on page 450 of the Staff report. The language states that Craig Smith, the Recorder, recorded a document showing who had paid and who had not paid. Mr. Cusick presented the document 232209, and noted that 232209 did not show up on either title of either property. He had no idea where it was recorded. The Staff report represents that it was recorded and implies that he should have known. He scrolled further down and showed Block

12, Park City Survey Lots 3-6, 9-16. Mr. Cusick noted that Lots 7 and 8 were missing, which were his property. If he had seen that document, he would have noticed that his lots were missing and questioned it. He reiterated that he saw it for the first time yesterday, four years after he purchased the property. Mr. Cusick emphasized that it was not public record to him and it was not recorded on PC-194, and it was not recorded on PC-193, which is the Imperial. He was unsure where it was recorded but it was not on either title report.

Mr. Cusick referred to another document dated May 2, 1983 that he saw for the first time yesterday.

Scott DeGraffenried, legal counsel, stated that when Mr. Cusick refers to documents that were received yesterday, in Director Erickson's determination that was issued on July 6th, it referenced in its factual analysis a number of documents; however, none of those documents were included in the determination itself. Mr. DeGraffenried stated that he submitted a GRAMA request asking that all those documents referenced in Director Erickson's determination be provided. Those are the documents they received yesterday.

Assistant City Attorney McLean recalled that the City received the GRAMA request on August 10th and it was fulfilled on August 17th. Mr. DeGraffenried clarified that he was not disputing that the request was fulfilled timely. His point was that the documents were referred to in the determination letter but they were not attached to the determination letter.

Mr. Cusick stated that there was a question as to whether the documents were complete. In going through the documents with Mr. DeGraffenried, it appears that some of the documents are missing.

Mr. Cusick presented another document PC-193, Lots 7 and 8. He noted that there was an implication that it was public record or recorded on the property. The first time he saw it was last night. He again represented that it was not on the title report. Mr. Cusick noted that it was a letter from LuAnn Antonio, who was the City Treasurer, explaining to the Rixey's that they had not paid the taxes and they owed the past due balance plus 10%. Mr. Cusick read from 5-74, "but at any time prior to the date of sale or foreclosure, the owner may pay the amount of all unpaid installments past due with interest at the rate of 10%....if they do, and shall be thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not occurred." Mr. Cusick used the hypothetical that maybe Mrs. Rixey bounced the check or did not write the check. If that were the case, based on the language in the ordinance, he should be able to pay the amount owed as her successor. The ordinance says at any time in the

future. Mr. Cusick noted that he has offered payment several times and no one will take it. He calculated it at 10% interest and the total is approximately $7800. He offered to pay it this evening.

Mr. Cusick noted that an issue was identified in the Staff report and the position has been taken that a subsequent code obliterates this ordinance. He read from the Park City Code, "Nothing in this Code or the Ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of the following; any appropriation ordinance or ordinance providing for the levy of taxes". He stated that Ordinance 5-74 is exactly that; levying a tax. Mr. Cusick remarked that the Code cannot trample the old Ordinance, and as the successor to Mrs. Rixey he should be able to write the check and resolve the issue.

Mr. Cusick referred to page 453 of the Staff report. He read, "In-lieu fees are not mandatory but optional when the property owner decides not to build the required parking on their private property". He thought that language implied that he decided not to build parking on 227 Main Street.

Mr. Cusick stated that he disputed the determination that the Star Hotel is historic because after two years of research he found that the existing building is not the same building that was there in the 1920s, 1930s and 1940s. He believed the tax photos show that it was a different building. Mr. Cusick stated that when he first bought the Star Hotel he was told that it was a historic property. However, after looking inside the structure he questioned what he saw. He contacted the owner, William Rixey Jr., and asked him about the property. Mr. Rixey told him that his parents ripped off the façade in 1976 and his dad built his own version. Mr. Rixey signed an affidavit to that effect, and the photographic evidence and sworn testimony all leads to the same conclusions. Mr. Cusick stated that when he started to tear down the sheetrock inside, Mrs. Rixey had made notes about the fact that in 1976 Charles Mast Construction removed the façade and put up another one. The Park Record had pictures of the half removed façade in the process. Mr. Cusick stated that he and William Rixey were going through Mrs. Rixey's things and he found a box under her bed that had the tax photo.

Assistant City Attorney McLean pointed out that the historic designation of the Star Hotel was not an issue this evening. She advised the Planning Commission that discussion regarding that was outside their purview. The determination of Significance was determined by the Historic Preservation Board. Their decision was appealed to the Board of Adjustment, and their decision has been appealed to the District Court.

Mr. Cusick clarified that he did not expect the Planning Commission to take it into consideration, but he asked them to follow him through his experience. Mr. Cusick

returned to the picture which he believed was the old tax photo that Ms. Rixey had taken from the courthouse in Coalville. Mr. Cusick pointed to the bottom level and noted that William Rixey has said that those were garages. He thought they appeared to be garages because thee photo showed ramps in front of them. Mr. Rixey also told him that he cleaned out the garages when he was a kid, but it was eventually changed into an office and other things over the years. Mr. Cusick stated that when he first tried to recreate what was originally there, he submitted a plan from JZW Architecture, which also included the garages. At that time, he was told that he could not have the garages because he could not have a curb cut. Mr. Cusick stated that he went back and forth between Engineering and Planning and the result was that he did not have the choice to build a garage because he could not get a curb cut. Mr. Cusick objected to the concept that he chose not to provide parking.

Mr. Cusick stated that he took his plans to the former Planning Director, and his only suggestion was that since Mr. Cusick owned 205, 221 and 227 Main Street, he could exit the 205 Main Street garage, tunnel underneath the building at 227 Main Street and enter that way. Mr. Cusick noted that he refused to tunnel under a 114-year-old hotel, and since that was the only option he did not do the garage.

Mr. Cusick stated that he has tried to make this work for four years and he was running out of patience and time. He did all he could to work with the Staff, and he did not believe the Staff report was fair to this issue. He emphasized that the issues were Director Erickson's determination found in Exhibit A, and Scott DeGraffenried's response found in Exhibit D. He reiterated that there were many more issues than just whether Mrs. Rixey had paid the tax assessment.

Mr. Cusick asked Bryan Markkanen, the project architect with Elliott Work Group, to explain that what is currently proposed is not an increase that 15-3.2 suggests triggers this issue; and it is actually a decrease.

Mr. Markkanen reviewed a few scenarios that they tried to put together for the parking. The first was the floor area ratio, which is typical to historic buildings in the Main Street area. With a 1.5 FAR on the lot of this size calculates to 5625 square feet. There are a number of ways to calculate that number, starting with 17 spaces on the basic calculation for retail and office, up to 57 if the entire building is turned into a restaurant. Mr. Markkanen noted that it would be difficult to achieve, and the building was not historically used for that use. He stated that applying the existing conditions or the historic use of a hotel, he calculated a restaurant and hotel, using the FAR calculation, as 36 spaces.

Mr. Markkanen stated that for the second scenario they used existing conditions in the current Code. One scenario was using the building as a hotel and the second was using the building as a hotel plus a hostel. The top level was used as a bunk room, and the entire building could be conceivably labeled as a hostel, or it could be used as a hotel. The difference between the two was two spaces, ranging from 33 to 35 spaces.

Mr. Markkanen commented on the existing conditions per Section 15-26.9, and noted that if they rebuilt the building in the same shape and exactly as it stands today, the parking would not be reduced or increased and they would be allowed 32 spaces.

Mr. Markkanen remarked that the proposal that was submitted for the HDDR, which was not part of this discussion this evening, proposed a plan that had more square footage and doubled the square footage of the actual building. However, the use was mostly residential with retail or restaurant on the bottom. It decreased the amount of the parking spaces from over 30 spaces down to 15 to 17 spaces. He pointed out that by increasing the square footage and changing the use, they were reducing the demand of parking on the street. Based on those calculations, Mr. Markkanen thought they should be able to move forward without this discussion.

Mr. Cusick wondered why this discussion was even necessary, since the only proposal they made was a drastic reduction in the parking load on the City. Mr. Markkenan had applied the Code in a number of ways and those were his calculations. He pointed out that somewhere between 32 and 36 spaces have been used and business licenses have been issued for over 40 years for that property. The one proposal, which was specific to the buyer that was scared off by the $900,000 “surprise”, was a 15 space usage. It was such a drastic reduction that he questioned why it was even an issue.

Scott DeGraffenried, legal counsel for Westlake Land, stated that he had drafted the petition in Exhibit D being discussed. As a preliminary matter, he wanted to make sure that an adequate record was established for this proceeding in the event they need to go further with respect to appeals. Mr. DeGraffenried reiterated that a number of documents that were referenced in Director Erickson’s determination were not included; however, he submitted a GRAMA request those documents as well as multiple other documents, and those had been provided. Mr. DeGraffenried presented the letter he received in response to his GRAMA request. He noted that he had copies of all the documents being discussed this evening that were not included in the Staff report. He offered to leave those with the Legal Department to be included in the record.

Mr. DeGraffenried stated that he had identified four types of request for documents, identified as Sections A through D. He read the City’s response to provide the requested documents, and noted that the City matched categorically the documents he

requested. In Section A they provided a number of City Council documents from December 2014. Mr. DeGraffenried believed those were relevant because that is where the current fee-in-lieu of parking was established. It was currently set at $40,000. He stated that in Section B he asked for any information or documentation demonstrating against whom the parking in-lieu-fee had been assessed. The response was that because it is voluntary, no one has been assessed the fee. Mr. DeGraffenried intended to appeal that because it is a semantical argument. He was only requesting information on who had actually paid the fee. That issue would be addressed in another forum.

Mr. DeGraffenried stated that Section C, matching his request, were all the documents that were referenced in Director's Erickson determination, but were not include. His intention was to put all the documents on the record. He was willing to go through them individually, but given the late hour, he did not believe it was necessary. Mr. DeGraffenried noted that he would refer to some of those documents in his comments this evening.

Mr. DeGraffenried believed Mr. Cusick had highlighted and addressed many of the issues set forth in his brief. He asked if everyone had read the Appeal, which was Exhibit B in the Staff report. The Commissioners answered yes. He remarked that a key issue is the determination of whether the 5-74 assessment was actually paid by the Rixey's. He stated that that Planning Director has asserted that because there is no evidence of payment that in fact it was not paid. Mr. DeGraffenried noted that the Rixey's have passed on and any payment would have been made in the 1970s or early 1980s. He thought it was difficult if not impossible to track any records demonstrating that the payment was made. However, they were not conceding that it was not paid, because there is nothing in the record demonstrating that the City every enforced that assessment against the Rixey's by way of lien, foreclosure, or any other proceeding. As Mr. Cusick had indicated, one would reasonably conclude that because that never occurred, despite numerous threats that it would occur, that the assessment had in fact been paid. Mr. DeGraffenried stated that when viewing the preponderance of the evidence in its entirety, it is their position that no foreclosure proceedings or liens were ever sought would suggest that it was in fact paid. He reiterated for clarification that they were not conceding that the assessment was not paid.

Mr. DeGraffenried wanted it clear that the issue was not as narrow as suggested in the Staff report in terms of a determination of whether or not the assessment was paid, because other ancillary and salient issues need to be addressed. Further, from a procedural matter, they were appealing the determination. He pointed out that the Planning Commission has been granted quasi-judicial authority, and it was incumbent upon the Petitioner to make sure they address all potential legal arguments in

response. This procedure was a way for them to exhaust their administrative remedies, and if they would be remiss if they did not address all of the arguments. Mr. DeGraffenried did not believe there was any dispute as to whether or not they were entitled to argue the other legal issues.

Mr. DeGraffenried stated that as addressed in his brief, the 5-74 assessment was in fact a tax, because it was imposed upon existing properties, and it granted the City the right to lien those properties in the event that tax was not paid. He cited a case on his brief that provides that it is a special assessment and in fact a tax. Mr. DeGraffenried noted that the Staff report summary suggests that he was stating that it was an impact fee. He clarified that he was actually stating the very opposite; that the 5-74 assessment was a tax and not an impact fee. Mr. DeGraffenried stated that based on how impact fees are defined by case law and by statute in Utah, this fee would seem to be classified as an impact fee. At a minimum, it is not entirely important because it is simply a development exaction. The point he was making was that it is not a tax assessment, but rather a development exaction. Mr. DeGraffenried cited case law in Utah, 128 p3d 1161, which states that 1) development exactions may take the form of one mandatory dedication of land for roads, schools or parks as a condition of plat approval; 2) fees in lieu of mandatory dedication; 3) water or sewer connection fees; 4) impact fees. Mr. DeGraffenried clarified that it was their position that this was in fact a development exaction.

Chair Strachan asked Mr. DeGraffenried which of the four he believed they fall under. Mr. DeGraffenried replied that it was either 2) fees in lieu of mandatory dedication or 4) impact fees. Chair Strachan wanted to know the mandatory dedication. Mr. DeGraffenried replied that if they are not providing parking they have to pay the fee in lieu. Chair Strachan asked if there were any other mandatory dedications. Mr. DeGraffenried was not aware of any. He explained that in takings law there are physical takings, which are eminent domain related issues, or there are regulatory takings, which is a condition imposed upon plan approval, whether it be dedication of land or payment of fees. He believed their issue fell under the category of a regulatory taking.

Mr. DeGraffenried stated that because the 5-74 assessment and the current fee-in-lieu exaction are different mechanisms, they cannot or should not be conflated for purposes of exemption certain people from the fee in lieu. They recognize that the current Code as it was amended in 1984 states that if the 5-74 assessment was not paid before 1984, you are not exempt from the fee-in-lieu. However, as Mr. Cusick indicated, Section 113 of the Code, the Code is explicit in stating that it cannot trump existing ordinances. Therefore, to give effect to both the ordinance and the Code, they have to

allow the default to be cured pursuant to the ordinance, and allow Westlake Land the benefits of having cured that default.

Commissioner Joyce thought Mr. DeGraffenried was implying that the opportunity to pay the money instead of building the parking was different than the fee-in-lieu, which is to pay money instead of building the parking. He was unclear where they were differentiating those two. He noted that Mr. DeGraffenried had described one as a taking, and he had never seen anywhere where anybody described a fee-in-lieu as a taking. Mr. DeGraffenried stated that he was simply suggesting that when it comes to an exaction, that would technically be classified as a taking, whether it be physically taking the property or assessing a fee of this nature. It was not pertinent to his discussion and he did not want to confuse the issue. He explained that the 5-74 assessment was a tax, and the current fee-in-lieu is an exaction.

Mr. DeGraffenried stated that because there is nothing in the record indicating that the property was foreclosed upon; it is there position that the City is equitably estopped from assessing the fee-in-lie against Westlake Land at this point in time.

Mr. DeGraffenried addressed another key argument, which is how the fee-in-lieu is applied. The Staff report suggests that it is for the benefit of the individual property; however, he wanted to clarify that under Section 11-12-16 of the Code, the purpose of the fee-in-lieu is to pay into a fund for the construction of other parking facilities unrelated to this facility.

Mr. DeGraffenried stated that Utah case law and Federal case law has developed a rough proportionality test in determining whether an exaction is proper. He noted that the same rough proportionality test was articulated in LMC Section 15-1-20. It reads, “Exaction or exactions may be imposed on development proposed and the land use application if: 1) an essential link exists between a legitimate governmental interest and each exaction; and 2) if each exaction is roughly proportionate both in nature and extent to the impact of the proposed development. Mr. DeGraffenried stated that the language in the LMC mirrors Utah Code Section 10-9A-508. He remarked that the test they have to apply is whether the exaction and the impact are related in nature. Namely, whether the solution, ie. the exaction, directly addresses the problem ie. the impact. Mr. DeGraffenried stated that the second element of the test is to determine what the cost to the City would be without the exaction, what the cost of the exaction is for the developer, and whether those two costs are roughly proportionate. He stated that the applicant maintains that it is not proportionate for multiple reasons. Their understanding is that nothing was compelling the City to build those parking facilities at this juncture. The money, in theory, would be paid without ever being expended on those parking facilities. It may be a future plan but to his knowledge it is not compelling

and begs the question of whether the fee is necessary at this juncture. Secondly, it does not account for other sources of funding that can or will be made available. Mr. DeGraffenried referred to the December 11, 2014 City Council meeting minutes that were referenced in the Staff report. He noted that a construction cost analysis was performed by FFKR Architects to determine the construction cost of each of those parking facilities, and that was divided by the number of stalls to come up with an average per stall fee. Mr. DeGraffenried stated that page 15 of the PDF document outlines and identifies where potential structures could be built and the construction cost estimates of what those would be. He noted that the average per stall fee became the fee-in-lieu by ordinance in the December 11 and December 18, 2014 City Council meetings. In conjunction with that, the most recent parking assessment or feasibility study performed by the City was June of 2016, which was the last exhibit to their brief. It suggests that revenue would be potentially generated from new parking facilities that are constructed. That is problematic when analyzing the rough proportionality of the fee in lieu, because simply taking the construction costs and dividing the quotient, being the fee-in-lieu, it does not account for future revenues that might be generated by those parking facilities, which would skew the rough proportionately and make it disproportionate. He pointed out that the cost for those having to pay the fee-in-lieu would be higher than what would be necessary after accounting for any revenues that might be generated for parking. Mr. DeGraffenried stated that those revenues have to be applied as an offset in order to satisfy the roughly proportionate analysis. As explained in their brief, that is a separate application of the fee. He provided a scenario to explain his point and why he believed it was a disproportionate application of the fee-in-lieu, and he was confident that it would not survive judicial scrutiny under any constitutional analysis.

Commissioner Thimm asked for clarification of what came out of this analysis in terms of cost of stalls. Mr. DeGraffenried replied that what came out of the analysis was an average cost of $40,000 per stall, which is the fee-in-lieu. Commissioner Thimm asked if that converted to the $1 million Mr. DeGraffenried used in his example. Mr. DeGraffenried stated that it would depend on how many stalls they are obligated to provide. Commissioner Thimm clarified that he was trying to follow the numbers of $7800, $40,000, $900,000, and $1 million. Mr. DeGraffenried apologized for the confusion and acknowledged that the exact number was unclear and would depend on the number of stalls.

Commissioner Joyce understood that Mr. DeGraffenried was saying that the assessment that was done in 2014 where they calculated the average cost per stall was used that as the basis for a fee-in-lieu. Given where they were in 2014 and based on the current plans, he was unclear whether Mr. DeGraffenried was saying the number was reasonable or unreasonable. Commissioner Joyce stated that what he hard was

that it was the math for what a stall costs, and they would contribute that amount for every stall that was not included for their project. Mr. DeGraffenried stated that he was not arguing the reasonableness of the amount of the fee. He was simply saying that it was not proportionate to the impact that a party might be imposing upon the City. They have to analyze whether impact is proportionate to the exaction that is being charged. He reiterated that the fee was determined by dividing the construction cost by each stall. Commissioner Joyce understood that the impact was not providing parking for the number of people using the building, and the fee-in-lieu is what it would cost the City to provide the necessary parking. Mr. DeGraffenried pointed out that Commissioner Joyce was not factoring in any future revenues that might be generated. Commissioner Joyce clarified that that was his reason for being specific about what existed in 2014. He thought future revenue was a separate question. He pointed out that the fees were set in 2014 and in 2017 the China Bridge and other parking is still free. Nothing has changed. Therefore, the City does not have a source of revenue. Commissioner Joyce noted that 2014 was fairly recent and the fee was mathematically calculated at $40,000 per stall. He has not heard anything at this point to indicate that the calculation is wrong, other than it may be different in the future. He believed everyone would agree that in the future it may be different. Commissioner Joyce remarked that currently the Code says that it is 40,000 per space. Mr. DeGraffenried argued that it was not proportionate to the impact his client was imposing. In his opinion, the fact that there is so much uncertainty further suggests that it is not proportionate, and there is nothing definitive on what it will ultimately be.

Mr. DeGraffenried again referred to the December 11, 2014 meeting minutes, page 16 of the PDF, and read, “The parking fee-in-lieu has been utilized in the past to provide partial funding for the construction of the China Bridge Garage. Planning and finance records indicate that the fee-in-lieu had not been utilized by developers over the past several years, but interest in the fee in lieu has grown with surge and redevelopment that began in 2014. Year to date, fiscal year 2015, only four parking in-lieu fees have been purchased.” His interpreted that to mean that since that provision was enacted in 1984, only four parking stall have been paid for under the fee-in-lieu program. He believed that suggests another disparate application of that fee. Mr. DeGraffenried pointed out that presumably there has been significant development in that area between 1984 and fiscal year of 2015. He was unsure if they were exempted from those fees or how those were applied, but the document suggests that they maybe have not been applied fairly or equitably across the board. Mr. DeGraffenried clarified that he did not have that information and was only going off the meeting minutes.

Chair Strachan asked if it was Mr. DeGraffenried’s position that if the previous owner of the Star had paid the fees timely, that it would have still be a disparate impact on that owner based on what they were required to pay for the fee-in-lieu. Mr. DeGraffenried

stated that they were obligated to pay $2,000 at the time based on the assessment. The fee-in-lieu was not established at that time. Chair Strachan asked whether Mr. DeGraffenried thought the tax assessment had a disparate impact on the Rixey's if they had paid it timely. Mr. DeGraffenried replied that he did not have that analysis and he had no way of knowing how it was calculated.

Todd Cusick stated that from a property owner's standpoint the question is what the Rixey's got out of paying the tax assessment. He understood that the first thing they got was parking across the street. William Rixey said that their stalls were along the wall where the Brew Pub is located. Years later they were given passes, and after several years the passes were taken away.

Commissioner Campbell wanted to know why the signs for the Imperial parking were not removed and why their passes were not taken away. Mr. Cusick stated that when he and William Rixey went through Mrs. Rixey's things he found an email where Mrs. Rickey started complaining to the City that she had parking and her parking was disappearing. The email indicates that she paid an assessment for two parking areas on Swede Alley and she has no place to park. He understood from William Rixey that his mother engaged in a 15-18 year battle over the parking she paid for. Mr. Cusick thought there appeared to be a trade that was reasonable at one where Mrs. Rixey paid $2,000 for parking stalls and then passes, and it was eventually taken away. Mrs. Rixey passed away before anything was resolved.

Regarding the question on the Imperial, Mr. Cusick stated that when he purchased the Imperial he noticed the 231175 and he started looking at parking. He went to the predecessor on the Imperial, Avenues Communities in Scottsdale, Arizona, and asked them for the history and where they parked. He was told that they parked across the street. They had parking spaces on Main Street but they were taken away when Main Street was unbuilt. The City gave them spaces across the street and at some point passes, but the passes were pulled. When Avenues Communities complained they were granted an encroachment permit across the street. Mr. Cusick explained that when he bought the Imperial in 2014 those spaces were still enforced. He pointed out that clearly 5-74 had some effect and parking was given. He assumed there was a fair trade at one point. However, now he is now told that the parking spaces and the passes were taken away and he has no parking. In addition, he does not have the benefit of curing the default by paying the 10% interest, which was the deal approved by the City Council in Ordinance 5-74. Mr. Cusick reiterated that he was prepared to write a check this evening, and he was willing to round up the estimated $7800 and write the check for $8,000. He would also agree to not exceed whatever parking is determined by reasonable measure. Mr. Cusick thought it was a reasonable solution.

Commissioner Suesser asked about the spaces for the Star Hotel and the parking arrangement that Mr. Cusick understood when he purchased that property. Mr. Cusick stated that when he bought the Star Hotel it was never discussed. He started looking into to it after it became an issue. Commissioner Suesser asked if there were signs across the street or anything to indicate parking for the Star Hotel. Mr. Cusick replied that the only thing he knew came from William Rixey who told him that there was supposed to be parking along the Brew Pub parking lot wall, but the signs were removed and the passes were taken away.

Mr. Cusick stated that aside from the question of whether or not Mrs. Rixey paid, the City records were disorganized and there was some question as to whether Ordinance 5-74 was enacted properly. The property records were inaccurate, and the only thing recorded was 231175 eleven years later. He thought there was evidence to assume that the accounting records might be incorrect. Mr. Cusick referred a finding of fact in the Staff report that states an assumption that an invoice was found showing that $620 was owed. He thought that sounded like a reduced amount, and considered the possibility that the Rixey's agreed to a different payment plan. He admitted that no one has the records and he did not believe they would ever be found. For that reason, making a determination would be difficult for both the City and Westlake Lands, which is why he was offering to follow the rules of the ordinance and pay what was owed.

Mr. Cusick read from Item 10 in the petition, "The Planning Commission may recommend to the City Council that new additions to historic structures be exempt from a portion or all parking requirements where the preservation of the historic structure has been guaranteed to the satisfaction of the City." He stated that he was willing to preserve the historic, and the Planning Commission had the purview to exempt the parking. Mr. Cusick thought that was the best solution for everyone concerned. It was already allowed by Code, there was no need to determine whether or not Mrs. Rixey had paid, and it would not have to be litigated in Third District Court. In addition, they would not have to be concerned about the public record that indicates that she must have paid because there is no evidence of liens or foreclosures.

Commissioner Campbell asked if any other properties were liened or foreclosed on. Mr. Cusick was not aware of any that were. It was possible and he would like to know for sure, but he did not believe they would find any record of that occurring. Mr. Cusick clarified that he was not pleased with the decisions by the HPB and the BOA that the Star Hotel was a historic Significant structure, but he accepted that decision and Bryan Markkenan had created a plan that reflects the historic architecture. Commissioner Campbell thought Mr. Cusick was already fighting that decision in District Court. Mr. Cusick replied that it was stayed pending this process because he preferred find a way to resolve the problem.

Mr. DeGraffenried pointed out that the appeal to Third District Court had to be filed to preserve the deadlines so that nothing was waived.

Mr. Cusick stated that he loves the old building and he was glad he found the old photo. He would like to keep what is built there consistent with what they see in that photo. However, for four years he has been told no on everything he has tried to do to provide parking.

Commissioner Joyce asked what Mr. Cusick thought he had for parking when he purchased the Star Hotel if William Rixey told him that the parking and the parking passes were taken away. Mr. Cusick replied that he spoke with William Rixey long after he purchased the property, and it took months before he was able to convince Mr. Rixey to go through his mother's things. That was when he found the email Mrs. Rixey wrote to the City, which confirms his belief that the assessment had been paid.

Chair Strachan asked Mr. Rixey when he purchased the Imperial. Mr. Cusick stated that he purchased the Imperial in July 2013. That was when he went through the process with Ms. Trotter at the City and she sent him 231175. He read it with her on the phone and she told him that it was apparent that during that time the City had not kept accurate records and eleven years later decided that they needed to produce a documents. It was clear that the property was taxed and if the taxes were not paid the property would be liened. There was no lien. When he got the title report six months later for purchasing the Star Hotel, it had the exact same entry and there were no liens.

Commissioner Thimm asked if anyone had approached the title company to determine whether they may have overlooked something in the record. Mr. Cusick replied that he had approached the title company and they were quite defensive about being accurate.

Director Erickson asked Mr. Cusick how he determined he needed parking for 205 Main Street at the same time he was figuring out the parking for the Imperial. Director Erickson pointed out that Mr. Cusick had gone through the regulatory process on 205 Main Street and had to provide parking. Mr. Cusick stated that when he purchased the 205 property the project was nearly done. Elliott Workgroup had already gone through the process with a previous owner, and he just built what was already designed. The only time parking came up as an issue was with the Imperial. He was working with Planner Astorga and the issue arose about whether or not the Imperial had complied with parking in some respect, and where the Imperial was supposed to park. At that time, he was also in the process of selling it to Dave Spence with Riverhorse and Mr. Spence was concerned about buying a building with parking issues. That was when they went to the Planning Department and spoke with Planner Astorga. Mr. Cusick

explained that since he owned both properties, he was having an issue with the elevators in 205 Main St. Since he wanted to redo the elevators, he asked the Planning Department if it was possible to eliminate the two elevator towers and put in two additional parking spaces, and grant an easement to his neighbor, Dave Spence, to park there. He was able to take out two elevators and create two parking spaces, and Mr. Spence parks in the 205 Main building.

Commissioner Joyce understood from the explanation that it was not clear whether there was parking for the Imperial, and that was resolved by putting the parking into 205 Main. Chair Strachan asked if 205 Main was required to have additional off-street parking. Mr. Cusick answered no; at least not that he was aware of. He clarified that he purchased 205 Main after it was already designed. There were two spaces for every condominium, and he added two extra spaces.

Craig Elliott with Elliott Workgroup stated that he was involved in the design of 205 Main and 221 Main. He recalled that the unit in 221 Main replaced the Imperial Hotel space. In the discussions they reduced the parking demand by adding one unit on the upper level. He could not recall any further discussion. Mr. Elliott remarked that on 205 Main, the parking was put in place. He believed it was two spaces per unit and there were six units. Mr. Cusick was able to create two elevators from the design to create two additional parking spaces. Mr. Elliott remarked that his firm was not the architect of record, but they processed it through the HDDR and gained approval for the previous owner, and then it was purchased.

Director Erickson stated that his point was that 205 Main provided on-site parking. Mr. Elliott agreed; however, there was no structure. Director Erickson understood, but the point is that the owner provided on-site parking rather than going through the potential fee-in-lieu or granted a waiver for a historic building if there had been one. Mr. Elliott explained that they were able to provide on-site parking because there was one curb cut at the very top of Main Street.

Commissioner Suesser referred to a memo drafted by Tom Clyde that was mentioned in the Findings of Fact of the determination. Mr. DeGraffenried stated that there were a couple of points to address, and it goes back to the evidentiary issue of whether the Rixey's paid the assessment. He understood that Tom Clyde was the City Attorney at the time and it was an internal memo. Mr. DeGraffenried remarked that in his memo Mr. Clyde indicates that the Improvement District was defectively formed and had no legal standing to push the invalid assessments. Commissioner Suesser clarified that he was talking about 5-74. Mr. DeGraffenried answered yes. He thought the memo begs the question of whether the framework of the fee-in-lieu being contingent upon an invalid assessment could even be upheld. He clarified that the point he wanted to

address was the last paragraph of the memo. He read, “This may sound simple, but I have a hunch that in some cases the records will be sufficiently messed up due to overlapping legal descriptions, sales of the property mid-stream, and the fact that some properties were taxed incorrectly, etc., and it may be pretty complicated. Lou Ann has a list but it has never been reduced to a map form. Her list was done from that point of who was unpaid. If we look at who paid, we might find an overlap. The ownership records are really that bad in Park City”. Mr. DeGraffenried notes that an internal memo from a Park City Attorney states that the internal ownership records are truly that bad, coupled with the fact that there is no lien or foreclosure proceedings against the Rixey’s. He stated that the invoices only go up to 1982, and there is a question of what happened between 1982 and 1984. Based on this memo, it is conceivable that the records, to quote Mr. Clyde, were that bad. Mr. DeGraffenried reiterated that Mrs. Rixey may have paid but there are no records to demonstrate payment. Another difficulty is that Mr. and Mrs. Rixey’s are deceased and there is no ability to ask them that question. However, looking at the preponderance of the evidence as a whole, it suggests that it was paid.

Commissioner Suesser asked which property Jim Carr owned at the south of Main. She noted that in the last paragraph it references that they were particularly concerned about his property. Director Erickson believed Jim Carr’s property is more in the vicinity of Grappa. It was not the Rixey property or the Imperial. Mr. DeGraffenried understood that the issue was that Mr. Carr was trying to sell the property or there was a taking of some kind; and in the event the fee-in-lieu would be imposed, that would decrease the value of his property.

Mr. Cusick stated that when he found the email from Mrs. Rixey, he also found two invoices that further leads him to believe that she paid the assessment. The first invoice said $1977 at 10%. There was interest and a $1977 payment. Based on the 5-74 document there were annual payments. He understanding was that it was supposed to be paid in 1975, 1976 and 1977. The Staff report suggests that it was three different years. Mr. Cusick stated that there was a payment of $2112 with interest, and it says this is a final installment. He found another invoice which says, “final notice before foreclosure”. Once again it reinforces his belief that she must have paid it because there is no evidence that the property was foreclosed on. He assumed the last payment made was $2112.

Director Erickson remarked that Exhibit F in the Staff report was a letter from the City Treasurer dated 1983, and an invoice in the amount of $3400 in 1984. Page 639 of the Staff report shows a recorded document 232209 which shows that the Rixey’s had not paid. Mr. Cusick noted that he not seen this information until Director Erickson

produced it. It was clear that after 1978 it was still ticking off interest. He thought it was worth noting that it goes to 1982 and then stops.

Commissioner Suesser understood that Mr. Cusick was expanding the existing building by 8,000+ square feet. She asked if that expansion would trigger a new parking requirement. Bryan Markkanen stated that adding 8,000 square feet to approximately 5,300 of existing square footage was still in design review. It was at the behest of someone else and it could change at any time. Commissioner Suesser asked if it was their position that they would be exempt from any additional parking requirement. Mr. Cusick answered no. He thought a reasonable approach would be to see what was done, licensed, approved and practiced for four years. Mr. Markkanen previous outlined three ways to calculate it and in either way it is approximately 32-36 spaces. They know the benchmark and if they exceed that number they are willing to pay whatever is necessary. The intent is to keep the design consistent enough to fit underneath that benchmark and not increase parking.

Mr. Cusick presented the current tax assessment that he obtained from the Summit County Tax Assessor's website. The market value of the property this year is $1.3 million. The improvements were $717,000 and the land was valued at $588,000. Mr. Cusick pointed out that as the Staff report indicates, the building was condemned. It was condemned at his request because the building was unsafe. The building has no footings or foundation and it was moving constantly. He asked the Building Department to condemn it and they agreed immediately after looking through the building.

Mr. DeGraffenried explained that the new plan in place is primarily residential, and the residential calculations render a smaller parking requirement. Their position is that the applicant was decreasing the parking burden that has existed since for the building. Commissioner Suesser clarified that the new construction did not trigger a new parking requirement because they were well under what was allotted. Mr. DeGraffenried replied that she was correct. They believed that was the benchmark because it has been in place for as long as the building has existed.

Commissioner Campbell asked why the benchmark was not the two parking spaces that were in place that Mrs. Rixey claimed she paid for. Mr. Cusick replied that it was two parking areas, but he was unsure what that meant. Commissioner Phillips stated that parking areas means two assessed parking areas. Mr. Cusick remarked that the uncertainty was how many spaces were in those two parking areas. Mr. DeGraffenried was unaware of any other ordinance under which Mrs. Rixey would have paid an assessment at the time. He assumed her email referred to the 5-74 ordinance.

Director Erickson thought they needed to also consider when the City acquired that property and whether those spaces were part of the original buildings that were on the Brew Pub lot. He pointed out that the Staff had not made a determination on the total number of parking spaces required for this project. They had also not made a determination of the total number of spaces that were provided previously for the Star Hotel when it was operating.

Chair Hotel asked if that was why the City would not allow Mr. Cusick to bring the balance current with interest. Assistant City Attorney McLean explained that the Statute the Planning Director was asked to make a determination on was whether or not Section 15-2.6-9(D) applies in this case, and whether Mr. Cusick is allowed to get the exemption up to 1.5 FAR. She noted that Director Erickson determined that it was not allowed because the Statute states that the trigger is whether or not the owner can provide proof that the payment was made before January 1, 1984. That determination was the issue being appealed. Ms. McLean remarked that other information has been discussed and she wanted to give the applicant and their counsel the opportunity to make their arguments. However, the only issue for the Planning Commission is the interpretation of the Statute. Ms. McLean stated that the information regarding the Imperial was not relevant, because it is a different situation. In terms of there being City parking for the Imperial, it is a license that is revocable and has nothing to do with the parking requirement and the 1.5 FAR. What is relevant is the Statute and whether or not the owner has provided proof of whether it was paid.

Assistant City Attorney McLean stated that the Planning Commission was reviewing this appeal de novo, and the question is whether or not the Planning Director erred when making that determination. Mr. DeGraffenried respectfully disagreed that the issue was that narrow. Preserving the record, this was their opportunity to rebut the proposition that they are obligated to pay the fee-in-lieu. He believed all the attendant legal issues addressed this evening were applicable to that, and this was their only forum currently in which to do that. Mr. Cusick stated that he started his presentation with the first page of the Staff report because he disputed that it was only the one issue outlined in the Staff report.

Chair Strachan asked Assistant City Attorney McLean to respond to the applicant's argument that they can bring the 5-74 assessment current right now. Ms. McLean replied that it needed to be paid before 1984 per LMC 15-2.6-9(D), Pre-1984 Parking Exception, which states, "Lots which were current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, are exempt from the parking obligation for Floor Area Ratio (FAR), of 1.5. Buildings that are larger than 1.5 FAR are non-conforming buildings for off-street parking purposes. To claim the parking exemption for the 1.5 FAR, the owner must establish payment in full to the Main Street

Parking Special Improvement District prior to January 1, 1984." Assistant City Attorney McLean clarified that the Planning Director was asked to make his determination based on that Statute in relation to the HDDR because the applicant was doing new construction.

Mr. Cusick assumed Ms. McLean was reading from the Code. She answered yes. Mr. Cusick noted that what he had read earlier was from Municipal Code 1-1-3, and he clarified that it was not intended to mislead the Commissioners. Mr. Cusick thought it was clear from the language that the Code cannot repeal or otherwise affect the validity of the Ordinance. He pointed out that 5-74 is an ordinance levying taxes. Mr. Cusick believed he was entitled to the benefit of Ordinance 5-74. He was willing to stipulate that the assessment was not paid and write a check for the amount owed.

Mr. DeGraffenried noted that in 15-2-6.9C, the Planning Commission can grant a waiver. He stated that they met with the Staff and requested that the application process be started. He understood that it was the Staff's obligation to effectuate that process and provide the application information. Despite requests, they have not been provided with that application information. Mr. DeGraffenried stated that to the extent they can make the application now that would be their request, as Mr. Cusick previously indicated, based on the historic nature of the building as determined through the historical review process.

Assistant City Attorney McLean remarked that Westlake Lands could apply for the application Mr. DeGraffenried mentioned; however, it is a different process. Secondly, Ms. McLean stated that the City's response to the Code is that ordinance is not repealing in any way the 1974 levy. The City had a subsequent Statute. They did not foreclose on those properties and if the applicant wants to pay they can, but it does not give them relief. The Statute is clear about the date of when it had to be paid in order to get the exemption.

Commissioner Suesser pointed out that the ordinance itself has a cure or the opportunity to cure it, and she was struggling with that fact.

Commissioner Joyce understood that if the assessment is not paid the City could still lien or foreclose on the property at any time. However, regardless of whether or not it is paid, another part of the Code says, "To claim the parking exemption the owner must establish payment by January 1, 1984". If they pay and eliminate what is owed to the City, it was still not done before 1984.

Mr. DeGraffenried read the last sentence of the ordinance, "If you cure the default and all approved costs and shall thereupon be restored to the right thereafter to pay in

installments in the same manner as if default had not occurred". He believed it was retroactive and if it is brought current it is as though the default never occurred, which dates back to the previous time it was due and prior to the 1984 cutoff date. Chair Strachan argued that there was a difference between default and payment. The default can be corrected either before or after 1984, but the ordinance drives on whether payment was established before 1984. In his opinion, curing the default was irrelevant. It was two separate events. One is a payment being, and separately a default being cured. Mr. Cusick thought that had been accounted for because the language says, "as if default had not occurred".

Commissioner Campbell pointed out that the exemption was not based on the lack of default. It is based on a payment having occurred before 1984. He thought a number of issues were raised that the Planning Commission was not qualified to discuss. He clarified that the Planning Commission was only being asked on whether or not Director Erickson was correct in his narrow interpretation of one issue.

Chair Strachan believed all the arguments had been laid out and the Commissioners understood the arguments. If the applicant had new information to present were interested in hearing it, otherwise they would move to public hearing. Mr. DeGraffenried thought they had presented all their arguments. He wanted to make sure that the new documents that were introduced are on the record and ask the best process for providing those. Assistant City Attorney McLean requested that he provide the documents to the Staff to be included in the record.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Chair Strachan stated that he would uphold the Planning Director's decision based on the arguments that were laid out by Legal Counsel and the Staff. He thought the arguments by the Staff were more persuasive in that the interpretation of the Code by Planning Director Erickson was correct. Chair Strachan did not find Section 1-1-3 to be applicable because this ordinance does not affect the validity or otherwise overrules a prior ordinance; and instead it confirms it. He thought the burden is on the applicant to provide some evidence to bring the Planning Director's decision into question. Without any proof of a payment before 1984, he did not find any evidence that would absolve the applicant of the obligation to pay the fees. Based on the prior dealings of the owner with respect to other properties on Main, Chair Strachan thought there was enough hint of a possible outstanding parking obligation that it should have been delved into in

greater detail during the due diligence process. He agreed that there may be a valid claim against the title company as Commissioner Thimm suggested, but that was not an issue before them this evening. Chair Strachan thought the Rixey's should have been questioned further regarding the parking history during the due diligence process, and whether the assessment had been paid. Chair Strachan was unsure whether his conclusion was shared by his fellow Commissioners and asked for their comments.

Commissioner Campbell understood that the applicant had a pending appeal on the Board of Adjustment decision that was stayed at the moment. He thought everyone was in favor of what Mr. Cusick was trying to do with the building. It has been an eyesore for a long time and none of the discussion this evening should be construed as an attempt to stop that process. Commissioner Campbell was willing to support at least some mitigation of the obligation for parking on based on the historic side, but that was his personal opinion and it would require a Staff recommendation and a vote by the majority of the Commissioners. Commissioner Campbell agreed with Chair Strachan that this was a clear that the Statute was not met because payment was not made prior to 1984. The City may not be able to prove payment was not made, but the Code does not say the City has to prove it. It says the owner has to prove that payment was made. Since the applicant cannot prove payment, the Planning Commission has no choice but to support the Planning Director's determination. Commissioner Campbell reiterated that the decision did not mean they were against the process or the project.

Commissioner Joyce thought the applicant had a number of issues to deal with and there were opportunities for other pieces, but on this narrow ruling he found nothing to prove that it was paid by January 1, 1984. They have seen a number of documents after 1984 that said the assessment was still owed. Commissioner Joyce supported the Planning Director's determination.

Commissioner Thimm supported the Planning Director's determination for the reasons stated previously. In addition, he did not believe the Planning Commission could consider bad recordkeeping, they do not know for sure whether the title company actually made a mistake, and LMC 15-2.6-9 is clear that the burden of proof goes with the owner. Commissioners Suesser and Phillips concurred.

MOTION: Commissioner Joyce moved to DENY the appeal of the Planning Director's Determination for 227 Main Street, the Star Hotel, based on the Findings of Fact and Conclusions of Law on pages 456-459 in the Staff report. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 227 Main Street

1. The property is located at 227 Main Street in the Historic Commercial Business (HCB) District.
2. The property is identified by the Summit County Recorder as Tax Parcel PC-194 or Lots 7 & 8, Block 12 of the Park City Survey.
3. The referenced property is within the metes and bounds legal description of the Main Street Special Improvement District created by ordinance July 5, 1974 and reentered at the Summit County Recorder's office as Entry Number 231175, Book 333, Page 91-106.
4. The existing historic boarding house on this site was been designated as Significant on the City's Historic Sites Inventory (HSI) in 2009.
5. The Historic Preservation Board re-affirmed its historic designation as a significant site on November 2, 2016. The owner appealed this determination to the Board of Adjustment, which affirmed the Historic Preservation Board's designation on February 21, 2017. The owner appealed the Board of Adjustment's decision in Third District Court where the case is currently pending.
6. On August 15, 1974, the Park City Council adopted Ordinance No. 5-74 creating Park City Main Street Off-Street Parking Special Improvement District for the purpose of paying the costs of constructing improvements including off-street parking facilities and automobile access ways. Properties in the District were subject to an assessment.
7. In 1975, William W. and Georgie Carol Rixie purchased the Star Hotel at 227 Main Street from William L. Jr. and Joyce L. Gardner. William R. Rixey sold the property to Star Hotel LLC in 2013.
8. In 1977, Park City Municipal Corporation sent an invoice to W.W. Rixey as owner of the referenced property. The invoice shows that Rixey had a $1,947.00 balance from 1976. With interest charged at 10%, the amount due by August 22, 1977, was totaled at $2,112.00.
9. The 1981-1982 ledger of the Main Street Special Improvement District shows that W.W. Rixie had a balance of $2,112.00 as of June 31, 1981; the balance was carried over to June 2, 1982 as it had not yet been paid.
10. A 1981-1982 ledger of the Main Street Special Improvement District shows that W.W. Rixey owed $2,112.00 as of 1982 and the balance had not been paid.
11. Staff has found a copy of the carbon copy of the assessment sent to W.W. Rixey, account #65, in 1982. It shows that the original amount due was $1,650 based on the August 22, 1976 assessment. The City then charged 10% interest for years 1976 and 1977, 8% interest for year 1975 and 10% interest for years 1978 through 1982. The grand total was $3,401.39; however, it appears that the Rixies may have agreed to an installment plan as only $682.00 was due at the time of the bill.
12. On May 2, 1983, the Finance Department of Park City Municipal Corporation sent

out a notice letter to property owners with overdue balances owed to the Main Street Special Improvement District Assessment, which had been assessed in 1975. The City had set up an installment plan in which the property owner could pay the assessment in installments over a three (3) year period, with an annual interest rate of 8%. With these letters, they enclosed a bill for the past due balance plus a 10% interest charge per year, for the years 1978 thru and including 1982. The letter indicated that if the payment was not received by May 20, 1983, or some satisfactory arrangements were not made, the City would go thru the Summit County Assessors offices and lien the property.
13. On January 1, 1984, William and Georgie Carol Rixey owed $3,401.39.
14. On March 28, 1985, Park City Municipal Corporation recorded a Notice of Payment Assessment, listing those properties that had paid in full on or before December 31, 1983, to the Main Street Special Improvement District. It shows that “Block 12, Park City Survey, Lots 3 thru 6, 9 thru 16, and the East 50 feet of Lots 1 and 2” were paid in full. Lots 7 & 8 of Block 12 (227 Main Street) were not identified as having been paid in full.
15. The existing building measures approximately 5,187 square feet in size.
16. Appellant submitted an HDDR on May 2, 2017. The HDDR proposes reconstructing the historic building and adding on an addition. The existing building is approximately 5,370 square feet and the applicant is proposing a total square footage of 13,575 square feet upon completion of the project. The architect did not specify the square footage of the existing and proposed building on his plans.
17. Per LMC 15-2.6-9(B), the applicant shall provide parking at a rate of six (6) spaces per 1,000 square feet of non-residential Building Area, not including bathrooms, and mechanical and storage spaces.
18. Per LMC 15-2.6-9, the parking must be on-Site or paid by fee in lieu of on-Site parking set by Resolution equal to the parking obligation multiplied by the per space parking fee/in-lieu fee.
19. LMC 15-2.6-9(D) states, “Lots, which were current in their assessment to the Main Street Parking Special Improvement District as of January 1, 1984, are exempt from the parking obligation for a Floor Area Ratio (FAR) of 1.5. Buildings that are larger than 1.5 FAR are Non-Conforming Buildings for Off-Street parking purposes. To claim the parking exemption for the 1.5 FAR, the Owner must establish payment in full to the Main Street Parking Special Improvement District prior to January 1, 1984.”
20. The Owner has not established payment in full to the Main Street Parking Special Improvement District prior to January 1, 1984.
21. The Parking for the project is reviewed under the LMC in effect at the time of Project
Application, which is May 23, 2017. The current in lieu of fee is $40,000 per space. The in lieu of fee was reviewed and substantiated when adopted by the Park City

Council on December 18, 2014. Council based the in lieu of fee on a study which showed that in 2014 the current average construction cost of an additional parking space within the historic core at $41,863. This amount doesn't include land costs. Therefore, the actual cost would be even higher than this. In addition, Owner is always able to build his own parking in satisfaction of the requirement.
22. According to State Code impact fees are fees "imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure." They do not include a "tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee." UCA § 11-36a-102(8)(a),(b). The 1974 tax is by definition not an impact fee.
23. Off street parking is a requirement for all residential and non-residential buildings in Park City. The in lieu of fee is only available under certain circumstances and is only an option if parking is not otherwise provided. As such, in-lieu fees are not mandatory but optional when the property owner decides not to build the required parking on their private property. The parking/in-lieu of requirement isn't for public infrastructure; it is related to specific requirements of the site.
24. LMC 15-2.6-9 specifically exempts only those properties where the Owner established payment in full to the Special Improvement District prior to January 1, 1984. Appellant concedes that the invoices indicate that payment had not been paid by that date. The recorded document "Notice Of Payment of Assessment" recorded on March 28, 1985 also reflects that this property had not paid its assessment.
25. The Title Report for the property includes exception 13 which states, "Affidavit confirming Ordinance Levying the assessment for the Main Street Off-Street Parking Special Improvement District of Park City, commonly known as the Main Street Special Improvement District within Park City adopted by City Council August 16, 1974, and recorded February 28, 1985 as Entry No. 231175 in Book 333 at page 91, records of Summit County, Utah.
26. Section 15-2.6-9 of the LMC requires off street parking which can be fulfilled by paying a parking in lieu of fee.



Conclusions of Law -227 Main Street

1. The Appeal was received within thirty (30) calendar days after the Planning Director's Determination was issued.
2. The Appellant has not established payment in full for the 227 Main Street Parking Assessment as a part of the Main Street Parking Special Improvement District prior to January 1, 1984.
3. Neither the 1975 Assessment nor the Parking Requirement are impact fees.

Order:
1. The Appeal is denied in whole and the Planning Director's Determination is upheld

The Park City Planning Commission Meeting adjourned at 10:15 p.m.

Approved by Planning Commission:

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