

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
September 26, 2018

COMMISSIONERS IN ATTENDANCE:

Chair Melissa Band, Sarah Hall, John Kenworthy, Mark Sletten, Laura Suesser, Doug Thimm

EX OFFICIO: Planning Director, Bruce Erickson; Kirsten Whetstone, Planner; Anya Grahn, Planner; Jody Burnett, Legal Counsel

=====

REGULAR MEETING

ROLL CALL

Chair Band called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Phillips.

ADOPTION OF MINUTES

August 22, 2018

MOTION: Commissioner Thimm moved to APPROVE the Minutes of August 22, 2018 as written. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Director Bruce Erickson reported that currently the Planning Commission was schedule to only have one meeting in November and December. The Staff was contemplating only one meeting in January due to Sundance. The meetings dates would most likely be scheduled at the beginning of the month to avoid Thanksgiving, Christmas, and New Year.

Chair Band asked if the agendas would be heavier than they have been. Director Erickson replied that the Staff thought the agendas would be heavier with Land Management Code changes. However, in discussions with the Legal Department regarding enforceability, the recommendation was to move some of the enforcement into the Business License Code rather than the LMC. Director Erickson explained that the LMC addresses the property

owner and the business license deals with the operator. On items that have significant operating issues, it might be better to enforce those under the business license. Planners Morlan and Tyler have been looking at the two Codes as they move forward.

Director Erickson anticipated that on October 10th the Planning Commission would be discussing the Kimball project that the City Council had remanded back to them.

Commissioner Kenworthy updated the Planning Commission on the Transportation Committee. The committee met last week and Nelson/Nygaard, the hired consultants, are in the process of gathering data. They have a survey that drills down on commuter and other issues. The survey was set for October but the committee would like them to push it to November because that month is a better baseline to conduct the survey. Commissioner Kenworthy stated that he was impressed with the diversity of the community on the committee. He was also impressed to see Doug Smith, the Wasatch County Planning Commissioner, at the meeting. Commissioner Kenworthy was pleased to hear that the Mayflower Development has proposed transit centers between Wasatch and Summit Counties. He believed this was a big step and he hoped they would be able to inch further into Heber Valley as they move forward.

Commissioner Sletten noted that Director Erickson had previously asked if he would also like to be on the Transportation Committee. He had not followed up with Director Erickson, but he was interested if they needed extra representation.

Director Erickson thought the Planning Commission needed a resolution to formally appoint Commissioners Kenworthy and Sletten to the Transportation Committee. Currently, they were operating in an ex-officio role.

Commissioner Sletten disclosed that he owns property in the sister subdivision to Moon Shadow. He did not believe that would affect his decision on the Moon Shadow item on the agenda this evening.

CONTINUATIONS (Public Hearing and Continue to date specified)

Municipal Code Amendments regarding Recreational Vehicle Parking in Title 9: Parking Code (Chapters 9-1 and 9-2), Title 11: Buildings and Building Regulations (Chapter 11-15), and Title 15: Land Management Code (Chapters 15-3, 15-5, and 15-15).
(Application PL-18-03479)

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

MOTION: Commissioner Sletten moved to CONTINUE the Municipal Code Amendment to a date uncertain. Commissioner Kenworthy seconded the motion

VOTE: The motion passed unanimously.

Director Erickson reported that the Municipal Code Amendment was scheduled as a Work Session item on the City Council agenda for October 11, 2018. The City Council will provide direction before it comes back to the Planning Commission.

The Planning Commissioner moved into Work Session to discuss Code Enforcement

WORK SESSION – Citywide Strategic Code Enforcement

Dave Thacker, the Chief Building Official, presented a Code Enforcement Update to the Planning Commission on community outreach, education, construction mitigation and conditions of approval as the focal point of all enforcement activity.

Mr. Thacker noted that previous updates were given to the City Council and some of the information had moved through various lines to the Planning Commission. Mr. Thacker thought this was a good opportunity to talk to the Planning Commission about some of the Code Enforcement efforts, as well as new pieces of enforcement. He also intended to provide an overview of Code Enforcement in general city-wide. Mr. Thacker stated that they were looking at a three-department member Code Enforcement Group. In addition, several groups throughout the City enforce codes and they all collaborate and work together.

Mr. Thacker emphasized that the objective this evening was a general overview of Code Enforcement. No specific projects or conditions were part of the presentation.

Mr. Thacker stated that the previous Code Enforcement updates discussed the hybrid style of enforcement. They do reactive enforcement as complaints are received. They also do proactive enforcement where site visits occur during construction and/or when they see a violation in other areas of the City. When violations are observed, people are notified of the violation and that they must rectify the situation.

Mr. Thacker stated that the process is to first educate. A City Council priority is to make sure that the public is aware that they are in violation. In some cases, people are aware they are in violation and choose to do so anyway. Code Enforcement does its best to work with people and then work through the process for enforcement. The current process is to educate and inform them of the violation. If the violation is not rectified, a

verbal or written warning notice is issued. If the violation is still not corrected, it moves to a citation process. A civil citation would be through an ACE program that Michele Downard established a few years ago. A criminal citation would be through the Police Department.

Commissioner Suesser wanted to know the third department that works on Code Enforcement besides the Building Department and Police Department. Mr. Thacker stated that as they work through the updates, they were trying to gather as much feedback as possible from the Planning Commission based on comments they hear from the community, and others. It is not a perfect process but they have made improvements and they continue to improve. All feedback aids in the continual improvement process.

Mr. Thacker stated that other updates specifically related to the Planning Commission and more specific to the Code Enforcement Group are conditions of approval and construction mitigation plans. City-wide they continue to enhance already great customer service, ensuring that they can give the customers what they need and make sure they understand it.

Mr. Thacker stated that the Code Enforcement City-wide groups consist of Police, Parking, Environmental Enforcement, Fire Marshall and Fire Code Officials, the Building Team, the Engineering Team, and Planning Team. There are others, but these seven groups do the most outward enforcement and can be considered city-wide Code Enforcement.

Mr. Thacker provided a breakdown of what each department addresses related to Code Enforcement. Police is noise, traffic, parking, public nuisance. The police Departments does a lot of after-hours Code Enforcement. The Building Department addresses construction mitigation plans, road closures, etc. Parking is parking violation for both construction and non-construction parking on City streets. The Engineering Department does a lot of right-of-way, construction of utilities, road cuts, infrastructure, etc. Environmental is the soils. The Planning Department has a gamut from landscaping to historic, conditions of approval, etc. Fire enforces the Fire Code piece which is prevention events, investigations, and wildland fires, etc.

Mr. Thacker stated that it was brought to his attention that something helpful moving forward would be to enhance the graphic to include phone numbers and first points of contact for these areas. He would email that information to the Planning Commission once it is compiled. After-hours contact information would also be included.

Mr. Thacker stated that the seven groups work together daily relative to the concerns and complaints received to achieve the best outcome in the enforcement process. They are working on consistency, so regardless of who is contacted, the person calling with a complaint will get the same process and the same answers. The goal is to continue learning and educating.

Mr. Thacker noted that a representative from every group was present this evening to answer questions.

Chair Band asked about the process and whether the contact information is on the website. She asked if whoever receives the call is responsible for sending the complaint to the correct departments. Mr. Thacker replied that currently the information was not available to the public. However, they were working on how to make sure the public knows where to go if they have a complaint. It would be a citizen portal where complaints can be reported online. The reported violation would then be funneled to the appropriate party based on the information given. The citizen can choose to either remain anonymous or agree to be contacted in the process. Mr. Thacker commented on another aspect that is currently on the website on the Code Enforcement page. Someone with a complaint or concern can fill out a sheet that goes to the Code Enforcement Staff in the Building Department. If they cannot directly address the complaint, they will pass it along to the proper party.

Mr. Thacker presented a generic beginning of a construction mitigation plan. He noted that every construction project that has a permit is required to have a construction mitigation plan. The software system is still in process and they were not yet ready to launch it. In the interim, there is a secondary process where customers can go to a link on the website and type in a permit number or address to pull up the construction mitigation plan and conditions of approval for a specific project. Mr. Thacker stated that people can also call the Building Department and request the construction mitigation plan. Mr. Thacker stated that another option discussed was some type of a QR Code on a sign in front of the building. They were still looking into ways to make that possible.

Commissioner Sletten stated that he had used the Backhoe Program and the main page where he could click on a site; however, there was a lot of information. He suggested a similar program that could be more user friendly in obtaining information. Mr. Thacker agreed. Once they implement the new software, it will be much easier to obtain the information.

Commissioner Suesser stated that the Planning Commission would like to see a clearer accountability by departments in the City in terms of enforcing conditions of approval.

Director Erickson explained that at the highest level, the Planning Department owns the lifespan of a land use project. Therefore, enforcement of the conditions of approval starts with the Planning Department. Director Erickson remarked that the main enforcement of conditions of approval start when an application is submitted for an action. The Staff reviews the entire previous history of the location in an effort to understand the action being taken. They see it a lot inside MPDs, Conditional Use Permits, and Subdivisions. The second level of enforcement are the conditions of approval that are not time stamped and do not require an annual review. The third level are conditions that are date stamped, which can include an annual review or three reported complaints. Director Erickson stated that there was very little tracking mechanism for the time sensitive conditions, and the Legal Department was trying to find a mechanism.

Mr. Thacker stated that in various jurisdictions, Code Enforcement is a primary topic but it never has a resolution. On the question of whether they would ever get it right, Mr. Thacker believed they would. However, the challenge with enforcement is that one party is pleased and the other party is frustrated.

Mr. Thacker stated that part of the process in making sure they get it right is ensuring that emotion is removed from the enforcement piece. They look at the facts and consider what is actually occurring and how it is affected by the Code; not by how it is affected by the other person involved. It takes a lot of patience on the part of the Code Enforcement Staff, and Park City is fortunate to have staff that can do it and do it well. Mr. Thacker emphasized that enforcement does not have a beginning or an end. It is continually ongoing and ever changing. They will continue to enhance the program and make it the best possible.

Commissioner Sletten commented on noise enforcement. If a citizen complains about noise, he wanted to know if the citizen has to accompany the officer or whether the officer goes by himself.

Sergeant Jay Randall with the Police Department believed the idea that the citizen has to accompany the officer stems from an incident that occurred many years ago. Having a citizen accompany is not part of the officers' training and it is never anticipated to occur. Sergeant Randall thought it would be an escalating technique. He explained that typically the officers separate all parties involved, take independent readings, and educate on both sides independently to come up with the best solution.

Commissioner Kenworthy stated that often times there are repeat offenders from the same home or commercial business for the noise ordinances. He wanted to know how

the Police Department tracks the number of complaints for the same address. Mr. Randall replied that law enforcement uses an operating system that assigns a case number to each complaint and the officer puts notes in each one. In addition to having a record of the complaint, they can also read the notes from the previous occurrence to find out who they spoke with, if action was taken, etc. It gives an officer the opportunity to track the complaint history of repeat offenders and determine whether it is necessary to move to the citation level. Commissioner Kenworthy asked if the officer is aware of the previous violations before going out with a sound meter. Sergeant Randall stated that most officers will ask if there is a history at that location. The Dispatcher will pull it up and provide dates and specific information. However, in some cases it might be different people holding a different event, and that can be an issue.

Director Erickson remarked that in a few situations the noise violation may or may not violate the noise ordinance itself, but there may be a special exception to the site or a condition of approval placed on a project. Currently, there is no easy way for the officers to find the conditions of approval inside a conditional use permit. Director Erickson stated that they were working on a mechanism to simplify the conditions of approval for items the police would enforce.

Chair Band agreed that the Planning Commission has placed conditions of approval with specifics for noise, parking, etc., that are contrary to a typical condition. She understood that at this point there was no reliable channel between the two. Director Erickson replied that Special Events is usually aware and they receive most of the phone calls. Noise is controlled by number of events per year, notification to the Police Dispatch, and police sign off on the special exceptions from the noise ordinance. The police also sign off on special events. Currently, there is no other mechanism.

Using nightly rentals as an example, Chair Band commented on conditional use permits that require a one-year review by the Planning Commission to make sure the conditions of approval are met. She wanted to know if there is a way to ensure that it comes back to the Planning Department in situations other than events. Director Erickson replied that this was one reason why they were making the conversion to the Business License. A rental operator would be more liable than the person who owns a house and lives out-of-state. Director Erickson stated that the City was still trying to find a mechanism to regulate parking without a parking permit program. Additional enforcement will be placed on the Parking Department with the new parking program.

Commissioner Kenworthy asked Mr. Thacker how the Building Department tracks a contractor who repeats the same violation at different job sites. He thought the majority of violations come from repeat offenders rather than one person who makes a mistake. Mr. Thacker stated that what the Building Department is able to enforce is specific to a

violation and not specific to an individual. If they receive a complaint for one address, they create a case, put it in the data base, and it is stored forever. If the same violation is committed months later, they will be able to track it, but they are not able to tag a violation to an individual. They have to enforce the violation itself. Mr. Thacker emphasized that the process is tied to an address and not an individual.

Commissioner Kenworthy remarked that it goes back to enforcement of the property and the property owner. If the property owner persuades the contractor to work beyond the designated stop time, the contractor is the one responsible for the violation. Issuing a Stop Work Order delays the project, but the delay affects the neighborhood and the people who complained.

Mr. Thacker stated that the Building Department uses a Stop Work Order as a tool to gain compliance; however, he agreed that it does delay the project. Depending on how the contract is set up, a delay may or may not affect the contractor. Mr. Thacker recognized that it was not a perfect process. The State regulates contractor licenses, but the City has the ability to work with the State if there are multiple violations with a specific contractor. In the past they have taken that step and worked with the State.

Chair Band asked if the City was prohibited from penalizing a contractor who continually repeats the same violation. Mr. Thacker replied that they do not have the right tools to do that. He explained that the State of Utah licenses the contractors and the City cannot take action against the license.

Commissioner Thimm stated that if a member of the public sees a project being built and has a question, he asked if that person would have a way to access the conditions of approval or the construction mitigation plan. Director Erickson replied that there was a current process, but it was difficult. He and Mr. Thacker were trying to develop a simplified process where someone could enter either the project number off the building permit or enter the address to find the conditions of approval and the construction management plan. Director Erickson was unsure whether the information would be available permanently or whether it would be dropped after a certain time period. Commissioner Thimm remarked that if the conditions of approval last for the lifetime of the project, he recommended that they be accessible permanently.

Commissioner Suesser wanted to know the oversight and supervision of renovating a historic structure. Planner Anya Grahn replied that the process is very intense. Once the owner receives project approval and obtains a building permit, the Planning Staff usually walks by at least once a week. The Staff tries to meet with the contractors and the construction team for a pre-construction meeting where they go over the expectations of the Planning Department, the Building Department, and Code

Enforcement to make sure they all have the same understanding. The building inspectors drive around and it is not uncommon for them to come to the Planning Department asking if something they observed was actually approved. Planner Grahn stated that all eyes are on the project while it is under construction.

Director Erickson stated that under the terms of the Historic District Design Review and when the HPB conducts their review, Landmark Structures require the Historic Preservation Planner to go onsite and approve the removal of historic materials one at a time and determine whether some of the materials can be salvaged. When the structure is reassembled, the Planners go back to the site to make sure it is reassembled properly. Director Erickson remarked that the Historic Preservation Team is very thorough.

The Planning Commission adjourned the Work Session and returned to the Regular Meeting.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **1406 Park Avenue – Proposal to create a legal lot of record from a meets and bounds parcel measuring 3,557 square feet. (Application PL-18-03947)**

Planner Grahn noted that 1406 Park Avenue was a current metes and bounds parcel. The applicant was proposing to go through the plat amendment process in order to create a legal lot of record. A Historic District Design Review application was already approved for this project; however, a condition of approval requires the plat to be recorded prior to issuance of any building permits.

The Staff recommended that the Planning Commission forward a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law, and Conditions of Approval.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the 1406 Park Avenue Plat Amendment located at the same address,

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

VOTE: The motion passed unanimously.

Findings of Fact – 1406 Park Avenue

1. The property is located at 1406 Park Avenue.
2. The site is not designated as historic on the City's Historic Sites Inventory.
3. On July 26, 2018, the applicant submitted a plat amendment application to the Planning Department to combine the existing metes and bounds parcel into a single lot of record measuring 3,557 square feet. It is Summit County Parcel SA-236.
4. The plat amendment application was complete on July 26, 2018.
5. There are several encroachments on this site. There is a wood fence that wraps the west (front), north (side) east (rear), and south (side) property lines; the fence encroaches over the west, north, and east property lines.
6. The existing house was constructed in 1912 and significantly altered between 1949 and 1982; it does not comply with the required setbacks. The applicant has proposed to demolish this house in order to redevelop the site.
7. The minimum required lot size in the Historic Residential Medium-Density (HRM) zoning district is 1,875 square feet for a single family house and 3,750 square feet for a duplex. The proposed lot size is 3,557 square feet; it complies for a single family house but does not comply for a duplex.
8. In the HRM Zoning District, there is no maximum building footprint. Rather, any new development will need to comply with the required setbacks as outlined in LMC 15-2.4.
9. This property is surrounded by single and multi-family dwellings. There is not a consistent house size in this neighborhood due to the mix of housing developments.
10. The proposed lot at 1406 Park Avenue measuring 3,557 square feet is much smaller than the typical lot sizes in this neighborhood. The average lot size is 18,738.50 square feet overall for lots in the 1300-1500 blocks of Park Avenue within the HRM Zoning District. The largest lot is at the Woodside Park Subdivision at 1353 Park Avenue (20,752 sf) and the smallest was the single-family development at 1323 Park Avenue (2,178 sf).
11. The minimum required lot width in the HRM zoning district is 37.50 feet; the proposed lot complies at 51.42 feet in width.
12. The minimum required setbacks in the HRM zone are 15 feet front yard, 20 feet for front-facing garages; the existing house complies with a 22-foot front yard setback.
13. The minimum required rear yard setback is 10 feet; the existing house does not comply with a 4-foot rear yard setback.

14. The minimum required side yard setbacks are 5 feet; the existing house complies with a 6.4-foot north side yard setback, and does not comply with a 4.9-foot south side yard setback. This is an existing non-complying condition.
15. The maximum building height above existing grade in the HRM zoning district is 27 feet. The existing house complies with a height of 15.8 feet.
16. The plat amendment will not create any new non-complying conditions. All noncomplying conditions are currently in existence.
17. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 1406 Park Avenue

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

Conditions of Approval – 1406 Park Avenue

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Residential fire sprinklers will be required for all new construction per requirements of the Chief Building Official.
4. A 10-foot-wide public snow storage easement along the frontage of Park Avenue is required and shall be provided on the plat.
5. There is a wood fence that wraps the west (front), north (side) east (rear), and south (side) property lines; the fence encroaches over the west, north, and east property lines. The applicant shall either remove the fence or relocate the fence within his property lines prior to recording the plat amendment.
6. No building permit for any work that expands the footprint of the home, or would first require the approval of an HDDR, shall be granted until the plat amendment is recorded with the Summit County Recorder's office.

2. 8945 Marsac Avenue – Moon Shadow Condominium plat for eight detached “PUD Style” units subject to the Flagstaff Development Agreement and Village at Empire Pass Master Planned Development.
(Application PL-18-03848)

Michael Demkowicz with Alliance Engineering introduced the applicant’s team; Kent Fossett with Alliance Engineering; Jeff Butterworth, Mark Enderlee, Mark Yarborough, and Rich Wagner with Storied Development.

Planner Whetstone reported that the applicant was requesting a recommendation to the City Council for a condominium plat. She explained that the Moon Shadow condominium plat consists of 8 PUD style units located off of a private street off Marsac Avenue within the development. The site is 6.77 acres. The condominium lots range in size from approximately half an acre to one acre. The property consists of both RD zoning and ROS zoning. All development must occur within the RD zone. The ROS portion is to the north and that area will require some forest management not related to construction of the units.

Planner Whetstone stated that the applicant was requesting a total of 31 unit equivalents. Each unit equivalent is 2000 square feet for a total of 62,000 square feet as the maximum to be identified on the plat. There were no requests for building height exceptions. The unit height would be within the 28 feet, plus an additional 5 feet if the pitched roof is at least 4:12. The applicant was requesting a front setback exception to keep the units closer to the private road, which also reduces the amount of disturbance in the back.

Planner Whetstone presented an aerial of the Flagstaff Development. She indicated the location of the Moon Shadow proposal on the north side of Marsac Avenue. She noted that Moon Shadow would be very similar to the Nakoma development further up Marsac. Planner Whetstone pointed out other developments in various pods in the Flagstaff Development.

Planner Whetstone reported that the property is subject to the Development Agreement for all of Flagstaff, which was amended in 2007, as well as the 15 Technical Reports, including the Construction Mitigation Plan Report that the Planning Commissioner recently amended. It is also subject to the Village at Empire Pass Master Planned Development for Pod A, as well as the plat notes for the Village at Empire Pass North Subdivision that was approved by the City Council a year ago. The subject lot is Lot 1 of that subdivision. Planner Whetstone noted that the conditions of approval would get transferred onto the plat when it is recorded.

Planner Whetstone explained that once the plat is approved and recorded, each unit is constructed. Once each unit is constructed, any supplemental condominium plat is brought to the Planning Commission and the City Council to be recorded to define the private area as everything with the building. There would be limited common area for decks and patios. The remaining area would be common area. Planner Whetstone stated that because each unit will be constructed individually, they would come back to the Planning Commission individually or possibly one or two at the same time. Once the plat is recorded, there will be a full accounting of the total square footage and all the unit equivalents.

Planner Whetstone explained the difference between PUD style units and single-family units. A single-family is one-unit equivalent with a 10,000 square foot maximum. A buried basement is not counted in the square footage. In a PUD style, every 2,000 square feet is a unit. For example, a 4,000 square foot unit would be 2 unit equivalents. The square footage includes all of the basement area but excludes 600 square feet of garage.

Planner Whetstone stated that there was no commercial density for this site, and no deed restricted affordable housing units. The remaining units for the on-mountain are located in the Lodge Buildings and the B2 East Building and still need to be built. Planner Whetstone noted that the applicant had agreed to dedicate easements within the open space area. There are existing trails as well as proposed trails. The dedicated easements would enable the City to make some good connection.

Planner Whetstone stated that the Staff had reviewed the proposed plat against the Village at Empire Pass MPD. The Master Plan identified this parcel for 19 townhouse units. The same 2,000 square feet density applies. However, this proposal is for eight PUD style units. The Planning Staff did an analysis to see if the proposal was in compliance and they determined that it does comply with the intent of the Master Plan. It is less density because the applicant was proposing 8 units rather than 19 units. The square footage ranges from 2500-5,000 square feet, depending on the units. Overall, the square footage is less than it would be with multi-family units. There is also less ground disturbance for the eight units. The applicant was proposing 4,000 square foot building pads; and the building footprint needs to fit within that 4,000 square feet.

Planner Whetstone noted that the skier bridge in the MPD was not being proposed for these eight units. There is only one entrance onto Marsac Avenue.

The Staff found that the proposed project was consistent with the approved Village at Empire Pass Master Planned Development, as well as the Village at Empire Pass North

Subdivision, and the amended Flagstaff Development Agreement. 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 outlined in the Staff report.

Michael Demkowicz presented images and exhibits. He commented on the annexation approval of 1999 and the MPD approval of 2004. He pointed out that the Code does not address PUD units. Therefore, the units would be PUD style but they were being reviewed as condominium units. Mr. Demkowicz noted that Nakoma and Moon Shadow were similar development and he provided a comparison to show the similarities.

Commissioner Suesser referred to the comparison and asked if a setback exception had been requested and granted in the Nakoma subdivision for the front setbacks. Planner Whetstone thought it was possible that a few might have a 20' setback to the garage instead of 25'. The Larkspur units also had the exception. If the slope is steeper, the LMC allows the Planning Commission to grant an exception to pull units closer to the street. Planner Whetstone could not recall whether that specifically occurred at Nakoma.

Mr. Demkowicz presented a slope map showing the areas in the RD zoning. He pointed out that most everything fits with the exception of a couple of units where the slope begins to drop off. He believed that giving everyone the same front yard exception would help bring unity to the development. The downhill side of the units was the primary reason for requesting the exception.

Director Erickson understood that the setback exception was off the private road and not off Marsac. Mr. Demkowicz replied that he was correct. He explained that the only access off Marsac is a driveway, which is defined as a private road. Planner Whetstone stated that it had been reviewed by the Fire District. The Fire District required 26' of asphalt. Planner Whetstone explained that they would have preferred a narrower width; however, the new Fire Code requires 30'. Therefore, there will be 26' of asphalt and 4' of curb and gutter.

Mr. Demkowicz presented cut sections of each unit to show that the 4,000 square foot building pad fits the site. It also shows that by pushing the units closer to the private road will minimize the amount of disturbance.

Chair Band approved of the driveway not going out on to the blind curve. She believed one entrance was a better design.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

Commissioner Thimm favored the setback reduction. The Planning Commission has denied similar requests in the past; however, he felt this request was for a good reason. Commissioner Thimm was pleased that they were maintaining 20' to the garage face because that allows a full car to be parked in the driveway. If changes are requested in the future, he would like the 20-feet to be maintained.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for 8945 Marsac Avenue (Lot 1 Village at Empire Pass North Subdivision) Moon Shadow Condominium plat, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 8945 Marsac Avenue

1. Moon Shadow Condominiums plat for eight (8) units and a private cul-de-sac is located at 8945 Marsac Avenue on the 6.77 acre Lot 1 of the Village at Empire Pass North subdivision.
2. Lot 1 is located in the RD-MPD and ROS-MPD zoning districts.
3. The City Council approved the Flagstaff Mountain Development Agreement/Annexation Resolution 99-30 on June 24, 1999. The Agreement was amended in 2007. The Amended Agreement is the equivalent of a Large-Scale Master Plan and sets forth maximum densities, location of densities, and developer offered amenities, requirements and obligations.
4. The Amended Agreement specifies that a total of 87 acres, within three development pods (A, B1 and B2), of the 1,750 acres of annexation property may be developed for the Mountain Village. The Mountain Village is further constrained to a maximum density of 785 unit equivalents (UE) configured in no more than 550 dwelling units as multi-family, hotel, or PUD units, provided the number of PUD units does not exceed 60.
5. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass that identified the area of this proposed plat for multi-family condominium units, subject to density limitations of the Amended

Flagstaff Development Agreement.

6. On June 15, 2017, the City Council approved the Village at Empire Pass North Subdivision creating four lots of record. Lot 1, the subject lot of this condominium plat, is 6.77 acres in area, and sufficient in size to cluster the proposed eight PUD style units accessing a private cul-de-sac.

7. Only RD zoned portions of the property are designated as private area and no units are allowed to be constructed in the ROS zoned portions.

8. The private cul-de-sac has access to Marsac Avenue (aka SR 224) and the applicant has obtained a conditional access permit and encroachment permit from UDOT for a secondary access for construction of the private street. The private cul-de-sac, to be known as Moon Shadow Court, is designed with the Fire District required total width of thirty feet (30') (roadway plus 24" roll gutters on both sides) as well as the required cul-de-sac diameter of ninety-six (96') feet.

9. No affordable housing units are required as part of this condominium plat. Final on-

mountain affordable housing obligations are to be incorporated into the remaining Village at Empire Pass MPD Lodge Buildings 1, 3 and 4, as well as future condominium buildings at B2 East Subdivision (Parcel B2 MPD Phase 2), as noted on the respective subdivision plats.

10. At the time of final construction and re-platting, all floor area including basement area and garage space greater than 600 square feet, will be counted towards the Unit Equivalents as allowed by the Flagstaff Development Agreement.

11. Applicant submitted Architectural Design Guidelines for the Moon Shadow Condominiums that reflect a unified architectural character, as well as consistency with the Empire Pass Design Guidelines.

12. The proposed pattern of development and this condominium plat are consistent with the approved Village at Empire Pass MPD and the Village at Empire Pass North Subdivision in terms of density, unit type, location and layout of units.

13. A total of 60 PUD style units are allowed within Pods A, B1 and B2 subject to the Amended Agreement. Fifty-two (52) PUD style units are currently platted and/or constructed within the Mountain Village in Pods A and B1. There are no PUD style units platted in Pod B2.

14. Up to thirty (31) Unit Equivalents (62,000 sf) are proposed to be divided between the eight (8) PUD style units, subject to all requirements of the 2007 Amended Flagstaff Development Agreement.

15. This parcel was identified as 19 multi-family attached units. While the MPD did not call out a specific density, multi-family townhouses have been approved with density ranging from 2,500 to 5,000 sf of floor area (Larkspur Townhouses in Pod A range from 3,250 sf to 3,450 sf per unit and average 3,350 sf). The 19 multi-family attached units of the concept plan would have resulted in between 47,500 sf to 95,000 sf of residential floor area (or 63,650 sf if each unit was on average 3,350 sf

similar to the nearby Larkspur units).

16. The proposed density (in terms of number of units, traffic, and general activity) is reduced from 19 to 8 units. The proposed density in terms of total square feet and UE (up to 62,000 sf (31 UE)) is between the 47,500 sf and 95,000 sf that the 19 multi-family attached concept would have resulted in, had the units been between 2,500 sf and 5,000 sf. By comparison, nineteen (19) multi-family units at the 3,350 sf Larkspur average size would have resulted in a total of 63,650 sf (31.83 UE).

17. The proposed project results in one less road intersection with Marsac Avenue, less site grading due to the reduction of road and driveway areas and less than the floor area of the VEP MPD planned townhouse units. The net square footage of the proposed project is less than or consistent with the townhouses planned in the VEP MPD.

18. The PUD concept is similar to the Nakoma Condominium PUDs which are predominately second homes. The skier bridge is not part of this application and only one permanent entrance to Marsac has been approved by UDOT.

19. The proposed 8-unit PUD style plat is consistent with the approved VEP MPD, the Village at Empire Pass North subdivision and the Amended Flagstaff Development Agreement.

20. Two parking spaces are required for each unit.

21. Maximum Building Height in the RD District is 28' (33' allowed with a minimum 4:12 pitched roof).

22. Fifteen foot (15') front setbacks (20' to the front of the garage) are proposed to cluster units closer to the private street in order to decrease cut and fill, decrease driveway area, increase the separation from areas of 40% and greater slope, and to protect additional existing vegetation. Building pads are located a minimum of 10' from slopes 40% and greater, with the exception of topographic slope anomalies located on units A and D that are under the minimum threshold measurements of 25' rise and 50' run.

23. The MPD requires Construction Mitigation Plans to be submitted with each ACUP and building permit addressing all requirements of the Amended Agreement and Technical Reports.

24. Additional Recreational Trail Easements will be provided outside of those identified in the existing Flagstaff Development Agreement. Easements for both existing trails and a proposed new trail identified in Exhibit M of the Staff Report.

Conclusions of Law – 8945 Marsac Avenue

1. There is good cause for this condominium plat.
2. The condominium plat is consistent with the Amended Flagstaff Annexation and Development Agreement, the Village at Empire Pass North Subdivision, the Park City Land Management Code and applicable State laws regarding condominium

plats.

3. Neither the public nor any person will be materially injured by the proposed condominium plat.
4. Approval of the condominium plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 8945 Marsac Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the condominium plat for compliance with State law, Land Management Code, 2007 amended Flagstaff Development Agreement, the Village at Empire Pass MPD, and these conditions of approval, prior to recordation of the plat.
2. The applicant will record the condominium 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 an extension is requested prior to expiration and is granted by the City Council.
3. City Engineer and SBWRD approval of the final infrastructure and utility plans is a condition precedent to plat recordation.
4. A non-expired UDOT conditional access permit and encroachment permit shall be obtained prior to construction of the private road that accesses from Marsac Avenue (aka SR 224).
5. SBWRD shall be included in the Owner's Dedication.
6. Conditions of approval of the Village at Empire Pass MPD (Pod A) and the Village at Empire Pass North Subdivision plat continue to apply.
7. An administrative Conditional Use Permit for each of the eight dwellings is required prior to issuance of any building permits for the units. CUPs maybe combined.
8. All administrative Conditional Use Permit applications and approvals are subject to the Amended Development Agreement and Technical Reports as approved or amended.
9. The plat shall note that a declaration of condominium and a supplemental condominium plat for each unit shall be approved and recorded at Summit County prior to issuance of a certificate of occupancy. Supplemental plats may be combined.
10. The plat shall note that a Construction Mitigation Plan, including truck routing, is a submittal requirement for each administrative Conditional Use Permit and building permit.
11. The plat shall note that a final grading and utility plan, including storm water and drainage plans shall be submitted with each administrative Conditional Use Permit application. No building permits shall be issued until all necessary utility easements are recorded.
12. The plat shall note that approval by the Empire Pass Design Review Board is a

condition precedent to building permit issuance for each unit.

13. The plat shall note that a landscape plan, including provisions for water-efficient irrigation systems and drought tolerant plantings with limited turf, is a submittal requirement for each administrative CUP application and building permit. An arborist report, identifying trees and the general condition of trees located outside of the building pad that are proposed to be removed, is required to be submitted with the landscape plans. Final landscape plans, including plans to remove trees outside of the building pad, shall be approved by the Design Review Board prior to building permit issuance.

14. The plat shall note that a fire protection plan is a submittal requirement for each building permit and shall include fire protection in the form of residential sprinklers and landscaping that complies with Urban Wildland Interface requirements of the Park City Building Department at the time of building permit issuance.

15. The plat shall note that fire sprinklers will be required for new construction on the lots per the Chief Building Official at the time of review of building permits.

16. The plat shall note that at the time of final construction and re-platting with supplemental condominium plats, all floor area including basement area and any garage space greater than 600 square feet will be counted towards the Unit Equivalents as allowed by the Flagstaff Development Agreement.

17. The plat shall note that a maximum of 31 Unit Equivalents of residential density may be utilized for the eight units and each unit shall not exceed 7,750 total square feet, including all floor area, include all basement areas and excluding 600 square feet of garage area.

18. The plat shall note that no more than eight residential PUD style units are allowed on this property.

19. The plat shall note that no commercial density is allocated to this property with this plat.

20. The plat shall note that at the time of plat recordation, Moon Shadow Condominiums includes land within the RD Zone and additional lands within the ROS Zone. The ROS zoning line shall be indicated on plans submitted with the administrative conditional use permit applications. All construction of units shall be restricted to the RD zoned portion. Construction disturbances within ROS portions are subject to the Amended Development Agreement and associated Technical Reports.

21. The plat shall note that setback exceptions allow a minimum front setback of 15' with a minimum front setback to a front facing garage of 20'. All other LMC setbacks, setback exceptions and building height requirements of the RD Zone apply.

22. A financial guarantee, in a form and amount acceptable to the City and in conformance with these conditions of approvals, for the value of all required public and private improvements, shall be provided to the City prior to plat recordation. All public and private improvements shall be completed according to City standards

prior to release of this guarantee. Ten percent of the guarantee shall be held by the City for the warranty period and until such improvements are accepted by the City.

23. All required easements for trails will be provided prior to plat recordation.

24. A ten foot (10') wide snow storage easement shall be dedicated to the Empire Pass Master Owners Association along the street frontage of the lots.

25. All existing and required easements, based on review by the City Engineer, Department of Public Utilities and SBWRD will be shown on the plat prior to recordation, including utilities, storm drainage, access (public, utility and emergency), and snow storage.

26. The plat shall note that utility structures such as ground sleeves and transformers and other dry utility boxes must be located on the lots.

27. The plat shall note that this development is part of a common plan development and an MS4 storm water permit is required for all land disturbance activities, prior to building permit issuance.

28. The plat shall note that public safety access and public utility easements are hereby dedicated for all public and private streets.

29. The plat shall note that trees, structures and retaining walls shall not be located within SBWRD easements.

30. A plat note shall state that all Units will require privately owned and operated wastewater ejector pumps for wastewater service.

31. The plat shall note that the private street shall be owned, operated, maintained and repaired by the Master Association for the use and benefit of the owners of property in Empire Pass at Deer Valley in accordance with the Master Declaration.

32. The plat shall note that prior to building permit issuance, documentation from UDOT showing a valid, non-expired approval of access to Lot 1 off Marsac Avenue is required. Approval of the location of permanent access shall also be approved by the City Engineer.

33. Additional Recreational Trail Easements will be dedicated outside of those identified in the existing Flagstaff Development Agreement. Easements for both existing trails and a proposed new trail, as identified in Exhibit M of the Staff Report, will be identified on the plat prior to recordation and a plat note shall indicate that once constructed and or re-constructed these public trails will be considered to be within a fifteen-foot public trail easement.

34. Moon Shadow Court (a private street) shall also be dedicated as "Public Utility Access for purposes of operation and maintenance.

35. There shall be 30' wide public utility easements dedicated as Park City Water Service District easements for the purpose of operating, maintaining, repairing, eventual replacement and upgrade of one or more underground pipelines and appurtenances for conveyance, distribution, and/or transmission of water. The exact location of these easements shall be approved by the City Engineer prior to recordation of the plat.

36. The Building Pad shall be considered the Limits of Disturbance for each condominium unit. Forest health restoration and landscaping consistent with the Arborist reports and visual analysis would be considered similar to the Red Cloud Subdivision that allows an additional disturbance area within 20 feet of the building foundation. Driveways and utility installation would be exempt. No disturbance is allowed into the Limited Common ROS area.

The Park City Planning Commission Meeting adjourned at 6:35 p.m.

Approved by Planning Commission: _____

APPROVED