

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
DECEMBER 12, 2018

COMMISSIONERS IN ATTENDANCE:

Vice-Chair John Phillips, Sarah Hall, John Kenworthy, Mark Sletten, Laura Suesser, Doug Thimm

EX OFFICIO: Planning Director, Bruce Erickson; Francisco Astorga, Planner; Anya Grahn, Planner; Jody Burnett, Outside Counsel

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REGULAR MEETING

**ROLL CALL**

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

Vice-Chair Phillips reported that Melissa Band was no longer on the Planning Commission because she had recently moved out of the City limits. He wished her the best in her new home and he expected Ms. Band to continue to be involved in the greater Park City community. Her service to Park City is greatly appreciated, and although her position will be replaced, she is irreplaceable. Vice-Chair Phillips stated that it had been an honor serving with Melissa Band.

Vice-Chair Phillips looked forward to welcoming another fellow citizen to the Planning Commission in the near future.

**ADOPTION OF MINUTES**

October 24, 2018

Commissioner Kenworthy referred to page 48 of the Minutes and changed stick shock to correctly read **sticker shock**. Commissioner Kenworthy referred to page 57 and changed to to correctly read **two**.

Commissioner Sletten referred to page 4 and a motion by Commissioner Kenworthy that was not seconded before the vote. Vice-Chair Phillips suggested that someone listen to the recording to see who had seconded the motion.

MOTION: Commissioner Sletten moved to APPROVE the Minutes of October 24, 2018 as amended. Commissioner Hall seconded the motion.

VOTE: The motion passed. Commissioner Thimm abstained since he was absent on October 24, 2018.

## **PUBLIC COMMUNICATIONS**

Vice-Chair Phillips announced that no action would be taken on the Kimball Garage item. Anyone wishing to make comments this evening should do so under the public hearing for 638 Park Avenue.

Sally Elliott had sent a letter regarding the Flagstaff agreement; however, they were advised that it was not pertinent this evening. She was willing to discuss it during now during the Public Communications portions, if that was appropriate; or wait until the item comes up on the agenda. Director Erickson thought it was more appropriate for Ms. Elliott to wait until the item comes up on the agenda. At that point, the Planning Commission could determine whether her comments are relevant to the particular application. Director Erickson noted that Ms. Elliott's comments had been entered into the public record on that application.

Sanford Melville commented on the Kimball Garage item. Mr. Melville thanked Director Erickson for his email response to the questions Mr. Melville had prior to the last meeting. Director Erickson noted that those comments were included in the Staff report and copies were available for the public in the back of the room.

Mr. Melville had follow-up questions and comments on the procedures being considered. He understood that an Administrative CUP for use of the outdoor deck facility under the new proposal is processed entirely within the Planning Department. Director Erickson replied that he was correct. Mr. Melville noted that in the interview with KPCW, Director Erickson indicated that the Planning Department would be working with the public and the neighbors regarding the conditions of approval. He asked if the Planning Commission would review the conditions as well, or how the public gets involved in the process. Director Erickson explained that the Planning Department will sign the property and notice the public; and the public will be available to comment on either the action or provide additional input. The public would provide their input directly to the Planning Director. It would not go to the Planning Commission unless the action is appealed.

Ms. Melville stated that the LMC is very explicit about an entertainment facility indoors is an allowed use; however, an indoor private event facility requires a CUP. Mr. Melville thought the drafters of the LMC had something specific in mind regarding activities

when they made the significant distinction between an allowed use and a use requiring a CUP. If there was not a difference, no one would apply for a private event facility and subject themselves to the CUP process. Mr. Melville assumed there was something different with the uses and he asked Director Erickson to clarify the differences between activities for an allowed use for the indoor space and the activities that require a CUP. Mr. Melville emphasized any outdoor use at the Kimball would have a direct impact on the public and the neighbors in terms of noises, traffic, parking, and load-in/load out.

Mr. Melville reiterated his concern that the indoor use being proposed was exactly the same as the use that was proposed in the original CUP a few years ago. The only difference is that the activity is being called something different so it can be an allowed use. Director Erickson replied that the activity is different and similar in the general context. He did not want to speculate on what motivated the framers of the LMC, but the criteria remain the same. Director Erickson expected the uses to be very similar to what was originally approved.

Mr. Melville asked if there was a change in the business plan. Director Erickson replied that at this point, he had not seen additional information from the applicant on this particular question. He was not able to delve deeper into the dialogue this evening because this item was not noticed for action. Director Erickson offered to meet with Mr. Melville at his convenience outside of this meeting.

Vice-Chair Phillips encouraged Mr. Melville to make his comments so everyone had the benefit of hearing his concerns, and then follow-up with Director Erickson to get his questions answered. Mr. Melville clarified that he had already expressed his concerns; which are the impacts to everyone in the area. Vice-Chair Phillips thanked Mr. Melville for his continued involvement and for attending all the meetings.

Commissioner Hall wanted to know who would be noticed, since it would not be on the Planning Commission agenda. Director Erickson was unsure of the distance for neighbors who would be noticed, but he would find out.

Sandra Morrison from the Park City Historic Society and Museum stated that she had attended the appeal of the Historic Preservation Plan for the Kimball garage that was appealed to the Board of Adjustment. The appeal was regarding removing the historic roof to allow for this outdoor party deck. Ms. Morrison stated that at the time the BOA expressed concern about the uses on that deck that could be created by removing the historic roof. The BOA was interested in putting conditions on their approval. At that time, the Staff informed the BOA that a CUP was required; and that the CUP process was the appropriate time to add those conditions. Ms. Morrison asked if this item

needed to go back to the Board of Adjustment to add their conditions for the rooftop deck that was created by removing the historic roof.

Director Erickson was not prepared to answer Ms. Morrison's question this evening. He would review the Minutes from the Board of Adjustment meeting to see what actually transpired. Ms. Morrison recalled that there was a lot of discussion and concern regarding tents, umbrellas, heaters, and the deck becoming a large storage area.

### **STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Director Erickson reported that the Planning Commission only had one meeting scheduled in January on January 9<sup>th</sup>. The second meeting on January 23<sup>rd</sup> was cancelled so it would not interfere with Sundance. That schedule could change depending on discussions this evening and other pending applications. Director Erickson stated that for now the preference was not to meet on January 23<sup>rd</sup>.

Vice-Chair Phillips referred to the new agenda format and asked if the Staff could add the page numbers for each agenda item.

Commissioner Sletten disclosed that for the two agenda items regarding 8680 Empire Club Drive, he owns property in a sister subdivision but it does not present a conflict. He had spoken with the City Attorney and he was advised to disclose but there was no reason to recuse.

Commissioner Thimm noted that a recent Planning Commission meeting was cancelled at the last minute due to the lack of a quorum. He wanted to publicly apologize for that occurrence because each Commissioner endeavors to attend whenever possible. They will do what they can to keep that from happening again. Vice-Chair agreed. The Planning Commission was ready to have that meeting but one of the Commissioners got ill. It was an unfortunate circumstance and they will all work hard so it does not happen again.

### **CONTINUATIONS – (Public Hearing and Continue to date specified.)**

1. Amended Lot 38 West Ridge Subdivision Phase II Plat Amendment

Vice-Chair Phillips opened the public hearing. There were no comments. Vice-Chair Phillips closed the public hearing.

MOTION: Commissioner Sletten moved to CONTINUE the Amended Lot 38 West Ridge Subdivision Phase II Plat Amendment to a date uncertain. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

2. Municipal Code Amendments regarding Gravel and Landscaping in Title 11 Chapter 15-3 Acceptable Cover; Title 14 Chapter 2-7 Park Strips; and Title 15 Chapters 5-1 Policy and Purpose, 3-3 General Parking and Driveway Standards, 5-5(N) Landscaping; and 15-15 Definitions

Director Erickson stated that after discussions with the Fire Marshall and the Fire District Fire Marshall, they tried to find ways to do additional wildland fire separation and fuels reduction in the Historic District. It became too complicated to bring the Code forward at this time. The Staff was still working on it and chose to Continue the item.

Vice-Chair Phillips opened the public hearing. There were no comments. Vice-Chair Phillips closed the public hearing.

MOTION: Commissioner Thimm moved to CONTINUE the LMC Amendments concerning gravel, water wise landscaping and xeriscape Municipal Code Amendments to a date uncertain. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

### **CONSENT AGENDA**

1. 328 Woodside Avenue – Steep Slope Conditional Use Permit (SS-CUP – Construction of a new single-family dwelling with driveway access projecting over an existing Slope of 30% or greater.

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

VOTE: The motion passed unanimously.

Director Erickson informed the Planning Commission that in the LMC amendments, Steep Slope CUPs are being moved to an Administrative approval. The Planning Commission will not see Steep Slope CUP applications unless there are issues.

Findings of Fact – 328 Woodside Avenue

1. The property is located at 328 Woodside Avenue.
2. On October 3, 2018, the City received a complete application for a Steep Slope Conditional Use Permit (SS-CUP) for “Construction on a Steep Slope” at 328 Woodside Avenue.
3. The property is located in the Historic Residential (HR-1) District.
4. The lot contains 3,038 square feet. It is a downhill lot, and the average slope of the lot is approximately 31.3%. The average slope within the footprint area is approximately 23.4%. Nevertheless, the average slope beneath the proposed driveway is approximately 85.7%; per LMC 15-2.2-6(A)(3), a Steep Slope CUP is required for any Access driveway located on or projecting over an existing slope of 30% or greater.
5. Staff has found that the Historic District Design Review (HDDR) application complies with the Design Guidelines and Land Management Code, as redlined. The complete HDDR application was submitted on September 6, 2018.
6. A single-family dwelling is an allowed use in the HR-1 District.
7. Access to the property is from Woodside Avenue, a public street.
8. Two (2) parking spaces are proposed on site, one in a single-car garage and one on the driveway.
9. The neighborhood is characterized by a mix of historic and non-historic residential structures, single-family homes, and duplexes. The streetscape is dominated by garages, parking pads, and pedestrian entryways. The homes are a mix of one- to two-story residential developments, with a few three- to four-story houses.
10. An overall building footprint of approximately 1,200 square feet is proposed. The maximum allowed footprint for this lot is 1,201 square feet.
11. The proposed structure complies with the Front and Rear Setbacks. The minimum Front and Rear Setbacks are ten feet (10’), for a total of twenty feet (20’); the applicant is proposing a ten foot (10’) Front Setback and ten foot (10’) Rear Setback, for a total of twenty feet (20’).
12. The proposed structure complies with the Side Setbacks. The minimum Side Setbacks are three feet (3’), for a total of six feet (6’). The structure has a three foot (3’) Side Setback for both the north and south side yards for a total of six feet (6’).
13. The proposed structure is approximately 26.25 feet above existing grade at the tallest portions. The maximum height in the HR-1 is twenty-seven feet (27’).
14. The proposed structure has an interior height of thirty-five feet (35’). The maximum interior height is thirty-five feet (35’).
15. The proposed development is located on the lot in a manner that reduces the visual and environmental impacts of the structure. The majority of the mass and bulk of the building has been broken up into smaller components. Only a one story structure will appear above grade as seen from Woodside Avenue.

16. The applicant submitted a visual analysis, cross valley views, and a streetscape showing a contextual analysis of visual impacts of this single-family dwelling on the cross canyon views and the Woodside Avenue streetscape. The proposed single-family dwelling is compatible with the surrounding structures as the majority of the mass and bulk of the single-family dwelling will be below Woodside Avenue and thus not visible from the right-of-way.

17. Access points and driveways have been designed to minimize grading of the natural topography and reduce the overall building scale. The proposed driveway leads to one (1) single-car garage and one driveway parking space.

18. There is an existing concrete retaining wall in the Front Yard that maintains the grade of Woodside Avenue. To the east of this wall, the grade drops drastically and flattens out.

19. The applicant is proposing to construct the new house on this flatter portion of the lot. One stone retaining wall measuring approximately 3.83 feet in height will be necessary in the Front Setback in order to maintain the grade between the concrete retaining wall and exterior front wall of the new house. On the north side elevation, one retaining wall measuring not more than 4.16 feet in height is needed to retain the grade. The applicant is not proposing to change grade more than 4 feet around the periphery of the structure and has largely maintained Natural Grade.

20. The applicant is proposing a driveway leading to one parking space in the driveway and one (1) single-car garage. By incorporating a bridged driveway, the applicant has reduced the need for grading and drastically changing the topography of the Front Yard. Existing grade at the front of the lot will be maintained by the existing concrete retaining wall. Within the Front Setback, the grade will be largely maintained. A single stone retaining wall, in addition to the existing retaining wall, will be used in the Front Yard.

21. At the edge of curb, the applicant has incorporated a driveway with a maximum width of 12 feet. This driveway design is consistent with the width of driveways in the Historic District.

22. The proposed structure's building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography. The design steps with the grade of the lot which allows for the mass and scale to be compatible with development patterns in the Historic District

23. The applicant broke up the mass of the proposed structure by incorporating multiple roof lines and articulation of the wall planes. By breaking up the structure into a series of individual smaller components, the entire structure is more compatible with the Historic District. The areas of the structure above grade will appear to be one to three stories in height, which is compatible with the neighborhood overall.

24. The applicant has incorporated setback variations to prevent a wall effect and reduce the building scale and setbacks on adjacent structures.

25. The proposed design is articulated and broken into compatible massing

components. The design includes setback variations and lower building heights for portions of the structure. The design minimizes the visual mass and mitigates the differences in scale between the proposed house and surrounding structures.

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

27. The property was posted and notice was mailed to property owners within 300 feet on November 20, 2018. Legal notice was also published in the Park Record in accordance with requirements of the LMC on November 24, 2018.

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

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

#### Conclusions of Law – 328 Woodside Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically, section 15-2.2-6(B).
2. The Use is consistent with the Park City General Plan, as amended.
3. The effects of any differences in use or scale have been mitigated through careful planning.

#### Conditions of Approval – 328 Woodside Avenue

1. All Standard Project Conditions shall apply.
2. The HDDR Application shall be approved prior to Building Permit issuance.
3. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The CMP shall include language regarding the method of protecting adjacent structures.
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. This approval will expire on December 12, 2019, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by the Planning Director.
6. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission on December 12, 2018, and the Final HDDR Design.
7. All new retaining walls within the Rear and Side Setback areas shall not exceed six feet (6') in height measured from final grade and retaining walls within the Front Setback area shall not exceed four feet (4') in height measured from final grade. An exception may be granted by the City Engineer per the LMC, Chapter 4.



8. Modified 13-D residential fire sprinklers are required for all new construction on this lot.
9. All exterior lighting, on porches, decks, garage doors, entryways, etc. shall be down directed and shielded to prevent glare onto adjacent property and public rights-of-way and shall be subdued in nature. Light trespass into the night sky is prohibited. Final lighting details will be reviewed by the Planning Staff prior to installation.
10. Construction waste should be diverted from the landfill and recycled when possible.
11. To the extent possible, existing Significant Vegetation shall be maintained on Site and protected during construction. When approved by the Planning Department in writing to be removed, the Significant Vegetation shall be replaced with equivalent landscaping in type and size. Multiple trees equivalent in caliper to the size of the removed Significant Vegetation may be considered instead of replacement in kind and size.
12. All excavation work to construct the foundation of the proposed single family dwelling shall start on or after April 15th and be completed on or prior to October 15th. The Planning Director may make a written determination to extend this period up to 30 additional days if, after consultation with the Historic Preservation Planner, Chief Building Official, and City Engineer, determines that it is necessary based upon the need to immediately stabilize an existing Historic property, or specific site conditions such as access, or lack thereof, exist, or in an effort to reduce impacts on adjacent properties.
13. The property is located outside the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance to State and Federal law.
14. All conditions of approval of the 315 Park Avenue Subdivision Amended continue to apply.

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

1. **638 Park Avenue – City Council Remand of a Conditional Use Permit (CUP) for a Private Event Facility back to Planning Commission for additional review.**

Director Erickson reported that this item was for information only. The applicant has indicated the intention to withdraw the application. The Planning Department was still waiting for the formal withdrawal, as well as the application for a Business License. Director Erickson stated that the applicant had also filed an application for an Administrative Conditional Use Permit for the outdoor deck. That application will not be processed until the Staff sees the change on the other portion of the application.

Commissioner Hall asked Director Erickson to review the process for the public going forward. Director Erickson explained that the applicant has made application for an Administrative Conditional Use Permit for the outdoor deck. That application is processed as a conditional use permit; however, the Planning Director has the authority to take action. If the action is appealed, the appeal goes to the Planning Commission. Director Erickson noted that the applicant needed to withdraw the application for the entire project before he could process the Admin CUP application. If there is a gap and the Code is changed between withdrawal of the application and application for the business license, the business license would be processed under the new Code. Director Erickson remarked that the business license is reviewed as an allowed use under the Code. He has to sign off on the business license confirming that it is consistent with the uses designated as an allowed use in the zone. The applicant would apply for a business license for an event facility indoor, and he would review it under that definition and the other criteria for an allowed use.

Director Erickson reiterated his earlier comment that the Administrative CUP has a noticing requirement. Planner Newberry clarified that they are only required to send notices to the adjacent property owners. She pointed out that a notice would also be posted on the property.

Commissioner Suesser asked if the Admin CUP for the outdoor space would be processed concurrently with the business license for the CUP for the indoor event facility. Director Erickson was unsure but he would find out. He believed it depended on the mitigation strategies the applicant brought forward in the Admin CUP.

Commissioner Sletten asked if both the business license and the Admin CUP were appealable. Director Erickson replied that the Admin CUP was definitely appealable. The Business License is issued by the Finance Department and approved by the Planning Department. He would have to look at the LMC section under which the Business License was approved to determine whether the Business License could be appealed.

Planner Francisco Astorga stated that business licenses are appealed to the City Council. Commissioner Suesser clarified that the Admin CUP would be appealed to the Planning Commission. Director Erickson answered yes.

2. **Land Management Code Amendments regarding Design Guidelines 15-13, Design Guidelines for Historic Districts and Historic Sites, and 15-15 Defined Terms**

Planner Anya Grahn introduced Doug Stephens, the Chair of the Historic Preservation Board.

Planner Grahn reported that the Design Guidelines were adopted in 2009. As indicated in the General Plan, the Guidelines are a living document that should be reviewed and revised as necessary. Planner Grahn noted that this is the first time the Design Guidelines have been reviewed, which was the reason for a significant number of changes. She stated that in 2017 the Design Guidelines were codified and included in the LMC due to changes made by the State Legislature. Based on feedback from the HPB and the City Council, there was a big push to review the Design Guidelines to make sure they were up-to-date and reflective of what was actually occurring to protect the Historic District. The Staff has been working with the Historic Preservation Board since 2014 to make the necessary revisions.

Planner Grahn remarked that during that time the Staff created a website and they held office hours weekly to receive public input. There was very little public comment or public interest. The revisions in the Staff report were consistent with what was discussed with the HPB.

Planner Grahn outlined two major changes. Currently, the Design Guidelines are a standalone document; however, they will now be part of the LMC. The second change is that currently the Guidelines are broken down into two sections; design guidelines for historic sites and structures, and design guidelines for new construction. The Staff found this to be confusing because the residential and commercial guidelines were mixed together. Therefore, they decided to streamline the Guidelines and make specific chapters for historic residential, historic commercial, new infill residential, and new infill commercial. In an effort to create greater consistency and clarity, they made sure that each section matched and were consistent with one another. Planner Grahn stated that in reviewing the current Design Guidelines, the Staff found discrepancies in terms of what was required for new construction and they bridged some of the gaps. The Guidelines mentioned things such as gazebos, saving chimneys, and other things, but there were no clear guidelines on what could actually be done. Additional sections were added to address those items.

Doug Stephens thought it was obvious that the Staff and the HPB had spent considerable time on revising the Design Guidelines. It was based on giving the Staff flexibility in the decision-making process; but still giving consistency within the community regarding expectations for restoration. He stated that the HPB did not want a cookie cutter approach and preferred to encourage different designs within the community. Mr. Stephens remarked that going forward they would continue to make changes because projects continue to be more difficult and occur in places where no

one anticipated development. He believed the Staff has a lot of expertise and they were poised to move forward.

Vice-Chair Phillips noted that the Design Guidelines were 255 pages and there were a lot of redlines. He first found it to be very overwhelming; however, the more he read through it the more he realized it was primarily reorganizing the Guidelines. He asked Planner Grahn to point out the biggest changes in the actual policy.

Planner Grahn agreed that the intent of the Guidelines had not changed. It was more the amount of precision that was involved. There are a lot of arguments about massing and everyone wants to maximize their footprint and the square footage. Consequently, giant block structures are submitted and the Staff has to compromise and work with the applicant to scale down the mass and reduce the visibility.

Planner Grahn thought one of the biggest changes was to look at the footprint and where they would require transitional elements and ways to break up the mass. They came up with the idea of modules, which is based on the idea of looking at the proportions of the historic building and reflecting that into the new addition.

Mr. Stephens remarked that they were also looking more consistently at how the design fits into the streetscape of the neighborhood. Even if a structure is approved under the old Historic District Guidelines by itself, they look at whether it is in context with neighboring structures in that specific neighborhoods. Mr. Stephens thought that was another major change. He agreed with Planner Grahn that mass and scale were most important, especially from the street.

Planner Grahn stated that a lot of the redlines were reflective of policies and what the Staff would tell applicants during the design review team process, but it was not explicitly laid out word for word in the Guidelines. For example, not allowing more than 30% glass on a garage door. That has been enforced without a specific guideline, but it was now incorporated into the Guidelines. Planner Grahn remarked that she and Planner Tyler have a background in historic preservations, but they intent was to make the Guidelines user-friendly for the other Planners who do not have that expertise.

Commissioner Sletten referred to page 216 of the Staff report which addressed the solar reflex index. Planner Grahn noted that it would be addressed in the next agenda item of LMC amendments. Commissioner Sletten commended the Staff on their efforts in revising the Guidelines.

Commissioner Kenworthy was thankful and grateful to Mr. Stephens for his service. He previously served on the Historic Preservation Board for years and he understood the

amount of work that was involved. Commissioner Kenworthy also commended Ruth Meintsma for all the time, effort, and insight she has contributed for years towards this living document as a member of the public. Vice-Chair Phillips concurred.

Vice-Chair Phillips opened the public hearing.

There were no comments.

Vice-Chair Phillips closed the public hearing.

Commissioner Thimm noted that a few items in the redlines were stated as fact. He read from page 117, Item 9, "Avoid paving up to a building foundation to reduce heat island effect, building temperature, damage to foundation, and storm water runoff problems." He questioned where this fact actually came from. As a designer, he sometimes puts in paving to solve storm water runoff problems. Commissioner Thimm referred to page 132, which talks about 25% heat loss with regard to maintaining historic windows. He remarked that there are issues with the State Energy Code from the standpoint of envelope design that requires a certain level of UV in glass in fenestration. Commissioner Thimm reiterated that these statements were stated as facts and he questioned where those facts came from.

Planner Grahn replied that the Secretary of the Interior recently released new standards for energy efficiency in green buildings; and they looked at some of that information. They also looked at the Design Guidelines from other communities and took facts and calculations from those as well. She could provide a list of cities they had looked at, in addition to government documents and standards.

Commissioner Thimm wanted to know what would happen if the property owner and their designer came up against the Energy Code. He asked if the Guidelines would be superceded by State Code. Planner Grahn stated that in looking at material deconstructions with the Historic Preservations Board, there are very few original wood windows in Old Town. If a non-historic window needs to be replaced, they are required to replace it with a new wood window. In some cases, there are historic wood windows that were restored in the 1980's and 1990's that need minimal maintenance or can be salvaged and reused. In those cases, a window specialist comes to look at the window and provides a recommendation. Commissioner Thimm understood from the explanations that the Guidelines have a level of flexibility. Planner Grahn replied that the Staff works with the owners.

Commissioner Thimm noted that on page 156, the commercial section, Item B, talks about a "home's heat loss". He recommended changing that to "a building's heat loss"

since it was in the commercial section. Commissioner Thimm read from page 176, Item 2, "Appearance of accessibility ramps or elevators shall not significantly detract from the historic character of a building." He faces ADA requirements daily and it is a serious issue. There are many cases where compromise cannot occur with ADA requirements and he suggested softening the language to say "wherever possible or whenever practical". Planner Grahn noted that the HPB had this same discussion, and she would change the language. She suggested that when the Planning Commission forward a recommendation to the City Council that they include the proposed amendments in their motion. The Staff would revise the Guidelines to incorporate the recommended changes.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for the Design Guidelines for Historic Districts and Historic Sites from Section 15-13 and 15-15 of the Land Management Code, as outlined in the draft ordinance and amended this evening. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

**3. Land Management Code (LMC) amendments to the Historic Districts (LMC Chapter 15-2.1, 15-2.2, 15-2.3, 15-2.4, 15-2.5, and 15-2.6), Supplemental Regulations (LMC Chapter 15-4), Architectural Review (LMC Chapter 15-5-5) Architectural Design Guidelines, and Defined Terms (LMC Chapter 15-15).**

Planner Laura Newberry noted that the redlines looked like a lot of changes but in reality it was mostly moving around sections to provide consistency and clarity. In addition, a few items had been added. Planner Newberry stated that the Staff had added a Planning Director determination for lots within the Park City survey that are short of the 1,875 square foot minimum lot size. A side setback reduction was added for corner lots along platted right-of-ways if the lot is less than 37.5 feet in width. On those lots with a reduced setback, there can be no additional setback exceptions. The window well setback exception was clarified so it can only be the minimum dimensions required by the International Residential Code or International Building Code if it is outside of the building envelope. Planner Newberry stated that the Staff will also add an allowance for private shared driveways in the rear setback.

Planner Newberry stated that the largest change was to make development on Steep Slopes an administrative CUP for lots less than 3,750 square feet. The larger lots would still come to the Planning Commission for a Steep Slope CUP.

Commissioner Sletten reiterated his previous question regarding the solar reflex index. He noted that page 216 references a measurement of 35, but he was unsure how that was calculated. Director Erickson stated that the SRIs have been around since September of 2017. As part of adjusting the solar panel section of the Code, and trying to respond to complaints from Park Meadows and the Historic District, the numbers originally started as the manufacturers' ratings of reflectivity. Director Erickson noted that they later went to the US Department of Energy and they came up with the calculation that balances the reflectivity of the surface with the heat absorption of the surface. The two combined resulted in the number. He stated that 35 was the result of field studies that were done when they took the samples outside and looked at other houses that people had complained about; as well as houses that did not have complaints, and what was consistent in the Historic District. Director Erickson remarked that 35 strikes a balance based on field work and research.

Vice-Chair Phillips opened the public hearing.

Bill Mammen, an architect in Park City, noted that copper has no SRI. It is not manufactured by anyone and no one gives it a rating. Pure galvanized steel also does not have an SRI rating. Mr. Mammen believed that both are historic materials and should not be excluded because of reflectivity. He hoped the Code would be adjusted to include those materials.

Commissioner Suesser asked if the Staff thought the LMC should be amended as Mr. Mammen requested. Ms. Newberry recalled language in the Code that talks about reflectivity and not having a reflective roof. People can still use copper, but it needs to be treated so it is not reflective.

Director Erickson stated that copper is not a big problem in Park City because it weathers so quickly. Commissioner Thimm remarked that unless it is sealed, copper will change its SRI. Director Erickson believed Mr. Mammen was correct about copper and corrugated steel.

Vice-Chair Phillips closed the public hearing.

Commissioner Hall was pleased that the Steep Slope CUP was moved to Administrative because she believed that was the proper process.

Commissioner Suesser made a comment that she intended to make when the steep slope CUP under the Consent Agenda was approved. She noted that Condition #11 for that item states, "To the extent possible, existing significant vegetation shall be maintained on site." She believed that significant vegetation requires Planning

Commission approval before it is removed.” Commissioner Suesser recommended removing “to the extent possible” from the condition when the Planning Director reviews Admin Steep Slope CUPs in the future. Director Erickson offered to make that correction.

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation to the City Council for the LMC Amendments to the Historic District Chapters 15-2.1, 15-2.2, 15-2.3, 15-2.4, 15-2.5 and 15-2.6; the Supplemental Regulations (15-4); Architectural Review (15-5-5) Architectural Design Guidelines; and Defined Terms (15-15) as outlined in the draft ordinance and amended this evening. Commissioner Sletten seconded the motion.

VOTE: The motion passed unanimously.

4. **Consideration to Appoint John Kenworthy and Mark Sletten as Representatives for Planning Commission on the Technical Advisory Committee for the Transportation Master Plan.**

Commissioner Thimm thanked Commissioners Kenworthy and Sletten for stepping forward to be a part of this process. Transportation and parking are very important issues in Park City. He appreciated their efforts.

Commissioner Sletten had spoken with Julia Collins who manages the department and he thought it was remarkable the significant amount of work they have accumulated so far. He noted that Commissioner Kenworthy had already attended a committee meeting.

Commissioner Kenworthy stated that transportation will be critical for Park City’s future and he was honored to be appointed for the position. He and Commission Sletten will provide updates to the Planning Commission on an ongoing basis.

Commissioner Suesser asked if the Transportation Master Plan involves the County as well as the City. Commissioner Kenworthy answered yes; and noted that it also represents members of Wasatch County. He thought it was important to plan as a community and as a region in order to be successful. Commissioner Suesser thanked both Commissioners for their service.

MOTION: Commissioner Suesser moved to APPOINT John Kenworthy and Mark Sletten as representatives for the Planning Commission to the Technical Advisory



Committee for the Transportation Master Plan. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

**5. 416 Ontario Avenue – Frandsen Plat Amendment**

Director Erickson reviewed the plat amendment to combine an existing lot and a portion of a second lot into one lot of record at 416 Ontario Avenue. There is an existing non-historic house on the site. A lot line runs through the kitchen of the house.

There had been no public input to date.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council for the Frandsen Plat Amendment based on the findings of fact, conclusions of law, and conditions of approval found in the Staff report.

Vice-Chair Phillips opened the public hearing.

There were no comments.

Vice-Chair Phillips closed the public hearing.

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation to the City Council based on the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the draft ordinance. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

**Findings of Fact – 416 Ontario Avenue**

1. The property is located at 416 Ontario Avenue.
2. The property consists of the entirety of Lot 4 and the south half of Lot 5 of Block 58 of the Park City Survey.
3. The property is within the Historic Residential-1 (HR-1) Zoning District.
4. There is an existing non-historic single-family dwelling currently on the site.
5. The house on site was originally constructed in 1904.
6. On October 5, 2016, the Historic Preservation Board denied a Determination of Significance for the house on this property.

7. On October 9, 2018, the City received a complete Plat Amendment application for the Frandsen Plat Amendment.
8. A Historic District Design Review will be required for any proposed construction on this lot.
9. Along the west side of the lot, a wood deck encroaches up to 8 feet into the ROW.
10. Along the west side of the lot, a stairway encroaches up to 10 feet into the ROW.
11. Along the west side of the lot, a railroad retaining wall encroaches up to 12.5 feet into the ROW.
12. The existing house is a legal non-complying structure on this lot since it was constructed before the existing lot requirements.
13. The proposed lot is 2,812 square feet in size.
14. The proposed lot meets the minimum lot size of 1,875 square feet.
15. The proposed lot is 37.5 feet wide and meets the minimum lot width of 25 feet.
16. The maximum allowed Building Footprint is 1,200.5 square feet.
17. The existing Building Footprint is approximately 985.2 square feet.
18. The maximum Building Height is 27 feet from Existing Grade. The existing structure is approximately 25 feet from Existing Grade.
19. The front Setback is 6.5 feet and does not comply with the 10 feet requirement.
20. The rear Setback is 30 feet and complies with the 10 feet requirement.
21. The north side Setback is 6 feet, and complies with the 3 feet requirement and the south side Setback is approximately 6 inches which does not comply with the 3 feet requirement.
22. A Steep Slope Conditional Use Permit will be required for any construction in excess of 200 square feet on slopes greater than 30 percent.
23. A Historic District Design Review application is required for any new construction proposed at the existing site.

#### Conclusions of Law – 416 Ontario 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 – 416 Ontario 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 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 will be required along Ontario Avenue.
5. The site has a wooden deck, stairway, and railroad retaining wall located in the City Right-of-Way (ROW) along Ontario Avenue. The applicant shall either remove the wooden deck, stairway, and railroad retaining wall located on the City ROW along Ontario Avenue or work with the City Engineer to assure that these improvements are authorized in the form of an ROW encroachment agreement.
6. Nothing in this approval of the Plat Amendment grants or dedicates or approves the ROW encroachment area for parking for exclusive use of the applicant. On-site parking must be provided for all new construction.
7. Compliance with off-street parking requirements is required prior to the issuance of any building permit for an addition or new construction.

6. **8680 Empire Club Drive - Residences at the Tower and Tower Club Conditional Use Permit for 14 residential units and addition to the Tower Club.**
7. **8680 Empire Club Drive - Residences at the Tower Condominium Plat**

These two items were related and the Planning Commission discussed them simultaneously. However, a separate action was required for each item.

Planner Whetstone introduced Jeff Butterworth and Rich Wagner with Storied Development, and Brent Harris, the project architect. Alliance Engineering is the project engineer.

Planner Whetstone reported that the first item was a request for approval of the conditional use permit for a 14-unit multi-family lodge building on Lot 9 of the Village at Empire Pass Phase I subdivision plat. The second item was a request for a condominium plat on the same project. The proposal includes one deed restricted employee housing unit within the building to be completed concurrent with the rest of the units. One ADA unit is also proposed. The ADA and the employee unit will be platted and maintained as common area.

Planner Whetstone noted that this proposal is subject to the Flagstaff Development Agreement, which required a 500 square foot police substation in Building 1. It was included in the proposal and will be delivered as required by the Emergency Response Plan, which is the technical report that included the requirement.

Planner Whetstone stated that the proposal also includes an addition to the existing Tower Club on Lot 9, which is also known as the Talisker Club. In previous documents it was also known as the Alpine Club. Planner Whetstone explained that the Tower Club is a private dining and amenity club. Flagstaff Development is limited to 75,000 square feet of resort support commercial. The Staff conducted a review of the commercial space at the Montage and found 1275 square feet existing at the Grand Lodge. Added to that are plans for dining, a lounge, the spa, the kitchen and the ski valet store for a total of 5803 square feet. Language was included in the table to show that there was still remaining resort support commercial for the final project on B2 East.

Planner Whetstone reported that the residential portion is 42,453 square feet; however, that number does not include the private residential which utilizes 21.227 unit equivalents. That is recorded in Exhibit K and shows there is remaining density from the pool of density allowed; which is 758 UEs and 550 units.

Planner Whetstone stated that Lot 9 is 1.5 acres. The zoning is RD-MPD. It is subject to the 2007 Flagstaff Development Agreement. She pointed to the Empire Pass Village on Pod A, which is where most of the units are supposed to be located. Access to the proposed project is from Village Way to the underground parking. The main pedestrian access is from Empire Club Drive.

Planner Whetstone stated that the proposal for Lodge Building 1 is as approved by the Village at Empire Pass Master Planned Development. A volumetric was approved with the small scale Village MPD. That information, as well as the analysis of how this building meets the height, the articulation, and the building volumetrics, were included in the Staff report. Planner Whetstone noted that a conditional use permit was approved in 2008 and this proposal represents a reduction by 11 units and 25,000 square feet of residential. It is a very tight site and one of the conditions requires a construction mitigation site in terms of staging and delivery of goods and services.

The Staff had reviewed the plans and found compliance with the Design Guidelines and volumetrics. They also reviewed the plans for compliance with the Conditional Use Criteria in 15-1-10(E) of the Land Management Code and found no unmitigated impacts as conditioned.

Planner Whetstone reported that public input was received before the November meeting that was cancelled. That public input was included in the current Staff report, as well as the Staff response. Planner Whetstone stated that earlier today she had received similar public comment. The applicants were prepared to respond to those comments.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the Residences at Tower Club conditional use permit, according to the findings of fact, conclusions of law, and conditions of approval outlined in the Staff report.

Planner Whetstone reviewed the application for the condominium plat, which provides the private limited common space for the Residences Tower Club building. The specific units, their size, and unit equivalents will be provided in a table, which will become documented and memorialized when the plat is recorded.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council.

Commissioner Thimm referred to the comment that the application represents a reduction in density by 11 units. He asked if those units were completely off the table along with the associated square footage and intensity of use, or whether they could reappear as another form of development. Planner Whetstone explained that it would require an amendment to the conditional use permit. She pointed out that there is remaining density for a vacant lot for a lodge building. Forty-one units were still available. Planner Whetstone thought it was possible for any of the lodge buildings to come back for a conditional use permit and request to add that density. However, the applicant would have to go through a complete CUP process and the process to amend the plat.

Commissioner Sletten stated that he had walked the site prior to the meeting that was cancelled. He thought it would be impractical to put any additional density on that site. Planner Whetstone understood that it was a remodel of the existing building and a remodel of the exterior.

Rich Wagner, representing the applicant, stated that there was no more allowable density for their project. The remaining density is associated with future projects. The Tower Residences are out of density.

Commissioner Suesser commented on the public input that was received. In looking through the Staff report, she thought the Staff was suggesting that the Twisted Branch

subdivision was the primary applicant responsible for the historic preservation mitigation work; along with the master association. She asked Planner Whetstone to clarify who the Master Association is and to address some of the public input.

Planner Whetstone stated that all owners of the units subject to the Flagstaff Development Agreement are members of the Master Association. They are also a party to the development agreements. Once everything is developed, ongoing obligations still have to be met. When there is no longer a developer or holder of the MPD, the obligation falls to the Master Association and all property owners.

Planner Whetstone explained that the Successor of Interest to Talisker is Redus, the group that has come forward with entitlements to create some of the lots that had not been created. Redus sold this particular lot to Storied Development, who is now the applicant of this particular parcel. Planner Whetstone reiterated that at this point, Redus is the Successor of Interest and since they are an applicant on the Twisted Branch Road and will be requesting metes and bounds property to create lots, the Staff would like additional time on that project to create proper findings regarding historic preservation and all other obligations.

Commissioner Suesser wanted to know who had completed the historic preservation work that was referenced on page 386 of the Staff report. Planner Whetstone stated that to her knowledge the completed work includes interpretative signs that were required on 21 sites. She found documentation indicating that the Historic Society was contracted by Talisker to do the signs. Planner Whetstone noted that the Little Bell Ore Bin was being restored and she believed that was being done by the City Mountain Mining District under contract. Commissioner Suesser asked if that work was directed by the Master Association. She was told that it was not directed by the Master Association. Planner Whetstone stated that the Judge was the other structure mentioned in the preservation plan and that has been mothballed for now.

Commissioner Kenworthy asked to hear from the applicant regarding the concerns raised in the public input. Jeff Butterworth understood and appreciated the public comment. He stated that Storied Development would be happy to help the Master Association with whatever obligations they have because they are a co-declarant with Redus on the Master Association. Mr. Butterworth explained that when Redus foreclosed on Talisker they became the Master. Storied Development then purchased sites the same as all other developers in Empire Pass, and the obligation in the closing documents does not come forth to them for the master developer. In some cases, they purchased the whole thing and they are the master development.

Commissioner Kenworthy asked Planner Whetstone what share they would have of the obligation. Planner Whetstone was unsure how it works with the fees for the Master Association. She had a copy of the CC&Rs that she still needed to review. Commissioner Kenworthy asked if money was set aside for this obligation. Planner Whetstone replied that funds were set aside for maintenance and preservation of the open space. She needed to do further research to see if there could be another obligation for historic preservation.

Director Erickson stated that the CC&Rs for this project and the formation of the Master Association is standard with respect to annual assessments against all of the members, and for the uses. A real estate fee takes place when a unit is sold, and a portion of that goes to the Master Association for transportation and open space preservation. The other portion comes to the City for open space preservation and transportation. Director Erickson pointed out that United Park City Mines performed all the site remediation and mine stabilization work that was required as a mitigation plan. The other organizations handled the interpretive signs and some of the minor stabilization that was required. Most of the re-vegetation and re-establishment was done by the Mine Company.

Commissioner Kenworthy asked if the City had money available for the preservation efforts. Director Erickson stated that if the City was to fund the preservation efforts, they would have to do something similar to the Vail agreement, which is to have an annual matching fund agreement. It would have to be a Capital Budget item. Director Erickson remarked that the first task is to figure out what they are doing and what needs to be done; and to understand the final obligation of the Master Developer. Director Erickson informed the Planning Commission that they would hear considerable public testimony this evening; however, the basic situation is that there was very little enforcement mechanism inside the approval documents and the technical documents. At this point they were trying to determine who is supposed to do what and when.

Commissioner Sletten believed the two funding sources for the Master HOA are the Master HOA dues paid by all owners; and the percentage of the transfer fee that is paid to the Association. He asked if any money was allocated in the line item budget specifically for remediation of the old mining elements. Mr. Butterworth replied that it was not specifically labeled that way, but preservation was definitely in the budget.

Vice-Chair Phillips opened the public hearing for the CUP and the Condominium Plat.

Sandra Morrison with the Park City Historical Society and Museum stated that they were also the over-arching organization of the volunteer Friends of Mining Historic. Ms. Morrison thanked the Planning Commission for allowing public input this evening. She

wanted to address the actual requirements of the Flagstaff Annexation and Development Agreement that was adopted in June 1999. Ms. Morrison recently had a conversation with Councilwoman Nann Worel regarding the historic preservation requirements of the Flagstaff agreement and the absence of any stabilization or preservation efforts since its adoption nearly 20 years ago. Ms. Morrison mentioned her frustration to Ms. Worel regarding the number of conversations and meetings she has had with various Staff without any result. Ms. Worel advised that the next time an item was scheduled on the Planning Commission agenda having to do with the Flagstaff Agreement that Ms. Morrison attend the meeting and express her concerns.

Ms. Morrison noted that the Empire Club application was subject to the restrictions and conditions of the Flagstaff Annexation and Development Agreement per Conditional Use Criteria #16 which states, "The application is subject to the restrictions and conditions of the Flagstaff Annexation and Development Agreement". She pointed out that Finding of Fact #9 in the Staff report states, "The property is subject to the Flagstaff Mountain Annexation and Development Agreement that was approved by the City Council in 1999; as well as the associated technical reports." In addition, Condition of Approval #17 states, "Conditions of Approval of the Flagstaff Annexation and Development Agreement and Technical Reports continue to apply."

Ms. Morrison had submitted a letter to the Planning Commission that was included in the Staff Report as Exhibit P. She stated that since submitting her letter, the Staff concluded in the Staff report that "There are no known historic sites or structures located on the subject CUP property". She believed that was an erroneous statement and demonstrates the lack of understanding about what the Annexation and Development Agreement was designed to achieve. Ms. Morrison read from Section 2.1 of the Agreement, "The Developer is hereby granted the equivalent of a large-scale Master Planned Development for Flagstaff Mountain. This large-scale MPD sets forth the maximum densities, location of densities, and the developer offered amenities, and is subject to all the normal applicable City processes, including the developer's responsibilities to submit and ultimately obtain City approval of satisfactory plans as detailed in 2.1.1 the Mine and Soil Hazard Mitigation Plan; 2.1.5 the Detailed Open Space Management Plan; and 2.1.6 the Historic Preservation Plan. Ms. Morrison noted that all three talk about the historic mine sites and the historic mining structures and their importance to Park City. Ms. Morrison stated that all three of the Plans are known as Technical Reports and they address retaining and saving these historic mine sites.

Ms. Morrison read from Section 2.9, the Flagstaff Mountain Mitigation Amenities section, "The developer shall deliver the following mitigation and amenities as an inducement to execute this Development Agreement". Ms. Morrison noted that the Development Agreement then lists all the community benefits the developer was



offering in exchange for being allowed to build Empire Pass. Ms. Morrison named the offered amenities as outlined in her letter. She noted that the amenities continue with Section 2.9.3, which is the Historic Preservation Plan. "The Historic Preservation Plan, at a minimum, shall contain an inventory of the historically significant structures located within the project and shall set forth a preservation and restoration plan, including a commitment to dedicating preservation easements to the City with respect to any of the historically significant structures". It also states that the Head Frame at the Daly West Site is historically significant.

Ms. Morrison read from Technical Report 36, the Historic Preservation Plan, which was approved in December 2001. The Executive Summary states, "The Historic Preservation Plan dated 2000 is a 127-page detailed document produced by SWCA". Accompany the Plan is a summary chart that reviews the same information in an abbreviated format. It includes a brief description of every important site, together with a short history, a review of the existing conditions, and recommendations for preservation work. The chart also includes information regarding a proposed phasing timeline for restoration or remediation of the sites, with a proposed signage format. Ms. Morrison pointed out that the chart differs at various times from the full report. It is a large discrepancy that needed to be corrected. Ms. Morrison remarked that the Executive Summary goes on to state, "Concurrent with the first CUP authorizing construction of the residential units, FMP will submit to Staff a plan detailing the repairs and stabilization of the historic structures and public protection plan for these structures and mining features. Ms. Morrison understood that this was not that plan because that plan was approved in 2000. She thought it was supposed to occur with the approval of the first CUP. Ms. Morrison had asked the Staff whether the plan was ever submitted and if they could provide her with a copy. The Staff never responded. Ms. Morrison emphasized the importance of the document because it gives the timelines of what will be done and when.

Ms. Morrison thought everyone could agree that in terms of preservation nothing has happened at the Empire Pass Development, even though the inventory identified 22 sites. One of the sites was the Little Bell Ore Bin. She read, "The overall condition was damage to the ore bin. The entire structure is supported only by a central support creating a precarious and dangerous situation". The recommendation was that, "With the first phase of the Flagstaff Development, the Little Bell Ore Bin will be provided a permanent shelter in the form of all-weather roofing. Additional building stabilization will occur in the summer of 2001". She pointed out that today there is still no roof on the Little Bell. Ms. Morrison further read, "Since the condition of the structure poses a safety hazard, action should be taken as soon as possible to temporarily stabilize the structure until permanent repairs can be made". Ms. Morrison noted that the full page report describes the work in more detail and gives the work a high priority.

Ms. Morrison stated that 17 years later the Park City Museum and the Friends of Ski Mountain Mining History realized that it was important to stabilize the mining structure. The organizations spent \$60,000 this summer. They hired Calder Richards Engineering to develop the construction plans that were approved by the City. They hired Clark Martinez, the contractor, to stabilize the structure. It now stands proudly for everyone to enjoy.

Ms. Morrison stated that another major site that was identified was the Judge Mining and Smelting Office. The recommendation was that the building site would be cleaned of debris in the summer of 2001. With the first phase of the Flagstaff Development, the restoration of the building would be initiated. After restoration, the building was anticipated to serve as an office and recreation uses for the Flagstaff Development. Ms. Morrison noted that none of the recommended work had been done and the roof is falling in. Ms. Morrison noted that the historic mine structures were also identified in the other technical reports; specifically, in Technical Report #1, which is the Physical mine and Hazard Mitigation Plan. The Daly West is recognized as site #11 with recommendations of fencing, stabilization, and other security members for dilapidated structures. The fence was installed but no stabilization had occurred and the Daly West Mine collapsed.

Ms. Morrison commented on other structures named in the Technical Report and outlined in her letter.

Ms. Morrison referred to Technical Report #5, the Open Space Management Plan, which recognizes the importance of the historic mine sites and designates them as protected open space. Ms. Morrison read from Section 4.2, "Protected open space refers to portions of the plan area that will be preserved for the outstanding natural and/or cultural resource characteristics". It also states, "Another type of POS within the plan is associated with specific cultural resource sites. These include a number of mining sites considered sensitive due to their historic value and vulnerability to vandalism and/or the hazard they pose to an uninformed public". Ms. Morrison remarked that brief descriptions of these sites and why they qualify as protected open space were provided in the Plan. More detailed management consideration for these sites was provided in the Historic Preservation Plan. Ms. Morrison further read, "The primary purpose for protected open space is to promote the usable public, non-improved, non-commercial, connected and contiguous open space for community benefit; promote the preservation of undisturbed open land, prohibit construction of red lines, steep slopes, wetlands, water shed usage, and promote the preservation of the historic sites".

Ms. Morrison referred to the statement in the Staff report that there are no known historic sites or structures located on the applicant's property. She noted that none of the historic mining sites will ever be located on a property applying for development approval because the Development Agreement has already designated the sites as Protected Open Space. Ms. Morrison noted that the Technical Report contains the same historic sites in the Preservation Plan, and it reinforces saving and retaining the sites. Ms. Morrison the language from 4.2.3 regarding the requirements for the Little Bell Mine Site and 4.2.6 the Judge Mine Complex, which was included in her letter. She noted that the developer had not achieved any of the requirements, including at a minimum, the requirement for signage. There was still no signage and this summer the Museum and the Friends of Mining volunteers partnered with Mountain Trails and spent a day cleaning up the years of graffiti that had accumulated at the Alliance Mine site. Unfortunately, the graffiti was back.

Ms. Morrison stated that she could continue to quote the requirements contained in the Historic Preservation Plan, in the Open Space Management Plan, in the Mine Hazard Mitigation Plan, and the Technical Reports that are part of the Flagstaff Development Agreement. However, in the interest of time she would not continue. She thought it was obvious that the intent of the Agreement was to stabilize and preserve the historic mining structures and mine sites. Ms. Morrison remarked that many people spent an enormous amount of time to get this right. They were so passionate to see it happen and 20 years later nothing has been done. Ms. Morrison asked the Planning Commission to help finally make it happen.

Ms. Morrison remarked that Development at Empire Pass continues unabated with no discussion about the original commitment by the developer to preserve the town's remarkable history. Instead, these unique mine structures have fallen into tremendous disrepair, and Park City is in jeopardy of losing them forever. Ms. Morrison emphasized that the mining history needs to be saved. It is an important part of the town's history and culture that should not be ignored any longer. The mining history makes Park City unique and they are losing these treasures to neglect. The Historical Society and the Friends of Mining History are working to save whatever they can, but they cannot do it alone. They need help from everyone, especially all the developers who, through the Flagstaff Development Agreement, committed to the stabilization, preservation, and maintenance of these treasures for future generations.

Ms. Morrison requested a moratorium on approving further developments under the Flagstaff Development Agreement until an agreement is put in place that meets all the requirements. She stated that the Development Agreement makes everyone who owns property at Empire Pass responsible. The Agreement requirements remain with each and every property. As it is split and sold, these requirements remain with each and

every developer that makes an application. All the property owners belong to the Master Association and all of them need to come to the table. Ms. Morrison asked the Planning Commission to direct the Staff to get the Association to come back with a specific date for putting an agreement together and the plan that was supposed to be submitted with the first conditional use approval. The submittal should be a business plan with cost estimates and specifics on where the funds would come from. Ms. Morrison requested that the City require a \$5 million bond or an irrevocable letter of credit to be submitted prior to lifting the moratorium and issuance of any permits. It would guarantee to the Park City community that the stabilization of these historic mine sites would actually happen. She also asked that the developer reimburse the Park City Historic Society and the Friends of Mining for the \$60,000 that was spent on the Little Bell. She also requested that the Planning Commission continue this application and give the Staff direction this evening. If the Commissioners choose to approve the CUP and plat amendment this evening, they will be setting a precedent that no developers are responsible.

Sally Elliott stated that he had nothing to add to Ms. Morrison's comments except that in 1998 United Park City Mines and Park City Resort tore down the Keith-Kearns Building in the middle of the night without a demolition permit or notice to anyone. The land was in the County at that time. A meeting was held at Deer Valley Snow Park with the Chamber of Commerce Board, the entire County Commission and the entire City Council, and all the preservation-minded people in the community. They all bludgeoned United Park City Mines so terribly that United Park City Mines felt compelled to contribute \$38,000 towards the purchase and construction of the 36 signs currently on the Resorts. Ms. Elliott noted that she was able to match that amount with a restaurant tax grant for \$38,000. She stated that the non-profit volunteer group spent \$76,000 on constructing the signs. Ms. Elliott, along with Sandra Morrison and Marianne Cone, volunteered their time to do the text, the pictures, and all the production. The Resorts mounted the signs and placed them permanently in the ground. Ms. Elliott pointed out that it was a community joint effort. There was community support for the signage because it was a way of letting people know what was there. She remarked that twenty years later they were back at it again. Ms. Elliott stated that for three years the Historical Museum and the Friends of Mining History have been asking to meet with the Master Association for Empire Pass, but they have never been permitted or noticed when the Master Association has meetings.

Ms. Elliott stated that they wanted to be partners with the developer and they did not want the project delayed. They would like to get the Plan in place as quickly as possible so the developer could move forward with a successful project.

Lance Kincaid stated that he has been skiing in Park City since 1972. He has been a full-time resident since 1980. He has been a contractor working on historical buildings since 1993. His first job was the Osguthorpe barn. Mr. Kincaid stated that he has seen all these buildings fall down and he has seen promises made over the years about who would spend the money and who would do the work. Twenty years later nothing has been done. He stressed that the developer must buy in and go along with the facts that have been presented. These obligations need to be fulfilled. The structures are being destroyed by weather, people, and time. If something is not done now, the structures will be lost. Mr. Kincaid stated that he was currently working on water towers. One was destroyed a couple years ago and one was partially damaged by snow plows on the maintenance road. They asked to have signs put up so no snow gets pushed off the maintenance road onto the towers; however, as of a week ago there were still no signs. Mr. Kincaid emphasized the need for taking care of the little things.

Sanford Melville stated that he was not prepared to speak on this topic this evening, however, after listening to Ms. Morrison's presentation he wanted to comment. Mr. Melville agreed with all her comments about preservation. He stated that he was part of the graffiti removal committee on the Alliance Building. People ski by those facilities and ride their bikes by them; but when you look at them closely hands-on, they are really in a deteriorated condition. If action is not taken they will all be lost. Mr. Melville urged the Planning Commission to do whatever they can to help preserve those structures. Mr. Melville remarked that he continually sees the Planning Commission agonize over conditions of approval and findings of fact, and other technical details. However, if no enforcement action is taken it is all done for nothing. He encouraged the Commissioners to enforce the agreements already in place.

Steve Issowitz with Deer Valley Resort, stated that the Flagstaff Development Agreement is one of the bibles he uses on a daily basis for everything going on around the Resort and all the development. In listening to the previous comments there was nothing he disagreed with or disputed. Mr. Issowitz remarked that everything was put in place along with relocating Highway 224 with open space parcels that were supposed to have conservation easements. A run-away truck ramp and other things were required as part of that agreement. The historic preservation plan was part of that agreement. However, Mr. Issowitz thought it was important to clarify what has been done, what has not been done, and who are the responsible parties. He names all the people involved over the years and the events that have taken place over the years. He thought it was difficult to point to one person or persons, but it all runs with the land. It was not designed or written to disappear. Mr. Issowitz believed the applicants were just learning of these requirements after they purchased a piece of ground and now want to get a project approved. He thought it would behoove the Planning Commission the City Council, and the Staff to come up with a solid plan to figure out who would be

the responsible parties. The Agreement specifies that maintenance will be part of the 1% fee charged, and that falls on both the City and the HOA. He assumed the HOA nor the City expected to spend the kind of funds that United Park City Mines was supposed to spend when this was started. Mr. Issowitz recognized that it was not an easy discussion but one that needed to be considered.

Doug Ogilvy stated that he was the President of the Empire Pass MOA. He wanted it clear for the record that he has been president of the association for seven years and in that time he has received no communications from the Historical Society. With respect to the Little Bell Ore Bin, the Flagstaff Development Agreement says that for buildings that are not part of ongoing operations the MOA is responsible for maintenance. Mr. Ogilvy remarked that he was not approached before the project started this summer, but the Empire Pass MOA would be happy to meet with the Historical Society regarding the Little Bell Ore Bin. Mr. Ogilvy thought it would be appropriate to give the Staff time to research the history and determine who is responsible for what. He anticipated coming before the Planning Commission fairly soon with the Twisted Branch plat as the representative for Redus, the Declarant and Successor and Interest for Talisker.

Director Erickson suggested that Vice-Chair Phillips keep the public hearing open until the Planning Commission decides whether to take action this evening or continue for further information. He clarified that if the public hearing is closed this evening and there is a continuation, the public will not have additional opportunity to speak because the hearing will have been closed.

Commissioner Suesser wanted to hear from the applicant as to what they were willing to do in response to this request. Mr. Butterworth replied that this had taken them by surprise. The word "developer", in everything they read was UPK, the original developer. Mr. Butterworth stated that they purchased four sites and they are absolutely obligated to the Development Agreement; however, he would guarantee in the Assignment and Assumptions in the closing from Redus, that they are not obligated to act or do the Master Association obligations. He pointed out that none of these sites were on their property. Commissioner Suesser noted that their property was subject to the Flagstaff Development Agreement. Mr. Butterworth explained that the Development Agreement does not discern between the original master developer and a developer of a plot.

Planner Whetstone remarked that the Staff has been trying to identify who owns these sites. Many of the sites are on Deer Valley property. She has been working with Steve Issowitz to determine whether the Little Bell Ore Bin is on their property and whether they own the structure. She stated that regarding the mining structures and structures in the ground, they have not fully discerned whether UPK still owns those mine

structures. The only sites identified in Technical Report #6 is the Judge building and the Little Bell. Daly West is mentioned but the Daly West is owned by JSSD. The question is whether a third party can do work on someone else's property. Planner Whetstone noted that all of the open space areas are in conservation easements. The Planning Department was mapping them to try to identify whether there were gaps and whether all of the mine sites mentioned are part of the conservation easements that were put into place. Planner Whetstone clarified that the conservation easements were in place for everything that was not part of the development pods. However, work still needed to be done to decide who owns what because a preservation easement on a structure must be granted by the owner of that structure. Planner Whetstone pointed out that the applicant does not own any of those structures, but they are a party to the Master Association. An important key is to get the Master Association on board.

Commissioner Suesser asked for clarification of the inventory report that Sandra Morrison had referenced. Director Erickson stated that the initial report was prepared in 2000. The report was reviewed and vetted by the Planning Commission and approved in 2001; and it was reapproved without changes in 2004 before the first CUPs were issued. Director Erickson believed that all the sites had been inventoried and recommendations were made in the document. What was missing is who does what and by when. Commissioner Suesser understood that it was the obligation of all the property owners within the Master Association. Director Erickson thought the question was what is the responsibility of the Master Owners' Association and what is the obligation of the Master Developer.

Commissioner Kenworthy asked if Director Erickson agreed that the obligations stay with the land. Director Erickson replied that it absolutely stays with the land. The conservation easements run with the land. The Master Association will continue to exist after all the parcels are sold and the Master Developer will remain as the Successor and Interest to the Development Agreement.

Planner Whetstone noted that Summit Lands Conservancy was a third party holder of the conservation easements, and they are responsible for the preservation and maintenance.

Commissioner Kenworthy asked if Doug Ogilvy agreed that the Agreement was in default. Mr. Ogilvy replied that he did not agree that they were in default. Mr. Kenworthy clarified that he was not referring to the HOA specifically, but rather that the Agreement was not being adhered to. Mr. Ogilvy stated that he reviewed Exhibit 6, the Historical Preservation Plan, which appends a five-page spread sheet of 22 historical sites. He remarked that the difference between Exhibit 6 and the 2000 Inventory that Ms. Morrison had referenced is that the 2000 Inventory is an inventory of many historic

sites owned by United Park in 2000. Many of the sites within that 2000 inventory are not within the Flagstaff Annexation boundary, which is why they were not brought forward into the Exhibit 6 document. Mr. Ogilvy explained that for the 22 sites within Exhibit 6, it effectively says that the requirements for each of those sites are either interpretative signage, site restoration, revegetation, or stabilization. Mr. Ogilvy stated that United Park and Redus, as the successor to United Park, had spent millions on the re-vegetation and remediation of the mine waste dumps. However, he was unsure whether all the sites had been remediated but most were substantially complete. Mr. Ogilvy commented on historical signage and noted that Kelly Gee from United Park City Mines worked with the Historical Society years ago and there is interpretive signage throughout the Flagstaff Development area. He was not sure if every sign that was called out was installed, but United Park worked diligently on installing interpretive signage. Mr. Ogilvy commented on remediation and stabilization of historical structures. He read language from Exhibit 6, "The Empire Pass MOA is responsible for preservation and maintenance of buildings that are not part of an ongoing operation". He stated that in 2001, United Park conveyed the Daly West Headframe to JSSD, subject to the Development Agreement. JSSD required that building because it was both a ventilation shaft and an emergency egress for the miners. Therefore, the responsibility for the Daly West headframe was transferred to JSSD in 2001. Mr. Ogilvy noted that the Judge Mining Complex was the Park City Water Complex. Park City Water Department uses that to get into the mine to manage their water works. Stabilization work was done in 2001. The building was boarded up and it is in poor condition. That land is owned by United Park and operated by Park City Municipal Corporation. Mr. Ogilvy was unsure which party was responsible for further work; but it was definitely not the Master Association because it is part of an ongoing operation.

Mr. Ogilvy took exception to the statement that nothing has been done in 20 years. He has been here for seven years. A lot of work was done before then and more work has been done since he arrived. He did not believe they were 100% in compliance because some signage is missing and some revegetation might be missing. There is also the question of who is responsible for the stabilization of ongoing operations; specifically, the Judge Tunnel Complex and the Daly West headframe. Mr. Ogilvy remarked that the Alliance Mine is not within the Flagstaff Annexation Agreement and it is not listed as one of the 22 sites in Exhibit 6.

Mr. Kenworthy asked Mr. Ogilvy how long it would take for him to put together a list of items that he felt they were fully or partially responsible for under the Development Agreement. Mr. Ogilvy stated that he had not visited every site to know whether the interpretive signage was complete. He suggested that the Historical Society might know which sites are missing interpretive signage. In reviewing Google Earth, there are three mine dumps that have not been revegetated. He stated that from the perspective



of Redus' attorneys, responsibility for those sites run with the land. Therefore, the Master Developer is not responsible for that revegetation.

Mr. Ogilvy stated that he would be happy to work with the Historical Society on interpretive signage. Regarding stabilization, the MOA would be happy to participate with the Little Bell Ore Bin. He believed the Judge Mining Complex was the responsibility of either United Park or Park City Municipal Corporation. The Daly Headframe is the responsibility of JSSD. In representing the Master Developer, Mr. Ogilvy did not think they had much responsibility other than contributing to more interpretive signage.

Mr. Kenworthy understood from Mr. Ogilvy's comments that he did not need much time to define anything else. Mr. Ogilvy replied that he was correct.

Commissioner Thimm responded to Director Erickson's comment about the next step. He was not inclined to support anything this evening except a continuation of both the CUP and the Plat Amendment. However, he did not want to continue without some form of direction. Commissioner Thimm hoped that a CUP was not issued in violation of the Development Agreement, but he wanted to find out and understand all the requirements of the Master Developer and how it impacts this particular applicant as well as the other owners. If a preservation plan was required and has not been put together, that needs to be determined. Commissioner Thimm thought a preservation plan was a path to answering all the questions so they would have something reasonable to decide. Commissioner Thimm preferred to continue these applications with the ability for the public to have continued input.

Commissioner Hall concurred entirely with Commissioner Thimm. Commissioner Hall noted that Section 1.4 of the Development Agreement defines "Developer", and that includes all Successors and Interest in the definition. She also noted that Section 8.1 reiterates all the benefits, which would be the entitlements that run with the land and allow development, as well as all the burdens.

Commissioner Kenworthy agreed with a continuation. He also wanted to know what the Developer believed was their obligation, if any, and whether they would be willing to agree to a share of an eventual Historic Preservation Plan. Commissioner Kenworthy understood that time is money and he did not want to continually delay the applicant. He assumed preparing a Historic Preservation Plan would take some time considering the number of people involved. He asked whether the applicants would be willing to sign on as a participant.

Director Erickson stated that it took nearly eight months of negotiations with VRCPC to get the Preservation Plan and the funding sources in place to give money for the Friends of Ski Mining History. Dotting the I's and crossing the T's with the sensitivity and sophistication they have now will take some time. Director Erickson noted that they recently finished doing one of these with VRCPC and Park City Mountain. He agreed that they needed a better interpretation of whose is responsible and how far down the chain that responsibility carries. Secondly, they need to figure out what has already been done and what still needed to be done. Director Erickson believed there was concurrence this evening on the need for additional agreements on the Ore Bin. They also need to look at the property ownership. Director Erickson was aware that the Alliance site is on UPK land under lease to Park City Mountain Resort. He needed to look at the map before determining the remainder of the Judge site.

Commissioner Thimm stated that if they continued to a date uncertain, he doubted that much would happen during the winter in terms of preservation. He believed it was a matter of urgency because each year there is more deterioration. Commissioner Thimm asked if there was a way to quantify the time and set a specific time when this would be addressed so it would not go through another winter.

Jody Burnett, an attorney with the firm of Snow, Christensen and Martineau, stated that he was temporarily providing legal support on a consulting basis to the Planning Commission. Unfortunately, he was not familiar enough with the Flagstaff Annexation Development Agreement to comment on the specifics. Mr. Burnett believed that the question of who is the developer could be complicated by the foreclosure proceeding. The Legal Department would need to review it and give advice in terms of sorting out the responsibility of this applicant as opposed to others who are under the title of developer. He understood the Planning Commission question related to historic preservation; however, the question is really how much time Director Erickson needed in order to answer the critical questions and clarify the requirements applicable to the Master Developer, and where this applicant fits into that puzzle. Mr. Burnett stated that in fairness to the applicant this item should be continued to a date certain if possible.

Director Erickson thought the Planning Department was fairly efficient on what needs to be done. The question of the Master Developer would go to the Legal Department. He asked if March was a good target date. Commissioner Thimm stated that he used March as his example, but he assumed it would take a good amount of time. He preferred to establish a date for the continuance.

Commissioner Kenworthy agreed. This has been kicked down the road for 20 years and he would like some finality. Director Erickson replied that the issue was due process on this applicant.

Commissioner Hall asked if they could continue until the next meeting in January. Commissioner Suesser thought it would be difficult to have the questions answered by January because nothing substantive would get done during the holidays. Commissioner Suesser thought March was a reasonable timeframe.

Commissioner Thimm stated that at the very least they could move it to the first meeting in March, and at the very minimum have a report on the progress. Director Erickson thought that was reasonable.

Jeff Butterworth noted that continuing to March meant the applicant would miss the entire winter season and the entire summer season. He asked if it was possible to do this with a CUP where they would have to have a plan in place to obtain building permits, and the work outlined in the plan would need to be completed before occupancy. This would allow the applicant to continue without missing an entire season.

Mr. Kenworthy stated that this was his intention when he talked about a pre-agreement whereby the applicant would agree to a share, and to come back to the Planning Commission with what the applicants believe is their share. Mr. Butterworth was willing to do that and come back, but he was not prepared to answer that question this evening.

Mr. Burnett asked Mr. Butterworth what timeframe he would suggest based on what they needed to do; and whether they would be ready to come back on January 10<sup>th</sup> with that report. Mr. Butterworth stated that they would try to meet the January 10<sup>th</sup> date. It might be difficult considering the holidays; but if they were not ready it could be continued to a later date.

Director Erickson commented on the technical aspects and the process of scheduling for the January meeting in terms of the time to prepare the Staff reports and to get them published. The following meeting would be the second week in February because only one meeting was scheduled in January due to Sundance. Director Erickson pointed out that a second meeting in January was not a definitive "no" at this point. However, he would need to look at the notice requirements to make sure they would be consistent with all the noticing regulations.

Commissioner Hall asked if the Planning Commission could do a work session the second meeting in January, which would be January 23<sup>rd</sup>. Director Erickson replied that a work session still needs to be noticed correctly. If it is within the noticing timeframe and the Commissioners were willing to meet on January 23<sup>rd</sup>, they could possibly hold a work session. Director Erickson offered to look at the calendar the next day and see if they would meet the noticing requirements for a work session on January 23<sup>rd</sup>. Mr. Burnett thought a work session would be a good format to have the conversation with the applicant. It would also give the applicant two additional weeks to come back with the requested information.

Commissioner Sletten stated that the Planning Commission has talked about how the City can go about enforcing these conditions of approval. He stressed the importance of enforcement so when there is another MPD, five or six buildings do not get built and the last developer is penalized. Commissioner Sletten felt that enforcement was the only way to make it more equitable across the board.

Director Erickson clarified that the general recommendation was to plan for a work session on January 23<sup>rd</sup>, pending the noticing requirements.

Commissioner Suesser stated that involvement from other organizations and entities was necessary for the applicant to figure out their responsibilities, and she was unsure how quickly that could be done. Commissioner Suesser would not be satisfied if the applicant comes back and says they are responsible for specific things without backup or input from the Historical Society, Deer Valley, and the other Master Association Owners. She thought they needed to think more broadly than just asking the applicant to come back with a report on their responsibilities.

Mr. Butterworth agreed that they could not do it in a bubble. They will need to meet with Deer Valley, Redus, Empire Pass, and the Historical Society to create a plan together. Commissioner Suesser questioned whether January 23<sup>rd</sup> was a realistic timeframe. Mr. Burnett stated that if the idea is a work session the Commissioners would not take final action at that meeting. It might only be the start of a longer conversation, but hopefully it would move the conversation forward in a constructive way to reach a point of resolution for both the Planning Commission and the applicant. Mr. Burnett appreciated Commissioner Suesser's concerns, but having a work session on January 23<sup>rd</sup> might give the Planning Commission enough information to give the Staff clearer direction and for the Staff to respond.

Commissioner Sletten thought it would be helpful to engage City Attorney Mark Harrington because he was involved with the Agreement from the beginning. Mr. Burnett stated that he would have that conversation with Mr. Harrington. Either Mr.

Harrington, Mr. Burnett, or someone else from the Legal Department will work with the Staff to provide the best information possible prior to January 23<sup>rd</sup>.

Commissioner Suesser clarified that she was not opposed to a work session on January 23<sup>rd</sup> as long as everyone was clear on what they wanted to accomplish.

Vice-Chair Phillips appreciated the applicant's willingness to work with the Staff and for their patience. It was difficult to be in the applicant's position, but he thought the applicant also understood the gravity of the situation. Vice-Chair Phillips also thanked the great citizens who were pushing this forward. Personally, he was upset to be in this situation. It was difficult to see the magnificent structures being built today that take so much engineering; yet building around these historic structures that are falling apart. These structures are the history of Park City. Vice-Chair Phillips believed there was a lot of finger pointing but no one wanted to take responsibility. He challenged the developers and the landowners to step up and own this, and to challenge each other. He suggested that if they pulled together all of the resources, they could save these structures.

Commissioner Sletten stated that he has been involved with this for a long time, including the original approval. He remarked that Redus is not the "bad guy" in this. It goes back to Talisker because Talisker was responsible and they did nothing. He knows that Mr. Ogilvy has been working really hard to meet the requirements. Commissioner Sletten pointed out that Redus inherited the problem.

Commissioner Phillips clarified that he was not pointing a finger at anyone. He was just disappointed that it had reached this point. He would like to see everyone step up to save their historic past. Commissioner Kenworthy agreed that there was work to be done and that the economic driver of Historic Preservation could not be underestimated for the community or for the development. He agreed that neither Redus nor the developers were the bad guys. Things are where they are for whatever reason and they have to address it as a community. He believed now was the time to do it.

MOTION: Commissioner Kenworthy moved to CONTINUE the 8680 Empire Club Drive CUP to a work session on January 23, 2019, subject to review of the noticing requirements. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Suesser moved to CONTINUE 8680 Empire Club Drive Residences at the Tower condominium plat to a work session on January 23, 2019. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

**8. 1791 Prospector Avenue - Conditional Use Permit for a Multi-Unit Dwelling.**

Commissioner Thimm disclosed that at various times he has worked with Steve Brown professionally his company has worked with Steve Brown professionally over the years. He had not made the disclosure earlier because he was not unaware that Mr. Brown was involved with this project. Commissioner Thimm did not believe his past association would affect his ability to discuss and vote on this CUP.

Vice-Chair Phillips disclosed that he has worked with Bryan Markkanen on several occasions; however, that association would not impact his decision this evening.

Commissioner Kenworthy disclosed that he had also worked with Bryan Markkanen on matters completely outside of real estate. His association would not affect his decision this evening.

Planner Francisco Astorga reviewed the application for a conditional use permit for a multi-unit dwelling at 1791 Prospector Avenue. The site is owned by SMP1791 LLC, represented by Ed Lewis. Bryan Markkanen was with the Elliott Work Group. Steve Brown was another project manager on this application.

Planner Astorga reported that the proposal is a new residential building containing 20 apartments or residential units. The units consist of 13 one-bedroom units; 6 two-bedroom units; and one three-bedroom unit. He presented a Google Earth photo to show the site location, which was a platted lot of record. Planner Astorga noted that the construction shown was no longer there since the Prospector Avenue Reconstruction project was completed. He believed the site at 1791 Prospector was used for staging on the reconstruction project.

Planner Astorga reported that the site was in the GC, General Commercial, District which indicates that any residential use is a conditional use and requires Planning Commission review. Planner Astorga noted that a breakdown of each unit was included on page 519 of the Staff report. The building is 29,201 square feet. A note on page 519 indicates why this development does not qualify for a Master Planned Development. It is based on the residential unit equivalent, and the total of all the residential spaces combined is 17,087 square feet. The threshold for an MPD is 20,000 square feet.

Planner Astorga reported that an analysis of the lot and site requirements, building height, and architectural review were outlined in the Staff report. The conditional use permit review process was outlined on page 125 of the Staff report; as well as a breakdown of the required mitigation in Criteria 1-15 for a CUP. The applicant must mitigate the impacts created by the proposal per the 15 Criteria.

Planner Astorga presented an exhibit showing the proposed building adjacent to the Rail Trail. That lot of record was also owned by SMP1791 LLC, where the applicant has been working with the Staff to provide a straight connection to the Rail Trail. The Rail Trail ramp was in the back, and the applicant was proposing to take a significant portion from their private lot of record to create a straight access leading onto the ramp. The ramp, which is the vehicle access leading to and from the building, was contemplated when the last plat amendment took place. Planner Astorga noted that this site has had three plat amendments that reconfigured common spaces with private areas.

Planner Astorga stated that the building is three stories plus an underground level where the applicant was proposing to allocate 24 parking spaces. Within that Level 0, the underground parking area, there is an encroachment on to the common space of the Prospector Square common space. The applicant has been working with the Property Owners Association and they were ready to record an easement agreement. Planner Astorga remarked that the encroachment only takes place on the lowest level below grade. The building would be built in a way that both structures would be independent from one another. Planner Astorga reviewed a drawing on page 547 of the Staff report. He noted that Line A reflect on the lowest level was the property line. The encroachment is 6' and completely buried underground.

Commissioner Thimm asked for clarification on which property was encroached into. Planner Astorga replied that it was private area, but common ownership within the Prospector Square Property Owners Association. It is not considered public space because it is owned by the HOA and platted as common space.

Planner Astorga reviewed the plat to show what was currently perceived as Parking Lot G. There are two platted lots of record; Lot 48A on the northwest corner; and the proposed multi-unit dwelling to the south on Lot 48F. Planner Astorga noted that this was the last plat that was approved and it simply removed the lot line going through the two lots. This plat, as well as the one before it, anticipated the underground access for this development on Lot 48A and identified the approximate location for the proposed ramp. It also indicated the approximate location of the access to the Rail Trail. In working with the applicant, the Staff expressed a preference for direct access rather than going around Lot 48A. Planner Astorga stated that the access ties into specific

improvements that were built across the street on Prospector Avenue; and a recently completed sidewalk goes to Barrett Lane. The user would go down the alley on to the ramp.

Commissioner Thimm asked if an easement was established in order to use the underground property. Planner Astorga stated that an easement was established, but one building went over the property line. The applicant has been working with Prospector Square to amend the easement so they could still encroach, but remain two separate buildings based on how it is being built. Commissioner Thimm asked if a condition of approval requires that to be completed. Planner Astorga answered yes. The Staff had asked the applicant not to record the easement until after this meeting and the public hearing. He clarified that the easement is ready to be recording pending Planning Commission action on the CUP.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the conditional use permit based on the findings of fact, conclusions of law, and conditions of approval found in the Staff report.

Planner Astorga noted that the applicant was prepared to make a presentation if the Commissioners had specific questions.

Bryan Markkanen, representing the applicant, thought the application was clear. If the Commissioners needed additional information it could be provided.

Commissioner Suesser asked if there was no trigger for affordable housing because it was not an MPD. Planner Astorga answered yes. He noted that all multi-unit dwellings are required to provide parking spaces for bicycles. There have also been discussions with the applicant about putting in 220 volt outlets in the parking garage to be used by the apartment building residents for electric bikes. Commissioner Hall asked if that discussion was included in the Staff report or whether it was a verbal discussion. Director Erickson replied that it was part of the application.

Commissioner Suesser asked if the parking lot adjacent to the proposed building was public parking. Planner Astorga replied that it was Parking Lot G, which is common parking for Prospector Square. He pointed out that most of the site is located in the Prospector Overlay where the setbacks are reduced to zero. It also provides a floor area ratio of 2.0. Planner Astorga recalled that the proposed floor area ratio was 1.9.

Planner Astorga remarked that a major issue is that people assume that the entire rectangle is Parking Lot G; however, that is incorrect. As indicated on the plat, there are two private lots of record that have vested rights for development.



Commissioner Sletten asked if the encroachment on to HOA property had already been approved by the HOA. Planner Astorga replied that the HOA has approved and signed the encroachment approval. However, it has not yet been recorded.

Commissioner Thimm asked if a condition of approval addresses the encroachment. Commissioner Suesser noted that Finding #45 addresses the encroachment. However, she agreed that it should also be addressed in a condition of approval. Planner Astorga offered to add the language as a condition of approval. Commissioner Thimm clarified that it would be consistent because the Planning Commission expects encroachments to be resolved as part of their action.

Commissioner Hall was pleased to see Finding of Fact #41 stating that the plan is to be long term rental units where the locals can live. She asked if there was a way to showcase this to other developers and being the leader in not doing nightly rentals. Ed Lewis, representing the applicant, clarified that the plan is to have long-term holders. He stated that they plan to be the First in State to use CLT construction cross-laminated timber; as well as being the First in Town to be LEED Platinum Certified Residential. They have no intention of selling the units and they would remain rentals. Commissioner Hall clarified that her question is whether they could codify it as no nightly rentals and the City could showcase this developer as an example to the community and other developers. Mr. Lewis stated that they would be pleased to be showcased as an example for no nightly rentals. Planner Astorga offered to add that as a condition of approval.

Vice-Chair Phillips agreed with Commissioner Hall. He also favored the number of one-bedroom units because there is a heavy demand.

Planner Astorga wanted to make sure everyone understood the meaning of nightly rentals. He stated per the LMC definition, nightly rental is the rental of a unit for 30 days or less. Mr. Lewis clarified that six months is the bare minimum they would rent. Commissioner Hall commended the developer on the LEED construction, one bedroom units and no nightly rentals.

Vice-Chair Phillips asked about the cross-laminated timber. Mr. Lewis explained how cross-laminated is glued together and stated that it is much more load bearing. It is prevalent in the Pacific Northwest, and Canada and Europe have been using it for a very long time. It is new in the United States; however, they chose cross-laminated timber because it helps with LEED certification because it is green and sustainable. It also helps with ceiling height since they are limited to 35'. The pre-fab CLT slabs are 7-1/2" to 9-1/2" which makes it easier to meet the ceiling height. Steve Brown stated that

another interesting element of CLT is that it creates the structure for the building. There will be no steel or any other columns. These structural columns stack. The tallest building in the world using CLT is the student housing project at the University of British Columbia. The structure is 15 stories tall and there is no steel.

Vice-Chair Phillips opened the public hearing.

Patricia Stokes, a full-time resident of the Sun Creek Condominiums, stated that she speaking this evening on behalf of herself and five of her neighbors who were also in attendance. Ms. Stokes noted that Sun Creek Condominiums is addressed at 1885 Prospector. There are 35 total units at Sun Creek. Twelve are permanent residents who are either long-term renters or owner-occupied. There are 17 owners on the Parking Lot G side. Ms. Stokes remarked that from the renderings, there was no way to know the depth of the building. She asked if there was an indication of the southern end point of the structure. Ms. Stokes was trying to figure out how it lines up with the Sun Creek building. It appeared that it was further into the Rail Trail than Sun Creek.

Planner Astorga replied that it follows the platted property lines.

Ms. Stokes stated that the platted property lines were destroyed during construction and no markers are left.

Planner Astorga explained that they have worked with surveyors and the developer is not able to encroach onto the Rail Trail State Park. The building needs to be built within the confined property lines.

Ms. Stokes understood; however, there is no longer an observational record of where the southern line exists because it was all moved around during construction.

Mr. Markkanen believed the office building to the west was also on that property line and that could be used as a reference. Ms. Stokes found that to be helpful.

Ms. Stokes stated that the hardy cement board exterior does not appear to blend with the current architectural styles in the neighborhood. She asked if there was a more appropriate mining town or mountain town design. She thought the proposed design was very modern and linear. Ms. Stokes asked if they could use an alternative finish on the building.

Vice-Chair Phillips requested that Ms. Stokes continue with her comments and the applicant and Staff would make notes and answer her questions at the end.

Ms. Stokes appreciated that the entrance to the parking garage was placed on the western end where commerce takes place; rather than on the residential end. She asked if the mechanical equipment on top of the building could also be moved to the western end.

Ms. Stokes understood that there are 20 units and 24 parking spaces underground. Given that these are rental units and the residents will not have pride of ownership, the neighbors are very concerned that their quality of life will be negatively affected by cars and people moving through at all hours. She assumed that each person living in a unit would have one car, which could be a minimum of 40 cars. They were concerned about light and sound at all hours. She wanted to know if there was a plan for noise abatement.

Ms. Stokes wanted to know what type of lighting impacts this structure would present. Ms. Stokes thanked the Planning Commission for the opportunity to ask questions.

Planner Astorga deferred the question regarding mechanical equipment to the applicant, other than to say that the only visible area identified is the elevator penthouse. In their description, the applicant indicated that they install as many solar panels that will fit. However, the layout has not yet been established because they have not been able to establish the mechanical for the A/C units, etc., which would occur after they have a structural building design. Planner Astorga noted that a condition of approval requires that solar panels shall meet the Code. The same is for the mechanical equipment which cannot be seen from a public right-of-way. Both are standard conditions for these items.

Planner Astorga stated that the applicant was proposing 24 parking spaces; however, the actual requirement for a building on this site based on the number of units would be 22 spaces. From that point of view, the applicant was providing two additional parking spaces than what is required by Code. Planner Astorga clarified that the parking analysis is based on the size of each unit. A unit less than 1,000 square feet only requires one parking space.

Regarding noise abatement, Planner Astorga stated that this is a General Commercial District. More commercial uses are able to emit types of odors, noise, vibrations, etc. He noted that residential development typically has less impacts than a commercial development. He pointed out that retail, restaurant, and offices are allowed uses that do not require a conditional use permit. This development will be similar to any other residential development within the GC zone and specifically in the Prospector area.

Commissioner Thimm asked if the developer would be subject to the noise ordinance. Planner Astorga replied that they would be subject to the noise ordinance the same as everyone else.

Regarding lighting, Planner Astorga stated that lighting was not provided in the application, but lighting is usually looked at during the building permit review. The requirement for residential development is that residential lighting shall be down-directed and shielded.

Mr. Markkanen addressed the question regarding hardy board. He stated that this development is not in a historic district where materials are highly considered. It is in the General Commercial District which is much more eclectic. Mr. Markkanen commented on the many examples of buildings on the street that used the same material. He remarked that the shiplap siding that is prevalent around town is oftentimes hardy or cement board siding. With respect to fire safety, hardy board would help protect from a disaster.

Mr. Markkanen stated that as the applicant/owner/developer on the site, they would be happy to meet with the neighboring tenants and owners to have a discussion and address their concerns.

Mr. Markkanen noted that Planner Astorga had addressed the solar panels. That is very fluid because they had to put something on there for the CUP application. It was downsized considerably because they do not need that much and there is no benefit to overproducing energy. The air conditioners will be smaller units that are currently seen everywhere in town. They will be installed in places most directly in line with the units below. Mr. Markkanen stated that the units could be shifted slightly towards the west but they will mostly be spread out around the roof. He believed the visual impact would be low since the units are only 3-4 feet tall. Mr. Markkanen noted that a boiler in the basement would feed some of the heat melt and that would not be visible at all. They also need a mechanical shaft, but that will go straight out the top of the elevator shaft and should not be a visual concern.

Mr. Markkanen thought Planner Astorga had adequately addressed the questions of light and sound. He was certain that the residential use would be much quieter than restaurants or other commercial activity. Mr. Markkanen believed the neighbors would self-police. If someone is too noisy they will either knock on their neighbor's door or call the police. Mr. Markkanen noted that lighting was not on the application because they were not at the stage of development to identify the lighting. They are well aware of the dark sky requirements and they are also driven by LEED Energy requirements. The lighting will most likely be minimal as required.

Commissioner Suesser asked Mr. Markkanen to name some of the buildings in the neighborhood with the same exterior material. Mr. Markkanen named the Black Tie Building, the Lobster Lofts, and an office building. Commissioner Suesser clarified that those buildings had the same exterior material that this developer was proposing to use. Mr. Markkanen stated that it is the same material but in a slightly different format.

Commissioner Suesser asked if there would be lighting in the parking lot. Mr. Markkanen replied that they were working with the Prospector Square Property Owners Association because ultimately it will be their responsibility. Currently, there is no lighting in that parking lot. Some light from the building will spill into the parking lot. Commissioner Suesser clarified that her question was raised out of the neighbors' concern regarding lighting.

Vice-Chair remarked that the main circulation that will need to be lit faces the parking lot and not the adjacent building.

Commissioner Sletten stated that he served on the City's Blue Ribbon Housing Commission for affordable housing. A dream of the committee was to have the private sector build for-rent housing to satisfy the housing needs of a lot of the constituency that currently have to live outside of Park City. He applauded this developer for what they were doing. It is a significant development for the area.

Vice-Chair Phillips closed the public hearing.

MOTION: Commissioner Suesser moved to APPROVE the Conditional Use Permit for a multi-unit dwelling located at 1791 Prospector Avenue, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended. Commissioner Sletten seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 1791 Prospector Avenue CUP

1. The site is located at 1791 Prospector Avenue.
2. The site consists of Lot 48F of the Prospector Square Subdivision Plat.
3. The site is within the General Commercial District.
4. A Multi-Unit Dwelling is a building containing four (4) or more dwelling units.
5. A Multi-Unit Dwelling is a conditional use in the General Commercial District.
6. The proposal consists of a new residential building containing twenty (20)

apartments / residential units: thirteen (13) one-bedroom apartments, six (6) two-bedroom apartments, and one (1) three-bedroom apartment.

7. The proposed building has three (3) floors on top of an underground parking garage.

8. The overall size of the proposed building is 29,201 square feet which includes 17,087 square feet of residential floor area; 8,768 square feet of parking area; 1,720 square feet of internal circulation; 632 square feet of common area lounge, kitchen, conference room area; 608 square feet of storage space; and 386 square feet of mechanical space.

9. The proposal does not require an MPD application based on the proposed residential UEs of 8.5 (17,087 square feet).

10. The lot has direct access to Prospector Avenue via two (2) access easements on adjacent (Prospector Square) Parking Lot G.

11. The site has a platted access for an underground parking level over Parking Lot G on the southwest corner of the site.

12. The subject site is included in the Prospector Overlay which provides a maximum Floor Area Ratio not to exceed two (2.0).

13. Lot 48F is 9,548 square feet in size, which allows a maximum floor area of 19,096 square feet.

14. The proposed gross residential floor area of the building is 18,956 square feet, which equates to a Floor Area Ratio 1.9.

15. The proposed residential gross floor area complies with the maximum Floor Area Ratio.

16. The proposed front, rear, and side setbacks are zero feet (0").

17. The highest roof points range in height from 33.6 to 34.5 feet.

18. The proposed building complies with the maximum building height

19. The proposed building does not show the location / heights of antennas, chimneys, flues, vents, and / or similar structures.

20. The proposal does not show the location / heights of mechanical equipment and associated screening.

21. The proposed building contains an elevator penthouse which complies with Building Height exception 5, listed above.

22. The proposal complies as conditioned with the Architectural Design Guidelines found in LMC § 15-5-5(A-N).

23. Prospector Square was master planned anticipating allowed and conditional uses.

24. Residential uses are less intensive than commercial uses for traffic and provide an alternating form of traffic.

25. Emergency vehicle access is proposed with twenty-four foot (24") drive aisles and two (2) curb cuts for access into and out of Parking Lot G.

26. The applicant proposes a total of twenty-four (24) parking spaces, all located in

the underground parking level.

27. The twenty-four (24) proposed parking spaces meet the minimum parking measurement of nine by eighteen feet (9"x18").
28. Vehicular circulation is provided via a ramp leading from Parking Lot G towards a garage door on the west façade / elevation.
29. Pedestrian circulation to the building is provided via a front door on the Parking Lot G / Prospector Avenue façade / elevation and the underground parking level.
30. All four (4) levels plus the roof top are connected via the circulation staircase / elevator corridor.
31. Levels 1-3 and the roof top also contain a secondary exterior staircase connecting these levels.
32. All apartments are accessed via a covered exterior circulation corridor on Levels 1-3.
33. The proposal includes a public pedestrian access to the Rail Trail via connection to the Prospector Avenue sidewalk to the Rail Trail.
34. The zero (0) lot line building will not have any fencing for separation.
35. The mass, bulk and orientation are consistent with other buildings in the area.
36. The Rail Trail connection mitigates any perceived loss of open space.
37. Signs and lighting are not yet proposed and will be provided in typical fashion to assist tenants and visitors with finding their routes, as well as assisting emergency vehicles / officials with required address and emergency signs.
38. The design is compatible with surrounding buildings in the mass and scale.
39. The proposed building will have similar noise, vibration, odors, steam, or other mechanical factors customarily found within residential buildings.
40. No commercial deliveries will be made to the site based on the nature of the residential use.
41. The business plan for the developer is long-term residential rentals, i.e, apartments.
42. By excavating for the underground parking garage level, it is anticipated that contaminated soils will be encountered.
43. The site is within the Park City Soils Ordinance boundary.
44. The proposed underground level contains a six foot (6") encroachment onto Parking Lot G, common space, completely below grade.
45. The applicant is ready to record an updated encroachment agreement with Prospector Square Property Owners" Association that would allow the encroachment to consist of independent structures.
46. The portions of the parking structure improvements located in the common Area are to be structurally designed, constructed, and operated in a manner such that, in the event the encroachment area is ever removed, the parking structure would remain fully functional and continue to be operated independent from the encroachment.

Conclusions of Law – 1791 Prospector Avenue CUP

1. The proposal satisfies the Conditional Use Permit review criteria as established by the Land Management Code's Conditional Use Review process (§15-1-10[E], Criteria 1-16).
2. The proposal complies with all requirements of the Land Management Code.
3. The Uses will be Compatible with surrounding Structures in Use, scale, mass and circulation.
4. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval – 1891 Prospector Avenue CUP

1. All standard project conditions shall apply.
2. A Construction Mitigation Plan (CMP) shall be submitted and approved by the City for compliance with the Municipal Code, as a condition precedent to issuance of any grading or building permits. The CMP shall be updated as necessary to identify impacts and propose reasonable mitigation of these impacts on the site, neighborhood, and community due to construction of this project. The CMP shall include information about specific construction phasing, traffic, parking, service and delivery, stock-piling of materials and staging of work, work hours, noise control, temporary lighting, trash management and recycling, mud and dust control, construction signs, temporary road and/or trail closures, limits of disturbance fencing, protection of existing vegetation, erosion control. Storm-water management and other items as may be required by the Building Department. The immediate neighborhood and community at large shall be provided notice at least 24 hours in advance of construction work impacting private driveways, street closures, and interruption of utility service.
3. A storm water run-off and drainage, and grading plan shall be submitted with the building plans and approved prior to issuance of any building permits.
4. Final utility plans, consistent with preliminary utility plans reviewed by the Planning Commission during the Conditional Use Permit review, shall be reviewed by the City Engineer during the Building Permit review.
5. The Snyderville Basin Water Reclamation District's review and approval of the utility plans, for conformance with the District's standards for review, is a condition precedent to building permit issuance.
6. The final building plans and construction details for the project shall substantially comply with the drawings reviewed by the Planning Commission on December 12, 2018.
7. The Conditional Use Permit shall expire on December 12, 2019, unless an



extension is requested in writing prior to expiration date and the extension is granted by the Planning Director.

8. The proposed building shall comply with Building Height exception no. 2 and 3 as listed in Land Management Code.

9. Solar Energy Systems shall be in compliance with the parameters established in the Land Management Code.

10. All exterior lights shall be in compliance with the parameters established in the Land Management Code

11. In addition to County health standards, trash enclosure design standards shall be in compliance with the parameters established in the Land Management Code.

12. The site shall contain an area to be used for recycling within the building, specifically within Level 0 underground parking level.

13. All mechanical equipment shall comply with the parameters established in the Land Management Code.

14. The proposal shall comply with all the Park City Soils Ordinance.

15. The proposed connection to the Rail Trail from the Prospector Avenue sidewalk shall be completed prior the applicant receiving a certificate of occupancy for the proposed building.

16. The applicant is ready to record an updated encroachment agreement with Prospector Square Property Owners' Association that would allow the encroachment to consist of independent structures.

17. The business plan for the developer is long-term residential rentals, i.e, apartments. As stipulated by the developer during the public hearing, nightly rentals will not be allowed in the development.

**9. 7101 Silver Lake Drive - North Silver Lake Condominium Plat 2nd Amendment.**

Planner Astorga reviewed the application for a condominium plat amendment, the second amendment for North Silver Lake, which amends Unit 14. He noted that Unit 14 would be made smaller by 37 square feet and the amendment rearranges the private drive for Units 8, 9 and 10.

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 as found in the draft ordinance.

Allison Phillips Belnap, an attorney with Ballard Spahr, stated that she works with Tom Bennet and she was representing the applicant this evening.

Vice-Chair Phillips opened the public hearing.

There were no comments.

Vice-Chair Phillips closed the public hearing.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for 7101 Silver Lake Drive, the North Silver Lake Condominium Second Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as contained in the Draft Ordinance. Commissioner Hall seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact 7101 Silver Lake Drive

1. The North Silver Lake, also known as Stein Erickson Residences, is located at 7101 Silver Lake Drive.
2. The site is within the Residential Development District and the Deer Valley Master Planned Development.
3. The current development consists of eleven (11) single-family dwellings, two (2) duplex dwellings, thirty-nine (39) residential units within the multi-unit buildings, three (3) support commercial units, and corresponding common and limited areas and facilities.
4. The proposed Condominium Plat Amendment modifies Unit 14 and Shared Driveway A, adjacent to Unit 8, 9, and 10 to accurately reflect what has been constructed.
5. A condominium is not use, but a type of ownership.
6. The proposed Condominium Plat Amendment adjusts the platted condominium unit #14 private, common, limited common areas and the common.
7. The net impact of these changes is a decrease of 37 square feet in the private area of Unit 14.
8. The proposed Condominium Plat Amendment also adjusts the common and limited common area of Shared Driveway A adjacent to Unit 8, 9, 10.
9. The proposed Condominium Plat Amendment is consistent with the 2010 approved Conditional Use Permit containing 54 units.
10. The original Conditional Use Permit does not have to be re-reviewed as the proposal complies with the approved Conditional Use Permit.
11. The density of 54 units still remains the same as the Deer Valley Master Planned Development allocated a specific maximum number of units at North Silver Lake.

12. The proposed Condominium Plat Amendments does not affect parking and open space.

13. There is good cause for this Condominium Plat Amendment as it complies with applicable codes and accurately records the constructed unit and driveway.

#### Conclusions of Law – 7101 Silver Lake Drive

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

#### Conditions of Approval – 7101 Silver Lake Drive

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 shall 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. All conditions of approval of the Conditional Use Permit and the Condominium Plat Ordinance No. 14-19 shall continue to apply.

#### **10. 510 Ontario Avenue Plat Amendment and Roundabout Condominiums 1st Amendment.**

Planner Astorga reviewed the application for a plat amendment for 510 Ontario and for the Roundabout Condominiums 1<sup>st</sup> Amendment. He reviewed a vicinity map shown on page 623 of the Staff report. The entire yellow area identified the platted Roundabout Condominiums. The red area was the current plat amendment for 510 Ontario. Planner Astorga pointed to a 2700 square feet area that was transferred to 510 Ontario Avenue from the Roundabout Condominiums two years ago through quit claim deeds and Special Warranty Deeds without City approval, which constitutes an illegal subdivision.

Planner Astorga stated that the request was a plat amendment to combine parcels 1, 2, and 3. He called 1 and 2 parcels because they had not been legally subdivided. The third portion is the portion that was transferred from the Roundabout Condominiums. The second parcel severs the area that has already been transferred and changes the boundary of the Roundabout condominiums.

Planner Astorga introduced Greg Ross who was representing Elliot Realty and Ron Dichter, as well as the Roundabout Condominiums as part of this application.

The Staff requested that the Planning Commission review the application for the two plat amendment, conduct a public hearing, and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval as found in both draft ordinances. Planner Astorga explained that this was one application but the end result would be two plats. He had contacted the County and their preference was to have two separate plats for recording purposes.

Planner Astorga stated that the 510 Ontario Avenue plat amendment meets the minimum lot areas and standards of development for that site. He noted that the site has direct access or frontage on Deer Valley Drive; however, the Staff did not want to disrupt the flow of traffic. With agreement from the applicant, a condition was added to maintain access off Ontario Avenue.

Planner Astorga commented on another condition that addressed future development. He explained that this area is platted as common space even though it has a different owner. The common space was approved as part of the Roundabout Condominiums, which is two duplexes for a total of four units. The Roundabout Condominiums are in the R1 District, and based on the lot area it did not require an MPD or 60% open space. However, this area has always been perceived by the City Council and the Planning Commission to serve as open space, even though there was no specific requirement. The Staff was proposing to limit development to no more than what currently exists, which is a single family dwelling, based on the fact that the specific land came from common space from the adjacent property owner.

Planner Astorga stated that when the Roundabout Condominium was platted a public utility easement was placed on this area as standard practice required by the City Engineer for public utilities. A condition of approval states that if the applicant is able to satisfy to the City Engineer's Office that there are no utilities in that area, the City would vacate that public utility easement. Commissioner Sletten asked if that investigation

was yet to come. Planner Astorga answered yes. He explained that if the investigation proves there are utilities, the City will keep the easement on the property.

Greg Ross stated that the main concern of his client was the change of use. Due to the current zoning and because they were taking a non-required open space, his client did not understand why they needed a condition for change of use. His client has no intention to build a duplex or a multi-unit, but he did not want to give it up as a property right.

Commissioner Kenworthy asked if the applicant was looking to expand the single-family home on to that area. Mr. Ross stated that they were working on plans for an addition and remodel. It is still in the planning stage and nothing has been submitted.

Commissioner Hall clarified that the red area was zoned single-family home. Planner Astorga stated that both sites were R1, Residential Development.

Commissioner Kenworthy asked about the setback on Deer Valley Drive if the applicant wanted to expand the home to the maximum envelope. Planner Astorga replied that it would still be considered front to back. He could not recall whether it was 10' or 15' but it was addressed in the Staff report.

Commissioner Suesser understood that Planner Astorga had added a condition of approval requiring the structure to remain a single-family home. Planner Astorga stated that it was Condition of Approval #3 on page 631 of the Staff report. Director Erickson clarified that the front yard setback was 15'; and 20' for a garage.

Vice-Chair Phillips clarified that there would be access from Deer Valley Drive. Planner Astorga replied that he was correct and that the applicant had stipulated to that specific condition of approval. He noted that the applicant had submitted a concept drawing and had been working with the Historic Preservation Planner based on its proximity to Old Town. He believed it was a good design and encouraged the applicant to continue with that specific concept. Mr. Ross stated that the design does not have any access off Deer Valley Drive and keeps the access off of Ontario. They met with Planners Grahn and Tyler and their review was favorable. Mr. Ross reiterated that the applicant has no intentions other than to keep the structure a single-family residence, but he did have concerns with the condition regarding change of use because of a future sale or other reasons.

Vice-Chair Phillips thought the single-family structure was a duplex at one time. Planner Astorga believed it had also been a triplex. Mr. Ross emphasized that he has been on the property and it is a single-family residence.

Planner Astorga showed the concept site plan that was unofficially submitted. The area in yellow was the area in question that was transferred without going through the proper subdivision process.

Vice-Chair Phillips understood that the concept plan was hypothetical. He stated that the Planning Commission has to look through the lens of what could occur if the property is sold tomorrow to a new owner. He personally preferred to keep the structure as a single-family residence considering its location on Ontario Avenue. Planner Astorga suggested that this might be a different discussion if the area next door was not already platted as common space.

Commissioner Suesser clarified that the Amendment would create one large lot and that the property would not be subdivided. Planner Astorga replied that they would be a one-lot subdivision because it memorializes an actual lot of record or a plat. Commissioner Suesser asked if it would be one lot with two houses on the lot. Planner Astorga stated that the concept plan was hypothetically one big house. Mr. Ross thought the plan was deceiving because much of the area is deck off to the north side. He reiterated that the Historic Planners liked the direction of the plan. Mr. Ross remarked that the owner lived in the house permanently at one point. They moved out of state but their intention is to come back and again make it their permanent residence.

Commissioner Thimm asked Planner Astorga to describe the status of the area in yellow. Planner Astorga stated that the area in yellow was currently part of the Roundabout Condominiums common space that was already transferred from Roundabout to Elliot Realty, the applicant. Commissioner Suesser understood that there was nothing on the property identified in yellow. Planner Astorga replied that it was 100% vacant. Commissioner Thimm understood it was common area and asked if it was designated as open space. Planner Astorga replied that the plat did not designate any open space. It does not have parking or an open space designation. It is simply common space that has a different owner than the HOA. It is referred to as an illegal subdivision.

Commissioner Kenworthy asked if anyone wanted to build on the yellow area whether they would have to come back to the Planning Commission. Planner Astorga replied that they would not come to the Planning Commission. They could move forward with a building permit. Commissioner Hall pointed out that it was basically a lot line correction. It was only called a subdivision because of the condominiums. Planner Astorga replied that she was correct.

Vice-Chair Phillips opened the public hearing.

There were no comments.

Vice-Chair Phillips closed the public hearing.

MOTION: Commissioner Suesser moved to forward a POSITIVE recommendation to the City Council for 510 Ontario Avenue Plat Amendment and the Amendment to the Roundabout Condominiums, 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 – 510 Ontario

1. The site is located at 510 Ontario Avenue.
2. The site consists of an existing single-family dwelling accessed off Ontario Avenue.
3. The site is within the Residential District.
4. The proposed Plat Amendment consists of two (2) metes and bounds parcels (723 and 4,191 square feet each, respectively) plus a portion of Roundabout Condominium Plat common space consisting of 2,731.8 square feet.
5. On October 4, 2016 a special warranty deed was recorded at Summit County from Roundabout LLC to Eliot Realty LLC consisting of 2,731.8 square feet of common space of the Roundabout Condominiums.
6. October 4, 2016 a quit claim deed was recorded at Summit County from Roundabout Homeowners Association, Inc., to Eliot Realty LLC consisting of 2,731.8 square feet of open space of the Roundabout Condominiums.
7. The October 4, 2016 property transfer of the 2,731.8 square feet of common area of the Roundabout Condominiums took place without City approvals.
8. The proposed Plat Amendment consists of one (1) lot of record 7,646 square feet in size.
9. This proposal does not increase density as there is already a single-family dwelling.
10. The minimum lot area for a single-family dwelling is 2,812 square feet; duplex dwelling is 3,750 square feet; and triplex dwelling is 5,625 square feet.
11. The applicant has been working with the Planning Dept. for an addition / renovation  
/  
remodel to the existing single-family dwelling.
12. Single-family and duplex dwellings are listed as allowed uses, and a triplex dwelling is listed as a conditional use.
13. The Residential District requires a minimum front setback of fifteen feet (15'), new front facing garages for single-family and duplex must be at least twenty feet (20'), a

minimum rear setback of ten feet (10'), and a minimum side setback of five feet (5').  
14. The proposed Plat Amendment, one (1) lot subdivision, meets front, rear, and side setbacks.

#### Conclusions of Law – 510 Ontario

1. There is good cause for the 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 – 510 Ontario

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 shall record the Plats 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 plats will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A Plat note shall be added to limit one (1) single-family dwelling. No duplexes / triplexes allowed based on its proximity to the Historic District.
4. A ten foot (10') snow storage and non-exclusive public utility easement to extend along Ontario Avenue shall be noted on the Plat.
5. A Plat note shall be added indicating that access to the lot shall be from Ontario Avenue.
6. A Plat note shall be added indicating the portion of the site located within Flood Zone AO.
7. Prior to plat recordation the applicant shall be responsible of submitting to the Engineering Department proof that there are no existing utilities on the five foot (5') utility easement and a new five foot (5') utility easement is required along the side property line. If existing utilities are found with the five foot (5') utility easement, the proposed plat will not vacate the utility easement.
8. Residential fire sprinklers are required for all new construction per requirements of the Chief Building Official, and shall be noted on the Plat.

#### Findings of Fact – Roundabout Condominiums



1. The subject site, Roundabout Condominiums, is located at 300 Deer Valley Drive.
2. Roundabout Condominiums was approved as two (2) condominium buildings, consisting of two (2) units in each building for a total of four (4) units.
3. On June 14, 2007 the City Council approved the Roundabout Subdivision Plat which was recorded February 21, 2008, a two (2) lot subdivision.
4. In 2014 the site remained unimproved and on May 8, 2014 the City Council approved Ordinance No. 14-21 approving the Roundabout Condominiums Plat, which consisted of four (4) condominium units.
5. On April 23, 2015 the City Council approved Ordinance No. 15-12 amending Ordinance No. 14-21 and approving the Roundabout Condominium Plat, four (4) condominium units.
6. The site is within the Residential District.
7. The proposed Condominium Plat Amendment consists of amending the boundary of the Roundabout Condominiums to reflect 2,731.8 square feet of common space that has already been transferred to the adjacent property owner.
8. On October 4, 2016 a special warranty deed was recorded at Summit County from Roundabout LLC to Eliot Realty LLC consisting of 2,731.8 square feet of common space of the Roundabout Condominiums.
9. October 4, 2016 a quit claim deed was recorded at Summit County from Roundabout Homeowners Association, Inc., to Eliot Realty LLC consisting of 2,731.8 square feet of common space of the Roundabout Condominiums.
10. The October 4, 2016 property transfer of the common area of the Roundabout Condominiums took place without City approvals.
11. The proposed Condominium Plat Amendment consists of amending the overall Condominium site to 25,754 square feet in size.
12. This proposed Condominium Plat Amendment does not increase density.
13. The proposed Condominium Plat Amendment does not affect any private units, limited common spaces, parking areas, footprint, etc.
14. The only platted designation of the 2731.8 square feet area is common space.
15. The existing Condominium Plat shows a platted ten foot (10') wide non-exclusive public utility & snow storage easement along Deer Valley Drive, as well as a five foot (5') utility easement along the side and rear property lines.
16. Roundabout Condominiums does not have an open space requirement.
17. The proposed Condominium Plat Amendment does not affect the minimum lot area or any of the required minimum setbacks based on the location of the 2,731.8 square feet of common space already transferred.

#### Conclusions of Law – Roundabout Condominiums

1. There is good cause for the Condominium Plat Amendment.

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

Conditions of Approval – Roundabout Condominiums

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 shall record the Plats 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 plats will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A ten foot (10') snow storage and non-exclusive public utility easement to extend along Deer Valley Drive shall be noted on the Plat.
4. A five foot (5') utility easement shall be noted on the Plat along the side property line.
5. All Conditions of Approval of the Ordinance No. 15-21 shall continue to apply.

The Park City Planning Commission Meeting adjourned at 9:00 p.m.

Approved by Planning Commission: \_\_\_\_\_