

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
OCTOBER 26, 2016

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

Planning Director, Bruce Erickson; Kirsten Whetstone, Planner; Francisco Astorga, Planner; Ashley Scarff, Planner; Polly Samuels McLean, Assistant City Attorney;

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REGULAR MEETING

ROLL CALL

Chair Strachan called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Campbell, who was expected to arrive later in the meeting.

ADOPTION OF MINUTES

October 12, 2016

Commissioner Joyce referred to page 9, second paragraph, “no secondary access point was identified or approval”. He changed approval to correctly read **approved**. Third paragraph, line 7 “...or approximately 150,000” should be changed to read 150,000 **square feet**. Same paragraph, line 9, “Building footprints could not be enlarged this restriction”. He inserted the word **with** to correctly read, “Building footprints could not be enlarged **with** this restriction”.

Commissioner Joyce referred to Page 10, first paragraph, line five, and changed Sweeney to correctly read **Sweeneys**. Page 11, first paragraph, line 6, “They were generally positions...” was changed to correctly read, “They were generally **positioned**.” Page 13, first paragraph, line 6, “Mr. Perkins remarked that the Coalition building stood longer after it had ceased operation”. Commissioner Joyce changed the sentence to correctly read, “Mr. Perkins remarked that the Coalition building stood **long** after it had ceased operation.”

Commissioner Suesser referred to page 33, first paragraph, line 1, “Commissioner Suesser stated that the current proposal has significantly since 2005”. She inserted the word **changed** to correctly read, “Commissioner Suesser stated that the current proposal has

significantly **changed** since 2005”. Second paragraph, Commissioner Suesser inserted the words **his comments** to correctly read, “Commissioner Suesser concurred with Commission Thimm regarding **his comments** on the Woodruff drawings.” In the fourth paragraph, first sentence, Commissioner Suesser inserted the word **project** to correctly read, “Regarding Criteria 11, Commissioner Suesser agreed that the master plan anticipated the difficulty of designing a higher density **project** adjacent to the Historic District”.

Commissioner Thimm referred to page 28, first paragraph, last sentence, and added Thimm to the sentence to correctly read, “Commissioner **Thimm** thought that was made clear by each Commissioner in prior meetings”. Second paragraph, line 6, the sentence was changed to remove the period after massing and insert **would be** to correctly read, “Commissioner Thimm stated that understanding how that correlates will speak to what the building massing **would be**.”

Commissioner Thimm referred to page 29, third paragraph, first sentence “Commissioner Thimm was trouble by ...” was changed to correctly read “Commissioner Thimm was **troubled by ...**” Page 33, second paragraph, second sentence, Commission Thimm was changed to correctly read, **Commissioner Thimm**.

MOTION: Commissioner Phillips moved to APPROVE the Minutes of October 12, 2016 as amended. Commissioner Band seconded the motion.

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

Commissioner Campbell arrived.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Director Bruce Erickson stated that the Planning Commission would have a Work Session Meeting on November 30th. The Commissioners would have the opportunity to ask questions of the Transportation Manager, Alfred Knotts; the Affordable Housing Manager, Rhoda Stauffer; and the new Sustainability Manager, Luke Cartlan. The topic will be compliance with the General Plan in those areas, and how they could make the appropriate changes to the LMC to implement those.

Director Erickson stated that there was also the potential to hear one appeal on November 30th regarding the Planning Director's determination. However, the goal is to keep that meeting clean and focused on General Plan issues.

Director Erickson announced that there would only be one Planning Commission meeting in December due to the Christmas holiday and one meeting in January due to Sundance.

Planner Francisco Astorga reported that the Planning Commission would be reviewing the Treasure Hill CUP project in a work session on November 9th. That meeting would be held at the Marsac Building and not the Library.

Commissioner Joyce asked for an update on the Alice Claim subdivision and the wall CUP. Planner Astorga stated that the CUP was appealed by two separate parties. The Staff was finally able to coordinate a date when both parties and the applicant could meet with City Council. The appeal of the CUP, as well as the subdivision and plat amendment, were scheduled to be heard by the City Council on November 17th.

Commissioner Band disclosed that she would be recusing herself from the two 7700 Stein Way items on the agenda because they own the Brokerage she works for.

Assistant City Attorney McLean referred to the Alice Claim appeal and noted that typically one person from the Planning Commission attends the City Council meeting to answer questions if necessary and to report back to the Commissioners. Commissioner Band volunteered to attend.

Commissioner Phillips disclosed that he would be recusing himself from 324/328 Woodside Avenue because he was working on that project.

CONTINUATIONS

1. 1401 & 1415 Kearns Blvd., 1415, 1635, 1665, 1685, & 1705 Bonanza Dr., 1420 & 1490 W Munchkin Rd., – Bonanza Park North East Master Planned Development (MPD) Pre-Application determination in the General Commercial (GC) District. Project consists of a mixed-use development containing commercial space on the first floor and office or residential. (Application PL-15-02997)

Planner Astorga requested that the Planning Commission allow the applicant a few minutes to present working documents that they have been working on the past few months.

Chair Strachan was willing to allow it as long as the same material would be presented to the public the next time this comes back to the Planning Commission. He was concerned that people who may have been interested did not attend this meeting because they thought it was being continued.

Craig Elliott clarified that the intent was to provide an update. They had no intention of discussing the design issues. Chair Strachan was comfortable with an update.

Mr. Murphy reported that the applicant has had discussions with Staff as recently as last week regarding the various aspects of the project. They owe the Staff a series of reports as outlined in the Staff report, and they were continuing to work on those. Mr. Murphy stated that for the past two months they have been focusing on the transportation elements, and they would be presented at the next meeting.

Mr. Elliott stated that regarding transportation they have had two meetings with Matt Cassel, Alfred Knotts, Brooks Robinson and Francisco Astorga since the last Planning Commission meeting. The applicant was able to accommodate all their issues and they are willing to put the transportation stops in any location they need to be.

Mr. Elliott requested a continuation to the November 9th meeting. They would immediately provide the information that the Staff had requested.

Director Erickson reported on an email that was received from Clay Stuard. It was included in the Staff report and copies were available to the public at the back of the room. The Staff had read the email but they did not have an opinion at this point.

Director Erickson noted that the Continuation date needed to be later than November 9th because the Staff report for that meeting was already done. They will review the information when it is provided and determine when the Staff can prepare the Staff report. Planner Astorga suggested a Continuation to November 30th.

Chair Strachan opened the public hearing.

Clay Stuard asked if November 30th was also a Treasure Hill meeting.

Chair Strachan answered no. He informed Mr. Stuard that Treasure Hill is always the first of the month and that would be November 9th. Due to the Thanksgiving holiday, the second meeting in November would be November 30th rather than November 23rd.

Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to Continue 1401 & 11415 Kearns Boulevard to November 30, 2016. Commissioner Joyce seconded the motion.

2. 7520-7570 Royal Street East- Deer Valley MPD 12th Amendment to combine Lots D, F, G, and H of the Silver Lake Community, into one development parcel. No changes to the approved density assigned to these parcels are proposed.
(Application PL-16-03155)

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

Commissioner Band had not attended the last meeting, but since this was part of the Goldener Hirsch she wanted to know why the lot combination was not done at the same time. She understood from reading the Minutes that there were issues with the building itself but not the MPD amendment.

Planner Whetstone explained that there was a desire to keep these projects together. The conditional use permit changed it might change the plat. There was also a question about the support commercial with the Deer Valley Master Plan that the Staff wanted to research and resolve. The issue was the entitlement in the MPD versus what was built at the Goldener Hirsch.

MOTION: Commissioner Band moved to CONTINUE 7520-7570 Royal Street East - Deer Valley MPD, to November 9, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

3. 7520-7570 Royal Street East- Amendment to the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision combining Lots D F, G, and H into one lot.
(Application PL-15-02966)

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

MOTION: Commissioner Band moved to CONTINUE 7520-7570 Royal Street East – Amendment to the Subdivision Lots 1 and 2 in Silver Lake Village to November 9, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

4. 7520-7570 Royal Street East- Conditional Use Permit for 34 residential units on Lot 1 of the Amendment to the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision. (Application PL-15-02967)

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

MOTION: Commissioner Band moved to CONTINUE 7520-7570 Royal Street East – Conditional Use Permit for 34 residential units on Lot 1 of the Amendment to the subdivision Lots 1 and 2 Silver Lake Village to November 9, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **515 Main Street – Conditional Use Permit application to allow current and future tenants of 515 Main Street to install a tent a maximum of 15 times per year, for durations no longer than fourteen (14) days each, within the private courtyard to the north of the building.** (Application PL-16-03266)

Planner Ashley Scarff reviewed the request for a conditional use permit to allow current and future tenants of 515 Main Street to install a tent structure a maximum of 15 times per year for durations no longer than 10 days each time within the private courtyard to the north of the building, which currently houses the North Face store.

Planner Scarff explained that these type of requests are typically reviewed administratively. However, review by the Planning Commission is required if the applicant chooses to request installation of the tent for more than five times per year or more than 14 days at a time.

Planner Scarff stated that the application does not specify requested durations or frequencies for the use of the tent, since specific programming for the space has not yet been identified. However, the Staff recommended frequency and duration as stated in the Staff report, which she believed the applicant wanted to amend.

Mike Sweeney, representing the applicant, stated that he has been involved with tents on Main Street for over 20 years. The main one is the Town Lift Plaza. Mr. Sweeney remarked that the duration for tents on Main Street are shorter than places such as Deer

Valley where events occur frequently. He pointed out that some years this applicant may have five or six of the major size tents and other years they have none.

Mr. Sweeney requested that the 15-day maximum be changed to 25 days; and on 24 of those 25 days the tent could stay up as a maximum. One tent during Sundance would remain for ten days, the other times the tent would remain for four days. Mr. Sweeney pointed out that it would result in a reduction from 150 days to 106 days. It works better for the applicant because it takes a day to set up the tent, and if the event is on a Saturday or Sunday, the tent cannot come down until Monday.

Planner Scarff commented on potential uses within the courtyard, which included the initial application request, installation of tents, as well as other outdoor uses such as the use of speakers, outdoor music, catered parties and outdoor displays of North Face merchandise. Ms. Scarff stated that in the Historic Commercial Business District (HCB), these outdoor events and uses are allowed to be reviewed administratively. The Staff had separated those activities from the tent request, and they were conditioned and approved by the Planning Department on October 3rd, 2016. She remarked that the Staff understood the importance of mitigating any potential negative impacts that the tent may have on the Main Street corridor or adjacent historic buildings and Land uses.

The Staff was comfortable recommending approval of this conditional use permit as conditioned in the Staff report.

Planner Scarff outlined the specific conditions of approval as follows: The use of the tent will not increase the existing occupancy limits of the structure, which is 49 people. The Staff would like to review and approve the final design of the tent. She pointed out that the applicant would probably have to custom build their own tent to fit in that small of a space and meet the fire and building codes. The tent should be rectangular in shape, solid in color, and any proposed logos or branding on the tent would be required to go through the sign permitting process. The tent shall not exceed 15 feet in height measured from the floor of the courtyard to the highest peak of the tent. The tent should be set back away from Main Street and behind the existing tree planter box, and have no physical connections to the adjacent historic buildings. Installation and disassembly would not require machinery such as cranes or backhoes. The Conditional Use Permit could be re-reviewed by the Planning Commission if the City receives complaints.

Mr. Sweeney was comfortable with the conditions as outlined.

Commissioner Suesser asked whether the tent would be accessed directly through the gate or through the main door. Mr. Sweeney replied that it would not be accessed through the main door. There are two accesses on to the courtyard; one is from the building itself

and the second one is the little red gate. They would look at being able to access the tent from both of those locations. Therefore, the tent would have two exits and entrances, which works better from the standpoint of security and safety. Mr. Sweeney noted that they would also need to meet the normal tent requirements from the Building Department.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Commissioner Joyce asked if the fireplace was in use. Mr. Sweeney replied that the fireplace was part of the restaurant and it still works. Commissioner Joyce was concerned about the fireplace being in close proximity to the tent. He asked if the fireplace and the tent could be used simultaneously. Ms. Sweeney explained that the workable space for the tent is six feet in and the closest possible to Main Street based on the plant box. There is also a three-foot rock fireplace area and he believed they should stay at least five away from that. Mr. Sweeney had spoken with Chad Root, the Chief Building Official, and he did not have any issues with that plan. The Building Department inspects the tent before it is erected and they have to put the tent wherever the Building Department thinks it should be located. Mr. Sweeney pointed out that the tent is inspected prior to the tent being erected, and then again after it is erected.

Commissioner Joyce suggested that if the applicant would have to have a custom made tent, he wanted to make sure it was not too long to be able to use the fireplace when the tent is up. Commissioner Phillips noted that the Fire Marshall does an inspection every time the tent is erected for an event. Mr. Sweeney assumed the tent would be approximately 10 feet wide and 20 to 30 feet long.

Commissioner Joyce indicated the windows that face the North Face building and the red building next door. He asked if the tent would be low enough that it would not interfere with the second floor windows. Mr. Sweeney explained that the tents shown in the document were ones he could find on the Internet. They were chosen primarily to show the shape of the tent. He stated that there would be times when they would only need the top of the tent and not the sidewalls around it.

Commissioner Phillips asked if any of the windows to the red building were egress. Mr. Sweeney replied that there are no doors. If someone needed to get out of the basement they could break a window and go through it. However, the windows on that side were too high for someone to come out and go down on to the courtyard. Commissioner Thimm assumed that Commissioner Phillips was talking about sleeping rooms, require a window

that can be used for egress if necessary. Commissioner Phillips clarified that he was not sure what the building was used for. Mr. Sweeney stated that it was a store.

Commissioner Thimm understood that they were being asked to consider a change to the conditions of approval regarding the number of days or number of times. He referred to the Staff recommendation on page 46 of the Staff report, "The Staff recommends the frequency of 15 times per year." Commissioner Thimm noted that the applicant's request that contrary to the Staff recommendation. He asked if the Staff had any concerns with the requested change in numbers.

Planner Scarff had no concerns. The Staff thought it was a reasonable number for the location, but they identified the number before a specific request was made. Planner Scarff was comfortable with the amended frequency and duration. Commissioner Phillips clarified that it reduced the number of days from 150 to 106.

Commissioner Joyce was concerned about temporary structures on Main Street. They do their best to protect Main Street, but 106 is still a third of the number of days of the year that a tent could be up between two buildings. Even in the best scenario, it is still a tent on Historic Main Street. He was unsure how they could make a tent look like an integral part of a historic neighborhood. Commissioner Joyce was less concerned about allowing the tent, and more concerned about the duration. Allowing it to happen 24 times during the year felt like too much. He was bothered by the idea of a tent being visible to patrons going up and down Main Street.

Mr. Sweeney stated that on the Town Lift Plaza there are no restrictions on the number of days he can use and put up a tent. The maximum number of days that he has ever had tents up in a year is six to seven days. Mr. Sweeney explained that the intent is to give enough flexibility to meet a potential need, but he did not expect to see a tent up every day. That was the reason for requesting a lesser number of days. He believed it addressed Commissioner Joyce's concern about having a tent up too often for too long.

Commissioner Joyce clarified that he was comfortable with the four-day duration. His issue was the 24-day maximum frequency. He preferred that it be 10 times a year, four days each time, and/or a one-time increase for Sundance. If the applicant later finds that a tent is needed more than ten times, the CUP could be amended.

Mr. Sweeney explained that the reason for requesting this CUP was to avoid the time and expense of having to go through the Administrative Process every time they wanted to erect a tent. Commissioner Joyce understood the reasoning; however, his question was whether 24 times a year up to four days is appropriate for Main Street. He personally was not convinced that it was appropriate. He asked if the other

Commissioners shared his concern, or whether they were comfortable with allowing a tent 24 days a year between two buildings.

Commissioner Band noted that they were talking about two specific buildings, and not two buildings in general. She would be more concerned if it were out in front. She referred to the photo with the tent on page 58 of the Staff report, and she and did not believe the tent was terribly intrusion. During the winter it would probably be the full tent as shown in the photo, but she thought it would only be the roof of the tent during the summer. Commissioner Band pointed out that it is empty space. She was unsure whether people walking by and seeing an empty space filled with snow would get any more of a feel for historic Main Street than strolling past an empty space with an unobtrusive tent.

Commissioner Phillips noted that Condition #14 states that in the case of any complaints to the City regarding the use of a tent structure at this location, it will return to the Planning Commission. He was comfortable having that option in case it does become a problem. Commissioner Phillips remarked that Condition #3 states that the Planning Staff must review and approve the final design of the tent. If there were any foreseen problems, he believed the Staff would be able to identify and address it.

Commissioner Joyce agreed. He expected the tent would be nice looking by the approvals and how Mr. Sweeney typically does things. His concern is that they go to such lengths to protect historic Main Street and restrict what can be done with windows and doors and other elements; and the City spent a considerable amount of money to improve and beautify Main Street. In his opinion, allowing a tent for a third of the year was contrary to that goal.

Commissioner Phillips clarified that he was not a big fan of having any tents at all on Main Street, but it is allowed under the LMC. He favored a shorter four-day period because a ten-day period could allow a tent to be up for two weekends. Commissioner Phillips understood Commissioner Joyce's concern, but he thought it would be less of an issue with the shorter four-day period. He was comfortable with what the applicant was requesting.

Commissioner Suesser did not have any concerns.

Commissioner Campbell thought the tent would only be visible if someone was standing right in front of it because of the way it was tucked between the buildings. He would feel differently if it protruded out on to the sidewalk.

Chair Strachan stated that the CUP criteria their guidance and the only one that comes close to addressing Commissioner Joyce's concern is physical design and compatibility with surrounding structures. Chair Strachan remarked that in his opinion tents are not compatibility with the existing structures, but they already exist on Main Street and they have for many years. Therefore, the determination has already been made by this Planning Commission and others that tents are compatible. Chair Strachan noted that none of the other CUP criteria applied to tents.

MOTION: Commissioner Suesser moved to APPROVE the Conditional Use Permit for a tent at 515 Main Street based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended. Commissioner Band seconded the motion.

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

Mr. Sweeney commended Planner Scarff for the amount of work and the time she spent on their application, and she did it quickly. He thought she deserved a lot of credit and praise, and he wanted the Commissioners to know that they have a wonderful new planner in Park City.

Findings of Fact – 515 Main Street

1. On August 2, 2016, the Planning Department received a complete application for a CUP to allow for the installation of tents, the use of outdoor speakers, live outdoor music, catered parties, and the outdoor display of merchandise within the private, enclosed courtyard on the north side of 515 Main Street, which currently houses The North Face store.
2. The subject property falls within the Historic Commercial Business (HCB) District, which allows Outdoor Events and Uses, specifically outdoor grills and/or beverage service stations, outdoor events and music, and the display of merchandise with the issuance of an Administrative CUP.
3. Staff separated activities covered under those designations from this tent request, which requires Planning Commission review if the applicant is seeking approval for a duration beyond 14 days at a time, or frequency beyond 5 times per year.
4. Staff recommended a tent installation frequency of a maximum of 15 times per year, for no more than ten days at a time (amended by Planning Commission at October 26, 2016 meeting—see Conditions of Approval below).

5. An Administrative CUP for the use of outdoor grills and/or beverage service stations, outdoor events and music, and the display of merchandise was approved and issued on October 3, 2016.
6. All uses within the proposed tent will be limited to these permitted activities, as conditioned.
7. The tent will not increase the occupancy limits of the existing building of 49 people.
8. Within the HCB District, the installation of a tent is classified as a Temporary Improvement.
9. Each time the tent is to be erected, the Applicant will be required to provide structural calculations, wind load information, and fire rating to the Building Department as part of a fire permit application. It is during the fire permitting process that the Planning Department will be notified that the Applicant is utilizing the tent, so yearly usage can be tracked by Staff on a specific tent CUP log sheet.
10. Due to the private courtyard's area of approximately 652.5 square feet (14.5 feet in width fronting Main Street x 45 feet in depth), Building Department staff indicated that the applicant may have difficulty procuring a tent with adequate levels of fire rating with such little physical separation between adjacent structures. The Applicant Representative stated that the Applicant is willing and able to work with the City Fire Marshall to design and purchase a custom tent specific to meet requirements of a fire permit.
11. The size and placement of the tent will be determined by applicable building and fire codes, as well as conditions of approval recommended by Planning staff.
12. The courtyard is partially screened from Main Street by an existing rock wall and gate, as well as a mature tree located near the front of the space. The courtyard is enclosed at the rear by a building wall and stone fireplace, blocking activity from residential uses to the west.
13. No additional signs or lighting are proposed with this application.
14. The proposed tent will be located entirely within the private courtyard to the north of the building at 515 Main Street.
15. The proposed use will result in a minimal increase in cars attending events within the temporary structures.

16. Guests and patrons using the temporary structure would have to abide by the same parking and access restrictions as other visitors to Main Street and The North Face at 515 Main Street.

17. According to the Main Street Improvement District map, the lot occupied by 515 Main Street was current in the parking assessment as of January 1, 1984. The site is exempt from the parking obligation for a floor area ratio (FAR) of 1.5 according to LMC §15-2.6-9(D). The building's FAR is below 1.5.

18. On October 12, 2016 the property was posted and notice was mailed to affected property owners within 300 feet. Legal notice was also published in the Park Record on October 12, 2016.

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

20. This application is reviewed under Land Management Code Section 15-1-10 (E) and Section 15-4-16 (C).

Conclusions of Law – 515 Main Street

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

2. The Use, as conditioned is consistent with the Park City General Plan.

3. The Use, as conditioned is 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.

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

Conditions of Approval – 515 Street

1. All temporary structures require a permit issued by the Building Department. All temporary structures must be inspected by the Building Department prior to occupancy.

The Building Department will inspect the structure, circulation, emergency access, and all other applicable public safety measures.

2. The tent is not to increase the existing occupancy allowance of the building of 49 people.

3. Planning Department staff must review and approve the final design of the tent structure before installation.

4. The tent shall be rectangular in shape and solid in color. If the applicant wishes to include logos or other forms of branding on the tent, it will be considered signage and must be permitted via sign permit application.

5. The tent shall not exceed fifteen feet (15') in height, measured from the ground level of the courtyard to the highest peak of the tent.

6. The tent shall be located in a way that it is set back behind the western edge of the existing tree planter box, and have no physical connections to historic buildings.

7. The tent's installation and/or disassembly shall not require the use of any machinery such as cranes or backhoes.

8. Prior to installing a temporary structure, the Planning Department must sign off on a fire permit and record the date within the CUP application folder.

9. A maximum of twenty-five (25) outdoor events which include a temporary structure per year are allowed.

10. For twenty-four (24) of the 25 uses, the tent shall not be erected for more than four (4) consecutive days.

11. For one (1) of the uses, the tent shall not be erected for more than ten (10) consecutive days.

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

13. Additional exterior signage must be approved by the Planning Department consistent with the City Municipal Code. All exterior lighting must be approved by the Planning Department and comply with the Land Management Code.

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

15. In the case there are any complaints to the City regarding the use of a tent structure at 515 Main Street, this CUP shall return to the Planning Commission for re-review.

2. 324/328 Woodside Avenue, 313 Park Avenue – Plat Amendment application to combine Lot B (328 Woodside) and Lot C (324 Woodside) of the 315 Park Avenue Subdivision Amended plat to create one (1) legal lot of record. Lot A (313 Park) is to remain as currently platted. (PL-16-03290)

Commissioner Phillips recused himself and left the room.

Planner Scarff reviewed the application for a plat amendment to combine Lots B and C as shown on the current 315 Park Avenue Subdivision amended plat. It is a three lot subdivision with two lots that front Woodside Avenue and one that fronts Park Avenue. The proposal is to combine the two lots that front Woodside. The lot that fronts Park Avenue would remain as currently platted. All three lots are currently vacant and undeveloped, with the exception of concrete retaining walls, stacked rock walls, and a railroad tie retaining wall. Some of those are encroachments onto the subject parcels from neighboring properties which were resolved during the last plat amendment of the subdivision that was approved by City Council on March 21st, 2013.

Planner Scarff reported that the proposed plat amendment would be the second for the subject property. While it creates a larger lot, the plat amendment would either reduce or maintain the maximum potential density, and it would also either reduce or maintain the off-street parking requirements for the two Woodside lots.

Planner Scarff stated that the Planning Commission did not definitive plans for the combined lot; however, an HDDR pre-application was submitted on May 3rd, 2016 proposing development of a single family home on the combined lot. She pointed out that it is a pre-application and plans could always; but either way, all proposals would need to go through the HDDR process.

Planner Scarff noted that a portion of the combined lot has slopes greater than 30%. Therefore, a Steep Slope CUP will be required prior to issuance of a building permit.

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

of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

Chair Strachan asked if a CUP application was ever filed under the prior plat amendment. Planner Scarff replied that she had found nothing to indicate that one was filed.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the plat amendment for 315 Park Avenue, Second Amended Subdivision, in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 324/328 Woodside Avenue

1. The 315 Park Avenue Subdivision is located within the Historic Residential (HR-1) District.
2. On August 26, 2016, the City received an application to amend the 315 Park Avenue Subdivision, which currently consists of 313 Park Avenue (Lot A), 328 Woodside Avenue (Lot B), and 324 Woodside Avenue (Lot C). The application was deemed complete on September 1, 2016.
3. The applicant wishes to combine Lot B and Lot C as shown on the 315 Park Avenue Subdivision Amended plat; it is proposed that Lot A will remain as currently platted.
4. All three (3) lots are currently vacant and undeveloped, with the exception of a concrete retaining wall that runs along the frontage of Lots B and C; a stacked rock wall located entirely within Lot B; a rock wall that encroaches onto Lot C from adjacent Lot 30 (320 Woodside Avenue); a railroad tie retaining wall that encroaches onto Lot A from adjacent Lot 6 (323 Park Avenue); a portion of a shed roof that also encroaches onto Lot A from adjacent Lot 6; and concrete walls located entirely within Lot A.

5. Encroachments between Lot A and Lot 6 were resolved during the last plat amendment process via Notice of Encroachment on file at the Summit County Recorder's Office (Entry No. 987095).
6. The encroachment between Lot C and Lot 30 has been resolved under an Encroachment Agreement on file at the Summit County Recorder's Office (Entry No. 987096).
7. Constructed across the underlying Park City Survey lot lines, a house once stood at 315 Park Avenue. On May 10, 2007, the Historic Preservation Board made a determination that the house was not a historically significant structure. On June 6, 2007, a demolition permit was issued and the structure was removed. The house was not listed on the Park City Historic Sites Inventory.
8. The first subdivision plat for the subject property created the three-lot 315 Park Avenue Subdivision with a re-plat of Lots 4, 5, 6, 27, 28, and 29, Block 3 of the Park City Survey.
9. The 315 Park Avenue Subdivision was approved by the City Council on March 16, 2006, extended on June 28, 2007, and recorded at Summit County on September 24, 2007
10. The first plat amendment created the 315 Park Avenue Subdivision Amended (current), and reconfigured the property lines of the three (3) lots to make them more equal in size.
11. The 315 Park Avenue Subdivision Amended was approved by the City Council on March 21, 2013, and recorded at Summit County on April 4, 2014.
12. The proposed plat amendment combines two (2) existing parcels to create one (1) lot of record consisting of 5,850 square feet.
13. The amended lot will have access fronting Woodside Avenue.
14. The HR-1 zone requires a minimum lot area of 1,875 square feet for a single-family dwelling. The proposed lot area meets the minimum lot area for a single-family dwelling.
15. The HR-1 zone requires a minimum lot area of 3,750 square feet for a duplex structure, a conditional use in the zone. The proposed lot area meets the minimum lot area required for a duplex structure.

16. The minimum lot width allowed in the district is twenty-five feet (25'). The proposed plat amendment will create one (1) lot with a width of 75 feet.

17. The minimum front/rear yard setbacks for a lot with depth of 85 feet is 12 feet minimum, 25 feet total.

18. The minimum side yard setbacks for a 75 foot wide lot are 5 feet minimum, 18 feet total.

19. The maximum footprint allowed in the HR-1 zone is 2,105.5 square feet for the proposed lot.

20. As conditioned, the proposed plat amendment does not create any new noncomplying or non-conforming situations, or any remnant parcels.

21. Any new structures must comply with applicable LMC requirements and Design Guidelines for Historic Districts and Historic Sites.

22. A Steep Slope CUP may be required for development on the amended lot.

23. The property is not within the soils ordinance boundary. In the event that mine wastes or impacts are encountered, the applicant is responsible for handling the material properly.

24. The property does not fall within the 100 or 500 year flood plains.

25. The proposed plat amendment will not cause undo harm to adjacent property owners.

Conclusions of Law – 324/328 Woodside 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 subdivisions.
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 – 324/328 Woodside Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
 2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
 3. No building permit for any work on the new lot shall be issued until the plat is recorded and until the Historic District Design Review and Steep Slope CUP, if required, applications are submitted and approved for the lot.
 4. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final Mylar prior to recordation.
 5. All applicable notes and conditions of approval of the 315 Park Avenue Subdivision and 315 Park Avenue Subdivision Amended, recorded as Entry Nos. 826141 and 992668 in the office of the Summit County Recorder, continue to apply.
3. **7700 Stein Way – Conditional Use Permit for an addition to the Stein Eriksen Lodge for ski lockers and guest recreational amenities, as well as improvements to the exterior pool and deck area and remodel of existing interior ski locker rooms and skier services** (Application PL-16-03176)
 4. **7700 Stein Way – Amendment to the Stein Eriksen Lodge Common Area Supplemental plat to identify additional ski lockers and guest recreational amenities as common area.** (Application PL-16-03175)

Commissioner Phillips returned to the meeting.

Commissioner Band recused herself and left the room.

The Planning Commission discussed these two items together. Separate actions were taken.

Planner Whetstone reported that the applicant was proposing four amendments to the Stein Eriksen Lodge conditional use permit, which included a 3,000 square foot addition for

guest ski lockers, 35,000 square feet of a guest entertainment area, a 918 square foot guest video viewing room, and a new exterior pool. She noted that the existing pool would remain and a new pool would be added with hot tubs and additional deck areas.

Planner Whetstone noted that the scope of the project had been reduced by approximately 40% from the Staff report the Planning Commission received on September 28th. At that time the Planning Commission conducted a public hearing and continued these items to the October 26th meeting. The applicants had submitted new plans that evening showing the reduction and the Commissioners wanted the opportunity to review those drawings. There were also concerns about setbacks and the Commissioners wanted to determine how far the building was set back from the property line and existing adjacent buildings. The Planning Commission had discussed conditions that would be placed on the video viewing room to make sure it continued as a residential accessory use as opposed to support meeting space or support commercial. Planner Whetstone pointed out that the Stein Eriksen Lodge was nearly maxed out in terms of the support meeting and commercial space allowed.

Planner Whetstone stated that all of the proposed uses fall under residential accessory uses. They do not require UEs and they are not part of the support commercial. Conditions of Approval 11 of the conditional use permit was drafted to indicate that these new spaces would not allow support commercial activity and would be exclusively for guest use.

Planner Whetstone noted that the Amendment to the Stein Eriksen Lodge Common Area Supplemental Plat was also continued to this meeting. She explained that the amendment memorializes the proposed CUP changes to the condominium common area. Because they are structures, under the Condominium Act they need to be shown on the condominium plat.

Staff recommended the Planning Commission conduct a public hearing and consider approving the Conditional Use Permit, and forwarding a positive recommendation to the City Council on the condominium plat.

Ron Jones with WPA Architecture, Dan Flick, the Chief Operating Officer for Stein Eriksen Lodge, and Dan Bullard with Stein Eriksen Management were present this evening to answer questions.

Ron Jones, the project architect, reviewed plans to show where they were building on the east side of the property. He noted that the required side setback was 12' from the property line. To address the setback questions at the last meeting, Mr. Jones pointed out

that the building is actually set back 70 feet, and the edge of the pool deck is approximately 13' from the property line, which exceeds the setback requirement.

Planner Whetstone reviewed a drawing showing that the addition was 60' to the property line and 108' to Mont Cervin, which is the closest building. She indicated the edge of the entertainment center and the edge of the new pool deck. Planner Whetstone stated that on the far south side of the building the addition meets the 12' setback minimum at one point and then it extends significantly beyond the 12' requirement.

Mr. Jones pointed to a grove of trees that were initially going to be removed to accommodate a larger outdoor patio and retaining wall along the edge of the pool deck. However, the owners preferred to keep the trees and decided on a smaller patio. Mr. Jones indicated the new pool that was being added to the existing deck, as well as the additional pool deck. He showed the location of the entertainment center, and where they were proposing to put additional ski lockers. Mr. Jones presented floor plans showing the lower level of the ski lockers, the entertainment center, the upper level ski lockers. He also showed a rendering of how it would look from the pool looking over towards the entertainment center/locker room addition with the existing condos in the background.

Mr. Jones pointed out that the guest viewing room would be on the other side of the Lodge property, and it was being built within an infill space between buildings. He emphasized that the viewing room would be where the guests of the Lodge could participate in activities such as Children's Night at the Movies, special viewings of sporting events, a presentation on the history of Park City, or similar types of events. It will not be used as part of the conference center. The space will not be rented and the activities will be at no cost to the guests of the Lodge. The space would also be used for employee training.

Chair Strachan opened the public hearing.

Dave Novak, the property manager for Mont Cervin, stated that he spoke at the September 28th meeting, at which time he commented on the amount of noise coming from the current swimming pool area. He was representing the members of the HOA who were concerned that the noise level would increase with the expansion of the pool. Instead of 100' from Mont Cervin the pool would now be 40' away. Ms. Novak hoped that after the last meeting the Stein Eriksen management would have tried to enforce the closing of the pool at 9:00 p.m. Since then he has monitored the noise and on October 7th, October 21st and October 22nd, there was a pool party crowd. On October 22nd, it lasted until 2:00 a.m. He found that to be unacceptable 100 feet from people's bedrooms. If they extend the pool closer to Mont Cervin it would be beyond unbearable. Mr. Novak noticed a fire pit on the drawings, which is another point of gathering at night. He could not understand why the Stein Eriksen management would not or could not enforce their pool closing hours.

Chair Strachan closed the public hearing.

Commissioner Campbell was frustrated over the number of times when conditions are placed on items without any remedy to follow-up. He asked if the Planning Commission had the right to tell the applicant that the CUP would only be approved if the pool hours are truly enforced. If they have that ability, he questioned how that would be monitored and whether it would come back to the Planning Commission.

Assistant City Attorney McLean remarked that Code Enforcement would be responsible for enforcement based on complaints. She noted that this was the expansion of a condo plat and not solely linked to hours of operation. Ms. McLean thought the noise ordinance was the only recourse, and if the noise ordinance is violated, the Code Enforcement could enforce it.

Commissioner Campbell clarified that the Planning Commission would not have the ability to add a condition of approval regarding the pool hours. Planner Whetstone stated that they could with the conditional use permit. A Finding already states that there are pool closure hours. She suggested that they could add a condition stating that for any outdoor use, the noise ordinance shall not be exceeded. Planner Whetstone understood that the Lodge does enforce closure of the pool.

Mr. Jones stated that Russ Olsen, the CEO, who attend the last meeting, told him after the meeting if there was noise at the pool after hours, the guest of Stein Eriksen would be affected, and they would not want that to happen.

Dan Flick stated that if those guests are affected, and they get three reports in a 24-hour period from the security department and the management team that there have been complaints, those come to his desk. Mr. Flick has been at the Lodge for 17 years and he could recall less than half a dozen complaints that were verbalized or communicated to Stein Eriksen Lodge by someone either staying at the Lodge or in the neighborhood.

Commissioner Campbell stated that this was one of his frustrations in general; aside from any particular project. They put a lot of conditions on things without any mechanism to know if they are followed up. He suggested that the Planning Commission discuss the issue during a work session to remedy the problem. In his opinion, the applicant was asking for something different than what was there when the adjacent buildings were built, and part of the approval process is to determine unmitigated effects on the neighbors. Commissioner Campbell was unsure if it was possible to mitigate those effects in this case. They could ask the applicant to try to mitigate the impact, but there is no way to find out if they really do. Chair Strachan agreed.

Commissioner Suesser asked if there was a way to make Finding of Fact #35 a condition of approval. Assistant City Attorney McLean stated that because it was also a conditional use permit, the Planning Commission had more latitude in terms of impacts.

Commissioner Campbell noted that if they do nothing now they will not have another chance to do it. However, there was no point in doing it if they could not give it some teeth. He believed the neighbors have a valid right not to expect noise at certain hours.

Assistant City Attorney McLean remarked that enforcement of the conditions is challenging. She suggested that the Planning Commission could require a review after one year to see if there have been complaints. Chair Strachan noted that the Planning Commission has required a one-year review on other projects in the past.

Commissioner Joyce did not believe that requirement fit in this case. They have talked about traffic and parking coming back a year later, but he was unsure how they could address pool hours. One person gave public comment saying that it was an issue and provided three specific dates. However, the applicant was saying they had not heard any complaints. Commissioner Joyce stated that if issues are going on, they need to be resolved at the time they occur. If Mr. Novak and other residents of the HOA are experiencing noise impacts, they need to explicitly inform the management of Stein Eriksen Lodge. At the same time, if Mr. Novak and the HOA are reporting it, the applicant needs to work with them to be good neighbors. Commissioner Joyce pointed out that key carding the pool keeps away outsiders, but it does not restrict the guests of the Lodge who are on vacation from having pool parties and making noise. He was concerned that they were increasing the deck size and giving people more reasons to be out there at night. Commissioner Joyce stated that if there are issues that have not been resolved, the Planning Commission would be exacerbating them with an approval.

Planner Whetstone stated that she had thought about placing conditions on the pool, but she believed it was a management issue. She noted that the current pool hours are 7:00 a.m. to 9:00 p.m., and the Planning Commission can specify those hours in a condition of approval. They could let Code Enforcement know that it is a condition of approval in the event that they do get complaints.

Commissioner Suesser thought they should either convert Finding of Fact #35 to a condition of approval, or draft similar language as a condition stating that, "The expansion of the pool may create additional noise that shall be mitigated by the management of pool hours and common courtesy and etiquette, and exterior doors shall require room keys to access." Commissioner Suesser suggested that they discuss specific pool hours. Chair Strachan recommended striking "mitigated by common courtesy and etiquette."

Commissioner Phillips favored adding the condition of approval, and suggested using whatever the existing hours were for the pool.

Commissioner Thimm concurred with the other Commissioners. One additional point was the mention of the fire pit. He asked if the fire pit would be conditioned with the same hours, or whether it currently has the same hours as the pool. Mr. Jones remarked that there were no specific hours for using the fire pit but they could make it consistent with the pools hours. Commissioner Thimm suggested that they include the fire pit in the condition of approval.

Mr. Novak asked if the fire pit was secure. Commissioner Phillips assumed they could turn off the gas to it. He agreed with Commissioner Thimm that the fire pit needed to be included in the condition; or possibly the use of the entire area in terms of hours.

Director Erickson suggested that they add Condition of Approval #14 to say, "Uses on the deck shall be terminated at 10:00 p.m.", which would include the fire pit and the swimming pools. "The noise ordinance would be complied with". Chair Strachan noted that the current closing hour for the pool was 9:00 p.m.

Chair Strachan suggested that the applicant come back in one year for an update to see if complaints were made in large numbers. The condition of approval should require the applicant to provide evidence of complaints from their own guests in the rooms above the pool. Commissioner Thimm asked if it would be a year from approval or a year from completion. Chair Strachan replied that it would be one year from issuance of the Certification of Occupancy.

Planner Whetstone drafted Condition #15 stating that the applicant shall return to the Planning Commission with an update on complaints from both adjacent property owner and guests of Stein Eriksen Lodge.

Mr. Novak asked the Planning Commission to reconsider the pool expansion from the existing pool. Chair Strachan explained that under the CUP Criteria in the LMC, if an applicant comes forward and shows that they have mitigated the impacts, which they have in this case through the conditions of approval, they are entitled to an approval.

Commissioner Campbell asked if it was possible to say in the condition of approval that if there are significant complaints in that one-year time, the applicant would agree to close the pool at an earlier hour. Assistant City Attorney McLean stated that the Planning Commission could amend the condition in one year if they find that the impacts were not

mitigated. At that time, they could amend the condition to match the specific impacts shown through evidence.

Mr. Novak asked to make further comments. Chair Strachan informed him that the public hearing was closed, but he would allow it this time. Mr. Novak asked if it was possible to turn off the key cards to the pool at 9:00 p.m. Chair Strachan stated that the applicant would be given every incentive to close their pool at 9:00 p.m., and if they fail to do so they will have to face the consequences when they come back in a year.

Director Erickson stated that Condition #15 would be that the applicant will return within one year from the issuance of the Certificate of Occupancy, with evidence with respect to noise complaints from on and off site. If the Planning Commission finds that the noise is not adequately mitigated in accordance with the criteria for review, additional conditions may be applied.

Commissioner Thimm suggested changing the word “noise” to “disturbance”.

Director Erickson suggested that the CUP specific 7:00 a.m. to 10:00 p.m., and the applicant could choose to shorten their hours. Commissioner Suesser thought 10:00 p.m. was appropriate. Commissioners Thimm and Phillips agreed.

MOTION: Commissioner Joyce moved to APPROVE the 7700 Stein Way Conditional Use Permit for an addition to the Stein Eriksen Lodge for ski lockers and guest recreational amenities, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation for 7700 Stein Way, Amendment to the Stein Eriksen Lodge Common Area Supplemental Plat, based on the Findings of Fact, Conclusions of Law and Conditions of Approval.

VOTE: The motion passed unanimously.

Findings of Fact – 7700 Stein Way – CUP

1. The property is located at 7700 Steins Way, a private road accessed off of Royal Street East.
2. The zoning is Residential Development within the Deer Valley Master Planned Development (RD-MPD).

3. The original Stein Eriksen Lodge was constructed in 1981 based on a Conditional Use Permit (CUP) approved in 1980. Expansion to the Lodge occurred in 1996, 1999, 2009 (spa expansion), and 2012 (conference center expansion).

4. The property is currently subject to 11th Amended Deer Valley Master Planned Development (MPD) that identifies a permitted density of 66.75 Unit Equivalents (UE) or 65 units on the 10.86 acre site.

5. The developed density is 65 "Deer Valley" units (197,858 sf of residential), not 66.75 UE per the LMC formula. The Deer Valley MPD permits this choice for the parcel.

6. No Commercial Unit Equivalents are assigned to the Stein Eriksen Lodge by the Deer Valley MPD.

7. Based on the original approvals it was determined that the total floor area of the Lodge is 345,007 square feet, excluding parking. Using the 5% formula, a total of 17,250 square feet of support commercial was allowed, based on the language in the DV MPD in effect at the time.

8. In 2009, with the spa expansion, the Lodge had a total of 17,095 square feet of support commercial, including the spa, restaurant, bar and lounge, and retail space within the Lodge. These areas are considered Support Commercial as defined by the Deer Valley MPD and consist of 4.96% of the total floor area.

9. In 2012, with expansion of the conference center, it was determined that 5% of the total residential floor area was allowed for support meeting space, based on the amended DV MPD in effect at that time. With the completed conference center the total support meeting space is 9,927 sf (5% of the residential floor area).

10. On May 17, 2016, the Planning Department received an application for modifications to the Stein Eriksen Lodge Conditional Use Permit (CUP) requesting approval for an addition to the Stein Eriksen Lodge.

11. The addition, per revised plans submitted on September 27th and revised again on October 10th, consists of approximately 3,000 sf of guest ski locker room space, 3,500 sf for guest amenities (recreation and entertainment center, game room, snack bar, restrooms) and 918 sf for an owner/ guest and employee video viewing room, as well as improvements to existing ski lockers, restrooms, and exterior pool and deck area. The new exterior pool and deck area have been reduced from the initial submittal from 7,266 sf to 3,850 sf. The guest entertainment area has been

reduced from 4,050 sf originally proposed to the 3,500 and the outdoor patio area has been significantly reduced to minimize disruption of the existing wooded slope on the east side of the Lodge.

12.The proposed amendments are considered residential accessory uses for the exclusive use of owners, guests and employees per Section 5-6-8 (F) of the Land Management Code.

13.The proposed additions do not increase the total support commercial area which remains at 4.96% of the total floor area.

14.The proposed additions do not increase the total meeting support area which remains at 5% of the residential floor area.

15.The Deer Valley MPD requires a minimum of 60% open space on this parcel.

16.The previous plat amendment for expansion of the Conference Center in October 15, 2012, included a finding that open space following the addition was 61.90% of the total lot area. This finding was erroneous and based on a re-review of the entire site it has been determined that the open space prior to this current addition is 62.84%.

17.This proposed amendment, as revised, maintains a minimum of sixty percent (60%) open space at 62.64%.

18.Maximum Building Height per the Deer Valley MPD is 35' for this parcel. The addition complies with the maximum height allowance and has a proposed height of between 19' and 25' above existing grade.

19. The east side of the property has a minimum required side yard setback of 12 feet. The addition has a minimum setback of 12' at the furthest southern point, well over a 100' south of the southernmost corner of the Mount Cervin building. The setback to the face of the entertainment addition area is greater than 80' to the property line shared by the Mount Cervin building. The minimum setback from the property line to the retaining wall and pool deck is 13'5".

20.There are no changes to the front or rear yard setbacks with the proposed addition.

21.Parking requirements are based on the size and number of residential units. No changes are proposed to any of the residential area with this permit.

22. A final utility plan will be provided with the building permit plans for final approval by the City Engineer, SBWRD, and the Fire District. Upgrades to the internal sewer service, including grease traps, are a requirement of the SBWRD.

23. The two access drives to the project provide emergency access from Royal Street. Enhanced fire protection and emergency access for the east side of the property were coordinated with the adjacent property and will be reflected on the final utility and fire protection plans submitted with the building permit plans.

24. Parking is based on the number and size of residential units and no changes are proposed to those units. No additional parking is proposed.

25. Enhanced pedestrian pathways along the eastern property line are proposed, as well as pedestrian pathways and outdoor plazas between the spa pool area and the recreation area and ski locker rooms.

26. Existing landscaping (lawns and some trees) will be removed for the expansion; however, the revised plan preserves much of the sloped wooded area between Steins and Mt. Cervin that includes both natural and planted vegetation on the eastern portion of the site. Trees are primarily aspens and evergreens, with an assortment of understory shrubs. Several existing trees are in obvious poor health. There is dead and downed vegetation that will be cleared to meet defensible space requirements for fire prevention and to clean up the area.

27. Additional new landscaping of trees and shrubs is proposed along the perimeter of the site to provide separation and buffering from adjoining uses (behind the Mount Cervin condominiums building) and to mitigate removal of existing significant vegetation.

28. The expansion will maintain the same orientation, architectural character, and use of materials as the existing building.

29. The area of construction is directly west of the existing Mt. Cervin Condominiums, a three story residential building with a 12' setback to the shared property line.

30. Four existing buildings to the east, access off of Sterling Court (Goldener Hirsch, Royal Plaza, The Inn, and Mt Cervin) generally have a north-south orientation and are similar in height and scale to the existing Stein Eriksen Lodge.

31. The addition is setback a minimum of 12' from the east property line, with the new retaining wall and outdoor pool deck setback a minimum of 13'5". Required

setbacks along this property line are 12'. Proposed building height of the addition is 19' to 25' from existing grade, which is less than the 28' to 35' allowed by the MPD.

32. All exterior lights and signs must comply with the applicable Park City ordinances and code. Exterior lights must be identified on the building permit plans and shall be down-directed and shielded. No additional signs are proposed with this permit. Approval of a sign permit is required prior to installation of any new regulated signs.

33. The style of the existing building is maintained with the addition using the same materials and architectural detailing. A landscaped roof over the guest recreation addition reduces the overall massing. The addition is completely below the lowest floor of the residential condominium units and on the east elevation, and not highly visible from the public ROW of Royal Street East.

34. Additional trees and shrubs are proposed to enhance the landscape buffer between the proposed addition and adjacent Mt. Cervin property. A meandering pathway within the setback area will provide circulation between the Stein Lodge and Silver Lake Village.

35. Expansion of the pool may create additional noise that will be mitigated by management of pool hours and common courtesy and etiquette. Exterior doors require room keys to access.

36. Service and delivery routes will remain as they currently exist.

37. The addition and improvements are on common area owned by the Owner's Association.

38. An amended Condominium Plat application, to identify these improvements in the common area, was submitted for concurrent review with the Conditional Use Permit application.

39. The Deer Valley MPD is not subject to the requirements of the Sensitive Lands Overlay.

40. The site is sloping to the east towards the Silver Lake Village (Mont Cervin, Goldener Hirsch, Inn at Silver Lake, etc). The eastern portion of the construction area is a mix of native aspen and evergreen trees and understory brush in various states of health and existence.

41. The site is within the area subject to the urban wildland interface (defensible space)

ordinance area.

42. Prior to building permit issuance a final landscape plan and a tree preservation and mitigation plan shall be submitted with a report from a certified arborist describing the type, size, and health of all trees to be removed or relocated and how removed trees will be mitigated. Dead and downed trees and undergrowth should be cleared to comply with the defensible space requirements.

43. On August 10, 2016, the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published on August 10, 2016 in the Park Record and on the Utah Public Notice Website for the August 24, 2016 meeting.

44. On August 24, 2016, the hearing was opened and continued to September 28, 2016. There was no public input provided at the hearing.

45. Notice was re-published on September 9, 2016 and the property was reposted on September 14 2016.

46. At the September 28, 2016 meeting the public hearing was opened and continued to October 26, 2016.

47. The applicant stipulates to the conditions of approval.

Conclusions of Law – 7700 Stein Way – CUP

1. The CUP modification is consistent with the Deer Valley Master Planned Development, as amended and the Park City Land Management Code.
2. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
3. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 7700 Stein Way – CUP

1. The application and plans submitted for a Building Permit must be in substantial compliance with the plans reviewed by the Planning Commission on September 28, 2016.
2. Prior to building permit issuance for the addition the condominium plat shall be approved and recorded at Summit County.

3. Prior to building permit issuance for the addition, a final landscape plan and a tree preservation and mitigation plan shall be reviewed and approved by Planning and Building Departments. A report from a certified arborist describing the type, size, and health of all trees to be removed or relocated, and how removed trees will be mitigated, shall also be submitted for review.
4. The final landscape plan shall comply with the City's adopted urban wildland interface fire prevention defensible space ordinance and regulations.
5. The ski lockers and recreation amenity areas are for the exclusive use by owners, guests, and employees of the Lodge.
6. All conditions of approval of the Deer Valley Master Planned Development, as amended, and the Stein Eriksen Lodge CUP, as amended, shall continue to apply.
7. All exterior lights and signs must comply with applicable Park City ordinances and codes. Exterior lights must be identified on the building permit plans and shall be down-directed and shielded.
8. Approval of a sign permit is required prior to installation of any new regulated signs.
9. A final utility plan shall be provided with the building permit plans for final approval by the City Engineer, SBWRD, and the Fire District. Upgrades to the internal sewer service, including grease traps, are a requirement of the SBWRD.
10. A final fire protection plan must be submitted to and approved by the Chief Building Official prior to Certificate of Occupancy.
11. The proposed video viewing room is considered residential accessory space intended as a guest amenity for exclusive use by owners, guests and employees of the Stein Eriksen Lodge. This room is not considered part of the allowable Support Meeting space for the hotel and therefore it shall not be included in, or leased as part of, any conference or meeting bookings as a separate meeting room or break out room for conferences.
12. No further expansion of support commercial exceeding 17,250 square feet and no further expansion of support meeting space exceeding 9,893 square feet will be permitted based on the additional floor area of this expansion.
13. Standard conditions of approval apply.

14. Pool and deck hours are limited to 7AM to 10PM and compliance with the Park City noise ordinance is required.

15. Applicant to submit a report and evidence of noise, disturbance, and activity complaints on and off-site, including the resolution of any complaint matters, to the Planning Commission one year from issuance of Certificate of Occupancy. Staff will provide an update to the Planning Commission. The Commission may add additional Conditions of Approval to meet the Conditional Use Permit requirements for mitigation of noise, based on the report and evidence of complaints.

Finding of Fact – 7700 Stein Way – Plat Amendment

1. The property is located at 7700 Stein Way.
2. The Stein Eriksen Lodge is located in the RD-MPD zoning district.
3. The property is subject to the Deer Valley Master Planned Development, as amended (11th Amended MPD).
4. The Deer Valley Master Planned Development (11th Amended) allocates 66.75 units of density to the Stein Eriksen Lodge multi-family parcel. There are currently 65 residential units of varying sizes totaling 197,858.26 square feet due to the use of Deer Valley units when developing this parcel.
5. On August 27, 2009, the City Council approved a First Supplemental Sheet for all Phases of the Stein Eriksen Lodge Common Area reflecting improvements and addition to the spa building, as support commercial space, within the existing platted common area. The First Supplemental Sheet was recorded on June 23, 2010.
6. On October 11, 2012, the City Council approved a Second Supplemental Sheet for all Phases of the Stein Eriksen Lodge Common Area reflecting improvements to the support meeting rooms. The Second Supplemental Sheet was recorded on June 28, 2013.
7. On December 5, 2015, members of the Stein Eriksen Lodge Owner's Association, Inc. voted to expand residential accessory uses within the common area for improvements to the outdoor pool area and for additions to the existing owner and guest ski locker room and owner and guest recreation and entertainment facilities.
8. On May 17, 2015, the Stein Eriksen Lodge Owner's Association submitted an

application for a Third Supplemental Sheet for All Phases of the Stein Eriksen Lodge condominium plat to reflect proposed improvements to the existing platted common area for approximately 3,000 sf of additional guest ski lockers, 3,500 sf for guest recreational amenities (game room) and 918 sf for an owner/ guest and employee video viewing room, as well as improvements to the outdoor pool and deck area. These uses are all considered residential accessory uses.

9. At 19' to 25', the height of the addition complies with the allowed height of 35' from existing natural grade.

10. Exterior materials and architecture are proposed to match the existing buildings in character, style, details, and type.

11. The application was deemed complete on August 16, 2016.

12. This plat amendment does not increase the square footage of either support meeting space, support commercial space, or change any residential units or private areas.

13. The proposed Third Supplemental Sheet is consistent with the 11th amended Deer Valley Master Planned Development.

14. No changes are proposed to the support commercial areas, support meeting space, or to any residential or private area within the building or site.

15. The previous plat amendment for expansion of the Conference Center in October 15, 2012, included a finding that open space following the addition was 61.90% of the total lot area. This finding was erroneous and based on a re-review of the entire site it has been determined that the open space prior to this current addition is 62.84%.

16. This proposed amendment, as revised, maintains a minimum of sixty percent (60%) open space at 62.64%.

17. There is good cause for the proposed amendment to the condominium plat in that the amendment reflects proposed physical changes to the common area for exclusive use by owners, guests, and employees.

Conclusions of Law – 7700 Stein Way – Plat Amendment

1. There is good cause for this Third Supplemental Sheet for All Phases of the Stein Eriksen Lodge Common Area condominium plat.

2. The proposed plat is consistent with the Park City Land Management Code, the 11th Amended Deer Valley MPD, and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed plat.
4. Approval of this Third Supplemental Sheet for All Phases of the Stein Eriksen Lodge Common Area condominiums plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 7700 Stein Way – Plat Amendment

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A conditional use permit shall be approved prior to plat recordation.
4. The plat shall be recorded prior to issuance of a certificate of occupancy for the addition.
5. All conditions of approval of the Deer Valley Master Planned Development (11th Amendment) continue to apply.
6. All conditions of the Stein Eriksen Lodge Condominium plat and supplemental sheets, as amended, continue to apply.
7. As common area the addition for residential accessory uses may not be separately sold or deeded.
8. No further expansion of support commercial exceeding 17,250 square feet and no further expansion of support meeting space exceeding 9,893 square feet will be permitted based on the additional floor area of this expansion.
9. All required disturbance and impact fees will be calculated based on the building permit application and are required to be paid prior to issuance of a building permit.
10. The proposed video viewing room is considered residential accessory space intended as a guest amenity for exclusive use by owners, guests and employees of

the Stein Eriksen Lodge. This room is not considered part of the allowable Support Meeting space for the hotel and therefore it shall not be included in, or leased as part of, any conference or meeting bookings as a separate meeting room or break out room for conferences.

5. **Land Management Code (LMC) amendments- Various administrative and substantive amendments to the Park City Development Code, specifically amending Land Management Code Chapter One – General Provisions regarding Appeals and Reconsideration Process; creating standards for continuations of matters before Boards and Council; zoning clarifications; Chapter 2 – Historic Zones - Clarifying that where there are footprint restrictions, the footprint formula does not include prescriptive rights of way or roads; and when existing subdivisions are amended additional density is dis-favored; Chapter 6 MPDs and Chapter 7 Subdivisions -when existing MPDs or subdivisions are re-opened or amended additional density is dis-favored - Chapter 11 Historic Preservation - timing of hearing Determination of Significance applications; Chapter 15-6 Master Planned Developments – removing requirements for Pre-Application Public Meeting and Determination of Compliance. (Application PL-16-03348)**

Commissioner Band returned to the meeting.

Planning Director Erickson stated that the first four sections revise Chapter 1 to clear up how appeals are handled, how they allow continuances of appeals, clarifications with respect to zoning and density on Federal land, and the timing of hearings of determination of significance.

Director Erickson noted that the Planning Commission previously heard Item 5 of the proposed amendments on a plat amendment on Crescent Tram where the applicant was requesting additional density for land that was underneath the prescriptive use for the roadway. He suggested a work session discussion on the additional density issue.

Commissioner Joyce commented on Continuations and noted that the agenda has several continuation items at each meeting. Commissioner Joyce noted that a Continuation may not affect the Planning Commission, but it does affect the public who have legitimate concerns; particularly second homeowners who live out of state and make arrangements to attend a specific meeting. He believed the number of Continuations had increased over the past year.

Director Erickson explained that one reason for continuations is the complexity of the issues and the legal basis of how items are being reviewed based on that complexity of

issues. A second reason is the Staff trying to obtain accurate information from the applicants in a timely manner to complete the Staff report for that meeting. A third reason is the volume of workload and the ability to get the reports completed and reviewed in time for the packet. Director Erickson stated that the Planning Department has a busy calendar and he could think of no other way to control it other than through Continuances.

Commissioner Joyce clarified that he was not implying that the Staff should be getting the work done sooner. He was trying to find a way to keep items from being on the calendar and then moved off for a continuance. Director Erickson stated that Continuing to a specific means the applicant does not have to re-notice. It has been previous practice to do a Continuance to a date certain and to do the same notice for the City Council action. If there is a breakdown at any point in the process the dates all change. Director Erickson remarked that the Staff was taking the approach of continuing to a date uncertain and having the application re-notice so the local public and the second homeowner will receive a notice. He pointed out that currently notices are mailed in an envelope. The Planning Department is considering using a postcard to speed up the process and reduce mailing costs. The Staff will produce and send the postcards to the addresses provided by the applicant from the County tax rolls.

Chair Strachan asked about the process if an applicant decides the night before the scheduled hearing date that they need more time and ask for a Continuance. If the Planning Commission continues the item to a date certain, he wanted to know how the public is informed of the next hearing date if they are not re-noticed.

Assistant City Attorney McLean stated that if the item is Continued the day of the meeting, the public would have to either attend the meeting to know it was Continued or they could read the Minutes. If the item is Continued before the meeting day, the Staff will contact anyone from the public who had contacted the Planner with questions or concerns. The intent is to be as transparent as possible when items are Continued.

Chair Strachan clarified that the process had not changed, and the amendment only codifies the process. Ms. McLean explained that often times the Staff receives new information a day or two before the public hearing or the applicant asks for a Continuance. Since the item was noticed it is difficult to let the public know in a short time that the item will not be heard. She remarked that the amendment codifies the fact that if an applicant does not request a Continuance a week before the scheduled public hearing, they should plan on it being heard at that meeting.

Commissioner Thimm referred to the language in red on page 172 of the Staff report for Section 15-1-12.5 – Continuances, which states that an item can be Continued up to two times. He wanted to know the process if either the Staff or the applicant encountered

issues that required the item to be Continued twice; but within the noticing period an extenuating circumstance requires a third Continuation.

Assistant City Attorney McLean suggested that the language could be modified to make it clear that if an item was Continued twice, and another Continuance is requested, the Planning Commission could make that determination instead of the Staff. The proposed amendment formalizes the Staff's ability to Continue an item, rather than bringing it to the Planning Commission for a decision. Chair Strachan read the second sentence of the same paragraph, "If Staff does not have that authority...", meaning the item was already Continued twice, "to Continue the item, the Board, Commission or Council will determine whether there is sufficient reason to Continue the item". He believed the issue of a third Continuance was addressed with that language.

Assistant City Attorney McLean corrected the last line of the paragraph to say, "If the Board, Commission or Council determines there is not sufficient reason, the item **will** remain on the agenda and be considered".

Commissioner Suesser referred to the proposed language in Section 15-1-12.5, "The Staff has the authority to continue an item which is scheduled for a public hearing or is an appeal up to two (2) times so long as the request is made in writing within five (5) business days prior to the public hearing or appeal". She asked if that was five business days prior to a public hearing or within five business days.

Assistant City Attorney McLean thought it should say at least five days. Commissioner Suesser asked why the applicant would be limited to two Continuances if they gave written notice and their item was not noticed. Director Erickson stated that one reason is to avoid getting caught up in gamesmanship. The goal is to have due process and to get the public involved as quickly as possible.

Commissioner Band referred to Item 4 - Timing of hearing Determination of Significance Applications. She thought the language under 15-11-10, The Procedure for Designating Sites to the Park City Historic Sites Inventory was unclear, specifically the wording "with reasonable diligence" in the sentence, "Upon receiving a Complete Application for designation, the Planning staff shall hold a hearing before the Historic Preservation Board with reasonable diligence". If she were an applicant she would question the meaning of reasonable diligence. Commissioner Band thought the timing should be more specific.

Director Erickson stated that other portions of the Code, such as the Historic District Design Review, has a 45-day time period once a complete application has been

determined. He explained that the Historic Preservation Board only meets once a month and that 30-day window does not meet their schedule.

Commissioner Band asked why they could not say it would be scheduled within 30 days. Commissioner Joyce did not believe that would accomplish the intended goal. He understood the confusion, but saying it will be scheduled within 30 days does not mean it will be heard within that period. Commissioner Joyce agreed that the process was broken, but he did not believe putting an item on the schedule within 30 days would fix the problem. Commissioner Band thought the language was confusing as to whether the item needs to be scheduled with a set date set within 30 days, or whether the hearing has to be held within 30 days. If that was the problem they were trying to fix, they needed to clarify it.

Assistant City Attorney McLean stated that they could revise the language to say, "...shall hold a hearing within 60 days" or whatever number they determine. Commissioner Phillips suggested 90 days to give the Staff sufficient time. The Staff and the Commissioners were comfortable with 90 days.

Commissioner Joyce referred to Item 5 regarding roads and easements not counting as property area in footprint calculation. He thought it sounded like the Staff was going to replicate the addition for the lot size definition throughout the Code. Commissioner Joyce asked if there was a reason for not redefining the lot area since it was already a defined term. They could do it one time in one place and refer to the terminology. Ms. McLean stated that it could be easily done. Once the Planners are up-to-date on the new language they can tell the public where to look.

Commissioner Thimm referred to the same section and noted that the language in the text talks about the area in any public thoroughfare. He asked if thoroughfare was defined in the LMC. Director Erickson replied that it was not a defined term in the LMC. Commissioner Thimm had researched Wikipedia and found that a thoroughfare could be anything from a highway to a street to a footpath to a hiking trail to a running course. He asked if the intent is to deal with a vehicular thoroughfare in this particular situation.

Assistant City Attorney McLean explained that generally the issue has been where the existing street is not platted and how to deal with that on lots. Commissioner Thimm stated that he has lived in his home for over 16 years and there are no fences in his neighborhood. People trudge through the block and through his property. He would not want to lose rights to certain development of his property because people have used it as a pedestrian thoroughfare for 16 years. Ms. McLean stated that it was linked to State Code and it would not create new rights for anyone or for the road. If the public has been going through private property and there becomes a prescriptive easement, it could possibly get litigated, but the public might have a right to continue using it. Ms. McLean

pointed out that the Staff tried to match the language of the State Code, and the rights of the State Code were being codified with the amendment. It also gives people notice on how the City plans to address those easements and the roads. She thought it made more sense and would be more legally defensible if they matched the State language. Commissioner Thimm asked if thoroughfare was defined in State Code. Ms. McLean did not recall that it was defined.

Commissioner Thimm asked if was possible to add language specifying “a public vehicular thoroughfare”. Ms. McLean replied that there were situations like Crescent Tram where it is not completely vehicular.

Commissioner Campbell thought the amendment was in response to the Crescent Tram project that came before the Planning Commission a few months ago. Ms. McLean stated that it was partly due to Crescent Tram but the issue has come up other times over the years. Commissioner Campbell shared Commissioner Thimm’s concern that the language was too broad. He recalled that the Planning Commission felt bad over the outcome of Crescent Tram but they had no other choice. He was concerned about opening the door to similar cases if they leave it too broad. Commissioner Campbell stated that he would feel more comfortable if thoroughfare was a defined term. He asked if thoroughfare could be replaced with another legally defensible term.

Director Erickson suggested that they could do a better job of defining public thoroughfare in accordance with the State Code. They would want a process to determine that public thoroughfare could occur before they would regulate the lot size question. Once they determine whether or not it is a public thoroughfare, they can determine what to do with the density that occurs in that size of parcel. Ms. McLean clarified that the amendment was framed based on what State Code dictates. It is a broader definition based on case law, but once that occurs it automatically gets dedicated.

Commission Campbell recalled that the problem with Crescent Tram was that it was never dedicated. Ms. McLean replied that it was not on the plat. She pointed out that the plat of Park City does not match the streets they use. She named a number of unplatted streets in Park City.

Director Erickson stated that he and Ms. McLean would work with the State law to see if they could define when public thorough is determined. Commissioner Thimm asked for clarification on the word “continuously”. Ms. McLean replied that it goes to a very litigated question in State Code. She stated that “continuous” has been interpreted under the State Code and she was not comfortable trying to define it differently. Commissioner Thimm asked Ms. McLean if she was comfortable defending the word “continuously” based upon State law. Ms. McLean answered yes.

Assistant City Attorney McLean asked if there was consensus among the Commissioners for the Staff to define "thoroughfare". Commissioner Campbell was not comfortable moving forward with the amendment because the proposed language was too broad. Ms. McLean stated that the Staff would work on the language and bring it back to the Planning Commission.

Commissioner Suesser referred to Item 3 - Districts and Zone Map, and the proposed language under 15-1-6 (D), "The City hereby zones all property within the City limits, including State or Federal property". She suggested revising the language to say that, "All property within the City limits is subject to the City's zoning districts". Ms. McLean was comfortable with that revision. The remaining language would stay as written.

Commissioner Campbell was concerned with the second sentence, "If such zoning is subsequently invalidated, no building permit, subdivision or approval for any development activity may be applied for until the City establishes a valid zoning for the property". He was concerned that an applicant could get delayed for years. Commissioner Campbell preferred to include a time limit. Commissioner Suesser thought that would be a State or Federal determination. Chair Strachan agreed. It would be a fight between the City and Federal. Commissioner Campbell suggested changing the language to say, "...until a valid zoning is established". Chair Strachan stated that the Feds cannot establish zoning. He agreed with Commissioner Campbell that an applicant could get locked in for years, but this amendment would give notice of a potential problem if Federal land is purchased.

Assistant City Attorney McLean stated that an owner has the right to submit a request for zoning. Once an application is submitted, the City has to act on that application. It is required by State Law and ripcord provisions are included specifically for those types of applications. Commissioner Campbell thought they should add a sentence indicating that it is subject to the ripcord provision. Chair Strachan thought they were going down a slippery slope of trying to write in all the State Code Provisions. He thought the burden should be on the buyer to do their due diligence and hire attorneys and real estate agents to properly inform them of the laws. Commissioner Suesser thought it was covered under the first sentence. Commissioner Band thought the best warning was the second sentence stating that no approval would be given until a valid zoning district is established.

The majority of Commissioners were comfortable with the language under 15-1-6 (D) with the revision to the first sentence proposed by Commissioner Suesser.

Commissioner Joyce believed there was consensus by the Planning Commission on the proposed amendments 1 through 4, all relating to Chapters 1 and 11. Item 5 regarding the road and lot size pertained to Chapter 2.

Chair Strachan opened the public hearing on the amendments to Chapters 1 and 11 of the LMC as discussed.

Craig Elliott agreed with the discussion regarding potential issues with the thoroughfare. He thought it could be dangerous because every property has an issue with something. Regardless of whether it is a sidewalk, roadway, or walkway, every project in town has an issue with it. Mr. Elliott was concerned that a property could be changed to where it would no longer be a legal lot, and that would affect the property owner who had the expectation of building a new house or updating the existing house. He asked the Planning Commission to consider that in their discussion.

Mr. Elliott referred to the comments regarding reasonable diligence. It was vague and that could be troublesome for people who want to do something with their property. He thought 90 days was reasonable for a property that has existed over 50 years. It is important for people to understand what they are getting into.

Chair Strachan closed the public hearing.

Commissioner Suesser referred to the Non-Adversarial Process on page 171 of the Staff report. She thought (H) was unclear as written and suggested adding "the following shall apply". The revised language would read, "For all appeals before City Council and any Board or Commission, the following shall apply."

Commissioner Suesser referred to Item 2 under (H), on page 171 and suggested revising the language to read, "The role of City staff, including legal staff, is to provide technical and legal advice and professional judgment to each decision making body, including City Council, as they are not advocates for any party or position in a dispute, notwithstanding the fact that their technical and legal advice and professional judgment may lead them to make recommendations concerning the matter."

Commissioner Campbell referred to page 170 of the Staff report - G. Burden of Proof and Standard of Review. He read the last sentence in the proposed language in red, "New evidence may be received so long as it relates to the scope of the appeal". He suggested replacing the wording "so long as" with "as long as".

Chair Strachan re-opened the public hearing on Chapter 1 of the LMC.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for the Land Management Code Amendments to Chapters 1 and 11 as amended, pursuant to the attached draft ordinance. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission moved into Work Session to discuss LMC amendments related to Chapters 6 and 7.

WORK SESSION

Discussion only - Additional density is disfavored when existing MPDs or subdivisions are re-opened or amended (Chapters 6 and 7)

Director Erickson stated that as they review the Zoning and LMC sections, there is no mechanism to assure the property owner that the subdivision they bought into will remain that subdivision. He commented on two types of circumstances. One was in the Historic Districts where lot combinations and replats are a regular occurrence. However, if someone owned 20 acres of ground zoned Residential Development in Solamere, the real estate community would give the expectation that the lot could be re-subdivided and increase the density in a previously approved subdivision. Director Erickson stated that all the issues of increased density, such as water, sewer, traffic, transportation and all other issues in the subdivision would need to be re-opened due to the increase in density. The Staff was suggesting that unless there is a substantial public benefit, the City would disfavor increasing density in subdivision or MPDs.

Director Erickson remarked that the two substantial benefits would be significant additional open space and a mechanism for affordable housing. No other benefit was relevant enough to change an entire subdivision just because one person wanted to subdivide a lot.

Chair Strachan felt strongly about making this item a much more rigid and anti-development based Code amendment. He thought the language should be clear that no increases in density are permitted unless it provides the benefit of open space or affordable housing.

Commissioner Band agreed. Commissioner Phillips also agreed; however, he suggested giving consideration if there was an opportunity to transfer the density to a

better location, even if it did not achieve open space or affordable housing. That was the only other circumstance he would consider as an exception.

Chair Strachan stated that the existing density could be transferred but the amount of density could not be increased. If they put a cap on it and no one could get additional density, the owner of parcel A could transfer the density on that parcel to Parcel B, which has less density, as long as parcel B did not go above the ceiling.

Assistant City Attorney believed Commissioner Phillips was referring to the TDR program, in which case, receiving zones have been allocated as being acceptable for additional density. If they allow the TDR program to continue, they would need to make an exception for it as well; otherwise that program would not be allowed. Commissioner Band remarked that a third criteria could be a possible receiving zone for a TDR program. Ms. McLean clarified that there are existing zones allocated as receiving area.

Commissioner Joyce stated that he is a proponent of open space, but isolated pieces of open space are really faux open spaces unless they truly become significant parks.

Director Erickson agreed with Commissioner Joyce, which is why the Staff came up with the phrase "substantial open space". He noted that the open space requirement may be off site depending on the particular circumstances. Director Erickson stated that in some subdivisions the lot is actually zoned recreational open space with the exception of a small space to place the house, and that piece is zoned residential development. Director Erickson remarked that in some of the older subdivisions, such as Park Meadows, the entire lot is zoned residential development. The owner could apply to subdivide the lot, and if the subdivision is approved, a three-acre lot could potentially be subdivided into nine lots under the zoning.

Director Erickson acknowledged that open space may not be the right criteria, and there may not be any substantial benefit. The Staff was not prepared to say that one thing was enough to re-open a subdivision in an existing neighborhood, with the exception of the Historic Districts.

Commissioner Joyce thought open space should be removed from the criteria because it is unrealistic to think that someone will dedicate a portion of their lot to open space.

Director Erickson stated that the alternative would be to go through the zoning maps and rezone portions of lots as open space outside of the building pad limits. For example, the back of a ten-acre lot on Quarry Mountain is open space because of how

the plat was approved. Director Erickson stated that if there were no substantial criteria, there should be no reason to re-open a subdivision and re-subdivide.

Commissioner Band pointed out that there was still the affordable housing benefit and potentially a receiving zone. However, she was not a big proponent of TDRs. Director Erickson stated that the TDR program is not adequate at this point because the asset value of the transfer is not established until the City approves the density transfer. If the buyer of the density tries to establish value, that value is not established until the City agrees to the transfer.

Director Erickson stated that he and Ms. McLean were in required Legal and Planning Training, and one of the concepts he took away was that people in residential neighborhoods would prefer more predictability because they made a conscious choice to live there. However, in the Resort and Commercial Zones, it may be preferable to skew the scale towards flexibility for mixed-use, housing, or regulating real estate offices and other uses. The Staff was trying to set that balance point. If the Planning Commission wanted to be more rigorous and not allow re-subdivision, he and Ms. McLean would work on that language. Director Erickson requested guidance on the historic residential neighborhoods.

Commissioner Band thought affordable housing should be left on the table. Commissioner Campbell agreed; otherwise they would never get it. Commissioners Thimm and Phillips also agreed. Commissioner Band clarified that affordable housing should be the only criteria for allowing additional density.

Commissioner Campbell suggest that another criterion could be the potential for a solar farm or wind farm or something else that would fit with what the City Council was pushing for. He realized that it may be in the future but he did not want to close the door on the possibility. Director Erickson stated that there were conditional uses inside the zone would allow that to happen. Commissioner Campbell clarified that he was suggesting that it could be a benefit to the City at large and there might be some willingness to trade density for it.

Director Erickson stated that almost all of the threshold criteria of Park City are met under the current planned densities. There was little room left in town for transportation, schools, gas station, etc. They were almost at the maximum threshold and there was no way to exceed it without degrading everyone's quality of life. He thought they could adjust for environmental improvements because it does not increase density or the number of children in school. He believed they could accomplish that easier through a CUP or MPD process.

Assistant City Attorney McLean noted that one of the applications this evening was one that started off as several lots in Old Town and then it was amended to become bigger lots. The applicant applied to come back in and make them smaller lots again. She noted that that application would not be able to go back to where it was. She wanted the Planning Commission to have that understanding when discussing the issues.

Commissioner Joyce believed the City Council would have to fully understand what they were doing if they agreed with the Planning Commission and went down that path. He thought it was very important to have that communicated to the Council because it will not sit well with owners who had dreams and aspirations for their property. It would definitely have an impact in Old Town. Director Erickson stated that he was nervous about trying to do this in Old Town. He did not want to preclude the openness of the LMC with respect to accessory apartments. He remarked that if they really wanted to face the housing needs, a longer term strategy is to carefully consider the balance between commercial proposals and housing proposals. The Planning Commission would have that discussion at a later time.

Director Erickson stated that he would be waffling on the Historic District as they move through the discussion.

Director Erickson understood that there was consensus to keep affordable housing as a criteria and to add environmental uses.

Commissioner Joyce thought they needed to be careful about waffling in the historic district. If the message is that they were close to the maximum density, it was important to be consistent. Director Erickson suggested that they could continue to allow re-subdivision and lot combinations in Old Town if it does not result in additional density.

Chair Strachan pointed out that State Code says the standard for a plat amendment is good cause. That is the only standard they can apply and have applied. He has argued for years that there should be a better standard that good cause for a plat amendment. The State Code is clear and he questioned whether they could prohibit a density increase.

Assistant City Attorney McLean stated that part of this was coming from a situation where there was an existing subdivision and the owner wanted to subdivide a lot. It met the zone but it did not match the original subdivision. Whenever they have to defend a decision in court, the argument they always hear from the opposing counsel is that the intent should be in the Code so people are on notice as to the expectations. This proposed amendment was a reaction to that argument.

Chair Strachan thought it should be included in LMC Section 15-4, which addresses plat amendments. Director Erickson clarified that the intent is to have most of the criteria legislatively codified to make it more defensible.

Removing requirements for Pre-Application Public Meeting and Determination of Compliance for Master Planned Developments (Chapter 6)

Director Erickson stated that both the Staff and the Planning Commission were having problems with the nebulous nature of the Pre-application conference where they are not able to get solid technical information, but they are trying to make determinations on the General Plan. If an applicant is not focused on compliance with the General Plan they get a lot of externalities in the application that do not apply at that level.

Director Erickson pointed out that the Pre-application system does not work effectively. They tried to leave in the clause that would allow an applicant to have a work session with the Planning Commission to introduce the project. They would encourage the applicant to have additional meetings where the Planning Staff would attend but not conduct the hearing, and the applicant could put forth whatever case they wanted to make for the public. Director Erickson stated that for the Planning Commission review, they would have a complete and thorough application consistent with the LMC. He believed it would give the Commissioners the tools they need to review the MPDs fairly and correctly, without any expectations of approval coming out of the pre-application process.

Commissioner Thimm agreed with Director Erickson. He works with a lot of municipalities and too often he has to go through a process just for the sake of checking a box. Having something with more foundation and codifying it as suggested makes sense.

Commissioner Joyce thought some of the terminology was vague. For example, it says they may ask for a work session and then public outreach, which was fairly clear. However, further into the language it talks about the pre-application public meeting. Commissioner Joyce was unsure what that would be because it was neither a work session or public outreach. He suggested that the Staff revised the language so it is consistent in terms of known entities and what is and is not required.

Commissioner Joyce thought the public comment from Clay Stuard saying that compliance with the General Plan was still important and should fit back into the MPD process. Assistant City Attorney noted that his comments went against the changes that were recently made. It is also very difficult to defend because the General Plan is not mandatory. It is meant to be an advisory document.

Director Erickson stated that the intent is to address the loose terms in the General Plan through the Code amendments, and to make sure the criteria are in the LMC and legislatively adopted.

Commissioner Joyce thought there was a lot in the General Plan about the Keeping Park City Park City mentality and serving the locals. He noted that there was a lot of intent and many times they can look at an MPD and know it was not what the City intended for the neighborhood. However, he was unsure how they would codify all of that.

Director Erickson stated that parts of it are in the LMC in the purpose of each of the zones. Even though they cannot rely on the zone purpose in making a determination, the language gets repeated. Director Erickson remarked that they change the Code with respect to the application of the General Plan. He explained that they look to the General Plan for compliance, but is not the sole arbiter of whether or not that land use decision is correct.

Commissioner Joyce did not believe they could codify all of the intents and priorities. Director Erickson offered to work on it taking into consideration Commissioner Joyce's comments.

Chair Strachan opened the public hearing on Chapters 2, 6, and 7.

Clay Stuard was unsure how good a General Plan could be if it does not protect the fundamental infrastructure, roadways, and other important public infrastructure from being over-used, or becoming dysfunctional and unsafe. Mr. Stuard stated that if they do not have a process of making a finding that a new application will conform with the standards established; for example, safe travel or acceptable capacity levels, it serves no purpose. He did not believe they should rely solely on the LMC, because it tends to look at individual zones and the appropriate uses within those zones, but it does not address the broader needs of the City in terms of transportation, affordable housing or other important issues. Mr. Stuard stated somehow those big macro issues have to be included in individual project approvals. There needs to be a finding that this individual approval will not exceed the carrying capacity on a particular type of public infrastructure. Mr. Stuard clarified that this was his reason for suggesting that there should be a finding requiring compliance with the LMC and the General Plan. He agreed that the General Plan is vague and needs to be tighter. However, ignoring it all together and only looking at individual project approvals without bigger macro issues is why they continually have the same problems.

Craig Elliott addressed the MPD modifications and the subdivision modifications. He thought it was important for the Planning Commission to understand a few things, particularly about cities. He stated that cities have been around for thousands of years and

the two most ever changing things within cities are ownership of property and the uses within those properties. In looking at how cities evolve and what happens to them, it is hard to imagine what the next generation might want to do with a property. Mr. Elliott cautioned them to be careful about restricting something in perpetuity that could not be changed. He believed it was critical and noted that Commissioner Campbell had raised that issue with the solar discussion.

Mr. Elliott commented on the Pre-application amendment and offered to provide some history. He noted that in the mid-2000's he made the first application for a Pre-application and he was involved in the discussion about why it was put in place. He explained that people were spending ridiculous amounts of money to provide an MPD because the requirements include engineering, architectural plans, working with utility providers, etc. After spending so much money and going into such detail, it was almost impossible to reach a viable solution. Mr. Elliott stated that the idea behind the pre-application was exactly what they were doing now, which is to have the ability to come in at a very early stage and have a conversation about what the applicant wants to do with their property. It allows for public feedback and comments from the people who make the decisions. The applicant can then invest their money with some idea of what the decision-makers think about it. Mr. Elliott believed the pre-application amendment outlined this evening was the right approach and he suggested that they move forward and do it quickly. He knew of at least three MPDs that would be coming to the Planning Commission and if they do not make the changes as a community, the City Staff will be wasting time going through a process that no one understands or wants to do. Mr. Elliott also suggested that they amend the submittal requirements for a pre-application. He supported moving forward with this revision because it would help the Staff, the property owners, the design professionals, and the Planning Commission.

Chair Strachan closed the public hearing.

Chair Strachan thought both public comments were well-received. In terms of changing the submittal requirements for what could be an optional pre-application process, he suggested that Mr. Elliott submit to the Planning Department what he thinks the submittals should be so the Planning Commission can review and weigh them out the next time.

Commissioner Campbell thought the submittal list should be very small if the purpose is to encourage people to come in early before they spend a lot of money to find out what will work in a collaborative process with the Staff. Chair Strachan agreed; otherwise people would choose to opt out at their own peril.

MOTION: Commissioner Joyce moved to CONTINUE the LMC amendments to Chapters 2, 6 and 7 to a date uncertain. Commissioner Band seconded the motion.

MOTION: The motion passed unanimously.

WORK SESSION

Planning Staff and Planning Commission discussion regarding the use of gravel mulch in Landscaping, LMC Section 15-5-5(M) Landscaping, and Parking in side yards (All zones). No decisions will be made at this Work Session.

Commissioner Thimm disclosed that he owns a home that has mulch in the right-of-way, and he has a pickup truck with a camper that remains parked at his home. He did not believe that would have any bearing on his ability to review the LMC. He may be in violation, and if that is the case, he would take the appropriate steps to comply.

Director Erickson noted that a presentation was made to the City Council on the issue of gravel mulch, xeriscaping, parking in the side yards, and RV parking. The City Council decided that the Planning Commission should address this issue. Director Erickson noted that at a subsequent meeting, the City Council placed a stay on the ordinance that does not permit RV parking in front yard driveways until October 31st. He clarified that the ordinance was not currently being enforced in town.

Director Erickson stated that the LMC is very precise in stating that gravel mulch is prohibited. Anticipating that some would ask him to define gravel mulch, Director Erickson had research the definition and found that it is any rock under 2" in diameter regardless of whether it is round, broken up, or crushed. He reiterated that it is currently prohibited in the Code and the Staff questioned whether that was a good idea, especially with the wild land fire urban interface zone coming forward, which will require non-combustibles in proximity to houses within the fire zones. Director Erickson also thought it was important to consider in readying for additional infill and the fact that neighborhoods are building out. They were also trying to deal with water conservation and odd subdivision designs from the 1970s with planter strips and 4' sidewalks and other anomalies.

Director Erickson stated that in an effort to get ready for the things he just mentioned, they needed to come up with regulations that balance gravel, xeriscaping, regular mulch, parking in side yards, parking in front yards, RV parking, size and how to adjust for neighborhood conditions.

Director Erickson noted that the Staff report included recommendations as a framework of ideas on how to move forward with gravel mulch, xeriscaping and parking in side yards and front yards. They were not ready to go into Code, but the Staff has had the opportunity to

hears public comments on these matters since they were administrative and not legislative.

Director Erickson stated ATVs, boats, campers, campers on the back of trucks will be allowed in a properly located driveway or parking area in front yards that currently meet the standards for width and setbacks. Rather than being prohibited these items would be allowed with the following conditions. The first is to maintain two cars of off-street parking. It may not be possible in all zones, but it will keep additional cars off the street that affect snow plowing, bicycle riders, the ability to sweep storm drains, and the safety of kids walking to school. The intent is to allow for the two required parking spaces. Director Erickson pointed out that they also want to require everyone to maintain vehicular access to the garage. He stated that the City would allow these conditions to take place from April 1st to November 1st.

Director Erickson stated that they tried to define storage as a parked vehicle or RV more than 30 days without movement, which would be prohibited. It is currently regulated as part of the nuisance ordinance; however, the LMC would be adjusted to address it as well. Director Erickson pointed specifically to cars wrapped in blue tarps that sit on a property. He clarified that the purpose of the regulation is to protect the neighborhood and the neighbors.

Director Erickson noted that currently parking is only permitted in driveways and not in side yards. The Code addresses a side yard, which is the distance from the side of the house to the edge of the lot, and the side yard setback, which is a defined distance from the lot line in. He remarked that they would consider parking RVs, boats, cars in side yards, but only on hard surfaces. However, the broad sweep of pavers from permeable concrete to paver blocks would be allowed in addition to asphalt and concrete. Director Erickson stated that it would require at least one side yard setback to the defined parking area, because if someone builds to the property line they would preclude their neighbor from building a fence without disrupting the parking area. In addition, all of the side yard utility easements are in the last one or two feet of the side yards.

Director Erickson remarked that parking area should be behind the front façade of the house. The idea is to regulate from the front of the house forward to maintain the quality of the neighborhood. He noted that fire or utility access cannot be blocked. The purpose of side yards over the past 100 years of zoning is primarily to maintain access to light and air for homes, and to allow firefighting access to the rear and the sides of your house and your neighbor's house.

Director Erickson stated that the Staff would recommend that the properly located parking areas would be fenced or properly screened from the neighbors. Currently the City allows up to a six-foot fence with no permits other than a building permit. He believed that was

adequate. In the side yards they were talking about a height limit of nine or ten feet for an RV or other tall vehicle in the side yard.

Director Erickson commented on hard surface parking areas. He noted that there is a lot of discussion about whether or not to park on gravel. There are no controls on gravel because it moves every time it is driven over. Putting an impervious surface underneath stops the drainage, which is the purpose of using gravel. Director Erickson stated that there has been discussion about picking up the pavers to clean them or just spraying them off. He remarked that the solution to pollution is dilution. If power washers are used to wash down the pavers, it dilutes it enough that it will be less of a problem than if it gets into the ground water.

Director Erickson pointed out that the LMC defines xeriscaping as plant based. The Staff was proposing that if a lot has a limits of disturbance on it, the purpose of the limits of disturbance is to maintain the natural look of the lot. Gravel would not be allowed outside of the limits of disturbance as part of the revegetation plan. Plants need to go back into that area. Director Erickson stated that they would consider using gravel as part of the wild land fire urban interface zone mitigation, but keeping it as close as possible to the home. In the rear yard they would allow up to 50% of the ground coverage to be gravel as part of a plant based xeriscape plan. They have not set a standard in the rear yard for the amount of irrigation. At this point Director Erickson preferred to disallow irrigation in the back yards, but he anticipated that some people would want grass where kids could play. It would be impossible to regulate and he was unsure whether it should be regulated.

Director Erickson stated that gravel needs to maintain a one-foot rear and side yard setback unless it is controlled by a fence or a wall, which prevents the gravel from migrating into the neighbor's yard. If the side yard is protected by a fence it will also reduce the propagation of noxious weeds that migrate through the gravel.

Director Erickson stated that in the Historic District there are three-foot side yard setbacks for historic homes, and it is impossible to get vegetation to grow between the houses. To address the problem, he was willing to allow gravel in the side yard setbacks in the Historic District. In all other zones outside of the Historic District, the side yard setback must be maintained if the gravel is used as a driveway going into approved parking. He pointed out that they already have that requirement for driveways and it would not require a Code change. Director Erickson stated that in front yards they would allow gravel as part of a plant based xeriscape for 25% of the ground coverage, rather than the 50% of ground coverage in the front yard. They would not allow gravel in the rights-of-way or allow it for parking. Cars have a tendency to breed where there is gravel, which is the reason for placing the limitation on gravel in the front yard. Gravel would not be allowed in the right-of-way because it is too easy to use it for parking. It also degrades the ability of the curb to

stand up because the gravel moves behind it. More importantly, if people are not allowed to park fully on the street it widens the section of pavement and people tend to drive faster when there is more space between cars.

Director Erickson stated that they would allow rock greater than 2" in diameter, similar to the river rock models. They could go to 50% ground coverage in the front yard, but not in the right-of-way and not for parking. The idea is to protect the front yards of the neighborhoods, and make room for sociological changes going forward, especially tiny homes. Director Erickson noted that Pleasant Grove, Utah has made a determination to approve tiny homes as accessory uses. He believed Park City was in the same position to do that, but they need to make sure that the parking is working and the neighborhood would not be degraded if they allow tiny homes into the neighborhoods.

Director Erickson commented on irrigation areas and the need to look at commercial sites. He personally liked the looks of the police station. It has an on-site detention pond with river rock. It has xeriscaping and a nice plant mentality. There is gravel in the model and everything fits together. Director Erickson stated that there were specific landscaping requirements for parking lots in the LMC in terms of the amount of greenspace, number of trees, etc. He was not sure whether they were currently appropriate or effective, and they would be looking at commercial parking lots in the near future as they begin to redevelop.

Commissioner Band stated that in her neighborhood there are so many cars parked at night or on the weekend that there is only room for one car to pass. One house has an RV but there is no room to park in the side yard so it sits in the driveway. The garage is used for storage and they park their two cars in the street. Under the current proposal, she asked if someone would be precluded from having an RV on their property if the side yard is not big enough. Director Erickson replied that the RV would have to be parked in a properly located parking area. The increases in rent are forcing more people to move into a unit with inadequate parking. He pointed out that people need to make conscious choices. Director Erickson stated that the regulation also gives Code enforcement more clarity about what should and should not occur in terms of parking. It was an ongoing issue and they were trying to address it with this amendment.

Chair Strachan opened the public hearing.

Marianne Cone like the statement about not taking it out on your neighbors. She had a trailer for ten years she lived at the top of Prospect. She brought it home once and besides being terrified when she tried to turn it around, she would have not done that to her neighbors. She was also on Park Avenue and that was ridiculous. Ms. Cone stated that it was nice to live somewhere where she can keep it at home and have it when she wants to

go someplace. Ms. Cone believed hers would work out and fit within the regulations. In the issue of gravel, she did not think most people understood right-of-way. She understood that it is the part into the yard that does not belong to the owner.

Director Erickson replied that she was correct. It is City-owned property typically 10' back from the back of the curb in most locations.

Ms. Cone stated that gravel in the right-of-way is a problem because when the street sweeper goes through it takes the gravel along the edge and puts it in the gutter. Another problem is that people parallel park in it next to the street. She supported the proposed changes.

Mr. Erickson stated that the City has contracted a landscape firm from Salt Lake City starting in November, and their first mission is to do the Forestry Management Plan. The first mission inside of that is to make landscape architect quality recommendations for the right-of-way. The Planning Commission will have the opportunity to approve that solution as well.

Sally Elliott thanked the Staff for listening to them and addressing everything they asked them to. She was surprised to receive a notice from Code Enforcement because she thought they were in total compliance. She somehow missed the changes to the LMC in 2009. Ms. Elliott thought the proposed changes made perfect sense. She stated that they always store their motor home November 1st through April 1st, and they try very hard not to impact their neighbors. The neighbors have told them that they are not offended when the motor home is parked in the driveway. Ms. Elliott noted that her house was built by Mrs. Field for the cookie college and it did not comport with Code. The driveway was widened so the extra lockout tenants would have a place to park and that where they park their motor home. Ms. Elliott suggested that they rethink the side yard limitation. She always thought side yards should be maintained for the easements and for the appearance. She requested that they give it more thought because in her opinion side yards are an amenity. Once this amendment is adopted, she and others will work within the Prospector Park neighborhood to get the City to enforce the Code on certain people who are not good neighbors. Mr. Elliott was not in favor of gravel in the right-of-way.

Chair Strachan closed the public hearing.

Chair Strachan viewed this as a work in progress with a long way to go. He did not have an opinion this evening, but he could see nothing to make him believe they were going in the wrong direction.

Commissioner Band stated that parking in the side yards would make a big difference in her neighborhood. If the duplex in her neighborhood were to pave their side yard, two of the four cars that park in the street would be on the side.

Commissioner Thimm noted that Director Erickson had mentioned safety and welfare having to do with why side yards are maintained. If there was an RV one foot away on one side and an RV one foot away on the other side with a fence in between, he was concerned that a firefighter with a hose and equipment would not be able to reach an emergency location.

Director Erickson stated that the City was working hard to reduce the carbon footprint and gravel contributes to heat island effects as well. That was something to consider if they were concerned about being green.

Commissioner Joyce referred to the stay on the ordinance until October 31st, and he wanted to know what would happen on November 1st. Director Erickson replied that the ordinance comes back into play on November 1st. However, it has always been a complaint based management system. He noted that the City Council could impose another stay until the ordinance is in place or they could direct the Staff to do complaint based enforcement.

Assistant City Attorney McLean noted that during that City Council meeting the Council indicated that they wanted it to be seasonal. The stay was drafted and approved with that in mind. Development Director Anne Laurent stated that the idea was to have a new ordinance in place before the next RV season.

Commissioner Joyce asked if the City plans to continue down the path of complaint based enforcement. He pointed out that most people do not know the rules or what they can legitimately file a complaint about. He asked if they ever reach a point where an officer drives around a neighborhood. Commissioner Joyce stated that some neighborhoods had so many violations the officer could just walk from house to house. He asked if the City would ever become more assertive at fixing the enforcement process.

Ms. Laurent replied that it would be a policy and budget decision made by the City Council. She noted that some communities have code enforcement in the police department with 24 hours shifts. Ms. Laurent explained that there are models to do it, but those are more urban models rather than smaller communities like Park City. It is a resource and budget issue that the City Council would have to determine. Ms. Laurent stated that even though they were clarifying this for the Code Enforcement Staff to better understand how to write the violation and what it is so they can explain it to people when the complaints come in, she thought there would still be issues when one property owner can make their side yard

work, but it does not work for the neighbor next door. She believed there would still be frustration from people who could not get what they want. There will be a lot of criteria for when it works and when it doesn't on a case by case analysis. Ms. Laurent wanted it clear that the issue of RVs and parking would not suddenly become easy to enforce.

Commissioner Joyce stated that one of the frustrations the Staff continues to hear from the Planning Commission is the fact that they keep putting rules in place that are never enforced. He understood the difficulty of enforcing things that are buried in the conditions of approval, but if something is part of the Code and they were put in place with good reason, it would be nice to have that enforced. Commissioner Joyce requested that when these amendments are forwarded to the City Council that the Staff open the discussion for a better enforcement effort that goes beyond complaint based.

Ms. Laurent agreed with Commissioner Joyce. She stated that when this first went to the City Council they talked about code enforcement. She noted that RV and parking violations are very difficult. If someone moves their vehicle the violation is considered rectified, but it does not mean the violation will not come back the next day. At that point people need to call and make a complaint again because the City does not have the resources to check back day after day. Having a violation that can be rectified easily and come back easily is very difficult for Code Enforcement on a complaint based program. Ms. Laurent pointed out that the more effective management of parking will come from the local HOA.

Commissioner Suesser asked about educating the public on the new changes. Ms. Laurent stated that once the changes are in place, she is a big proponent of partnering them with proactive education and outreach.

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

Approved by Planning Commission: _____

Gravel Mulch & Parking on Landscaped Areas

- Purpose of presentation is to outline for Council and the public what the Municipal Code states.
- Code enforcement and active cases of code violations will not be addressed specifically.
- Staff has outlined areas in the Code that need updating and clarifying, and recommends further discussion of these topics with the Planning Commission and the City Council

Gravel Mulch, Xeriscaping & Parking on Landscaped Areas –

Relating to Council Priorities and General Plan

- Water Conservation – reduce outdoor water use, protect streams and waterways
 - Limits of Disturbance
 - Reduction in “bluegrass plantings”
 - Xeriscaping – drought-tolerant / adapted and native species
 - Gravel in the right place and right amount
- Energy Conservation \ reduction of the Urban Heat Island effect
 - Green areas are generally cooler than paved or gravel surfaces – Green reduces building cooling demands and therefore reduces energy consumption

Gravel Mulch & Parking on Landscaped Areas – General Conclusions

- Clarify the difference between “rock” and “gravel” mulch.
- Limit and define appropriate use of gravel mulch in front and side yards.
- Maintain requirements for allowed parking areas to be on “hard” surfaces.
- Clarify the definition of “parking” vs “storage” of a vehicles or RV. Update the definition of “hard surface” is to include more acceptable options.
- Clarify the differences between Yards and Setbacks in Yards and relates to paving and parking concerns.
- Define the amount and type of gravel allowed to be used in Xeriscaping.
- Clarify restricting the proximity of gravel surfaces to surface water drainages, storm drain and gutters and roads.

Gravel Mulch, Xeriscaping and Parking Areas - Possible Solutions

- Recreational Vehicles / ATV / Boats, etc.
 - Allowed in properly located driveway or Parking Area (Front Yard) meeting standards for width and setbacks
 - Must maintain 2 cars off-street parking
 - Must maintain access to garage
 - Allowed April 1 to November 1
- “Storage” – parked vehicle or RV more than 30 days without movement - prohibited

Parking Continued

- **Parking in Side Yards**
 - Parking on Hard Surfaces only, pavers allowed
 - Must have 1 foot side yard setback to Parking Area
 - Parking Area to be located behind front façade of house
 - Must not block fire or utility access
 - Must be fenced or properly screened from neighbors.
 - Side yard height limit of 9 to 10 feet, (TBD)
- **Other Yard Locations**
 - Regulated as Accessory Structure per LMC

Gravel Gravitas

- Use of Gravel in Xeriscaping (2 inch minus round rock or crushed stone)
 - Prohibited in outside Limits of Disturbance areas and in areas identified for revegetation with native species
 - As part of Wildland Fire Urban Interface zone mitigations, gravel is preferred as close to homes as possible. Can be used to break of areas of ground cover up to the 50% rule.
- **Rear Yards**
 - Up to 50% of ground coverage as part of plant based xeriscaping
 - Must maintain 1 foot rear and side yard setback unless controlled by fence or wall
- **Side Yards**
 - Permitted in all Historic residential zones, may not be used for parking and only allowed in front of house as part of approved plant based xeriscaping
 - In all other zones, as approved driveways leading to approved Parking Areas – must maintain current side yard setbacks.
- **Front Yards**
 - Up to 25% of ground coverage as part of plant based xeriscape
 - Not allowed in Right of Way
 - Not allowed for Parking
- Rock greater than 2 inches diameter may be used up to 50% of ground coverage, not in Right of Way as part of plant based xeriscaping

Future Discussions

- Other Issues under consideration
 - How much irrigated area should be allowed (front, rear and side yards)?
 - Requirements for Commercial sites?
 - Requirements for Parking Lots?

Bruce Erickson

From: srailton70 <srailton70@gmail.com>
Sent: Wednesday, October 26, 2016 1:07 PM
To: Bruce Erickson; Tim Henney; Becca Gerber; andy.beerman@parkcity.org; Cindy Matsumoto; Nann Worel; Jack Thomas; Melissa Band; Matt Cassel; Scott Maizlish
Subject: RE: Gravel in landscaping

Thanks, Sean

Sean Railton
Park City Realty Group
435 640 2835
Sent from my Verizon. Samsung Galaxy smartphone

----- Original message -----

From: Bruce Erickson <bruce.erickson@parkcity.org>
Date: 10/26/16 12:07 PM (GMT-07:00)
To: Sean Railton <srailton70@gmail.com>, Tim Henney <tim.henney@parkcity.org>, Becca Gerber <becca.gerber@parkcity.org>, andy.beerman@parkcity.org, Cindy Matsumoto <cindy.matsumoto@parkcity.org>, Nann Worel <nann.worel@parkcity.org>, Jack Thomas <jack.thomas@parkcity.org>, Melissa Band <mband75@gmail.com>, Matt Cassel <matt.cassel@parkcity.org>, Scott Maizlish <maizlish@gmail.com>
Subject: RE: Gravel in landscaping

Sean, this will be delivered to the planning commission tonight.

Regards, Bruce

Sent from my Verizon. Samsung Galaxy smartphone

----- Original message -----

From: Sean Railton <srailton70@gmail.com>
Date: 10/26/16 11:56 (GMT-07:00)
To: Tim Henney <tim.henney@parkcity.org>, Becca Gerber <becca.gerber@parkcity.org>, andy.beerman@parkcity.org, Cindy Matsumoto <cindy.matsumoto@parkcity.org>, Nann Worel <nann.worel@parkcity.org>, Jack Thomas <jack.thomas@parkcity.org>, Melissa Band <mband75@gmail.com>, Bruce Erickson <bruce.erickson@parkcity.org>, Matt Cassel <matt.cassel@parkcity.org>, Scott Maizlish <maizlish@gmail.com>
Subject: Gravel in landscaping

This probably should go to all of the planning commission as well. I heard this on the radio this morning and have to be gone tonight. I just wanted to voice my feelings.

I cannot make the meeting tonight. I have gone around and around with the engineering department on the topic of gravel in landscaping. It started with one of the enforcement officers who was inquiring about some gravel in my yard when I was doing some repairs to my sprinkler system.

I was going to put it along the gutter about 3 feet back similar to 50+ homes in the first 5 phases of Park Meadows. My reasoning for gravel is: if you put grass along the street salt kills it, the grass and the sprinklers get ripped up by the city plows and other plowing services. They told me I could mulch along the street but the problem is it creates a tripping(ankle twisting) issue in the transition to the mulch from the concrete gutter as it is not as stable as the concrete or the grass surface.

Engineering's reasoning was twofold. If gravel was placed in the ROW it would cause the gutters to deflect when roads were hot in the summer because it would not laterally support this area (like mulch would?). The second explanation is that gravel get into the street and effects the street sweeper? OK, I get this but surely there is a size that would make everyone happy.

My understanding from someone in planning is this gravel issue stems from a former planning directors personal taste.

I heard on the radio this morning about the meeting tonight about the parking pads on the side. I feel like this is another "taste" issue as well. Bruce Erickson stated this morning on the radio it was a "Good Neighbor Policy" and only concrete will do because oil cannot reach the ground and get into the water table. I would like to ask him if that means we need to take out paver driveways for this reasoning? Is there any depth of porous gravel that will soak up dripping oil? what if there is a thick plastic liner under the porous gravel that will catch what gets through?

I think this "Good Neighbor Policy" will keep going personally. I don't want a few loud property owners to change rules because they get in the ear of department heads. But if the city does get into this issue here are a few items: I would like to have the renters next door water their lawn and weed it? (They are pretty decent otherwise so I let it go). Also there are some ugly trees in the way of my view of Pinecone ridge and Jupiter Peak can the city deal with that too?(I don't think they are doing anything to me personally and if it really bothered me I would offer to pay to have them move them).

I have lived in Park Meadows for 21 years and I was formally in a subdivision with a lot of rules and the city basically told us to work it out based upon our CC& Rs(I never had any issues with any of the rules personally but I was on the board and had to deal with others). I Chose to move into the older section because I could just talk to my neighbor about common sense solution but now I have the city coming up with arbitrary rules when people have lived here in harmony for years. If they want to change things here let's have a vote, ain't that what america is about?

Also as far as the RV's go with most homes that have renovated these vehicles look nicer than some of homes of people who have lived in them for 40 years. The people who have lived in their homes for 40 years they deserve to live how they have and we owe them that.

Thanks for your time,

Sean

Sean Railton

Senior Partner

Park City Realty Group

C: 435.640.2835

O: 435.649.1991

F: 435.649.2358

sean@parkcityrealtygroup.com

Bruce Erickson

From: Clay Stuard <claystuard@gmail.com>
Sent: Tuesday, October 25, 2016 6:26 PM
To: Bruce Erickson
Cc: Steve Joyce; Adam Strachan; Douglas Thimm; Melissa Band; John Phillips; Laura Suesser; Preston Campbell; Francisco Astorga; Alfred Knotts; Matt Dias
Subject: LMC Changes
Attachments: LMC changes to limit FAR.doc; Measure Y.pdf

Hi Bruce,

After much thought, I have attached a draft of proposed LMC changes that will most effectively and expeditiously address the threat that overly intense development (and redevelopment) in the GC Zone will destroy the functionality of critical transportation arteries in PC (namely Kearns Blvd, Bonanza Drive, Park Avenue and Deer Valley Drive).

If, for example, these changes were applied to the East BoPa application (~5 acres) the resulting maximum square footage for that project would be 152,000 sqft rather than the 277,000 proposed. The resulting site plan would likely reflect a mixture of 2-3 story buildings with some (but much less than proposed) underground parking and an overall mass and scale befitting our "small town character."

While not a perfect solution for the GC Zone, the changes I propose (combined with the MPD requirements) will suffice until the time and money can be allocated for the preparation and adoption of an entirely new zoning code for Bonanza Park, as originally contemplated in the General Plan.

I hope you and the Planning Commission will add these suggestions to the list of LMC changes that are currently being considered.

Best Regards,

Clay Stuard
Park Meadows Resident

P.S. - just as a point of interest, I've attached a copy of a ballot measure in Costa Mesa, California that shows what desperate citizens will do when traffic becomes unbearable.

15-2.18-4 Building Height and Square Footage

No Structure shall be erected to a height greater than thirty-five feet (35') from Existing Grade. This is the Zone Height.

A. BUILDING HEIGHT EXCEPTIONS. The following height exceptions apply:

1. Gable, hip, Barrel, and similar pitched roofs may extend up to five feet (5') above the Zone Height, if the roof pitch is 4:12 of greater.
2. Antennas, chimneys, flues, vents, and similar Structures may extend up to five feet (5') above the highest point of the Building to comply with the International Building Code (IBC).
3. Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.
4. Church spires, bell towers, and like architectural features, subject to LMC Chapter 15-5 Architectural Guidelines, may extend up to fifty percent (50%) above the Zone Height, but may not contain Habitable Space above the Zone Height. Such exception requires approval by the Planning Director.
5. An Elevator Penthouse may extend up to eight feet (8') above the Zone Height.
6. **Ski lift and tramway towers may extend above the Zone Height subject to a visual analysis and approval by the Planning Commission.**

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B. BUILDING SQUARE FOOTAGE.

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The Gross Residential or Commercial (as the case may be) Floor Area of the Structure(s) on a Lot or Parcel, or a combination of Lots or Parcels shall have a Floor Area Ratio not exceeding .7 (70% of the Lot or Parcel Area).

1.109 FLOOR AREA.

- A. Floor Area, Gross Residential.** The square footage of all enclosed rooms of a Residential Building, including but not limited to general living rooms, kitchens, bedrooms, laundry rooms, storage compartments, stairwells, hallways, entries, bathrooms, mechanical rooms and Basements are calculated as Gross Residential Floor Area. Unenclosed porches, balconies, patios and decks, and outdoor courtyards are not calculated in Gross Residential Floor Area. Garages, up to a maximum Area of 600 square feet, are not calculated as Residential Gross Floor Area. Crawl Space areas below Final Grade are not calculated as Gross Residential Floor Area. Floor Area is measured from the finished surface of the exterior side of the exterior boundary walls.
- B. Floor Area, Gross Commercial.** The square footage of all enclosed rooms of a Commercial Building including but not limited to general office and/or retail areas, kitchens, bedrooms (if any), laundry rooms, storage compartments, stairwells, hallways, entries, bathrooms, mechanical rooms and Basements are calculated as Gross Commercial Floor Area. Unenclosed porches, balconies, patios and decks, and courtyards are not calculated in Gross Commercial Floor Area. Areas below Final Grade used for commercial purposes including, but not limited to, storage, bathrooms, and meeting space, are considered Gross Commercial Floor Area.
- C. Floor Area, Net Leasable.** Gross Floor Area excluding common hallways, mechanical and storage rooms and restrooms.

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

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Ballot Measures-Y

Y

City of Costa Mesa, An Initiative To Require Voter Approval On Certain Development Projects

Shall the ordinance to require voter approval of development projects that require adoption, amendment, change or replacement of the General Plan, the Zoning Code, a specific plan, or an overlay plan, and that generates over 200 additional trips, increases intersection volume/capacity, changes the intersection utilization/level of service, adds 40 or more dwelling units, adds 10,000 sq.' of non-residential use, or changes a public use to a private use under specified conditions, be adopted?

What your vote means

YES

A "Yes" is a vote to adopt an ordinance to require voter approval of development projects that require adoption, amendment, change or replacement of the General Plan, the Zoning Code, a specific plan, or an overlay plan, and that generates over 200 additional trips, increases intersection volume/capacity, changes the intersection utilization/level of service, adds 40 or more dwelling units, adds 10,000 sq.' of non-residential use, or changes a public use to a private use under specified conditions.

NO

A "No" is a vote not to adopt the ordinance proposed the An Initiative To Require Voter Approval On Certain Development Projects.

For and against

FOR

Jay Humphrey
Former Costa Mesa Council Member and Vice Mayor
Member Costa Mesa 1st

Sandra Genis
Land Planner
Costa Mesa City Council Member

Wendy Leece
Former Costa Mesa City Council Member
Former NMUSD School Board Trustee

Eleanor Egan
Ret. City Attorney
Former Costa Mesa Planning Commissioner

Mary Spadoni
Retired Investigator, Orange County District Attorney

AGAINST

Jim Righeimer
Mayor Pro Tem, City of Costa Mesa

John Moorlach
Senator Representing Costa Mesa

Julie A. Fowler
Housing Advocate/Mom

Julie A. Mercurio
Commissioner, City of Costa Mesa

Christopher Scott Bunyan
Business Owner

Bruce Erickson

From: Clay Stuard <claystuard@gmail.com>
Sent: Wednesday, October 26, 2016 2:29 PM
To: Bruce Erickson
Cc: Adam Strachan; Douglas Thimm; Melissa Band; John Phillips; Preston Campbell; Laura Suesser; Steve Joyce
Subject: Tonight's discussion/action to delete the Pre-MPD General Plan Compliance Requirement

Hi Bruce,

I understand the rationale behind the proposal to delete the Pre-MPD Application finding of General Plan compliance, however such a finding should then be added to the top of the list contained in 15-6-6. Please see below:

F. PLANNING COMMISSION ACTION. The Planning Commission shall approve, approve with modifications, or deny a requested Master Planned Development. The Planning Commission action shall be in the form of written findings of fact, conclusions of law, and in the case of approval, conditions of approval. Action shall occur only after the required public hearing is held. **To approve an MPD, the Planning Commission will be required to make the findings outlined in Section 15-6-6 herein.**

15-6-6 Required Findings And Conclusions Of Law

The Planning Commission must make the following findings in order to approve a Master Planned Development. In some cases, conditions of approval will be attached to the approval to ensure compliance with these findings.

- A. The MPD, as conditioned, complies with all the requirements of the Land Management Code **and the General Plan**;
- B. The MPD, as conditioned, meets the minimum requirements of Section 15-6-5 herein;
- C. The MPD, as conditioned, provides the highest value of Open Space, as determined by the Planning Commission;
- D. The MPD, as conditioned, strengthens and enhances the resort character of Park City;
- E. The MPD, as conditioned, compliments the natural features on the Site and preserves significant features or vegetation to the extent possible;
- F. The MPD, as conditioned, is Compatible in Use, scale, and mass with adjacent Properties, and promotes neighborhood Compatibility, and Historic Compatibility, where appropriate, and protects residential neighborhoods and Uses;
- G. The MPD, as conditioned, provides amenities to the community so that there is no net loss of community amenities;
- H. The MPD, as conditioned, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.
- I. The MPD, as conditioned, meets the Sensitive Lands requirements of the Land Management Code. The project has been designed to place Development on the most developable land and least visually obtrusive portions of the Site;
- J. The MPD, as conditioned, promotes the Use of non-vehicular forms of transportation through design and by providing trail connections; and
- K. The MPD has been noticed and public hearing held in accordance with this Code.
- L. The MPD, as conditioned, incorporates best planning practices for sustainable development, including water conservation measures and energy efficient design and construction, per the Residential and Commercial Energy and Green Building program and codes adopted by the Park City Building Department in effect at the time of the Application.

- M. The MPD, as conditioned, addresses and mitigates Physical Mine Hazards according to accepted City regulations and policies.
- N. The MPD, as conditioned, addresses and mitigates Historic Mine Waste and complies with the requirements of the Park City Soils Boundary Ordinance.
- O. The MPD, as conditioned, addresses Historic Structures and Sites on the Property, according to accepted City regulations and policies, and any applicable Historic Preservation Plan.