

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
NOVEMBER 9, 2016

COMMISSIONERS IN ATTENDANCE:

Vice-Chair Steve Joyce, Melissa Band, Preston Campbell, John Phillips, Doug Thimm

EX OFFICIO:

Bruce Erickson, Planning Director, Francisco Astorga, Planner; Kirsten Whetstone; Planner; Anya Grahn, Planner; Mark Harrington, City Attorney, Jodi Burnett, Outside Counsel

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REGULAR MEETING

**ROLL CALL**

Vice-Chair Joyce called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioners Suesser and Strachan who were excused.

**PUBLIC INPUT**

There were no comments.

**STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

There were no reports or disclosures.

**CONTINUATIONS** (Public hearing and Continue to date specified)

1. 250 Main Street and the Parking Lot at top of Main St. - Plat amendment to combine lots of the Park City Survey into 2 lots of record and dedicate unused portions to Park City Municipal Corporation as Right of Way. (Application PL-16-03217)

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

MOTION: Commissioner Phillips moved to CONTINUE 250 Main Street and the Parking Lot at the top of Main Street Plat Amendment to combine lots to December 14, 2016. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

2. 1061/1063 Lowell Avenue (Application #PL-16-03328) - The purpose of this plat is to vacate Lot 1 from the Northstar subdivision, which currently holds a duplex and has a deed line running through it. This plat amendment is associated with application #PL-16-03221. (Application PL-16-03228)

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

MOTION: Commissioner Phillips moved to CONTINUE 1061/1063 Lowell Avenue plat amendment to December 14, 2016. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

3. 1061/1063 Lowell Avenue (Application #PL-16-03221) - The purpose of this plat is to subdivide one lot with a current duplex on it, separating it into 4 lots for 4 single family homes. (Application PL-16-03221)

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

MOTION: Commissioner Phillips moved to CONTINUE 1061/1063 Lowell Avenue subdivision plat to December 14, 2016. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

4. 8680 Empire Club Drive - A Conditional Use Permit for a 1,094 sf. addition to the Talisker Tower Club restaurant and expansion of the basement locker room and storage.

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

MOTION: Commissioner Phillips moved to CONTINUE 8680 Empire Club Drive CUP to November 30, 2016. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

## **WORK SESSION**

Treasure Hill Conditional Use Permit, Creole Gulch and Town Lift Mid-station Sites – Sweeney Properties Master Plan. (Application PL-08-00370).

Planner Francisco Astorga noted that the Staff report outlined 11 bullet points for discussion this evening. Since this was a work session, he encouraged the Planning Commission to ask questions of the Staff and the applicant during the presentation. Public input would be taken following the Work Session.

Planner Astorga stated that the focus would be on mass, scale, physical compatibility and excavation. He pointed out that excavation was added to mass, scale and physical compatibility because it relates to those items. Planner Astorga noted that an environmental analysis still needed to be done, which is also associated with excavation.

Planner Astorga noted that the Staff report included many exhibits. Some were carried over from the October meeting, and others were updated as they submitted the cross sections and added measurements of the approximate excavation distances from the Lowell right-of-way. He also added measurements from the scale found on the drawings regarding the vertical excavation. He was prepared to pull up any of the exhibits if requested.

Planner Astorga stated that the Exhibit on pages 49 through 54 of the Staff report was a model that was presented to the City in February of 2010. He had also added the parameters from the original cross section and the sample elevations that were included in the original document; as the first page indicates that it was part of the original approval packet. The Staff had examined the Woodruff diagram and have major disagreements with the applicant regarding existing grade and the concept of excavating the back of the buildings.

In response to a question from Commissioner Band at the last meeting, Planner Astorga noted that the Spiro Water Source Protection Area was established in 1997.

Pat Sweeney, representing the applicant, introduced Steve Perkins, their land planner; David Eldridge, the project architect; and Rob McMann, the civil engineer. Mr. Sweeney noted that they would be presenting a Sketch-up model of the project and they were prepared to answer questions.

Mr. Sweeney started the Sketch-up model from the Aerie View, which he called the 40,000' view. The model showed the surrounding topography and identified several points and properties. Mr. Sweeney explained how Sketch-up works and how they can zoom in and out, how they can turn off the CUP site and buildings, turn on existing grade, and identify the Woodruff study buildings. In a closer view he showed how they could turn on the maximum height envelopes identified in the master plan. He noted that the access shafts were exempt from the height restriction by a certain number of feet.

Mr. Sweeney showed different views and explained that there were more accurate photo renderings in their application.

Mr. Sweeney showed the homes closest to the project in the Northstar Subdivision. Another view showed the ski run that comes down through the project. He presented a view from Lowell/Empire. The 9<sup>th</sup> Street view was shown from the turnaround. He presented views from the parking lot to the north of the Marsac building above the Transit Center and from the parking lot on the south side of Marsac. Another view was from Ontario Ridge. Mr. Sweeney noted that it was the same model from different views.

Mr. Sweeney turned the model upside down to show what was underground.

Commissioner Thimm asked if the underground view actually showed the basements and foundation areas. Mr. Sweeney stated that it was the 2009 CUP plan, and it showed everything that would be under re-established grade. It was possible to show in the model what it would look like under existing grade. The same could be done with the Woodruff study plan. Ms. Sweeney believed this model demonstrates that if the Woodruff plan was pursued, it would have significant excavation associated with it. He asked the Planning Commission to keep in mind that the Woodruff study was not taken to the level of the 2009 CUP.

Vice-Chair Joyce commented on the excavation and noted that wherever a building goes up the hill, it is easy to see how the excavation is stepped up the hill. He believed that was a major concern. When the applicant contends that they were the same, Vice-Chair Joyce agreed that there were certain areas in both where a fairly substantial amount is carved out of the hill, most of which is for the underground parking, which should be the same between the two plans. He believed in looking at the old plan that it was evident that the buildings step up the hill and the excavation was considerably reduced. In his mind, other than the parking, the buildings were not the same.

Mr. Sweeney clarified that he was trying to making the point that both plans have significant excavation. He agreed that the current proposal involved more excavation, and the purpose of that is to put the buildings further back into the hill and away from adjacent neighbors. Mr. Sweeney remarked that the alternative, as demonstrated by the Woodruff study, is to put it closer to the neighbors.

Planner Astorga pointed out that the Woodruff plan has not been mitigated. It was a parameter of the master plan, vertical and horizontal put together in 3D form, without any sort of mitigation whatsoever. The purpose of the CUP is to mitigate. He asked the Commissioners to keep that in mind as they compare the two.

Commissioner Phillips asked Mr. Sweeney to turn off the existing grade and to put in the proposed grade. He asked him to rotate the model above ground and to zoom in on Building A.

Mr. Sweeney stated that the model demonstrates that the occupied areas of the Woodruff plan were not intended to be at grade, and there would be excavation. He asked Mr. Perkins to talk about the impact of developing the outside spaces. Mr. Perkins noted that a grading plan was not done for the Woodruff drawings. They have to anticipate that those areas between the buildings will have to be graded as well in order to make it work. Otherwise, there would not be any lower spaces daylighting out.

Mr. Perkins believed that from a constructability standpoint, they would have to disturb larger areas beyond that and above those areas. In addition to the excavation shown for the building, there will be significant excavation, grading and site disturbance outside of those areas. It was difficult to anticipate the extent of that, but it will be extensive. Mr. Perkins pointed out that Woodruff was never developed to the point of having a grading plan.

Mr. Sweeney thought it would be helpful to look to the Exhibit that Planner Astorga presented at the last meeting that showed the buildings relative to existing grade. In the Sketch-up model they had added to those exhibits the sections closest to those particular points. He asked David Eldridge, the project architect to provide an explanation.

Mr. Eldridge indicated the one section where the two building sections were cut parallel to each other, which was Building C on the north boundary. In the Woodruff plan, the tallest portion of the massing was right up close to the front of the property. The intent in the current scheme was to push that as far back as possible to open up and preserve the view from the neighbors, and keep the mass behind the existing neighbors. Mr. Eldridge pointed out that because the sections were not cut in the same exact location they were not directly comparable. He explained that he rotated the plan above so their buildings were perpendicular and parallel to the section line they cut. He traced the Woodruff sections and reversed them because they were facing the opposite direction.

Wherever the Woodruff section line crossed the front of the building, he dropped the line straight down and that was where he placed the Woodruff. Mr. Eldridge stated that they were not exactly superimposed, but he thought it gave a sense of where the Woodruff massing would have been compared to where they put the massing. He noted that another big difference is that they created a series of individual buildings as opposed to two monolithic buildings in an effort to break up the mass into smaller pieces.

Commissioner Thimm agreed that there may be some undulation with the ground plane; however, there is a long horizontal bench in the 2009 Plan in comparison to the Woodruff where there is an apparent attempt to step up the hillside. He understood the mass towards the east, but they have also talked a lot about the large bench that gets cut in and filled back in to create the grade between the buildings. That has been a concern throughout each meeting, and one of the major differences he has noticed between the 1985 plan that was approved by City Council versus the current plan.

Mr. Eldridge reiterated that the Woodruff plan had not been developed to this level, and it had no outside amenities at all. He pointed out that a resort hotel could not survive without outdoor amenities. Mr. Eldridge explained that it came about in part because they put as much of the mass as far back as possible, which created the open space between the buildings.

Vice-Chair Joyce stated that the difference between the Woodruff plan and the current plan was the space that got excavated out behind Building 5D. He understood why it was done from an architectural standpoint, but it was easy to at the Woodruff plan and how the building steps up the hill excavation wise, compared to what has happened in front and behind Building 5D in the current plan. Vice-Chair Joyce clarified that the Commissioners were not asking them to build Woodruff. That plan was never mitigated and it was never an approved plan. However, it goes back to what the Planning Commission and the City Council agreed to at the time when they looked at the Woodruff plan. He understood it was a template, but it also did not show plans that cut 140' of hillside. The Woodruff plan did what the LMC requires, which is to adapt to the terrain. The current plan alters the terrain to adapt to the project. Vice-Chair Joyce stated that the excavated space on the backside of Building 5D was a huge difference in the plans and makes an incredible difference in the impact. When they talk about justifying an increase from 400,000 square feet of UEs to close to a million square feet of project; the question is how can it fit into the space and how can it be mitigated. Vice-Chair Joyce pointed out that the Planning Commission has consistently commented on the impacts, particularly to the hillside. He stated that when the height restrictions were placed on the MPD, it was obvious that thought was given to how high above ground these buildings should be. When he looks at the Woodruff drawings, he does not get any sense that they contemplated digging down deep enough to get taller buildings and still meet the height restriction.

Mr. Sweeney provided some history and noted that the entire master plan discussion regarding the Woodruff drawings took place over two or three meetings. It was not continual discussion throughout the process. He explained that the purpose of the Woodruff buildings was to develop the basic Master Plan parameters of where the buildings would be located, how high they could be, and the number of UEs. Mr.

Sweeney stated that it was a different time and the Planning Commission and City Council focused on more than just the buildings. They looked at the rest of the hillside, the land in between the hillside and Main Street, as well as the bottom of Main Street. They were talking about a bubble and trying to establish parameters for the future.

Mr. Sweeney remarked that the next discussion was with Ron Ivie, former Chief Building Official/Fire Marshall, and Scott Adams, the Fire Engineer at that time. He commented on the fire protection or defensible space, and noted that the firefighters wanted to get behind the buildings to fight a fire. In addition, they did not want a fire to burn into the buildings. He thought it was a standard principle. Mr. Sweeney suggested that they asked Ron Ivie and Scott Adams to attend a future meeting to explain their positions to the Commissioners since that partially drove the project; particularly what Commissioner Joyce was talking about. Mr. Sweeney stated that it was a huge one-time impact to avoid a lifetime impact.

Mr. Sweeney pointed out that there were also other reasons. One was the Fire Protection Plan. Realignment of the ski run was another reason. Mr. Sweeney stated that it was not about saving money because moving the building back is incredibly expensive. It was about spending money to make the project better for them, as the applicant, and for the community.

Planner Astorga requested time to talk about Exhibits X, Y, AA and BB after the applicant was finished with their presentation.

Director Erickson stated that the purpose of this work session was to give the Commissioners the opportunity to understand and be able to articulate the components of the plan and the excavation and fill. As they move forward that understanding will help them come to conclusions on whether it is compliant with the Master Plan, and whether the mass, bulk, scale and excavation are mitigated according to the conditional use permit criteria. He suggested that the applicant finish the presentation so the Planning Commission could respond to the questions outlined in the Staff report.

Vice-Chair Joyce asked Mr. Sweeney to show the view around the bend of Lowell and Empire. Concerns have been expressed regarding the transition from the housing in that area. A point of concern has been the transitioning from 25' houses in Old Town to a façade of upwards of 90 to 100 feet.

Mr. Sweeney pulled up the view Vice-Chair Joyce requested. He noted that the information on their website shows views that are closer with a lot of detail. Mr. Sweeney pointed out that the building was in the background a few 100', but he believed it gave a sense of what they had tried to do. Vice-Chair Joyce noted that page 29 of the Staff report showed a detailed rendering with the buildings they were seeing on the Sketch-up. Mr.

Sweeney walked through the model with the Woodruff study turned on, and then with the Woodruff study turned off. He thought it was hard to see the difference in depth, but there was a significant gap and absence of buildings, which was intended to mitigate the impact on the Northstar subdivision in 2004. Mr. Sweeney pointed out that there was a lot more front loading when the Woodruff study was put back in.

Vice-Chair Joyce clarified that his concern was not with the north side view. He stated that a lot of attention has been paid to the view corridor coming up Lowell and Empire and the set of houses along there. He pointed to Buildings 3A, 3B and 4A of the current plan. Vice-Chair Joyce disputed Mr. Sweeney's comment about the buildings being set back because Buildings 3A and 4A appeared to be right off the curve. Mr. Sweeney commented on the difficulty of getting a project of this size, coming off of 123 acres into what is ultimately 3-1/2 acres of footprint, and not have it be sizeable. He believed it was inherent in the master plan concept. Mr. Sweeney remarked that they worked hard to adjust the face so it would have interest and different shapes and levels.

Mr. Sweeney was considering pursuing a higher technology 3-D animation. It would allow them to see the project with all of the detail and reflections. It would also show people walking on the street and cars driving around. It would show all of the neighboring homes and all the landscaping. Mr. Sweeney thought it would go a long way in helping everyone visualize what the applicant visualizes.

Vice-Chair Joyce could see from Sketch-up and from the rendering in the packet how they had broken up the façade. However, it was still coming off the road and running into 100' of building. Mr. Sweeney pointed out where some of the buildings were as high as Silver Star at four stories. They did their best to keep it from being a harsh contrast.

Commissioner Band asked if part of the presentation this evening would give them a feel for the buildings in the context of the neighborhood. Mr. Sweeney answered no. What she was requesting would be a significant amount of work. They would make the effort if that was what the Planning Commission wanted, but he anticipated that it would take two months or more to complete.

Planner Astorga believed he had information that would address some of the issues regarding scale. Everything he intended to present was included in the Staff report.

Mr. Sweeney completed his presentation before turning the time back to Planner Astorga. He stated that if the Planning Commission wanted, they could move the mass up front more like the Woodruff plan, and still be compliant with the fire protection and have a good ski run. They could also potentially eliminate some of the buildings in back and the cliffscapes. Mr. Sweeney stated that they were working with a soils engineer who believed

they could do steeper cliffscapes based on the dips and the strides. They were looking at trying to mitigate the height of the cliffscapes.

Commissioner Thimm asked Mr. Sweeney to turn off the red massing on the Sketch-up, and to toggle back and forth between the 2009 Plan and the Woodruff Plan from each viewpoint. Planner Astorga suggested that the applicant provide screen shots from all the views, as well as the three components, which is the layer of the 1986 grade with Woodruff; the one with the proposed grade in 2009 with the proposed building; and the one with the height envelopes. If the applicant would share those with the Planning Department, he would keep them internally.

Commissioner Campbell recalled a previous discussion about finding a way to compare the scale of the proposed buildings with the existing structures. They recognized that it would be very expensive to model all the houses, but at the last meeting they had asked the applicant to take the representative size and put 15 down on each side.

Mr. Sweeney replied that it was part of the 3-D technology he was talking about. They were willing to do that technology so everyone could see everything exactly as it is in a very realistic model. Commissioner Campbell did not believe it was necessary for the Mr. Sweeney to go to that expense. His concern was massing. When Mr. Sweeney pulled the model back earlier in the presentation, the project almost disappeared. There was no sense of scale and proportion along the hillside, and he really wanted to see the houses represented at least in the first block. Mr. Sweeney remarked that the least expensive and most robust way to show that is through the 3-D Animation. It is the best representation short of building the buildings. Commissioner Campbell clarified that he was only asking for something, such as a square block that would show the size of the average house. However, it was up to Mr. Sweeney if he wanted to do the 3-D Animation.

Planner Astorga commented on Building 4A. He noted that the maximum building height in the HR-1 District is 27' measured from existing grade. The Staff is concerned about having a 46' tall building at the first walkway. He indicated a deck area for outdoor dining. The distance from the deck to the building is 64', and the building is 90' wide. The Planning Commission could discuss the scale components at the next meeting as written in the Master Plan.

Planner Astorga thought the physical model that was built years ago did a good job showing the scale of the houses around it. For that purpose, the model would be very helpful.

Planner Astorga presented a slide of a visual that was prepared by the applicant and presented in February of 2010. He showed slides of the excavation, the height zones

outlined in the master plan, and the buildings currently being presented. Planner Astorga indicated an area where a layer of excavation was added. He showed the cliffscape rendering which showed the effects of the excavation.

Planner Astorga reviewed the sample elevations. Building E had approximately 100' of massing measured from final grade. The slide also showed the excavation around the periphery of the structure, which measures approximately 26'. On the backside the building is only 10' tall as it returns to grade. Planner Astorga pointed out that all the measurements were identified in the Staff report. He pointed out that these were sample elevations as indicated in the original master plan. Therefore, they were not holding the applicant to those specifically, but they know that the sample elevations matched the Woodruff Plan and match the cross section and the site plan, and they were included as part of the very sheet of the Master Plan, which states, "These following 30 sheets are part of the permitted approval". For that reason, the Staff finds that the applicant was not following the plan because they were not returning to grade as it was shown to the Planning Commission and the City Council in 1986.

Planner Astorga asked if the Planning Commission wanted additional information from the Staff beyond what was already mentioned regarding the scale of other adjoining sites in the Historic District.

Commissioner Thimm referred to the questions on pages 8 and 9 of the Staff report and noted that the first question asked about grade. As he goes through the information and exhibits he keeps looking for a grading plan that shows existing and proposed contours. He noted that Exhibit F gp.1 shows the proposed contours but not the existing contours. He thought it would be helpful to see both the existing and the proposed contours on the same plan.

Commissioner Thimm stated that even though they saw the cliffscapes appearance in the Sketch-up plan, when he looks at cliffscape he thinks of what happened next to the ski jump at Olympic Park. He would not like to see that at Treasure Hill. If there were images of what the cliffscape might be in its finished form, it would help the Commissioners have a better understanding if they end up with a plan that goes that far.

Commissioner Thimm commented on Lowell and Empire and the streetscape. He thought the 3-D Animation proposed by Mr. Sweeney would be helpful, and he appreciated that the applicant had stepped forward with that suggestion. Commissioner Thimm stated that the scale of the buildings and trying to understand the human scale walking along the street, will be important in telling the story of what the City is and what they want it to remain.

Commissioner Thimm stated that at some point it would be extremely helpful to understand the applicant's response to the commentary they have received in these meetings, and whether alternatives were being suggested. He was interested in hearing their responses.

Commissioner Band agreed. She has not been on the Planning Commission that long, but typically when an applicant comes in the Commissioners give feedback and the applicant comes back with revisions. In this case, they have seen the same plan over and over again. She had a good understanding of the project, but she did not have an understanding of whether any parts of it would change based on the feedback from both the Planning Commission and the public.

Commissioner Band referred to a question on page 9 regarding the cliffscapes and whether the Planning Commission has sufficient information and analysis to provide comments on the proposed cut slope mitigations and the longer term operational and maintenance issues throughout the lifespan of the cliffscape. She noted that cliffscapes were not discussed this evening. Planner Astorga replied that the questions in the Staff report were items that he wanted the Commissioners to start thinking about for future meeting. The intent this evening was to focus on excavation as it relates to mass, scale and compatibility. The Staff would do a full analysis on the environmental concerns regarding excavation.

Vice Chair Joyce had read the excavation and cliffscape plans that were submitted earlier. There was a lot of questions in terms of how the dirt gets up the hill, where it is going, and where contaminated soils are going. The plan talks about having space for 50% but it does not detail what is there today, what would happen to the landscape, the depth, and how it would affect the ski run. When they have those discussions he would like someone from Vail to be present. Vice-Chair Joyce found nothing in the plans about blasting, noise mitigation, dust mitigation, and other impacts. They would need much more information than what is available on the website when they have those discussions.

Mr. Sweeney was interested in providing that information. The question was how they wanted to set it up. Mr. McMann was working on the items Commissioner Joyce mentioned, and they could also address pertinent questions like the ones raised by Commissioner Band. He suggested that they identify the scope for the next meeting in terms of which aspects they would like them to address.

Commissioner Band added the water protection zone to the list of items to be mitigated and addressed.

Director Erickson asked if the Planning Commission needed additional information about the distance from property lines for the excavation. Currently they were not showing

property lines except in the site plan exhibits. Commissioner Thimm stated that the grading plan he had requested would provide that information. Director Erickson noted that the applicant showed contours in their exhibits. Commissioner Thimm clarified that he may have been looking at a different exhibit, but what he saw were the proposed contours but not superimposed with different line work or a different color for the existing contours.

The Planning Commission closed the Work Session and moved into the Regular Agenda.

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

1. Treasure Hill Conditional Use Permit, Creole Gulch and Town Lift Mid-station Sites – Sweeney Properties Master Plan (Application PL-08-00370)

Vice-Chair Joyce opened the public hearing on the Treasure Hill CUP.

Charles Stormont, legal counsel representing the group THINC, agreed with the Staff's analysis and questions on pages 8 and 9 of the Staff report. Mr. Stormont referred to the computer renderings on pages 13-33 and 69-109 of the Staff report, and requested that the Planning Commission take those with a grain of salt. They were helpful in understanding the proposed project, but they also demonstrate the tremendous bulk, mass and scale issues that have been discussed at length. Mr. Stormont did not believe the renderings accurately show the significant excavation and cliffscapes being proposed.

In terms of the presentation this evening, Mr. Stormont commented on the applicant's discussion of the proposed excavation within the Woodruff drawings in the original approved MPD relative to what is currently being proposed. He pointed to the concept of visible excavation as opposed to what is underground with the dirt replaced, and asked Planner Astorga to pull up slides 61, 64 and 67. Mr. Stormont noted that slide 61 shows the visible excavation which is part of the current application. One of the concerns that was addressed in his prior comments and in a letter he submitted was that the permanent visible excavation scars and cliffscapes are outside of the express building envelopes set forth in the 1986 Master Plan Development as it was approved. He pointed out that those were actual limitations and not suggestions. Mr. Stormont stated that excavation scars are permanent and therefore violate conditional use criteria 15, which expressly requires consideration of slope retention. If permanent excavation is required, he would suggest that slopes are not being retained. It also requires that the topography of the land be respected. He remarked that permanent excavation suggests that the topography is not being respected and, therefore, it is not appropriate for a proposal of this scale. Mr. Stormont noted that pages 61, 64 and 67 of the Staff report highlights the permanent excavation scars outside of the approved building envelopes. The scars can be viewed

from around Park City, and to his knowledge, nothing has been proposed or could be proposed to mitigate the impact of those permanent and visible excavation scars and cliffscapes. Mr. Stormont stated that as discussed this evening, those permanent excavation scars are not compatible with the surrounding neighborhoods and they do not fit the historic character of Main Street and the area surrounding this project. He believed that criteria 11 was also being violated by the permanently visible excavation scars.

Mr. Stormont commented on some of the applicant's comments. He believed the notion that the Woodruff drawings were not developed enough, that grading plans were not part of the Woodruff drawings, and that excavation between buildings would be required was contradicted by the 1986 Master Plan Development that was approved. Commissioner Joyce had described the issue as whether or not the proposal goes with the flow of the topography. Mr. Stormont asked the Planning Commission to consider page 11 of the 1986 MPD approval under Visibility, which states, "Instead, the tallest building have been tucked into Creole Gulch where topography combines with the densely vegetated mountainside to effectively reduce the buildings visibility". Mr. Stormont believed that was the intent of the original plan; not additional excavation and grading between buildings. He read from page 14 of the same document, "Various conditions supported by staff have been suggested in order to verify the efforts to be taken to minimize the amount of grading necessary and correlated issues identified". He stated that it was talking about mass and scale and tucking everything into the mountain. Mr. Stormont remarked that the additional excavation is not compatible with the intent or the express terms of the original approval.

Mr. Stormont commented on an issue that came up regarding the building height requirements that are contained within the within the Woodruff drawings and the 1986 MPD approval. He suggested that what is permitted by the height restrictions is not exclusive, as discussed in prior meetings. The MPD approval must be followed, as does each of the conditional use criteria that must be considered consistent with the application and when it was filed. It is not one or the other. It has to be both. Mr. Stormont stated that the 2003 LMC is very clear in Criteria 11 and the Standard for Review #2, that compatibility with surrounding structures must exist or must be mitigated.

Mr. Stormont reiterated a previous request to be given as much advance notice as possible when the Historic Design Guidelines would be considered. THINC was preparing for that discussion and their preliminary work suggests that the size of the project will need to be reduced drastically in order to fit within those guidelines. Advance notice would help in their preparation to present their comments efficiently and properly.

Mr. Stormont thanked the Planning Commission for their time and attention to his comments on behalf of THINC. He also appreciated the applicant for sharing so much information. What he saw and heard this evening personally helped him understand some of the issues and the differences that exist.

Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Thimm moved to CONTINUE the Treasure Hill CUP to December 14, 2016. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

2. **7520-7570 Royal Street East- Deer Valley MPD 12th Amendment to combine MPD Lots F, G, and H of the Silver Lake Community, into one MPD Lot, Lot I. No changes to the approved density assigned to these MPD Lots are proposed. (Application PL-16-03155)**
3. **7520-7570 Royals Street East- A 2nd Amendment to the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision combining Lots F, G, and H into one platted lot, Lot I and amended Lot D of the Silver Lake Village No.1 Subdivision to increase the area of skier and pedestrian easement by approximately 749 square. (Application PL-15-02966)**
4. **7520-7570 Royal Street East- Conditional Use Permit for 34 residential units on Lot I of the Amendment to the Re-Subdivision of Lots No. 1 and No. 2 Silver Lake Village No. 1 Subdivision. (Application PL-15-02967)**

The Planning Commission discussed these items simultaneously. Separate actions were taken.

Planner Kirsten Whetstone reported that the three items were related regarding the Deer Valley Master Planned Development 12<sup>th</sup> Amendment. She had made redline corrections to the Findings of Fact and Conditions of Approval for the CUP that were provided to the Planning Commission earlier that day. She would explain the reason for the changes in her presentation.

The first item is the Amendment to combine Lots F, G and H of the Silver Lake community into one lot I. It also includes a slight transfer of density from Lot D to Lot I. Planner Whetstone clarified that it was the Goldener Hirsch, which is on Lot D. The vacant lots F, G and H are used by Deer Valley as a parking lot during the winter.

Planner Whetstone reported that the second item is a plat amendment. The Silver Lake plat has Lots F, G, H and D as separate platted lots as part of the Silver Lake Village plat. It has been amended several times which is why it has a long title. The request is to combine Lots F, G and H, and to also put a bridge easement across Sterling Court, and to modify Lot D slightly so it matches the as-built conditions. Planner Whetstone pointed out that Lot D has a fee simple area and a skier easement area. The applicants were also requesting a minor modification that they would explain to the Planning Commission.

Planner Whetstone noted that the third item was the conditional use permit for the 34 unit equivalents, which is entitlement of the Deer Valley Master Plan. That Deer Valley Master Plan has been in place since the 1980s that identified the unit equivalents for Lots F, G and H for residential. One unit is 2,000 square feet.

Planner Whetstone stated that the Planning Commission had previously reviewed these applications at previous public hearing meetings and in work session. She noted that the Staff report for this meeting included the Findings of Fact, Conclusions of Law and Conditions of Approval from the September 28<sup>th</sup> meeting. If the Planning Commission was comfortable taking action this evening, she had changed the Findings and one Condition to address three changes that have occurred since September. One was a slight change in the parking. She recalled that Commissioner Thimm had noted that the Findings mentioned that 16 spaces under the Goldener Hirsch were being eliminated. Planner Whetstone clarified that it was from a previous plan and it had never been erased. The second change was the reconciliation of the commercial unit equivalents between the Master Plan plat and the existing conditions, which were memorialized in the Condominium Plat called the Golden Deer. The biggest issue at the last meeting was the request for a setback exception from Sterling Court. Planner Whetstone stated that the applicants modified the building slightly to meet the 15' setback along Sterling Court. That change was reflected in the Findings. There was no change in unit equivalents or square footages.

Planner Whetstone believed the applicant would be comfortable continuing the CUP if they Planning Commission was comfortable taking action on the MPD and the plat amendment.

Planner Whetstone reported that she received a letter earlier that day as public input from William Natbony, which was provided to the Planning Commission. She has been in contact with Mr. Natbony since early in the process. However, Mr. Natbony claimed that he did not receive a notice letter for the September 28<sup>th</sup> public hearing. Planner Whetstone clarified that the address on his letter was the same address on the noticing list. The Staff had sent letters for the September 28<sup>th</sup> meeting, and she was unsure why he had not received it. Mr. Natbony had contacted her to see if it was on the October 26<sup>th</sup> agenda and she informed him that it had been continued to November 9<sup>th</sup>.

Planner Whetstone stated that one of the two primary issues raised in Mr. Natbony's letter was the safety on Sterling Court. He had the same concerns expressed by another resident at Sterling Court at the last meeting; however, that gentleman has since said he was satisfied with the traffic study and the City Engineer's memo.

Planner Whetstone remarked that the second issue raised by Mr. Natbony was calling it a residential street. She noted that Matt Cassel, the City Engineer, clarified that it has never been identified as a residential street. However, he used the residential nature of these units to get a trip generation for the units. Mr. Cassel counted it as though it were residential single family, which has a trip generation of eight to ten trips per day. These units are nightly rental and at certain times the trips may be that high or it may be reduced to half.

Planner Whetstone stated that in his letter, Mr. Natbony also expressed a preference for access on to Royal Street as opposed to putting all of the congestion on to Sterling Court. She remarked that the City Engineer mentioned that Royal Street is a residential collector street, with a fire station across the street, a parking garage with 300 parking stalls, a bus line, and other reasons why he requested that access be taken off of Sterling Court. She noted that the applicant built the entire project based on that direction.

Planner Whetstone noted that the final issue raised in Mr. Natbony's letter is what he calls the entertainment area on the bridge. He had concern as to whether those impacts could be mitigated if there was commercial activity on that bridge in front of his unit. She believed the applicant would address that concern this evening.

Planner Whetstone clarified that the proposal did not include any commercial uses or support commercial in the new building. It will have support meeting space.

Steve Issowits with Deer Valley Resort spoke on the first item, which was the MPD Amendment. He stated that there were no changes to the MPD Amendment, other than footnote clarifications that were requested by the City in the Commercial Exhibit 2.

Mr. Issowits explained that previously there were three separate lots, F, G and H, that were proposed for the site. The applicant had come up with what he believed was a great plan to more efficiently use the space, create a more efficient garage, and improve circulation for pedestrians. Mr. Issowits remarked that currently the conditions are not the safest with the existing surface lot because pedestrians and cars are able to exit anywhere they wish. He thought the plan proposed by the applicant would improve the area.

Mr. Issowits pointed out that the alternative would be three separate projects by potentially three separate developers constructed at three different times. From an MPD standpoint Deer Valley Resort was in favor of the changes. Mr. Issowits requested that the Planning Commission consider amending the MPD to reflect what the applicant intends to build.

Vice-Chair Joyce stated that his primary concern was the commercial piece and taking from Building I to account for something in Building D. He could understand if they were combining Lots D, F G and H into a single lot, and create the support commercial from that facility. However, when there are two separate plats, he wanted to know how they would borrow support commercial for one to account for another without them being a single facility. He understood they were connected by a bridge, but from a plat standpoint they were still separate.

City Attorney Mark Harrington understood that a specific provision in the Deer Valley MPD allows this to be considered. He thought the question was appropriate, but the provision was asserted that allows the transfer. However, it would have to be reconciled with the actual definition and use of the support commercial function. Mr. Harrington believed the request still meets the definition for the entirety of the project that it was being applied to. He pointed out that there was room for interpretation in terms of whether that intent could be met depending on the individual facts being proposed.

Vice-Chair Joyce understood that shared commercial spaces transfer from one to another, which would be using support commercial from the 5% applied to what would become Lot I, and that could be transferred over to Lot D. Secondly, the support commercial term was applicable to what was occurring in Lot D. Mr. Harrington replied that he was correct on both issues.

Vice-Chair Joyce requested an explanation as to why it all works. Ms. Issowits provided a background on the history and why this came up. He explained that in the 7<sup>th</sup> Amended MPD, in those versions and prior, the commercial for Silver Lake Village was not broken out by building. Subsequently, going into the 8<sup>th</sup> Amended, a note was included from there and forward, identifying where each of those commercial spaces were. When Planner Whetstone was looking at the plats for the original Golden Deer, it listed a certain square footage which did not exactly agree with what was shown on the MPD. He did some research and found a letter and a reconciliation from Bob Wells to Planner Nora Seltenrich and Patrick Putt, Planning Director at the time, dated 1997. It showed the 2,062 square feet from the MPD, as well as 947 square feet of 5% support commercial, which totaled 3,009 square feet. Mr. Issowits believed the 3221 square feet on the plat, minus the 3009 square feet on the approvals and listed on the schedule, was a difference of 212 square feet, which they determined was circulation and residential accessory use as listed on page 121 of the Staff report.

Mr. Issowits stated that the offer by the applicant to take square footage of support space from one lot and it for another was an attempt to bridge any gaps that may have existed or that the Planning Commission felt might still exist. Regarding the question of whether it is allowed, Planner Whetstone noted that it was one of the amendments of the Deer Valley MPD.

Chris Conabee, representing the applicant, explained that the Goldener Hirsch has 3,494 commercial square feet comprised of a gift shop and a restaurant, which is currently the plat. The 12<sup>th</sup> Amended MPD currently before the Planning Commission has 2,617 square feet. Therefore, the existing plat and the existing MPD do not match. Mr. Conabee stated that there is an entitlement on Lot I that allows them to build 4,000 square feet of commercial. They were offering the difference to clear up the discrepancy between the plat and the MPD. Mr. Conabee clarified that they were not trying to add anything new, the simple intent was to clean up the discrepancy between the plat and the existing MPD that was caused 15 or 20 years ago. Everyone has done the research, but no one could find why there was a discrepancy in the numbers. Mr. Conabee stated that there is 4,000 square feet that the applicant does not intend to use, and it seemed like an eloquent solution to use it to solve the problem.

Vice-Chair Joyce understood the explanation. However, from a legal standpoint, he wanted to know how the transfer would get recorded since Lot I would no longer have 4,000 square feet.

City Attorney Harrington thought they needed to look at the proposed redlines carefully because he was still seeing inconsistencies between using the commercial versus no commercial is used. If they are using the more intensive use they can expect a strong recommendation from Staff to categorize as that so it is clear that the square footage is gone from Lot I, and not a make up for the over allocation of the other defined used being support commercial. Mr. Harrington stated that even in the proposed redlines there were still inconsistencies as proposed, and that needed to be made clear to avoid another lot scenario. Mr. Harrington pointed out that they would amend the Deer Valley MPD and amend the plat and carry it forward. To this point it has all been consistent. It is rare to have this degree of an anomaly and it would be prudent to make sure they clearly understand how it was being resolved.

Mr. Conabee wanted the Commissioners to understand that this problem would exist with or without their application. They have a hotel with a plat that has 3,493 square feet platted, and an MPD with 2,617 square feet. If they had never come before the Planning Commission with this proposal, the discrepancy would continue to exist.

Vice-Chair Joyce opened the public hearing on the MPD, the Plat Amendment and the CUP.

There were no comments.

Vice-Chair Joyce closed the public hearing.

Commissioner Phillips believed all the questions from the last meeting had been answered, and the requests made sense.

Commissioner Band stated that she was not at the last meeting; however, in reading through the minutes she thought there appeared to be concern over the parking that was being eliminated. Commissioner Band pointed out that the parking was being allowed on private property. She did not believe the loss of parking should be a consideration in this application. Commissioner Band was comfortable with the requests as proposed.

Commissioner Thimm noted that at the last meeting they talked about lane widths. He was unsure whether the plan was changed to address those concerns. Commissioner Thimm recalled that 10' lanes were proposed. Fehr and Peers, the traffic consultant, walked the Planning Commission through the study, but he still had concerns. He read from the Fehr and Peers report, "Street lanes for moving traffic preferably should be at least 10' wide. Where practical they should be 11' wide". Commissioner Thimm stated that 10 feet is a narrow lane and he wanted to know why it was not practical to make them 11' wide.

Mr. Conabee replied that they were not proposing to change the road as it currently exists. It is currently rolled gutter to rolled gutter; and both Fehr and Peers and the City Engineer have deemed the road to be safe by both state and federal standards. He understood that when a neighbor does not like their views disturbed, as in the case of Mr. Stein at the last meeting, the immediate knee jerk reaction is to say that the road is not safe. When they showed Mr. Stein the traffic study and took him down the road, he and his attorney have indicated that they are now satisfied with the response they were given and would not pursue it further.

Mr. Conabee noted that the concerns expressed in Mr. Natbony's letter related to the safety of the road, which is not the width of the road. The width of the road has been deemed safe, and its original platting accounted for the density and the massing. Mr. Conabee pointed out that they were leaving 4,000 square feet of commercial square footage and the associated traffic out of the project. Mr. Conabee stated that it is a 20' wide road with two 10' wide lanes and 2' of rolled gutter on either side. He was willing to give a presentation showing how traffic moves in and out, and how they had taken

additional steps to move traffic for the hotel off of the road. He thought it would help alleviate some of their concerns.

Vice-Chair Joyce understood that the applicant had revised the plan to meet the 15' setback requirement. He wanted to know if they moved the building back or if they eliminated the overhang. John Shirley, the project architect stated that the building was modified to fit within the 15' setback requirement. At street level the building is actually set back at 20' in an effort to keep it wider and more pedestrian orientated. There is still an overhang but it is within the 15' setback.

Vice-Chair Joyce stated that his initial concern was with the building footprint, particularly up Royal Street. He spent time walking around up there and he believed that flowing with the curve appears to work fine and does not disturb anything else. In some cases, he thought it actually fixed some problems. He was concerned that it might block views in some places but he did not see that occurring.

Commissioner Joyce stated that because the commercial affects the plat and the MPD it was important to make sure the redlines provided this evening were correct, and that the Planning Commission had sufficient time to read the letter from Mr. Natbony to make sure his issues were addressed.

Mr. Conabee thought it was unfair to the applicant when someone sends a letter the day before a Planning Commission meeting and he receives it at 2 o'clock the day of the meeting. If they allow that practice to hold up the process, it would never stop. Mr. Conabee stated that he had evidence on his computer of ample correspondence and communication with Mr. Natbony starting on May 24<sup>th</sup>. A series of 24 emails show safety diagrams, sidewalk diagrams, point of view of bridges, utilization of bridge, and distance from bridges. Mr. Natbony has been well-informed. He thought the Planning Commission should consider the number of people who have been notified of this project and the effort that has gone into public meetings. To have one person in a duplicative manner write that they have not been contacted or is confused is not only insulting to the Planning Commission but also to the applicant. Mr. Conabee stated that he works very hard to make sure people are happy.

Vice-Chair Joyce agreed that the Commissioners have seen evidence of the applicant's efforts. If the letter was the only issue they would be willing to move ahead with a vote. However, the Findings of Fact and Conditions of Approval were in a redline format and the City Attorney had indicated that there were still some inconsistencies.

Mr. Conabee believed the Findings and Conditions were in their correct form for the MPD. The redlines only applied to the CUP.

Commissioner Joyce still had questions on how the commercial piece gets applied across the MPD and the Plat Amendment. It was critical that they get it right. Commissioner Joyce suggested that it could be continued to the next agenda for a vote and handled very quickly.

Mr. Issowits commented on the MPD and the question related to the commercial square footage. He noted that footnotes 14 and 15 on Exhibit 2 on page 141 of the Staff report did not have any redlines. Mr. Issowits stated that Planner Whetstone had written the footnote to include both Lots D and I, and he thought that specifically addressed the square footage question.

Planner Whetstone stated that the other footnotes had to do with the fact that the requirements of the MPD were changed. She pointed out that it was the requirements for the Historic Mine Waste, as well as compliance with the soils ordinance. The Staff asked Deer Valley to include it as a footnote for consistency with the current criteria in LMC Chapter 6.

Vice-Chair Joyce remarked that nothing in the CUP redlines match the transfer of .4215 UEs from Lot D to Lot I. He was looking at different square footage numbers and nothing appeared to be consistent. Vice-Chair Joyce was not comfortable approving the MPD until they were ready to approve the CUP.

Planner Whetstone noted that page 140 of the current Staff report and had also been included in the September 28<sup>th</sup> Staff report and it was exactly the same. Silver Lake Lot C is now 5.5785, 20 units. Note 1 says they are using the formula. Silver Lake F, G and I now go to zero. Lot I goes to 34.4215. Planner Whetstone reiterated that the numbers were consistent from the September Staff report. Vice-Chair Joyce was comfortable with the UEs for moving over the residential. His issue related to the uncertainties of the commercial. They need to make sure that whatever they put in the CUP matches what they put in the MPD and the plat amendment.

Planner Whetstone stated that per the Land Management Code, in the RD zone all commercial is support commercial. She pointed out that the 2062 square feet for Goldener Hirsch Inn was commercial. However, the language in the LMC allows an additional 5% for support commercial. Planner Whetstone noted that Goldener Hirsch has a restaurant, a gift shop and a kitchen. The plat says that they have 3,493 square feet of commercial. Planner Whetstone remarked that it is all support commercial, and she wanted to know how that could be remedied. They need to look at the Code language to resolve it.

Mr. Conabee stated that the City has gone through a process where an overage of 876 square feet has been platted. He asked what they could do as an applicant to correct a mistake that they did not make. Director Erickson replied that once the language is cleaned up they would be following the correct process, which is modifying the Deer Valley MPD and modifying the plat to be consistent with the MPD. He believed the key was making sure the language was correct in the preceding documents.

City Attorney Harrington believed the numbers were fine and the intent was clear. However, it needed to be parsed out; otherwise someone else could grab the additional commercial if the numbers are not reconciled. Mr. Harrington was not convinced that the use was consistent under either term. He thought the uses need to be assigned per the available square footage and confirmed in the three documents to be consistent. The Staff would do that and bring it back.

Vice-Chair Joyce stated that if there was extra square footage for circulation that should not have been included, it would nice to clean that up at the same time.

Mr. Conabee clarified that their entitlement allows them to build 12,000 square feet of residential. They built 11,104 and the discrepancy is 896 square feet. They were over 876 square feet in commercial. He was unsure who made the decision but he questioned the numbers. Vice-Chair Joyce stated that he would be more comfortable permanently moving commercial from the building they were attaching to as opposed to trying to convert residential to commercial. Mr. Conabee agreed and he appreciated the direction.

Director Erickson noted that there was time to schedule these three items on the agenda for the November 30<sup>th</sup> meeting. Planner Whetstone offered to come back with the analysis of the uses and reconcile it for the Planning Commission.

Mr. Issowits asked if they anticipated any language changes to the MPD application. Planner Whetstone replied that the Staff report would not change but the Staff would need to look at the commercial versus the additional support commercial and reconcile it with the Master Plan. Mr. Harrington clarified that the Staff would be looking to reconcile Footnotes 5 and 6.

**MOTION:** Commissioner Band moved to CONTINUE 7520-7570 Royal Street East – Deer Valley MPD 12<sup>th</sup> Amendment to November 30, 2016. Commissioner Thimm seconded the motion.

**VOTE:** The motion passed unanimously.

MOTION: Commissioner Band moved to CONTINUE 7520-7570 Royal Street East – A 2<sup>nd</sup> Amendment to the re-subdivision of Lots 1 and 2 in Silver Lake Village be continued to November 30, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Band moved to CONTINUE 7520-7570 Royal Street East – CUP to November 30, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Mr. Conabee wanted the Planning Commission to understand that in spite of his expressed frustration he appreciated the efforts of the Commissioners and the Staff, particularly Planner Whetstone, who has worked very hard on their applications.

5. **2636 and 2644 Aspen Springs Drive – Plat Amendment to shift the common lot line between Ranch Lot 3 and Lot 46 of the Aspen Springs Ranch Subdivision Phase II.** (Application PL-16-03313)

Planner Whetstone reviewed the request to amend a lot line between Ranch Lot 3, which is a large lot in Aspen Spring, and Lot 46 which is a smaller lot to the west. The properties are under two separate LLCs but the same people own both lots and represent the LLCs.

Planner Whetstone stated that when the house and the barn were built on the Ranch lot, the driveway was built on Lot 46. The applicant was requesting to move the lot line that cuts past the driveway to the west approximately 50 feet. Lot 46 would become slightly smaller and Ranch Lot 3 would become slightly larger. They have been working with all the utilities and there are no known utilities in that lot line. There are utilities on the west property line but those would not be affected

Planner Whetstone noted that Aspen Springs has LOD and maximum house size, but in looking at the original plat the requested plat amendment would still be within the range of the lots within the subdivision. Therefore, there were no changes proposed to the LOD or the maximum house size. However, the Staff requested that they put the table on the plat to keep it specific to this application.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council to approve the Second Amended Aspen Springs Ranch Subdivision Phase II, according to the Findings of Fact, Conclusions of Law and Conditions of Approval in the draft ordinance.

Vice-Chair Joyce opened the public hearing.

There were no comments.

Vice-Chair Joyce closed the public hearing.

Commissioner Phillips believed there was good cause for this plat amendment because it resolves an existing encroachment.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for the Second Amended Aspen Springs Ranch Subdivision, Phase II according to the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 2636 and 2644 Aspen Springs Drive

1. The property is located at 2636 and 2644 Aspen Springs Drive in the Single Family (SF) District and consists of Ranch Lot 3 and Lot 46 of the Aspen Springs Ranch Subdivision Phase II. These lots are commonly owned.
2. The property is subject to conditions of approval and applicable plat notes of the Aspen Springs Ranch Subdivision Phase II plat approved by the City Council on May 28, 1992 and recorded at Summit County on June 26, 1992.
3. There was one previous amendment to the Phase II plat in 1995 amending Ranch Lot 4 and a lot line adjustment in 2014 amending the lot line between Lots 66 and 67. Both plats were recorded at Summit County, in January of 1996 and October 2014, respectively.
4. Lots 3 and 46 are recognized by Summit County as Parcel ASR-II-R-3 and Parcel ASR-II-46 (Tax ID).
5. A single family house and associated barn are located on Ranch Lot 3. Lot 46 is vacant.
6. A fence and a driveway that provides access to Lot 3 were constructed partially on Lot 46.
7. The owner of the two lots desires to shift the common lot line between Ranch Lot 3

and Lot 46 approximately fifty feet (50') to the west to resolve the encroachment of the fence and driveway for Ranch Lot 3 that is partially on Lot 46.

8. Lot 3 increases by 0.280 acres from 17.353 acres to 17.633 acres.

9. Lot 46 decreases by 0.280 acres from 1.857 acres to 1.577 acres.

10. No remnant lots or parcels are created.

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

12. Ranch Lots in the Aspen Springs Subdivision range in area from 13.611 acres to 22.445 acres.

13. Non-ranch Lots in the Aspen Springs Subdivision range in area from 1.00 acres to 56.945 acres.

14. Aspen Springs Ranch Subdivision Phase II identifies maximum limits of disturbance (LOD) and maximum building floor area (FA) for each lot. Lot 3 has a maximum LOD of 50,000 sf and maximum FA of 15,000 sf. Lot 46 has a maximum LOD of 12,000 sf and a maximum FA of 8,250.

15. No changes to the maximum limits of disturbance or maximum building floor area are proposed as the existing limits of disturbance and floor area are within the range for lots of similar or smaller area.

16. All applicable requirements of Land Management Code Section 15-2.11 (SF District) apply.

17. Single-family dwellings are an allowed use in the Single Family (SF) District and barns are permitted per the Aspen Springs Ranch Subdivision Phase II when located within platted barn limits of disturbance (LOD) areas.

18. There is not a minimum or maximum lot width identified in the SF District. Access to the property is from Aspen Springs Drive, a public street.

19. Utility easements recorded on the Aspen Springs Ranch Subdivision Phase II plat are required to be shown on the amended plat, including 10' wide non-exclusive utility easements along the front lot lines and relocated 5' wide non-exclusive utility easements along the side lot lines.

20. Public utility easements are indicated on the amended lots, consistent with existing plat notes (10' wide non-exclusive PUE (public utility easement) along all front lot lines, 5' wide non-exclusive PUE and drainage easements along all side lot lines).

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

22. An existing dual meter box is located on the current shared property line. The Water Department requests a condition of approval that prior to plat recordation, a new dual meter box at the new property line shall be installed and the old dual meter box shall be abandoned, along with the existing service, at the main.

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

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

#### Conclusions of Law – 2636 and 2644 Aspen Spring Drive

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Land Management Code and the Aspen Springs Ranch Phase II subdivision plat and plat notes.
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 – 2636 and 2644 Aspen Springs Drive

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 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 written request for an extension is

submitted to the City prior to the expiration date and the City Council grants an extension.

3. A note shall be included on the plat indicating that all applicable conditions of approval and plat notes of the original Aspen Springs Ranch Subdivision Phase II continue to apply.

4. A table showing Lots 3 and 46, the lot area, maximum Limits of Disturbance (LOD), and maximum allowable building floor area for each lot, shall be included on the amended plat.

5. Utility structures such as ground sleeves and transformers and other dry utility boxes must be located on the lots.

6. Non-exclusive public utility easements (PUE) shall be indicated on the plat per the Aspen Springs Ranch Subdivision Phase II plat with 10' wide easements across the front lot line and 5' wide easements, to include drainage easements, along each side lot line.

7. A financial security to guarantee for the installation of any required public improvements is required prior to plat recordation in a form approved by the City Attorney and in an amount approved by the City Engineer.

8. Prior to plat recordation, an existing water valve for Lot 3 shall be relocated to Lot 3 and a separate water valve for Lot 46 shall be installed per requirements of the City's Water Department.

9. A ten foot (10') wide public snow storage easement is required along Aspen Springs Drive.

10. A note shall be added to the plat requiring residential fire sprinklers for new construction as stipulated by the Chief Building Official at the time of review of any building permit on these lots.

11. Prior to plat recordation, letters of approval from utility providers (SBWRD, City Water Department, Questar, Rocky Mountain Power, and communications entities) shall be submitted indicating approval of utility easements associated with the new lot lines and public utility easement locations.

12. Prior to plat recordation, a new dual meter box at the new common property line shall be installed and the old dual meter box shall be abandoned, along with the

existing service, at the main.

6. **638 Park Avenue- Conditional Use Permit for new construction of a 3,785 sf private event facility to be located on the second level of the new addition to the historic Kimball Garage. (Application PL-16-03313)**

Planner Anya Grahn reviewed the CUP application for the Historic Kimball garage at 638 Park Avenue. The applicant was requesting the CUP in order to facilitate a private event facility in a new addition.

Planner Grahn reported that the historic building would be rehabbed to create a commercial space on the main and lower levels, and there would be a new addition to the east along Main Street containing commercial space. The private event facility is proposed to be on the top floor of that commercial space. Depending on the grade, sometimes that is the second floor and sometimes it is the third floor of the building.

Planner Grahn stated that the applicant was proposing to remove one of the barrel vaulted roof forms in order to accommodate a new rooftop terrace. She noted that the HDDR approving the removal of this portion of the roof was appealed by the Park City Historical Society and Museum. However, the Board of Adjustment denied the appeal and upheld the Staff determination. The applicant was proposing 3,785 square feet of event space accessing a 477 square foot outdoor balcony, as well as the 2,530 square foot rooftop terrace.

Planner Grahn pointed out that prior the zone change this building was part of the Historic Commercial Business District, and the Kimball had paid into the China Bridge study as most of Main Street has done. It covers their parking up to a Floor Area Ratio of 1.5. However, with the new addition the FAR would only be 1.45, which is below the requirement.

The Staff found that the applicant meets all the criteria for the CUP application with several conditions of approval. One states that should any of the events go beyond what is dictated by the CUP, the applicant will apply for a special events license. Another condition requires the utility plan to be finalized at the time of the building permit to ensure that it is screened and mitigated. Any temporary structures, such as a tent, would require an Administrative CUP. In order to reduce the visibility of the deck, and the basis of the BOA determination, umbrellas, heaters or other items that would rise above the parapet and cause the deck to be visible could not be stored on the deck. They could be up during the time of the event but not stored there permanently. In one year's time, should the Planning Department receive any complaints regarding lighting, glare, traffic, etc., the Staff would

review the complaints, and if necessary, the Planning Commission could re-review the CUP.

Planner Grahn had received public input from the Museum and she had provided copies to the Planning Commission.

Tony Tyler, the applicant, believed the request was straightforward. The Kimball has been used on and off as an event center for the last 40 years, and this proposal would actually reduce the impact of the event space in this particular location. It would also move it off of Main Street to the second floor, which is another benefit. Mr. Tyler stated that they have been working with the Staff to help address conflicts and conditions and he was very comfortable with the conditions of approval as outlined.

Commissioner Campbell was unclear on the mechanism for bringing the CUP back to the Planning Commission based on complaints. When conditions of approval are placed on a project he wanted to know who they were enforced. Director Erickson stated that it was a slight variant on the conditions of approval. If the Planning Department receives complains, the condition of approval affirmatively states that the Staff may bring the CUP back to the Planning Commission. The Planning Commission can review the complaints, conduct another public hearing, and modify the conditions of approval to make sure it is mitigating according to the criteria.

Commissioner Campbell asked City Attorney Harrington if that could be done legally. Mr. Harrington stated that it was legal; however, he preferred to have the review criteria linked to a standard in terms of why it was coming back to the Planning Commission as opposed to a free for all comeback. Otherwise, it is strictly complaint based rather than standard based. Mr. Harrington pointed out that the Planning Commission could not make an applicant tear down a design, but they could add additional conditions to mitigate whatever the reason for the re-review. He stated that a one-year review would not pertain to all conditional use permits. A use is typically allowed as long as the impacts can be mitigated. The purpose of the review is to determine whether additional conditions are necessary to mitigate the impact, but not to take away the use. Design issues would have already been ruled on in the original process and would be part of the re-review.

Vice-Chair Joyce stated that for this particular application they were talking about mitigating noise, not storing items that would project above the roof line, etc. He noted that enforcement in Park City is complaint based and the Planning Commission has had many discussions regarding that issue. Mr. Harrington suggested that they distinguish enforcement from ongoing monitoring. This would impose an ongoing monitoring condition to make sure an issue is mitigated, which is different from compliance.

Commissioner Campbell preferred to leave out conditions rather than add conditions that are never followed-up. Director Erickson pointed out that the condition for this application actually has a one-year follow-up review by Staff. If approved, the Staff would be directing the Staff to follow-up after one year of operation to see if there were any issues. Director Erickson clarified that the condition was put in because this would be a second floor deck instead of the existing ground level deck. The Board of Adjustment found that the deck was not particularly visible from the street level. Based on the condition, in one year the Staff would check back to see if everything went smoothly. If they find any issues they could bring it back to the Planning Commission for additional mitigation.

City Attorney Harrington recommended amending the condition to read, "Will review any sustained complaints regarding noise violations, or unreasonable glare, light and traffic".

Vice-Chair Joyce opened the public hearing.

Sandra Morrison with the Park City Historical Society had sent a letter to the Planning Commission stating that the conditional use permit application should not be approved unless the Planning Commission concludes that the application complies with all the requirements of the Land Management Code. Ms. Morrison pointed out that the Historic District Design Guidelines, which are mandatory, says to maintain the original roof form. The Kimball garage is a Landmark structure in the Historic Sites Inventory and it is one of the most important and distinctive historic buildings in the Historic District. Ms. Morrison encouraged the Planning Commission to make every attempt possible to maintain and preserve the historic buildings. That was the purpose of the Historic Design Guidelines, and why the Guidelines say that Landmark structures should be held to the strictest interpretation. Ms. Morrison could not understand how the Board of Adjustment read, "maintain the original roof form", and still decide that half of the barrel vault could be removed. She pointed out that they were losing half of the historic roof to add 2,500 square feet of rooftop deck for events. In addition, they would be allowed to put up a tent for 70 days. For the entire winter a tent will be sitting on top of the historic Kimball garage and visible from the street and many parts of town.

Ms. Morrison requested that the Planning Commission expand Condition #15 to prohibit having a 2,500 square foot white tent on top of a historic structure after half of the roof is demolished to accommodate it.

Jim Tedford, representing Preserve Historic Main Street, stated that this group has appeared before the Planning Commission many times over the last four years. Mr. Tedford remarked that the current plan for the Kimball garage is the best plan they have seen so far, and he believed it was a good plan overall. However, his objection was the demolition of one barrel vault roof. He thought the words were clear in the Historic District

Design Guideline B1.1 “Maintain the original roof form.” Mr. Tedford thought the direction was black and white. He could not understand how the Planning Department and the Board of Adjustment could interpret it any other way. In his opinion, “Maintain the original roof form” was very, very clear. If that could be interpreted any other way, the Historic District Design Guideline is meaningless. He did not believe it was open for interpretation. Mr. Tedford thought the terrace portion of the CUP should be denied to save the one barrel vault roof because it is clearly against the Historic Design Guideline B1.1.

Hope Melville, a Park Avenue resident, had issues as to whether the requirements of the LMC were being met. She noted that the Section 15-11-5(i) of the Code requires that any material deconstruction of parts of a historic structure must be approved by the Historic Preservation Board. Ms. Melville could find nothing in the Staff report indicating that the HPB had approved destruction of one of the barrel roofs of the Kimball garage to accommodate the proposal for an events space on the outdoor roof deck. Ms. Melville asked if the provision in Section 15-11-5(i) had been met, and whether the HPB had approved the deconstruction.

Planner Grahn replied that the applicant was not required to go through the HPB deconstruction process because they were vested prior to that becoming part of the Land Management Code.

Vice-Chair Joyce clarified that the process of what goes through the HPB and using the BOA as an appeal body had recently changed. Planner Grahn stated that the change was approved by the City Council in December 2015.

Sanford Melville, a Park Avenue resident, stated that he is a full-time resident of Old Town and he lives a few blocks from the Kimball garage. He noted that the Staff report states that the proposed space will accommodate 480 people. Mr. Melville was certain that he and all of his neighbors would be hearing the noise from the events held at this facility, and their right to the quiet enjoyment of their homes will be negatively impacted. He noted that the Staff report indicates that the anticipated hours would be 8:00 a.m. until midnight, and outdoor speakers will be allowed from 11:00 a.m. to 10:00 p.m. The allowed number of days per year was unclear. Mr. Melville remarked that it was impossible to mitigate the impacts of the noise level possible from this deck facility. He pointed out that sound travels uphill. Therefore, it would not only affect those who live near the Kimball, but the noise level would also impact the residents on Rossi Hill, April Mountain, and the Aerie.

Mr. Melville stated that some people would tell him that if he lives in Old Town he should expect noise. However, one reason why he lives in Old Town is to be able to walk outside his house and participate in all of the parades and special events. He is at ground zero for special events, but it is part of the vibrancy of Old Town and he loves being part of it. Mr.

Melville emphasized that the difference with the Kimball is that these will be private events on a roof top, which is very different from an event open to the public. Mr. Melville was concerned that the applicant was asking the residents of the community to sacrifice their quality of life for the exclusive benefit of private individuals. He urged the Planning Commission to closely look at this CUP with that in mind.

Angela Mosceta was struck by the mention of the tented outdoor space. She thought this proposal was in direct conflict with the third critical City Council priority that includes energy conservation, energy and carbon reduction and green building incentives. She noted that during a recent City Council meeting the Mayor made a very concise point that it would be heating the outdoors.

Vice-Chair Joyce closed the public hearing.

Commissioner Campbell noted that if they add a condition of approval about a one-year review and all of the neighbors who expressed valid complaints this evening come back with repeated and sustained complaints, the applicant would have to come back to the Planning Commission. He wanted clarification on the next step if after a review the Planning Commission votes that a particular condition was not met.

City Attorney Harrington replied that these types of re-review conditions are difficult, and he personally disfavors them unless they are quantitative and simple. If the intent is to fully retain the right to revoke the use altogether, they should affirmatively state that intent so the applicant could either contest the condition as written or revisit their decision to move forward knowing that their investment is at risk if the CUP can be revoked. Mr. Harrington stated that if revocation is an option, they would need to revise the standards by which it could occur. The standards should be objective, such as specific of number violations, occupancy violations, health/safety violations, or similar type issues. If the list is long, it goes back to the issue of whether or not the use is compatible. Mr. Harrington pointed out that outdoor areas are difficult to enforce because of the cross-over between the private events and additional event capability. He could find nothing in the conditions that would limit the owner from applying for special public events as well.

Commissioner Campbell asked if the Planning Commission could legislate hours when a party is allowed. Mr. Harrington replied that they could if it was tied to a direct impact. It would be hard to go beyond the standard noise ordinance unless there was a specific reason for doing so. He understood that the proposal reduced the maximum occupancy allowed, but CUP approve would be enabling additional private activities without the public review that the Special Event process would entail. Commissioner Campbell understood that that was the objection of most of the neighbors. Mr.

Harrington stated that the Planning Commission could give direction to the Staff to work with the Event Staff and the applicant to try and refine it to at least be incremental with what they could get through the Special Event process.

Commissioner Campbell asked which approach would be easily defensible; ending the event at 7:00 p.m. or prohibiting the tent completely. Mr. Harrington remarked that when the Mayor made the comment that Ms. Mosceta referred to in the public hearing, many agreed with him but he was overruled by a majority of the Council. Therefore, the City would have an existing tent program for two more years.

Planner Grahn clarified that the applicant would not be eligible to apply for that program. She explained that the enclosed balcony program is only for buildings with restaurants on the second level, they would be enclosing the balcony immediately adjacent and the building is non-historic. In this case the enclosure would be over a historic building and it would not be allowed.

Vice-Chair Joyce pointed out that the enclosed balcony program applied to leaving a tent up all winter. This applicant could still erect a 5' x 14' tent without coming in for a CUP. Mr. Harrington stated that based on the current ineligibility for the program, he suggested revising Condition #8 to further restrict that use in case the enclosed balcony program expands, or they apply through a different mechanism. Mr. Harrington stated that they could word it "only as approved through a Tier 3 public hearing special event process with certain limitations".

Craig Elliott, the project architect, stated that his son was in a rock band for a number of years and he had researched the requirements for sound. He pointed out that Park City has a sound ordinance and it is measurable and quantitative. There is also an ordinance regulating days and times of use. He remarked that the conditions of approval make the applicant responsible to meet those requirements. Mr. Elliott stated that there was a measurable quantitative component as part of the approval by nature of the ordinances in place.

Regarding the tents, Mr. Elliott was unsure where 75 days came from because the temporary use permit for tents is a 14-day maximum. Vice-Chair Joyce agreed. It is five times a year for 14 days. The total number of days the tent can be erected is 70 days. Mr. Elliott did not anticipate any reason why the applicant would leave a tent up for 5 times 14 straight days.

Mr. Tyler felt like they were being unfairly targeted. They had followed the City's process and continue to get comments from members of the public regarding issues that are not part of the Conditional Use Permit. Mr. Tyler commented on a long and

arduous process with the Staff that was very productive. He went through the BOA process and the Board made the decision to uphold the Staff's determination; yet as early as 2:00 this afternoon he received a letter raising the same issues that were addressed with the BOA. Mr. Tyler found it challenging to hear continued attacks on a design that has been approved.

Mr. Tyler stated that the intent is to collectively make a development better, and they designed the project to be a benefit to the greater Park City area. He took issue with the comments regarding private events because the Kimball Arts Center used that space for private events all the time. Individual groups were allowed to use the building and the occupant loads far exceeded what he was proposing. Mr. Tyler was struggling to understand the issues surrounding mitigation of the events in this particular location.

Commissioner Campbell clarified that he was not trying to block Mr. Tyler from moving forward with his proposal because it was a great idea. His issue is placing conditions on a project that are either not followed-up on or cannot be enforced. Commissioner Campbell agreed that the Kimball Arts Center had private parties but they were held inside. This proposal moves the events out on the roof and the noise impact would be greater. As a Commissioner, he thought they should either leave it alone or place a condition that can be verified and has teeth. At that point the applicant would need to prove that they have met that condition, and if it was not met, there should be some consequence. Commissioner Campbell was open to hearing suggestions from Mr. Tyler or Mr. Elliott on ways to address it.

Mr. Tyler pointed out that the Kimball had a large open plaza on Main Street that was used for events all the time. Not all of the events were held inside. Events spilled out onto the deck, which was at the Main Street level and a good distance along Main Street. Mr. Tyler was willing to work with the Planning Commission to find a solution that addresses their concerns. He appreciated the fact that they were trying to make it quantitative so there were certain standards to follow.

Mr. Elliott noted that the largest outdoor gathering event space in Old Town was down the street at the bridge and it was very close to residential neighborhoods. He believed the impacts related to the proposal for the Kimball were minor in comparison. Mr. Harrington remarked that there have been residential conflicts with activities on the bridge.

Mr. Harrington suggested another meeting to get more clarity on the operational parameters and the restrictions.

Commissioner Thimm stated that previously the Planning Commission has spent hours talking about ways to create a condition that is enforceable and would have teeth on the other end. He did not believe they would solve that issue this evening, and he did not think it was consistent with past decisions to impose all of that on this particular project. However, he has a strong desire to figure that out and suggested having that discussion to address the issues and come to a conclusion that could be fairly applied to projects throughout.

With regard to the barrel vault, Commissioner Thimm thought the interior of a barrel vault is very cool. Director Erickson clarified that it was actually a bow-string arch and they were taking the frames of the bow-string arches that would be eliminated and use them to reinforce the section of the bow-string arches that would remain. Commissioner Thimm thought it was important to have respect for historic architecture. If this application had come before the Planning Commission on its own merits with nothing else in place, he would have said they could only consider if it had gone through the Board of Adjustment. He pointed out that it has gone through the Board of Adjustment. Therefore, the only topic before them was a conditional use permit for this event facility. In terms of their purview, the Planning Commission needed to honor the decision of the Board of Adjustment.

Commissioner Band agreed with Commissioner Thimm. This has gone through the BOA process and they were only looking at the conditional use permit. Given what has come before them in the past, she believed this was the best plan. It looks great and she liked the idea of having the event space.

Commissioner Band noted that the Planning Commission had just dealt with a tent for the old Talisker Restaurant and they limited it to 3 days instead of 14 days. She thought they should look at doing something similar for this project. Like everyone else, she did not like the idea of seeing a tent sitting on top of the Kimball for 14 days at a time. Commissioner Band suggested that they address that issue in a condition of approval.

Commissioner Phillips pointed out that for tent at the Talisker Restaurant the applicant had requested three days. It was not a time limit imposed by the Planning Commission. Commissioner Band recalled that the applicant asked for a shorter duration with the ability to have it up more often. She thought it was a completely different situation than a tent on top of one of the most visible historic structures on Main Street.

Commissioner Phillips noted that during that meeting with Talisker he made the comment that he personally wished they would never have tents. However, they do allow tents and everyone needs to be treated fairly. Commissioner Phillips agreed with the comments

made by Commissioner Thimm. In looking within their purview, he agreed with the Staff. Commissioner Phillips thanked the public for their comments. Each person is well respected and cares tremendously about the Historic District. He thanked them for their involvement throughout the entire process.

Commissioner Phillips addressed Ms. Morrison's comments regarding the B1.1 Guideline. He stated that the Guideline says to maintain the original roof form, but the language goes on to say "as well as any functional and decorative elements". He sees the roof as being a low file roof with parapet walls, and he questioned whether it was ever a decorative element. He suggested that the BOA may have had that same thought when they made their determination. Mr. Phillips stated that he was at the BOA meeting as the Planning Commission liaison, and he recalled that Mr. Elliott had said that the existing condition of the roofs did not meet the current Code. Therefore, the applicant would have had to do something and he thought reusing the trusses and the material on site was a good idea.

Vice-Chair Joyce had visited the site and walked around the building. When he stayed close to the building he could only see the edge of the roof and the barrel was not visible. However, as he walked up and down the street and drove in from Deer Valley to Heber Avenue, the barrel roofs were obvious. Vice-Chair Joyce was unsure how the Board of Adjustment made the decision they did.

Vice-Chair Joyce thought the Guidelines were clear. He pointed out that the City makes most people jump impossible hurdles to protect historic buildings. The fact that the roof is not strong enough was not a good enough reason. If the applicant had to spend a considerable amount of money to make it strong enough, that would be an issue between the Building Department and the applicant. He did not think it was relevant to the Planning Commission.

Vice-Chair Joyce had read the minutes from the BOA meeting and the Staff report. He asked for a quick synopsis of where the subjectivity came in and how they reached the conclusion that the roof was not visible from certain spots when the Guideline simply says not to change the roof.

Mr. Elliott stated that the Board of Adjustment had a long discussion and went through each individual item. He and Mr. Tyler presented a description of the project and used the National Park Service, three specific historic preservation briefs, as a reference to how they are used. One was gas stations, one was roofs, and he could not recall the third one. Mr. Elliott noted that Guidelines created by the National Park Service are available to help people make decisions about historic structures. When the information was analyzed, their presentation and the discussion with the Planning Staff showed that the roofs were never intended to be seen. The forms were there as a condition of the need to make a span. Mr.

Elliott reiterated that in general, they just used the standards that are applied from the National Park Service. The Board of Adjustment had a long discussion and agreed with what the applicant had presented.

Planner Grahn stated that the Guideline says that the historic roof form must be maintained. However, the guidelines for Main Street buildings talks about allowing roof top additions. Those guidelines talk about whether or not the roof top addition is seen. Planner Grahn noted that there was a discrepancy in the Code and the Staff spent significant time considering it. The decision was not made overnight. In the end they had talked to SHPO, Utah Heritage Foundation, and the City's preservation consultant. The solution was that keeping one barrel vault allows the roof to keep part of its original form. She pointed out that the rooftop terrace is largely invisible, which is good for an addition. The Staff found that the bolstering trusses were not a character defining feature because they were designed to be hidden behind the parapet so they were not visible. Planner Grahn stated that due to the topography of Park City it can be seen. The one on the west side is the most visible, which is the one they plan to maintain.

Mr. Tyler reported that Kirk Huffaker with the Utah Heritage Society had provided a letter stating that the roof form was not critical to maintaining its Landmark status.

Vice-Chair Joyce clarified that the Staff was confident that this change would not affect its Landmark status. Planner Grahn replied that he was correct. She noted that several people were willing to say that it was still eligible for the National Register despite the loss of the one barrel if they need to defend it.

Commissioner Campbell understood that as part of the CUP the Planning Commission was not supposed to be looking at the roof design or the BOA decision. He stated that if they made every applicant go through an arduous process only to overturn the decision at the last minute, no one would do anything on Main Street. Commissioner Campbell remarked that great projects that add to the vibrancy of the area need to be supported. He thought the Planning Commission should focus on the CUP rather than look at the historic design, which has already been ruled on.

Vice-Chair Joyce agreed with Commissioner Campbell about the historic design. However, his comment about encouraging vibrancy was a City Council and Chamber of Commerce issue. Commissioner Campbell agreed, but if the City Council was trying to encourage it, the Planning Commission should not use their platform to discourage it.

Vice-Chair Joyce explained the difference between the events held at the Kimball Art Center and what would occur with this new use. He pointed out that there would be more outdoor activity, it is in an area that is not as acoustically protected, it will occur more

frequently. He assumed there was likely to be more noise issues than what occurred with the old Kimball. Vice-Chair Joyce stated that he dislikes tents in Old Town, even though they are allowed by Code. He believes tents are an issue and the time period a tent can be up bothers him. It is one thing when tents are tucked between buildings, and something completely different when it is on top of the Kimball Arts building.

Vice-Chair Joyce believed this item would be continued and he requested that the applicant come back with what they would be willing to do to help mitigate the impact of a historic building looking like a campground and being loud.

Planner Grahn requested that the Planning Commission continue this to December 14<sup>th</sup> to give the Staff and the applicant time to get the conditions right. Mr. Tyler stated that his challenge was trying to start construction, but the use of the event space would have a major impact on his decision to move forward. He had not anticipated issues with the CUP because the site has historically been used as an event center. Mr. Tyler noted that outside of the noise ordinance and limiting the time frame of the tents on the terrace, he was unsure what else they could offer to mitigate the impacts. In his own interest in trying to make a risk assessment for an expensive investment, it was difficult to have this continued to a much later date. Mr. Tyler pointed out that if he has to delay construction, the building would be dark for another winter. He was trying to understand what he could do to accommodate the concerns that were raised. Mr. Tyler was willing to limit the time frame for keeping the tent up on the deck.

Based on their comments, Director Erickson believed they were down two votes with two members missing; and he was certain that either way they would end up with a split vote. He thought the City Attorney had provided good direction on how to craft the conditions and bring the permitting on the outside portion of the deck closer into alignment with a transparent public process and the ability for the public to provide input more frequently. Director Erickson suggested potential restrictions, such as whether or not to allow music on the deck versus only on the inside; and numbers and sizes of the tent. He explained that he and Planner Grahn had crafted the condition with the intention of not having the tent visible on Heber Avenue.

Director Erickson recommended that the Planning Commission continue this item to December 14<sup>th</sup> when the other two Commissioners would be present.

City Attorney Harrington stated that in an effort to ease the applicant's concern, the Commissioners could indicate in the motion their inclination to approve the CUP with direction to the Staff to refine Conditions of Approval 8 and 15 to address a mitigation plan for the impacts of tents and outdoor event use. Mr. Harrington believed they could craft operational benchmarks that are consistent with the other spaces around this location, and

give the owner the opportunity to exceed those through a public process like everyone else. Mr. Harrington thought that was a better approach than waiting for problems to occur and then regulating backwards.

Commissioner Campbell expressed his frustration with unlimited continuations. He preferred to spend the time crafting the conditions this evening so the applicant could move forward as opposed to putting them off for another month and a half, particularly given the constraints of building this time of year.

Director Erickson stated that part of the operation is occupancy; and the Commissioners could restrict the number of people on the deck. They could also restrict amplified music, or require a Tier 3 special event permit for events in excess of 100 people. They could also restrict the number of days a tent could be up.

Commissioner Band did not favor continuations for the reasons Commissioner Campbell had stated, but she thought there was a benefit to further discussion. Director Erickson had given them great examples and she would like to see a few more.

Vice-Chair Joyce believed the applicant had the support for an event facility. However, some of the Commissioners were a little reluctant about the impact to the neighborhood and the impact to a Landmark building from a historic standpoint. He thought the Planning Commission needed time to work through the issues and the impacts.

Mr. Tyler was comfortable with a continuation and he appreciated the background and the explanation. His goal is to create a great development and be a good asset to the community.

Commissioner Thimm requested that the Staff look at this as a way to create a model or template for a regulation to be considered at a later date that can be consistent and can be enforced in a fair way. The Commissioners concurred.

MOTION: Commissioner Band moved to CONTINUE 638 Park Avenue – Conditional Use Permit for new construction of a private event facility to December 14, 2016. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

- 7. Tram Tower Plat Amendment – Proposal to combine Lot 2 of the National Garage Subdivision, Lot 19 and a portion of Lot 20, Block 6 of the Park City Survey and a portion of Block 1, Snyder’s Addition to Park City (Parcel PC-102), and Lot 2 of the Coalition West Subdivision also known as 664, 672, and**

**668 Woodside in order to redevelop the property, which includes a historic house. (Application PL-16-03193)**

Planner Grahn reviewed the application to combine three different parcels as outlined on page 457 of the Staff report. Parcel 3 is part of the Sweeney MPD and some of the conditions of approval were carried over, specifically the one regarding the house size. Planner Grahn stated that a number of encroachments exist because the property line does not abut Woodside Avenue. There is a space between built Woodside and where the right-of-way begins.

Planner Grahn noted that the Staff had added a number of conditions of approval to mitigate as much as possible on this plat. The maximum house size was carried over set by the Sweeney MPD. All of the conditions of the Sweeney MPD were still in effect. Planner Grahn remarked that they were gaining 10' snow easements along Woodside and Seventh Street. The City Engineer had limited where the access off of Seventh Street could occur due to the poor sight lines. Encroachments would be addressed, and they would hopefully get easements for the historic garage and the historic aerial tramway tower, as well as for the Water Department's water vault. They would also address the encroachments in the Woodside Avenue right-of-way.

Vice-Chair Joyce opened the public hearing.

Sandra Morrison with the Park City Historical Society stated that on half of the lot is one of the historic tram towers and the Friends of the Ski Mountain Mining History Organization has been working hard to maintain and restore the historic mining structures around Park City because they are part of the unique history and heritage. Ms. Morrison had read in the Staff report that this gives the ability to require an easement so the Tram Tower could stay where it exists. She was surprised that there was not already an easement because it was picked up and moved to build Seventh Street. At the time the Historic District Commission require that it go back in alignment. She wanted to make sure that it was included in this plat amendment. She pointed out that if they get the easement they will not have to move it because it is across the property line to build a bigger house.

Vice-Chair Joyce closed the public hearing.

Commissioner Thimm liked the idea of creating the easement. He asked if that was something they needed to do as part of this action. Planner Grahn replied that they typically do easements and encroachment agreements for things like this that straddle a property line. Since they do not know who owns the aerial tramway tower, they felt an easement was the best choice for protecting it.

Director Erickson asked if Planner Grahn had included a condition of approval requiring the easement for the trams tower. Planner Grahn answered yes. City Attorney Harrington pointed out that it was Condition of Approval #5. However, he recommended that they specify preservation easement, and not just an easement for the encroachment.

Vice-Chair Joyce thought Condition #11 was the most humorous example of what they could not enforce. The conditions read, "Access from the property should be from the Woodside south of the aerial tower. If accessed from the section east of the tower, backing out of the drive shall be forbidden". Planner Grahn noted that the condition was written by the City Engineer.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council on the Tram Tower Plat Amendment located at 664, 672 and 698 Woodside Avenue 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.

#### Findings of Fact – Tram Tower Plat Amendment

1. The property is located at 664, 672, and 698 Woodside Avenue.
2. The property consists of all of Lot 2 of the National Garage Subdivision; Lot 19 and a portion of Lot 20, Block 6 of the Park City Survey and a portion of Block 1, Snyder's Addition to Park City; and Lot 2 of the Coalition West Subdivision.
3. The property is in the Historic Residential (HR-1) District with the east half of Lot 2 of the Coalition West Subdivision being zoned Historic Recreation Commercial (HRC).
4. This site is listed on Park City's Historic Sites Inventory (HSI) and is designated as Significant.
5. The Plat Amendment removes two interior lot lines.
6. The proposed Plat Amendment combines the property into one (1) lot measuring 8,728.90 square feet.
7. A single-family dwelling is an allowed use in the District.
8. The minimum lot area for a single-family dwelling is 1,875 square feet in the HR-1

zone. The proposed lots meet the minimum lot area for single-family dwellings.

9. The proposed lot width is width is approximately 171.5 feet along Woodside Avenue and 81 feet along 7th Street; this property has two (2) frontages.

10. The minimum lot width required is twenty-five feet (25'). The proposed lot meets the minimum lot width requirement.

11. Because of the boot-shaped configuration of this lot, the Planning Director has determined the following setbacks: Front and Rear Yard, 10 feet; side yards 5 feet.

12. Ordinance 02-02, which approved the Coalition West Subdivision, included additional restrictions limiting the house size on Lot 2 to 3,500 square feet, including a potential accessory unit, subject to the Historic District Design Guidelines and Sweeney MPD.

13. House size has consistently been interpreted to mean the Gross Residential Floor Area as defined by the Land Management Code.

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

15. The existing historic garage has a footprint of 230 square feet. LMC 15-2.2-3(D) states that Accessory Buildings listed on the HSI that are not expanded, enlarged, or incorporated into the Main Building shall not count in the total Building Footprint of the Lot.

16. The minimum front/rear yard setbacks are 10 feet (10'); the minimum total front/rear yard setbacks are twenty feet (20'). The historic house has a front yard setback of 0 feet; the garage in the front yard encroaches 13 feet into the Woodside right-of-way. The house has a 4 foot rear yard setback.

17. The minimum side yard setbacks are five feet (5'); the minimum total front/rear yard setbacks are 10 feet. The historic garage has a 0 foot setback on the south side yard, and the historic house has a 23 foot setback on the south side yard. The existing historic aerial tramway tower has a 4 foot side yard setback on the north side. The existing historic garage structure does not meet the north side yard setback or the west rear yard setback along Crescent Tram.

18. The historic garage encroaches into the neighboring property at 658 Woodside by approximately 3 feet.

19. On the northwest corner of the property, the historic aerial tramway tower encroaches approximately 19 feet over the west property line of Lot 2 of the Coalition West Subdivision and into the Woodside Avenue right-of-way.

20. There is a water drain pipe and vault constructed in the right-of-way that encroach about 5 feet east of the right-of-way and into Parcel PC-102.

21. There are several improvements in the City right-of-way including two stacked stone retaining walls, wood steps to the historic house, asphalt driveway to the garage, and a fence.

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

#### Conclusions of Law – Tram Tower Plat Amendment

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

#### Conditions of Approval – Tram Tower Plat Amendment

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The property owner shall resolve the encroachment of the stone retaining walls and fence over the front (west) property line into the City Right-of-Way (ROW) by either removing the encroachments or entering into an encroachment agreement with the City Engineer for those improvements that support the historic integrity of the Significant house and/or tramway tower.

4. An encroachment agreement for the historic garage is required with the neighbor at 658 Woodside and the City as the historic garage encroaches over the south property line and the west property line into the City right-of-way.
5. The applicant shall enter into a preservation easement agreement with the City for the historic aerial tramway tower that encroaches approximately 19 feet into the property.
6. The Park City Water Department anticipates that the water pipe and vault will be relocated as part of the redevelopment of the site; the applicant shall be responsible for coordinating the relocation with the Water Department and recording an easement for the vault and water pipe upon completion.
7. 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.
8. Ten foot (10') public snow storage easements shall be granted along the Woodside and 7th Street rights-of-way.
9. All Conditions of Approval for the Sweeney Properties Master Plan, as amended and approved by the City in November 1996 continue to apply in full force and effect. A note shall be added to the plat amendment to this effect.
10. This lot is designated as a single-family lot with up to 3,500 square feet, including a potential accessory unit, subject to the Historic District Design Guidelines and Sweeney MPD as outlined in the Coalition West Subdivision plat.
11. Access to the property shall be from the section of Woodside south of the aerial tower. If accessed from the section east of the tower, backing out of the drive shall be forbidden.
12. A 10-foot wide non-exclusive utility easement along the south edge of 7th Street/Woodside will be required from Park Avenue west to the aerial tower.

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

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