

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
June 13, 2018

COMMISSIONERS IN ATTENDANCE:

Chair Melissa Band, Sarah Hall, John Kenworthy, John Phillips, Mark Sletten, Douglas Thimm

EX OFFICIO: Planning Director, Bruce Erickson; Kirsten Whetstone, Planner; Anya Grahn, Planner; Hannah Tyler, Planner; Francisco Astorga, Planner; Tippe Morlan; Planner, Laura Newberry, Planning Tech; Elizabeth Jackson, Planning Tech; Mark Harrington, City Attorney; Rebecca Ward, Legal Intern

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REGULAR MEETING

ROLL CALL

Chair Band called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Laura Suesser who was excused.

ADOPTION OF MINUTES

May 23, 2018

MOTION: Commissioner Phillips moved to APPROVE the Minutes of May 23, 2018 as written. Commissioner Sletten seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Erickson announced that Commissioner Thimm would be absent for the June 27th and July 11th meetings. He noted that some of the items on the agenda were being continued to July 11th. He asked if the other Commissioners would be present on July 11th to make sure there is a quorum.

Director Erickson remarked that the intent was to only have one meeting in July since the second meeting falls on July 25th, the day after the July 24th holiday. Commissioner Band stated that she would be out of town on July 25th.

Director Erickson reported that the Policy Division of the Transportation Planning was starting up a new transportation master plan. The last time this was done Adam Strachan was on the Transportation Committee representing the Planning Commission. A second Commissioner who also sat on the committee has also left the Planning Commission. Director Erickson asked for two volunteers from the Planning Commission willing to meet five times over the next year. If no one volunteers, it will be noticed on the next agenda and two Commissioners will be appointed.

Chair Band disclosed that she would be recusing herself from the King's Crown item on the agenda.

Commissioner Kenworthy disclosed that he would be recusing himself from the 638 Park Avenue item on the agenda. He also disclosed that regarding Flagstaff, he is a Managing Partner of the LLC that is a landowner to Deer Valley; however, he did not believe it was necessary to recuse himself and it would not affect his decision on that item. Commissioner Kenworthy disclosed that regarding the 115 Sampson item, he had hired Jon DeGray in the past, but it was several years ago and he did not believe he needed to recuse himself.

Commissioner Sletten disclosed that regarding the Twisted Branch Subdivision plat, he is a Talisker member; but this application was being proposed by REDUS and he did not believe he needed to recuse himself.

Commissioner Thimm stated that he would be out-of-the country for the next two meetings.

CONTINUATIONS – Public hearing and continue to date specified.

1. Land Management Code (LMC) Amendment – LMC Amendments regarding Chapter 15-1-21 Notice Matrix to reflect the 30-day appeal period for Historic District Design Reviews. (Application PL-18-03870)

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

MOTION: Commissioner Sletten moved to CONTINUE the LMC Amendments regarding Chapter 15-1-21 to July 11, 2018. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **638 Park Avenue – City Council Remand of a Conditional Use Permit (CUP) for a Private Event Facility Back to Planning Commission for Additional Review. (Application PL-16-03412)**

Commissioner Kenworthy recused himself and left the room.

Planner Anya Grahn reported that in March of 2017 the City Council remanded this appeal for a conditional use permit of a private event space back to the Planning Commission; specifically finding that the CUP had not met the required 16 criteria outlined in the LMC for permitting a CUP. The Planning Commission was being asked to review and take action on the items that the City Council had specifically remanded back.

Planner Grahn stated that in September 2017 the Planning Commission held a work session where the applicant made progress in addressing some of the City Council's concerns, and the Planning Commission provided additional direction on how the impacts could be mitigated. During the work session the Commissioners focused on noise; compatibility of use with the neighboring uses, including residential and commercial areas; loading, traffic and parking; tent space. Planner Grahn noted that the Staff report was organized around those four main points.

Planner Grahn briefly summarized what had transpired at the City Council meeting and comments made by the Planning Commission at the last meeting. The City Council found that there were reasonably anticipated detrimental impacts that could not be substantially mitigated.

Regarding noise, the City Council was concerned that the geographic location of the facility amplified the noise. They were concerned that the neighbors would be burdened with having to report the complaints.

The City Council was unsure that the traffic, loading, and parking demands had been mitigated. There were concerns about the traffic generated by events at the space would exacerbate the already congested intersections of Heber and Park Avenue, as well as Heber and Main Street. There were also concerns that additional parking would be pushed into the residential neighborhoods.

The City Council was also concerned with the impacts of this use on the uphill residential neighborhoods and how it would fit in.

The City Council believed that the tent was counter-intuitive to the Board of Adjustments determination about visual mitigation and obstructions on the deck.

Planner Grahn reported that during the September work session, the Planning Commission requested additional information on how the technology proposed by the applicant would be used to regulate the noise. There were specific concerns about ways to regulate people chatting on the deck, as well as the amplified music. The Planning Commission wanted the applicant to further examine traffic at the congested intersections and to make sure traffic would not block bus traffic. There were concerns about loading and unloading area, parking mitigation strategies, and ride-share parking. There were also concerns that the outdoor event space was not compatible with the adjacent outdoor dining area due to the size and number of occupants. The Planning Commission also wanted to see limitations on the operation of the use in order to mitigate the impacts.

In response to questions regarding the occupancy load, Planner Grahn noted that the applicant has restricted the occupancy load of both the interior and exterior space to a total of 480 people. Of those 480 people, only 140 would be allowed on the deck at one time.

Planner Grahn stated that the Staff had concluded that the proposed mitigation strategies were not specific to the size of the impacts; and that the applicant had not adequately addressed the Planning Commission's concerns as requested. The Staff recommended that the Planning Commission deny this CUP application.

Planner Grahn noted that if the Planning Commission believed there were ways to approve the CUP, the Staff report contained recommended conditions of approval that could be added to further mitigate the impacts. Planner Grahn noted that earlier that day the Police Department had provided a memo with recommendations, and the Commissioners were given copies of that memo this evening.

Planner Grahn reported that she had received a substantial amount of public comment, and the emails and letters were forwarded to the Planning Commission. She also had hard copies of public input that was received after the Staff report was published last week. Public input received from previous public hearings were included in the link.

Planner Grahn commented on phone calls she received from the public expressing concerns regarding noise, occupancy load, traffic mitigation, loading/unloading, etc.

Chair Band wanted to know how phone calls become part of the public record. City Attorney Mark Harrington replied that people can request to have specific input

provided in the Staff report. He also reminded the Commissioners to disclose any individual contacts they may have had with the public, such as phone calls or being stopped on the street or in a store. They are required by Code to disclose the substance of that communication.

Planner Grahn noted that the Findings that were added to the Staff report were only Draft Findings for Denial. The Planning Commission would need to make the final decision and make findings reflective of their determination.

Chair Band asked if there were any other venues with a conditional use that does not have to go through at least an administrative review for each individual use. Director Erickson remarked that it was a difficult question because some have outdoor event permits through the CUP process; but there is a limitation on the number of uses. The one that does not require individual use review is the indoor event space at Park City Live. Chair Band pointed out that it is an indoor use. Director Erickson agreed. Chair Band remarked that the exterior space was the primary issue for the Kimball Event Facility. Director Erickson noted that the CUP application for the Kimball was for the indoor and outdoor use.

Wade Budge, representing the applicant, Columbus Pacific, introduced Tony Tyler who was also representing the applicant. He stated that they have spent a great deal of time with the Staff, the Planning Commission, and other City decision-makers on this project, and he believed the Staff report outlined most of the details.

Mr. Budge stated that the applicant has invested heavily in the community and particularly at the Kimball site. They intended to be frank in their comments this evening, but they were also open to input from the Commissioners and the public this evening in an effort achieve the desired result.

Mr. Budge presented slides showing the Kimball project as it looked last month. He indicated the barrel roof that was preserved through the project design. He thought it was important to keep in mind that as reflected in the General Plan and in the history of the City, this particular part of Main Street is an area where community gathering has traditionally occurred for both local events and for tourism. Mr. Budge believed that if it were not for this project, the Kimball building would probably not be standing today. During construction they found that the deterioration within the building was so severe that it would not have survived the winter of 2017.

Mr. Budge used a slide to show the outdoor deck that was previously approved and already constructed. The objective this evening was to make sure there is agreement about how this conditional use permit could be applied to the site in a way to allow this

use. Mr. Budge noted that dealing with a conditional use permit was not dealing with discretionary approval. Typically, when he comes before the Planning Commission he supports the Staff recommendation because the Staff usually has it right. However, in this case, he believed the Staff report was wrong. He intended to be specific in explaining why he thought it was wrong, and to persuade the Planning Commission to instruct the Staff and applicant to work together on Findings that reflect a favorable final decision. Mr. Budge noted that this decision was previously made by the Planning Commission, reviewed by the City Council on appeal, and remanded back to the Planning Commission. He pointed out that the Planning Commission is the only land use authority in the City, and they are the ones who have the power to approve this CUP.

Mr. Budge remarked that the issue of whether an event space is an appropriate concept or use in the HRC and the Heber Subzone, was decided years ago when the land use code identified an event center as an appropriate conditional use. Often times when talking about whether or not a use might be appropriate for a particular zone, cities are advised not to add it as a conditional use or permitted use if there is any question. The use is then listed under the category of discretionary approval through a text amendment. Mr. Budge stated that in this case Park City already made the evaluation and determined, consistent with the General Plan, that this part of Main Street is appropriate for an event center. He pointed out that the applicant was not requesting a rezone, a text amendment, or any other legislative decision that might necessitate weighing public interest. It was a matter of applying already existing approval to this particular site to make sure the applicant was tailoring it correctly.

Mr. Budge reported that the applicant submitted an application to build this facility and received approval in June 2016. That approval was appealed to the Board of Adjustment, and after reviewing the design that was before the Planning Commission, the Board of Adjustment rejected the appeal. Mr. Budge pointed out that the Appellants who were against this concept chose not to take the matter to District Court. He thought that was important to note because it meant they were dealing with a set of expectations and development approvals that already allocated space above the retail use for some sort of gathering. In this case, the applicant was applying to use the space as an event space, which is an allowed use in the zoning district.

Mr. Budge presented a rendering from the conceptual phase of how this event space would look from the inside. He pointed out that the outside deck was connected in part of the space. Another rendering was the view of looking outside into the structure from the corner of Main Street and Heber. From that view, the outdoor space was on the other side. Mr. Budge stated that when this application was presented to the Planning Commission in December 2016, they included all the criteria that they thought would

help the conditional use permit meet the requirements of adequate mitigation, making sure that all the detrimental effects were adequately addressed. They did that collectively and cooperatively with the Staff and it was approved by the Planning Commission with a 6-0 vote. Mr. Budge believed the vote showed that a lot of effort went into their consideration and that the Staff report supporting the 6-0 decision was very solid with a lot of details. It also reflected careful balancing and weighing that you would expect to see in a conditional use permit review. He noted that the approval was appealed to the City Council rather than a land use appeal authority, which is unique in Utah. Typically elected officials do not act as an appeal authority because they are accustomed to making policy and discussing discretionary matters. Mr. Budge pointed out that the City Council decision resulted in a remand. The applicant was not opposed to the remand because they heard comments at the City Council meeting that they had not heard before. They wanted to bring those comments back to the Planning Commission to work on further tailoring and possible studies. Mr. Budge stated that they were on that path until they saw the Staff report showing a negative recommendation.

Mr. Budge was prepared to respond to the Staff report this evening; however, their expectation has been to take into account the public comments heard at the City Council meeting, as well as the comments by the City Council through their action letter, and bring those to the Planning Commission along with additional information that the applicant has gathered, in an effort to reach approval of a CUP that meets the standards in the Code.

Mr. Budge noted that the City Council identified four items that careful scrutiny. The first was noise. Mr. Budge stated that in response to the comments heard at City Council and at the work session with the Planning Commission, they hired a national expert on noise to address some of the confusion. The noise study addressed the potential range of impacts that could result from both the indoor and outdoor use of this facility.

Tony Tyler reviewed the Henderson Engineers report, which was included on Page 72 of the Staff report. The report analyzed the worst case scenario from an occupancy standpoint for the noise generated by this particular event facility given its design and construction. Mr. Tyler commented on the human chatter component in terms of how it was measured, how it was handled, and the results. He noted that the majority of the complaints related to what people think will happen to sound; rather than what is actually happening or is anticipated to happen with this particular use. Mr. Tyler noted that page 73 of the Staff report contained a summary of what was actually measured. There are different levels of noise related to talking, which Henderson Engineers had outlined as voice effort and a sound power level. The result is a dba at a certain foot

distance away from the point of origin. Mr. Tyler pointed out that the dba in a relaxed conversation is 54 decibels three feet away. A raised normal talking level is 60 decibels three feet away. A loud talking level is 72 decibels three feet away. Mr. Tyler stated that for the purposes of this report, Henderson Engineers were told to assume 150 people; even though the maximum occupancy level of the deck is closer to 140 people. Mr. Tyler noted that based on 150 people at maximum volume was 72 decibels. The maximum number of conversations at one time with 150 people in a one-on-one conversation with one person talking and one listening, results in 75 individual conversations at the loudest talking level. The analysis from the event deck to the location where it was measured closest to the residential uses, shows a dba at the property line of 54-decibel. Mr. Tyler remarked that the City Noise Ordinance is 65 decibels during the day and 60 decibels at night. He pointed out that 150 people talking at the loudest possible range would still be below the City's Noise Ordinance from that particular use on the event deck itself.

Mr. Tyler noted that the analysis further states that if there is music outside in addition to 150 people talking and not listening to the music, the combined dba coming off the deck at that same corner adjacent to the residential use is 59 decibels. Even in the worst case scenario, the Henderson report demonstrates that they would be below the noise threshold identified in the City Code for nighttime use, and well below the Code for daytime use.

Mr. Budge believed that if they had the Henderson report at the City Council meeting in March 2017, that meeting may have ended with a different result because at that time they were dealing with unknowns. The applicant has since obtained the details and understand that this use in its worst case will not violate the Noise Ordinance. Mr. Budge emphasized that even if the Planning Commission is not completely convinced, nothing they decide tonight or at a subsequent meeting will give the applicant any latitude to avoid application of the Noise Ordinance. It is in the applicant's best interest to make sure the building is designed and operated in a way that is respectful of the community and consistent with the laws. It is not in their best interest to have enforcement issues. Mr. Budge stated that if the City believes an existing standard needs to be changed, the applicant would accept the changed standard as long as it is applied fairly across the zone. However, they should not be asked to live by a different standard than everyone else. He believed that was the breakdown in the Staff report. Mr. Budge remarked that the applicant now has a report in the record that supports what they have said in the past about not violating the Noise Ordinance, and how they expect to operate going forward.

Mr. Budge noted that in the past the applicant has offered a voluntary restriction to be part of any conditional use permit. They were making that offer again this evening. He

stated that they are not required to move people off the deck at 10:00 p.m. However, in consideration of public comment, they would agree to a condition of the CUP that the deck would be cleared at 10:00 p.m., because they recognize that people live up above this facility. They would voluntarily use the deck between the hours of 11:00 a.m. and 10:00 p.m. The interior event space would be used between the hours of 8:00 a.m. and midnight.

Based on all of the information submitted, Mr. Budge believed they had more than adequately mitigated the criteria. Mr. Budge noted that the December 2016 Staff report recommended approval. He was unsure why the current Staff report recommended denial, other than to cite the Action Letter from the City Council. Mr. Budge explained that when the City Council gives an Action Letter it is not a new set of ordinances or rules. The action letter identifies areas that need to be looked at. The applicant is still obligated to live by the same set of laws and rules that existed when they came before the Planning Commission in December 2016. As a result, there must be an explanation as to why the standards were changed. Mr. Budge pointed out that even if the laws had changed, they were vested under Utah Law to have the same laws apply that were in effect when they filed their application in 2016.

Mr. Budge remarked that there is no record to support relying on noise as a reason to claim that there is not adequate mitigation. He believed there was an over-reliance on the City Council Action Letter, which is only a reflection of comments and concerns by the City Council as they looked at the issues and responded to public comment.

Mr. Budge commented on traffic. He stated that in 2016 they received a positive recommendation relative to traffic because the Kimball Arts Center was a use that existed prior to this project. He believed the use they were proposing was less intense because the Kimball Arts Center would have events up to 700 and sometimes 1,000 people. The Kimball Art Center was converted from a garage in 1976, and from 1976 until it was acquired by this applicant, it was used for a number of public gatherings. Mr. Budge remarked that the traffic this use would generate would be no more than what has existed for this site.

Mr. Budge reminded everyone that the City had already made a decision on this space. He presented a slide showing the approved building permit, which reflects a site plan view of the project and talks about how this project may be located on the land. Regarding the issue of traffic, specifically loading and unloading, they talked at that time about what types of modifications needed to be made to this site before they pulled the building permit; but they were not obligated to put any sort of on-site parking or unloading area, or to take any other measures. Based on this permit and the location of the event space that was called in four different places, the applicant started

construction relying on the approval. Mr. Budge stated that based on prior approvals and a building permit, it is impossible for them to do anything else with respect to loading issues. He noted that they approached the City asking to purchase a parking space on the street to designate as loading, but the City was not interested. Mr. Budge stated that in terms of traffic, nothing has changed with respect to the site, from when the Staff recommended approval in 2016 and they had adequately mitigated any traffic impacts, until today. Nothing has changed on the project that allowed the approval that the Planning Commission found convincing and appropriate in approving the CUP. No set of facts have changed that would support a determination that traffic impacts have not been mitigated.

Mr. Budge noted that the Staff report talks about other traffic conditions that exist in the City, but in land use there are things that are created or exacerbated by a project, and other things which are City-wide conditions. As a good neighbor they want to be part of resolving City-wide issues, recognizing that no one benefits from traffic problems. They would like to be a stakeholder together with every other business to work with the City so the City could manage the streets to handle traffic.

Mr. Budge reiterated that they have looked at the Staff report and taken into account comments by the public and the City Council. He offered that an appropriate condition in approving this CUP would be to require that a traffic and transportation plan be submitted to the City in advance of an event that expects 200 or more guests. Mr. Budge thought this requirement would help the City in resolving the City-wide traffic issue. It would provide specific information about a particular event so the City could anticipate the system impacts resulting from that event. Mr. Budge remarked that their willingness to have that condition reflects the fact that want and need to be a partner with the City on managing the traffic.

Mr. Budge encouraged the Planning Commission to recognize that the standard in Utah does not require the applicant to eliminate traffic impacts. Uses are allowed traffic impacts. In this case the prior use had traffic impacts and their use will have traffic impacts; however, they believe the impacts will be less with their use.

Tony Tyler commented on three major considerations that were taken into account in designing the property. The first was the load in/load out option on Heber Avenue in terms of the City rejecting their request to purchase a load in/load out zone. He understood why the City was not interested, but the offer was still on the table if the Planning Commission wanted to include it as a condition of the use.

Mr. Tyler stated that the other two considerations specifically related to a curb cut that was on the site on Main Street. One of the major benefits to the City was to remove

that curb cut. Mr. Tyler noted that the applicant had the opportunity prior to development of the site to retain parking on-site; however, it could only come from Main Street. The Staff, the City Engineer, and he assumed most of the public, would prefer to eliminate the curb cut to have a contiguous experience along Main Street rather than having cars turning across a sidewalk or the visible impact of parked cars on Main Street. One of the first decisions the applicant made was to eliminate the curb cut on Main Street, which was a major concession because the decision was made with the understanding that there was no other place to get traffic off the street and on to the property.

Mr. Tyler remarked that the third consideration was the load in/load out component for the use itself. Some things can be mitigated and others cannot in terms of how all spaces operate along Main Street. For example, a clothing retailer always brings in new inventory. The inventory for the Kimball events facility is people. Mr. Tyler explained that it is possible to mitigate the accoutrements that go along with an event space, such as tables, chairs, decorations, sound equipment, banquet setting and other things, because they built a 2300 square foot sub-basement storage room in the facility that is directly adjacent to the elevator where they can store those items after every event. Having the ability to store those items on site eliminates having a Diamond Rental truck parked there all day to set up for an event. Mr. Tyler stated that the mitigation issues related to load in/load out are limited to people, caterers, trash, etc. He believed the option to provide a transportation and traffic plan at a threshold of 200 people was an additional step that was not previously offered to address this particular issue. He explained that the 200 threshold was based on the City's definition of a Level 2 Event. Mr. Tyler remarked that the City's definition of a Level 2 Event has off-site impacts. They do not believe that their space would have off-site impacts at 200 or even 400, but they were willing to work with the City to address this particular issue.

Mr. Budge commented on compatibility. He noted that the Staff report did not specifically say that it was not a compatible use because it is an allowed use in the zone. Mr. Budge remarked that restaurants in the area operate the same way they operate. He thought that was important to note because when comparing uses the City cannot put one applicant at a disadvantage over the other uses that are doing the same thing. Mr. Budge stated that in this particular scenario they cited a use that is appropriate for this area and they obtained two approvals from the City for that use. He reiterated that the use was clearly identified when the building permit was obtained. Mr. Budge believed those components needed to be taken into account.

Regarding the tent concerns, Mr. Budge noted that the tents were eliminated. The previous approval by the Planning Commission had conditions relative to how the tents

would be operated, located, and taken down and put up. However, the tents did not have enough value for the applicant to argue to keep them.

Mr. Budge presented a slide showing the exact location of the event space relative to the barrel roof.

Mr. Budge pointed out that the Planning Commission is tasked with applying the Ordinance, which are the same Ordinances that existed when it came before the Planning Commission in December 2016. He stated that to come up with a different result is the definition of an arbitrary and capricious decision. Mr. Budge noted that they responded to the issues identified by the City Council that needed further inquiry. They still meet the legal standards and they were requesting the same approval that the Planning Commission previously granted with the modifications presented this evening.

Mr. Budge noted that the Conditional Use Permit law for the State of Utah was amended as of May 8, 2018. It was a new detail that was not reflected in the Staff report. It is very clear that the Planning Commission can only apply criterion standards in the Ordinance. They cannot take an action letter, wishes, or public comment and make those the standards that an applicant has to comply with when reviewing a conditional use permit. Mr. Budge believed there was confusion at the City Council level about what mitigation means. To some, mitigated means eliminated. He read the State's description of mitigation. "To rezone and mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects". Mr. Budge stated that the language confirms that detrimental effects is part of a use and part of living as neighbors in a zone. The impacts cannot be eliminated; otherwise the last property to be developed could never be developed. The State recognizes that the obligation is to mitigate as much as possible; and to look for ways to achieve the best product that does not violate any Code that applies to that particular use.

Mr. Budge respectfully requested that the Planning Commission give direction for the Staff and the applicant work together on a proposed set of findings approving this use that could be brought back to the Planning Commission for review and further input. It was done in December 2016 and he believed they could do it again and achieve a result that would respect the prior approvals; respect the fact that a building has been built and an event space that has been set aside for that use; and to make sure they are able to use the space in a way that is consistent with the values and the principles placed in the Code.

Chair Band clarified that the only change since the Staff report was published was the offer this evening to provide a traffic and transportation plan for an event of 200 or more guests. Mr. Budge answered yes.

Director Erickson announced that Deputy Building Official, Michelle Downard, and Officer Libertini, the Community Engagement Police Officer, were present this evening to listen to the comments. They would only respond to questions from the Planning Commission. Community Development Director, Anne Laurent, and the City Engineer, Nestor Gallo were also in the audience.

Chair Band noted that this evening the Commissioners had received the Park City Police Community Outreach review of the Conditional Use Permit. She asked if copies of that report were available for the public. Planner Grahn offered to make copies available.

Chair Band opened the public hearing.

Sanford Melville stated that he is a Park Avenue neighbor of this project. Mr. Melville had submitted a letter that was included in the Staff report and he assumed the Commissioners had read his comment. With regard to the LMC, Mr. Melville understood that LMC 15-1-10 states that a conditional use shall be approved if reasonable conditions are proposed or can be imposed to mitigate the reasonable anticipated detrimental effects of the proposed use. He could not see that the detrimental impacts of this proposed CUP have been mitigated at all and, therefore, he believed the CUP should be denied.

Mr. Melville commented on noise, which was only one of the numerous detrimental impacts. He stated that the City Council in its unanimous remand in March 2017, and the Planning Commission at its September 2017 work session found noise to be an adverse impact. As discussed, the applicant commissioned a study by Henderson Engineers to analyze the noise on the rooftop deck. Mr. Melville thought that study demonstrated nothing meaningful in terms of mitigating noise impacts. It simply measured ambient noise. It measured the noise on the street. Mr. Melville noted that ambient noise was not the concern. He pointed out that the study made a theoretical estimate of the noise impact of people talking on the deck with acoustic music. The applicant discussed the study and presented charts, but the charts were theoretical noise; it was not measured. Mr. Melville stated that he is not an acoustic engineer, but he has a degree in physics, a graduate degree in chemical engineering, and he is a retired professional engineer of controlled systems. He has an understanding of technical analysis and how to interpret measurement data. He believed the Henderson study was superficial at best.

Mr. Melville clarified that he was not trying to disrespect Henderson Engineers, and he was sure they did the best they could with the budget provided. However, the reality is

that they measure ambient conditions on a quiet day in Park City. The theoretical estimate of noise is totally academic. Mr. Melville stated that if they want real data to make a valid decision on noise, it must be measured under real conditions over a period of time. One theoretical data point is not sufficient to make a decision that will impact Park City for all time.

Mr. Melville stated that in their response report, the applicant has claimed sound reduction benefits from glass railings around the balcony, a glass wall on the west façade, and the soffit over the façade. He pointed out that these were all unproven claims. Henderson did not reference any of these elements in its report. One can only assume that Henderson either could not give an opinion or did not think these elements would be affected. Mr. Melville found it hard to believe that the applicant would hire an acoustic expert to analyze noise impacts, and then not ask the expert to give an opinion on the claimed architectural features designed on the project to limit noise. Mr. Melville noted that Henderson did take a noise reduction credit in its calculation of theoretical noise levels for the dampening effect of the remaining barrel roof; however, it was based simply on the line of site. Most of the residents affected live above the barrel roof. Everyone knows that sound travels uphill and that the rooftop terrace is located at the bottom of a canyon.

Mr. Melville stated that in the Staff analysis, the Staff finds that the applicant has mitigated the impacts for potential amplified music sound on the balcony through the use of design elements and technology. He did not understand how the Staff could make the statement that the noise would be mitigated when nothing has been measured, tested, or demonstrated. There has not been an event at the facility, yet the Staff asserts that this nebulous noise issue is somehow resolved. Mr. Melville pointed out that these were applicant claims, but nothing has been mitigated. Mr. Melville noted that the Staff could not find a way to mitigate the non-amplified people noise from the outside deck. He agrees that people are noisy; particularly when alcohol and music are involved. The Staff also did not mention the noise generated from diesel buses idling on the street for long periods of time while loading and unloading guests for a large private event, or the diesel trucks loading and unloading equipment and supplies for a private event. These are all unmitigated noise impacts from this proposed facility. Mr. Melville clarified that they were not asking for elimination of the noise impacts; but these are noise increases over what already exists. The noise management plan proposed by the applicant was policy and procedure and it only works if it is rigorously managed. He doubted whether that would actually happen.

Mr. Melville stated that the applicant was requesting a CUP for all time to generate noise from this private event facility with no additional City approvals. The engineering study proves nothing. The noise limiting technology and the architectural features are

unproven, and the management procedure is not persuasive. Mr. Melville remarked that the detrimental impacts of noise have not been mitigated or can be mitigated.

Mr. Melville stated that the City Council in its unanimous remand was correct in knowing that the other detrimental impacts of traffic, loading, parking, and compatibility with neighborhood uses are not mitigated. The Planning Commission at the September 2017 work session also discussed the detrimental impacts of the proposed events facility. He recognized that there were several new Commissioners and he thanked them for their service. Mr. Melville reviewed the Minutes of the September Work Session and read comments from several past Commissioners. Chairman Strachan stated, "The Code lists allowed uses versus conditional uses in the HCB and an entertainment facility indoor is an allowed use. He believed the drafters of the Code differentiated between indoor and outdoor uses, and viewed the impact of these uses differently. Therefore, they consciously ruled out making an outdoor special events center and allowed use. The Chairman thought reasoning was clear. An outdoor events center has much greater impacts. Mr. Melville noted that Chair Strachan made a number of additional comments and then closed his comments by saying, "The structure of the Code is not framed to allow this use. A temporary use is appropriate and there is a process to follow that allows for a temporary outdoor event". Mr. Melville read comments in the Minutes made by then Commissioner Joyce. "Commissioner Joyce stated that the hardest part for him was that everything seemed up in the air in terms of what mitigations would work and what would not work, and how much impact it would have". He further read comments made by then Commissioner Campbell. "He noted that the phrase "outdoor events" is mentioned 62 times in the Land Management Code. In every case it is followed by the phrase, "and music". Outdoor events and music required an administrative conditional use permit. Commissioner Campbell thought there was no other way to look at this except to say that they, the Planning Commission, missed the mark at the last meeting".

Mr. Melville remarked that the difficulty with this CUP was due to the detrimental impacts of a large private event facility on the roof of a Landmark historic building in the heart of the historic core on the busiest intersection of the City, adjacent to resident properties with no provision for traffic, parking, load in/load out, cannot be mitigated. It is that simple; the detrimental impacts cannot be mitigated. Mr. Melville believed this was the wrong place for a large private events facility. The building was not appropriately designed for such events. He respectfully requested that the Planning Commission deny this proposed CUP.

Andy Byrne an Old Town resident, had concerns and questions about what he called the Kimball Party Palace. His concerns were numerous, but he intended to focus on the lack of vehicle parking and no designated loading zone. Mr. Byrne provided

background and history on the Kimball Arts Center. On the north side of the Kimball Arts Center below the plaza level there were 12 parking spaces that were available for employee parking and it was also used as a loading zone. A large box truck was able to back in from Main Street into the building and unload their gear through the double doors which went into the bottom of the Kimball Arts Center. Because of the loading zone there was no problem with limiting parking on Main Street, Heber Avenue or anywhere in the area. Trucks did not inhibit traffic while loading or unloading. Mr. Byrne noted that this developer built to the limit of the perimeter on top of the parking lot and the loading zone in order to maximize their building and their profits. They now want to force the parking and loading problems on to the neighborhood and on to the busiest streets in town. They wanted to use the seven free parking spots in front of the Kimball Arts Center for a quasi-loading zone area. Mr. Byrne did not think the developer should be allowed to use those spaces as a loading zone or for employee parking lot because they had both and they chose to build on it. He could not understand why a developer could put up a 3-story building without having to provide additional parking, and then be able to subtract the parking that was already there. Mr. Byrne pointed out that all of the larger buildings built in the mid-1980s were required to provide underground parking. Underground parking was not provided when the Kimball Arts Center was built, but he understood that this developer did not need to provide parking because it was a renovation; not a new building. He disagreed. From the corner of Main and Park Avenue the Kimball looks like a new building. Mr. Byrne believed the applicant should have been required to add parking.

Mr. Byrne stated that without a loading zone they will be using public streets. He pointed out that commercial deliveries on Main Street are limited to specific hours. He had a difficult time understanding how deliveries for an event use could be limited; not to mention band buses and buses unloading event guests. He commented on the problems that would occur when vehicles are being unloaded at the same time for an event such as a wedding. In addition, when the event is over, those same vehicles will be loading late at night. Mr. Byrne noted that when people call the Park City Police Department they are told that it is a Code Enforcement issue. The problem is that Code Enforcement is open five days a week from 8:00-5:00. If the event is on a weekend, Code Enforcement cannot be called until Monday morning. Mr. Byrne stated that the corner of Main and Heber is already problematic, which is why stop signs were recently added. City buses cannot pass each other on Park Avenue from Park Station all the way up. He was also concerned about access for emergency vehicles during an event. Mr. Byrne did not understand the approval process. He thought a loading zone should have been one of the first considerations.

Mr. Byrne noted that some of his neighbors were unable to attend this evening, and they asked him to put their names on the record. The Cox family, the Swanson family

and the Statler family all have major concerns and frustrations. Mr. Byrne stated that Gary Kimball, who passed away last Monday, had serious concerns about this project and he encouraged Mr. Byrne to speak up about it.

Ron Butkovich, an Old Town resident, stated that as they grow and expand in Park City, traffic is an inevitable problem. His primary concern was the approval of the second story deck. It is basically a stage where everything is amplified. Living in Old Town it is easy to hear the music of Silly Market from 10:00 a.m. until 4:30 p.m. Mr. Butkovich was concerned with how they could mitigate that use and require approval for music on the second level.

Ed Parisian, an Old Town resident, stated that aside from the construction aspect, this project is just as critical as Treasure Hill to the future of Old Town. In fact, it could possibly be worse, not just because it does not comply with the LMC, but because approval could set a disastrous precedent. Mr. Parisian reminded the Commissioners that their duty as a Board is to protect the citizens by strict enforcement of the law and Code rules. The Planning Commission owes the applicant nothing in terms of compromise. He noted that the developer has said that the outdoor deck is essential to their business plan, but that should mean nothing to the Planning Commission because the developer willingly invested in this project. Mr. Parisian urged the Commissioners not to buy into the good neighbor concept because good neighbors do not call you arbitrary and capricious when you disagree with them. They are not anyone's neighbor; they are a business. Mr. Parisian stated that the developer was looking to exploit what they perceive as a loophole in the LMC regarding noise, traffic, and other things.

Mr. Parisian stated that 60 decibels is the sound of a human voice in a normal conversation. Seventy decibels is several people on the telephone. Seventy-five decibels, well over the limit, is a busy restaurant around lunch time. Mr. Parisian stated that the Henderson study notes many intangibles to noise; number of people, animation, and even weather. Warm weather sound travels further. The engineers measured ambient noise in March, but it was not measured in June or July when there is more movement of noise waves. The Henderson study put the worst case scenario at 75 people engaging in one on one conversations. Mr. Parisian pointed out that these will be parties and people will be talking in groups. He remarked that anyone can find an expert to support their cause. In this case, the developer found Henderson. He urged the Planning Commission not to put much stock in the Henderson study for various reasons, and primarily because it is superficial. He reiterated that these events will be parties; and parties mean drinking, drinking means drunk people, drunk people mean loss of inhibition, and loss of inhibition means loudness and random behavior. At the end of the event people will get in their cars and drive through Park City streets.

Mr. Parisian stated that drunk people tend to be animated and speak loudly as they talk over each other and the music.

Mr. Parisian believed the applicant failed to mitigate almost all the points in the City Council letter. However, he was particularly concerned about the approval of unlimited events on the deck and for the facility in general, as well as the devastating and permanent precedent that this approval would set. Mr. Parisian stated that the City owes it to the people who own and live full-time in homes nearby, who contribute daily to the vitality of the District, and who speak out against outsiders who wish to exert undue control by the City, and who will be permanently affected by any unmitigated approval of this event deck and facility. Mr. Parisian urged the Planning Commission to reject this use. He believed it was completely in conflict with the City's objectives, and it can be legally preventive by the Planning Commission if they stick to the facts of this application and its adherence to the LMC.

John Stafsholt, a resident at 633 Woodside, stated that many things are wrong with this application. He presented a power point presentation with a checklist of unanswered questions related to the use. He pointed out that the applicants have said they have to do what everyone else has to do, but they were applying for a benefit that no one else has. Everyone else has to apply for a Master Festival License for special events, but this applicant is asking for approval to have an event 365 days a year from 8:00 a.m. to midnight, and to have outdoor special events with no permits. Mr. Stafsholt noted that the Henderson study measured ambient noise, but this would not be ambient noise. They did not measure amplified music or live music.

Mr. Stafsholt stated that the remand on March 30, 2017 was 14-1/2 months ago. Twenty-seven points were remanded. Point 15 of 27 points outlines all the items that were failed to be mitigated. Four other items were not applicable. Therefore, the developers have only met CUP criteria 1 and 8. All 16 criteria are required for CUP approval. Mr. Stafsholt reviewed the criteria directly from the Code. Criteria 1 was size and location. That was met. Criteria 2, traffic considerations, failed according to the remand. Mr. Stafsholt explained why this location is the number one most congested traffic area in the entire City. He pointed out that up to 480 people arriving for an event at the same time was a completely unmitigated impact. The developer's response is to change the parking for the benefit of the developers and to the detriment of the neighborhood. They propose to narrow the streets as a mitigation for traffic. They're calling it a mitigation because they claim it increases the turning radius for buses at Heber and Park. Mr. Stafsholt remarked that narrowing the street at the most congested corner of the City is not a mitigation. He stated that the developer claims that the Park City Engineer and the Transportation Manager have no issues with their use, with parking, no loading zone issues, and no traffic issues. He thought it was a

bold statement and he challenged it to be backed up with a study and put forth in writing.

Mr. Stafsholt noted that Criteria 3 was not applicable. Criteria 4 was another failed CUP criteria because there is no emergency access at all. If there is an emergency, the emergency vehicle would have to double park on Heber Avenue and shut down the street, creating an unsafe condition. Criteria 5, location and amount of off-street parking. Mr. Stafsholt stated that there were zero dedicated parking spots for a 400 person facility. For most events everyone will come at the same time. He noted that the Kimball had 12 spots for parking and for loading and unloading. However, the developers built on top of those spaces to maximize their profit and then had the audacity to say that they did a great thing by taking away a curb cut on Main Street. Mr. Stafsholt commented on Criteria 6. He noted that there is one main entrance on Heber Avenue, but there should be solid secondary entrances for pedestrian circulation. If there are no other entrances, then Criteria 6 has not been mitigated. Criteria 7, screening, fencing, etc., has failed because there is none. Residents on Woodside Avenue get to look down onto the deck and the interior of the private events facility. Mr. Stafsholt pointed out that there was no condition requiring that the tables, chairs, equipment, and other items must be removed after each event. He recalled that the Board of Adjustment required a zero visibility deck. Mr. Stafsholt referred to Criteria 10, signs and lighting. He stated that residents will be looking down on the outdoor facility lighting and to the interior of the private event facility. No mitigation was provided. Criteria 11, physical design compatibility with surrounding structures, was another failed criteria. Mr. Stafsholt appreciated that the building design kept much of the Kimball Garage façade.

Mr. Stafsholt stated that Gary Kimball had passed away but Paul Kimball was still his neighbor. Paul Kimball asked Mr. Stafsholt to tell everyone that he was very unhappy about this project.

Mr. Stafsholt stated that City Council Remand #17 requires a strong re-evaluation of the design and conditions of approval which reflect the Board of Adjustment decision, including minimal visual impacts on the roof. That has not been done. Mr. Stafsholt reiterated that there are no conditions requiring that tables, chairs and other items be removed after an event.

Mr. Stafsholt believed there is no way to mitigate the impact of a 2500 square foot party deck adjacent to a residential community. In the remand the City Council states that such mitigation may include denial of the use of the deck beyond that which is already permitted. Mitigations considerations should include design changes, limitation or reduction of the use by hours per day, number of days total, days of the week, direction

of the deck, and removing external speakers. Mr. Stafsholt noted that the previous Planning Commission did not limit noise, which must be done in order to meet the City ordinance. Mitigations such as no amplified music, no music at all, or no outdoor speakers were not included in the earlier approval, which is one reason it was appealed. Mr. Stafsholt pointed out that the previous approval allowed all type of music outdoors all days and nights for 365 days a year. All other similar outdoor uses require either a Special Event Permit or a Master Festival license. Mr. Stafsholt noted that the noise study took 13 months to complete. When the remand occurred 14 months ago the applicant knew their use was in danger and they chose to make this investment. If this applicant cared about the community and the noise, it would have happened quicker than 13 months. The fact that they continued to build in that 13-month timeframe shows their true intent.

Mr. Stafsholt stated that from his own experience when he calls Code Enforcement nothing happens. If the police are called, they make the person who made the complaint accompany them to the location to talk to the offenders. He would not want to be the one to show up with the police and shut down a wedding for breaking the law. Mr. Stafsholt stated that the LMC is in place to avoid these problems. Eliminating these issues through the Code is required. Mr. Stafsholt believed they were potentially allowing this developer to have a business plan that goes against the Code. It is unworkable and unenforceable by the City. The Planning Commission has the duty to deny this CUP outright.

Mr. Stafsholt referred to Criteria 13, control of delivery and service vehicles. This was another situation where the developer has forsaken the neighborhood to build a maximum sized project. There is no load and unload area other than Heber Avenue. There are no cooking facilities on-site which means that caterers, musicians and other service providers will arrive at the same time for the event which will cause numerous traffic and parking problems for the public.

Mr. Stafsholt read from Criteria 16, consistency with the General Plan. He noted that consistency was alluded to, but the inconsistencies are too much to risk. The General Plan goals are small town, natural setting, sense of community, historic character. This project adds traffic, congestion, noise, and pollution all for the benefit of a private events facility, which detracts from their sense of community because it benefits only those who can pay to rent the facility and not the residents from the historic neighborhood that bears the impacts.

Mr. Stafsholt reiterated that all 16 criteria need to be mitigated and at this point they are not even close to being mitigated. Ten were remanded. Due to the incompleteness and the lateness of this response shows the developer's intent, attitude and disrespect

for the neighborhood. Mr. Stafsholt read the Code definitions and requirements for private events versus public events. In terms of the Noise Ordinance, Mr. Stafsholt thought it was impossible with the party deck to comply with the requirements of the current Noise Ordinance. It would require continuous enforcement, which the City does not have. Mr. Stafsholt reviewed a list of possible real world mitigations. He pointed out that when an event ends there will still be noise related to tearing down the equipment and loading catering trucks, musician buses, etc. The noise would continue for hours after the midnight end time. He suggested that the Planning Commission look at restrictions for not allowing any live music at any time and only allow loud speakers indoors. The doors should have to shut automatically. He recommended that the Commissioners meet with the police department to understand how they do and do not enforce the current Noise Ordinance. Mr. Stafsholt understood that the Park City Police now have noise meters, which is a step forward. Mr. Stafsholt recognized that the applicants voluntarily eliminated tents on the deck and he thought the City should hold them to it. He thought they needed to create rules for Uber and other unlicensed taxi services. He suggested that they also assign police to help control traffic and parking for an event when people arrive and leave at the same time. Mr. Stafsholt did not believe the City should grant public outdoor music plaza status to the venue because it is a private facility. He read from the Chapter addressing Administrative CUPs for outdoor music. "The planning Department shall not issue any outdoor music permits in the Historic Commercial Business District, north of Heber Avenue. The City may still issue outdoor music permits in conjunction with special event permits." He believed the applicant should have to apply for a special event permit if they intend to have music outdoors.

Neals Vernagaard, an Old Town resident, thought the noise study conducted by Henderson sounded like they expect an event with a bunch of lawyers talking about legal briefs. Mr. Vernagaard stated that they are talking about weddings, and weddings attract sorority sisters and fraternity brothers. Sorority sisters will scream with joy when they see a friend they have not seen for a while. The decibel level of a group of sorority sisters will be deafening. Mr. Vernagaard stated that fraternity brothers who have not seen each other for while will start playing the drinking games they played in college. It will not be quiet and they will not be talking in normal tones. Mr. Vernagaard thought it was a matter of common sense. No one in the wedding party will tell someone to be quiet. Enforcement needs to be put in place so those who live in Old Town can continue to live in Old Town.

Tom Fey, stated that the applicant was asking the Planning Commission to give permission for two events combined into one CUP. He asked them to think about the events they have attended where there is an indoor room and an outdoor room with an open door between the two. He asked if they really expect people to not go outside on

a nice evening and not exceed the 141 people maximum. If the outdoor and indoor use is approved as one CUP, they will have a situation where 450 people will be out on the deck if the bride and groom are out there. Mr. Fey asked if they would require someone to count people, or whether they could be fined \$1,000 per person over the 141 maximum at one time on the deck. Mr. Fey reiterated that the use needs to be split into two pieces. There should be a separate approval for the outdoor space and a separate approval for the indoor space. It should not be combined. Mr. Fey remarked that the noise study presented by the applicant was bogus. He noted that periodically his wife invites 30 women to his house for a gathering and all 30 talk at the same time. The noise level is enormous for just 30 people. When the applicant talks about 141 people and only 72 of them talking at one time, everyone knows that will not be the case. Noise travels a long way, especially if there is moisture in the air. Mr. Fey stated that the Planning Commission should not consider a noise study when the information is bogus. Regarding traffic and parking, Mr. Fey thought this project should require additional parking because they built over the parking that existed. He pointed out that the Kimball Arts Center never had all night parties. During an event people would come and go. This use will require an enormous amount of parking that has to come from someplace. People will not be taking a public bus to a wedding. Mr. Fey urged the Planning Commission to reject this CUP request.

Chuck Klingenstein stated that he felt compelled to speak this evening to support his Old Town full-time resident who are increasingly impacted by noise, traffic congestion, parking, service vehicles and trucks. He remarked that these impacts are now all over the Park City neighborhoods with Old Town being the “canary in the mine” for many years. He pointed out that most of the public speaking this evening are Old Town residents. Like he and Tom Fey, who retreated to the safety of Park Meadows, many other residents retreat to Park Meadows, Thaynes, Deer Valley, and places outside of the City. He asked the Planning Commission to put themselves in the shoes of an Old Town neighborhood and consider the impacts.

Mr. Klingenstein read a statement from his wife who was unable to attend this evening. “As a member of the Special Events Advisory Committee for the past three years, I have seen the City struggle to find a balance between vibrant attractions of Park City and the quality of life for its residents. So far, both the visitors and events continue rapidly, and nowhere are the impacts felt more than in Old Town. If the noise and congestion were to increase with the approval of this use, it would be a shame. The proposal for the outdoor use of the Kimball Garage roof would surely make the experience for many Old Town residents noisier, congested and less livable. Please do whatever you can do within your purview to hold the line on this project, which presents a unique imposition on our town”.

Mr. Klingenstein complimented the Staff for its recommendation. It proposes denying the CUP, but it also hints that the Planning Commission needs to either deny the application or find a way to approve it with conditions. Mr. Klingenstein thought it was important to deny this application because he did not believe the impacts could be reasonably mitigated, unless the uses are significantly reduced and/or eliminated in some cases, and Best Management Practices are employed. Mr. Klingenstein asked everyone to remember that they do not live at ground zero. Noise, traffic, congestion, parking, loading and unloading are all major issues, regardless of whether it is Old Town, Park Meadows in the North 40 where he lives, or Prospector. He stated that unfortunately as a City their recreational, economic, and cultural success overwhelms the infrastructure and the ability to manage. Mr. Klingenstein focused on noise. They have all been to public events, inside and out, where decibel levels escalate as they all shout to be heard above the din. He has had the pleasure of working with Wade Budge, Tony Tyler, and Craig Elliott in the past and he appreciated their comments. He has been on both sides of the dais and he has worked on large and complex project. As an applicant they were pulling out all the stops and he would be doing the same thing. However, he felt they could not easily mitigate an outdoor private events center in the geography of Old Town. Mr. Klingenstein reiterated that he lives on the North Forty and many years ago a corporate event was held on the sports field and the neighbors were determined that it would never happen again. It was a sports field designed as recreation for kids and adults and not as a corporate events center. Mr. Klingenstein expressed his concern for his neighbors in Old Town and other parts of town as special events and private events escalate throughout the town. He pointed out that the City can ratchet up the mitigation of impacts with each special event. Unfortunately, with a CUP for a private event center, they only have one time to get this right. Once the CUP is approved, it is difficult to backpedal if things do not work out. Mr. Klingenstein agreed that State law makes it increasingly difficult to deny a CUP, but he believed they could deny this one based on the fact that the impacts cannot be mitigated unless the uses are significantly reduced or in some cases eliminated.

Jim Tedford, representing a group called Preserve Historic Main Street, stated that his group has been involved with 638 Park City since 2012. He was pleased to say they were influential in getting a couple of big proposals rejected several years ago. Mr. Tedford stated that the Melville's would not have spent \$500 for their appeal if the HDDG had been followed in the first place. He was referring to the barrel vault that was removed to make room for the deck. Mr. Tedford read from the Guidelines, "The historic features of a building should be retained and preserved". A specific guidelines states, "Maintain the original roof form". He pointed out that those guidelines were overlooked and they now have this predicament. Mr. Tedford stated that to his knowledge the only other outdoor private event facility on Main Street is the Town Lift Plaza, and they are required to apply for a one-time administrative conditional use

permit for each event. He questioned why 632 Park Avenue should be regulated any differently. If the City allows a CUP for unlimited events for up to 480, it will set a precedent and open up many future applications. Mr. Tedford commented on other facilities that have to apply for special use permits for events. He did not believe this application should be treated differently. Mr. Tedford stated that 638 Park Avenue should be limited to only allowed uses and one-time administrative CUPs under strict noise guidelines.

Chair Band closed the public hearing.

Commissioner Sletten asked if the new State legislation that Mr. Budge had referenced was House Bill 377. Mr. Budge was unsure but later confirmed that it was HB377.

Mr. Budge addressed what he believed to be misstatements and misconceptions by the public. Mr. Budge stated that the noise study was done by a professional licensed engineer. The study is beyond theoretical. It is the standard for providing data on a project that has not yet been completed. He noted that no one had come forward with details showing how the study could be improved. Mr. Budge stated that no testimony was offered this evening or evidence presented to counter the study they submitted.

Mr. Budge referred to public comments about enforcement and how that program works. He stated that the applicant is very cognizant of the need to operate the facility so Code Enforcement does not need to come out. An Event Manager will be on staff and will be responsible for making sure they do not exceed the deck limit. He pointed out that in addition to noise, exceeding the deck occupancy limit was a safety issue. If there are tables or other items on the deck, there would be fewer than 141 people. Mr. Budge commented on the concern about seeing people on the deck. He invited the Planning Commission to schedule a site visit because he thought it would be beneficial for the Commissioners to actually see the deck.

Mr. Budge disagreed that a precedent would be set with this CUP. If there are concerns that this type of use is no longer appropriate for this zoning district, the residents can petition for a text amendment to downsize so the use is not allowed. Currently, as it stands, this use occurs regularly through this district in restaurants up and down Main Street in the museum and other locations. Rather than apply for a special event permit, they analyze the fire code standard and map out their use. Mr. Budge stated that this applicant was applying the ordinance and setting forth the criteria and the rules they were willing to live by. He believed they were being upfront with respect to their space. It was not fair for the applicant to be penalized for that, particularly where others have as intense or more intense events regularly up and down Main Street.

Mr. Budge stated that this was not the only chance the City would have to address noise. As a policy matter, if the City decides to change noise on a district, zone, or area basis, the private events facility would have to comply with the new regulations the same as everyone else. They should not be held to a different standard as one particular owner.

Mr. Budge thought there was a lot of confusion about parking. He did not mention parking in his earlier comments because both Staff reports thoroughly addressed parking. Mr. Budge explained that the applicant paid into the China Bridge and they are entitled by right not to have to provide any on-site parking up to 1.5 FARs. They were below that at 1.45 FAR. Mr. Budge recalled comments about the parking spaces taken up on Heber and whether the applicant was paying for the construction use of Heber. He clarified that they have paid over \$40,000 for that use. They appreciated the City working with them on the construction area.

Mr. Budge believed there was confusion as to whether event activities would occur at the street level. He stated that the bottom level is now retail, which is consistent with the Code. They were also consistent with the Code's recommendation to build up for a special events center in this particular area. They received their direction on how to site this use from the Code.

Mr. Budge referred to a question as to whether the applicant had obtained an emergency approval and an emergency fire review. He clarified that it was obtained and signed by the Park City Fire District on December 7, 2016 as Project Clearance #7012.

Mr. Budge stated that they had applied all of the Criteria laid out for this project and mitigated the ones that resulted in detrimental impacts.

Commissioner Thimm understood that they were here this evening because the City Council asked the Planning Commission to take a fresh look at particular issues, regardless of any previous action. Those issues were addressed at the Work Session in September and the Planning Commission asked that those issues be addressed. Commissioner Thimm noted that the applicant had addressed some in part, but he did not believe that they had been fully addressed.

Commissioner Thimm recalled that in September the main issues were tents, loading, traffic, parking and noise. He noted that the applicants had addressed the tent issue. Loading, traffic, and parking were still unclear. He had questions he would like the City Engineer to address after the other Commissioners make their comments.

Commissioner Thimm stated that his main question is whether the City Engineer has concerns with loading and traffic. He did not feel that issue was addressed in what they received this evening. Commissioner Thimm noted that the Planning Commission was told that there would be a large basement space for storage which would eliminate loading from the street; however, he thought that was unrealistic. Commissioner Thimm needed a better explanation from the applicant and some assurance from the City Engineer that the City is comfortable with the loading/unloading issue.

With regard to traffic and parking, Commissioner Thimm remarked that the concern are the impacts of having people arriving and leaving at the same time. He thought a parking management plan should be set forth by the applicant, which might include ways of using an off-site parking area that would bring large numbers of people at a single time to an event.

Commissioner Thimm referred to the noise analysis that the applicant provided. He read through it, and as it was explained, there was noise created by 75 conversations between 150 people, and two acoustical musicians. He was unsure whether or not those were the conditions planned in terms of noises. He was inclined to think that the threshold of 141 people on the deck should be reduced. He also thought they needed a better definition of the specific activities on the deck so they can be adequately conditioned. Commissioner Thimm understood that the noise study was based upon an analysis that an acoustical engineer would put together based upon what measurements and the statistics they have. However, when 60 decibels is the point of non-compliance, he thought 59 decibels was marginal. Commissioner Thimm suggested the possibility of having a third party review the noise analysis. The engineers who conducted the study are accredited and experienced, but having a third party opinion would be of major interest and a potential benefit.

Commissioner Sletten echoed Commissioner Thimm's comments. He spent a lot of time several weeks ago looking into HB377 for a different matter. It appeared that the House Bill was trying to address arbitrary standards imposed by relatively small jurisdictions that did not have significant planning staffs or enforcement departments. He did not believe that was the case in this situation. Commissioner Sletten thought the mitigations proposed would not serve to satisfy the issues that were raised. Commissioner Sletten also echoed the need for a third party review of the noise engineering report. Over the course of his business career at events where people run into someone they have not seen for years, the decibels get out of control, particularly if alcohol is involved. He did not think it would be possible to control noise at the Kimball venue at 8:30 or 9:00 p.m. Commissioner Sletten did not believe he had seen the adequate standards of mitigation at this time.

Commissioner Phillips asked for the Staff's position on the noise study. He agreed that it would be helpful to have a third party review.

Director Erickson stated that the Staff recognized that it would be complicated to regulate what the noise study says and how they can make sure it is adhered to. Director Erickson noted that it was a careful calculation up to just under the noise threshold. He recalled that the Staff made a recommendation for lower noise standards during the last code enforcement discussion, even though the recommendation was not successful. He stated that he and Planner Grahn were focused on enforcement when there is an event.

Commissioner Phillips noted that in previous meetings the Planning Commission discussed enforcement and how these issues could be enforced. It was a dilemma they struggled with when they made their last decision. Commissioner Phillips asked if there were other CUPs that allow outdoor music openly on a regular basis.

Planner Grahn stated that the Town Lift and other examples they heard this evening require Special Event permits so they operate differently. City Attorney Mark Harrington thought the Park Meadow Country Club had a standing permanent CUP.

Commissioner Phillips wanted to know if Mr. Budge and Mr. Tyler were looking for a hard yes or no vote this evening; or whether they would like the opportunity to further mitigate. Mr. Budge remarked that a decision-making body is well-served by seeing two sets of proposed findings. The Staff report included findings for a negative recommendation. The applicant would like the opportunity to work with the Staff on a set of criteria and proposed findings that would allow for this use. It would give the Planning Commission the opportunity to review both sets side by side to see if they were getting closer to mitigation. He had heard comments about things that remain as open items, and he believed it was a reasonable way to address the issues and bring this to a conclusion. Mr. Budge requested a continuance to another meeting.

Commissioner Phillips favored the idea of a site visit. He pointed out that even though the Planning Commission previously approved the CUP on a 6-0 vote, they did so with reservation as demonstrated in Condition #23 of the previous approval. Based on the appeal and the City Council remand, Condition #23 did not do the job and the Planning Commission was looking at it again. Commissioner Phillips acknowledged that there are other outdoor spaces in the area, but they do not have the same intensity. It would help if this applicant could further mitigate and reduce their intensity.

Commissioner Phillips pointed out that even if the Planning Commission chose to deny this application, the applicant could still use the space through special event permits.

He believed the special events permit process holds the owner more accountable, and any issues have to be addressed quickly in order to obtain the next permit. Commissioner Phillips understood that the applicant was applying for the CUP to avoid having to continually apply for permits. While it can be a hassle, that process may need to occur until they can prove to the neighbors that the impacts are mitigated and the City can see how the facility functions.

Commissioner Phillips agreed with the Staff report and the Staff's recommendation. If this item is continued, he encouraged the applicant to fully address the questions and concerns raised at the September 2017 work session.

Commissioner Hall stated that she had the same idea of having a trial phase where they could start with the traditional permitting process to work out any kinks in terms of mitigating the detrimental impacts. Commissioner Hall understood that one of the uses of the outside deck is to enable musicians to have amplified music and/or speakers. She wanted to know why that was not addressed in the noise study.

Mr. Tyler replied that it was not part of the noise study because they were proposing an alternate mitigation method for any amplified music, which is a technology driven sensor. It has a permanently installed sound meter and if the amplified noise at that sound meter location starts to approach the limit required by the noise ordinance, it changes from a green light to a yellow light. If the noise exceeds the maximum level for a specified time, the power will shut off to the amplification. Mr. Tyler noted that music and talking both contribute to the measurement because the sensor cannot differentiate between what is amplified and what is not.

Commissioner Sletten asked if it was possible to have multiple voice sensors that could extend out beyond where the musicians are playing, which is where most of the conversation will be transmitted to the neighbors. Mr. Tyler explained that the system works by placing the meter in one spot because the sensor cannot differentiate between multiple spots. As part of the management plan they intend to equip the Manager with an additional handheld noise meter to periodically check for spot noise coming from other areas.

Commissioner Hall understood that the sensor would be a condition of the CUP. Mr. Tyler replied that she was correct. Commissioner Hall thanked the audience for their public comments. She thought the emails they received in their packet showed an incredible amount of preparation as well.

Nestor Gallo, the recently hired City Engineer, introduced himself to the Commissioners and to those in the audience. He stated his intention to serve everyone and he encouraged anyone with questions to stop by his office.

Mr. Gallo echoed the comments about the high level of information received from the applicant and from the public.

Mr. Gallo noted that the Commissioners had questions on five different items. One was the tent, which was already addressed and eliminated. The remaining issues were loading, traffic, parking and noise. Regarding noise, Mr. Gallo stated that he is a civil engineer without expertise in noise engineering. He agreed that it would be beneficial to have a third party review of the noise study.

Regarding traffic, Mr. Gallo stated that in reading the Staff report written by the former City Engineer, Mr. Cassel made the assumption that this building could have an event with nearly 700 people; however, the threshold being proposed by the applicant was under 500. Mr. Cassel's assumption was that with less people attending an event the number of trips would be significantly less. In his report, Mr. Cassel said that if the threshold was going to be exceeded, a special event permit would be required. He would also require a traffic impact study, a trip generation analysis, and a parking analysis.

Mr. Gallo noted that Mr. Cassel was in the past. He is the present City Engineer and he is more data driven than Mr. Cassel. After working for Park City for six weeks, he learned very quickly that this might be the most challenging City for a traffic engineer throughout the State and possibly the nation. It is challenging because the traffic volumes vary throughout the entire year. Therefore, every event has to be scrutinized based on the season. Mr. Gallo stated that ITE, the Institute Transportation for Engineers, have numbers that can be used to calculate the number of trips generated for a special event. He explained that the calculation ranges from two guest per vehicle to 2.5 to 3 guests per vehicle. He remarked that 480 guests for an event calculates 190 to 240 trips. Mr. Gallo did not have average daily traffic data to compare the impact of the additional traffic for different times of the year. He was working on collecting that data.

Commissioner Thimm welcomed Mr. Gallo and thanked him for answering his question. He asked Mr. Gallo if he could give some thought to whether or not there should be a recommendation to do a traffic impact analysis and a parking analysis for this project. Mr. Gallo stated that he would recommend it for the benefit of the developer and the neighbors, based on the traffic volumes and the narrow roads in Park City.

Mr. Gallo commented on parking. He noted that the Staff report indicated that the parking owned by the City was going to be used as parking for some of these special events. After 5:00 p.m. shared parking could probably accommodate that number. If the event is before 5:00 p.m. on a weekday it could not be accommodated. Mr. Gallo thought that analysis needed to be re-analyzed.

Regarding loading, Mr. Gallo commented on the various types of vehicles that would be loading, unloading, and delivering. The question is whether all of these vehicles can make a turn, and how long it will take to load and unload a vehicle. Mr. Gallo needed to sit down with the applicant and obtain more information before he could answer those questions. Mr. Gallo shared some of the concerns about the buses not being able to make wide turns and he was working on modeling the turning envelope for City buses to make sure they can clear the corners easily. He would apply the same principle for loading trucks. Mr. Gallo stated that this issue needed more detail and research.

Commissioner Phillips stated that in looking at the pictures the shared driveway behind this project appears to be a place for loading and unloading, but it does not belong to the applicant. He asked if the applicant had reached out to the adjacent property owner to see if they could arrange to use that for loading and unloading. Mr. Tyler replied that he has approached them, but they are a private entity and an HOA. One problem is that there is a commercial component of the HOA and a residential component, and they do not always agree with each other. Mr. Tyler stated that he spent more than a year working with the HOA to find a solution that would help facilitate the use of the site. They have talked about details such as where to place their trash dumpsters. He worked with them on the possibility of having a common dumpster so they can both enclose it and not have to look at each other's trash, but they were not able to come to a resolution.

Chair Band concurred with her fellow Commissioners. She commended the applicant for being very thorough. She referred to Mr. Budge's comment about having different rules, and explained that the conditional use process does not compare apples to apples. She pointed out that their event space is more than a 38 seat deck on Main Street and people do not arrive and leave at the same time.

Chair Band noted that the Planning Commission had the option to approve, deny or continue this item. She understood from the comments that the Commissioners wanted additional information. If this item is continued, Planner Grahn requested that they continue to a date uncertain to allow time to prepare the additional studies and information.

Chair Band summarized that there was consensus for a third party evaluation of the noise study; and the Commissions would like to see a traffic/parking study.

Mr. Tyler did not understand the request for a parking study. Regardless of how the space is used, they are not required to provide parking. They have never provided parking and their design always contemplated no parking. Mr. Tyler remarked that the applicant paid into China Bridge to build the parking garage and the project itself is exempt.

Chair Band stated that she concurred with Mr. Tyler, unless the City was requiring something different from this applicant. City Attorney Mark Harrington replied that it was not a parking study, but it was a broader issue of load and unload. Chair Band clarified that the Planning Commission wanted to see a plan for load/unload and a traffic study.

Mr. Tyler stated that from his experience with traffic studies, they would get a study that has similar data and calculations. He noted that restaurants and other uses that are considered loud have been permitted, and the trip generation for a restaurant is significantly higher than for an event space. He explained that they did not provide a traffic analysis because the use is less intense than other allowed uses in the zone. By definition, there was nothing for him to mitigate. Mr. Tyler stated that he was not being asked to spend additional money on a traffic study that will show what the Staff report and the City Engineer have already confirmed as less intensive. He was unsure why they were asking him to spend the time and money on a traffic study.

Director Erickson stated that if they find that a traffic study is necessary and additional parking information is necessary, that information should be used to develop mitigation and operating strategies. He explained that a parking plan would not address the China Bridge provision, but it would address larger events and where the applicant would propose to have off-site parking for x-number of people. It would also include a plan to move guests from the off-site parking lot to the site. In terms of traffic, it would not be about the number of trips generated, but rather how traffic will be affected during load-in/load-out, and will bus movement be affected. Director Erickson remarked that the information would be hyper-focused with the ability to build mitigation strategies.

Chair Band recognized that the use is less intense than a restaurant, but at certain periods it will be much more intense than a restaurant. She recommended that the applicant work with Director Erickson because it is different than the average ADT study.

Commissioner Sletten used the analogy that people can still drown in 3' of water. He believed the load/unload problem is that at key times they could "drown" in the traffic.

Mr. Tyler commented on the amount of commentary surrounding mitigation and whether the impacts can or cannot be mitigated or the measures that address the impacts. He stated that he has never been provided a standard to mitigate to by the City, the public, or by the Code. Part of his frustration is that they have been in this process for several years and they were still talking about the same issues. Mr. Tyler was not sure what he was expected to do to mitigate further because there are no standards. Chair Band remarked that there is an Ordinance for noise which has standards. For the rest, she would look to the Staff. She understood Mr. Tyler's frustration.

City Attorney Harrington disagreed with Mr. Tyler because that there are reasonable standards in the Code. The City will work with the applicant to qualify those in a manner to show how they are not being met. Mr. Harrington stated that operationally the Staff has been frustrated because they have not seen progress on some points. He thought the analogy that this use was similar to an outdoor event that is permitted on a case by case basis is useful, because it puts it more in perspective. The issue is the unqualified nature of what could occur versus the assumption that it is a less intense use. This is a unique property.

Mr. Budge agreed with Mr. Harrington. In the plan they offered to provide for an event over 200 people, they could identify operationally how they would anticipate some of the issues that have been identified. Mr. Budge offered to refine it before coming back to the Planning Commission so the Commissioners would have a better understanding of how they can prevent "drowning in three feet of water".

Chair Band pointed out that the Planning Commission looks at the solutions that the applicant provides. Commissioner Thimm thought it would be helpful to have a set of agreeable conditions that both the Staff and the applicant endorses. Mr. Budge replied that he anticipated working with the Staff to provide those.

Chair Band requested that the Staff schedule a site visit. She understood the applicant intended to hire an event planner, and she suggested that they consider some of the recommendations outlined in the letter from the Police Department.

MOTION: Commissioner Sletten moved to CONTINUE the City Council remand for a Conditional Use Permit for 638 Park Avenue to a date uncertain. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously. Commissioner Kenworthy was recused.

Commissioner Kenworthy returned to the meeting.

2. **Twisted Branch Subdivision Plat – A Subdivision Plat for 4 lots of record for an on-mountain private restaurant, a City water tank, a City pump station, and a recreational warming shelter/yurt; existing Twisted Branch Road; parcels for Deer Valley Resort uses; open space; and existing SR 244, subject to the Flagstaff Annexation and Development Agreement, located within the Empire Pass Development Area and Flagstaff Mountain and Empire Pass Development Construction Mitigation Plan amendments regarding clean excavation materials stockpiling and depositing and construction traffic routing. (Application PL-18-03664)**

Planner Kirsten Whetstone reviewed the request for Planning Commission discussion on a final subdivision plat for four lots and eight open space parcels; as well a private Twisted Branch, which already exists, and State Road 224 that traverses this property. Planner Whetstone noted that the property is located from the Montage where Marsac Avenue ends as platted to the Summit County/Wasatch line, which is adjacent to the Red Cloud subdivision at Pod D. Planner Whetstone noted that the property is entirely within and subject to the Flagstaff Annexation and Amended Development Agreement. It is located in the RD, the lower portion, and the ROS zones. All of the property is within the City boundary.

Planner Whetstone reiterated that the plat would create four lots. She provided a color-coded version of the site. The blue indicated the lots that were being created. Lot 1 would be a private warming shelter as an accessory use to the Empire Club. Lot 2, which is accessed off of Twisted Branch Road is the proposed location of the private on-mountain beano style restaurant, which is specific to the Development Agreement. The existing City water tank is located on Lot 3. Lot 4 is the existing City pump station.

Planner Whetstone noted that the parcel identified as 5 would actually be Parcel H and identified in green on the revised plan. The green color identified the parcels. She indicated the open space parcels. Parcel C is the location proposed for the excavated soil in the construction mitigation plan.

Planner Whetstone stated that Twisted Branch Road and SR224 were identified in pink. Twisted Branch is private and provides access from the different pods of the Village up to Pod D, which is also part of the Flagstaff Development Agreement. State Road 224 is described as existing pavement. It is edge oil to the center line of the ditch on the uphill side.

Planner Whetstone reported that there were no lots for residential or commercial density. No Unit Equivalents are assigned by the Development Agreement or by this plat. Density was not allocated to any of these lots or parcels, except for the private on-mountain restaurant that is fully described in the Development Agreement.

Planner Whetstone reported that the intent of the Subdivision is to plat these lots and parcels in compliance with the Land Management Code and the Development Agreement, and address cleaning up the remnant parcels that resulted from the foreclosure. She stated that the plat maintains its status quo in terms of access from Twisted Branch Road as a private road, as well as the State Route 224. It is consistent with the Flagstaff Development Agreement and the LMC.

The Staff recommended that the Planning Commission conduct a public hearing, discuss the application, and provide direction to the Staff and the applicant regarding the five items outlined on page 93 of the Staff report. Planner Whetstone noted that the construction mitigation plan was primarily for the infrastructure.

Doug Ogilvy, representing the applicant, stated that everything west of this is in the conservation easement parcel formerly conveyed to Deer Valley. Two small portions that were recently conveyed to Deer Valley were not in the conservation easement. Everything to the east is the east conservation parcel plus the Red Cloud plat. They are required to keep their export on site. The original Daly West site is down and they were taking this opportunity to identify where they can place fill in manner that is suitable and compatible with the surroundings. The restaurant site sites 25' lower than the adjacent ski run. Thought has been given to bring that site up to grade with the ski run and build a restaurant on finished grade. The restaurant was identified in the Development Agreement but it did not identify the restaurant location. With this application they were identifying Lot 2 as the restaurant site. The entrance to Red Cloud Talisker Club is historically staged. Under the sale of that land from REDUS to the City, Talisker Club retained a lease hold in Bonanza Flat as a place that club members can stage to. Last fall a small yurt was constructed as a staging place where members can suit up to go into the back country. This plat creates a lot for that purpose and it will be formalized as a conditional use permit rather a short-term administrative CUP. The City parcels were self-explanatory and the City asked that they be included on the plat.

Mr. Ogilvy noted that Twisted Branch Road is an odd configuration and has very tight switchbacks. At the end of the hairpins there are opportunities for stockpiling snow. Rather than tightly platting it, they recognized that it would not be used except for

stockpiling snow so they made it the entire parcel. That was the reason why the parcel was oddly shaped.

Mr. Ogilvy clarified that the intent of this application was to clean up the last piece of Empire Pass under the Flagstaff Development Agreement. Because it was a confusing plat, the applicant thought it was better to bring it forward as a discussion this evening, as opposed to the requesting a vote the first time the Commissioners had the opportunity to see it.

Chair Band opened the public hearing.

Mark Fischer stated that he was the President of the Brighton Estates Property Owners Association. He has been going up there long enough to remember that in the 1997-1998 timeframe, the senior management of Deer Valley worked with their lead at that time, Rodney Powell. Deer Valley agreed to allow the expansion into Empire Pass because they recognized their rights. In return, once Twisted Branch Road was built they were to be placed on this road. Mr. Fischer stated that based on documentation on UDOT letterhead, they were supposed to be on the road when it opened, which was in the early 2000s. It got complicated when Talisker came in and there were financial problems. It is now with REDUS. Mr. Fischer empathized with Wells Fargo and REDUS because they were not there during the time these agreements were made. Mr. Fischer stated that he was here this evening because he would like to look at this project holistically. He pointed out that they were not asking for anything more than what they were promised. They were only trying to get what they were promised. Mr. Fischer stated that he is a member of the Talisker Club and these were all his friends and he was not trying to upset anyone. His intent was to have this issue either included in this agenda item or as a new agenda item that specifically addresses what was supposed to happen. Mr. Fischer had his real estate attorney review the Staff report and he read a few of his comments into the record. "We've carefully reviewed the Staff report and have a few questions that we hope you can help us with. Condition of Approval #8 requires an irrevocable offer from the applicant to dedicate Twisted Branch Road for public use as a roadway. But nothing in the proposed conditions or in the Staff report says anything about when the City will accept that dedication and make Twisted Branch a public road. The Brighton Estates Property Owners Association started an effort to enforce what it believes to be a binding agreement to allow its members to use Twisted Branch instead of SR224 for year-round and specifically winter access to Brighton Estates, dating back to when it was supposed to occur, which was about 2003". Mr. Fischer noted that Tom Daly has all the letters and information. "If this application is approved, the City will be in a position to help solve the problem of winter access to Brighton Estates. What can you tell us about when Twisted Branch will become public? How do we move forward with this discussion in a productive

manner, recognizing that we're hoping for a win/win for all parties involved? We have a related question regarding the connection of Twisted Branch and Guardsman Pass Road. Condition of Approval 9U refers to the language in the Amended Flagstaff Development Agreement, which states that Twisted Branch may be converted to a public road from the point of departure of SR224 to the Summit/Wasatch County Line. But there is nothing specific about how going to or coming from the Wasatch County will get to Twisted Branch and Guardsman Pass". Mr. Fischer remarked that it was a 200-foot area that was put in the Flagstaff Agreement that would require both Park City Municipal and Wasatch County to come together in a document and agree before these two roads could be connected. He stated that this is important because the 200-foot connection then allows access down into Wasatch County, past the Girl Scout Camp Y, and into Brighton Estates. "Planning Director Erickson mentioned on the radio the other day that there is a connection near the top of the pass, but currently there is no physical connection. It seems we need something in the conditions of approval requiring the applicant to ensure there is a connection between Twisted Branch and Guardsman Pass Road; otherwise turning Twisted Branch into a public road does not make because it is a dead-end". Mr. Fischer reiterated that his intent this evening was to give Brighton Estates a voice by either becoming part of this agenda item or to create a new agenda item that is very specific to resolving this problem. Mr. Fischer thought it was a reasonable request because in the past SR224 went way above the bottom of the north side chair lift. That road was abandoned and the developer built a new road below the north side chair lift and below the Grand Lodge. At that time, they were parking snowmobiles at the horse corral below the Stein Eriksen Lodge. It added two miles of travel to their journey to reach their property. The second inconvenience occurred in the location of the Bandana Ski Run. They were put through a substandard hut type tunnel that was since replaced with a small concrete tunnel because it was only meant to be use three to five years. Twenty years later they are still using this tunnel which is avalanche prone and the grades are not safe. Mr. Fischer remarked that the third inconvenience was a fly-over bridge over the State Highway above the Bandana Ski Run. He stated that in return for these give and take things they were to be put on the new road free of charge because they enabled, without public dispute, the whole expansion of the Deer Valley Ski Resort to occur, as well as hundreds of millions of dollars of development and entitlements that the developers received. For that reason, they were supposed to pay for the road.

Mr. Fischer remarked that it was a long and complicated story and he would like to find a way to engage with the City in a professional manner in an effort to move this agenda item forward. He had no intention of trying to harm this applicant or do anything to delay their activity. He only requested that the City take a serious look at the situation he was bringing forth on behalf of the Brighton Estates Property Owners.

Chair Band closed the public hearing.

City Attorney Harrington offered to work on providing answers to Mr. Fischer's questions in the next Staff report.

Chair Band addressed some of the issues for discussion on page 93 of the Staff report. Planner Whetstone explained that it started as a two-lot plat that goes straight to a final plat. However, because the City had property surrounding their property those lots were added and it became a four-lot plat. Other than platting the City property, nothing else had changed. The Staff was recommending that the final plat was a sufficient step. Chair Band was comfortable with the waiver of the preliminary plat process and the analysis. She thought the mitigation was satisfactory. She had no issues with the draft Findings. Commissioner Thimm

MOTION: Commissioner Hall moved to CONTINUE the Twisted Branch Subdivision to July 11, 2018. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

3. Park City Heights Subdivision – Amendment to subdivision phasing plan. (Application PL-17-03552)

Planner Whetstone reported that the Staff was recommending that the Planning Commission conduct a public hearing and Continue this item to July 11th, to allow the Staff time to review a few of the items internally.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Thimm moved to CONTINUE the Park City Heights Subdivision Amendment to the subdivision phasing plan to July 11, 2018. Commissioner Sletten seconded the motion.

VOTE: The motion passed unanimously.

4. Daly Delight Plat Amendment at 180 & 182 Daly Avenue - The applicant intends to create a two (2) lot subdivision two platted lots and vacated Anchor Avenue. In addition, a portion of the property will be dedicated to

Park City Municipal Corporation as Daly Avenue Right-of-Way. Another portion of the property will be dedicated to Park City Municipal Corporation as Ridge Avenue Right-of-Way. (Application PL-18-03838)

Planner Hannah Tyler reviewed the application for two Old Town lots at 180 and 182 Daly Avenue. The requested plat amendment would remove an interior lot line. Planner Tyler reported that Ridge Avenue currently bisects part of this property, and in addition to getting Ridge Avenue as a road dedication, the City was also getting the land to the west, as well as a portion of Daly Avenue that is currently on the property as a road dedication.

The Staff recommended approval of this standard Old Town plat amendment for 180 and 182 Daly Avenue.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation to the City Council for the Daly Delight plat amendment at 180 and 182 Daly Avenue, in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the draft ordinance. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 180 & 182 Daly

1. The properties are located at 180 Daly Avenue and 182 Daly Avenue are in the Historic Residential-1 Density (HR-1) District.
2. The proposed site location consists of 180 Daly Avenue (“Significant” Single-Family Dwelling) and 182 Daly Avenue (Garage Structure). The Garage on 182 Daly Avenue will be demolished (See Condition of Approval #7).
3. The property currently consists of the southerly 48 feet of Lot 26 and Lot 27, Block 74, Park City Survey, and is currently taxed under two tax parcel numbers.
4. Adjacent to and a part of the property is one-half of vacated Anchor Avenue.
5. Existing Ridge Avenue occupies a portion of the west side (rear) of the property.
6. In 1990 two (2) Building Permits were issued for 180 Daly Avenue. One (1) Building Permit was for a re-roof and one (1) Building Permit was for new siding.
7. In 1992 a Historic District Review and Building Permit were issued for the

construction of the existing garage structure at 182 Daly Avenue.

8. This applicant proposes to remove the existing lot line between Lots 26 and 27 and the block line on the easterly side of vacated Anchor Avenue. A new lot line will create two (2) lots.

9. Lot A will consist of the "Significant" single-family dwelling and Lot B will be a vacant lot (the existing detached garage will be demolished – see Condition of Approval #6).

10. At the southernmost corner of the property, there is an eight square foot (8 SF) portion of the property that occupies the existing asphalt of Daly Avenue. This 8 SF portion of the property will be dedicated to Park City Municipal Corporation as Right-of-Way.

11. Existing Ridge Avenue occupies as portion of the west side of the property with a remnant of the property encompassing the steep grade west of Ridge Avenue. The total area of Ridge Avenue and the steep grade west of Ridge Avenue is 1,887 SF. Both Ridge Avenue and the steep grade to the west of it will be dedicated to Park City Municipal Corporation as Right-of-Way.

12. The proposed Plat Amendment application was application was deemed complete on April 16, 2018.

13. The Single-Family Dwelling located at 180 Daly Avenue is listed as Significant on the Historic Sites Inventory (HSI). Renovate the existing historic Single-Family Dwelling and construct an addition.

14. A Single-Family Dwelling is an Allowed Use in the HR-1 Zoning District.

15. The garage located on 182 Daly Avenue is non-historic. The applicant is proposing to demolish the existing non-historic garage (see Condition of Approval #6) and construct a Duplex Dwelling on the vacant lot.

16. A Duplex Dwelling Use is a Conditional Use in the HR-1 Zoning District. A Conditional Use Permit for a Duplex Dwelling Use at 182 Daly Avenue was deemed complete on December 12, 2017. The application is for the construction of a new Duplex Dwelling on a vacant lot. The CUP is on hold, pending submittal of updated plans that comply with the LMC and Design Guidelines.

17. The minimum lot width in the HR-1 District is 25 feet; the lot width of Lot A is 44.24 feet and the lot width of Lot B will be 58.78 feet.

18. For lots over 100 feet in depth, the required Front and Rear Yard Setback is a minimum of 12 feet and a total of 25 feet. This applies to both Lot A and Lot B.

19. The required Side Yard Setback for Lot A is 5 feet for a total of 10 feet.

20. The required Side Yard Setback for Lot B is 5 feet for a total of 14 feet.

21. The maximum Building Footprint for Lot A is 1539 SF.

22. The maximum Building Footprint for Lot B is 1975 SF.

23. A Steep Slope Conditional Use Permit application for 182 Daly Avenue was deemed complete on December 11, 2017. The application is for the construction of a Duplex Dwelling on a slope greater than 30%.

24.A Historic District Design Review Application for 182 Daly Avenue was deemed complete on December 11, 2017. The application is for the construction of a Duplex Dwelling on a vacant lot.

25.A Historic District Design Review Application for 180 Daly Avenue was deemed complete on December 12, 2017. The application is for the restoration of the "Significant" single-family dwelling and construct an addition. This application is on hold pending submittal of updated plans.

26.A Steep Slope Conditional Use Permit for 180 Daly Avenue was deemed complete on December 12, 2017. The application is for the construction of an addition on a slope greater than 30%.

27.A Shared Parking Structure Conditional Use Permit for 180 and 182 Daly Avenue was deemed complete on December 12, 2017. The application was a proposal to create a single-car garage attached to the Single-Family Dwelling and located on both 180 and 182 Daly Avenue. The application was withdrawn by the applicant on May 15, 2018.

28.Staff finds good cause for this Plat Amendment as interior lot lines and the block line on the easterly side of Anchor Avenue will be removed for both 108 and 182 Daly Avenue creating two (2) legal lots of record. In addition, ten foot (10') snow storage easements along Daly Avenue and Ridge Avenue will be granted to the City. Also, portions of the property will be dedicated to Park City Municipal Corporation for Daly Avenue and Ridge Avenue Right-of-Ways.

29.The site is not located within the Sensitive Lands Overlay District. There are no known physical mine hazards.

30.On May 30, 2018, the property was properly noticed and posted according to the requirements of the Land Management Code. On May 26, 2018 proper legal notice was sent to all affected property owners and published in the Park Record and on the Utah Public Notice Website.

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

Conclusions of Law – 180 & 182 Daly

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

Conditions of Approval – 180 & 182 Daly

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The applicant shall show and label all easements with Snyderville Basin Water Reclamation District (SBWRD) on the plat amendment.
4. A ten feet (10') wide public snow storage easement will be required along the Daly Avenue and Ridge Avenue frontage of the property.
5. All development will have to provide elevation certificates certifying compliance with the minimum FEMA Flood Zone requirements.
6. The detached garage located on Lot B shall be demolished prior to plat recordation.

5. 115 Sampson Avenue – Steep Slope Conditional Use Permit – applicant is proposing to construct an addition to a historic house, designated as “Significant” on the Historic Sites Inventory, on a slope greater than 30%. (Application PL-18-03794)

Planner Grahn reviewed the application for a Steep Slope CUP. The applicant would like to add an addition to a historic house. The addition would be fronting Sampson Avenue. The applicant was requesting a height exception to accommodate a garage. Parking would be in a tandem configuration as required by the height exception.

Planner Grahn referred to references in the Staff report of LMC 15-2.2-5(D)(4), which is the HR-1 section. She amended that to correctly refer to the HRL section, which is LMC 15-2.1.5 (D)(4). The LMC section also needed to be amended in Finding of Fact #11.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Kenworthy moved to APPROVE the Steep Slope CUP for an addition on a slope greater than 30% at 115 Sampson Avenue, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the Staff report and

as amended to reflect the correct LMC Section in Finding #11. Commissioner Thimm Seconded the Motion.

VOTE: The motion passed unanimously.

Findings of Fact – 115 Sampson Avenue

1. The property is located at 115 Sampson Avenue.
2. The site is located in the Historic Residential-Low Density (HRL) Zoning District.
3. The site is designated as “Significant” on the City’s Historic Sites Inventory.
4. The lot contains 7,692 square feet. It is a downhill lot.
5. On March 6, 2014, the Park City Council approved the 115 Sampson Avenue Subdivision through Ordinance 14-07; it was recorded on February 26, 2015.
6. This application is a request for a Steep Slope Conditional Use Permit (CUP) for construction of an addition to a historic single-family home, when the Building Footprint of the addition is in excess of 200 square feet if the Building Footprint of the addition is located upon an existing Slope of 30% or greater.
7. The applicant is proposing to build an addition on the west side of the historic house creating a total house size of 2,697 square feet.
8. The existing footprint of the historic house and its non-historic additions is 772 square feet; the proposed footprint of the house following construction of the addition is 2,004 square feet. The lot size currently allows a footprint of 2,496.28 square feet.
9. On February 12, 2018, the City received an application for a Conditional Use Permit (CUP) for “Construction on a Steep Slope” at 115 Sampson Avenue; the application was deemed complete on February 22, 2018.
10. This is a downhill lot, and the average slope of the lot is about 52.5%. The slope drops drastically immediately east of Sampson Avenue, with portions of the grade having a slope as much as 67%.
11. Pursuant to LMC 15-2.1-5(D)(4), the Planning Commission may allow additional Building Height (see entire Section 15-2.1-5) on a downhill Lot to accommodate a single car wide garage in a Tandem Parking configuration; to accommodate circulation, such as stairs and/or an ADA elevator; and to accommodate a reasonably sized front entry area and front porch that provide a Compatible streetscape design. The applicant is proposing tandem parking consisting of a single-car garage (approximately 246 square feet) and uncovered parking space in the driveway as well as a circulation space containing a staircase and elevator (approximately 210 square feet). The depth of the garage will not exceed the minimum depth for internal Parking Spaces as required within LMC 15-3; the applicant has provided a garage 20 feet in depth. The additional Building Height is not permitted to exceed 35 feet Existing Grade; the proposed height is 32 feet above Existing Grade.

12. The property is located outside the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine related impacts.

13. The development has been located and designed to reduce visual and environmental impacts of the Structure. The historic house will remain in its existing location, which is most visible from Norfolk Avenue and almost hidden from view along Sampson Avenue due to the location of the historic house downhill from the right-of-way. The applicant is proposing to construct an addition to the west (rear) side of the house, which will appear as a small, one-story addition with a pedestrian entrance and single-car garage along Sampson Avenue. The addition will have a total of three stories. Much of the proposed bulk and mass of the new addition will be buried in the hillside.

14. The proposal minimizes impacts of the project by incorporating screening, slope stabilization, erosion mitigation, vegetation protection, and other items. As demonstrated by the visual analysis, the proposed addition fits within the context of the slope, neighboring structures, and existing vegetation. The neighborhood consists of historic houses with one- to two-story additions, one- to two-story new houses, and a few three- to four-story new residential developments. The applicant has designed the addition so that it steps up the hillside, providing pedestrian and vehicular access to Sampson Avenue. Not only will this alleviate some of the dangerous site conditions that exist with the railroad tie-supported parking pad, it will also create a presence along Sampson Avenue where it is currently difficult to determine which staircase accesses this property.

15. Access points and driveways have been designed to minimize grading of the natural topography and reduce overall building scale. The applicant is proposing to remove the existing railroad-tie parking pad that encroaches into the City right-of-way and replace it with a new driveway and single-car garage. This parking pad was never intended to provide public parking, but was built by previous owners of 115 Sampson Avenue to provide parking for their site. Additionally, as part of the plat amendment that was recorded in 2015, an Encroachment Agreement between Park City Municipal Corporation and Silver Potato LLC (the current owners), requiring the owners to maintain the parking pad.

16. The project includes retaining walls and terraces to retain Natural Grade. The hillside will need to be re-graded following the demolition of the 1983 parking pad to restore original grade. Following construction of the addition, the applicant is proposing to terrace the hillside in order to create a series of outdoor patios and living spaces. There are seven proposed retaining walls; of these, three of the walls are no more than 4 feet in height and four of the walls are 2.5 feet.

17. Buildings, access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The structure has been designed in order to be setback and visually separated from the historic house at the

front of the lot. The applicant has sited the new addition in such a way that the original grade of the site can be largely restored following the deconstruction of the 1983 parking pad. Several terraces will extend from the front yard to the flatter portion of the lot where the historic house sits. The design has maximized opportunities for open space, and there is no Significant Vegetation to preserve as the site is overgrown. New landscaping will be incorporated to help maintain the hillside and provide visual separations from the neighboring properties.

18. Where Building masses orient against the Lot's existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. The new addition provides a visual transition between the historic house and the new addition. The mass of the addition steps up the hill, terminating at Sampson Avenue. This helps breakup the mass of the structure, and the tallest portions of the historic house are set back substantially from the historic house so as not to detract from it. The historic house, when viewed from the Norfolk Avenue right-of-way that it faces, will remain the focal point of the project.

19. The proposal minimizes the creation of a "wall effect" along the Street front. The new addition is largely tucked behind the historic house and only appears as one-story in height from the Sampson Avenue right-of-way. It does not create a wall effect along the Street front or appear to overwhelm the historic house. It is visually separated from the historic house by a transitional element, and the taller masses are pushed back toward Sampson Avenue so they do not overwhelm the historic house.

20. The volume of the structure has been restrained to minimize its visual mass and mitigate differences between the scale of the historic house and new addition. The proposed design is articulated and broken into compatible massing components. The design includes setback variations and lower building heights for portions of the structure. The proposed massing and architectural design components are compatible with both the volume and massing of single family dwellings in the area. The design minimizes the visual mass and mitigates the differences in scale between the proposed house and surrounding structures.

21. The proposed new construction meets the twenty-seven feet (27') maximum building height requirement measured from existing grade; however, the applicant has requested a building height exception for the garage and circulation space pursuant to LMC 15-2.1-5(D)(4), The height of the new addition is approximately 32 feet above existing grade, and the remainder of the addition becomes buried in the hillside as the grade steps uphill towards the rear of the lot to comply with the 27 foot height requirement. The roof has been designed to allow for a front and side-facing gables along the street front, consistent with adjacent structures. As designed the house is compatible in mass and scale with houses in the surrounding neighborhood.

22. The property was posted and notice was mailed to property owners within 300 feet on May 30, 2018. Legal notice was also published in the Park Record in accordance with requirements of the LMC on May 26, 2018.

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

Conclusions of Law – 115 Sampson Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6.
2. The Use is consistent with the Park City General Plan, as amended.
3. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 115 Sampson Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The CMP shall include language regarding the method of protecting adjacent structures.
3. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. This approval will expire on June 13, 2019, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by the Planning Director.
5. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission on June 13, 2018, and the Final HDDR Design.
6. Modified 13-D residential fire sprinklers are required for all new construction on this lot.
7. All excavation work to construct the foundation of the new addition shall start on or after April 15th and be completed on or prior to October 15th. The Planning Director may make a written determination to extend this period up to 30 additional days if, after consultation with the Historic Preservation Planner, Chief Building Official, and City Engineer, determines that it is necessary based upon the need to immediately stabilize an existing Historic property, or specific site conditions such as access, or lack thereof, exist, or in an effort to reduce impacts on adjacent properties.
8. The property is located outside the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine

related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance to State and Federal law.

9. During construction, a six foot chain-link fence around the property will be required. The Construction Mitigation Plan should note that parking will not be allowed on Sampson, King Road or Norfolk Ave. The applicant will need to submit a detailed parking plan when as part of their Construction Mitigation Plan.

6. Land Management Code (LMC) Amendment – Removing Garage at 1503 Park Avenue from the Park City Historic Sites Inventory (HSI) as codified by LMC Section 15-11-10(D)(2)(dt). (Application PL-18-03841)

Planner Grahn reported that the only change was to remove the garage. The site would still remain Landmark.

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

Chair Band questioned why this was coming to the Planning Commission. Planner Grahn replied that it required Planning Commission review because it redlined the LMC to modify the site.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for the LMC Amendment removing the garage at 1503 Park Avenue from the Historic Sites Inventory, in accordance with the Ordinance found in the Staff report. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

7. 813 Woodside Avenue Plat Amendment – Proposal to remove an interior lot line to create one (1) lot of record 2,417 s.f. in size. (Application PL-18-03841)

Planner Francisco Astorga noted that he had co-authored the Staff report with Elizabeth Jackson. The request was to remove an interior lot line through the kitchen at 813 Woodside Avenue to create one lot of record.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for a plat amendment at 813 Woodside Avenue, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 813 Woodside

1. The site is located at 813 Woodside Avenue.
2. The site is within the Historic Residential-1 District.
3. The subject site consists of the northern half of Lot 2 and all of Lot 3, Block 11, within the Snyder's Addition to the Park City Survey.
4. The proposed Plat Amendment creates one (1) lot from one and a half (1½) Old Town lots.
5. The applicant requests to eliminate the lot line going through the non-historic structure.
6. The minimum lot size within the Historic Residential-1 District is 1,875 square feet.
7. The proposed lot size is 2,417 square feet.
8. The minimum lot width within the Historic Residential-1 District is twenty five feet (25').
9. The proposed lot width is thirty-seven and half feet (37.5').
10. The proposed lot combination, Plat Amendment, meets lot and site requirements of the Historic Residential-1 District.
11. There is a railroad tie retaining wall on this site that encroaches onto the Woodside Avenue public Right-of-Way.
12. The railroad tie retaining wall is not historic and the applicant is able to apply for a Historic District Design Review application to remove or move the retaining wall. See Condition of Approval no. 3.
13. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 813 Woodside

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 – 813 Woodside

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant shall record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Prior to plat recordation, the applicant shall remove the existing railroad tie retaining wall encroachment from the City Right-of-Way. The applicant is responsible of securing appropriate City approvals and permits before any work on the retaining wall can begin.
4. Residential fire sprinklers are required for all new construction per requirements of the Chief Building Official, and shall be noted on the plat.
5. Ten foot (10') public snow storage easement shall be granted along the Woodside Avenue right-of-way.
8. **Land Management Code Amendments regarding Setbacks and Yards in Chapters 15-2.1 Historic Residential-Low Density (HRL); 15-2.2 Historic Residential (HR-1); 15-2.3 Historic Residential (HR-2); 15-2.4 Historic Residential Medium District (HRM); 15-2.5 Historic Recreation Commercial (HRC); 15-2.6 Historic Commercial Business (HCB); 15-2.7 Recreation and Open Space (ROS); 15-2.8 Protected Open Space (POS); 15-2.9 Rural Estate (E-40); 15-2.10 Estate (E); 15-2.11 Single Family (SF); 15-2.12 Residential (R-1); 15-2.13 Residential Development (RD); 15-2.14 Residential Development-Medium Density (RDM); 15-2.15 Residential- Medium Density (RM); 15-2.16 Recreation Commercial (RC); 15-2.18 General Commercial (GC); 15-2.19 Light Industrial (LI); 15-2.22 Public Use Transition (PUT); 15-2.23 Community Transition (CT); 15-3 Off-Street Parking; 15-4**

Supplemental Regulations; and 15-15 Defined Terms.
(Application PL-18-03867)

Director Erickson stated that these amendments set the groundwork for other cleanups in the Code. It was difficult for the Staff to find 175 references and make them all work, but they cannot do anything about parking, xeriscaping, or other items until these amendments are in place.

Planner Tippe Morlan reviewed the proposed LMC Amendments for setbacks and yards. Planning Techs Elizabeth Jackson and Laura Newberry had also worked on these amendments. Planner Tippe reiterated that it was an effort to clean up the Code.

Planner Morlan stated that this looks at the definition of setback and yard. It is easy to confuse these terms both in the LMC and in practice. The difference is that a setback is determined by the lot size and its dimensions. A yard is determined by the location of a structure on the lot. There can be setbacks on any lot with or without a structure, but a yard is only determined once a structure is on the lot. Planner Morlan presented an image showing that the setback only goes to the minimum required distance. A yard goes from the parking line all the way to the house.

The Staff had revised the definition language to clarify and codify what Planner Morlan had just explained. The Staff requested that the Planning Commission approve the recommended change and definition. Planner Morlan noted that the definition in the Staff report for setbacks had been revised. The new language would change the definition of setback to "The area between a property line and a parallel line that is at a distance equal to the appropriate setback distance determined by the zoning district or any applicable recorded document". This would allow subdivisions with a recorded building pad to have the setbacks the zone allows as recorded.

Director Erickson noted that they needed to keep #3 which references the existing street, because they may not have the street in the right-of-way. Mr. Harrington explained that #3 was necessary to keep in the Code because there are so many prescriptive rights-of-way where the lot line and edge of curb are different. Planner Morlan noted that the language would read, "The area between a property line and a parallel line that is the distance equal to the appropriate setback distance determined by the zoning district, any applicable recorded document, or an existing curb or edge of the street".

Commissioner Hall asked if setback was a defined term. Commissioner Erickson replied that the Staff was redefining setback. Planner Morlan clarified that the language in black exists in the Code and the language in red is what they were replacing. Ms.

Morlan stated that in “yards” have been used in place of “setback”, so even if they kept the existing definition of setback, the intent is to define yard with more clarity because currently the difference between setback and yard is confusing.

Commissioner Thimm asked if the LMC recognizes a right-of-way line as being a property line. Mr. Harrington stated that it measures from the right-of-way line, depending on whether or not it was dedicated. In terms of whether it is a property line, there can be a right-of-way inside a property. He stated that technically the answer would be not in all cases because it may be a public right-of-way but still within someone’s private property. However, they would measure the setback from that right-of-way line, even though it is not a property line. For that reason, #3 needs to remain. Commissioner Thimm stated that he was accustomed to looking at the right-of-way line rather than the curb line. Mr. Harrington stated that it has not be a problem, and it only becomes an issue is when the edge of the street is closer than the right-of-way line or the property line. The language was written to catch that circumstance. To be more precise, they could add right-of-way to the definition because it could come up in the scenario without looking closer.

Planner Astorga stated that the Michael Kaplan application on McHenry was a prime example because there was a road without a right-of-way. Commissioner Thimm noted that there are hundreds of streets like that in Salt Lake.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for the Land Management Code amendments regarding setbacks and yards in all the zones shown on the agenda, subject to the modification of the right-of-way street, Item #3 in the definition. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

9. **1304 Park Avenue Plat Amendment – Proposal to create one (1) legal lot of record from a metes and bounds parcel. (PL-18-03539)**

Planner Jackson reviewed the request to remove an interior lot line on an Old Town to make one legal lot of record. The existing encroachments on the site are required to be resolved prior to plat recordation.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council as it cleans up the property lines and allows the property owner to make improvements and bring the lot into compliance.

Planner Jackson made a correction to Condition of Approval #3, and changed Woodside Avenue to correctly read Park Avenue for the 10' snow storage easement.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the 1304 Park Avenue plat amendment located at the same address, according to the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended. Commissioner Sletten seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1304 Park Avenue

1. The property is located at 1304 Park Avenue.
2. The property consists of a metes and bounds parcel of Snyder's Addition to Park City.
3. The property is in the Historic Residential – Medium Density (HRM) District.
4. This site is listed on Park City's Historic Sites Inventory (HSI) and is designated as Landmark.
5. The Plat Amendment removes one (1) interior lot line (block line) that runs through the existing house.
6. The proposed Plat Amendment combines the metes and bounds parcel into one (1) legal lot of record, which will include 4,125 square feet.
7. The minimum lot area for a single-family dwelling is 1,875 square feet in the HRM zone. The proposed lots meet the minimum lot area for single-family dwellings.
8. A single-family dwelling is an allowed use in the District.
9. The minimum width of a Lot is 37.50 feet measured 15 feet back from the Front Lot Line. The proposed lots meet the minimum lot width requirement with width at 55 feet.
10. LMC § 15-2.4-6 indicates that historic structures that do not comply with building setbacks are valid non-complying structures.

11. The applicant proposes to maintain and renovate the historic house at 1304 Park Avenue.
12. The minimum front/rear yard setbacks are 10 feet (10'); the minimum total front plus rear yard setbacks are twenty feet (20'). The historic house is encroaching over the front property line approximately 1 foot, and is valid non-complying. There is an existing non-historic shed which has 1 foot (1') rear setback.
13. The minimum side yard setbacks for the site are five feet (5'). The house is setback 14.5 feet (14.5') from the south side yard and 4 feet (4') from the north side yard, which is valid non-complying.
14. There are several existing encroachments on site. The existing historic home, constructed in 1885, encroaches approximately 1 foot (1') over the front property line. There is an existing fence that runs along both sides and the rear property lines, which crosses over the property line into the Cottages on the Park property. There is a concrete retaining wall that encroaches 7 feet (7') into the City right-of-way in front of the 1304 Park Avenue property line (southwest corner, adjacent to the gravel driveway) and onto the Coalition Lodge Condominium property at 1300 Park Avenue.
15. The Park City Planning Department received the plat amendment application on April 19, 2017; the application was deemed complete on April 28, 2017.
16. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 1304 Park Avenue

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

Conditions of Approval – 1304 Park Avenue

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. Ten foot (10') public snow storage easement shall be granted along the Park Avenue right-of-way.
4. The fence encroaches at multiple points over the property line into the neighboring Cottages on the Park Subdivision. The applicant shall either remove the existing fence or enter into an encroachment agreement with the neighbor if the fence is to remain in its existing location.
5. The existing concrete retaining wall encroaches approximately seven feet (7') into the right-of-way. The applicant shall remove the existing retaining wall prior to recordation of this plat amendment.
6. The existing main building and front porch encroach approximately 1 foot (1') into the right-of-way. The applicant will work with the City Engineer to enter into an encroachment agreement for this structure, given the historic designation.
7. Residential fire sprinklers will be required for all new construction per the requirements of the Chief Building Official.

**10. 1202-1299 Lowell Avenue – King's Crown Development Agreement
(Application PL-17-03515)**

Chair Band recused herself and left the room. Vice-Chair Phillips assumed the Chair.

Planner Astorga reported that the LMC requires the applicant for King's Crown to submit a Development Agreement in conjunction to their recently approved MPD.

The Staff recommended that the Planning Commission reviews the King's Crown MPD Development Agreement and consider ratify the agreement to memorialize the MPD approval granted by the Planning Commission in January 2010. Planner Astorga stated that if the Planning Commission ratifies the Development Agreement is it signed by the Mayor and the applicant records it with the County.

Planner Astorga stated that per the requirement in LMC Section 15-6-4(G), the Staff reviewed the Development Agreement and found that it complies with the required components of the Code. Planner Astorga noted that a public hearing was not required prior to taking action.

Rory Murphy, representing the applicant, thanked the Planning Commission for their time this evening.

MOTION: Commissioner Hall moved to ratify the King's Crown Development Agreement to the MPD approval. Commissioner Sletten seconded the motion.

VOTE: The motion passed unanimously. Chair Band was recused.

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The Park City Planning Commission Meeting adjourned at 9:25 p.m.

Approved by Planning Commission: _____

APPROVED