PARK CITY PLANNING COMMISSION MEETING
SUMMIT COUNTY, UTAH
January 28, 2026

The Planning Commission of Park City, Utah, will hold its regular meeting in person at the Marsac Municipal Building, City Council Chambers, at 445 Marsac Avenue, Park City, Utah 84060. Meetings will also be available online and may have options to listen, watch, or participate virtually.
Zoom Link: https://us02web.zoom.us/j/86137534714

MEETING CALLED TO ORDER AT 5:30 PM.

1. ROLL CALL

2. MINUTES APPROVAL

2.A. Consideration to Approve the Planning Commission Meeting Minutes from January 14, 2026

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

4. PUBLIC COMMUNICATIONS

5. REGULAR AGENDA

5.A. **28 Payday Drive – Conditional Use Permit** – The Applicant Proposes to Construct a 480-Square-Foot Outdoor Pool in the Single-Family Zoning District and Sensitive Land Overlay. PL-25-06777 (10 mins.)
(A) Public Hearing; (B) Action

5.B. **751 Rossie Hill Drive – Conditional Use Permit** – The Applicant Proposes a Nightly Rental at 751 Rossie Hill Drive, a Detached Single-Family Dwelling in the Historic Residential - Low Density Zone. PL-25-06767 (20 mins.)
(A) Public Hearing; (B) Action

5.C. **52 and 60 Prospect Avenue – Plat Amendment** – The Applicant Proposes Creating Two Lots from Lots 5, 6, and 7 in Block 18 of the Park City Survey for Significant Historic Sites in the Historic Residential -1 Zoning District. PL-25-06778 (10 mins.)
(A) Public Hearing; (B) Action

5.D. **7700 Marsac Avenue (Mine Bench Site) – Modification** – The Applicant Requests to Modify a Condition of Approval of the Planning Commission Conditional Use Permit for City Employee Temporary Housing on the Mine Bench Site in the Recreation and Open Space Zoning District. The Requested Modification Is to Grant the Housing Team One Additional Year to Acquire an Extended Agreement to October 31, 2029, with Jordanelle Special Service District. PL-26-06800 (5 mins.)
(A) Public Hearing; (B) Action

5.E. **610 Sunnyside Drive – Appeal** – The Applicant Proposes to Appeal the September 25, 2025, Planning Director Setback Determination. PL-25-06788
(A) Application Withdrawn

6. WORK SESSION

6.A. **2025 General Plan Implementation** – The Planning Commission Will Review the 2025 General Plan Vision, Goals, and Strategies, and Discuss Potential Actions to Recommend to the City Council for Implementation in 2026. (60 mins.)

7. ADJOURNMENT

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Planning Department at 435-615-5060 or planning@parkcity.gov at least 24 hours prior to the meeting.

***Parking is available at no charge for meeting attendees who park in the China Bridge parking structure.**

A majority of Planning Commissioners may meet socially after the meeting. If so, the location will be announced by the Planning Commission Chair. City business will not be conducted.

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JANUARY 14, 2026

COMMISSIONERS IN ATTENDANCE: Chair Christin Van Dine, John Frontero, Rick Shand, Grant Tilson, Seth Beal, Henry Sigg (attending virtually)

EX OFFICIO: Rebecca Ward, Planning Director; Alec Barton, Senior Planner; Jacob Klopfenstein, Planner II; John Robertson, City Engineer; Becky Gutknecht, Assistant City Engineer; Nan Larsen, Senior Planner; Jaron Ehlers, Planner I; Elissa Martin, Planning Project Manager; Mark Harrington, Senior City Attorney

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1. ROLL CALL

Chair Christin Van Dine called the Planning Commission Meeting to order at 5:30 p.m. All Commissioners are present with the exception of Commissioner Bill Johnson.

2. MINUTES APPROVAL

A. Consideration to Approve the Planning Commission Meeting Minutes from December 10, 2025.

MOTION: Commissioner Shand moved to APPROVE the Planning Commission Meeting Minutes from December 10, 2025. The motion was seconded by Commissioner Beal. The motion passed with the unanimous consent of the Commission.

3. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

There were no communications or disclosures.

4. PUBLIC COMMUNICATIONS

Chair Van Dine shared information about the public comment process. She informed those present that there would not be public comment taken on Item 6D for 220 King Road.

There were no public communications.

5. WORK SESSION

A. Land Management Code Amendments – The Planning Commission Will Conduct a Work Session Regarding Updates to the Traffic Impact Study Guidelines and Potential Code Amendments Regarding Transportation Demand Management. PL-25-06513.

Senior Planner, Alec Barton, and Planner II, Jacob Klopfenstein, presented the Staff Report and stated that the Work Session item is related to Land Management Code ("LMC") amendments. Planner Barton reported that there will first be a presentation from Staff. Representatives from the Engineering Department are present, as well as Corey Mack from WCG. Planner Barton explained that the goal of the Work Session is to provide a high-level overview of the current status of the Transportation Demand Management ("TDM") toolbox. This item was last before the Commission at a Work Session in August. There will now be updates shared on the status of the project. Staff will explain how the TDM toolbox is intended to work and how it will be used. In addition, there is a desire to gather Commissioner feedback on several specific questions.

In August 2025, the Planning Commission held a Work Session on this project. Some of the specific directions provided at that meeting involved a mechanism to assess the effectiveness of a TDM strategy as land uses change over time. The Commission also identified the Traffic Impact Study ("TIS") and TDM updates as a place to start, rather than the end goal. The intention is to have a final product in the form of a code that is easy to manage and amend. Planner Barton outlined the goals for a TDM toolbox:

- Establish objective standards for how trips generated from development must be mitigated/credited;
- Determine the number of new trips that development/redevelopment will generate;
- Require all development projects that generate more than 10 peak hour trips to mitigate/credit at least 50% of new trips generated;
- Provide developers with a menu of TDM strategies from which they could choose to mitigate/credit at least 50% of the new trips;
- Assign a level of credit to each TDM strategy, with higher levels of credit assigned to more impactful strategies;
- Allow developers to pick and choose multiple TDM strategies they can implement to mitigate/credit a minimum of 50% of the new trips generated;
- Recommend regular monitoring of TDM strategies to ensure they remain effective; and
- Recommend regular updates to the TDM toolbox process to ensure it includes the most effective strategies and includes new strategies.

Planner Barton reported that in the current TIS guidelines, any trips under 25 at the peak hour are exempt from the TIS requirement. The new TDM toolbox is based on 10 peak-hour trips to more closely align with the Master Planned Development ("MPD") Code.

Planner Klopfenstein reported that the consulting partner at WCG prepared a flow chart to explain how this process would work as new developments are evaluated. He shared the flow chart and explained that it visualizes the process and how the toolbox could be applied. The first step would be the proposed development application. From there, the question is whether the project generates more than 10 peak-hour trips. If the answer is no, it would be considered a minor project and would not be required to progress further through the TDM toolbox process. He noted that Table 1 on the flow chart presentation slide includes several examples of uses that might be considered minor projects.

Commissioner John Frontero asked for clarification about the language on Table 1, which states: "Approximate size of developments that generate 10 peak hour trips." Planner Klopfenstein clarified that anything greater than 10 would require the TDM toolbox process to occur. The examples in the table shown would generate 10 peak-hour trips and would not fall under the threshold of more than 10 weekday peak-hour trips.

Commissioner Rick Shand believed that a hotel with 16 rooms would generate more than 10 peak-hour trips, because the table shows a hotel with 15 rooms would generate 10 peak-hour trips. This was confirmed. Planner Klopfenstein explained that in that example, a hotel with 16 rooms would be required to continue to progress through the flow chart. He clarified that the examples are simply estimates. Staff would assess these kinds of applications on a case-by-case basis. He continued to review the flow chart and explained that if the project was not considered a minor project, it would continue through the TDM process. Those projects would be required to draft a Project Scoping Memo, including:

- Description;
- Occupancy Date;
- Site Plan and Access Location(s);
- Estimated Trip Generation:
    - Existing Site Trips;
    - Proposed Site Base Vehicle Trips;
    - Internally/Locally Captured Trips;
    - Pass-by Trips;
    - Net New External Trips.

Planner Klopfenstein reported that from there, the TDM requirement would be that all projects would need to credit or mitigate at least 50% of the new net external trips using the strategies identified in the toolbox. There are a variety of strategies that have been put into the toolbox. What the developer would then have to prepare is a plan that shows that they have credited at least 50% of those net new external trips through the use of the strategies. There is also an incentive to credit 100%. If the development decides to credit 100% of the net new external trips that have been generated by the development, there would not be a requirement to complete a TIS. Planner Klopfenstein explained that a TIS

is a more substantial transportation study that includes an analysis of traffic impacts on several local intersections in Park City as well as other traffic-related information.

If there is a decision made to have the 100% credit, it would be considered a Transportation Site Assessment ("TSA") project. The developer would then complete a TSA, which includes transportation impact information, but it is less substantial than the full TIS. The TSA would include an analysis of parking, traffic safety, and site access.

Commissioner Henry Sigg asked about the establishment of the number of trips generated. He wanted to know if this is done through a traffic study from a consultant or if there is an estimate. Planner Klopfenstein reported that the Project Scoping Memo would be prepared by the developer. That would create the estimate of the net new external trips. Commissioner Sigg wanted to know how that information would be verified. City Engineer, John Robertson, reported that engineering firms refer to the Institute of Traffic Engineers. There is an associated trip generation for each proposed use. Staff would verify that the estimated trips included in the Project Scoping Memo are accurate.

Commissioner Shand mentioned Table 1 in the presentation slides. He asked about a possible exception where there was a 50-room hotel with only 10 parking spaces, and visitors were encouraged not to access the site with a personal vehicle. The inclusion of a hotel shuttle could be something taken into consideration. Engineer Robertson explained that a circumstance like that would be taken into consideration, and there would be work done to determine what the true trip generation would be for that kind of site.

Commissioner Sigg noted that the way the toolbox is presented in the Staff Report, there may be an element of subjectivity. He thinks it is important for applicants to have specificity and some level of certainty. The more specific the toolbox list can be, the better. He suggested that subjectivity be removed from the list of items in the toolbox.

Planner Klopfenstein reported that the list has many specific strategies and categories. There will also be a "none of the above" category, where if there is a strategy that is not on the list that a developer would like to propose, it could be evaluated by Staff. Work is being done to create a list that has specific strategies but also has some level of flexibility.

Commissioner Seth Beal believed the goal should be traffic mitigation from the project itself. Once there is a shift to something like implementing elements of Park City Forward, it essentially allows someone to spend money in order to avoid traffic mitigation for a project. He is interested in reducing trips rather than funding projects around the City. Commissioner Frontero has similar thoughts about the list. He would not be in favor of a cash contribution as a way to meet the toolbox requirements. Planner Klopfenstein thanked them for that feedback and noted that there have been internal discussions.

Several questions were posed to the Commission about the TIS and TDM updates:

- Are there priority land uses, such as affordable housing or childcare, that should have a reduced trip mitigation requirement? If so, how should these land uses be defined or identified?
- Should new developments and redevelopments within certain priority development areas or zoning districts have a reduced trip mitigation requirement? If so, how should these development areas or zoning districts be defined or identified?

Commissioners addressed the first question. Commissioner Beal does not think it should be made more expensive to build affordable housing in Park City. For market-rate housing and commercial developments, having a traffic mitigation strategy that puts the cost on those who can afford it makes sense. However, affordable housing is already expensive to build here, and he is in favor of keeping the costs as low as possible on that. He clarified that this does not mean there should be no traffic mitigation, but it should be different than simply adding costs, as would be seen with market-rate housing or commercial developments. Commissioner Frontero agreed with that overall assessment. He would be in favor of a sliding scale on affordable housing projects because not all affordable housing projects have 100% affordable units. It would make sense to have a sliding scale that is based on the number of actual affordable units in the development.

Commissioner Frontero noted that a lot of projects, depending on the size, have a requirement to build affordable housing. He wondered whether there should be a further incentive provided. Planning Director, Rebecca Ward, reported that for inclusionary zoning for an MPD, there are some exceptions in the code if those units are built on-site. There are many ways developers can satisfy the affordable housing obligations. As the affordable housing exception is looked into, there could be consideration of projects that exceed the requirement for inclusionary housing. For an Affordable Master Planned Development (“AMPD”), there could be a sliding scale that takes into consideration the balance of affordable to market-rate units. Commissioner Frontero stated that in an MPD, the required housing should be built without any further incentive provided. However, he is in favor of anything above the requirement having some sort of reduction.

Commissioner Shand would not be completely opposed to a sliding scale, but he would be in favor of finding other ways to make affordable housing pencil in for a developer rather than give them a break on the traffic impact. He is in favor of looking into other options. Commissioner Sigg is leaning toward having it scaled to the density.

Commissioner Grant Tilson would like to see the complete list of mitigation strategies. He noted that the values assigned to those strategies could be altered for an affordable housing project. There could be more credit given to affordable strategies. He would still like to see some traffic mitigation strategies in every project, but the values assigned to the strategies could shift depending on the details of that project. Planner Klopfenstein thanked Commissioners for sharing their thoughts on the first question posed by Staff.

It was requested that feedback on the second question be shared. Commissioner Frontero did not support this suggestion. Chair Van Dine stated that she could see this, but in combination. Commissioner Beal stated that there are certain types of projects where he would increase the requirement rather than decrease it. There are certain locations that will impact a larger portion of the town than others. Planner Klopfenstein asked if there are particular areas that come to mind. Commissioner Beal mentioned Upper Deer Valley, where someone would need to drive all the way through town to access the area. If there was an incentive to see fewer trips in developments there, that would be beneficial to everyone in the community. Commissioner Shand looks at zoning districts as being all-encompassing for one particular area, where development areas are more focused. He would support reduced trip mitigation in development areas.

Commissioner Sigg asked if proximity to transit stops should be considered. If there is a workforce project that is within a certain proximity to an existing bus route or bus stop, there could be additional incentives there. Planner Klopfenstein reported that proximity to transit is considered in the list of strategies. The level of credit is still being considered.

Additional questions from Staff were posed to the Planning Commission:

- Does the proposed TDM program give the City the tools to require and incentivize investment in non-vehicle capacity infrastructure to achieve the City's transportation goals? If not, what changes are necessary, or what strategies will achieve the goals?
- What other requirements or information should be included in this TDM process to help Planning Commissioners and City Staff effectively apply this tool and mitigate traffic impacts from new developments and redevelopments?

The third question was discussed. Planner Klopfenstein explained that while there is hope that this program will improve conditions around the City, it is not anticipated that this will completely solve the traffic impacts. This is a program that is designed to create a more robust and varied transportation system and network by providing more options to reduce single-occupancy vehicle use. This system will take some time to mature as more developers utilize it. It is intended to create a well-rounded transportation system with more variety and options. Commissioner Frontero noted that it is difficult to answer the third question without seeing the items in the toolbox. He felt that for any new hotels in Park City, there should be a strong incentive to provide airport shuttles for guests.

Planner Klopfenstein reported that Page 7 of the Staff Report has the overall categories listed, but the full list is still being refined and has not been presented to the Planning Commission at this time. Commissioner Shand asked for additional information about “non-vehicle capacity.” Planner Klopfenstein explained that it is meant to describe anything that is not a single-occupancy vehicle. Commissioner Shand liked the suggestion from Commissioner Frontero about incentivizing hotel shuttle service to the airport. That would further incentivize visitors not to use a personal vehicle during a stay.

Commissioner Shand stated that what creates traffic is people coming into town and leaving town at the end of the day. There are certain categories that create traffic. Commissioner Sigg noted that there are a lot of vehicles coming into town, and a lot of those are related to trades. He would like to see more mitigation on those types of single-occupancy vehicles. Commissioner Sigg stated that he is disheartened by the Uber Ski model. It is important not to overlook this, because that kind of use is a driver of traffic.

Engineer Robertson reported that this will not take the place of a requirement for traffic mitigation plans. Those are still in effect and will be required of any new project that comes in. Chair Van Dine believes that what is proposed is a framework. Once there is a framework established, it will be possible to continue to refine what is in place. She looks forward to seeing the actual strategies when this comes back to the Commission.

The fourth question was discussed. Planner Klopfenstein mentioned the flow chart, which outlined the process. He asked if there are any additional steps Commissioners believe should be added for a more effective process. Chair Van Dine would like this to be somewhat prescriptive to developers, while still allowing there to be some Planning Commission flexibility. There is a desire to have some predictability but still be able to have case-by-case discussions about a proposal. Commissioner Shand agreed that a framework is what is needed, but there should be some latitude. Commissioner Beal thought there should be an objective framework. Chair Van Dine noted that there is a lot that is subjective, so it would be beneficial for some of the traffic mitigation strategies to have more objective goals that need to be met. Commissioner Frontero is also supportive of an objective framework, while still allowing the Commission to review the proposals.

Commissioner Frontero noted that WCG was hired to assist with this work. He asked if they have any experience implementing this kind of toolbox in other areas, specifically resort towns. Mr. Mack introduced himself to the Commission and explained that he is the Project Engineer from WCG who has been working on this project. There has been close work with communities across the country as similar programs have been implemented. He reported that Aspen, Colorado, has a similar credit-based system to mitigate and address trip generation from new projects. WCG has been looking at other communities as well. Commissioner Frontero asked if the Aspen plan could be shared. Mr. Mack confirmed this. A lot of what has been developed is built on that tool.

Planner Klopfenstein reported that the next steps are to continue to refine the tool. In the future, there will be an ordinance drafted to amend the LMC and implement this toolbox.

6. REGULAR AGENDA

A. 221 Park Avenue – Steep Slope Conditional Use Permit – The Applicant Proposes to Construct a 1,647 Square Foot Single-Family Dwelling on a Steep Slope in the Historic Residential – 1 Zoning District. PL-25-06768.

Senior Planner, Nan Larsen, presented the Staff Report and explained that this is a Steep Slope Conditional Use Permit ("SSCUP") for 221 Park Avenue. The site is in the Historic Residential – 1 ("HR-1") Zoning District and is on a vacant lot. It is part of the Houston Park Avenue Plat Amendment that was recorded with the County in 2015. The site is proposed to house a 1,647 square foot single-family dwelling. The lot has Very Steep Slopes, measuring between 30% and 60%. Planner Larsen noted that an SSCUP is required, as the applicant is proposing 290 square feet of the dwelling footprint on slopes greater than 30% and a required access driveway on slopes greater than 30%.

During the Staff analysis of the SSCUP, it was found that the proposal complies with the building footprint maximums and the required front, rear, and side yard setbacks. It was also found that the single-family dwelling proposed on the site will comply with the requirements of the SSCUP, with the Conditions of Approval recommended in the Draft Final Action Letter. This includes the location of the building, visual analysis of the site and design, access to the site and terracing, building form and scale, and dwelling volume. It is recommended that the Planning Commission review the proposed SSCUP and consider approval based on Conditions of Approval in the Draft Final Action Letter.

The applicant representative, Jonathan DeGray, stated that there is agreement with the Staff Report and the Conditions of Approval included in the Draft Final Action Letter.

Chair Van Dine opened the public hearing. There were no comments. The public hearing was closed.

Commissioner Shand asked if there was ever a home on this parcel. Mr. DeGray reported that there was no historic record of one, but there is an old set of stairs in the front and a concrete mass in the back. It looks like something was there at one point, but there is no record. Commissioner Shand believed the stairs at the back of the parcel are to access a terrace in the back, which was confirmed. Commissioner Frontero noted that the applicant does not appear to be seeking any exceptions to the Building Code for this project. Planner Larsen confirmed that there are no exceptions being requested. Commissioner Frontero finds the analysis to be well done. He also finds the Conditions of Approval to be appropriate and expressed support for the SSCUP application.

MOTION: Commissioner Beal moved to APPROVE the 221 Park Avenue Steep Slope Conditional Use Permit, according to the following:

Findings of Fact:

1. The Applicant proposes to construct a 1,647 square foot Single-Family Dwelling (SFD) in the Historic Residential – 1 (HR-1) Zoning District at 221 Park Avenue.

2. 221 Park Avenue is Lot 6R in the Houston Park Avenue Plat Amendment.

3. On December 3, 2015, the City Council approved the 217 and 221 Park Avenue Plat Amendment for a property line adjustment between the two lots through the adoption of Ordinance 15-51 to create two Lots. The plat was recorded on October 28, 2016, as Houston Park Avenue Plat Amendment (Summit County Recorder Entry No. 1056807).

4. The property owner submitted an SCCUP application for 221 Park Avenue to construct a 1,647-square-foot SFD with portions on a slope over 30% in accordance with Land Management Code (LMC) § 15-2.2-6, and a proposed Access driveway located on or projecting over an existing Slope of 30% or greater, triggering the required SSCUP review.

5. The SSCUP for an SFD at 221 Park Avenue is being processed concurrently with the Historic District Design Review (HDDR) application.

6. The proposed SFD meets the HR-1 Zoning District Use, Lot and Site, and Height requirements, pursuant to LMC § 15-2.2-2, 15-2.2-3, 15-2.2-4, and 15-2.2-5, according to the following:

Requirement	**Analysis of Proposal**
Use.	Complies: An SFD is an allowed use.
Lot Size Minimum 1,875 square feet; Maximum 3,750 square feet.	Complies: The Lot contains 1,857 square feet and was approved through the Houston Park Plat Amendment.
Lot Width Minimum 25 feet.	Complies: 211 Park Avenue has a 25.17-foot lot width.
Building Footprint Maximum MAX FP = (A/2) x 0.9 A/1875 FP=maximum Building Footprint and A=Lot Area	Complies: The Maximum Building Footprint allowed is 843.75 square feet. The proposed Building Footprint is 838.22 square feet.

Max FP: 843.75 sq. ft.= (1,875/2) x 0.9 1,875/1,875	
Lots that are up to 75 feet in depth require 10-foot Front and Rear Setbacks.	Complies: 20-foot Front and Rear Setback total.
Side Setbacks for Lots up to 37.5 feet in width require 3-foot Setbacks on each side.	Complies: 3-foot South and North Side Setback.
Building Height maximum 27 feet from Existing Grade.	Complies: Proposed maximum Building Height 27 feet from Existing Grade.
Internal Building Height: maximum 35 feet measured from the Lowest Floor Plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.	Complies: Proposed Internal Building Height is 32 feet.
10’ minimum horizontal step in the downhill façade is required unless the First Story is located completely under the finish grade on all sides of the Structure. The horizontal step shall take place at a maximum height of 23 feet from where the Building Footprint meets the lowest point of existing Grade.	Complies: A horizontal step of 16 feet is proposed 23 feet above where the Building Footprint meets the lowest point of existing Grade.
Roof Pitch between 7:12 and 12:12 at the minimum horizontal distance of 20’. Secondary Roof Forms may be below the 7:12 pitch.	Complies: Contributing Roof Form measures 7:12 where visible from the primary public Right-of-Way.

7. The proposed SFD, as conditioned, complies with the HR-1 Zoning District requirements Development on Steep Slopes, pursuant to Land Management Code Chapter 15-2.2-6.

    a. Development on Steep Slopes must be environmentally sensitive to hillside Areas, carefully planned to mitigate adverse effects on neighboring land and Improvements, and consistent with the Design Regulations for Historic Districts and Historic Sites Chapter 15-13 and Architectural Review Chapter 15-5.1.

b. Pursuant to LMC § 15-.2-6, “a Steep Slope Conditional Use Permit is required for construction of any Structure with a Building Footprint in excess of two hundred square feet (200 Sq. ft.) if said Building Footprint is located on or projecting over an existing Slope of 30% or greater”, or “a Steep Slope Conditional use Permit is required for any Access driveway located on or projecting over an existing Slope of 30% or greater”.

c. The proposed SFD is on a Lot that contains 30% at the rear and front and over 40% slopes at the rear of the Lot, highlighted in blue and red in Figure 1. The Building Footprint measures approximately 178 square feet within those areas with greater than 30% Slope; the required Access driveway is located on an existing Slope of 30% or greater. Therefore, the proposed new SFD construction requires review of a Steep Slope Conditional Use Permit.

8. The proposed SFD meets the HR-1 Zoning District Steep Slopes requirements, pursuant to LMC § 15-2.2-6, according to the following findings:

Requirement	**Analysis of Proposal**
Geotechnical Analysis. Structures that create a change from Existing Grade or elevation greater than four feet, cut into the Steep Slope, or require retaining walls to construct the Structure require a geotechnical report.	Mitigating Condition of Approval Recommended: On November 21, 2025, the Applicant submitted a Geotechnical Analysis prepared by a licensed geotechnical engineer. Recommendations from the geotechnical engineer who conducted the study are found on pages 4-15 of the Geotechnical Analysis. Condition of Approval 8 requires drainage is sloped away from the Structure and discharge is beyond the limit of backfill as recommended in the Analysis.
Slope/Topographic Map. Certified boundary survey depicting contours at an interval of two feet (2’) or less that identifies: Greater than fifteen percent (15%), but less than or equal to thirty percent (30%) (shown in yellow) Greater than thirty percent (30%) but less than or equal to forty percent (40%) (shown in orange) Very Steep Slopes, greater than forty percent (40%) (shown in red).	Complies: The Slope Map is depicted in Figure 1.

Location of Development. Development is located and designed to reduce visual and environmental impacts of the Structure.	Complies: The proposed SFD is located and designed on the site to reduce visual and environmental impacts of the Structure where the Maximum Building Footprint of 843 square feet is being met, the Structure is designed to step up the hillside that is similar in character to adjacent Properties, and the proposed Setbacks are compliant to the HR-1 District. The areas identified as Steep Slopes are within the Building Envelope and alterations to these spaces have been minimized as the majority of the Structure is outside of these areas.
Visual Analysis. A visual analysis of the project from key Vantage Points is required to determine potential impacts of the proposed Access, Building mass and design; and to identify the potential for Screening, Slope stabilization erosion mitigation, vegetation protection, and other design opportunities.	Mitigating Condition of Approval Recommended: The Applicant provided a Streetscape analysis of the project along Park Avenue and a Vantage Point analysis from Ontario Avenue, superimposing a rendering to illustrate the proposed project from different Vantage Points, included as Figures 2 and 3 respectively. Screening. The proposed retaining walls will be minimally visible from the public right-of-way and are proposed to be located toward the rear of the site. Soil Stabilization. The City Engineer reviewed the Geotechnical Analysis during the Development Review Committee meeting and did not require any modification to the proposed plans. During Building Permit review, if additional modifications to the structural components are required, the Applicant will need to make those modifications prior to Building Permit issuance. The recommended Condition of Approval 7 addresses this. Vegetation Protection. The project site is vacant and no Significant Vegetation was

	identified on the site. Condition of Approval 4 requires that where areas are disturbed during construction surrounding the Structure shall be revegetated to meet the landscaping and revegetation standards.
Access. Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Shared Driveways and Parking Areas, and side Access to garages are strongly encouraged, where feasible.	Complies: Driveway access is from Park Avenue fronting the Site. While re-grading the site is needed to provide access to the garage, it is not extensive and is consistent with other driveway accesses along the street. The driveway access will cross the Steep Slope area. However, retaining walls less than 3 feet in height are proposed, and the driveway will be a 6% slope from the front façade of the SFD down to Park Avenue. The proposed driveway is ten feet wide and approximately ten feet deep, when measured from the front property line to the start of the entryway covered porch.
Terracing. Retaining walls shall be terraced to return to Natural Grade. The Plans shall include detailed information, including height from existing Grade, width, and length of all proposed retaining walls. A Building Permit, including drawings stamped by a licensed engineer, is required for any retaining wall or combination retaining wall with a total or combined height greater than four feet in height.	Complies: Detailed information on retaining wall height from Existing Grade was submitted with the Application. The proposed retaining walls do not exceed four feet in height from Final Grade, as shown in Figures 4 and 5. The proposed SFD and accompanying retaining walls are designed to integrate with the existing Natural Grade of the site.
Building Location. Buildings, Access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Sign design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and to provide variation of the Front Yard.	Complies: The site is a buildable Lot consisting of 1,875 square feet, limiting the location and size of the proposed SFD. The proposed SFD placement, access, and needed infrastructure placement is compatible with adjacent Structures fronting along the west side of Park Avenue while providing enough front façade variation to distinguish between the different Structures.

Building Form and Scale. Where Building masses orient against the Lot's existing contours, the Structures must be stepped back with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Commission may require a garage separate from the main Structure or no garage.	Complies: The proposed Building front Setback is compatible with the adjacent structures on the same side of Park Avenue. The Building is stepped back with the Grade and broken into individual smaller components that are like the existing Structures in the District, as shown in Figures 4 and 5. The garage is subordinate in design to the main Building and is set back further from the front property line than the front entry.
Setbacks. The Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures.	Complies: The Building Setback proposed complies with the required Setbacks of the HR-1 Zoning District, as reviewed in Section I. The proposed Setback of the Structure is like adjacent properties; the properties to the north and south of the site have approximately 13- to 15-foot Front Setbacks from the sidewalk. The proposed Front Setback on the subject site is approximately 12 feet.
Dwelling Volume. The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures.	Complies: The Lot is 25 feet wide and 74 feet deep. The proposed SFD will be 19 feet wide to comply with the required Setbacks of the HR-1 Zoning District. The proposed Structure will be narrower than the adjoining Structures along the west side of Park Ave, as indicated in Figure 3. The Building Height is overall consistent with the block face on Park Avenue; the Structure will be stepped back with the grade of the site to minimize its visual mass and bring the proposed SFD into compliance with the scale and volume of adjoining development.
Building Height (Steep Slope). The Zone Height in the HR-1 District is 27 feet and is restricted as stated above in Section 15-2.2-5. The Planning Commission may require a reduction in Building Height for	Complies: The proposed SFD height is 27 feet at the height of the roof ridgeline on the gabled portion of the Structure, located approximately 19 feet from the front façade. The front façade of the

all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and the Historic character of the neighborhood's existing residential Structures.	Building is stepped back intermittently, following the Slope of the Grade. The proposed Building Height and step-backs are consistent and compatible with adjoining Structures along the street face and is compatible with the Historic character of the neighborhood.

9. The SFD complies with the Off-Street Parking Requirements pursuant to LMC Chapter 15-3 according to the following findings:

Requirement	**Analysis of Proposal**
Driveway Width: 10 feet.	Complies: The driveway width is 10 feet.
SFD Single Car Garages: minimum 11 feet by 20 feet.	Complies: The interior garage is 11 feet by 20 feet.
Two Parking Spaces: exterior 9 feet by 18 feet; interior 11 feet by 20 feet.	Complies: Two Parking Spaces are provided, one interior to a garage, and one tandem space in the Driveway. Both spaces comply with dimension requirements for Parking Spaces.

10. The Development Review Committee reviewed the proposal on December 2, 2025 and did not require Conditions of Approval.

Conclusions of Law:

1. As conditioned, the proposal complies with the LMC requirements in Chapter 15- 2.2, *Historic Residential - 1 (HR-1) Zoning District.*

2. As conditioned, the proposal complies with the Steep Slope Conditional Use Permit criteria outlined in LMC § 15-2.2-6, *Development on Steep Slopes.*

3. As conditioned, the proposal complies with the LMC requirements in Chapter 15-3, Off-Street Parking.

Conditions of Approval:

1. Final building plans and construction details shall reflect substantial compliance with the plans reviewed January 14, 2026, by the Planning Commission, with required modifications in the Conditions of Approval of this Final Action Letter and pending additional design modifications required as part of the Historic District Design Review.

2. The proposed SFD shall meet all applicable standards outlined in LMC § 15-13-8. Prior to application for a Building Permit the Applicant shall obtain approval of the Historic District Design Review application, which may require additional modifications to the design of the SFD to comply with LMC Chapter 15-13, *Regulations For New Residential Infill Construction (and Non-Historic Residential Sites) In Historic Districts.*

3. If the Applicant does not obtain a building permit within one year of the date of this approval, this SSCUP approval will expire unless the Applicant submits a written extension request to the Planning Department prior to the expiration date and the Planning Director approves an extension.

4. Impacts to existing vegetation shall be minimized. Prior to HDDR approval, a landscape plan shall be submitted that shows all Significant Vegetation within twenty feet (20') of proposed Development, pursuant to LMC § 15-2.2-10 *Vegetation Protection*; any areas disturbed during construction surrounding the proposed work shall be brought back to their original state.

5. The landscape plan, submitted prior to HDDR Final Action, shall include vegetative screening to reduce visibility of the retaining walls.

6. If the height of any retaining walls is proposed to be modified by more than twelve inches in height, width, length, or location, the Applicant shall file a modification application with the Planning Department and return to the Planning Commission for review and Final Action. Additionally, modifications of pervious material to impervious material or changes to excavation depths require a modification application and Planning Commission review and Final Action.

7. Additional modifications to the structural components may be required based on Engineering review and approval of the Geotechnical and Soils Investigation Report, prior to applying for a Building Permit.

8. Grading of the Site will be sloped to drain away from the Structure in all directions; roof downspouts and drains will discharge beyond the limited by backfill.

9. The Applicant will be required to provide intermediary shoring plans at the Building Permit phase.

10. If a heated driveway is installed in the portion of the driveway that encroaches into the City ROW, an encroachment agreement with the City is required.

11. For the sides of the SFD that are adjacent to another property, a Snow Shed Agreement and Access Agreement are required to be submitted to the Building Department, along with the Applicant's Building Permit.

12. The Applicant is responsible for notifying the Planning Department prior to making any changes to the approved plans; any changes, modifications, or deviations from the approved scope of work shall be submitted in writing for review and approval/denial in accordance with the applicable standards by the Planning Director or designee prior to construction.

13. Any changes, modifications, or deviations from the approved design that have not been approved in advance by the Planning and Building Departments may result in a stop work order.

The motion was seconded by Commissioner Tilson. The motion passed with the unanimous consent of the Commission.

B. 7715 Village Way Unit 403 – Condominium Plat Amendment – The Applicant Proposes to Amend the Shooting Star Lodge Condominiums to Expand the Mezzanine Level Private Area by 164 Square Feet in the Residential Development Zoning District. PL-25-06737.

Planner Larsen presented the Staff Report and explained that this is a Condominium Plat Amendment application for 7715 Village Way, Unit 403. This is in the Shooting Star Lodge Condominium development. The Shooting Star Lodge is a 21-unit residential development. Unit 403 is a condominium on the fourth floor that consists of 1,609 square feet. It includes a fifth mezzanine level that is open to the floor below, which measures 181 square feet. The condominiums are in the Village at Empire Mass MPD, and received approval for a Conditional Use Permit ("CUP") in 2004. The plat was recorded with the County in 2004 as well. An image of the mezzanine level was reviewed.

The applicant is requesting a Plat Amendment to expand the private area of the mezzanine by an additional 164 square feet. This is in addition to the 181 square feet of private space that currently exists. The 164 square foot expansion area was highlighted on the presentation slides in yellow. The resulting Condominium Plat Amendment would measure 1,773 square feet. The size of the unit is found in other units in the Shooting Star Lodge Condominiums, so the request is not unusual for this condominium.

The mezzanine that is currently open to the floor below will need to be maintained that way in order to comply with the Building Code. Planner Larsen reported that this has been listed as a Condition of Approval in the Draft Final Action Letter. The proposed amendment is to allow private access to a common exterior HVAC space for improved temperature control in the mezzanine level. The mechanical equipment common area was highlighted to illustrate where the applicant is seeking access. After review of the

proposed Condominium Plat Amendment, it was found that there will be no exterior alterations and no additional parking is required. The number of units in the Shooting Star Lodge Condominium will remain the same and all changes comply with the Residential Development ("RD") Zoning District. There is Good Cause for the amendment. Staff recommends that the Planning Commission review the proposed Plat Amendment and consider approval based on the Draft Final Action Letter.

The applicant representative, Megan Blosser, explained that she is with Alliance Engineering. The attorney for the applicant, Lauren Bolger, introduced herself to the Commission. Commissioner Shand asked if the objective is to expand the living space of the residence or to provide private access to the HVAC equipment. It was clarified that the expansion provides both. The loft does not have air conditioning and becomes very warm. Expanding the area makes it possible to use the common wall and put in an air conditioning unit that will be for Unit 403. There were no additional questions.

Chair Van Dine opened the public hearing. There were no comments. The public hearing was closed.

Commissioner Frontero asked if this request went before a Homeowners Association ("HOA") Board. Ms. Blosser confirmed that there was a vote and 20 out of 21 votes were in favor of the request. Since there is a conversion of common area, the approval was needed. There is a letter from the HOA in the Meeting Materials Packet.

MOTION: Commissioner Shand moved to APPROVE the Shooting Star Lodge Condominium, Unit 403, Condominium Plat Amendment, according to the following:

Findings of Fact:

1. The Shooting Star Lodge Condominiums are a 21 unit residential condominium development in the Residential Development (RD) Zoning District.

2. Unit 403 is located on the fourth level of the four-story structure.

3. Unit 403 encompasses 1,609 square feet that includes an unenclosed deck and a fifth level mezzanine – open to the level below. The square footage of the mezzanine measures approximately 181.

4. The applicant proposes a Plat Amendment to expand the private area of Unit 403 mezzanine to include an additional 164 square feet to allow private access to a common HVAC space, for a total of 1,773 square feet.

5. On June 24, 1999, the City Council adopted Ordinance No. 99-30 and Resolution No. 20-99 approving the Flagstaff Mountain area annexation

and development agreement for the 1,655-acre area. The Ordinance and Resolution granted a "large-scale" Master Planned Development (MPD) outlining the allowed land use, densities, timing of development, and conditions and amenities for each parcel. On July 28, 2004, the Planning Commission approved an MPD for the Village at Empire Pass, granting the Shooting Star Lodge a height exception. The Shooting Star Plat Amendment proposes no exterior changes, the number of units within the lodge will remain the same, and no additional parking as a result of the Plat Amendment is required.

6. On August 25, 2004, the Planning Commission approved a Conditional Use Permit for the Shooting Star Lodge for 21 units plus an ADA unit, totaling 36,481 square feet and 18.3 Unit Equivalents.

7. On September 30, 2004, the City Council approved a Final Subdivision Plat for the Village at Empire Phase, Phase I. The Shooting Star Lodge is located on Lot 8 of the Village at Empire Pass Subdivision (Summit County Recorder Entry No. 718084).

8. On November 4, 2004, the City Council approved the Shooting Star Lodge Condominium Plat.

9. On November 3, 2005, the City Council adopted Ordinance 05-66 to amend the Shooting Star Lodge Condominium Plat to enclose a 221-square-foot exterior deck on the first level (Summit County Recorder Entry No. 7667411).

10. Utah State Code § 57-8-7 requires a 2/3rd Homeowners Association (HOA) vote to amend a condominium plat. On October 7, 2025, 90% of the Shooting Star Lodge HOA voted to approve the proposed Plat Amendment.

11. Development in the RD Zoning District must comply with the Lot and Site requirements in LMC § 15-2.13-3 Lot and Site Requirements, and LMC § 15- 2.13-4 Building Height, outlined in the Table below:

Requirement	**Analysis of Proposal**
Setback: Front – 20 feet Rear – 15 feet Interior Side – 12 feet	Complies: The Shooting Start Lodge Subdivision was initially approved in 2004 by City Council with the Setbacks indicated in the plat and within the Village at Empire Pass MPD. No exterior changes to the existing structure are proposed.

Building Height: 28 feet Zone Height from Existing Grade. Gabled Roof: May extend up to five feet above Zone Height.	Complies: The Shooting Star Lodge Subdivision is part of the Village at Empire Pass MPD, in which the Planning Commission granted an increase in building height from the 2004 maximum building height in the Residential Development (RD) Zoning District subject to volumetrics established in the MPD at it relates to floor-to-floor height and architectural interest of the roof. No exterior changes are proposed.

12. The proposed Plat Amendment complies with LMC Chapter 15-3, Off-Street Parking Requirements.

Requirement	**Analysis of Proposal**
Multi-Unit Dwelling: Condominium unit greater than 1,000 square feet and less than 2,000 square feet requires 1.5 Parking Spaces per Dwelling Unit.	Complies: Unit 403 of The Shooting Star Lodge Condominium is 1,609 square feet. The proposed amendment will add 164 square feet for a total of 1,773. Two Parking Spaces are provided for Unit 403. No additional Off-Street parking is required.

13. Changes to platted property lines or plat notes requires the review and approval through the Plat Amendment process, pursuant to § 15-7.1-3(B). Plat Amendments are subject to the requirements of § 15-7.1-6, Final Subdivision Plat process.

Requirement	**Analysis of Proposal**
Plat Amendments require a finding of Good Cause.	Complies: LMC § 15-15-1 defines Good Cause as, “providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non- conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City, and

	furthering the health, safety, and welfare of the Park City Community." There is Good Cause for the proposed Plat Amendment because the amendment does not require any exterior expansion or external changes to the existing Unit, the internal private area expansion does not increase the parking requirements, and the proposed expansion corrects issues related to accessing mechanical equipment for repairs and updates from the subject unit. This includes installing an air conditioning unit that is dedicated to the loft space to provide adequate air circulation.
Plat Amendments require a finding that no Public Street, Right-of-Way, or Easement has been vacated or amended.	Complies: The proposed Plat Amendment of the Shooting Star Subdivision will not alter or vacate a Public Street, Right-of-Way or easement.

14. The Development Review Committee reviewed the proposal on November 18, 2025, and requires Conditions of Approval.

Conclusions of Law:

1. There is Good Cause for this Plat Amendment.

2. The Plat Amendment is consistent with Land Management Code § 15-7.1-3(B), § 15-7.1-6, Chapter 15-3 Off-Street Parking, and Chapter 15-2.13 Residential Development District.

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 below, does not adversely affect the health, safety, and welfare of the citizens of Park City.

Conditions of Approval:

1. The extended private area, located on the mezzanine level of the Shooting Star Unit 403 Amended Plat, will remain open to the floor below.

2. As part of the final redline process before finalizing the plat, the Applicant shall:

   a. Add a plat note describing the purpose of the plat amendment.
   b. Add an area table that shows both the original unit square footage, the new additional, then a square footage total on the plat amendment.
   c. All limited common space must be hatched as Limited Common and give a square foot area on the amended plat.

3. 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, the Conditions of Approval, and the amended Declaration of Condominium of Shooting Star Lodge Condominiums prior to recordation of the plat.

4. The Applicant shall record the plat at the County within one year from the date of Planning Commission approval. If recordation is not complete within one year, this approval 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 Planning Director.

The motion was seconded by Commissioner Frontero. The motion passed with the unanimous consent of the Commission.

C. 1765 Sidewinder Drive Suite R200 – Conditional Use Permit – The Applicant Proposes a 575 Square Foot Bar Within the Lespri in the General Commercial Zoning District. PL-25-06783.

Planner I, Jaron Ehlers, presented the Staff Report and explained that this is a CUP application for 1765 Sidewinder Drive, Suite R200. He explained that the proposal is for a 575 square foot bar in the General Commercial ("GC") Zoning District. It would be located within the Club Lespri Condominium. There would be two ways into the bar, and it would have approximately 20 seats. Planner Ehlers shared background information.

On July 11, 2002, the City Council approved Ordinance No. 02-26, which converted the building into a condominium. As part of that Ordinance, Finding of Fact #6 stated that the parking required for the Club Lespri Condominiums was satisfied by the Prospector Square Subdivision common parking areas. That analysis was reconfirmed in December 2009, when the Planning Commission approved a CUP for a distillery at the location. There was a Finding of Fact that also stated the parking was satisfied by the shared parking. In the location where the bar is proposed to be, there used to be a restaurant, but that restaurant closed during the COVID-19 pandemic and did not reopen. Until now, nothing has been proposed to replace that restaurant.

The proposal complies with the requirements of the GC Zoning District. There are no proposed changes to the exterior of the project, and the proposal complies with the off-street parking requirements. There would be six parking spots required for a bar of this size, which is satisfied by the shared parking. Planner Ehlers noted that the proposal complies, as conditioned, with LMC Section 15-1-10 and is located within the commercial area of the plat. Staff recommends the Planning Commission review the proposed CUP, conduct a public hearing, and consider approval based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter.

The applicant, Dan Warren, clarified that there is a side entrance into the building. The front lobby of the building was shown in the presentation slides. That would only be used for wheelchair access, as there is exclusive control of the side door that feeds directly into the space. Commissioner Shand asked if there are any other commercial uses on the ground floor of the building. Mr. Warren reported that the restaurant used to be the entire ground floor, but the landlord has since subdivided and redeveloped the space. What was formally the dining room is now an office. The kitchen space is still a kitchen and there is a lease out for a caterer. In the back, there is a massage parlor, and the center of the lobby is a lounge seating area. There were no additional Commissioner questions.

Chair Van Dine opened the public hearing. There were no comments. The public hearing was closed.

Commissioner Frontero asked who the expected clients are. Mr. Warren explained that his intention is to make this a neighborhood cocktail bar. The idea is to draw crowds from Prospector, Park City Heights, and Park Meadows. He is not necessarily looking for a tourist clientele. The legal occupancy for the bar space is 36 people. Commissioner Frontero asked about the parking. Planner Ehlers reiterated that this is satisfied with the shared agreement. Commissioner Sigg wanted to know if the applicant already has a license. Mr. Warren reported that he was granted a conditional DABS liquor license.

Commissioner Sigg asked the applicant to discuss the food component. He wondered if that will make use of the existing kitchen. Mr. Warren clarified that his intention is not to be involved with the kitchen operation. The Utah DABS bar license requires food the entire time he is open, but there is no stipulation on revenue percentages or what that food is. He intends to make some relationships with local food purveyors. He does not anticipate people coming to the bar for dinner, but does not want to lose a guest who would like something to eat. Commissioner Sigg believed there would be food brought to the premises and into a preparation area. Mr. Warren explained that there is a back section with a counter and there will be an air fryer. There will be a restaurant license in place. He clarified that there will not be food made on site, but food prepared in a commercial kitchen will be reheated. Commissioner Sigg thanked him for the clarification.

MOTION: Commissioner Frontero moved to APPROVE the 1765 Sidewinder Drive, Suite R200, Conditional Use Permit, according to the following:

Procedural History:

1. 1765 Sidewinder Drive is within the Prospector Square Subdivision.

2. The Prospector Square Amended Plat was recorded on December 26, 1974 (Entry Number #125443).

3. On July 11, 2002, the City Council approved Ordinance No. 02-26 to convert the existing Structure at 1765 Sidewinder Drive to a 11-unit Condominium with a single Commercial unit on the Main Level and 10 Residential units on the second and third levels. The proposed Bar is located within the Commercial unit. Finding of Fact 6 states, "[p]arking for the structure is provided by the Prospector Square Subdivision common parking areas."

4. On October 2, 2002, the Club Lespri Condominium Plat was recorded with Summit County (Entry Number #633765).

5. On December 9, 2009, the Planning Commission approved a Conditional Use Permit (CUP) for a distillery at 1765 Sidewinder Drive. Finding of Fact 5 states "[t]he parking requirements of the Prospector Square subdivision have been met."

6. On November 18, 2021, the City Council adopted Ordinance No. 2021-47 combining six residential Units into a single residential Unit on the second floor of Club Lespri. Finding of Fact 9 notes that the required Parking is satisfied by the Prospector Square Subdivision.

Findings of Fact:

1. The Applicant proposes a 575-square-foot Bar in Suite R200 at Club Lespri, 1765 Sidewinder Drive, in the General Commercial (GC) Zoning District and Prospector Square Subdivision. No amendments to Commercial Unit #1 are proposed nor approved.

2. No exterior changes are proposed.

3. Land Management Code (LMC) § 15-15-1 defines a Bar as a "Business that primarily sells alcoholic beverages for consumption on the premises; includes Private Clubs."

4. A Bar is a Conditional Use in the GC Zoning District (LMC § 15-2.18-2(B)(22)).

5. The primary purpose of the proposed Use is to sell alcoholic beverages with only appetizers served.

6. LMC § 15-3-6(B) *Parking Ratio Requirements for Specific Land Use Categories* establishes that the Parking Requirement is one Space per 100 square feet of net leasable floor Area.

   a. A 575-square-foot Bar requires six Parking Spaces.
   b. Ordinance No. 02-26 states that Parking for Club Lespri is satisfied by the Prospector Square shared parking lots.
   c. The proposed Bar is also in the same location and is smaller than the prior Restaurant Use, which has the same parking requirement as a Bar (LMC § 15-3-6(B)).

7. The proposal to establish a Bar, as conditioned, complies with the Conditional Use Permit criteria outlined in Land Management Code Section 15-1-10(E).

CUP Review Criteria	**Analysis of Proposal**
Size and location of the Site	No required mitigation. There will be no changes to the exterior of the Structure. The proposed Bar is in a commercial suite at Club Lespri in Prospector Square.
Traffic conditions including capacity of the existing Streets in the Area.	No required mitigation. The City's Traffic Impact Guidelines establish that the proposed Bar will not generate 25 vehicle trips during the weekday PM peak hour. The comparable land use of a sit-down restaurant requires 2,500 square feet to generate 25 vehicle trips, far greater than the proposed 575-square-feet.
Utility capacity.	No required mitigation. The proposed Bar will not increase Utility usage beyond what was required for prior Uses, as confirmed by the Development Review Committee (DRC) on January 6, 2026.
Emergency vehicle access.	No required mitigation. With no exterior changes or changes to Access compared to the prior Uses, Emergency vehicle

	Access is unchanged, as confirmed by the DRC on January 6, 2026.
Off-Street Parking.	No required mitigation. See Finding of Fact 6.
Internal vehicular and pedestrian circulation system.	No required mitigation. There are no proposed changes to the internal vehicular or pedestrian circulation system.
Fencing, Screening, and Landscaping.	No required mitigation. There is no Fencing, Screening, or Landscaping required or proposed with this application.
Building mass, bulk, and orientation.	No required mitigation. There are no proposed changes to the Building mass, bulk, or orientation.
Usable Open Space.	No required mitigation. There are no proposed changes to existing Open Space.
Signs and lighting.	Condition of Approval Recommended. Staff recommends Condition of Approval 2 requiring a Sign Permit for any proposed Signs. Any outdoor lighting must be down-directed and fully shielded, with bulbs 3000 degrees Kelvin or less (LMC § 15-5-5(J)).
Physical Design and Compatibility.	No required mitigation. There are no proposed changes to the exterior of the Building.
Noise, vibration, odors, steam, or other mechanical factors.	Condition of Approval Recommended Staff recommends Condition of Approval 3: “The Use of the Bar shall comply with Municipal Code Chapter 6-3 Noise.” Staff recommends Condition of Approval 4 which limits hours of operation to 4 PM to 1 AM.
Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas.	Condition of Approval Recommended Staff Recommends Condition of Approval 5: “The Applicant shall ensure that trash and recycling is disposed of properly onsite.”

Expected Ownership.	No mitigation required. The Applicant is leasing the space from the owner of 1765 Sidewinder Drive, Club Lespri, LLC.
Environmentally Sensitive Lands.	No mitigation required. 1765 Sidewinder Drive is not within the Sensitive Land Overlay. Because there are no proposed exterior changes, no Soils Ordinance review is required.
Reviewed for consistency with the goals and objectives of the General Plan.	No mitigation required The recommendations for the Prospector Neighborhood recommends supporting "a Vibrant Commercial District." An active neighborhood Bar would help bring vibrancy to the neighborhood.
Radon Mitigation.	No mitigation required. LMC § 15-1-10(E)(17) only applies to residential Conditional Uses.

8. The Club Lespri Condominium Plat designates Commercial and Residential Areas. The Commercial Area is located on the main level, and the proposed Bar is within the Commercial Area.

Conclusions of Law:

1. The 575-square-foot Bar complies with the requirements of the General Commercial Zoning District pursuant to Land Management Code Chapter 15-2.18.

2. The 575-square-foot Bar complies with the requirements of Off-Street Parking pursuant to Land Management Code Chapter 15-3.

3. The 575-square-foot Bar, as conditioned, complies with the Conditional Use Permit criteria outlined in Land Management Code Section 15-1-10(E).

4. The effects of any differences in Use or scale have been mitigated through careful planning.

5. The proposal to establish a Bar complies with the Club Lespri Condominium Plat.

Conditions of Approval:

1. The Bar shall be substantially similar to the plans reviewed on January 14, 2026, by the Planning Commission. Any significant changes, modifications,

or deviations from the approved plans that have not been approved in advance must be submitted in writing to the Planning Department.

2. The Applicant must apply for and receive a Sign Permit from the Planning Department prior to installation of any outdoor Signs.

3. The Use of the Bar shall comply with Municipal Code Chapter 6-3 Noise.

4. The Bar shall not operate outside the hours of 4 PM to 1 AM.

5. The Applicant shall ensure that trash and recycling is disposed of properly onsite

The motion was seconded by Commissioner Sigg. The motion passed with the unanimous consent of the Commission.

The Planning Commission took a short break before hearing the next item.

D. 220 King Road – Appeal of Conditional Use Permit Extension Approval – The Appellant Appeals the Planning Department's Approval on October 2, 2025, of Three Conditional Use Permit Extensions for Development at 220 King Road in the Historic Residential – 1 Master Planned Development Zoning District. PL-25-06721.

Chair Van Dine reminded those present that there will not be public comment on this item, per Utah State Code. There were no Commissioner disclosures or conflicts of interest shared. Chair Van Dine asked that the Staff presentation take place. Project Planning Manager, Elissa Martin, presented the Staff Report and explained that this item is related to 220 King Road. Due to changes in State Code, which became effective on May 7, 2025, local municipalities are prohibited from conducting public hearings for appeals. As a result, there will not be public comment taken on this item during the meeting.

Manager Martin shared background information. On February 21, 2024, the Planning Commission ratified the Final Action Letter approving three CUPs for a home at 220 King Road. On March 1, 2024, the appellant appealed the Planning Commission approval of the CUPs. On July 22, 2024, the Appeal Panel ratified the Final Action Letter denying the appeal and upholding the Planning Commission approval. On July 21, 2025, within one year of the Appeal Panel ratification of the Final Action Letter, the property owner of 220 King Road submitted a written extension request for the three CUPs. On October 2, 2025, the Planning Director approved the CUP extensions. On October 10, 2025, the appellant appealed the Planning Director's approval of the CUP extensions.

Pursuant to LMC 15-1-18, the Planning Commission is the Appeal Authority for appeals of the Planning Director's Final Action. The Planning Commission shall act in a quasi-

judicial manner and review factual matters on the record, with deference to the Land Use Authority. In this case, the Land Use Authority is the Planning Director. The Planning Commission shall determine the correctness of the Land Use Authority interpretation and application of the plain meaning of the land use regulations. The Commission shall also interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application. Manager Martin asked:

- Did the Planning Director err in approving the CUP extensions?

LMC 15-1-18(M) states that upon the filing of an appeal, an approval granted under the LMC is suspended until the appeal body has acted on the appeal. Based on this, the February 21, 2024, Planning Commission approval was suspended when the appeal of the CUPs were submitted in March 2024. The July 22, 2024, Appeal Panel ratification of the Final Action, denying the appeal of the CUPs, is the date when the one-year expiration of the CUPs began to run. The applicant submitted a written request for the CUP extensions on July 21, 2025, which was within one year of the written decision of the Appeal Panel. The Planning Director correctly approved the CUP extensions.

Manager Martin shared information about the change in circumstance requirement for CUP extensions. According to the CUP review process in the LMC, the Planning Director may grant a one year extension of a CUP when the applicant is able to demonstrate there has been no change in circumstance that would result in an unmitigated impact or would result in a finding of non-compliance with the CUP review criteria or other provision of the LMC in effect at the time of the request. In the Planning Director Final Action Letter, which approved the CUP extensions, Finding of Fact #20 states that there has been no change in circumstance that would result in an unmitigated impact or finding of non-compliance.

The homes within the Treasure Hill Subdivision are regulated pursuant to the HR-1-MPD Zoning District, memorialized in the Sweeney Properties MPD and Treasure Hill Subdivision Plats. Plat Note #5 of Treasure Hill Subdivision, Phase I, Lot 2, Second Amended Plat regulated building height at 220 King Road and supersedes the building height requirement in the LMC. While there have been amendments made to the HR-1 Zoning District building height requirements, there have been no amendments to the HR-1-MPD governing documents. As far as the appellant's allegation regarding construction drawings that show proposed improvements in the ski easement, and this being a change in circumstance, this is outside the purview of the appeal and will not be addressed.

Staff recommended that the Planning Commission review the appeal of the three CUP extensions for 220 King Road, deny the appeal, and affirm the approval based on the Findings of Fact and Conclusions of Law outlined in the Draft Final Action Letter. Manager Martin outlined the alternatives: deny the appeal, grant the appeal, grant the appeal in part and deny the appeal in part, grant the appeal in part, and continue.

Wade Budge introduced himself to the Planning Commission and explained that the motion to continue will be withdrawn, as an objection to that was received by Justin Keys. The reason for the withdrawal is that there is a code requirement that action be taken within a specific period of time. There is no desire to create an issue, so the request to continue the item will be withdrawn. Chair Van Dine noted that due to the withdrawal, the Planning Commission is not required to consider a continuation at this point.

Mr. Keys explained that he represents the appellants in this case. Charles Pearlman is also present at the Planning Commission Meeting. The appellants are Eric Hermann and Susan Fredston-Hermann, who own the property directly adjacent to 220 King Road.

Mr. Keys referenced LMC 15-1-10(G) and explained that this section applies specifically to CUPs. There is a unique circumstance in this case where there was an approval under a CUP, but there was a denial under a Historic District Design Review ("HDDR") application. The applicant was left in a situation where it was not possible to move forward with the build in full, because there was no HDDR approval. That resulted in a situation where an extension was needed. At least one Building Permit under the CUPs was obtained recently, related to the driveway, but there was also an application for an extension of the CUPs. In the first line of LMC 15-1-10(G), it states: "Unless otherwise indicated, Conditional Use Permits expire one year from the date of Planning Commission approval, unless the Conditional Use has commenced on the project or a Building Permit for the use has been issued." He shared information about a case, Bissland v. Bankhead.

It was stated that there are two different paths by which a denial is merited. One is if it was not timely, and the other is if there has been some change in circumstance that would warrant this coming back to the Planning Commission. Mr. Keys believed there had been a change in circumstances. The first occurred on March 18, 2024. Pesky Porcupine, LLC, sued his clients over their dogs walking on the trail easements. That complaint came into context after the construction documents came out. One of the primary allegations of the complaint had to do with certain trail easements. He shared an image of the easements and explained that they run in two different directions and are 30 feet wide.

The originally submitted Site Plan was shared, and the ski trail easements were noted. Mr. Keys stated that what is not apparent on any of the documents included in the February 14, 2024, submission is that there is a ski access easement that runs directly across. The 30-foot easement is not identified on the documents submitted to the Planning Commission for review and approval. In September 2024, when the applicant was looking to submit Building Permits, that was the first time the easement was somewhat identified. He noted that it was referred to as a 30-foot non-exclusive underground utility easement, but that is not how it is identified on the plat. In the submitted exhibit, the physical building encroaches directly into the easement.

In the construction submittals, it shows that there is a plan to block off the entire easement. Mr. Keys shared an image and explained that the red line shown is the construction fence, which goes past the entire easement. This will cut off access to the mountain for his clients. Once this was seen, the previous lawsuit made more sense to him. He discussed the detention basin and the encroachments into the easement. Mr. Keys reported that the location of the building did not change between February and September, but these items were not disclosed to the Planning Commission in the approval process. He believes this is a change in circumstance, as it has not been mitigated by the Planning Commission. If it had been disclosed to the Planning Commission during the approval process, the Commission would have discussed this.

An at-risk excavation permit was provided last year to the applicant so some work could be done to preserve the hillside. Mr. Keys shared an image and pointed out that the construction fencing goes directly across the easement. Additional images were shared. Mr. Keys reiterated that this is the first item believed to be a change in circumstance. The second item that is relevant is the HDDR denial. He explained that the Board of Adjustment reversed the HDDR approval, concluding that it did not meet the guidelines. This was largely due to the building mass and scale, as well as the size of the cuts. The proposed construction contemplates two 40-foot cuts to the mountain. The HDDR process requires an applicant to minimize cuts, which was not done in this case.

Mr. Keys explained that Pesky Porcupine, LLC, has made this a relevant issue. In their appeal of that denial, the prior approvals were one of the main grounds provided. It was stated that the Board of Adjustment denial was in contravention of the approval of this body. It is largely stated that because this body found the design, mass, and scale was appropriate, the Board of Adjustment should have found that it was appropriate as well. Mr. Keys noted that since the Board of Adjustment did not find it to be appropriate, this should be considered. The Board of Adjustment relied largely on the SWCA technical memorandum. It was the only independent third-party consultant retained to review the building. This situation represents a change in circumstances that merits review.

Mr. Keys reported that the third argument has to do with the requirement in 15-1-10(G). There has to be compliance with the code at the time the extension is applied for. There is at least one provision of the code that Pesky Porcupine, LLC, cannot comply with, which has to do with 15-2.2-5(A). This relates to building height limitations. There is an internal height limitation of 35 feet that applies. At the time of the original application, that language was different from what it is currently. Mr. Keys read both versions of the language:

- Prior version:
    - A structure shall have a maximum height of 35 feet measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.
- New version:

- A structure shall have a maximum height of 35 feet measured from the lowest floor plane to the point of the highest wall top plate and that supports the ceiling joists or roof rafters.

It was noted that the lowest floor plane was made a defined term. Mr. Keys read the following:

- Lowest Floor Plane:
  - The bottom level of a structure, regardless of material (dirt, concrete, etc.) or the lowest point of excavation (excluding footings).

Mr. Keys reported that the structure that was approved has two unfinished floors. He noted that there is a transcript included as an exhibit for the appeal. On Page 7 is the instruction from Director Ward at the time. That instruction was consistent with the Staff Report from January 2024. In several places, it was stated that the proposed structure does not comply with the internal height requirement. There were Planning Staff concerns expressed at that time. Mr. Keys highlighted plat notes and the previous discussions. He reviewed additional transcripts with the Planning Commission and reiterated that this body was uncomfortable with the idea of two unfinished floor planes.

Mr. Keys shared images of the side cuts from the approved plans to show how deep the cuts will be. As for the at-risk excavation permit, it states that there will be shoring of up to 25 feet. He provided some current condition photographs to show what a 25-foot cut looks like in this location. It is substantial, and that is only a fraction of what is contemplated in this case. This is the type of heavy excavation in Old Town that was meant to be avoided by creating an internal height limitation. This is what made the Board of Adjustment uncomfortable, as the proposal does not minimize cuts and retaining walls.

The City closed the loophole in the prior version of the language for 15-2.2-5(A) and this was done before Pesky Porcupine, LLC, submitted a motion to extend the deadline. The plain language of 15-1-10(G) requires them to comply with the current version of the code. Mr. Keys summarized his presentation and stated that he believes there are three valid grounds on which the Planning Commission could reverse the current extension and require the applicant to come back and show compliance. He feels that would be an appropriate outcome. He offered to answer outstanding Commissioner questions.

Director Ward asked what the building height would be under the existing plat notes, pursuant to the current Treasure Hill Subdivision. She wanted to know what the maximum building height would be for a pitched roof under the Treasure Hill Subdivision that would apply to Lot 1. Mr. Keys reported that the maximum height would be the HR-1 height. Director Ward asked to review Plat Note #4 of the Treasure Hill Subdivision. If the appellant were to submit a permit, she wanted to know what the maximum building height would be for Lot 1. Mr. Keys stated that he would start with the Sweeney Properties MPD, because there are several height limitations within it. Director Ward pointed out that it

has been amended over the years. Mr. Keys stated that there is disagreement about the premise that a plat note can amend an MPD. Director Ward reiterated her question.

Mr. Budge presented on behalf of the applicant. He stated that there is agreement with the Staff Report, because it addresses every issue. The issues that have been raised by the appellant are not well-founded. The appellants are not the property owner for purposes of interpreting the code. It is the applicant who is the property owner for purposes of the extension. Mr. Keys would have to show that an ambiguity does not exist, because where one exists, it works in favor of the applicant. Additionally, the Planning Director is the Land Use Authority for purposes of the extension request. As a result, the Planning Director is entitled to deference, as is the Planning Director's record.

In this case, it is clear that Mr. Keys has not been able to show that Director Ward erred in granting the extensions. Mr. Budge also stated that there was a failure to show that ambiguity can be applied in a way that would be contrary to the applicant. He reiterated that to the extent there is an ambiguity, it works in favor of the applicant. Mr. Budge shared information about the purpose of the extensions and the time limit. A lot has happened since the approval on February 14, 2024. After that date, there were two Appeal Authority hearings. The appeal was worked through, and then the Final Action Letter was obtained. The code is clear as to what governs, which is in the Staff Report on Page 5: “Final Action” is “[t]he later of the final vote or written decision on a matter.”

Mr. Budge reported that the written decision on the matter did not happen until July 22, 2024. It was not possible to do anything with the CUP that was granted until the Final Action Letter was delivered, which was in July 2024. Mr. Budge reported that after the Final Action Letter, on August 19, 2024, there was an application for HDDR approval. The next day, there was an application submitted for a demolition permit. The demolition moved forward based on the fact that there was a Final Action Letter and submitted HDDR application. After that, a permit set was submitted, but it has not been acted on, because a challenge was filed. The process moved forward and the plat was recorded. There was also an excavation permit applied for in order to ensure that the hillside was safe while these actions moved forward. Finally, there was a driveway permit obtained.

This is not a project that has sat still. Mr. Budge reported that this project has advanced ever since the February approval. There has been consistent effort and consistent activity. It is not possible to apply a termination to a project that is continuing to advance. There is no law that would permit an extension to be denied or a termination to be applied against a project that is moving forward. He pointed out that this appeal has to do with the extension and not the original approval. As for the change in circumstance, he outlined how the code describes it. One classification would be inactivity, which is not relevant in this case, but the other is if something drastic happened on the ground. Nothing has changed on the ground relative to this application since the approval.

Mr. Budge reported that there is no action that will be taken to prevent the easement from being used by the public. He clarified that it is not an easement that is specifically for the Hermann family, but it is public. Those public rights will continue to be recognized. When it comes to the detention facility, he explained that it is an underground detention facility.

Mr. Budge shared information about construction. Right now, there is fencing along the easement. There will be times during detention installation where there will need to be access underneath the easement, but easements are regularly rerouted to accommodate construction. However, none of that is relevant when talking about an extension request.

Mr. Budge next discussed building height. The project continues to have vested rights, and the fact that an extension is sought out does not require abandonment of the approvals obtained on February 14, 2024. Mr. Budge stated that the Planning Director appropriately, and with adequate support, granted the extensions. The extension requests were timely, and that was determined to be the case by the Planning Director.

Director Ward called attention to some of the requests that were previously made for additional information. This information was taken into consideration by the Planning Commission during the February 14, 2024, meeting. The information presented by the appellant does not take into account the broader discussion and analysis that was completed at the February 14, 2024, meeting. This was a CUP that was carefully considered by the Planning Commission and conditioned. There are plat notes and requirements that need to be met before any Building Permit or approval is issued to construct. If there are modifications proposed that go beyond the boundaries of the original approval, that is something that could return to the Commission for review.

Mr. Keys asked to respond to the comments made. The governing law is clear, which is 15-1-10(G). When anyone obtains a CUP and they do not act on it within the first year, the requirements of 15-1-10(G) must be complied with. He read the language from 15-1-10(G) and reiterated that there must be compliance with the LMC at the time of submittal, because it is a new application. If the code has changed, there has to be compliance with the code at the time of application. Given the new definition of interior building height, the approved project no longer complies with the interior building height.

Staff states this needs to be viewed in the lens of the Sweeney Properties MPD, but there is nothing in the plat notes or the Sweeney Properties MPD that states there does not need to be compliance with interior building heights. There have been exhibits submitted as part of the appeal. Mr. Keys reminded Commissioners of the previous discussions about height. He reiterated his belief that there has been a change of circumstance and asked that this matter be brought back to the Planning Commission for additional review. Mr. Budge responded to the comments and reported that there is compliance with 15-1-10(G). In addition, there is a clear definition in 15-15-1 about the date for final action.

Manager Martin shared a section of the Staff Report where Plat Note #5 was included for the Treasure Hill Subdivision Phase I Lot 2, which is the most recent plat that regulates 220 King Road. In bold, it states: "Building height shall only be measured as outlined in this Plat Note #5." The building height cannot be evaluated against the HR-1 building height requirements. Those were amended, but those amendments do not apply to this project, because building height for 220 King Road is not evaluated against them.

Director Ward reported that if the appellants were to construct on Lot 1, the maximum height that would be applied is 33 feet. The HR-1 Zone height is 27 feet. Through the HR-1-MPD Zoning District, there are regulations for the Treasure Hill Subdivision that are incorporated into the plat notes. She stated that the plat notes for these lots are distinct.

Commissioner Shand wanted to address the timing. The benchmark dates are February 21, 2024, which is the date of the Final Action Letter. On March 1, 2024, the appellants appealed and the official denial was almost five months later. It is not reasonable to have a five-month delay and have that count toward the one-year period for an extension request. He supports Director Ward in using the benchmark date of July 22, 2024.

Commissioner Sigg mentioned the argument that there has been continued work on the project and that the extension should be granted because of that. He would like to understand the difference between a CUP and a driveway permit or excavation permit. It seems that there are two governing bodies here. The body that approved the CUP was the Planning Commission and the Building Department approved the driveway permit and excavation permit. Senior City Attorney, Mark Harrington, reported that this is an on-the-record review. The Planning Commission review is limited to the Planning Director decision and whether that was an error. Commissioner Sigg agrees with the comments made by Commissioner Shand. The five-month delay was out of the control of the parties.

Commissioner Frontero believed that the Commission is following 15-1-18(M). This was confirmed. Attorney Harrington reported that Staff determined that 15-1-18 and 15-1-10 need to be read together. That establishes a new start date for the extension deadline to run. There is a fairness component about whether it is possible to hold someone to a timeline that is beyond their control. Staff determined that these need to be read together in order for there to be a fair one-year period for the extension. Commissioner Frontero believed that 15-1-10 is not being ignored, but is being read in conjunction.

Director Ward pointed out language in 15-1-10(G), which states: "…unless otherwise indicated." Commissioner Frontero is comfortable that 15-1-10 is not being ignored, but it is being read with 15-1-18. Commissioner Beal understands that the burden of proof and standard of review need to be taken into account. It is the burden of the appellant to prove that the Land Use Authority made an error. The Planning Commission is required to interpret and apply land use regulations to favor a land use application. There are provisions outlined in 15-1-18(G). He pointed out that this is not a new factual record being created, but it is a legal review with deference to the Planning Director.

MOTION: Commissioner Shand moved to DENY the 220 King Road CUP Extension Approval Appeal and AFFIRM the CUP Extension Approval, based on the following:

Findings of Fact:

1. 220 King Road is within the Treasure Hill Subdivision Phase I Lot 2, Second Amended and Sweeney Properties Master Planned Development (MPD).

2. On August 23, 1990, the City Council adopted Ordinance No. 90-24, zoning the property Historic Residential – 1 - Master Planned Development (HR-1-MPD), which established specific building requirements, lot and site standards, and design criteria for the Treasure Hill homes within the Sweeney Properties MPD.

3. On February 14, 2024, the Planning Commission conducted a public hearing and approved the Lot 2 Phase 1 Treasure Hill Subdivision Plat Amendment and CUPs to construct a home and pool at 220 King Road.

4. On February 21, 2024, the Planning Commission ratified the Final Action Letter approving the CUPs.

5. On March 1, 2024, the Appellant appealed the Planning Commission approval.

6. Pursuant to Land Management Code (LMC) § 15-1-18(M) *Stay Of Approval Pending* Review *Of Appeal,* the Planning Commission's approval was stayed until the Appeal Panel took Final Action.

7. LMC § 15-15-1 defines "Final Action" as "[t]he later of the final vote or written decision on a matter."

8. On July 15, 2024, the Appeal Panel reviewed the Final Action Letter denying the appeal and ratified the Final Action Letter on July 22, 2024.

9. The one-year period for expiration of the CUPs outlined in LMC § 15-1-10(G) began on July 22, 2024, when the Appeal Panel issued their written decision.

10. In accordance with LMC § 15-1-10(G), the Applicant timely submitted a written request for a CUP extension within one year of the Appeal Panel's written decision.

11. The Treasure Hill Subdivision Phase I, Lot 2 Second Amended Plat includes a plat note: “Improvements, including fences and formal landscaping (unless otherwise permitted under easements or agreements of record or as shown on the Plot or as consistent with the approved construction drawings of the driveways, Upper Norfolk turnaround, King Rood turnaround, ski bridge and utility plans) shall be limited to the building area limits noted on the plat.”

    a. The platted Building Area Limits do not overlap or encroach into the ski easement.

12. The City issued an at-risk excavation permit for 220 King Road on August 15, 2025, authorized by the Stipulated Order dated June 30, 2025 in Third District Court Case No. 240500559. The two homes at 220 King Road were demolished in 2025 and the at-risk permit allows for the construction of a limited retaining wall – not a retaining wall for the proposed home.

13. The Planning Department has not issued any building permits for the home at 220 King Road.

14. The Treasure Hill Subdivision, Phase I Lot 2, Second Amended Plat regulates building height at 220 King Road according to note 5:

    - *Height. The building height shall be measured from existing grade to the top of the flat roofs and to the ridge of pitched roofs. The maximum height, in general, shall be twenty-five (25) feet for flat roofs and thirty (30) feet for pitched roofs. A maximum height of twenty eight (28) feet for flat roofs and thirty-three (33) feet for pitched roofs shall be permitted for the expressed purpose of accommodating access and light features: no greater than 24 feet in length, i.e. stairways and/or elevators, between floor levels. In accordance with the Sweeney MPD, which was approved by the Park City Municipal Corporation on October 16, 1986, and as subsequently amended on October 14, 1987 and December 30, 1992. Building height shall only be measured as outlined in this Plat Note #5.*

15. No amendments to the HR-1-MPD Zoning District, which is memorialized in the Sweeney Properties MPD and Treasure Hill Subdivision Plat notes have been made since the Planning Commission’s CUP approval.

Conclusions of Law:

1. The Appellant did not meet their burden of proving a change in circumstance that would result in a finding of non-compliance with the

review criteria in § 15-1-10(E) or other provisions of the LMC in effect at the time of the extension request.

2. The Planning Director correctly approved the extension pursuant to LMC § 15-1- 10(G) and § 15-1-18(M).

The motion was seconded by Commissioner Tilson. The motion passed with the unanimous consent of the Commission.

7. ADJOURNMENT

MOTION: Commissioner Shand moved to ADJOURN. The motion passed with the unanimous consent of the Commission.

The meeting adjourned at approximately 8:18 p.m.

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IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SUMMIT COUNTY, STATE OF UTAH

ERIC R. HERMANN and SUSAN T. FREDSTON-HERMANN, individually and in their capacity as Trustees of the FREDSTON-HERMANN FAMILY TRUST, Dated the 10th Day of October, 2016, Petitioners, v. PARK CITY, a municipal corporation of the State of Utah, Respondent. PESKY PORCUPINE, LLC, a Utah limited liability company Intervening Respondent.	**OPPOSITION TO "MOTION FOR STAY OF ADMINISTRATIVE PROCEEDING"** Civil No. 240500344 Judge: Richard Mrazik

Petitioners Eric R. Hermann and Susan T. Fredston-Hermann (the "Petitioners" or "Hermanns") oppose Respondent Pesky Porcupine, LLC's ("Pesky") Motion to Stay Administrative Proceeding.

INTRODUCTION

Pesky secured three conditional use permits related to its proposed construction at 220 King Rd. in Park City. After those CUPs expired, Pesky asked Park City to extend them and the City agreed. The Hermanns appealed that decision and the Planning Commission is scheduled to hear the appeal on January 14, 2026.

Pesky's motion asks this Court to step into that ongoing administrative appeal and prevent the Planning Commission from hearing the Hermanns' challenge to the CUP extensions. The motion should be denied for three reasons.

First, Pesky's motion rests on a jurisdictional theory that does not fit the posture of this case. The proceeding scheduled before the Planning Commission is not a rehearing on the legality of the original CUP approvals now before this Court. It is an appeal of a separate, later land use decision granting CUP extensions under the standards and criteria that govern extensions. Allowing the Planning Commission to decide that distinct issue does not intrude on this Court's jurisdiction over the petition for review.

Second, Pesky's tolling theory is contrary to governing law. The Park City Land Management Code sets a one-year expiration period measured from Planning Commission approval and requires extension requests to be submitted before expiration. Pesky's extension requests missed that mandatory deadline.

Finally, Pesky's argument that the Hermanns' petition for review of the CUPs somehow "suspended" the deadline for extending the CUPs is not supported by the Park City Land Management Code provision on which the argument relies. Moreover, the argument is contrary to Utah's land use statutes, which provide that filing a petition for judicial review does *not*

automatically stay a land use decision. Pesky's motion asks the Court to read an automatic stay and tolling rule into the Code and the statute where none exists.

For these reasons, and as explained below, the Court should deny the motion and allow the Planning Commission appeal on the CUP extensions to proceed.

STATEMENT OF RELEVANT FACTS

1. The property at issue is located at 220 King Road, Park City, Utah (the "Property") and is Lot 2 of the Treasure Hill Subdivision, Phase I plat.[1]

2. On February 21, 2024, the Planning Commission adopted its final action letter approving Pesky Porcupine's land use applications for the Property (the "Applications"), granting Pesky the CUPs at issue in this motion.[2]

3. On March 1, 2024, the Hermanns timely appealed the Planning Commission's approval of the Applications.[3]

4. On July 22, 2024, the Park City Appeal Panel issued its final decision on the Hermanns' appeal.[4]

5. On August 1, 2024, the Hermanns timely filed their petition for judicial review initiating this case.[5]

6. On August 15, 2024, the Planning Director conducted a public hearing and approved Pesky's Historic District Design Review ("HDDR") application with conditions.

7. On August 29, 2024, the Hermanns appealed the Planning Director's HDDR decision to the Board of Adjustment.

[1] R.4976–84.
[2] R.783–812; R.1114–33.
[3] R.1512–17.
[4] R.2312–2316; R.3440–44.
[5] Dkt. 1.

8. On November 12, 2024, the Board of Adjustment held a public hearing on the Hermanns' HDDR appeal and reversed the Planning Director's HDDR approval in part.

9. The Board of Adjustment approved its final action letter on November 19, 2024, which was signed on November 20, 2024.

10. LMC § 15-1-10(G) provides for expiration of a CUP if not used within a year, while providing an extension mechanism:

> Unless otherwise indicated, Conditional Use permits ***expire one (1) year from the date of Planning Commission approval***, unless the Conditional Use has commenced on the project or a Building Permit for the Use has been issued. The Planning Director may grant an extension of a Conditional Use permit for one (1) additional year when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of noncompliance with the review criteria in Section 15-1-10 (E) or other provisions of the Land Management Code in effect at the time of the extension request. Change of circumstance includes physical changes to the Property or surroundings. Notice shall be provided consistent with the original Conditional Use permit approval per Section 15-1-12. ***Extension requests must be submitted in writing prior to the expiration of the Conditional Use permit.***[6]

11. While judicial review was pending, on July 21, 2025, Pesky submitted a written request to extend the CUPs' expiration deadline.

12. Park City provided notice that a hearing would be held on the extension request, and on October 2, 2025, Park City held a public hearing on that request.

13. The Hermanns opposed the extension request.

14. At the October 2, 2025 hearing, Park City approved the extension request.

15. On October 10, 2025, the Hermanns submitted an "Appeal of a Land Use Determination" to the Planning Department, appealing the CUP extension approval.

[6] LMC § 15-1-10(G). (emphasis added).

16. The Land Management Code requires that "All appeals shall be heard by the reviewing authority within forty-five (45) days of the date that the appellant files an appeal unless all parties, including the City, stipulate otherwise."

17. Park City has scheduled a hearing on the Hermanns' appeal of the CUP extension approval for January 14, 2026.

ARGUMENT

Pesky's Motion to Stay rests on two related premises: that the pendency of this judicial review divests the Planning Commission of jurisdiction to hear an administrative appeal concerning the CUP extensions, and that the expiration period for those CUPs is tolled while this case is pending. Neither premise is correct. As explained below, the administrative appeal scheduled before the Planning Commission concerns a separate land use decision governed by the Park City Land Management Code, not the validity of the original CUP approvals before this Court. And neither the Code nor Utah law provides for an automatic stay or tolling of CUP expiration periods during judicial review. The Motion should therefore be denied.

I. The Planning Commission may proceed with the CUP-extension appeal because it concerns a separate land use decision and does not intrude on this Court's jurisdiction.

Pesky's primary argument is that the pendency of this judicial review strips the Planning Commission of authority to hear the Hermanns' appeal of the CUP-extension decision. That framing is flawed. The appeal scheduled before the Planning Commission does not ask the City to reconsider the legality of the original CUP approvals now before this Court or to apply the standards governing those approvals. Instead, it concerns a separate, subsequent land use determination—whether the CUPs were properly extended under the Land Management Code—which is governed by a different application, a different review standard, and a different set of

factual and legal questions. Allowing the Planning Commission to decide that administrative appeal does not intrude on this Court's jurisdiction or require the City to decide issues committed to the judiciary.

A. The CUP-extension appeal addresses whether the extension criteria were satisfied, not whether the original CUP approvals were lawful.

The Planning Commission may proceed because the appeal scheduled for January 14 concerns a separate land use decision—whether Pesky's later CUP-extension application satisfied the extension criteria in LMC § 15-1-10(G)—not the legality of the original CUP approvals now before this Court.

Park City's Land Management Code treats CUP extensions as a separate approval determination governed by distinct criteria: conditional use permits expire one year from the date of Planning Commission approval unless the conditional use has commenced or a building permit issues. An extension may be granted, but only if the request for the extension is made in writing before the CUP expires, and the applicant demonstrates no change in circumstance that would result in an unmitigated impact or a finding of noncompliance with the applicable review criteria and code provisions.[7]

That is exactly the posture here. The Planning Commission approved Pesky's underlying CUP applications on February 21, 2024, and Petitioners timely pursued administrative appeal and then judicial review of that original approval.[8] While that judicial review was pending, Pesky filed a separate land use application on July 21, 2025—five months after the deadline for such an application—seeking a one-year extension under LMC § 15-1-10(G).[9] Park City noticed and held

[7] LMC § 15-1-10(G).
[8] R.783–812; R.1114–33; R.1512–17; Dkt. 1.
[9] Utah Code § 10-20-102(39) defines a "land use application" as an application required by a municipality and submitted by a land use applicant to obtain a land use decision.

a public hearing on that extension application on October 2, 2025 and approved the extension request.[10] Petitioners then filed an "Appeal of a Land Use Determination" on October 10, 2025, appealing the CUP-extension approval, and Park City scheduled a hearing on that administrative appeal for January 14, 2026.

The legal and factual questions presented by that administrative appeal are therefore different from the questions before this Court. The Planning Commission is not being asked to revisit whether the original CUP approvals complied with the Land Management Code when issued. It is being asked to decide whether the later extension application satisfied the extension-specific criteria in LMC § 15-1-10(G) at the time of the extension decision—criteria that focus on the timeliness of the application, on change of circumstances and on continued compliance with applicable review standards.[11] Because that proceeding involves separate questions concerning a separate land use decision on a separate land use application under MLUDMA and the LMC, it does not require the City to decide issues committed to this Court's judicial review of the original CUP approvals.

B. Pesky's jurisdictional divestiture theory improperly imports court appellate procedure into a municipal administrative appeal, and Pesky's authorities do not support that move.

Pesky's jurisdiction argument depends on importing a court-centered appellate divestiture doctrine into a municipal administrative appeal. But Park City's Land Management Code expressly rejects that premise: for appeals before a Land Use Hearing Officer and any board or commission, the City's "procedural hearings and reviews … [do] not adopt or utilize in any way the adversary criminal or civil justice system used in the courts."[12] Against that backdrop, Pesky's cases do not

[10] Utah Code § 10-20-102(40) defines a "land use decision" as an administrative decision of a land use authority or appeal authority regarding a land use permit or land use application.
[11] LMC § 15-1-10(G).
[12] LMC § 15-1-18(H)(1).

establish that the Planning Commission is divested of jurisdiction to hear a later administrative appeal merely because a different land use decision is pending on judicial review.

To start, the first two authorities Pesky relies on, *Hi-Country Estates Homeowners Ass'n v. Foothills Water Co.* and *Thorp v. Charlwood* state a narrow rule: a timely appeal divests the trial court of jurisdiction over the matters on appeal and transfers jurisdiction to the appellate court.[13] Another case relied on by Pesky, *Garver v. Rosenberg*, likewise addresses when jurisdiction transfers between district courts and appellate courts and clarifies that divestiture principles apply to timely notices of appeal filed after the announcement of a decision—again, a court-to-court procedure rule.[14] None of those decisions holds that a municipal land use authority loses jurisdiction to decide a separate, subsequent land use application (and an appeal from that application) while an earlier land use decision is pending on judicial review.

Even within the court system, the divestiture doctrine is not as broad as Pesky suggests. *Thorp* immediately notes the limitation Pesky omits: "even where a trial court is otherwise divested of jurisdiction due to an appeal, the trial court retains the power to act on collateral matters."[15] That limitation matters here because the Planning Commission appeal does not present the same issues this Court is reviewing. It involves a separate land use decision applying the extension criteria in LMC § 15-1-10(G), not a re-litigation of whether the original CUP approvals were lawful when issued. The fact that the extension appeal may have practical consequences does not transform it into the same "matter on appeal" pending before this Court.

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[13] *See Hi-Country Estates Homeowners Ass'n v. Foothills Water Co.*, 942 P.2d 305, 306–07 (Utah 1996); *Thorp v. Charlwood*, 2021 UT App 118, ¶ 38, 501 P.3d 1166 (quoting *Myers v. Utah Transit Auth.*, 2014 UT App 294, ¶ 15, 341 P.3d 935).
[14] *Garver v. Rosenberg*, 2019 UT 16, 442 P.3d 383.
[15] *Thorp*, 2021 UT App 118, ¶ 38 (quoting *Saunders v. Sharp*, 818 P.2d 574, 578 (Utah Ct. App. 1991)).

The one case Pesky cites involving an administrative body undercuts Pesky's position when read in full. In *Career Service Review Board*, the Utah Supreme Court explained that the rule divesting agencies of jurisdiction while an appeal is pending is limited to situations where continued administrative action would conflict with the court's jurisdiction: "[i]f there would be no conflict, then there would be no obstacle to the administrative agency exercising a continuing jurisdiction that may be conferred upon it by law."[16] The Court concluded the Board's action was permissible because it "in no way invaded the jurisdiction of the reviewing court."[17] That principle fits this case: deciding whether Pesky satisfied the Code's extension criteria does not require the Planning Commission to adjudicate the validity of the original CUP approvals that are now before this Court, and thus does not create the kind of jurisdictional conflict that would justify judicial intervention.

In short, Pesky's divestiture theory depends on extending court appellate procedure to a municipal administrative appeal that the City Code explicitly says is not governed by court procedure, and Pesky's authorities—properly read—do not support a stay here.

II. Pesky's tolling and automatic-stay theory is contrary to the Park City Land Management Code and inconsistent with Utah law.

Pesky's remaining argument—that the CUP expiration period was tolled during the pendency of this judicial review—fares no better. Neither the LMC nor Utah law provides for an automatic stay or tolling of CUP expiration periods simply because a petition for judicial review has been filed. To the contrary, the LMC expressly measures expiration from the date of Planning Commission approval and requires any extension application to be submitted before that expiration, and the Utah Code confirms that judicial review does not automatically stay a land use

[16] *Career Serv. Review Bd. v. Utah Dep't of Corr.*, 942 P.2d 933, 943 (Utah 1997).
[17] *Id.*

decision. Pesky's tolling theory would require the Court to add language and exceptions to the LMC and statute that do not exist. As explained below, the CUPs expired by operation of the LMC, and the Planning Commission retains authority to hear the appeal of the City's subsequent extension decision.

A. The Park City Land Management Code sets a one-year expiration deadline running from Planning Commission approval and requires extension requests to be submitted before expiration.

The LMC's CUP expiration rule is straightforward and unambiguous. It provides: "Conditional Use permits expire one (1) year from the date of Planning Commission approval," unless the conditional use has commenced or a building permit for the use has issued.[18] That language uses a single, objective trigger—"the date of Planning Commission approval"—and a single, fixed period—"one (1) year."[19] It does not say "one year of being usable," "one year after all appeals are exhausted," or "one year after the permit is no longer suspended." This is not a situation where the Court must choose among competing reasonable readings; the LMC answers the timing question on its face.

The LMC is equally explicit about the timing of any extension request. It states—twice—that extension requests "must be submitted in writing prior to the expiration of the Conditional Use permit."[20] That is a mandatory precondition to the extension process. The text does not create an exception for litigation-related delay, does not authorize the City to treat the deadline as "tolled," and does not permit an after-the-fact extension application based on an argument that the applicant did not receive the benefit of the approvals for a full year.

[18] LMC § 15-1-10(G).
[19] *Id.*
[20] LMC § 15-1-10(G).

Utah courts apply the same interpretive principles to ordinances and statutes: where the language is plain and admits of a single meaning, courts enforce it as written and do not graft additional terms onto the text. In *Webb v. Ninow*, the Utah Court of Appeals reiterated the "cardinal rule" that courts are "not to infer substantive terms into the text that are not already there" and have "no power to rewrite" a statute to reflect an intention not expressed.[21] And in *Lorenzo v. Workforce Appeals Bd.*, the Court of Appeals emphasized that "the plain language controls" and that courts "avoid adding to or deleting from" statutory language absent an absolute necessity to make it rational.[22] Those principles apply with full force here. Pesky's theory is not interpretation; it is an effort to add a new condition to the ordinance—one that the City did not enact.

Pesky attempts to derive this new condition from the LMC's appeal-suspension provision, which states that "[u]pon the filing of an appeal, any approval granted under this Title will be suspended until the appeal body […] has acted on the appeal."[23] But that provision addresses the operative effect of an approval while an administrative appeal is pending; it does not abrogate the separate CUP expiration rule in § 15-1-10(G), and it says nothing about tolling expiration deadlines or converting a one-year period keyed to Planning Commission approval into a floating, indeterminate period keyed to litigation posture. The Court should decline Pesky's invitation to read that tolling concept into the LMC where it does not appear.

In short, the LMC means what it says: absent commencement or issuance of a building permit, a CUP expires one year from Planning Commission approval, and any extension request must be submitted before that expiration.[24] Pesky's tolling approach would require rewriting the

[21] *Webb v. Ninow,* 883 P.2d 1365, 1367 (Utah Ct. App. 1994) (quotation simplified).
[22] *Lorenzo v. Workforce Appeals Bd.*, 2002 UT App 371, ¶ 11, 58 P.3d 873 (quotation simplified).
[23] LMC § 15-1-18(M).
[24] LMC § 15-1-10(G).

ordinance to add exceptions and timing rules the City never adopted, which Utah law does not permit.

B. MLUDMA forecloses Pesky's automatic-stay premise, and the Park City Land Management Code cannot be interpreted to create a stay that conflicts with state law.

MLUDMA answers Pesky's premise directly. Utah Code section 10-20-1109(9)(a) states: "The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be."[25] Even if we assume the LMC's stay provision is vague enough to be read to include a judicial-review stay, the Legislature has already made the opposite policy choice for land use petitions for judicial review: filing the petition does not create a stay.[26] As it does not stay the underlying decision, there is no reason it should stay the running of the expiration of the CUPs.

That matters because a municipality cannot create, by ordinance, a stay regime that contradicts state law. Utah courts have long held that "where a city ordinance is in conflict with a state statute, the ordinance is invalid at its inception."[27] And while an ordinance is not invalid merely because it overlaps with or differs from a statute, an impermissible conflict arises when the ordinance "contradicts a statute 'in the sense that [the two] cannot coexist.'"[28]

Applied here, Pesky's proposed interpretation of the LMC cannot be squared with MLUDMA. Pesky's theory depends on reading the LMC to suspend the operative effect of land use approvals (and, by extension, to suspend the running of approval-related deadlines) throughout the pendency of judicial review. But MLUDMA says a petition for judicial review does not stay

[25] Utah Code § 10-20-1109(9)(a).
[26] *Id.*
[27] *Hansen v. Eyre*, 2005 UT 29, ¶ 15 (quotation simplified).
[28] *Salt Lake City v. Newman*, 2006 UT 69, ¶ 12 (citation omitted).

the land use decision.[29] The LMC therefore cannot be interpreted to create the very stay MLUDMA denies.

At a minimum, to avoid a conflict with state law, the LMC's stay provision must be read narrowly and harmoniously—as addressing what may proceed at the municipal level while a municipal appeal is pending, not as creating a judicial-review stay that halts the legal effect of the land use decision (or tolls unrelated deadlines) once the matter is in district court.[30] Under that required reading, Pesky cannot rely on the LMC to manufacture an automatic judicial-review stay, and the Motion's stay premise fails as a matter of law.

C. Pesky's policy-based "fire drill" argument fails on the facts and does not justify delaying the LMC-required appeal hearing.

Pesky's policy argument—that allowing CUPs to expire during judicial review would force courts into a "fire drill" and incentivize strategic delay—rests on a false premise about what actually prevented Pesky from moving forward. This judicial review did not stop Pesky from proceeding under its CUPs. After the Appeal Panel issued its final decision denying Petitioners' administrative appeal, Pesky was free to rely on those CUP approvals while this case proceeded in district court. There was no stay, and nothing about this litigation required the Court to act on any accelerated timeline.

In other words, the pendency of this case had nothing to do with Pesky's inability to obtain a building permit. Pesky could not obtain a permit because Pesky's Historic District Design Review approval—a requirement for a permit—was overturned by the Board of Adjustment. That independent reversal—not the existence of a petition for judicial review of the CUP approvals—

[29] Utah Code § 10-20-1109(9)(a).
[30] *Id.*

prevented Pesky from moving forward. Accounting for that separate process is critical. Without it, Pesky's "fire drill" narrative collapses.

Nor does Pesky's argument reflect how the LMC actually operates. The LMC requires appeals to be heard within forty-five days of filing unless all parties and the City stipulate otherwise.[31] It also allows up to two one-year extensions of a CUP, meaning an applicant can have as much as three years from Planning Commission approval to commence the use or obtain a building permit.[32] When those provisions are applied as written, there is no systemic pressure on courts to resolve land use cases within a year, and no inherent risk that CUPs will routinely expire due to judicial review.

What happened here is far narrower—and entirely of Pesky's own making. Nothing prevented Pesky from timely applying for an extension "prior to the expiration" of the CUPs, as the LMC expressly requires.[33] Pesky did not do so. Whether Pesky ultimately would have qualified for an extension is a merits question now properly before the Planning Commission. But the deadline itself was clear, and missing it was not caused by Petitioners' appeal or by any supposed flaw in the LMC's structure.

Now, well beyond the forty-five-day period the LMC prescribes for hearing appeals, Pesky asks this Court to freeze a separate administrative appeal because it fears an adverse ruling on a deadline it plainly missed. The LMC gives Petitioners the right to have their appeal heard. Pesky has not identified a legitimate legal or equitable basis to deny that right or to further delay the Planning Commission's review of its extension decision.

[31] LMC § 15-1-18(E).
[32] LMC § 15-1-10(G).
[33] LMC § 15-1-10(G).

CONCLUSION

Pesky has not shown any basis—jurisdictional, statutory, or equitable—for this Court to intervene in a separate municipal appeal that the Park City Land Management Code expressly authorizes and requires to proceed. The CUP-extension appeal concerns a distinct land use decision governed by its own criteria, does not intrude on this Court's review of the original CUP approvals, and is not subject to any automatic stay or tolling under either the LMC or Utah law. Pesky's motion rests on an effort to rewrite clear code provisions to excuse a missed deadline and to avoid an administrative ruling it fears will be unfavorable. The Court should decline that invitation, deny the Motion to Stay Administrative Proceeding, and allow the Planning Commission to hear Petitioners' appeal as required by the LMC.

DATED this 14th day of January, 2026.

HOGGAN LEE HUTCHINSON

/s/ *Charles Pearlman*
Eric P. Lee
Justin J. Keys
Nathanael Mitchell
Charles Pearlman
Attorneys for the Petitioners

CERTIFICATE OF SERVICE

I hereby certify that, on Wednesday, January 14, 2026, a copy of the foregoing was filed and served to counsel of record via GreenFiling:

/s/ *Charles Pearlman*

Planning Commission
Staff Report

Subject: **28 Payday Drive**
Application: **PL-25-06777**
Author: **Virgil Lund, Planner II**
Date: **January 28, 2026**
Type of Item: **Conditional Use Permit**

Recommendation

(I) Review the Conditional Use Permit (CUP) for a 480-square-foot outdoor pool, (II) conduct a public hearing, and (III) consider approving the CUP based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the draft Final Action Letter (Exhibit A).

Description

Applicant:	Louie & Colleen Lange; Represented by Brian Thayer
Location:	28 Payday Drive
Zoning District:	Single Family, Sensitive Land Overlay
Adjacent Land Uses:	Single-Family Dwellings
Reason for Review:	The Planning Commission reviews and takes Final Action on Conditional Use Permits.[1]

CUP	Conditional Use Permit
DRC	Development Review Committee
LMC	Land Management Code
LOD	Limits of Disturbance
SFD	Single-Family Dwelling
SLO	Sensitive Land Overlay

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC § 15-15-1.

Background

On January 31, 2013, the City Council approved Ordinance 13-06 annexing 28 Payday Drive into Park City and on October 3, 2013, the City Council approved Ordinance 13-38 approving the Thaynes Creek Ranch Estates Phase One Subdivision. 28 Payday Drive is Lot 4A.

On August 22, 2023, the City Council reviewed and approved the Thaynes Creek Ranch Estates Phase 1 – Lots 3 & 4 Amended plat which shifted the common property

[1] LMC § 15-1-8

line 23 feet to the west, creating two amended Lots: a larger Lot 3A (2411 Country Lane) and a smaller Lot 4A (28 Payday Drive) (Ordinance No. 2023-40).

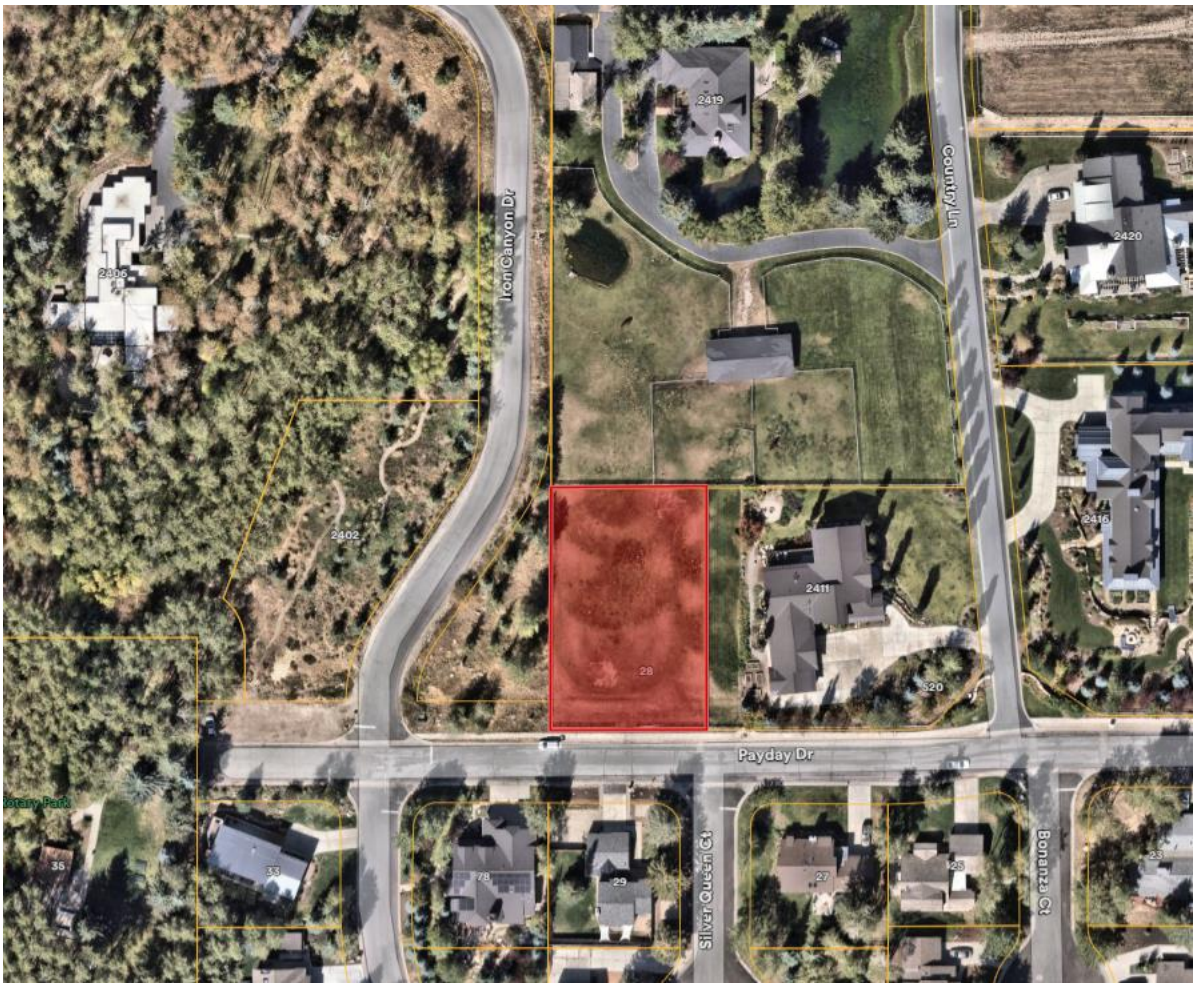


Figure 1: 28 Payday Drive, Highlighted in Red

Lot 4A is vacant. The Applicant proposes a new Single-Family Dwelling (SFD) with a 480-square-foot outdoor pool in the Rear Yard.

Figure 2: Applicant's Proposed Pool, Shown in Blue

Analysis

(I) The proposed outdoor pool complies with the Single Family (SF) Zoning District requirements outlined in LMC Chapter 15-2.11.

LMC § 15-15-1 defines Private Recreation Facilities: "Recreation facilities operated on private Property and not open to the general public, including Recreation Facilities such as swimming pools, tennis courts, outdoor Pickleball Courts, and similar facilities for the Use by Owners and guests."

Private Recreation Facilities require a Conditional Use Permit (CUP) in the SF Zoning District.[2]

The SF Zoning District requires a 20-foot Front Setback, 15-foot Rear Setback, and 12-foot Side Setback. The proposed outdoor pool is 18 feet from the rear Lot line, 28 feet from the west side Lot line, 41 feet from the east side Lot line, and 137 feet from the front Lot line.

[2] LMC § 15-2.11-2

Figure 3: Distances to Lot Lines

Vegetation Protection: LMC § 15-2.11-10 states: "The Property Owner must protect Significant Vegetation during any Development activity." The Applicant's proposal does not impact any Significant Vegetation.

(II) The proposed outdoor pool complies with the Thaynes Creek Ranch Phase 1 Subdivision Plat requirements.

Plat Note 11 from the recorded plat states: "The maximum Limits of Disturbance (LOD) area (including house and barn footprints, paved driveways, patios, and other hardscape, and irrigated landscaping) for Lots A and B is restricted to a maximum of 75% of the Lot Area."

The Applicant's landscape plan shows a total LOD of approximately 12,217 square feet and a landscaped area of approximately 6,061 square feet. The Applicant's LOD for the SFD including the outdoor pool, driveways, patios, other hardscape, and irrigated lawns is approximately 67% of the Lot Area.

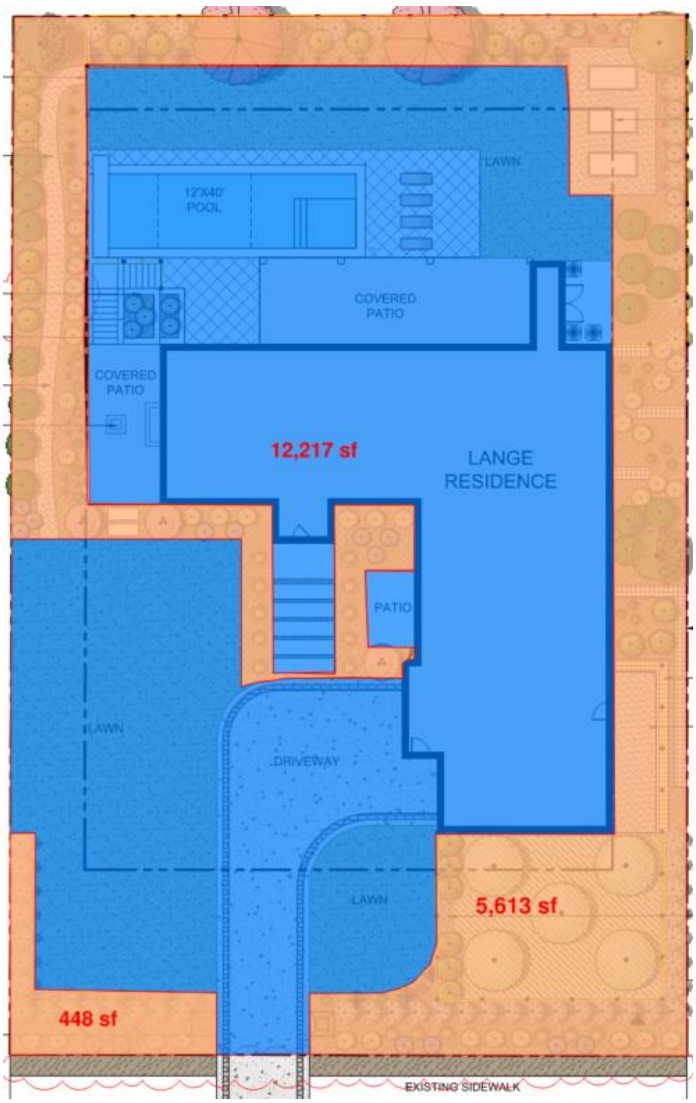


Figure 4: Applicant's Landscape Plan, LOD Shown in Blue

(III) The proposed outdoor pool complies with the Sensitive Land Overlay (SLO) requirements in LMC Chapter 15-2.21.

The Subdivision, Annexation approval, and platting of the Lots considered SLO principles, such as Steep Slopes, proximity to Open Space and wetlands, Ridge Lines, and visual analysis. The proposed outdoor pool is not near wetlands or Ridge Lines and is not visible from any designated vantage points. The proposed outdoor pool is on flat terrain and is not within 50 feet of Very Steep Slopes.

(IV) The proposal, as conditioned, complies with the Conditional Use Permit criteria outlined in Land Management Code Section 15-1-10(E).

There are certain Uses that, because of unique characteristics or potential impacts on the municipality, surrounding neighbors, or adjacent land Uses, may not be Compatible

in some Areas or may be Compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

The Planning Commission shall approve a Conditional Use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Use in accordance with applicable standards. The Planning Commission may deny the Conditional Use if the proposed Use cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable standards (LMC § 15-1-10).

CUP Review Criteria	**Analysis of Proposal**
Size and location of the Site	**Complies:** 28 Payday Drive is Lot 4A of the Thaynes Creek Ranch Phase 1 Subdivision. The Lot is 0.42 acres, and the proposed pool is 480 square feet, located behind the SFD.
Traffic considerations including capacity of the existing Streets in the Area	**Complies:** The Transportation Impact Study Guidelines state that a study is required when a proposed development or redevelopment will generate 25 or more net new vehicle trips during the weekday AM or PM peak hour or other analysis hour at the discretion of Park City staff. The proposed outdoor pool will not generate any additional traffic beyond the property's primary Use as an SFD. The outdoor pool will be used by the property owner and their guests.
Utility capacity, including Storm Water run-off	**Condition of Approval recommended:** The Development Review Committee (DRC) reviewed the proposal on December 16, 2025, and confirmed the proposal conforms with their requirements. The Applicant shall coordinate pool drainage with Snyderville Basin Water Reclamation District (SBWRD) at the building permit phase (Condition of Approval 5).
Emergency vehicle Access	**Complies:** The DRC reviewed the proposal on December 16, 2025, and confirmed the proposal conforms with all emergency vehicle access requirements.
Location and amount of off-Street parking	**Condition of Approval Recommended:** LMC § 15-3-6(A) requires two Off-Street Parking Spaces per Dwelling Unit for an SFD. LMC § 15-3-6(B) requires one Off-Street Parking

	Space per four persons maximum rated capacity for a Private Recreation Facility. The Applicant states that the capacity for the pool is around 24 people at one time, requiring approximately six Parking Spaces. LMC § 15-3-4(A)(1) requires double car garages to be at least 20 feet wide by 20 feet deep. The Applicant can park two vehicles in the SFD's attached garage, which measures approximately 32 feet deep by 25 feet wide. An additional eight vehicles can be parked in the driveway, for a total of 10 Off-Street Parking Spaces. Staff recommends a Condition of Approval that the number of driveway Parking Spaces for use of the pool be limited to four.
Internal vehicular and pedestrian circulation system	**Complies:** The proposed outdoor pool does not change the Lot's vehicle or pedestrian circulation system.
Fencing, Screening, and landscaping to separate the Use from adjoining Uses	**Complies:** The proposed outdoor pool will be screened from the south by the SFD, and the Applicant's landscape plan shows maple, aspen, and pine trees surrounding the pool on the north, east, and west side.
Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots	**Complies:** The proposed outdoor pool is in the Rear Yard of the SFD, in-ground, and is screened from neighboring properties with trees on the north, east, and west sides.
Usable Open Space	**Complies:** The proposed outdoor pool does not decrease the amount of Open Space for the Subdivision.
Signs and lighting	**Condition of Approval recommended:** No Signs or exterior lighting are approved or proposed with this CUP. If Outdoor Lighting is proposed to be installed, it requires compliance with the dark sky code (LMC § 15-5-5(J)) and Planning Department review and approval (Condition of Approval 4).
Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural	**Complies:** The proposed outdoor pool is in the Rear Yard of the SFD, in-ground, and is screened from neighboring properties with trees on the north,

detailing	east, and west sides.
Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site	**Condition of Approval recommended:** Condition of Approval 3 requires adherence to Municipal Code of Park City Chapter 6-3, *Noise.*
Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas	**Complies:** Vehicles for service and maintenance of the outdoor pool will access the property from the private driveway on Payday Drive. All trash and recycling areas are inside the SFD. No additional trash or recycling areas are proposed.
Expected Ownership and management	**Complies:** 28 Payday Drive is under private ownership, and the proposed outdoor pool is for the use of the owner and the owner's guests.
Within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site	**See Analysis Section III above.**
Reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding	**Complies:** The recommended Conditions of Approval align with the recommendations listed in the Thaynes Neighborhood section of the General Plan, which encourages the protection of the primary resident neighborhood character.
Radon mitigation	**Not Applicable:** LMC § 15-1-10(E)(17) applies to residential Conditional Uses.

(V) The Development Review Committee reviewed the proposal on December 16, 2025 and confirmed the proposal conforms to their requirements.[3]

Department Review

The Planning Department, Executive Department, and City Attorney's Office reviewed this report.

[3] The Development Review Committee meets the first and third Tuesday of each month to review and provide comments on Planning Applications, including review by the Building Department, Engineering Department, Sustainability Department, Transportation Planning Department, Code Enforcement, the City Attorney's Office, Local Utilities including Rocky Mountain Power and Enbridge Gas, the Park City Fire District, Public Works, Public Utilities, and the Snyderville Basin Water Reclamation District (SBWRD).

Notice

Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on January 14, 2026. Staff mailed courtesy notice to property owners within 300 feet on January 14, 2026. The *Park Record* published courtesy notice on January 14, 2026.[4]

Public Input

Staff did not receive any public input at the time this report was published.

Alternatives

The Planning Commission may:

- Approve the CUP for an outdoor pool;
- Deny the CUP for an outdoor pool and direct staff to make Findings for the denial; or,
- Request additional information and continue the discussion to a date certain.

Exhibits

A: Draft Final Action Letter
B: Proposed Plans

[4] LMC § 15-1-21

Planning Department

January 28, 2026

Brian Thayer

CC: Louie & Colleen Lange

NOTICE OF PLANNING COMMISSION ACTION

Description

Address:	28 Payday Drive
Zoning District:	Single Family
Application:	Conditional Use Permit
Project Number:	PL-25-06777
Action:	APPROVED WITH CONDITIONS (See Below)
Date of Final Action:	January 28, 2026
Project Summary:	The Applicant proposes to construct a 480-square-foot outdoor pool.

Action Taken

On January 28, 2026, the Planning Commission conducted a public hearing and approved the Conditional Use Permit for an outdoor pool according to the following findings of fact, conclusions of law, and conditions of approval:

Findings of Fact

1. 28 Payday Drive is a 0.42-acre vacant Single-Family Lot.
2. On January 31, 2013, the City Council approved Ordinance 13-06 annexing 28 Payday Drive into Park City and on October 3, 2013, the City Council approved Ordinance 13-38 approving the Thaynes Creek Ranch Estates Phase One Subdivision).
3. The Land Management Code definition for Private Recreation Facilities includes private swimming pools.
4. Private Recreation Facilities require a Conditional Use Permit (CUP) in the SF Zoning District .

5. The SF Zoning District requires a 20-foot Front Setback, 15-foot Rear Setback, and a 12-foot Side Setback.
6. The proposed outdoor pool is 18 feet from the rear Lot line, 28 feet from the west side Lot line, 41 feet from the east side Lot line, and 137 feet from the front Lot line.
7. The Applicant's proposal does not impact any Significant Vegetation.
8. Plat Note 11 from the recorded plat states: "The maximum Limits of Disturbance area (including house and barn footprints, paved driveways, patios, and other hardscape, and irrigated landscaping) for Lots A and B is restricted to a maximum of 75% of the Lot Area."
9. The Applicant's landscape plan shows a total LOD of approximately 12,217 square feet and a landscaped area of approximately 6,061 square feet.
10. The Applicant's LOD for the SFD including the outdoor pool, driveways, patios, other hardscape, and irrigated lawns is approximately 67% of the Lot Area.
11. The Subdivision, Annexation approval, and platting of the Lots considered SLO principles, such as Steep Slopes, proximity to Open Space and wetlands, Ridge Lines, and visual analysis.
12. The proposed outdoor pool is not near wetlands or Ridge Lines and is not visible from any designated vantage points.
13. The proposed outdoor pool is on flat terrain and is not within 50 feet of Very Steep Slopes.
14. The proposal complies, as conditioned, with the Conditional Use Permit criteria outlined in Land Management Code Section 15-1-10(E).
    a. Size and location of the Site
        i. 28 Payday Drive is Lot 4A of the Thaynes Creek Ranch Phase 1 Subdivision. The Lot is 0.42 acres, and the proposed pool is 480 square feet, located behind the SFD.
    b. Traffic considerations including capacity of the existing Streets in the Area
        i. The proposed outdoor pool will not generate any additional traffic beyond the property's primary Use as a SFD. The outdoor pool will be used by the property owner and their guests.
    c. Utility capacity, including Storm Water run-off
        i. The Development Review Committee (DRC) reviewed the proposal on December 16, 2025, and confirmed the proposal conforms with their requirements.
    d. Emergency vehicle Access

i. The DRC reviewed the proposal on December 16, 2025, and confirmed the proposal conforms with all emergency vehicle access requirements.

e. Location and amount of off-Street parking
   i. The Applicant can park two vehicles in the SFD's attached garage, which measures approximately 32 feet deep by 25 feet wide. An additional eight vehicles can be parked in the driveway, for a total of 10 Off-Street Parking Spaces. See Condition of Approval 7.
f. Internal vehicular and pedestrian circulation system
   i. The proposed outdoor pool does not change the Lot's vehicle or pedestrian circulation system.
g. Fencing, Screening, and landscaping to separate the Use from adjoining Uses
   i. The proposed outdoor pool will be screened from the south by the SFD, and the Applicant's landscape plan shows maple, aspen, and pine trees surrounding the pool on the north, east, and west side.
h. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots
   i. The proposed outdoor pool is in the Rear Yard of the SFD, in-ground, and is screened from neighboring properties with trees on the north, east, and west sides.
i. Usable Open Space
   i. The proposed outdoor pool does not decrease the amount of Open Space for the Subdivision.
j. Signs and lighting
   i. No Signs or exterior lighting are approved or proposed with this CUP.
k. Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing
   i. The proposed outdoor pool is in the Rear Yard of the SFD, in-ground, and is screened from neighboring properties with trees on the north, east, and west sides.
l. Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site
   i. See Condition of Approval 3.

m. Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas
    i. Vehicles for service and maintenance of the outdoor pool will access the property from the private driveway on Payday Drive. All trash and recycling areas are inside the SFD. No additional trash or recycling areas are proposed.
n. Expected Ownership
    i. 28 Payday Drive is under private ownership and the proposed outdoor pool is for the use of the owner and guests.
o. Within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site
    i. See Finding of Fact 7 above.
p. Reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding
    i. The recommended Conditions of Approval align with the recommendations listed in the Thaynes Neighborhood section of the General Plan, which encourages the protection of the primary resident neighborhood character.
q. Radon mitigation
    i. This criteria applies to residential Conditional Uses.

Conclusions of Law

1. The proposed outdoor pool complies with the LMC requirements pursuant to Chapter 15-2.11 *Single Family Zoning District*, Chapter 15-2.21 *Sensitive Land Overlay*, and Section 15-1-10 *Conditional Use Review Process*.
2. The use will be compatible with surrounding Structures in use, scale, mass, and circulation.
3. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval

1. Final building plans and construction details shall reflect substantial compliance with the final plans dated December 5, 2025, submitted to the Planning Department and reviewed January 28, 2026, by the Planning Commission.

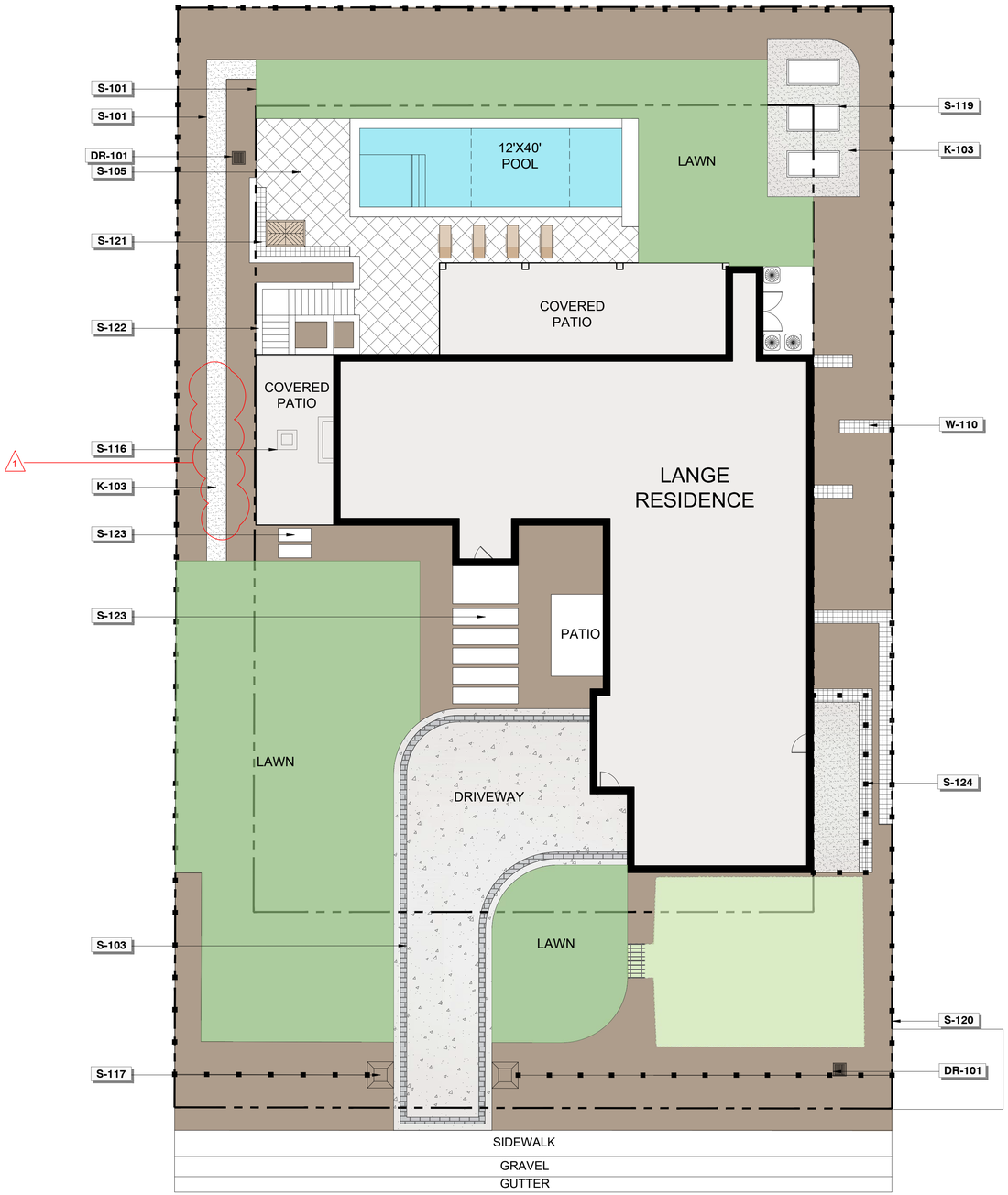
2. The Applicant is responsible for notifying the Planning Department prior to making any changes to the approved plans. Any changes, modifications, or deviations from the approved scope of work shall be submitted in writing for review and approval/denial in accordance with the applicable standards by the Planning Director prior to construction.
3. The Applicant shall adhere to Municipal Code of Park City Chapter 6-3, *Noise*.
4. If Outdoor Lighting is proposed to be installed, it requires compliance with the dark sky code (LMC Section 15-5-5(J)) and Planning Department review and approval.
5. The Applicant shall coordinate pool drainage with Snyderville Basin Water Reclamation District at the building permit phase.
6. The pool cannot be rented out separately from the property's primary Use of a Single-Family Dwelling.
7. Driveway parking for guests using the pool is limited to a maximum of four vehicles.

This Final Action may be appealed pursuant to LMC § 15-1-18. If you have questions or concerns regarding this Final Action Letter, please call 385-481-2036 or email virgil.lund@parkcity.gov.

Sincerely,

Christin Van Dine
Planning Commission Chair

CC: Virgil Lund



A LANDSCAPE SITE PLAN

0 10 20 30 feet

SCALE: 1" = 10'

NORTH

REFERENCE NOTES SCHEDULE

SYMBOL	CODE	DESCRIPTION	QTY	DETAIL
03 CONCRETE				
	03-01	NEW CONCRETE	1,229 SF	
DRAINAGE				
	DR-101	SUMP DRAIN	2	
ROCK				
	K-103	CHAT WALKWAY	660 SF	
SITE FURNISHINGS				
	S-101	6" METAL STEEL EDGING	584 LF	
	S-103	PAVER BORDER-BELGARD HARDSCAPES HOLLAND A RUNNING BOND PATTERN. COLOR: GRAPHITE	155 SF	
	S-105	PATIO AREA	742 SF	
	S-106	LINEAL FOOTAGE OF NEW FENCE	520 LF	
	S-116	OUTDOOR ELEMENTS IGNIS T 3X3 FIRE PIT	1	
	S-117	GABION PILLARS WITH LIGHTS		
	S-119	4X8 GARDEN BOXES		
	S-120	NEW FENCE		
	S-121	GABION SEAT WALL		
	S-122	CONCRETE WALL WITH STONE FINISH		
	S-123	CONCRETE STEPPERS		
	S-124	FENCE FOR DOG AREA		
WALL				
	W-110	GABION WALLS	230 SF	

PROPOSED N.W. RETAINING

PROPOSED E. RETAINING

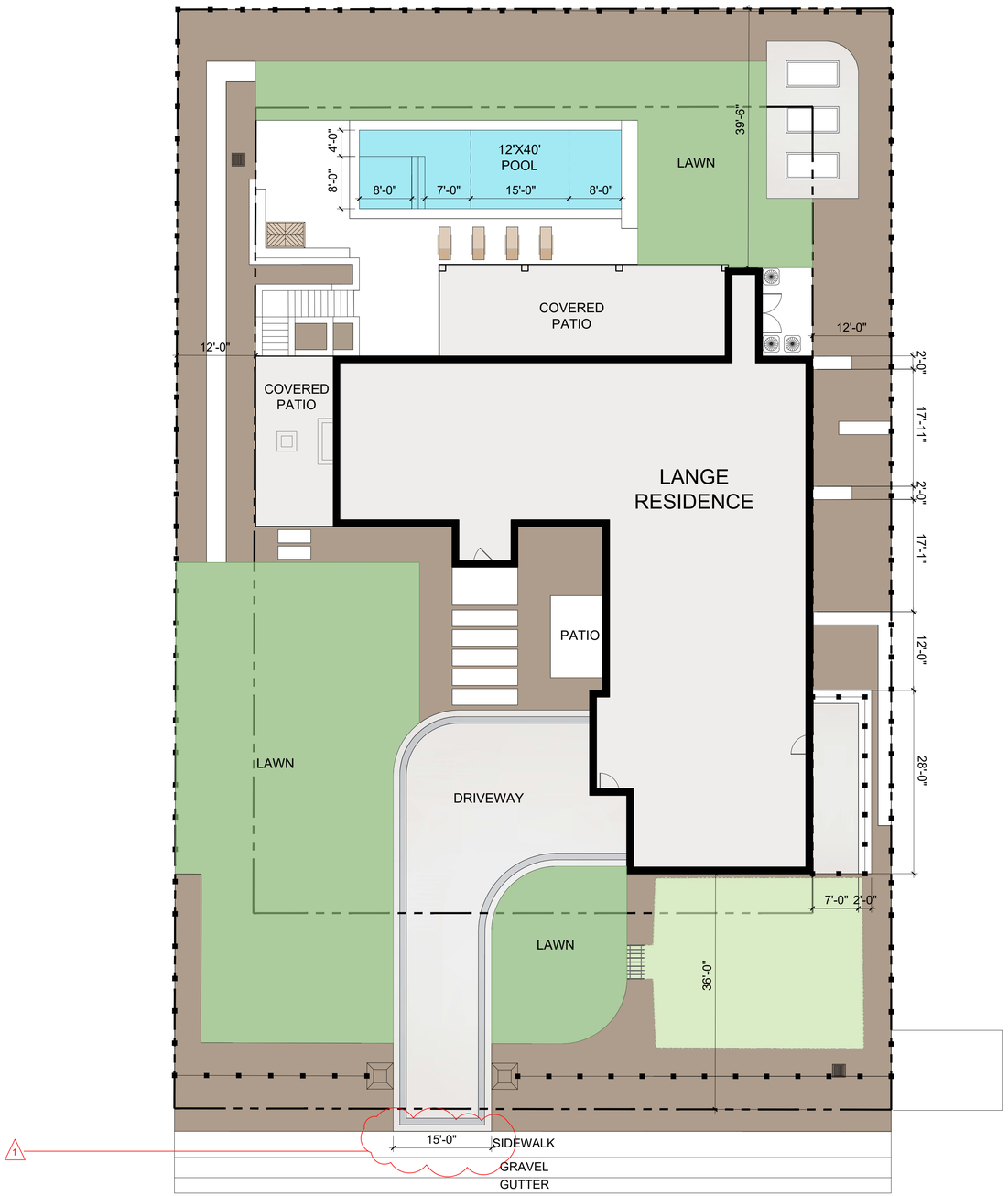
No.	Revision/Issue	Date
1	Wall removed from west right of way/easement	12/3

FREDERICO OUTDOOR LIVING

Designed By:
A. FRANCO
L. HALL

Project Name and Address
LANGE RESIDENCE
28 PAYDAY DRIVE
PARK CITY, UT 84060

Project	Sheet
Date: DEC-5-2025	**L1.0**
Scale: 1"=10'	

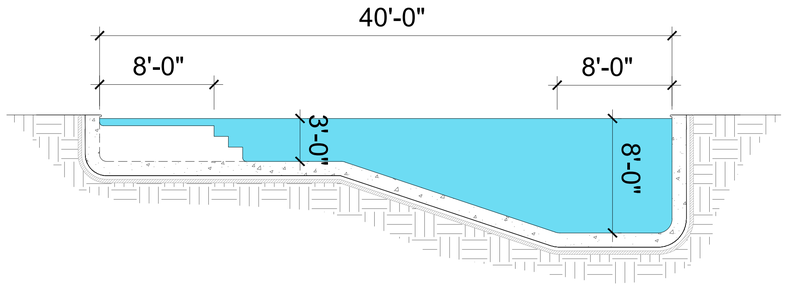


A MEASUREMENT SHEET

0 10 20 30 feet

SCALE: 1" = 10'

NORTH



B POOL CROSS SECTION

0 5 10 15 feet

SCALE: 1" = 5'

NORTH

SITE NOTES

1) The contractor is required to identify and confirm the presence of all utilities before commencing any work.

2) Contractor to field verify all proposed and existing grades. Spot elevations are for design intent only.

3) For typical boulder installations, excavate so that 25% of the boulder is buried. Arrange boulders randomly according to the locations specified on the plan. When boulders are grouped, use a variety of sizes.

4) Contractor shall field verify all property lines, buildings, elevations, retaining walls, and other existing conditions prior to construction and make necessary on site adjustments.

5) Mulch/Rock mulch to be installed at a depth of 3" in all tree and shrub planter areas

6) Outdoor Lighting is to be downward facing and and fully shielded 2

1

General Notes

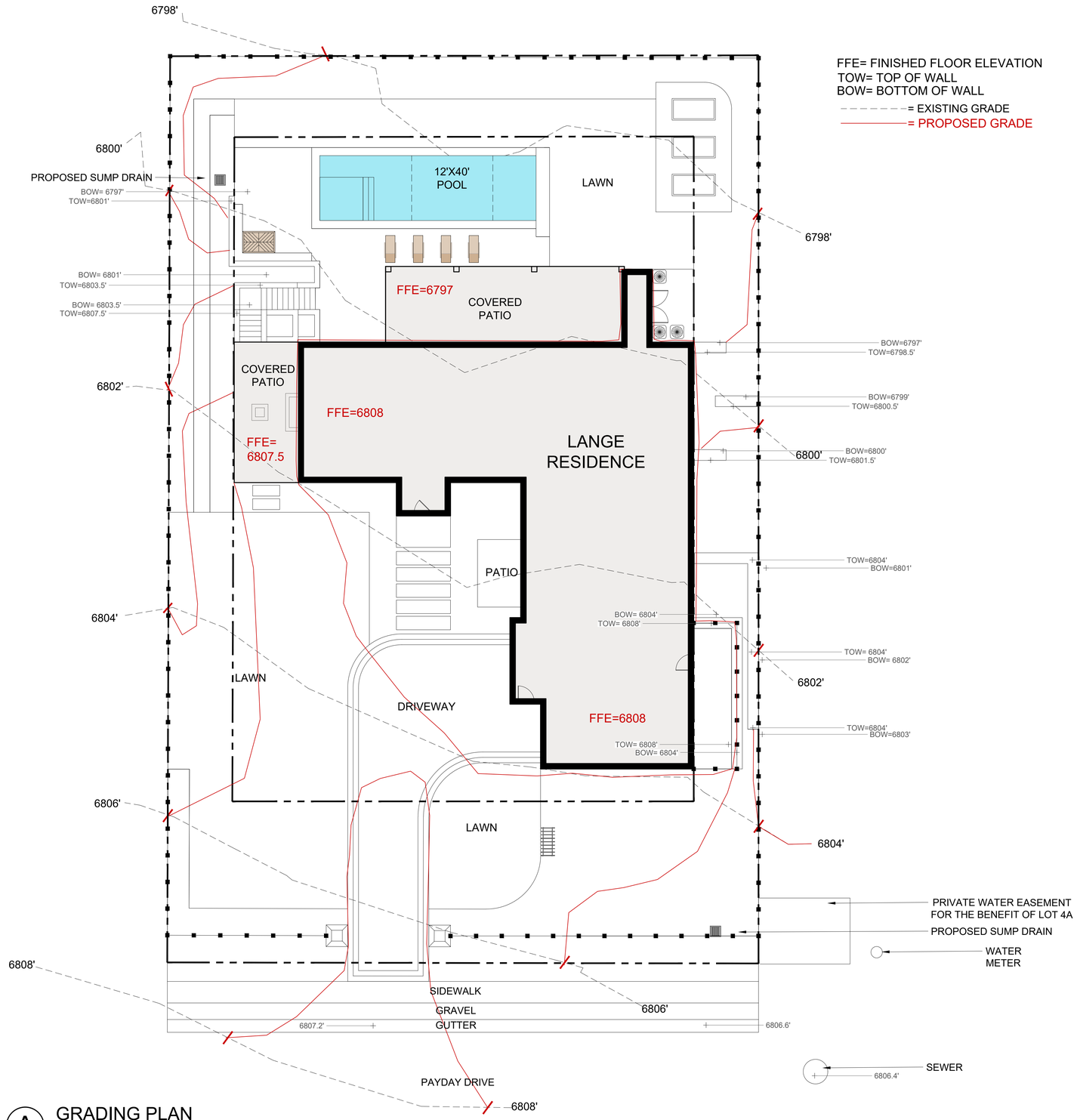
1	Driveway 15' wide from street	12/3
2	Outdoor lighting to be down facing and fully shielded	12/3

FREDERICO OUTDOOR LIVING

Designed By:
A. FRANCO
L. HALL

Project Name and Address
LANGE RESIDENCE
28 PAYDAY DRIVE
PARK CITY, UT 84060

Project	Sheet
Date: DEC-5-2025	**L1.1**
Scale: 1"=10'	



FFE= FINISHED FLOOR ELEVATION
TOW= TOP OF WALL
BOW= BOTTOM OF WALL
= EXISTING GRADE
= PROPOSED GRADE

A GRADING PLAN

0 10 20 30 feet

SCALE: 1" = 10'

NORTH

General Notes

FREDERICO OUTDOOR LIVING

No.	Revision/Issue	Date

Designed By:
A. FRANCO
L. HALL

Project Name and Address
LANGE RESIDENCE
28 PAYDAY DRIVE
PARK CITY, UT 84060

Project	Sheet
Date: DEC-5-2025	**L1.2**
Scale: 1"=10'	

PLANT SCHEDULE

SYMBOL	QTY	BOTANICAL / COMMON NAME	CONT	SIZE
TREES				
	2	ACER GINNALA 'FLAME' / FLAME AMUR MAPLE	B & B	8`-10`
	53	JUNIPERUS CHINENSIS 'SPARTAN' / SPARTAN JUNIPER	15 GAL	10`
	5	MALUS X DOMESTICA 'HONEYCRISP' / HONEYCRISP APPLE	B & B	6`-8`
	2	PINUS EDULIS / PINYON PINE	B & B	8`-10`
	1	POPULUS TREMULOIDES / QUAKING ASPEN	B & B	8`-10`

SYMBOL	QTY	BOTANICAL / COMMON NAME	CONT
SHRUBS			
	6	BUXUS X 'GREEN GEM' / GREEN GEM BOXWOOD	5 GAL
	20	CORNUS STOLONIFERA 'FARROW' / ARCTIC FIRE® RED TWIG DOGWOOD	5 GAL
	15	FORSYTHIA X INTERMEDIA 'KOLGOLD' / MAGICAL® GOLD FORSYTHIA	5 GAL
	9	POTENTILLA FRUTICOSA 'ABBOTSWOOD' / ABBOTSWOOD BUSH CINQUEFOIL	5 GAL
	15	RHUS AROMATICA 'GRO-LOW' / GRO-LOW FRAGRANT SUMAC	5 GAL
	3	SYRINGA MEYERI / KOREAN LILAC	5 GAL
GRASSES			
	24	CALAMAGROSTIS X ACUTIFLORA 'KARL FOERSTER' / FEATHER REED GRASS	5 GAL
	23	PENNISETUM ALOPECUROIDES 'HAMELN' / HAMELN FOUNTAIN GRASS	1 GAL
PERENNIALS			
	23	AGASTACHE CANA 'SINNING' / SONORAN SUNSET® HUMMINGBIRD MINT	1 GAL
	14	BAPTISIA AUSTRALIS / BLUE WILD INDIGO	1 GAL
	8	COREOPSIS X `MOONBEAM` / MOONBEAM TICKSEED	1 GAL
	13	LAVANDULA ANGUSTIFOLIA 'HIDCOTE BLUE' / HIDCOTE BLUE ENGLISH LAVENDER	1 GAL
	13	PENSTEMON STRICTUS / ROCKY MOUNTAIN PENSTEMON	1 GAL

SHRUB AREAS			
	4,687 SF	CHOCOLATE BARK MULCH MEDIUM SHRED.	
GROUND COVERS			
	851 SF	ORCHARD GRASS	FLAT
	4,171 SF	SOD / LOCALLY GROWN LAWN BLEND	SOD

IRRIGABLE AREA=9,701 SF

PLANTING NOTES

1) All plant pits must be excavated to double the size of the rootball and then backfilled. The backfill mixture should consist of two parts imported topsoil to one part soil amendment, evenly blended.

2) All plants must maintain the same level in relation to the finished grade as they did in their original container. For example, the root flair of the plant should not be set below the top of the finished grade, as detailed in the planting specifications.

3) Plants should either be balled and wrapped or container–grown as specified. Container–grown stock will not be accepted if it is root–bound. Any root wrapping materials made of synthetics or plastics should be removed during planting. For container–grown stock, the container must be removed, and the container ball should be cut through the surface in two vertical locations.

4) The contractor is responsible for locating and purchasing all plant materials indicated in the plant legend. The contractor is also responsible for placing plants in quantities as shown on the plan.

5) All plants must be thoroughly watered twice within the first 24 hours after planting.

6) During the initial growing season, all plants should be watered on a regular schedule. The contractor is responsible for the warranty of all plant material.

7) No existing trees are to be removed in this plan.

No.	Revision/Issue	Date
1	Trees removed from west right of way/easement	12/3
2	Added material in between sidewalk and prop line	12/3
3	Plant palette now aligns with WUI restrictions	12/3
4	Rock mulch switched to bark mulch	12/3
5	Irrigable area shown	12/3
6	No existing trees will be removed	12/3

FREDERICO
OUTDOOR LIVING

Designed By:
A. FRANCO
L. HALL

Project Name and Address
LANGE RESIDENCE
28 PAYDAY DRIVE
PARK CITY, UT 84060

Project	Sheet
Date: DEC-5-2025	**L2.0**
Scale: 1"=10'	

A PLANTING PLAN

0 10 20 30 feet
SCALE: 1" = 10'

NORTH

Planning Commission
Staff Report

Subject: **751 Rossie Hill**
Application: **PL-25-06767**
Author: **Nan Larsen, Senior Planner**
Date: **January 28, 2026**
Type of Item: **Conditional Use Permit – Nightly Rental**

Recommendation

(I) Review the Nightly Rental Conditional Use Permit (CUP) for 751 Rossie Hill Drive, (II) conduct a public hearing, and (III) consider approving the CUP based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter (Exhibit A).

Description

Applicant:	Lilac Hill East Development Inc. Applicant Representative: Justin Keys
Location:	751 Rossie Hill
Zoning District:	Historic Residential - Low Density (HRL)
Adjacent Land Uses:	Residential
Reason for Review:	The Planning Commission reviews and takes Final Action on Conditional Use Permits.[1]

CUP	Conditional Use Permit
HRL	Historic Residential – Low Density
LMC	Land Management Code
SFD	Single-Family Dwelling

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC § 15-15-1.

Background

751 Rossie Hill Drive, Lot 4 of the Lilac Hill East Subdivision measures approximately 0.17- acres or 7,437 square feet (Exhibit D, Summit County Recorder Entry No. 1164826). The Lilac Hill East Subdivision, a five-Lot Single-Family Subdivision, was approved on January 9, 2020 (Ordinance No. 2020-02). The Subdivision includes three Landmark Historic Sites – 729, 741, and 755 Rossie Hill Drive.

The Planning Commission previously approved Nightly Rental CUPs for four other Lots in the Lilac Hill East Subdivision:

[1] LMC § 15-1-8

- 747 Rossie Hill Drive, Lot 5 of the Lilac Hill East Subdivision – approved on April 23, 2025 (Meeting Packet, Item 6B, Minutes, p. 8-15),
- 729 Rossie Hill Drive, Lot 2 of the Lilac Hill East Subdivision – approved on July 12, 2023 (Meeting Packet, Item 7D; Minutes, p. 29-38),
- 741 Rossie Hill Drive, Lot 1 of the Lilac Hill East Subdivision – approved on August 14, 2024 (Meeting Packet, Item 6D; Minutes, p. 24-33), and
- 755 Rossie Hill Drive, Lot 3 of the Lilac Hill East Subdivision – approved on July 12, 2023 (Meeting Packet, Item 7E; Minutes, p. 38-44).

This is the final potential CUP for a Nightly Rental in the Rossie Hill sub-zone of the HRL Zoning District.

Figure 1: Vicinity of 751 Rossie Hill Drive, the private driveway, and approximate locations of property lines and "No Parking" signs

Figure 2: Illustrative site plan with 751 Rossie Hill Drive outlined in yellow provided by the Applicant

Analysis

(I) The proposed Nightly Rental Conditional Use Permit, as conditioned, complies with the requirements of LMC Chapter 15-2.1, Historic Residential – Low Density (HRL) Zoning District.

Nightly Rentals are a Conditional Use in the Lower Rossie Hill sub-zone within the HRL Zoning District.[2] LMC § 15-2.1-2 footnote 2, regulates Nightly Rentals in the Lower Rossie Hill sub-zone with requirements outlined in the Table below:

Requirement	Analysis of Proposal
All rental agreements for Nightly Rentals shall include language that limits the vehicles allowed to the number of on-site parking spaces.	**Condition of Approval Recommended:** The Applicant Nightly Rental lease agreement (Exhibit C) limits the number of vehicles allowed to the number of on-site parking spaces. Staff recommends Condition of Approval 2, ensuring the Applicant complies with the criterion.
Property management contact information shall be displayed in a prominent location inside the Nightly Rental.	**Condition of Approval Recommended:** Condition of Approval 3 requires property management contact information be displayed in a prominent location inside the Nightly Rental.

[2] LMC § 15-2.1-2

(II) The proposed Nightly Rental Conditional Use Permit, as conditioned, complies with the requirements of LMC Chapter 15-3, Off-Street Parking.

Requirement	Analysis of Proposal
Nightly Rentals require at least one Off-Street Parking space per Unit.	**Complies:** Off-Street parking spaces must be at least 9 feet wide and 18 feet long.[3] The subject site contains two Off-Street Parking spaces that meet the dimension requirement.
Parking for the first six bedrooms is based on the parking requirement for the dwelling. An additional space is required for every additional two bedrooms utilized by the nightly Rental Use.	**Complies:** 751 Rossie Hill is a five-bedroom SFD; two parking spaces are required. A two-car garage exists on the site and fulfills this criterion. The Applicant Nightly Rental lease agreement limits the number of vehicles allowed to the number of on-site parking spaces and this is included as a Condition of Approval.

(III) The proposal, as conditioned, complies with the Conditional Use Permit criteria outlined in Land Management Code Section 15-1-10(E).

There are certain Uses that, because of unique characteristics or potential impacts on the municipality, surrounding neighbors, or adjacent land Uses, may not be Compatible in some Areas or may be Compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

The Planning Commission shall approve a Conditional Use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Use in accordance with applicable standards.

The Planning Department and/or Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items, pursuant to LMC § 15-1-10:

CUP Review Criteria	Analysis of Proposal
Size and location of the Site	**No Negative Impact**: No exterior changes are proposed to the Structure or Site.
Traffic considerations including capacity of the existing Streets in the Area	**Mitigating Condition of Approval Recommended:** A shared private driveway from Rossie Hill Drive provides access for the five Lots in the Lilac Hill East Subdivision. The Use of the

[3] LMC § 15-3-3(F)

	Site as a Nightly Rental is not expected to generate additional traffic comparative to a SFD Use. Condition of Approval 2 requires the Applicant to limit the vehicles allowed at the Site to two (Exhibit C).
Utility capacity, including Storm Water run-off	**No Negative Impact:** Utility capacity for the SFD is available on-site. On December 2, 2025, the Development Review Committee reviewed the proposal and does not require Conditions of Approval or updates to the Site to comply with utility standards.
Emergency vehicle Access	**Mitigating Condition of Approval Recommended:** A private drive provides access for the five SFDs in the Lilac Hill East Subdivision. Plat Note 6 of the Lilac Hill East Subdivision Plat requires that driveways provide 20 feet of clear space to comply with Fire Code; it prohibits parking where it impacts the 20-foot clear access area. As part of the 2023 Nightly Rental CUP approval for 729 and 755 Rossie Hill Drive, Engineering and Park City Fire District required the Applicant to install “No Parking” signs along the shared private driveway for the Lilac Hill East Subdivision. The Applicant complied with this requirement and installed “No Parking” signs along the shared driveway in 2024, as shown in Figures 1 and 3. Staff recommends Condition of Approval 4 requiring the Applicant to maintain the “No Parking” signs present along the shared driveway.
 *Figure 3: "No Parking" signs located on both sides of the private driveway.*	
Location and amount of off-	**No Negative Impact:** As previously reviewed in

street parking	Section II of this staff report and pursuant to LMC 15-3-6, two parking spaces are required for SFDs. The Applicant will provide a two-car garage for the proposed Nightly Rental use; the two-car garage meets the two-car dimension criteria.
Internal vehicular and pedestrian circulation system	**No Negative Impact:** The proposed Nightly Rental function will be similar to a SFD and no changes are proposed to the internal vehicular or pedestrian circulation systems.
Fencing, Screening, and landscaping to separate the Use from adjoining Uses	**No Negative Impact**: No changes to fencing, screening, or landscaping are proposed. The Site is located within the Lower Rossie Hill subzone, where Nightly Rentals require a Conditional Use Permit. The adjacent Uses are SFDs along Rossie Hill Drive and it is not expected the Nightly Rental Use will detrimentally impact adjoining properties.
Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots	**No Negative Impact**: No changes to the Structure are proposed.
Usable Open Space	**No Negative Impact**: There are no proposed changes to Open Space.
Signs and lighting	**Mitigating Condition of Approval Recommended**: Condition of Approval 5 requires all lighting on the Site to be dark sky compliant. There are no proposed changes to lighting in relation to the Nightly Rental CUP request. Condition of Approval 6 prohibits exterior signs on the Site advertising the Nightly Rental.
Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing	**No Negative Impact:** No exterior alterations are proposed on the Structure.
Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site.	**Mitigating Condition of Approval Recommended:** Condition of Approval 7 requires compliance with Municipal Code of Park City (MCPC) Chapter 6-3, Noise.
Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas	**Mitigating Condition of Approval Recommended**: Condition of Approval 8 requires the trash receptacles to be screened and stored on-Site, prohibits leaving trash receptacles at the curb for longer than 24 hours, and requires the Site

	be kept free of refuse.
Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities	**Mitigating Condition of Approval Recommended**: The Site is privately owned and is part of the Lilac Hill East Homeowner's Association. The Homeowner's Association is governed by the Declaration of Covenants, Conditions, and Restrictions for Lilac Hill East Subdivision (Exhibit E, recorded with Submitted County on July 18, 2023, as Entry No. 01206959), which establishes maintenance and repair of the shared driveway. Condition of Approval 10 requires snow removal of the shared driveway. Condition of Approval 1 requires the property owner to obtain a Business license for the Nightly Rental. Condition of Approval 12 relates to operations and maintenance of the Nightly Rental, pursuant to the requirements outlined in MCPC Section 4-5-3 *Regulation of Nightly Rentals.*
Within and adjoining the Site, environmentally Sensitive Lands, Physical Mine Hazards, historic Mine waste and Park City Soils ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site	**No Negative Impact**: The Site is not located within the Sensitive Land Overlay, within the Soils Ordinance boundary, or on Steep Slopes.
Reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding	**Mitigating Conditions of Approval Recommended**: The 2025 General Plan outlines recommendations for each neighborhood within Park City, including Old Town, where the Site is located. To protect resident quality of life, the Plan identifies improved nightly rental management as a priority. Key actions include management of occupancy limitation, parking, noise, outdoor lights, and trash management is listed as an action to obtain the goals of the neighborhood. The recommended Conditions of Approval outlined in this section address and sufficiently mitigate each concern outlined in the 2025 General Plan.

(IV) The Development Review Committee reviewed the proposal on December 2,

2025, and did not require Conditions of Approval.[4]

Department Review
The Planning Department and City Attorney's Office reviewed this report.

Notice
Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on January 14, 2026. Staff mailed courtesy notice to property owners within 300 feet on January 13, 2026. The *Park Record* published courtesy notice on January 14, 2026.[5]

Public Input
Staff did not receive any public input at the time this report was published.

Alternatives
The Planning Commission may:

- Approve the Nightly Rental CUP for 751 Rossie Hill Drive.
- Deny the Nightly Rental CUP for 751 Rossie Hill Drive and direct staff to make Findings for the denial.
- Request additional information and continue the discussion to a date certain or uncertain.

Exhibits
A: Draft Final Action Letter
B: Applicant's Narrative and Site Plan
C: 751 Rossie Hill Nightly Rental Lease Agreement
D: Lilac Hill East Subdivision Plat
E: Lilac Hill East Subdivision Declaration of Covenants

[4] The Development Review Committee meets the first and third Tuesday of each month to review and provide comments on Planning Applications, including review by the Building Department, Engineering Department, Sustainability Department, Transportation Planning Department, Code Enforcement, the City Attorney's Office, Local Utilities including Rocky Mountain Power and Enbridge Gas, the Park City Fire District, Public Works, Public Utilities, and the Snyderville Basin Water Reclamation District (SBWRD).
[5] LMC § 15-1-21

Planning Department

January 28, 2026

Justin Keys

CC: Lilac Hill East Development Inc.

NOTICE OF PLANNING COMMISSION ACTION

Description

Address:	751 Rossie Hill Drive
Zoning District:	Historic Residential – Low Density (HRL)
Application:	Nightly Rental Conditional Use Permit
Project Number:	PL-25-06767
Action:	APPROVED WITH CONDITIONS (See Below)
Date of Final Action:	January 28, 2026
Project Summary:	The Applicant proposes a Nightly Rental at 751 Rossie Hill Drive, a detached Single-Family Dwelling (SFD) in the Historic Residential – Low Density (HRL) Zoning District, Rossie Hill Sub-Zone.

Action Taken

On January 28, 2026, the Planning Commission conducted a public hearing and approved the Nightly Rental Conditional Use Permit (CUP) for 751 Rossie Hill Drive according to the following findings of fact, conclusions of law, and conditions of approval:

Findings of Fact

1. 751 Rossie Hill Drive is Lot 4 of the Lilac Hill East Subdivision and is approximately 0.17- acres or 7,437 square feet.
2. The Lilac Hill East Subdivision, a five-Lot Single-Family Subdivision, was approved on January 9, 2020, Ordinance No. 2020-02 and includes three Landmark Historic Sites – 729, 741, and 755 Rossie Hill Drive.
3. The Planning Commission previously approved Nightly Rental CUPs for four other Lots in the Lilac Hill East Subdivision.

a. 747 Rossie Hill Drive, Lot 5 of the Lilac Hill East Subdivision – approved on April 23, 2025,
b. 729 Rossie Hill Drive, Lot 2 of the Lilac Hill East Subdivision – approved on July 12, 2023,
c. 741 Rossie Hill Drive, Lot 1 of the Lilac Hill East Subdivision – approved on August 14, 2024, and
d. 755 Rossie Hill Drive, Lot 3 of the Lilac Hill East Subdivision – approved on July 12, 2023.

4. This is the final CUP for a Nightly Rental in the HRL Zoning District Rossie Hill sub-zone.
5. The requirements for Nightly Rentals in the Historic Residential – Low Density (HRL) Zoning District Rossie Hill sub-zone are outlined in the table below (LMC Chapter 15-2.1):

Requirement	Analysis of Proposal
All rental agreements for Nightly Rentals shall include language that limits the vehicles allowed to the number of on-site parking spaces.	**Condition of Approval Recommended:** The Applicant Nightly Rental lease agreement limits the number of vehicles allowed to the number of on-site parking spaces. Staff recommends Condition of Approval 2, ensuring the Applicant complies with the criterion.
Property management contact information shall be displayed in a prominent location inside the Nightly Rental.	**Condition of Approval Recommended:** Condition of Approval 3 requires property management contact information is displayed in a prominent location inside the Nightly Rental.

6. The requirements of LMC Chapter 15-3 *Off-Street Parking* are outlined in the Table below:

Requirement	Analysis of Proposal
Nightly Rentals require at least one Off-Street Parking space per Unit.	**Complies:** The subject site contains two-Off-Street Parking spaces that meet the dimension requirement. Off-Street parking spaces must be at

	least 9 feet wide and 18 feet long.[1]
Parking for the first six bedrooms is based on the parking requirement for the dwelling. An additional space is required for every additional two bedrooms utilized by the nightly Rental Use.	**Complies:** 751 Rossie Hill is a five-bedroom SFD, two parking spaces are required. A two-car garage exists on the site and fulfills this criterion.

7. The criteria outlined in LMC Section 15-1-10(E) *Conditional Use Permits* are outlined in the Table below:

CUP Review Criteria	Analysis of Proposal
Size and location of the Site	**No Negative Impact**: No exterior changes are proposed to the Structure or Site.
Traffic considerations including capacity of the existing Streets in the Area	**Mitigating Condition of Approval Recommended**: A shared private driveway from Rossie Hill Drive provides access for the five Lots in the Lilac Hill East Subdivision. The Use of the Site as a Nightly Rental is not expected to generate additional traffic comparative to a SFD Use. Condition of Approval 2 requires the Applicant to limit the vehicles allowed at the Site to the number of on-site parking spaces as part of the Nightly Rental lease agreement.
Utility capacity, including Storm Water run-off	**No Negative Impact**: Utility capacity for the SFD is available on-site.
Emergency vehicle Access	**Mitigating Condition of Approval Recommended**: A private drive provides access for the five SFDs in the Lilac Hill East Subdivision. Plat Note 6 of the Lilac Hill East Subdivision Plat requires that driveways provide 20 feet of clear

[1] LMC § 15-3-3(F)

	space to comply with Fire Code; it prohibits parking where it impacts the 20-foot clear access area. As part of the 2023 Nightly Rental CUP approval for 729 and 755 Rossie Hill Drive, Engineering and Park City Fire District required the applicant to install “No Parking” signs along the shared private driveway for the Lilac Hill East Subdivision. The Applicant complied with this requirement and installed “No Parking” signs along the shared driveway in 2024. Recommended Condition of Approval 4 requires the Applicant to maintain the “No Parking” present along the shared driveway.
Location and amount of off-street parking	**No Negative Impact**: Pursuant to LMC 15-3-6, two parking spaces are required for SFDs. The Applicant will provide a two-car garage for the proposed Nightly Rental use; the two-car garage meets the two-car dimension criteria.
Internal vehicular and pedestrian circulation system	**No Negative Impact**: The proposed Nightly Rental function will be similar to a SFD, no changes are proposed to the internal vehicular or pedestrian circulation systems.
Fencing, Screening, and landscaping to separate the Use from adjoining Uses	**No Negative Impact**: No changes to fencing, screening, or landscaping are proposed. Nightly Rentals are an allowed Use in the Historic Residential – Low Density (HRL) Zoning District.2 The Site is located within the Lower Rossie Hill subzone, where Nightly Rentals require a Conditional Use Permit. The adjacent Uses comprise of SFD along Rossie Hill Drive, it is not expected the Nightly Rental Use will detrimentally impact adjoining properties.

[2] LMC 15-2.15-2

Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots	**No Negative Impact**: No exterior changes are proposed.
Usable Open Space	**No Negative Impact**: There are no proposed changes to Open Space.
Signs and lighting	**Mitigating Condition of Approval Recommended**: Condition of Approval 5 requires all lighting on the Site to be dark sky compliant. There are no proposed changes to lighting in relation to the Nightly Rental CUP request. Condition of Approval 6 prohibits exterior signs on the Site advertising the Nightly Rental.
Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing	**No Negative Impact**: No exterior alterations are proposed on the Structure or Site.
Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site.	**Mitigating Condition of Approval Recommended**: Condition of Approval 7 requires compliance with Municipal Code of Park City (MCPC) Chapter 6-3, Noise.
Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas	**Mitigating Condition of Approval Recommended**: Condition of Approval 8 requires the trash receptacles to be screened and stored on-Site, prohibits leaving trash receptacles at the curb for longer than 24 hours, and requires the Site be kept free of refuse.
Expected Ownership and management of the project as primary residences,	**Mitigating Condition of Approval Recommended**: The Site is privately owned and is part of the Lilac Hill East Homeowner's

Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities	Association. The Homeowner's Association is governed by the Declaration of Covenants, Conditions, and Restrictions for Lilac hill East Subdivision, which establishes maintenance and repair of the shared driveway. Condition of Approval 10 requires snow removal of the shared driveway. Condition of Approval 1 requires the property owner to obtain a Business license for the Nightly Rental. Condition of Approval 12 relates to operations and maintenance of the Nightly Rental, pursuant to the requirements outlined in MCPC Section4-5-3, Regulation of Nightly Rentals.
Within and adjoining the Site, environmentally Sensitive Lands, Physical Mine Hazards, historic Mine waste and Park City Soils ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site	**No Negative Impact**: The Site is not located within the Sensitive Land Overlay, within the Soils Ordinance boundary, or on Steep Slopes.
Reviewed for consistency with the goals and objectives of the Park City General Plan; however such review for consistency shall not alone be binding	**Mitigating Conditions of Approval Recommended**: The 2025 General Plan outlines recommendations for each neighborhood within Park City, including Old Town, where the Site is located. To protect resident quality of life, the Plan identifies improved nightly rental management as a priority. Key actions include management of occupancy limitation, parking, noise, outdoor lights, and trash management is listed as an action to obtain the goals of the neighborhood.

	The recommended Conditions of Approval outlined in this section address and sufficiently mitigate each concern outlined in the 2025 General Plan.

8. The Development Review Committee reviewed the proposal on December 2, 2025, and did not require Conditions of Approval.

Conclusions of Law

1. The proposed Nightly Rental, as conditioned, complies with the requirements of LMC Section 15-1-10 *Conditional Use Review Process*, Chapter 15-2.1 *Historic Residential – Low Density District* and Chapter 15-3 *Off-Street Parking*.
2. The proposed Nightly Rental is compatible with surrounding structures in use, scale, mass, and circulation.
3. The effects of the difference in use or scale of the Nightly Rental have been mitigated through careful planning and Conditions of Approval.

Conditions of Approval

1. Prior to operating a Nightly Rental, the property owner shall obtain and maintain a Nightly Rental Business License for 751 Rossie Hill Drive.
2. The Nightly Rental lease agreement shall include language that limits the vehicles to two parking spaces and prohibit parking on Rossie Hill Drive or within the surrounding neighborhood.
3. The property owner shall display property management contact information in a prominent location inside the Nightly Rental.
4. The Applicant shall maintain the “No Parking” signs that are currently installed along the shared private drive within the Lilac Hill East Subdivision in a form and location approved by the Engineering Department and Park City Fire District.
5. All outdoor lighting shall be down-directed, fully shielded, with bulbs 3,000 degrees Kelvin or less. A fully shielded light is installed in such a manner that all light emitted either directly from the bulb, or indirectly by reflection or refraction, is below the horizontal plane through the fixture's lowest light emitting part. The top and sides of a Fully Shielded fixture are made of completely opaque material such that light only escapes through the bottom of the fixture.
6. Outdoor sign installations advertising the Nightly Rental are prohibited.
7. The property owner shall be responsible for regulating the occupancy and noise created by occupants of the Nightly Rental. Violation of Municipal Code of Park City Chapter 6-3 Noise, illegal conduct, or any other abuse which violates Nightly Rental regulations or these Conditions of Approval may be grounds for business license revocation.

8. Trash receptacles shall be stored on site, screened, and placed for trash pickup according to the Municipal Code of Park City Section 6-1-11, which prohibits trash receptacles from being set out for collection prior to 6:00 PM the day before collection. All trash receptacles must be removed from the street as soon as practical after being emptied, and in every case must be removed from the street prior to 11:59 PM the day they are emptied.
9. Trash cans shall not be left at the curb for any period more than 24 hours, and the property must be kept free from accumulated garbage and refuse.
10. The Lilac Hill East Subdivision Homeowner Association shall keep the shared driveway clear of snow.
11. The licensee for Nightly Rentals shall be the property owner. The local representative shall be deemed the responsible party.
12. The Nightly Rental shall be properly managed through property management services with the minimum services and management required: snow removal during winter months to a level that allows safe access to the home over the normal pedestrian access; snow removal services for the two on-site parking spaces within the two one-car garages; summer yard maintenance including landscaping maintenance; structural maintenance to preserve substantial code compliance; routine upkeep, including painting and repair; and housekeeping service.
13. The applicant must designate a responsible party. The responsible party must be a property management company, realtor, lawyer, owner, or other individual, who resides within a 1-hour drive of the property, or, in the case of a company, has offices in Summit County. The responsible party is personally liable for the failure to properly manage the rental. The responsible party must be available by telephone, or otherwise, twenty-four (24) hours per day, and must be able to respond to telephone inquiries within twenty (20) minutes of receipt of such inquiries. The responsible party is also designated as the agent for receiving all official communications under this Title from Park City. If the licensee is a property management company or individual other than the owner, such company or individual must comply with applicable state law, including the Securities Division Real Estate Division in the Utah Code, as amended, which requires those who receive valuable consideration to lease property to have a state license.

14. The Nightly Rental shall not be used for commercial uses and may not be used for a corporate sponsor or to distribute retail products or personal services to invitees for marketing or similar purposes.

This Final Action may be appealed pursuant to LMC § 15-1-18. If you have questions or concerns regarding this Final Action Letter, please call 435-640-0558 or email nannette.larsen@parkcity.gov.

Sincerely,

Christine Van Dine, Planning Commission Chair

CC: Nan Larsen, Senior Planner

HOGGAN LEE HUTCHINSON

Justin Keys
Justin@hlhparkcity.com

Direct: 435.731.9195

November 21, 2025

VIA EMAIL

Park City Municipal Corporation
Park City Planning Department
PO Box 1480
Park City, Utah 84060

Re: HRL Zone- Nightly Rental Conditional Use Application

Dear Park City Planning Commission and Staff,

This firm represents LILAC HILL EAST DEVELOPMENT INC, the owner of that certain real property commonly known as 751 Rossie Hill Drive, Parcel Nos. LHES-4 (the "Lilac Hill Property"). Please accept this cover letter with the enclosed application for a Conditional Use Permit to operate nightly rentals on the Lilac Hill Property.

Under Park City Land Management Code Section 15-2.1-2(B)(1), nightly rentals are listed as one of the permissible uses for properties located in the Historic Residential-Low Density Zone (the "HRL Zone"). Nightly rentals are listed as potential conditional uses, subject to the following footnote:

> For Nightly Rentals in the Lower Rossi Hill sub-neighborhood, in addition to the Conditional Use Permit criteria in LMC § 15-1-10(E), the Planning Commission shall consider whether or not the proposed Nightly Rental mitigates the impacts of and addresses the following items: (a) all rental agreements for Nightly Rental shall include language that limits the vehicles allowed to the number of on-site parking spaces; and (b) property management contact information shall be displayed in a prominent location inside the Nightly Rental.

The conditional review process generally is set out in Park City Land Management Code Section 15-1-10. Subsection E of that provision is entitled "Review" and instructs the Planning Commission to "review each of the following items":

1. Size and location of the Site.

Submitted with this application are several site plans that show the specific lot that is subject to this application along with the general area and surrounding uses.

2. Traffic considerations including capacity of the existing Streets in the Area.

The Lilac Hill Property is serviced by a private drive with ample access and egress for the property at issue. Because the drive is private, it will not impose any additional strain on the public streets. The private drive accesses lower Rossie Hill Drive, which quickly merges with Deer Valley Loop and Deer Valley Drive—a major arterial access road.

3. Utility capacity, including Storm Water run-off.

The proposed use is still residential in nature and will not have any additional impact on the utility capacity of the area, including storm water run-off.

4. Emergency vehicle access.

The private access drive is designed with a hammer-head configuration allowing for easy access and egress for emergency vehicles for all of the Lilac Hill Property. The design and location of the private drive has been reviewed and approved by the City Engineering department and Fire Marshall.

5. Location and amount of off-Street parking.

The Lilac Hill Property is more than adequately parked. The lot has a private garage. Additionally, there is parking available in the entry driveways and along the private access drive. In short, there will be more than adequate parking for the Lilac Hill Property without relying on any publicly available street parking.

6. Internal vehicular and pedestrian circulation system.

As discussed previously, the Lilac Hill Property is serviced by a private drive with a hammerhead design. The design and location of the private drive has been reviewed and approved by the City Engineering department and Fire Marshal. The private drive is also lined by a sidewalk that accesses Rossie Hill Drive and, from there, Deer Valley Drive.

7. Fencing, Screening, and landscaping to separate the Use from adjoining Uses.

In this instance, the proposed use is similar or the same as adjoining uses. Thus, there is no need to screen this use from any others. The topography of the lot also provides natural separation and privacy in addition to the abundant landscaping contemplated by the Applicant for the site.

8. Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots.

The building massing, bulk, and orientation are such to minimize conflicts. As can be seen in the site plan exhibit provided, the surrounding uses are dense condominiums. The existing structure is significantly less dense than surrounding multifamily uses. The contemplated development will have minimal impact on surrounding properties.

9. Usable Open Space.

The Lilac Hill Property provides more than the code-based required open space. That open space consists primarily of landscaped area providing a buffer between the buildings internally and externally.

10. Signs and lighting.

All signage and lighting will be code compliant. There is no additional external signage or lighting required for nightly rental use than that required for typical residential use.

11. Physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing.

The physical design of the Lilac Hill Property is consistent with the high-end residential design found in the Rossie Hill area generally. The property is compatible with surrounding structures.

12. Noise, vibration, odors, steam, or other mechanical factors that might affect people and property off-site.

The nightly rental of the Lilac Hill Property will not cause any additional noise, vibration, odors, steam, or other mechanical factors beyond that of a typical residential use. Given the design of the development, any such nuisances will be mitigated by the private drive and landscaping.

13. Control of delivery and service vehicles, loading and unloading zones, and screening of trash and recycling pickup areas.

The internal design of the community with the incorporation of the private drive and turn-around ensure that delivery and service vehicles will not impact public streets. There is more than ample room for such vehicles to park, load, and unload. This is a residential use and all trash and recycling will be small-scale residential in nature.

14. Expected Ownership and management of the project as primary residences, condominiums, time interval ownership, nightly rental, or commercial tenancies, how the form of ownership affects taxing entities.

It is anticipated that the Lilac Hill Property will be privately owned as a primary or secondary residence. The owner would like the option to nightly rent the property consistent with the conditional use allowed in the zone.

15. Within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site.

There are no environmentally sensitive lands within or adjoining the site. Nor are there any physical mine hazards, mine waste, steep slopes or other topographical issues preventing nightly rentals in this location.

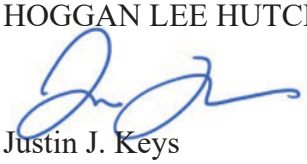
16. Reviewed for consistency with the goals and objectives of the Park City General Plan; however, such review for consistency shall not alone be binding.

The contemplated nightly rental is consistent with the goals and objectives of the Park City General Plan as it relates to this zoning district. The use is consistent with the code.

In addition to the foregoing factors, the Applicant is willing to accept as a condition of approval of its nightly rental condition use permit that "(a) all rental agreements for Nightly Rental . . . include language that limits the vehicles allowed to the number of on-site parking spaces; and [that] (b) property management contact information shall be displayed in a prominent location inside the Nightly Rental."

For all of the reasons outlined above, the proposed use complies with the conditional use criteria in LMC § 15-1-10(E) and the additional criteria applicable to the Lower Rossie Hill sub-neighborhood. We appreciate your review of our application of a nightly-rental conditional use permit and look forward to the opportunity to present to the Park City Planning Commission. Please let me know if there is any additional information required to process our application.

Very Truly Yours,
HOGGAN LEE HUTCHINSON



Justin J. Keys

SITE PLAN 1"=20'-0"

Jonathan DeGray
Architect
P.O. Box 1674, 614 Main Street, Suite 302, Park City, Utah 84060
Tel. 435-649-7283, E-mail: degrayarch@qwestoffice.net

PROJECT DESCRIPTION:
ROSSIE HILL
ROSSIE HILL
PARK CITY, UTAH 84060

SHEET DESCRIPTION:
SITE PLAN - RENDERED

REVISIONS:

DATE:
-

PROJECT NUMBER:
-

SHEET NUMBER:
A0.01

NIGHTLY RENTAL AGREEMENT

This Rental Agreement ("Agreement") is entered into by and between _____, ("Owner"), and _____("Guest"), effective as of the ___day of _____, 20__.

1. **Premises**. Owner and Guest hereby agree to the rental by Guest from Owner of premises located at 751 Rossie Hill Drive, Park City, Utah, 84060 (the "Premises"). Owner shall provide utilities, furniture and fixtures, linens, towels, and kitchen items.

2. **Length of Stay**. The initial term of this Agreement shall be for ___nights, commencing on _____ ___, 20__, (the "Check-In Date") and continuing until _____, 20__(the "Check-Out Date").

3. **Rates and Payment**. Guest agrees to pay to Owner, as rent for the Premises, the amount of _____Dollars ($_____.00) per night for a total amount of _____Dollars ($_____.00) ("Total Rent") payable in advance to Owner at _____. Please make checks payable to **_____.**

4. **Refundable Security Deposit.** A refundable security deposit (the "Deposit") in the amount of $500.00 as security for the faithful performance by Guest of all of Guests' obligations under this Agreement shall be required. The Deposit is due upon execution of this Agreement and shall be refunded within fourteen (14) days of the Check-out date and completion of unit inspection and inventory, provided no deductions are needed due to:

   a. Damage to the property or furnishings;

   b. Dirt or mess requiring extensive cleaning; or

   c. Any other cost incurred by the Owner due to Guest's stay.

   d. In the event Owner retains any portion of the Deposit for the purpose of remedying any damages caused by Guest in the Premises.

5. **Initial Payment.** Upon execution of this Agreement, Guest shall pay 50% of the Total Rent ("Initial Payment") due to Owner, equal to the amount of $ _____.

6. **Balance of Payment.** Payment in full of the entire Total Rent (*i.e.*, Total Rent minus the Initial Payment) must be received by Owner on or before the thirtieth (30^{th}) day before the first night of Guest's stay, except if this Agreement is executed fewer than thirty (30) days prior to the first night of Guest's stay, in which case, the entire Total Rent must be received by Owner upon execution of this Agreement. If payment in full is not received by Owner on or before the thirtieth (30^{th}) day before the first night of Guest's stay, Owner may, at its sole discretion, cancel this Agreement and retain the Initial Payment.

7. **Method of Payment.** Acceptable payment methods include personal check or credit card. No reservation is confirmed until this Agreement has been executed and delivered to Owner and,

in the case of payments by personal check, the funds have cleared or, in the case of payments by credit card, a valid credit card number has been provided to Owner.

8. **Cancellation Policy.** In the event that Guest provides written notification to Owner of Guest's intent to cancel Guest's reservation on a date more than 60 days prior to

9. No refund of Total Rent if cancelled less than or equal to 30 days prior to the Check-in date.

a. 50% of Total Rent refunded if cancelled greater than 30 but less than or equal to 60 days prior to the Check-in date.

b. 100% of Total Rent less a $100.00 reservation fee if cancelled >60 days prior to the Check-in date.

10. **Use of Premises**. The Premises shall be used and occupied exclusively for residential purposes by no more than _____persons. People other than those in the Guest party may not stay overnight on the Premises; any other person on the Premises in the responsibility of the Guest. Guest shall comply with all of the sanitary laws, ordinances, rules and orders of appropriate governmental authorities affecting the cleanliness, occupancy and preservation of the Premises throughout the term of this Agreement. Guest specifically agrees to comply with all rules and regulations and the July 18, 2023 Declaration of Covenants, Conditions and Restrictions for Lilac Hills East Subdivision. Guest shall not use the Premises or allow the Premises to be used for any offensive, noisy, illegal, or immoral purpose, or in such a manner as to create a nuisance or otherwise disturb any neighbors. Guest shall not keep or have on the Premises any article or thing of a dangerous, inflammable, or explosive character that might unreasonably increase the danger of fire on the Premises or that might be considered hazardous by any responsible insurance company. Guest shall be responsible for all damage, breakage and /or loss to the premises, except normal wear and tear and unavoidable casualties (as deemed by Owner, in its sole discretion) which may occur during Guest's stay or as a result of any condition created by Guest. Guest agrees that all pipes, wires, glass, plumbing, household contents, etc., other equipment and fixtures will be in the same condition as at the beginning of Guest's stay, or as the same may be installed during Guests' stay. The property will be left in the same good and habitable condition. Any damages or notable conditions found upon arrival will be reported to Owner within one (1) hour of Guest's arrival (Check-in). Guest acknowledges and agrees that the property will be inspected prior to Guest's arrival and after Guest's departure. Guest agrees that any repair or replacement costs for any damages will be posted to Guest's credit card, or, if Guest is paying by check or money order, Guest shall promptly submit the moneys due for full cost of such repair(s) or replacement(s).

11. **No Smoking**. No smoking shall be permitted inside or outside of the Premises or anywhere on the property on which the Premises are located. Guest shall be responsible to ensure that neither Guest nor any other occupant of the Premises or any invitee or guest of Guest or the other occupants violates this prohibition. Any violation of this term of the Agreement shall be grounds for immediate termination of this Agreement by Owner, at Owner's option, and in Owner's sole and absolute discretion, with no refund to Guest.

12. **Pets**. No pets shall be permitted inside or outside of the Premises or anywhere on the property on which the Premises are located. Guest shall be responsible to ensure that neither Guest nor

any other occupant of the Premises or any invitee or guest of Guest or the other occupants violates this prohibition. Any violation of this term of the Agreement shall be grounds for immediate termination of this Agreement by Owner, at Owner's option, and in Owner's sole and absolute discretion.

13. **Vehicles**. Guest shall be permitted to keep a maximum of two (2) vehicles on the property on which the Premises are located, and such vehicles must be parked in the parking spots designated for the Premises.

14. **Inclement weather.** Owner is not responsible for losses or power outages due to inclement weather conditions. No refunds in the event of inclement weather unless evacuations are required by state or local authorities.

15. **Outdoor Displays**. Guest shall not post any signs on the exterior of the Premises. Further, no outdoor display of goods and merchandise shall be permitted as part of Guest's use of the property.

16. **Commercial Use.** Guest may not use the Premises for any commercial use. This shall include but not be limited to using the space as a Corporate Sponsor or Business House. A Corporate Sponsor or Business House is one which is used primarily to distribute retail products or personal services to invitees for marketing or similar purposes, regardless of whether such products or services are charged for. A Corporate Sponsor is any Business enterprise or combination of Business enterprises which provide funding for any special event in the amount of fifty percent (50%) or more of the funds necessary to promote the event or account for fifty percent (50%) or more of the event operating expenditure budget.

17. **Trash and Recycling**. Guest agrees to dispose of their ordinary household trash into a trash receptacle in a similar manner to other residences in the neighborhood in which the Premises are located and to deposit recyclable materials in the provided recycling containers. Trash cans shall not be left at the curb for any period in excess of twenty-four (24) hours and the Premises must be kept free from accumulated garbage and refuse.

18. **Entry and Inspection**. Owner and/or Owner's designee may enter the premises immediately in the event of an emergency, in order to perform necessary repairs and/or maintenance; and with 24 hours' notice, for normal maintenance or to show a prospective renter.

19. **Indemnification**. Owner shall not be liable for any damage or injury occurring on the Premises, or any part thereof, to Guest, or to any other person, or to any property, for any reason. Guest agrees to defend and hold Owner harmless from any such liability or claims for damages related to the Premises no matter how caused.

20. **Assignment**. This Agreement is not assignable, in whole or in part, by Guest without the express prior written consent of Owner, which consent may be refused for any or no reason.

21. **Default**. If any default is made in the payment of rent, or any part thereof, as required in this Agreement, or if any default is made in the performance of or compliance with any other term or condition of this Agreement by Guest, this Agreement, at the option and in the sole discretion of Owner,

shall terminate and be forfeited. Guest shall be given written notice of any default or breach, and put on notice that termination and forfeiture of this Agreement shall result if not corrected, as required by law.

22. **Miscellaneous**. Time is of the essence regarding all of the terms and provisions of this Agreement. Guest shall pay upon demand any and all expenses, including reasonable attorney's fees, incurred or paid by Owner without suit or action in attempting to collect any payment due from Guest under this Agreement or otherwise addressing any other breach of this Agreement by Guest. Should any litigation, action, arbitration, or other proceeding be commenced between the parties to this Agreement, arising from this Agreement, or concerning the rights or duties of either party under this Agreement, in addition to any other relief which may be granted, the prevailing party shall be entitled to recover its reasonable costs and attorney's fees incurred therein. This Agreement constitutes the entire agreement between the parties, and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties with respect to the subject matter of this Agreement. This Agreement may be amended, modified, or supplemented only by a written agreement signed by all of the parties hereto and expressly stating that the parties specifically intend to amend, change or otherwise modify this Agreement thereby. This Agreement has been executed and shall be wholly performed within the State of Utah, and shall be governed by and construed in accordance with the laws of the State of Utah.

"OWNER" "GUEST"

_____

_____ _____

By: _____ Print Name: _____

Its:

Guest's Contact Information (required)

Address: _____

_____

Phone No.: _____

E-mail: _____

Names/Ages in Guest Party (Guest must be an adult 21 years of age or older.)

1._____ 5. _____

2._____ 6. _____

3._____ 7. _____

4._____

Billing Summary and Payment Information:

Rate: _____nights at $_____per night = $_____

Cleaning fees: _____nights at $_____per night = $_____

Subtotal = $_____

Taxes (10.45%) = $_____

Total Rent = $_____

Due upon execution of Agreement:

Security Deposit = $_

50% Total Rent = $_

Total = $_

Balance Due 30 days prior to Check-in date: = $_____

Please make checks payable to **"_____, LLC "**.

Guest's Credit Card Information (required)

Name as it appears on Credit Card: _____

Credit Card Type (Circle one): American Express Visa MasterCard Discover

Credit Card No.: _____

Credit Card CVV (Security) Code: _____

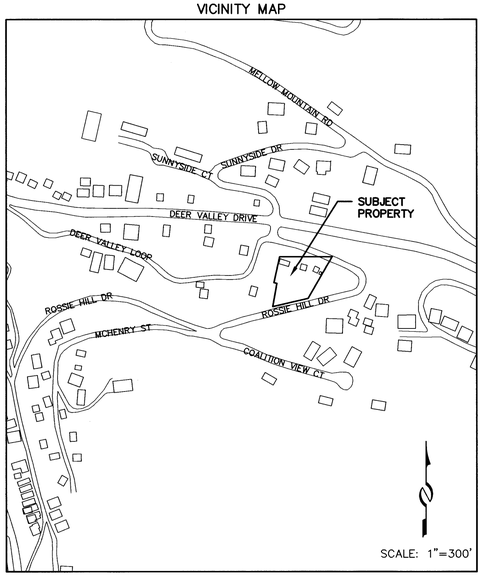
Credit Card Expiration: ____/____(Month/Year)

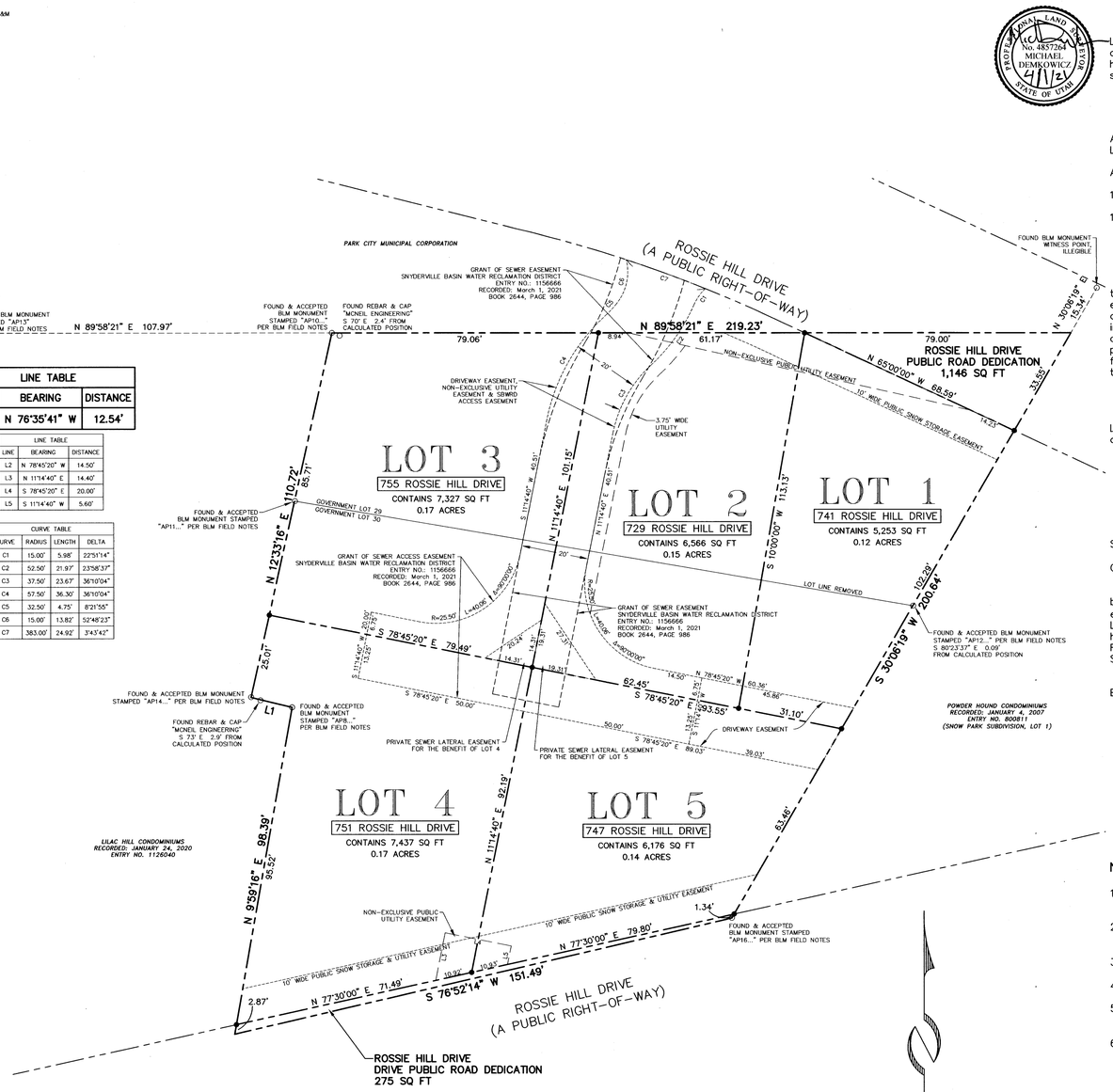
Return signed Agreement and payment (check or credit card information) to:

_____, LLC

Please use the return envelope(s) provided.

VICINITY MAP





LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 76°35'41" W	12.54'

LINE TABLE		
LINE	BEARING	DISTANCE
L2	N 78°45'20" W	14.50'
L3	N 11°14'40" E	14.40'
L4	S 78°45'20" E	20.00'
L5	S 11°14'40" W	5.60'

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	15.00'	5.98'	22°51'14"
C2	52.50'	21.93'	23°56'37"
C3	37.50'	23.67'	36°10'04"
C4	57.50'	36.30'	36°10'04"
C5	32.50'	4.75'	8°21'55"
C6	15.00'	13.82'	52°48'23"
C7	383.00'	24.92'	3°43'42"

SURVEYOR'S CERTIFICATE

I, Michael Demkowicz, do hereby certify that I am a Professional Land Surveyor, and that I hold License No. 4857264, as prescribed under the laws of the State of Utah. I further certify that by authority of the owner, I have made a survey of the tract of land shown and described hereon, hereafter to be known as LILAC HILL EAST SUBDIVISION and that the same has been correctly surveyed and monumented on the ground as shown on this plat.

PROFESSIONAL LAND SURVEYOR
No. 4857264
MICHAEL DEMKOWICZ
4/1/21
STATE OF UTAH

LEGAL DESCRIPTION

All of Government Lots 29 and 30, Section 15, Township 2 South, Range 4 East, Salt Lake Base and Meridian.

Also sometimes known and described as follows:

13th and 14th houses south side in Deer Valley, Park City;

15th house rear south side in Deer Valley, Park City.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL BY THESE PRESENTS that the undersigned is the owner of the above described tract of land, and hereby causes the same to be divided into lots and streets, together with easements as set forth to be hereafter known as LILAC HILL EAST SUBDIVISION, and does hereby dedicate for the perpetual use of the public all roads and other areas shown on this plat as intended for public use. The undersigned owner also hereby conveys to any and all public utility companies a perpetual, non-exclusive easement over the public utility easements shown on this plat, the same to be used for the installation, maintenance and operation of utility lines and facilities. The undersigned owner also hereby conveys any other easements as shown on this plat to the parties indicated and for the purposes shown hereon.

In witness whereof, the undersigned set his hand this 2nd day of April, 2021.

LILAC HILL EAST, LLC
a Delaware limited liability company

By: _____
Todd Franklin Watanabe, Authorized Signatory

ACKNOWLEDGMENT

STATE OF UT)
: ss.
COUNTY OF Summit)

On this 2 day of April 2021, Todd Franklin Watanabe personally appeared before me, whose identity is personally known to me or proven on the basis of satisfactory evidence, and who by me duly sworn/affirmed, did say that he is the Authorized Signatory of Lilac Hill East, LLC, a Delaware limited liability company, and that said document was signed by him on behalf of said limited liability company by authority of its Operating Agreement or Resolution of its Members, and he acknowledged to me that he executed LILAC HILL EAST SUBDIVISION.

By: _____
Notary Public
Shannon Ireland
Printed Name
Residing in: Summit
My commission expires: October 1, 2022
Commission No. 702573

SHANNON IRELAND
Notary Public - State of Utah
Comm. No. 702573
My Commission Expires on
Oct 1, 2022

NOTES

1. This plat amendment is subject to the Conditions of Approval in Ordinance 2020-02 & Ordinance 2021-09. Ordinance 2021-09 is approval for an extension of Ordinance 2020-02.
2. See Survey 442-AZ, on file with the Bureau of Land Management, and Records of Survey S-0006427 and S-0010076 on file in the Office of the Summit County Recorder.
3. All lots shall have a ten (10') foot setback from the Driveway Easement.
4. All lot lines shall provide a five (5') foot minimum non-exclusive utility easement.
5. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal.
6. Drives (private road/Fire Department access road) shall provide twenty feet (20') wide of clear space to meet Fire Code. If parking impacts this twenty foot (20') wide clear space, it will not be allowed and shall be signed "No Parking". Roads less than twenty-six feet (26') wide shall be marked "No Parking" on both sides of the road.
7. This property shall not be further subdivided.
8. The Driveway Easement from lower Rossie Hill Drive shall be the single vehicular access for all five (5) Lots.
9. At the time of any resurfacing of the private driveway, the Lilac Hill East Homeowners' Association shall be responsible to adjust wastewater manholes to grade according to Snyderville Basin Water Reclamation District (SBWRD) standards. Prior notification of the adjustments and inspection by SBWRD is required.

LEGEND

- ● Set 5/8" rebar w/cap "ALLIANCE ENGINEERING" (Unless noted otherwise)
- ○ Found Monument (As-Noted)
- ◆ Found Section monument (As-Noted)

LILAC HILL EAST SUBDIVISION

LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15,
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

(435) 649-9467
Alliance Engineering Inc.
CONSULTING ENGINEERS LAND PLANNERS SURVEYORS
323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

SHEET 1 OF 1

4/1/21 JOB NO.: 3-9-18 FILE: X:\EastofOldTown\dwg\srv\plat2018\030918.dwg

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	PLANNING COMMISSION	ENGINEER'S CERTIFICATE	APPROVAL AS TO FORM	COUNCIL APPROVAL AND ACCEPTANCE	CERTIFICATE OF ATTEST	PUBLIC SAFETY ANSWERING POINT APPROVAL	RECORDED
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS 5th DAY OF Apr. 2021	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS 11TH DAY OF DECEMBER, 2019	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 06 DAY OF May 2021	APPROVED AS TO FORM THIS 2nd DAY OF May 2021	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 25TH DAY OF FEBRUARY, 2021	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 25th DAY OF February 2021	APPROVED THIS 1 DAY OF JUNE 2021	STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF First American Title
BY _____ ENGINEERING DEPARTMENT	BY _____ CHAIR	BY _____ PARK CITY ENGINEER	BY _____ PARK CITY ATTORNEY	BY _____ MAYOR	BY _____ PARK CITY RECORDER	BY Dallen Donaldson FOR JEFF WARD SUMMIT COUNTY GIS COORDINATOR	60.00 FEE; Dallen Donaldson - DEPUTY RECORDER RECORDER; TIME 8:10 a.m. DATE 6-01-2021 ENTRY NO. 01164826

01206959 B: 2787 P: 0702
Page 1 of 66
Rhonda Francis Summit County Recorder
07/18/2023 02:07:14 PM Fee $40.00
By DART ADAMSON & DONOVAN
Electronically Recorded

WHEN RECORDED, RETURN TO:
Matthew B. Hutchinson
1225 Deer Valley Drive, Suite 201
Park City, Utah 84060

Parcel Nos.: LHES-1
LHES-2
LHES-3
LHES-4
LHES-5

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LILAC HILL EAST SUBDIVISION

TABLE OF CONTENTS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LILAC HILL EAST, is made effective as of this 18th day of July, 2023, by LILAC HILL EAST DEVELOPMENT, INC., a Delaware corporation, whose principal place of business and post office address is 1225 Deer Valley Drive, Suite 201, Park City, Utah, UT 84060, (referred to herein as "Declarant"), with respect to the following:

RECITALS

A. Declarant owns certain real property located in Park City, Summit County, Utah, which is more particularly described on *Exhibit A* attached hereto and by this reference made a part hereof (the "Project"). Declarant has developed the Project as a master planned development known as Lilac Hill East.

B. Declarant has recorded a Plat for the Project designating a shared driveway, and granted easements for utilities and improvements for drainage and flood control and subject to the following restrictions as noted on the Plat:

1. The Plat is subject to the Conditions of Approval in Park City Ordinance 2020-02 and Ordinance 2021-09.

2. The Plat has designated that all drives (private road/Fire Department access road) shall provide twenty feet (20') wide of clear space to meet Fire Code. If parking impacts this twenty foot (20') wide clear space, it will not be allowed and shall be signed as "No Parking." Roads less than twenty-six feet (26)' wide shall be marked "No Parking" on both sides of the road.

3. At the time of resurfacing of the private driveway, the Association shall be responsible to adjust wastewater manholes to grade according to Snyderville Basin Water Reclamation District ("SBWRD") standards. Prior notification of the adjustments and inspection by SBWRD is required.

C. Declarant has caused the Association to be formed as a Utah non-profit corporation for the purpose of benefiting the Project and its Owners, which non-profit corporation will (a) maintain the Shared Driveway serving all Lots in the Project; (b) establish, levy, collect and disburse the Assessments and other charges imposed hereunder; and (c) as the agent and representative of the Members of the Association and the Owners, administer and enforce all of the provisions hereof and enforce the Use and other restrictions imposed on the Project and the Lots.

D. Declarant has developed Project into Lots for residential use.

E. Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners and other holders of an interest in the Project, or any part thereof, certain mutually beneficial Covenants, restrictions and obligations with respect to the proper development, Use and maintenance of the Project.

F. Declarant desires and intends that the Owners and other holders of an interest in the Project and other Persons hereafter acquiring any interest in or otherwise utilizing portions of the Project shall at all times enjoy the benefits of the Project and shall hold their interest therein subject to the rights, privileges, covenants and restrictions set forth in this Declaration, all of which are declared to be in furtherance of a plan to promote and protect the aesthetic and cooperative aspects of the Project and are established for the purpose of enhancing the value, desirability and attractiveness of the Project.

G. Declarant therefore desires to subject all Lots to the Covenants, conditions, restrictions, Assessments, charges, servitudes, liens and reservations set forth in this Declaration.

In order to cause this Declaration and the Covenants contained herein to run with the Project and to be binding upon the Project and the Owners and other holders of an interest therein from and after the

date this Declaration is Recorded, Declarant hereby makes or shall make conveyances of the Project, whether or not so provided therein, subject to this Declaration; and by accepting Deeds, leases, easements or other grants or conveyances to any portion of the Project, the Owners and other transferees for themselves and their heirs, personal representatives, trustees, administrators, Board of Directors, members, successors and assigns, agree that they shall be personally bound by this Declaration (including but not limited to the obligation to pay Assessments) hereinafter set forth, except to the extent such Persons are specifically excepted here from and that all portions of the Project acquired by them shall be subject to this Declaration.

NOW, THEREFORE, Declarant hereby declares, covenants, and agrees as follows:

ARTICLE I – DEFINITIONS

The following words, phrases or terms used in this Declaration (including that portion hereof headed "Recitals") shall have the following meanings:

1. **Amendment**: an amendment to this Declaration Recorded by the Association pursuant to *Section 18* of this Declaration.

2. **Architectural Review Committee** (sometimes referred to herein as the "ARC"): the committee formed to review Plans and specifications for the construction or modification of Improvements.

3. **Articles of Incorporation** (referred to herein as the "Articles"): filed on March 23, 2023, with the Utah Division of Corporations and Commercial Code for Lilac Hill East Owners Association, Inc., a Utah non-profit corporation.

4. **Assessable Property**: all Lots or other portions of the Project subject to Assessments assessed by the Association.

5. **Assessment Lien:** the lien created and imposed by *Article VIII*.

6. **Assessment Period:** the term set forth in *Section 8.6*.

7. **Assessments:** Assessments all of which may be determined and assessed by the Association and which shall be payable by an Owner of a Lot pursuant to the terms of this Declaration as set forth in *Section 8.3*, which can take different forms depending upon the relative purpose of the Assessment such as: (a) Common Assessments, (b) Reserve Fund Assessments, (c) Special Assessments, and (d) Individual Assessments.

8. **Association:** the Utah nonprofit corporation organized by Declarant under the name "LILAC HILL EAST ASSOCIATION, INC.," to administer and enforce the Covenants defined herein and to exercise the rights, powers and duties set forth in this Declaration, the Articles, the Bylaws and any other Governing Document.

9. **Board of Directors or Board**: the Board of Directors of the Association.

10. **Budget**: the proposed budget of Common Area Expenses prepared by the Board each year, as the basis for the calculation of the Assessments, as provided in *Section 8.3.3*.

11. **Building**: any structure constructed within the Project.

12. **Bylaws**: the Bylaws of the Association, as the same may from time to time be amended or supplemented.

13. **Capital Improvement**: any new Improvements intended to add to, enhance or upgrade the

nature, scope, utility, value, or beauty of the Project, as opposed to ordinary repair and maintenance.

14. **Common Assessments**: The allocation of the Common Expenses to the Owners of Lots by the Association pursuant to this Declaration.

15. **Common Expenses**: refers to those costs and expenses incurred by or on behalf of the Association arising out of or connected with the maintenance, Improvement, and the operation of the Association.

16. **Community**: sometimes referred to herein as the "Lilac Hill East." The subdivision shall be known as "Lilac Hill East."

17. **County**: Summit County, Utah.

18. **Covenants**: the covenants, conditions, restrictions, Assessments, charges, rights, obligations, servitudes, liens, reservations and easements set forth in this Declaration, as amended or supplemented from time to time.

19. **Declarant**: Lilac Hill East Development, Inc., a Delaware corporation, and the successors and assigns of Declarant's rights and powers hereunder. Declarant shall also include any Person or Persons that have been assigned and have agreed to assume certain of Declarant's rights and/or obligations in this Declaration pursuant to *Section 19.1* effective upon the Recording of a written instrument signed by the Declarant and such Person or Persons that evidences such assignment and assumption.

20. **Declaration**: this Declaration of Covenants, Conditions and Restrictions for Lilac Hill East, as amended or supplemented from time to time.

21. **Deed**: a Deed or other instrument conveying the fee simple title in a Lot.

22. **Delinquent Assessment**: Any Assessment which is not paid when due. *See Section 8.6.*

23. **Eligible Mortgagee**: a Mortgagee which has requested notice of certain matters from the Association in accordance with *Section 17.2* of this Declaration.

24. **Event or Events**: the earliest of certain happenings to occur which will mark the expiration of the Period of Declarant Control as described in *Section 7.3.2.*

25. **First Mortgage**: any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

26. **First Mortgagee**: any Person named as a Mortgagee under a First Mortgage, or any successor to the interest of any such Person under a First Mortgage.

27. **General Public Uses**: those types of Uses designated from time to time by the Declarant or by the Board as General Public Uses.

28. **Governing Authority**: the applicable governmental entity or municipality which may have jurisdiction over some part of the Project.

29. **Governing Authority Property**: all real property which may from time to time be conveyed, assigned, or transferred by Deed, a grant of a perpetual easement or other written instrument to the applicable Governing Authority.

30. **Governing Documents**: this Declaration, Supplemental Declarations and Amendments, Articles of Incorporation and Bylaws, and any Rules and Regulations adopted by the Board.

31. **Improvement(s)**: any improvement now or hereafter constructed in the Project including anything which is a structure for purposes of applicable Governing Authority law, including but not limited to any building, structure, shed, covered patio, fountain, pool, antenna or receiving dish, paving or impervious materials, curbing, landscaping, tank, fence, mailbox, sign, any excavation or fill having a volume exceeding ten (10) cubic yards and any excavation, fill, ditch, diversion, dam, or other thing or device which affects the natural flow of surface water or the flow of water in a natural or artificial stream, wash or drainage channel.

32. **Lot**: any area of real property within the Project designated as a Lot on the Plat Recorded or approved by Declarant, specifically referred to herein as a "Lot" and intended for occupancy, and Residential Use.

33. **Manager**: such Person retained by the Board to perform certain functions of the Board pursuant to this Declaration or the Bylaws. The Manager for the Association shall carry out certain responsibilities of the Association as required herein, and by any other Governing Document.

34. **Member**: any Person holding a Membership in the Association pursuant to this Declaration as an Owner of a Lot.

35. **Membership**: a membership in the Association and the rights granted to the Owners and Declarant pursuant to *Article VII* to participate in the Association.

36. **Membership Initiation Fee**: an Individual Assessment assessed as a one-time charge at closing upon the Person purchasing a Lot from Declarant in an amount equaling the next full quarter of Assessments which shall be deposited into the Reserve Fund.

37. **Mortgage**: any mortgage, deed of trust, or other document encumbering any portion of a Lot or interest therein, including without limitation a leasehold interest, as security for the payment of a debt or obligation.

38. **Mortgagee**: a beneficiary of a deed of trust that is included within the definition of a Mortgage as well as a named mortgagee under a Mortgage.

39. **Motor Vehicles**: motor vehicles including but not limited to any automobile, motorcycle, motorbike, snowmobile, snow cat, personal watercraft, boat, boat trailer, motorcycle, motorbike, motor scooter, mini-bike, all-terrain vehicle, moped, electric bike, off-road vehicle, Recreational Vehicle or other similar equipment or vehicle.

40. **Neighboring Property and Neighboring Properties**: any Lot, including Private Roads or public roads within the Project other than the specific property in reference.

41. **Owner**: (a) any Person(s) who is (are) Record holder(s) of legal, beneficial or equitable title to the fee simple interest of any Lot including, without limitation, one who is buying a Lot under a Recorded contract or Recorded notice of such contract, but excluding others who hold an interest therein merely as security shall not be deemed the Owner thereof for purposes of this Declaration.

42. **Period of Declarant Control**: the period during which the Declarant who filed the Governing Documents, or the Declarant's successor in interest, who retains authority to appoint or remove members of the Board or exercise power or authority assigned to the Association under the Governing

Documents as defined in more detail in *Section 7.3.2.*

43. **Person**: a natural individual, a corporation, limited liability company, partnership or any other entity with the legal right to hold title to real property.

44. **Plat**: The Lilac Hill East Subdivision Plat recorded in the office of the Summit County Recorder on June 1, 2021, as Entry No. 1164826.

45. **Project**: that certain five-lot subdivision project described in the Plat and existing on the real property described on Exhibit A.

46. **Record, Recording, or Recorded**: placing an instrument of public record in the Office of the Recorder of Summit County, Utah, and "Recorded" means having been so placed of public record.

47. **Recreational Vehicles:** mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer or other similar equipment or vehicle.

48. **Reserve Fund**: the Fund created or to be created by the Association pursuant to *Section 8.3.3.4* for the purposes provided in *Section 10.1.*

49. **Residence**: any Building, or part of a Building, on a Lot which is intended for occupancy and Residential Use as a separate residence.

50. **Resident**: refers to the following:

a) Owner, guest of Owner, tenant or lessee actually residing on any part of the Assessable Property; and

b) Members of the immediate family of each Owner, lessee, tenant or buyer actually living in the same household with such Owner, lessee, tenant or buyer; and

c) Subject to the Rules and Regulations (including the imposition of special non-Resident fees for Use of the Association Facilities if the Association shall so direct), the term "Resident" also may include the on-site employees, caretakers, guests or invitees of any such Owner, lessee, or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

51. **Residential Areas or Residential Community or Residential Development or Residential Use**: Lots in a subdivision that have been approved by and developed with a Residence, together with related areas intended for the Use and enjoyment of the Owners and Residents of such Lots.

52. **Rules and Regulations**: the Rules and Regulations for Lilac Hill East adopted by the Board pursuant to *Section 6.3.*

53. **Shared Driveway**. That certain shared driveway constructed by Declarant on the Driveway Easement, which shall be provided by the Declarant and will be maintained, repaired and replaced by the Association, subject to easement rights of Declarant and non-exclusive easements rights of Owners, their guests and invitees for reasonable ingress and egress to their Lot(s).

54. **Special Assessment**: any assessment levied and assessed by the Board pursuant to *Section 8.4.*

55. **Special Assessment Limit**: the limit placed on Special Assessments forth in *Section 8.4.1.*

56. **Special Use Fees**: means the term set forth in *Section 4.1.4*

57. **State**: the State of Utah.

58. **Supplemental Declaration**: a supplement to this Declaration executed by or consented to by Declarant.

59. **Use**: one or more specific types of property development and classification as set forth in *Section 5.1* of this Declaration.

60. **Visible from Neighboring Property**: with respect to any given object, that such object is or would be visible to a person six feet (6') tall standing on Neighboring Property, on the level of the base of the object being viewed.

ARTICLE II - PROPERTY SUBJECT TO THIS DECLARATION

2.1 General Designation Creating Lilac Hill East

Declarant hereby declares that all of the Project, is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, Improved or transferred, in whole or in part, subject to this Declaration as amended and modified from time to time. In additional, some of the Project within the Project may be subject to a Recorded Supplemental Declaration as applicable from time to time.

2.1.1 Association. Declarant has caused the Association to be formed to perform certain administrative and operational functions regarding the Project as set forth more fully in the Association Documents.

2.1.2 Not Condominium or Cooperative**.** This Declaration is not a declaration of condominium. No portion of the Project is submitted by this Declaration to the condominium form of ownership. Moreover, no portion of the Project shall be a cooperative. However, portions of the Project may be submitted to the condominium form of ownership by a Supplemental Declaration.

2.1.3 No Timeshare / Fractional Share Development or Timeshare/Fractional Share Use. Notwithstanding anything to the contrary contained in this Declaration, Declarant has decreed that no portion of the Project shall be utilized or subjected to any Timeshare or Fractional Share Development or Timeshare or Fractional Share Use as defined under Utah Code Ann. Sections *57-19-2(25) through (27)* or successor statutes.

2.2 Supplemental Declarations

In General, Declarant shall have the right, alone and in its sole discretion, to execute and record in Summit County, Utah, Supplemental Declarations from time to time containing provisions which (a) assign a specific use to a portion of the Property; (b) impose additional restrictions or delete restrictions on a portion of the Property; (c) assign some or all of Declarant's rights and obligations hereunder; (d) subject some or all of the Additional Property to the effect of this Declaration; or (e) do anything else permitted by this Declaration.

ARTICLE III - LAND DESIGNATION AND ADMINISTRATION

3.1. In General

The Project may be subjected to designated Uses in accordance with the terms of this Declaration, by any Supplemental Declaration or by any other reasonable means by Declarant. Declarant may, in its sole and absolute discretion, establish any Use for the Project consistent with the terms of the Master

Plan, this Declaration and applicable law. Without limiting the foregoing, the Project may be used in the following manner:

3.1.1. Residential Areas. Residential Areas shall be those areas used for Residential Use, which shall include Lots and Improvements associated with Residential Uses including, but not limited to, Private Roads, public roads, driveways, sidewalks, walkways, entranceways, street lighting, parking spaces, public or private pedestrian walkways, bicycle and equestrian trails, public or private parks, landscaping, and other areas or amenities appurtenant to the Lots. Each Owner shall be responsible for all Improvements located on and maintenance of his or her Lot.

3.2. Disputes as to Use

If there is any dispute as to whether the designation of any portion of the Project complies with this Declaration, any Supplemental Declaration, or any other documents, the dispute shall be resolved by Declarant in its sole discretion for so long as Declarant owns any portion of the Project. After Declarant no longer owns any portion of the Project, the dispute shall be resolved by the Board of Directors. The determination rendered by Declarant or the Board of Directors, as the case may be, shall be final and binding on all Persons involved in the dispute.

ARTICLE IV – DEVELOPMENT, EASEMENTS AND RIGHTS OF ENJOYMENT

4.1 Easements of Enjoyment

Every Member shall have a right and nonexclusive easement of enjoyment in and to their Lots in the Project, subject to the following provisions:

4.1.1. Suspension of Rights. The right of the Association to suspend the voting rights of any Member and the right to the Use of the Common Areas by any Member (a) for any period during which any Assessment against such Member's Lot remains delinquent sixty (60) or more days; (b) for a period not to exceed 60 days for any infraction by such Member of this Declaration, the Rules and Regulations or any of the other governing Documents, and (c) for successive sixty (60)-day periods if any such infraction by such Member is not corrected during any prior sixty (60) day suspension period or such infraction is repeated within one (1) year of being notified of the initial infraction.

4.1.2. Rules and Regulations. The right of the Association to implement Rules and Regulations. The Rules and Regulations shall be intended, in the absolute discretion of the Board, to enhance the Project or the safety and convenience of or otherwise shall serve to promote the best interests of the Owners.

4.1.3. Governing Authority. The right of the applicable Governing Authority and any other governmental or quasi-governmental body having jurisdiction over Lilac Hill East to access and rights of ingress and egress over and across any Private Road, public road, parking area, or walkway, contained within the Lilac Hill East Subdivision for purposes of providing police and fire protection, transporting school children and providing other governmental or municipal service.

4.2 Declarant Reserved Easements

4.2.1. Landscaping Easement. By Recordation of this Declaration, Declarant does hereby reserve for itself and its successors and assigns, a perpetual alienable and transferable easement over, across and upon each and every Lot which abuts or is contiguous to the Shared Driveway for the purpose of operation and maintenance of the Shared Driveway, including but not limited to, the Use of usual and common equipment for irrigation, maintenance and landscaping thereof, which easement shall specifically constitute a part of the Shared Driveway. By way of example and not limitation, such easement shall permit, but shall not require, entry into any Lot for the purpose of planting grass, trees and shrubs, applying fertilizer, mowing and edging and removing any underbrush, trash, debris and trees.

4.2.2. Easements for Encroachments. If any part of a Lot or any Improvement built in substantial accord with the boundaries for such Lot as depicted on a Plat (or in other approved documents depicting

the location of such on the Lot) encroaches or shall encroach upon the Shared Driveway, or upon an adjoining Lot, an easement for such encroachment and for the maintenance of the same shall exist upon the written approval of the Declarant for so long as the Declarant is the Owner of a Class B Membership, and thereafter upon the written approval of the Board. If any part of the Shared Driveway encroaches or shall encroach upon a Lot or an Improvement, an easement for such encroachment and for the maintenance of the same shall exist upon the written approval of the Declarant for so long as the Declarant is the Owner of a Class B Membership, and thereafter upon the written approval of the Board. Each Owner shall have an unrestricted right of ingress or egress to and from its Lot.

4.2.3. Easements for Snow Storage, Drainage Maintenance and Flood Water. The Lots have or may have areas for snow storage or drainage maintenance as depicted upon a Recorded Plat, or otherwise found on such properties (collectively, "Drainage Control Features"). All Owners of Lots wherein Drainage Control Features are located shall remove trash and other debris therefrom and fulfill their maintenance responsibilities with respect to such Owners' Lot as provided in this Declaration. Notwithstanding the foregoing, the Declarant reserves for itself and its successors, assigns, and designees and for the Association a perpetual, nonexclusive right and easement, but not the obligation, to enter upon the Drainage Control Features located within any Lot for the purpose of maintaining, repairing, cleaning, or altering drainage and water flow, and shall have an access easement over and across any Lot (but not the Residences or other Buildings thereon) abutting or adjacent to any portion of any Drainage Control Features to the extent reasonably necessary to exercise their rights under this *Section 4.3.3*. Any or all of Declarant's and the Association's rights and easements provided for in this *Section 4.3.3.* may be transferred by Declarant or the Association to a Governing Authority at Declarant's or the Association's election by a written instrument, and Declarant's rights under this *Section 4.3.5.* shall be transferred automatically to the Association at such time as the Declarant shall cease to own any property subject to the Declaration, or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. All persons entitled to utilize these easements shall use reasonable care in, and repair any material damage resulting from, the Use of such easements. Nothing herein shall be construed to make Declarant, the Association or any other Person liable for damage resulting from flooding due to heavy rainfall, excessive spring run-off, or natural disasters. Owners or Residents are strictly prohibited from disrupting the drainage pattern and shall not interfere with, obstruct, re-channel, construct upon, alter, build-in, fill-in, or impair any Drainage Control Features or the drainage pattern over his or her Lot from or to any other Lot as that pattern may be established by a Governing Authority or by Declarant, the Association, a Builder, or another developer.

4.3 Easements for Utilities

4.4.1. In Lot. There is hereby created a blanket easement upon, across, over and under each Lot for ingress to, egress from, and for the installation, replacing, repairing and maintaining of, all utility and service lines and systems, including, but not limited to storm drain, water, sewer, gas, telephone, electricity, television cable or communication lines and systems, as such utilities are installed in connection with the initial development of each Lot and the construction of the Improvements thereon and also to the extent deemed necessary thereafter by the Declarant or the Board, provided that the location of any such easements shall not unreasonably interfere with the intended Use of such Lot by the Owner thereof. Pursuant to this easement, a providing utility or service company may install and maintain facilities and equipment on the Project and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of Buildings on the Lots. Notwithstanding anything to the contrary contained in this *Section*, no sewers, storm drain lines, electrical lines, water lines, or other utilities or service lines may be installed or relocated on any Lot except as approved by the Declarant (or the Board following the expiration of the Period of Declarant Control).

4.4 Easements for Ingress and Egress

There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Shared Driveway. There

is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes. Such easements shall run in favor of and be for the benefit of the Owners and Residents of the Lots and their guests, families, tenants and invitees. There is also hereby created an easement upon, across and over Shared Driveways and Private Roads and private parking areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel. Declarant for so long as the Declarant is the Owner of a Class B Membership, and thereafter upon the written approval of the Board shall have the right to relocate and/or reconfigure any and all such easements from time to time as it sees fit without the consent of any Owners (but subject to any necessary approvals of the County or any other governmental body or agency having jurisdiction including in particular, but without limitation, the easements granted herein for police, fire, medical and other emergency vehicles and personnel).

ARTICLE V -USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

5.1 Use Classifications

5.1.1. Use Classifications, restrictions, easements, rights-of-way and other matters, including new or different Uses and restrictions therefor and including any number of subclassifications thereof for any special uses, shall be fixed by Declarant and are as disclosed on the Plat as recorded in the office of the Summit County Recorder.

5.1.2. Unless otherwise specifically provided in the Governing Documents, the definitions and characteristics of such Use Classifications, and specific permitted and prohibited uses in such Use Classifications, shall be within the complete discretion of Declarant. This Declaration shall be subject to the zoning, Use, and development laws, ordinances, rules and regulations, and policies of the applicable Governing Authority.

5.1.3. Health, Safety and Welfare Rules or Regulations. In the event any uses and activities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners and Residents, the Board may make rules restricting or regulating their presence within the Project as part of the Rules and Regulations.

5.1.4. Right of Entry. During reasonable hours and upon reasonable notice to the Owner or other Resident, tenant, or occupant of a Lot which shall not be less than forty-eight (48) hours, any Member of the Board or any authorized representative of the Board, shall have the right to enter upon and inspect any Lot and the Improvements thereon, except for the interior portions of any completed Residence, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and such Persons shall not be deemed guilty of trespass by reason of such entry.

5.1.5. Citation, Fines and Penalties.

5.1.5.1. The Association, by and through the Board or its Manager, may issue a citation to any Owner whose behavior or Use of his Lot does not conform to the Association's Governing Documents ("Non-Conforming Member"). Owners are responsible for the action and/or failure to act on the part of their family members, guests, visitors, tenants, and invitees.

5.1.5.2. Written Warning of Non-Conforming Use. The Association shall send a written warning of non-conforming use and deliver it consistent with the notice provisions in the Bylaws. The warning shall generally advise the Non-Conforming Member of the nature of the offense, cite the specific provision with the Governing Documents which the Non-Conforming Member has violated, state that the Board will assess fines or impose nonmonetary penalties including suspension of privileges if the violation is continuing and not cured in not less than forty-eight (48) hours after the date of the warning. This warning shall also advise the Non-Conforming Member of the Association's power to impose fines or other monetary penalties if the Non-Conforming Member commits similar violations within one (1) year after the day of the written warning is

issued or a fine is assessed. Notwithstanding the provisions in this *Section*, the Board is not required to provide a warning if it determines that the interests of health and safety of the residents of Lilac Hill East requires a more expedited handling of the allegations.

5.1.5.3. Issuance of Fine. The Board may issue a fine against the Non-Conforming Member if: (i) the Non-Conforming Member does not cure a continuing violation within the time noted in the warning described in *Section 5.1.5.2*, or (ii) within one (1) year after the date of the written warning, the Non-Conforming Member commits another violation of the same rule or provision identified in the warning. Fines may only be made for a violation of a rule, Covenant, condition or restriction and in the amount found in the Governing Documents. Fines may accrue interest and late fees as provided for in the Governing Documents. The Association shall provide written notice of the issuance of a fine.

5.1.5.4. Additional Fines for Repeated or Continuing Violations. After the Board assesses a fine under *Section 5.1.5.3.*, the Board may, without further warning or notice, assess an additional fine against the Non-Conforming Member each time the Owner: (i) commits a violation of the same rule or provision within one (1) year after the day on which the Board assesses a fine for a violation of the same rule or provision; or (ii) allows a violation to continue for ten (10) days or longer after the day on which the Board assesses a fine.

5.1.5.5. Right to Informal Hearing. A Non-Conforming Member has a right to dispute a fine by requesting a hearing with the Board within thirty (30) days after the day on which the Non-Conforming Member receives or is deemed to receive notice that a fine has been assessed. If the Non-Conforming Member timely requests an informal hearing, no interest or late fees may accrue until after the Board conducts the hearing and notifies the Non-Conforming Member of its final decision. The Non-Conforming Member shall be afforded a reasonable opportunity to be heard consistent with the procedures contained in the Governing Documents. The Non-Conforming Member must demonstrate *extenuating circumstances* which require deviation from the Governing Documents and shall include all pertinent backup information to support the existence of the *extenuating circumstance*. The decision of the Board shall be binding. See Governing Documents for informal hearing procedures.

5.1.6. Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Resident of any restriction or provision of this Declaration. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner or Resident; (b) the legal description of the Lot against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or Resident to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and Resident, and to any subsequent purchaser of the Lot, that there is such a violation. If, after the Recordation of such notice of violation, it is determined by the Board that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Lot against which the notice of violation was Recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists. The Association's exercise of the right to record a notice of violation under this *Section* shall not be deemed a slander of title.

5.2 Covenants Applicable to All Use Classifications

The following Covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots, the Owners and lessees thereof, and all Residents.

5.2.1 General. All property in the Project may be used only for the occupancy of Residences.

5.2.2. Compliance with the Documents. Every Owner shall cause all occupants of his or her Lot to comply with the Governing Documents and shall be responsible for all violations, losses, caused by such occupants, notwithstanding the fact that such occupants of a Lot shall be held jointly and severally liable and may be sanctioned for any violation of the Governing Documents.

5.2.3. Business Activities. Property classified for the purposes set forth in Section *5.3.1* may only be used for any business that complies with the Governing Documents, such that an Owner or Resident may conduct business activities within the Residence so long as:

5.2.3.1. the Owner or Resident obtains all necessary licenses and permits;

5.2.3.2. the activity conforms to applicable laws, including all zoning requirements for the Project;

5.2.3.3. the activity does not require or involve members of the Public routinely visiting the Residence;

5.2.3.4. the activity is consistent with the residential character of the Project, does not constitute a nuisance, or a hazardous or offensive Use, or threaten the security or safety of other residents of the Project, as may be determined by the Board acting on behalf of the Declarant; and

5.2.3.5. the Owner or resident obtains the prior written consent of the Board.

5.2.3.6. Business Exemptions. This *Section* shall not apply to any activity conducted by Declarant, or a Builder approved by Declarant, with respect to its development, construction and sale of the Lots or their Use of any Residences which it owns within the Project.

5.2.3.7. Short-Term Rentals. Notwithstanding any provisions contained in this *Section 5.2.3* or in any other *Section* of this Declaration, short-term rentals of Residences within the Project are permitted, but rentals of Residences shall be subject to terms, conditions and restrictions of these Governing Documents. All short-term rentals shall be subject to the provisions of the Governing Documents and shall obligate the tenants to comply with the Governing Documents. If the tenants fail to comply with the terms of the Governing Documents, then the Board, in addition to any other remedies available to it, may evict the tenants on behalf of the Owner and specifically assess all costs associated therewith against the Owner. An Owner shall be responsible and liable for any damage to the Project caused by the Owner's tenants.

5.2.4. Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot or other property so as to be Visible from Neighboring Property.

5.2.5. Landscape Maintenance of Lots.

5.2.5.1. The Owner of each Lot shall be responsible to landscape, plant, care for, maintain, irrigate, and repair all areas on such Owner's Lot. The Governing Documents establish minimum standards of maintenance and care for all Lot areas. If the Owner of a Lot fails to landscape, plant, care for, maintain, irrigate, or repair such Owner's Lot in a manner consistent with the requirements of this Declaration and the Governing Documents, then the Association shall have the right to cause such Owner's Lot to be landscaped, planted, cared for, maintained, irrigated, and repaired in a manner consistent with this Declaration and the Governing Documents, and the Association shall have the right to levy against the Owner of such Lot an Individual Assessment for all of the costs related thereto incurred by the Association to care for, maintain, and repair such landscaped areas.

5.2.5.2. Intentionally omitted.

5.2.5.3. Specific guidelines and restrictions on landscaping are established by the Board and may change from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced immediately or as soon as reasonably practicable, as determined by the Board in its

sole discretion. All lawn areas shall be neatly mowed, and trees, shrubs and bushes shall be properly pruned and trimmed.

5.2.6. Leasing. An Owner who leases his or her Residence shall be deemed to have delegated all such rights to the Lot's lessee. Any leasing of a Residence shall be in compliance with the provisions of the Governing Documents. All Leases shall be subject to the provisions of the Governing Documents and shall obligate the tenant to comply with the Governing Documents. If the tenant fails to comply with the terms of the Governing Documents, then the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the Owner and specifically assess all costs associated therewith against the Owner. An Owner shall be responsible and liable for any damage to the Project caused by the Owner's tenants.

5.2.7. Animals. No animal, bird, fish, or reptile other than a reasonable number of generally recognized house or yard pets as determined solely by the Board, shall be maintained on any Lot and then only if they are kept, and raised thereon solely as domestic pets and not for commercial purposes. All pets must be kept within a Lot or Residence or on a leash at all times. No animal, bird, fish, or reptile shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any animal, bird, fish, or reptile shall be maintained so as to be visible from Neighboring Property, unless otherwise approved by the Board. Enclosures, kennels, runs and the leash areas must be kept clean and sanitary and must be located not less than fifteen (15) feet from any property line on such Owner's Lot. If a pet defecates on any portion of the Project, the Owner of such animal shall immediately remove all feces left by such Owner's pet. The Board may establish in the Rules and Regulations a maximum number of domestic pets and/or the maximum size or weight of any of such pets that may be kept or maintained by any Owner of any Lot. The Rules and Regulations may also establish restrictions or prohibitions with respect to animals left unattended in yards or on private decks and the construction of electric fences to contain pets. If an Owner or Resident fails to abide by the terms of this Declaration and the Governing Documents applicable to pets, additional restrictions and fees will be enforced. Horses, livestock or wildlife are prohibited.

5.2.8. Accessory Buildings. Accessory Buildings are subject to the Governing Documents and Park City Municipal Code. Any outdoor areas which house trash containers, firewood, maintenance/service equipment (i.e. snowblowers, etc.), or overflow Residential storage shall be screened.

5.2.9. Antennas, Satellite Dishes and Flag Poles. To the full extent permissible under State and federal law, no television, radio, shortwave, microwave, satellite, or other antenna, flag pole, tower or dish shall be placed, constructed or maintained upon any Lot, or other part of the Project unless such antenna, pole, tower or dish is fully and attractively screened or concealed, which means of screening or concealment shall be subject to the Governing Documents and the Rules and Regulations and prior approval of the ARC. Notwithstanding the foregoing, the ARC may allow, pursuant to the Governing Documents, the placing on a Lot of a flag pole no greater than eight (8) feet in length for the purpose of displaying the national flag of the United States of America, which flag shall be no greater than twenty (20) square feet in size.

5.2.10. Artificial Vegetation, Exterior Decorations and Lighting. Artificial vegetation and exterior decorations are governed by the Rules and Regulations. Lighting, sculptures, fountains, and similar items are subject to the Governing Documents and must be pre-approved by the ARC.

5.2.11. Architectural Control. No Improvements (whether temporary or permanent), alterations, repairs, excavation, grading, decks, landscaping or other work which in any way alters the exterior appearance of any portion of the Project, or the Improvements located thereon, from its natural or improved state existing on the date this Declaration is Recorded shall be made or done without the prior written approval of the ARC pursuant to *Article XII* except as otherwise expressly provided in this Declaration. No Building, fence, wall, Residence or other structure shall be commenced, erected, maintained, improved, altered or made without the prior written approval of the ARC pursuant to *Article XII*. All subsequent additions to or changes or alterations in any Building, fence, wall or other structure, including exterior color scheme, and all changes in the grade of Lots, shall be subject to the prior written approval of the ARC

pursuant to *Article XII*. No changes or deviations in or from the plans and specifications once approved by the ARC shall be made without the prior written approval of the ARC pursuant to *Article XII*.

5.2.12. Construction Activities. All construction activities and parking in connection with the building of Improvements on any Lot shall be subject to the Governing Documents and approved by the ARC pursuant to *Article XII*. The Board acting on behalf of the Declarant shall have the right to determine the existence of any nuisance arising out of construction and any activities related thereto. The Board has the right to impose fines related to violations of the Governing Documents. The Governing Documents may require submittal to the ARC of site-specific construction mitigation plans prior to the commencement of any construction activities.

5.2.13. Diseases and Insects. No Owner shall permit anything or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

5.2.8. Drainage. No Owner or Resident shall interfere with or obstruct the drainage pattern over his or her Lot from or to any other Lot as that pattern may be established by Declarant, a Builder, or any other developer or as described in *Section 4.3.5* hereof with respect to Drainage Control Features.

5.2.14. Energy Conservation Equipment. No solar energy collector panels, attendant hardware related thereto, or other energy conservation equipment shall be constructed or installed on any Building or Residence located within the Project without the prior written consent of the ARC acting on behalf of the Declarant and must be an integral and harmonious part of the architectural design of the Building or Residence, as determined in the sole discretion of the ARC. The ARC may impose reasonable restrictions on the solar energy system's size, location and manner of placement consistent with *Section 57-8a-701, et. seq.,* of the Utah Code, as such *Section* may be amended, supplemented or replaced from time to time.

5.2.15. Fences and Walls. Perimeter fences or walls shall not be constructed or otherwise allowed within the Project without prior approval by the ARC.

5.2.16. Landscaping.

5.2.16.1. Installation. Any landscaping and irrigation installed on a Lot must be installed pursuant to a landscape plan that has been approved in advance by the ARC. All such landscape plans shall contain requirements for the commencement and completion of all such landscape Improvements. The required minimum landscaping for all Lots shall be as set forth in the Governing Documents.

5.2.16.2. Nuisances. No weeds, dead trees or plants, rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the Residents of such other property, as determined by the Board on a reasonable, good faith basis. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its Residents, as determined by the Board on a reasonable, good faith basis. Without limiting the generality of any of the foregoing provisions, except as specifically provided in this *Section 5.2.12.2*, no exterior speakers, horns, whistles, firecrackers, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property.

5.2.16.3. Dumping. No Person may dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances anywhere on the Project, except that fertilizers may be applied to landscaping, provided care is taken to minimize runoff.

5.2.17. Irrigation. No sprinkler or irrigation systems of any type which draw from any body of water within the Project shall be installed, constructed or operated by any Person, other than the Association, Declarant, without the pre-approval of the ARC. All Lots which are developed are required to have an underground irrigation system which shall be maintained by the Owner of such property.

5.2.18. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except (i) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a Building, appurtenant structures, or other Improvements; (ii) that which Declarant or the Association may require for the operation and maintenance of the Project; or (iii) that which is used or displayed in connection with any business permitted under this Declaration.

5.2.19. Mineral Exploration. No portion of the Project shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, gas, earth or any earth substance of any kind. No derrick or other structure designed for use in boring for water, oil, or other hydrocarbons or minerals of any kind or nature shall be erected, maintained or permitted on any portion of the Project.

5.2.20. Outdoor Play Apparatus, Sculptures, Flag Poles, and Art. Outdoor play apparatus, structures, basketball goals, backboards, swimming pools, spas or hot tubs, water features, tennis courts, sports courts, pickleball courts, and swing sets, sculptures, or outdoor art are subject to the Governing Documents.

5.2.21. Overhead Encroachments. Except as provided for herein, no tree, shrub or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, the Shared Driveway, private road, public road, pedestrian way, or other area from ground level to a height of eight (8) feet without the prior approval of the Board. Notwithstanding the foregoing, if any part of a healthy tree or shrub shall encroach upon an adjoining Lot, an easement for such encroachment and for the maintenance of the same shall and does exist, provided such encroachment does not create a hazardous, dangerous, unsafe or unsightly or otherwise objectionable condition, as determined by the Board acting on behalf of the Declarant. Upon consent of the Owner of the adjoining Lot, an encroaching Owner shall have the right to access the adjoining Lot to the extent reasonably necessary to maintain an encroaching tree or shrub.

5.2.20. Parking, Stowing and Towing. All Motor Vehicles, including Recreational Vehicles, and trailers associated therewith are subject to parking and storage restrictions as defined in the Governing Documents. Violations of any rules or restrictions related to parking and storage may result in the assessment of fines and/or towing.

5.2.21. Repair of Improvements. No Improvement on any Lot shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof, unless otherwise provided in this Declaration. In the event any Improvement is damaged or destroyed, then, subject to the approvals required by *Section 5.2.4* above, such Improvement shall be immediately repaired, rebuilt or demolished by the Owner thereof, unless otherwise provided in this Declaration. If any Improvement should be demolished, then the Owner shall at all times maintain the vacant Lot in a clean and slightly condition, and shall clear and shall continue to clear the Lot of any weeds, debris, garbage, tree pruning, or like items.

5.2.22. Roofs. To the full extent permissible under the Governing Documents or under State and federal law, no apparatus, structure or object shall be placed on the roof of a Residence or other Improvement without the prior written consent of the ARC. Any apparatus, structure or object approved by the ARC for placement on the roof of a Residence shall be mounted on the rear of the roof so that such apparatus or object is below the highest ridge on the roof. No air conditioning units or evaporative coolers extending from windows or protruding from roofs are permitted, except as installed by Declarant or as approved by the ARC. The Governing Documents may contain additional restrictions and conditions regarding the placement of apparatus, structures and objects on the roof of a Residence.

5.2.23. Restriction on Further Subdivision, Property Restrictions and Rezoning. No Lot shall be further subdivided or separated into smaller Lots or interests by any Owner, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of the Declarant (or the Board following the expiration of the Period of

Declarant Control), which approval must be evidenced on the Plat or other instrument creating the subdivision, easement or other interest. This provision shall not apply to transfers of an ownership interest in the whole of any Lot. Further, this provision shall not, in any way, limit Declarant from subdividing or separating into Lots the Project, which has not previously been Platted or subdivided into Lots. No further covenants, conditions, restrictions or easements shall be recorded by any Owner or other Person against any Lot without the provisions thereof having been first approved in writing by the Declarant (or the Board following the expiration of the Period of Declarant Control), and any covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon shall be null and void. No application for rezoning of any Lot, and no applications for variances or use permits, shall be filed with a Governing Authority, unless the proposed use of the Lot complies with this Declaration.

5.2.24. Sight Distance at Intersections. All property located at road intersections shall be maintained so as to permit safe sight across the road corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

5.2.25. Signs. No signs (including, but not limited to commercial, political, "For Sale," "For Rent," and similar signs) which are visible from a Neighboring Property shall be erected or maintained on any Lot without the prior written consent of the Board except:

5.2.25.1. The Owner of a Residence may display one "For Sale" or "For Rent" sign as determined in the Governing Documents;

5.2.25.2. Signs erected and maintained by Declarant (or the Association pursuant to *Section 11.1.4*) pursuant to this Declaration;

5.2.25.3. Signs required by law;

5.2.25.4. Residence identification signs, provided the size, color, content and location of such signs have been approved in writing by the ARC;

5.2.25.5. Signs of Builders approved from time to time by the ARC as to number, size, color, design, content, location and type;

5.2.25.6. Such construction job identification signs and subdivision identification signs which are in conformance with the requirements of any Governing Authority and which have been approved in writing by the ARC as to number, size, color, design, content, and location; and

5.2.25.7. Signs identifying the entry way to locations of special interest, provided the size, color, content and location of such signs have been approved in writing by the ARC.

5.2.26. Tanks. Unless otherwise approved by Declarant or the Board, no tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on any Lot, unless such tanks are buried underground. Nothing herein shall be deemed to prohibit Use or storage upon any Lot of an above ground propane or similar fuel tank with a capacity of ten (10) gallons or less used in connection with a normal Residential gas barbecue, grill or fireplace or a spa or "hot tub", so long as any such tank either: (a) has a capacity of ten (10) gallons or less; or (b) is appropriately stored, used and/or screened, in accordance with the Governing Documents or as otherwise approved by the ARC. The Rules and Regulations may contain additional conditions and restrictions regarding the use and placement on a Lot of propane or similar fuel tanks. Notwithstanding the foregoing, Declarant or a Builder shall have the right to use above-ground tanks during the course of construction and related activities in the development of the Project as otherwise authorized by applicable Governing Authorities.

5.2.27. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style required by the County and approved by the Board. Such containers should be stored and made available for collection as provided for in the Rules and Regulations. All rubbish, trash and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

5.2.28. Utility Service. No lines, wires or other devices for communication or for the transmission of electric current or power, including telephone, television and radio signals, and cable information highways, shall be erected, placed or maintained anywhere in or upon any Lot, unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on Buildings or other structures as approved by the Declarant (or the Board following the expiration of the Period of Declarant Control), except for:

5.2.28.1. Overhead power poles and lines to perimeter areas of the Project as approved by Declarant (or the Board following the expiration of the Period of Declarant Control); and

5.2.28.2. Boxes on the ground for electrical or communication connections, junctions, transformers and other apparatus customarily used in connection with such underground lines, wires and other devices as approved by the Declarant (or the Board following the expiration of the Period of Declarant Control).

5.2.28.3. All utilities within the Project shall be installed underground, unless otherwise specifically pre-approved by Declarant (or the Board following the expiration of the Period of Declarant Control). To the extent possible, utility lines, including without limitation cable television and gas lines, should be installed, repaired or replaced under existing roads, sidewalks and driveways by a method which will not disturb the paved surface of such road, sidewalk or driveway. This restriction is intended to preserve the aesthetic nature of the paved surfaces.

5.2.29. Violations of Law. Any activity which violates local, State, or federal laws or Regulations is prohibited, and the Board may exercise the remedies provided for herein to compel an Owner to resolve the violation; however, the Board shall have no obligation to take enforcement action in the event of a violation.

5.3 Exculpations and Approvals

Declarant, the Association, the ARC and any of their agents may grant, withhold or deny their consent, permission or approval in any instance when their consent, permission or approval is permitted or required at their sole discretion and without any liability of any nature or kind to any Owner or any other Person for any reason whatsoever and shall be indemnified and held harmless by such Owner or other Person from any and all damages resulting therefrom, including, but not limited to, court costs and reasonable attorneys' fees. Every consent, permission or approval by Declarant, the Association, the ARC or any of their agents under this Declaration shall be in writing and binding upon all Persons.

5.4 Variances

Subject to the provisions of the Governing Documents, the Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in *Article V* of this Declaration or in the other Governing Documents, if the Board determines in its discretion (a) either (1) that a restriction would create an unreasonable hardship or burden on an Owner which hardship is not self-imposed by such Owner or (2) that a change of circumstances since the date this Declaration is Recorded has rendered such restriction obsolete and (b) that the activity permitted under the variance will not have any substantial adverse effect on the Owners and Residents of the Project and is consistent with the high quality of life intended for Owners and Residents of the Project.

ARTICLE VI - ORGANIZATION OF ASSOCIATION

6.1 Formation of Association

The Association shall be a Utah nonprofit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

6.2 Board of Directors and Officers

The affairs of the Association shall be conducted by a Board of three (3) or five (5) directors and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws, as the same may be amended from time to time. The initial Board shall be composed of three (3) directors appointed by Declarant, which initial Board shall be controlled by Declarant until the expiration of the Period of Declarant Control. At the first meeting after the expiration of the Period of Declarant Control, three Members of the Board shall be elected by the Owners; two Members shall be elected for two-year terms and one Member shall be elected for a one-year term. Thereafter, all Members of the Board shall be elected for staggered two-year terms. If the Board is expanded to five (5) Directors, the election shall happen on the year that only one (1) Director is elected. The Board may also appoint various committees and may appoint a Manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board's responsibilities shall include, but shall not be limited to, the following:

6.2.1. administration;

6.2.2. preparing and administering an operational Budget;

6.2.3. establishing and administering an adequate Reserve Fund;

6.2.4. scheduling and conducting the annual meeting and other meetings of the Members;

6.2.5. collecting and enforcing the Assessments;

6.2.6. accounting functions and maintaining Records;

6.2.7. promulgation and enforcement of the Rules and Regulations; and

6.2.8. all the other duties imposed upon the Board pursuant to the Governing Documents, including the enforcement thereof.

6.3 Rules and Regulations

By a majority vote, the Board may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal Rules and Regulations. The Rules and Regulations may restrict and govern the Use of any area of the Project by any Member or Resident, by the family of such Member, or by any invitee, licensee or tenant of such Member; provided, however, that the Rules and Regulations shall be reasonable and consistent with the rest of the Governing Documents. No Rule or Regulation may discriminate among Members.

6.3.1. Notwithstanding any provision in this Declaration to the contrary, no rule, regulation or action of the Association, Board or Manager shall unreasonably impede Declarant's right to develop the Project.

6.3.2. ALL OWNERS ARE GIVEN NOTICE THAT THE USE OF THEIR LOT IS LIMITED BY THE RULES AND REGULATIONS AND ALL OTHER GOVERNING DOCUMENTS AS AMENDED, EXPANDED, AND OTHERWISE MODIFIED FROM TIME TO TIME. EACH OWNER, BY ACCEPTANCE OF A DEED, ACKNOWLEDGES AND AGREES THAT THE USE AND ENJOYMENT AND ABILITY OF HIS OR HER LOT CAN BE AFFECTED BY THIS PROVISION AND THAT THE GOVERNING DOCUMENTS MAY CHANGE FROM TIME TO TIME. ALL PURCHASERS OF LOTS ARE ON NOTICE THAT DECLARANT AND/OR THE BOARD MAY ADOPT CHANGES TO THE GOVERNING DOCUMENTS FROM TIME TO TIME. COPIES OF THE GOVERNING DOCUMENTS MAY BE OBTAINED FROM THE ASSOCIATION.

6.3.3. In addition to the right to adopt Rules and Regulations on the matters expressly mentioned elsewhere in this Declaration, the Association (through its Board) shall have the right to adopt Rules and Regulations with respect to all other aspects of the Association's rights, activities and duties, provided

said Rules and Regulations are not inconsistent with the provisions of this Declaration and the other Governing Documents.

6.4 Personal Liability

No Member of the Board of the Association, no Member of any committee of the Association, no officer of the Association and no Manager or other employee of the Association shall be personally liable to any Member or to any other Person, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board, the ARC, the Manager, any representative or employee of the Association or any committee, committee Member or officer of the Association; provided, however, the limitations set forth in this *Section 6.4* shall not apply to any Person who has failed to act in good faith or has engaged in willful or intentional misconduct.

6.5 Professional Management

The Association may carry out through the Manager those of its functions which are properly subject to delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. Any such management agreement may be terminated by the Declarant without cause at any time during the Period of Declarant Control. In addition, any such management agreement may be terminated by the Association without cause upon giving reasonable notice at any time after the expiration of the Period of Declarant Control.

6.6 Implied Rights

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all rights and powers of the Association may be exercised by the Board without a vote of the Members. The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty of the Board to institute litigation on behalf of or in the name of the Association or its Members. In exercising the Association's rights and powers, making decisions on behalf of the Association, and conducting the Association's affairs, Members of the Board shall be subject to, and their actions shall be judged in accordance with, the standards set forth in the Articles and Bylaws. All final decisions of the Board shall be final and binding upon all associated Persons.

ARTICLE VII - MEMBERSHIPS AND VOTING

7.1 Membership

Every Person who is the Owner of a Lot shall be subject to Assessments and shall be a Member of the Association (provided, however, Declarant as a Class B Member shall be and shall remain a Member of the Association at all times that the Class B Member status exists with voting rights, notwithstanding its temporary exemption status from required Assessments payments). Each such Owner shall have the following number of Memberships:

7.1.1 Lots. One Membership for each Lot owned by the Member.

7.1.2. Intentionally omitted.

7.1.3. Each Membership shall be appurtenant to and may not be separated from ownership of a Lot to which the Membership is attributable. As provided in this *Section 7.1* above, there shall be only one

Membership for each Lot, which Memberships shall be shared by any joint Owners of, or Owners of undivided interests in a Lot.

7.2 Declarant

The Declarant shall be a Member of the Association for so long as the Declarant holds a Class B Membership pursuant to *Section 7.3.2* below or for owns any Lots within the Project and holds a Class A Membership.

7.3 Voting Rights

7.3.1. Class A. The Class A Memberships shall be all Memberships other than the Class B Memberships held by the Declarant. Each Owner shall be entitled to one (1) vote for each Class A Membership held by the Owner, subject to the authority of the Board to suspend the voting rights of the Owner for violations of this Declaration in accordance with the provisions hereof. Notwithstanding the forgoing, no vote shall be cast or counted for any Class A Membership not subject to Assessment.

7.3.2. Class B. The Class B Memberships shall be held only by the Declarant and any successor of Declarant who takes title to any Lot from Declarant for the purpose of development and sale and who is designated to be the owner of a Class B Membership in a Recorded instrument executed by Declarant. Except as provided in the preceding sentence, upon the sale of a Lot by Declarant, the transferee of such Lot shall automatically become the Owner of a Class A Membership. The Declarant shall initially be entitled to ten (10) votes for each Lot owned by Declarant. The Class B Memberships shall cease and shall be converted to Class A Memberships, on the basis of the number of Lots then owned by the Declarant, on the happening of the first of the following events (herein referred to as the "Event" or "Events"):

7.3.2.1. four (4) months after 75% of the Lots within the Project owned by Declarant have been conveyed to Owners other than Declarant; or

7.3.2.2. seven (7) years after Declarant and any successor in interest to the rights of Declarant as the Declarant under this Declaration has ceased to offer Lots for sale in the ordinary course of business; or

7.3.2.3 the day when Declarant, in its sole discretion, records an instrument in the Office of the Recorder in Summit County, Utah, that it voluntarily surrenders some or all of its rights to control activities of the Association following written notice to the Owners.

7.3.2.4. If and when Declarant elects to voluntarily relinquish control of the Association, described in *Section 7.3.2.3* above, Declarant shall send written notice of such relinquishment to the Board. The notice shall state the effective date of the relinquishment, which date shall be the effective date of the Event.

7.3.2.5. From and after the happening of such above-described Events, whichever occurs first, (i) the Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot owned, (ii) the Board shall call an annual or special meeting, as applicable, in the manner described in the Bylaws to (A) advise the Owners of the termination of the Class B Member status, and (B) elect a new Board in accordance with *Section 6.2* above.

7.3.3. Voting Threshold. Except as otherwise expressly provided in this Declaration or in any of the other Governing Documents, any issue put to a vote by ballot without a meeting or at a duly called meeting of the Members at which a quorum is present shall be decided by a simple majority of all votes represented in Person or by valid proxy at such meeting.

7.4 Membership Rights

Each Member shall have the rights, duties and obligations set forth in this Declaration and such other rights, duties and obligations as are set forth in the Governing Documents, as the same may be amended from time to time. In any situation in which a Member is entitled personally to exercise the vote appurtenant to such Member's Lot and there is more than one Owner of a particular Lot, the vote associated

with such Lot shall be exercised as such co-Owners determine among themselves and as they then advise the Board in writing. Absent such written designation by joint Owners of a Lot, the Lot's vote shall be suspended, if more than one Persons seek to exercise it.

7.5 Transfer of Membership

The rights and obligations of the Owner of a Membership in the Association shall not be assigned, transferred, pledged, designated, conveyed or alienated in any way, except upon the transfer of ownership to an Owner's Lot and then only to the transferee of ownership to such Lot. A transfer of ownership to a Lot may be affected by Deed, intestate succession, testamentary disposition, foreclosure of a Mortgage or such other legal process as is now in effect or as may hereafter be established under or pursuant to the laws of the State of Utah. Any transfer of ownership to a Lot shall automatically operate to transfer the Membership(s) appurtenant to said Lot to the new Owner thereof.

ARTICLE VIII - COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

8.1 Creation of Lien and Personal Obligation of Assessments

Declarant, for each Lot hereafter established within the Project, hereby covenants and agrees, and each Owner by acceptance of a Deed or other conveyance of a Lot (whether or not it shall be so expressed in such Deed or conveyance) is deemed to covenant and agree, to pay Assessments as provided in this Declaration. All Assessments shall be established and collected as hereinafter provided. No diminution or abatement of Assessments nor any decrease, offset or deduction shall be claimed or allowed by reason of any alleged failure of the Association or the Board to take some action or to perform some function required to be taken or performed by the Association or the Board under this Declaration or any of the Governing Documents, or for inconvenience or discomfort arising from the making of repairs or Improvements which are the responsibility of the Association, or from any action taken by the Association or the Board to comply with any law, ordinance, or with any order or directive of any Governing Authority or other governmental authority. The obligation to pay Assessments shall be deemed to be a separate and independent covenant on the part of each Owner. The Assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing servitude and lien upon the Lot against which each such Assessment is made. The Assessments, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessments fell due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner, unless expressly assumed by them. However, the lien upon the applicable Lot for any unpaid Assessments existing at the time of any transfer shall continue, notwithstanding such transfer, until the Assessments have been paid in full.

8.2 Property Assessable Upon Recording of Deed

ALL OWNERS ARE GIVEN NOTICE THAT THEIR LOT(S) SHALL BE SUBJECT TO FULL ASSESSMENT IN ACCORDANCE WITH THE TERMS OF THIS DECLARATION UPON ACCEPTANCE OF A DEED, REGARDLESS OF WHETHER OR NOT SUCH LOT(S) HAVE BEEN IMPROVED, EXCEPT AS OTHERWISE PROVIDED IN THIS DECLARATION. At the time a Deed is Recorded conveying a Lot to an Owner, such Lot shall thereupon be subject to the Assessments, and the Board shall levy such Assessments upon the Owner of the Lot at closing of the sale or purchase. Assessments shall be prorated for the remaining portion of the Assessment term, e.g. annual, semi-annual, quarterly or monthly basis, as determined by the Board. In any dispute, question or controversy regarding whether property is Assessable Property, the Board shall have the exclusive power and authority to decide such dispute, question or controversy, and any decision regarding the foregoing shall be conclusive and binding on all interested parties. All decisions of the Board regarding the foregoing shall be final and binding on all associated Persons.

8.2.1. Membership Initiation Fee. Upon the initial transfer of a Lot from the Declarant to a Person, in addition to Assessments being prorated for the remaining portion of the Assessment term, a one-time Membership Initiation Fee shall be charged as an Individual Assessment at closing in an amount equaling the next full quarter of Assessments. All Membership Initiation Fees assessed shall be deposited into the Reserve Fund to be used for the purposes described in *Section 8.3.3.4 herein.* The Membership Initiation Fee shall not be charged on subsequent transfers of a Lot.

8.3 Assessments

Assessments shall be computed and assessed against all Lots as follows:

8.3.1. Purpose of Assessments. The Assessments provided for herein are assessed and collected by the Board for the purpose of obtaining from the Owners the funds necessary to enable the Association to pay the Common Area Expenses incurred by the Association in the performance of the responsibilities and duties of the Association as set forth in the Governing Documents.

8.3.2. Creation of Assessments. Owners shall pay Assessments as they may be calculated and charged from time to time by the Board.

8.3.3. Budget. At least annually the Board shall prepare and adopt a Budget for the Association.

8.3.3.1. Itemization. The Budget shall set forth an itemization of the anticipated Common Area Expenses for the 12-month calendar year, commencing the following January 1.

8.3.3.2. Basis. The Budget shall be based upon advance estimates of cash requirements by the Board to provide for the payment of all estimated Common Area Expenses. Estimates shall include but are not limited to expenses of management, grounds maintenance, taxes and Special Assessments, premiums for all insurance which the Board is required or permitted to maintain, community lighting and heating, water charges, repairs and maintenance of specified areas and replacement of those elements of the specified areas that must be replaced on a periodic basis, wages for Association employees or contractors, legal and accounting fees, any deficit remaining from a previous period, the creation of a reasonable contingency reserve, surplus or sinking fund, Capital Improvements, general reserve fund, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration.

8.3.3.3. Presentation of the Budget. The Board shall present the adopted Budget to the Members at a meeting of the Members called for the purpose of the presentation of the Budget, which may be the annual meeting of the Members or a special meeting of the Members called for that purpose. The Budget shall be deemed approved and effective unless, within forty-five (45) days after the date of the meeting at which the Board presented the Budget to the Members, there is a vote of disapproval by at least fifty-one percent (51%) of all the Members entitled to vote , which vote shall be taken at a special meeting called for that purpose by the Members pursuant to the terms of this Declaration or the Bylaws. Notwithstanding the foregoing, if the Members disapprove all or a portion of the Budget, for the succeeding year, then and until such time as a new Budget shall have been adopted by the Board, the Budget last adopted by the Board (and not disapproved by the applicable Members) shall continue as the Budget for any category of the Common Area Expenses until the Board adopts another Budget, which Budget is not disapproved by a Majority of the Members affected thereby. Notwithstanding anything in this *Section 8.3.3.3.* to the contrary, Members shall have no right to disapprove a Budget during the Period of Declarant Control.

8.3.3.4. Reserve Fund. The Board shall cause the Association to establish and maintain a Reserve Fund to cover the cost of repairing, replacing or restoring Improvements to the Shared Driveway that have a useful life of three (3) years or more and a remaining useful life of less than thirty (30) years, if the cost of repairing, replacing or restoring such Improvements cannot reasonably be funded from the Budget or other funds of the Association (the "Reserve Fund").

Pursuant to *Section 57-8a-211* of the Utah Code, the Board shall cause a Reserve Fund analysis to be conducted as required by law. After the initial Reserve Fund analysis is conducted, the Board shall review and, if necessary, update a previously conducted Reserve Fund analysis on a periodic basis. The Board may conduct a Reserve Fund analysis itself or may engage a reliable Person or organization, as determined by the Board, to conduct the Reserve Fund analysis.

8.3.3.4.1. The Board may not use money in the Reserve Fund: (i) for daily maintenance expenses, unless a Majority of the Members vote to approve the Use of the Reserve Fund money for that purpose; or (ii) for any purpose other than the purpose for which the Reserve Fund was established.

8.3.3.4.2. The Board shall maintain the Reserve Fund separately from other funds of the Association.

8.3.3.4.3. The foregoing may not be construed to limit the Board from prudently investing money in the Reserve Fund, subject to any investment constraints imposed by the Articles or the Bylaws.

8.3.3.4.4. The Association shall annually provide Members a summary of the most recent Reserve Fund analysis or update and shall provide a copy of the complete Reserve Fund analysis or update to any Member who requests a copy of the same.

8.3.3.4.5. In formulating the Budget each year, the Board shall include a Reserve Fund line item in an amount the Board determines, based on the Reserve Fund analysis to be prudent. Within forty-five (45) days after the day on which the Association adopts its annual Budget, the Members may veto the Reserve Fund line item by a fifty-one percent (51%) vote of the allocated voting interests of the Members in a special meeting called by the Members for the purpose of voting whether to veto a Reserve Fund line item. If the Members veto a Reserve Fund line item as provided in the foregoing sentence, and if a Reserve Fund line item exists in the previously approved Budget of the Association that was not vetoed, the Association shall fund the Reserve Fund in accordance with the prior Reserve Fund line item that was not vetoed.

8.3.4. Uniform Rate of Assessments. The annual Assessments shall be allocated equally to the Owners who are responsible for the payment of such Assessments, as applicable, and may be collected on an annual, semi-annual, quarterly or monthly basis, as determined by the Board. The dates and manner of payment shall be determined by the Board. The Board has the sole authority and discretion to determine how and when the Assessments are to be paid.

8.3.5. Failure to Assess. The omission or failure of the Board to fix the Assessments amounts or rates or to deliver notice of an Assessments to each Owner shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay any Assessments. In such event, each Owner shall continue to pay annual Assessments on the same basis as for the last year for which Assessments were made until new annual Assessments are made, at which time any shortfalls in collections may be assessed retroactively by the Board.

8.3.6. Personal Obligation of Owner. Owners are personally liable to pay all Assessments. Provided, however, no Mortgagee (but not the seller under an executory contract of sale such as a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid Assessments which accrued prior to the acquisition of title. For purposes of this *Section*, the term "Owner" means and refers jointly and severally to: (i) the Owner of both the legal and equitable interest in any Lot, (ii) the owner of Record in the Official Records, and (iii) both the buyer and seller under any executory sales contract or other similar instrument.

8.3.7. Statements of Account.

8.3.7.1. Statement of Account Unassociated with Sale, Transfer or Refinance. Upon written request, the Association shall furnish to any Owner a written statement of any Assessments due, if any, on such Owner's Lot. The Association may require the advance payment of a processing charge not to exceed twenty-five dollars ($25.00) for the issuance of such statement.

8.3.7.2. Payoff Statement Associated with Sale, Financing, Refinancing or Closing. Upon written request to the Association's primary contact designated under Section *57-8a-105(3)(d)* of the Utah Code by an Owner's closing agent who is assisting the Owner with the financing, refinancing or closing of the sale of the Owner's Lot, the Association shall furnish a payoff statement to the closing agent within five (5) business days. The Association may charge a reasonable fee associated with the request up to fifty dollars ($50.00), however payment of the fee shall not be required before closing.

8.3.7.2.1. To be effective, the written request to the Association referenced in *Section 8.3.7.2* above shall contain (i) the name, telephone number and address of the person making the request, and (ii) the facsimile number or email address for delivery of the payoff information; and (iii) is accompanied by a written consent for the release of the payoff information (A) identifying the person requesting the information as a person to whom the payoff information may be released and (B) signed and dated by an owner of a Lot for which the payoff is requested.

8.4 Special Assessments

In addition to the other Assessments authorized herein, the Association may levy Special Assessments applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of the Improvement upon Shared Driveway, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary Common Expenses, provided that, except as provided in *Section 8.4.1* below, any such Special Assessment shall have the ascent of a majority of the votes of the Members who are voting in Person or by proxy at a meeting duly called for such purpose or by written approval of such Members. The provisions of this *Section 8.4* are not intended to preclude or limit the assessment, collection or Use of Assessments, other than Special Assessments. Special Assessments may be collected as specified by the Board, unless otherwise determined by the majority vote of the Members of the Association approving the Special Assessment.

8.4.1. Board Based Assessment. So long as the total Special Assessment does not exceed ten percent (10%) of the total of all budgeted Common Area Expenses in any one fiscal year (the "Special Assessment Limit"), the Board may impose the Special Assessment upon Class A Members which are not exempt, as determined by the Board, without the approval of the Members to be assessed a Special Assessment.

8.4.2. Association Approval. Any Special Assessment which would exceed the Special Assessment Limit shall be effective only if approved by a Majority of the Members to be assessed a Special Assessment. The Board in its discretion may allow any Special Assessment to be paid in installments.

8.5 Individual Assessments

Individual Assessments shall be levied by the Board against an Owner of a Lot to reimburse the Association for:

8.5.1. fines levied and costs incurred in enforcing the Governing Documents;

8.5.2. costs associated with the maintenance, repair or replacement of matters for which the Owner is responsible;

8.5.3. any other charge, fee, dues, expense, or cost designated as an Individual Assessment in the Governing Documents; and

8.5.4. attorneys' fees, interest, and other charges relating thereto as provided in this Declaration.

8.6 Collection of Assessments

All Assessments must be paid in a timely manner and shall be collected as follows:

8.6.1. Time is of the Essence. Time is of the essence, and all Assessments shall be paid promptly when due.

8.6.2. Delinquent Assessments. Any Assessments which are not paid when due are delinquent (Delinquent Assessments) and shall constitute a lien against the Lot affected, which lien shall attach automatically, regardless of whether an Assessment Lien is Recorded.

8.6.3. Late Assessments, Interest and Collection Costs. Any Assessments that remain unpaid for a period of more than ten (10) days shall incur a late charge of twenty-five dollars ($25.00) or ten percent (10%) of the delinquent amount, whichever is greater. Interest at the rate of one-and-one-half percent (1.5%) per month shall accrue on all delinquent amounts commencing on the due date thereof and continuing until the Delinquent Assessments plus any expenses incurred by the Association in collection of Delinquent Assessments, including reasonable attorneys' fees and costs, and accrued interest is paid in full. The Board may, in its discretion, change the amount of the late fee and/or the interest rate that accrues on Delinquent Assessments and/or waive accrued interest, but the Board is not required to do so.

8.6.4. Notice of Delinquency. The Association shall give a notice of delinquency to any Owner who has not paid his Assessments in a timely manner. However, the Association shall be entitled to assess late charges and interest as provided in this Declaration, regardless of the date on which any such notice of delinquency is given.

8.6.5. Acceleration. The Board may, at its option and in its discretion, elect to accelerate the entire amount of the annual Assessments or the remaining Assessments for the fiscal year attributed to a delinquent Owners and all accrued but unpaid interest thereon. If, however, the annual Assessments are accelerated and an Owner subsequently files bankruptcy or the Board otherwise decides acceleration is not in its best interest, the Board, at its option and in its discretion, may elect to decelerate the obligation.

8.6.6. Notice of Lien. If any Delinquent Assessment in a notice of lien evidencing the unpaid amounts, accrued interest, late charges, attorneys' fees, the cost of a foreclosure or abstractor's report, and any other additional charges permitted by law should be Recorded (Assessment Lien), then the lien provided for in this *Section* shall be for the benefit of the Association on behalf of all other Owners who have been assessed a similar Assessment by the Association. It may be executed by the Association's President, Treasurer, Manager, attorney or any other designated agent.

8.6.7. Foreclosure of Lien and/or Collection Action. If any Delinquent Assessment remain unpaid, the Association may, as determined by the Board, institute suit to collect the amounts due and/or foreclose the Assessment Lien.

8.6.8. Personal Obligation. Each Owner, by acceptance of a Deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of the Assessment as a debt or to foreclose an Assessment Lien in the same manner as mechanics liens, mortgages, Deeds of trust or encumbrances may be foreclosed.

8.6.9. No Waiver. No Owner may waive or otherwise exempt himself or herself or itself from liability for the Assessments provided for herein by the abandonment of such Owner's Lot or because of a suspension of rights as described in *Section 4.1.1*.

8.6.10. Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or to perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or Improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with

an order or directive of any governing or other governmental authority. The obligation to pay Assessments shall be a separate and independent covenant on the part of each Owner.

8.6.11. Application of Payments. All payments shall be applied first to satisfy all Delinquent Assessments, then to satisfy current Assessments, next attorney's fees and costs and lastly accrued interest.

8.6.12. Establishment of Assessment Period. The period for which the Assessment is to be levied (Assessment Period) shall be the calendar year, except that the first Assessment Period shall commence upon the Recording of this Declaration and terminate on December 31 of such year. The Board in its discretion from time to time may change the Assessment Period by Recording an instrument specifying the new Assessment Period.

8.6.13. Rules Regarding Billing and Collection Procedures. The Board shall have the right to adopt rules setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of the Assessments, provided that said procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to a Member shall not relieve any Member of his or her liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than thirty (30) days written notice prior to the commencement of such foreclosure or enforcement, at the address of the Member on the Records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after the delinquency of such payment. The Association shall be under no duty to refund any payments received by it, even though the ownership of a Membership changes during an Assessment Period. Successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners. The amount of the Assessments against Members who become such during an Assessment Period shall be prorated.

8.6.14. Declarant's Duty to Fund Deficits. Beginning on the date of the recordation hereof, and continuing until the expiration of the Period of Declarant Control, Declarant shall either (i) fund the difference, if any, between the amount of Assessments payable by Owners other than Declarant and the actual Common Area Expenses incurred by the Association for each Assessment period (the "Association Deficit"); or (ii) pay Assessments on its unsold Lots as described more fully below. In the event Declarant elects to fund the Association Deficit, the Declarant will pay outright to the Association an amount equal to the Association Deficit ("Declarant Payment"). After the expiration of the Period of Declarant Control, Declarant shall pay outright Assessments on each Lot it owns. Each Assessment payment made by Declarant and each Declarant Payment, if any are made, may be satisfied by Declarant's cash payment or may be satisfied by "in kind" contributions of services or materials, or a combination of the same. If Declarant uses "in kind" contributions, then the nature and value of such contributions must be agreed to in writing between the Declarant and the Board.

ARTICLE IX - ENFORCEMENT OF PAYMENT OF ASSESSMENTS AND ENFORCEMENT OF ASSESSMENT LIEN

9.1 Association as Enforcing Body

Except as otherwise set forth in this Declaration, the Association, as the agent and representative of the Members, shall have the exclusive right to enforce the provisions of this Declaration.

9.2 Association's Enforcement Remedies

If any Member fails to pay the Assessments when due, the Association may enforce the payment of the Assessments and/or Assessment Lien by taking one or more of the following actions, concurrently or separately (and by exercising any of the remedies hereinafter set forth, the Association does not prejudice or waive its right to exercise any other remedy):

9.2.1. Suit. Bring an action at law and recover judgment against the Member personally obligated to pay the Assessments; and/or

9.2.2. Foreclosure. Foreclose the Assessment Lien against the Lot in accordance with the then prevailing Utah law relating to the foreclosure of realty mortgages or Deeds of trust (including the right to recover any deficiency), the method recognized under Utah law for the enforcement of a mechanic's lien which has been established in accordance with *Chapter 1a, Title 38,* Utah Code Annotated, as amended from time to time, or any other means permitted by law, and the Lot may be redeemed after foreclosure sale, if provided by law.

9.2.2.1. Trustee to Facilitate Foreclosure. In order to facilitate the foreclosure of any such lien in the manner provided at law for the foreclosure of Deeds of trust, Declarant hereby designates Matthew Hutchinson, attorney at law, as Trustee, and Declarant hereby conveys and warrants pursuant to *Sections 57-1-20 and 57-8a-302* of the Utah Code to Trustee, with power of sale, the Lots and all of the Improvements to the Lots within the Project for the purpose of securing payment of all of the Assessments under the terms of this Declaration. Each Owner, by accepting a Deed to a Lot, also hereby conveys and warrants to Trustee, with power of sale, each Lot acquired by such Owner and all of the Improvements thereon for the purpose of securing payment of all of the Assessments under the terms of this Declaration and such Owner's performance of such Owner's obligations set forth herein. The Board may, at any time, designate one or more successor trustees, in the place of Trustee, in accordance with the provisions of Utah law for the substitution of trustees under Deeds of trust. Such Trustee, and any successors, shall not have any other right, title or interest in the Lot beyond those rights and interests necessary and appropriate to foreclose any liens against Lots arising pursuant hereto. In any such foreclosure, the Owner of the Lot being foreclosed shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

9.2.2.2. Notwithstanding the subordination of an Assessment Lien as described in *Section 8.3*, the delinquent Member shall remain personally liable for the Assessments and related costs after such Member's Membership is terminated by foreclosure or Deed in lieu of foreclosure or otherwise.

9.2.3. Collection of Lease Payments from Tenant. Each Owner by accepting a deed to a Lot hereby irrevocably appoints the Association as the Owner's attorney-in-fact to collect rent from any Person renting the Owner's Lot if the Owner is delinquent. Provided that the Board complies with the requirements of *Section 57-8a-310,* as amended, supplemented or replaced from time to time, the Board may require a residential tenant under a lease with an Owner to pay the Association all future lease payments due to the Owner if the Owner fails to pay an Assessment for a period of more than sixty (60) days after the Assessment is due and payable. Before requiring a tenant to pay lease payments to the Association, Declarant, the Association's Board or Manager shall give the Owner notice that shall state (i) the amount of the Assessment due, including any interest, late fee, collection cost and attorney's fees, (ii) that any costs of collection, including attorney's fees, and other Assessments that become due may be added to the total amount due and be paid through the collection of lease payments, and (iii) that the Association intends to demand payment of future lease payments from the Owner's tenant if the Owner does not pay the amount owing within fifteen (15) days.

9.2.3.1. If the Owner fails to pay the amount owing within 15 days after the notice described in *Section 9.2.3* herein, Declarant or the Association's Board or Manager may exercise the Association's rights herein by delivering a written notice to the tenant. The notice shall state that (i) because of the Owner's failure to pay Assessments within the required time, the Board has notified the Owner of the Board's intent to collect all lease payments until the amounts owing are paid; (ii) Utah law requires the tenant to make all future lease payments, beginning with the next

monthly or other periodic payments, to the Association, until the amount owing is paid; and (iii) the tenant's payment of lease payments to the Association does not constitute a default under the terms of the lease with the Owner. A copy of the notice to the tenant shall be sent to the Owner.

9.2.3.2. The tenant to whom notice under *Section 9.2.3.1* is given shall pay to the Association all future lease payments as they become due and owing to the Owner: (i) beginning with the next monthly or other periodic payment after the notice is delivered to the tenant and (ii) until the Association notifies the tenant that the amount owing is paid.

9.2.3.3. The Owner shall credit each payment that the tenant makes to the Association under this *Section* against any obligation that the tenant owes to the Owner as though the tenant made the payment to the Owner and may not initiate a suit or other action against the tenant for failure to make a lease payment that the tenant pays to an Association as required under this *Section.*

9.2.3.4. Within five (5) business days after the amount owing is paid, Declarant, the Board or Manager shall notify the tenant in writing that the tenant is no longer required to pay future lease payments to the Association. A copy of the written notice shall be sent to the Owner.

9.2.3.5. The Association shall deposit the money paid under this *Section* in a separate account and disburse the money to the Association until the amount owing is paid and any cost of administration, not to exceed twenty-five dollars ($25.00) is paid. Within five (5) days of the amounts owing being paid in full, the Association shall pay any remaining balance to the Owner.

9.2.4. Suspension of Right to Vote for Non-Payment. At the discretion of the Board, the right of an Owner to vote on issues concerning the Association may be suspended if the Owner is delinquent in the payment of any Assessments and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

9.3 Priority of Lien

The Assessment Lien provided for herein shall be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided and except as provided in *Section 17.5*, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot. The sale or transfer of any Lot shall not affect the Assessment Lien, except as provided in *Section 17.5*.

9.4 Attorneys' Fees and Costs

In any action taken pursuant to *Section 9.2*, the Member shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Assessments together with the Association's collection costs and attorneys' fees.

ARTICLE X - USE OF FUNDS; BORROWING POWER; OTHER ASSOCIATION DUTIES

10.1 Purposes for Which Association's Funds May Be Used

The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project and the Members and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of all land, properties, Improvements, facilities, services, projects, programs, studies and systems, within the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Members and the Residents. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: maintenance of landscaping on the Shared Driveway , and public right-of-way and drainage areas within the Project; insurance; communications; utilities; public services; indemnification of

officers and directors of the Association and any committees created by the Association; and compliance with any Governing Document. The Association also may expend its funds as otherwise permitted under the laws of the State of Utah.

10.2 Borrowing Power

The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate as determined by the Board without a vote of the Members.

10.3 Association's Rights in Spending Funds from Year to Year

The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Assessments, fees or otherwise), and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

ARTICLE XI - MAINTENANCE

11.1 Shared Driveway

The Association, or its duly delegated representative, shall maintain and otherwise manage all improvements to the Shared Driveway.

11.1.1. The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance of said property. In this regard the Association may, subject to any applicable provisions on Special Assessments, in the discretion of the Board:

11.1.1.1. Reconstruct, repair, replace or refinish any improvement; or

11.1.1.2. Maintain, reconstruct, repair, replace or refinish the Shared Driveway.

11.2 Maintenance and Use of Lots

Except as provided in *Section 11.1* above, each Residence, Improvement, and Lot shall be properly maintained by the Owner so as not to detract from the appearance of the Project and so as not to affect adversely the value or Use of any other Residence, Improvement, or Lot.

11.2.1. Failure to Maintain; Corrective Action Necessary. In the event any portion of any Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being Used in a manner which violates this Declaration applicable thereto, or in the event the Owner of any Lot is failing to perform any of its obligations under the Governing Documents, the Board may by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fourteen (14)-day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to:

11.2.1.1. enter the Lot and cause such action to be taken, and the cost thereof shall be added to and become a part of the Assessment (including interest at the rate of eighteen percent (18%) per annum) to which the offending Owner and the Owner's Lot is subject and shall be secured by the Assessment Lien;

11.2.1.2. Record a notice of violation;

11.2.1.3. impose a fine commensurate with the severity of the violation; and/or

11.2.1.4. bring an action at law and recover judgment of specific performance and/or damages against the Owner and including costs and attorneys' fees.

11.2.2. In any action taken pursuant to *Section 11.2.1* above, the Owner shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Association's collection costs and attorneys' fees.

ARTICLE XII - ARCHITECTURAL REVIEW COMMITTEE

12.1 The Committee

12.1.1. Composition of ARC. Declarant hereby establishes an Architectural Review Committee for Lilac Hill East (the ARC), which shall be responsible to carry out all of the other responsibilities assigned to the ARC herein and other Governing Documents. The ARC shall be composed of three (3), five (5) or seven (7) individuals or entities the Declarant determines in its sole discretion, who need not be Members of the Association. All Members of the ARC shall be appointed, removed, and replaced by Declarant in its sole discretion, until the expiration of the Period of Declarant Control, and at that time the Board shall succeed to Declarant's right to appoint, remove, or replace the Members of the ARC.

12.1.2. Term. Except for two of the initial members of the ARC appointed by Declarant (whose term shall be two (2) years), the term of office of each member of the ARC, subject to *Section 12.1.1.* hereof, shall be one (1) year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should an ARC member die, retire, resign, become incapacitated, or in the event of a temporary absence, a successor may be appointed as provided in *Section 11.1*. The Declarant may remove any member of the ARC at any time for any cause without notice.

12.1.3. Chair of the ARC. So long as Declarant appoints the ARC, Declarant shall appoint the chairman. At such time as the ARC is appointed by the Board, the chairman shall be elected annually from among the Members of the ARC by majority vote of said Members The chairman shall take charge of and conduct all meetings and shall provide for reasonable notice to each Member of the ARC prior to any meeting. The notice shall set forth the time and place of the meeting, and notice may be waived by any Member. In the absence of a chairman, the party responsible for appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, a temporary successor.

12.1.4. Voting. The affirmative vote of a majority of the Members of the ARC shall govern its actions and be the act of the ARC. A quorum shall consist of all three members regardless of the number of members.

12.1.5. Consultants. The ARC may avail itself of technical and professional advice and consultants as it deems appropriate.

12.1.6. ARC-Related Expenses; Plan/Review Fee. Except as provided below, all expenses of the ARC shall be paid by the Association. The ARC shall have the right to charge a fee as an Individual Assessment related to each application submitted to it for architectural review, in an amount which may be established by the Board from time to time upon consultation with the ARC. The review fee shall be collected by the ARC and remitted to the Association to defray the expenses of the ARC's operation. The review fee may not exceed the actual cost of reviewing and assessing the Owner's application and related plans.

12.2 Purpose of the ARC

The ARC shall review, study and either approve, reject or request additional information and materials in support of Owner's application related to the proposed Improvements to a Lot, all in

compliance with the Governing Documents specifically including the any guidelines adopted and established from time to time by the ARC which are incorporated by reference.

12.2.1. The ARC shall exercise its best judgment to see that all Improvements conform and harmonize with any existing Buildings as to external design, quality and type of construction, materials, color, location on the Lot, height, grade and finished ground elevation, and all aesthetic considerations set forth in the Governing Documents.

12.2.2. The ARC shall exercise its best judgment to see that each Owner and/or Builder undertakes its development of a Lot, including but not limited to, the Private Roads, public roads, and major infrastructure, in compliance with the Governing Documents.

12.2.3. Except for Improvements made by Declarant, no Improvement on a Lot shall be erected, placed or altered on any Lot nor shall any construction be commenced until plans for such Improvements have been approved by the ARC.

12.2.4. The actions of the ARC in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties subject to the Owner's right to appeal the procedure of which is described in the Bylaws.

12.3 Limitation of Liability

The ARC shall use reasonable judgment in approving or disapproving all plans and specifications submitted to it. Neither the ARC, nor any individual ARC Member, shall be liable to any Person for any official act of the ARC in connection with submitted plans and specifications, except to the extent the ARC or any individual ARC Member acted with gross negligence or was guilty of willful misconduct. Approval by the ARC does not necessarily assure approval by the appropriate Governing Authority. Notwithstanding that the ARC has approved plans and specifications, neither the ARC nor any of its Members shall be responsible or liable to any Owner, developer, or contract holder with respect to any loss, liability, claim, or expense which may arise by reason of such approval of the construction of any Improvements. Neither the Board, the ARC, or any agent thereof, nor Declarant or any of its shareholders, employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Governing Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the ARC shall be defended and indemnified by the Board in any such suit or proceeding which may arise by reason of the ARC's decision. The Board, however, shall not be obligated to indemnify each Member of the ARC to the extent any such Member of the ARC shall be adjudged to be liable for gross negligence or willful misconduct in the performance of his duty as a Member of the ARC, unless and then only to the extent that the Court in which such action or suit may be brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such Person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

12.4 Intentionally omitted.

ARTICLE XIII – RIGHTS AND POWERS OF ASSOCIATION

13.1 Association's Rights and Powers as set Forth in Articles and Bylaws

In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws, in the other Governing Documents and in the Utah Revised Nonprofit Corporation Act, Utah Code *Ann. § 16-6a-101*, et seq. Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural Person could do or which now or hereafter may be authorized by law, provided such Articles and Bylaws are not inconsistent with the provisions of this Declaration and the other Governing Documents and are necessary, desirable or convenient for

effectuating the purposes set forth in this Declaration. After incorporation of the Association, a copy of the Articles and Bylaws of the Association shall be available for inspection at the office of the Association during reasonable business hours by prior appointment.

13.2 Association's Rights of Enforcement

The Association, as the agent and representative of the Owners and Members, shall have the right to enforce, by any proceeding at law or in equity, the Covenants set forth in this Declaration and/or any and all Covenants, restrictions, reservations, charges, servitudes, Assessments, conditions, liens or easements provided for in any contract, Deed, Declaration or other instrument which (i) shall have been executed pursuant to, or subject to, the provisions of this Declaration, or (ii) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant. In the event suit is brought or arbitration is instituted or an attorney is retained by the Association to enforce the terms of this Declaration or any other Governing Document and the Association prevails, the Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith, including but not limited to the Association's administrative costs and fees. Said attorneys' fees, costs and expenses shall be the personal liability of the breaching Owner and shall also be secured by the Assessment Lien against said Owner's Lot. If the Association should fail to act within a reasonable time, any Owner shall have the right to enforce the Covenants set forth in this Declaration.

13.3 Contracts with Others for Performance of Association's Duties

Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including the Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more Board Members or officers of the Association or Members of any committee are employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall be disclosed or known to the other Board Members acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such Board Member, officer or committee Member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he or she is a Member which shall authorize any contract or transaction described above or grant or deny any approval sought by the Declarant, its affiliated companies or any competitor thereof and may vote to authorize any such contract, transaction or approval with like force and effect as if he or she were not so interested

13.4 Declarant-Related Disputes; Pre-Litigation Requirements

13.4.1. Disclaimer. Every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, any inspection on any Lot that the Owner is purchasing from Declarant or any aspect of the Project, all prior to purchasing a Lot. Moreover, if any warranty has been provided, it identifies the only items that are warranted by Declarant. Having had the ability to inspect a Lot prior to purchasing a Lot, having received a written warranty (if any warranty is provided), and having paid market price for a Lot in the condition the Lot, the Project, are in at the time of purchase, Owner acknowledges and agrees that it would be inequitable later to seek to have Declarant and/or its respective contractors and subcontractors performing work in the Project to change, upgrade, or perform any additional work to the Project outside of any express warranty obligation. Moreover, the Owners and the Association acknowledge and agree that litigation is an undesirable method of resolving Disputes (as defined below) because litigation can be slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for the purchase of Lots for years, unfairly prejudicing those Owners who must or want to sell their Lots during any period when litigation is pending. For this reason, the Owners (by purchasing a Lot) and the Association acknowledge and agree that before any Dispute is pursued through litigation, the "Pre-Litigation Requirements" set forth below shall be satisfied. In addition, the Association and each Owner (by purchasing a Lot) acknowledge and agree that each Owner takes ownership and possession of the Lot, and AS IS, WHERE IS, with no warranties of any kind (except as set forth in a written warranty, this

Declaration or as otherwise required as a matter of law). To the fullest extent permitted by applicable law, Declarant specifically disclaims any warranties of merchantability, fitness for a particular Use, or of habitability.

13.4.2. Notice of Claim and Opportunity to Cure. All claims and disputes of any kind that any Owner or the Association may have involving the Declarant or any its agents, employees, executing officers, Managers, affiliates or owners, or any engineer or contractor involved in the design or construction of the Project, which arises from or is in any way related to a Lot or any other component of the Project (a "Dispute"), shall first be identified in a written notice of claim that sets forth with specificity the facts and the legal basis upon which the claim or dispute is asserted (a "Notice of Claim"), which Notice of Claim shall be delivered to Declarant, and Declarant shall have one hundred and fifty (150) days to cure or resolve the claim or defect or to try to get the builder or the appropriate subcontractor to cure or resolve the claim or defect, prior to the initiating of any formal court action. If the Dispute is not resolved within the one hundred and fifty (150)-day right to cure period, then with respect to any claims, actions or Disputes that the Association (but not an individual Owner) desires to pursue, the "Pre-Litigation Requirements" set forth below must be satisfied in full before initiating formal court action. If additional, different or modified claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against Declarant that were not included in any previously submitted Notice of Claim, the right to cure period provided for in this *Section* shall immediately apply again, and any pending action or proceedings shall be stayed during the one hundred and fifty (150)-day period.

13.4.3. Pre-Litigation Requirements. Notwithstanding any other provision to the contrary in this Declaration, the Association shall not file, commence or maintain any lawsuits, actions or legal proceedings against Declarant, the individual Managers, owners, Members or officers of Declarant, Declarant's contractors, engineers or architects, or any other Person or entity involved in the design or construction of the Residences unless and until the Notice of Claim requirements set forth above have been satisfied, and all of the following Pre-Litigation Requirements have been satisfied:

13.4.3.1. The Association has obtained a legal opinion from an attorney licensed to practice law in Utah having at least ten years of experience, with the legal opinion providing in substance the following: (a) a description of the factual allegations and legal claims to be asserted in the action; (b) an analysis of the facts and legal claims explaining why it would be in the best interests of the Association to file and pursue such action, taking into account the anticipated costs and expenses of litigation, the likelihood of success on the merits of the claims, and the likelihood of recovery if a favorable judgment is obtained by the Association; and (c) providing a Budget of the estimated amounts of legal fees, costs, expert witness fees and other expenses likely to be incurred in connection with such action (the "Litigation Budget");

13.4.3.2. A copy of the opinion letter described above has been provided to all Owners, and, after the Owners have had a reasonable period of time to review the opinion letter, the decision for the Association to file the subject action has been approved by the Owners (excluding Declarant) who collectively hold at least sixty-seven percent (67%) of the voting rights of all of the Owners within the Project; and

13.4.3.3. The Association has collected funds from the Owners, by Special Assessment or otherwise, equal to at least fifty percent (50%) of the Litigation Budget as set forth in the opinion letter obtained as described above.

13.4.3.4. If any claims or actions of the Association are filed without satisfying all of the requirements of *Section 13.4.3* listed above, such claims/action shall be dismissed without prejudice and shall not be re-filed unless and until all such requirements have been satisfied. In any action to enforce the requirements of this *Section 13.4*, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

13.4.3.5. The purposes of these requirements include, but are not limited to, the following: (a) to minimize the risks to the Association of pursuing litigation involving claims that lack merit; (b) to minimize the risks of becoming involved in litigation that is unlikely to be successful or, even if successful, will not result in meaningful recovery sufficient to justify the costs and expenses of litigation; and (c) to avoid becoming involved in litigation without sufficient support from the Members financially and otherwise.

For purposes of clarity, this *Section 13.4* and the requirements set forth herein shall not apply to any actions or legal proceedings (a) filed by the Association to recover payment of any Assessments or other amounts required to be paid by Owners to the Association under this Declaration, or (b) filed by individual Owners relating solely to their own Lot. Individual Owners, however, shall not be allowed to file or pursue any actions or claims on behalf of other Owners or for the Association.

ARTICLE XIV – INSURANCE AND FIDELITY BONDS

14.1 Hazard Insurance

The Association shall at all times maintain in force insurance satisfying the insurance requirements set forth in *Sections 57-8a-401* through *57-8a-407* of the Utah Code, as such *Sections* may be amended, supplemented or replaced from time to time, which may include the following coverages: all insurable Improvements, if any, on the Shared Driveway, or owned by the Association; but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity insurance coverage. If blanket all-risk insurance is not reasonably available, then at a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to projects similar to the Project in construction, location, and Use, including (without limitation) all perils normally covered by the standard "all risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Shared Driveway, exclusive of land, foundations, excavation, and other items normally excluded from coverage. The insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a guaranteed replacement cost endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an agreed amount endorsement (which waives the requirement for co-insurance); or (2) a replacement cost endorsement (under which the insurer agrees to pay up to one-hundred percent of the property's insurable replacement cost but no more) and, if the policy includes a coinsurance clause, an agreed amount endorsement (which waives the requirement for coinsurance). The maximum deductible amount for such policy shall be determined by the Board.

14.1.1. The Association shall have no obligation to provide any insurance for any structure or Building located on Lot within the Project.

14.2 Policy Requirements

The name of the insured under each policy required to be maintained by the foregoing *Section 14.1* shall be the Association for the use and benefit of the individual Owners. Notwithstanding the requirement of the immediately foregoing sentence, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee (as hereinafter defined) with whom the Association has entered into an agreement (referred to herein as an Insurance Trust Agreement), or any successor to such Insurance Trustee, for the Use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner's First Mortgagee. Each Owner and each such Owner's First Mortgagee, if any, shall be beneficiaries of such policy. Evidence of insurance shall be issued to each Owner and First Mortgagee upon request.

14.2.1. Each policy required to be maintained by the foregoing *Section 14.1* shall contain the standard Mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional Mortgage investors in the area in which the Project is located.

14.2.2. Each policy required to be maintained by the foregoing *Section 14.1* shall provide, if available, for the following: recognition of any Insurance Trust Agreement; a waiver of the right of subrogation against Owners individually; a provision that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively, and a provision that the policy is primary in the event the Owner has other insurance covering the same loss.

14.3 Fidelity Bonds or Insurance

The Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds or insurance, including but not limited to, directors' and officers' insurance for the benefit of all Members of the Board, officers and Members of committees and subcommittees appointed by the Board or otherwise established pursuant to the provisions of this Declaration, for all officers, agents, and employees of the Association and for all other Persons handling or responsible for funds of or administered by the Association. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to a Manager, the Manager shall provide "blanket" fidelity bonds or insurance, with coverage identical to such bonds required of the Association, for the Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity coverage required shall be based upon the Association's best business judgment and shall not be less than the estimated maximum of funds, including Reserve Funds, in the custody of the Association, or the Manager, as the case may be, at any given time during the term of coverage.

14.4 Liability Insurance

The Association shall maintain in force and pay the premium for a policy providing commercial general liability insurance coverage covering all of the Shared Driveway and public ways in the Project, if any, all other areas of the Project that are under the Association's supervision. The coverage limits under such policy shall be in amounts generally required by private institutional Mortgage investors for projects similar to the Project in construction, location, and Use. Nevertheless, such coverage shall be for at least two million dollars ($2,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of Persons in connection with the operation, maintenance, or use of the Shared Driveway, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policy shall provide that it may not be cancelled or substantially modified by any party without at least thirty (30) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

14.5 Annual Review of Policies and Coverage

All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Shared Driveway, and Improvements thereon which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration and the requirements of any applicable laws. In the event any of the insurance coverage provided for in this *Article XIV* is not available at a reasonable cost or is not reasonably necessary to provide the Association with adequate insurance protection, as determined by the Board, the Board shall have the right to obtain different insurance coverage or insurance coverage which does not meet all of the requirements of this *Article XIV* so long as, at all times, the Board maintains insurance coverage on a basis which is consistent with the types and amounts of insurance coverage obtained for projects similar to the Project.

ARTICLE XV - DAMAGE OR DESTRUCTION

15.1 Association as Attorney in Fact

Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with personal property owned by the Association on behalf of the Owners upon damage or destruction as provided in this *Article* or a complete or partial taking as provided in *Article XVI* below. Acceptance by any grantee of a Deed or other instrument of conveyance from the Declarant or from any Owner shall constitute, appointment of the attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, assignment, Deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact. All proceeds from the insurance required hereunder shall be payable to the Association except as otherwise provided in this Declaration.

15.2 Estimate of Damages or Destruction

As soon as practical after an event causing damage to or destruction of any part of the personal property owned by the Association, the Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part thereof so damaged or destroyed. "Repair and reconstruction" as Used in this *Article XV* shall mean restoring the damaged or destroyed Improvements to substantially the same condition in which they existed prior to the damage or destruction.

15.3 Repair and Reconstruction

As soon as practical after obtaining estimates, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Improvements. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

15.4 Funds for Repair and Reconstruction

The proceeds received by the Association from any hazard insurance shall be used for the purpose of repair, replacement, and reconstruction of such affected personal property. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to *Section 8.4*, levy, assess, and collect in advance from all Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

15.5 Disbursement of Funds for Repair and Reconstruction

The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for in *Section 15.4* above constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be retained by the Association to pay for future Common Area Expenses.

15.6 Notice to First Mortgagees

The Association shall give timely written notice to any holder of any First Mortgage on a Lot who requests such notice in writing in the event of substantial damage to or destruction of a material part of the personal property owned by the Association.

ARTICLE XVI - CONDEMNATION

16.1 Rights of Owners

Whenever all or any part of the Project shall be taken or conveyed in lieu of and under threat of condemnation, each Owner shall be entitled to notice of the taking, but the Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

ARTICLE XVII - MORTGAGEE REQUIREMENTS

17.1 Notice of Action

Upon written request made to the Association by a Mortgagee, or an insurer or governmental guarantor of a Mortgage, which written request shall identify the name and address of such Mortgagee, insurer or governmental guarantor and the Lot number or the address of the Residence, any such Mortgagee, insurer or governmental guarantor shall be entitled to timely written notice of:

17.1.1. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a Mortgage held, insured or guaranteed by such Mortgagee, insurer or governmental guarantor;

17.1.2. Any delinquency in the payment of Assessments owed by an Owner, whose Lot is subject to a Mortgage held, insured or guaranteed by such Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days;

17.1.3. Any lapse, cancellation or material modification of any insurance policy or fidelity bond or insurance maintained by the Association; and

17.1.4. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in *Section 17.2* below or elsewhere herein.

17.2 Matters Requiring Prior Eligible Mortgagee Approval

Except as provided elsewhere in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the votes of the Members in the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Association is required, in which case such specific provisions shall control) and of Eligible Mortgagees holding Mortgages on Lots having at least fifty-one percent (51%) of the votes of the Lots subject to Mortgages held by Eligible Mortgagees shall be required to:

17.2.1. Dissolve the Association after substantial destruction or condemnation occurs. Dissolution of the Association for any other reason shall require the affirmative vote or authorization of Eligible Mortgagees holding Mortgages on Lots having at least sixty-seven percent (67%) of the votes of the Members in the Association owning Lots subject to Mortgages held by Eligible Mortgagees.

17.2.2. Amend any material provision of this Declaration, the Articles, Bylaws or Plat after the expiration of the Period of Declarant Control and the Declarant no longer owns any portion of the Project. "Material Provisions" shall mean any provision substantially altering the following (an amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors for clarification only):

17.2.2.1. Increases in Assessments that raise the previous annual Assessment amount by more than thirty percent (30%);

17.2.2.2. Redefinition of any Lot boundaries encumbered by a Mortgage held by an Eligible Mortgage (except as otherwise permitted by this Declaration);

17.2.2.3. A decision by the Association to establish self-management if professional management had been required previously by this Declaration;

17.2.2.4. Restoration or repair of the Project (after damage or partial condemnation) in a matter other than that specified in this Declaration; or

17.2.2.5. Any provisions that expressly benefit Mortgagees, insurers or guarantors.

17.3 Mortgagee Approval

Any Mortgagee, insurer or governmental guarantor who receives a written request from the Association to approve additions or amendments to the Governing Documents and who fails to deliver or post to the Association a negative response within sixty (60) days shall be deemed to have approved such request, provided the written request was delivered by certified, with a "return receipt" requested.

17.4 Availability of Documents and Financial Statements

The Association shall maintain and have current copies of the Governing Documents and other rules concerning the Project as well as its own books, Records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of Mortgages that are secured by Lots. Generally, these documents shall be available during normal business hours by prior appointment.

17.5 Subordination of Lien

The lien or claim against a Lot for unpaid Assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Lot, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Lot shall take the same free of such lien or claim for unpaid Assessments or charges, but only to the extent of Assessments which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a Deed or assignment in lieu of foreclosure. No Assessment, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, the purchaser at the Mortgage foreclosure or Deed of trust sale, or any grantee taking by Deed in lieu of foreclosure, of the Lot affected or previously affected by the First Mortgage concerned.

17.6 Payment of Taxes, Charges or Premiums

In the event any taxes or other charges which may or have become a lien on the Project are not timely paid, or in the event the required hazard insurance described in *Section 14.1* lapses, is not maintained, or the premiums therefor are not paid when due, any First Mortgagee or any combination of First Mortgagees may jointly or singly, pay such taxes or premiums or obtain such insurance. Any First Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

17.7 Priority

No provision of this Declaration or the other Governing Documents gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Lots.

17.8 Mortgagee Notice Information.

Upon request, the Association may request from an Owner and an Owner has the obligation to furnish the name and address of a holder of any mortgage encumbering such Owner's Lot for purposes of providing notice under this *Section*.

ARTICLE XVIII – TERM; AMENDMENTS; TERMINATION

18.1 Term; Method of Termination

This Declaration shall be effective upon the date of the Recording hereof and, as amended from time to time, shall continue in full force and effect for a term of fifty (50) years from the date this Declaration is Recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Members casting sixty-seven percent (67%) of the total votes of all of the Members cast at an election held for such purpose (or otherwise approved for such purpose in writing) within six months prior to the expiration of the initial effective period hereof or any ten-year extension. This Declaration may be terminated at any time, if Members casting at least sixty-seven percent (67%) of the Members eligible to vote shall be cast in favor of termination at an election held for such purpose. Anything in the foregoing to the contrary notwithstanding, no vote to terminate this Declaration shall be effective unless and until written consent to such termination has been obtained, within a period from six (6) months prior to such vote to six (6) months after such vote, from Eligible Mortgagees of fifty-one percent (51%) of the Lots upon which there are such Eligible Mortgages. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a "Certificate of Termination," duly signed by the President or Vice President attested by the Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

18.2 Amendments

18.2.1. Amendment by Owners. Except as provided elsewhere in this Declaration, the affirmative vote of at least a Majority of the Owners eligible to vote shall be required and shall be sufficient to amend this Declaration. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Association. In such instrument, the Association shall certify that the vote required by this *Section* for amendment has occurred, and, if approval of a specified percentage of Eligible Mortgagees is required for such amendment, that such approval has been obtained.

18.2.2. Amendment by Declarant. Until the expiration of the Period of Declarant Control, Declarant may unilaterally amend this Declaration or the Plat for any purpose that Declarant deems to be in the best interest of the Project. Any such amendment hereunder shall be effected by the Recording by Declarant of a Certificate of Amendment duly signed by the Declarant.

18.3 Declarant's Control

It is the desire and intent of Declarant to retain control of the Association and its activities throughout the Period of Declarant Control. If any amendment requested pursuant to the provisions of this *Article XVIII* deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control.

ARTICLE - XIX DECLARANT'S RIGHTS

19.1 Declarant's Rights; Duration of Rights

19.1.1. Declarant Rights. The purpose of this *Article XIX* is to set forth certain Declarant rights, and to refer, for ease of reference, to certain other Declarant rights set forth in this Declaration. The purpose

of this *Article XIX* shall in no way be a limitation of any rights of Declarant otherwise set forth in this Declaration.

19.1.2. Duration of Rights. The rights of Declarant set forth in this Declaration that refer to this *Article XIX* shall extend for a period of time ending when Declarant no longer owns any portion of the Project or such earlier date as determined by Declarant, in its sole and absolute discretion ("Declarant's Rights Period").

19.1.3. Scope. The rights and privileges of Declarant, its successors, designees and assigns, as herein set forth or referred to above are in addition to and in no way limit any other rights or privileges of Declarant, its successors, designees and assigns, under any of the Governing Documents. The provisions above, like other provisions of this Declaration, grant or reserve rights to and for Declarant that may not be suspended, superseded or modified in any manner unless same is consented to in writing by Declarant, and such rights may be assigned in writing by Declarant in whole or in part as Declarant deems appropriate. As used in this Declaration, the words "its successors or assigns" specifically do not include purchasers of Lots unless specifically designated as such in a Supplemental Declaration.

19.2 Rights During Period of Declarant Control

19.2.1. Period of Declarant Control. The "Period of Declarant Control" under this Declaration shall commence upon the Recording of this Declaration and shall terminate upon the happening of an Event described in *Section 7.3.2* above. During the Period of Declarant Control, Declarant, as holder of the right to vote the Memberships owned by Declarant, shall have the sole right to appoint all of the Directors as provided in this Declaration.

19.2.2. Right to Amend to Preserve Control. *See* Section 18.3.

19.2.3. Right to Delegate. Declarant shall have the right to delegate certain of its rights and responsibilities under this Declaration (including, but not limited to, management of the Association) to the Owners without terminating the Period of Declarant of Control. If and when Declarant elects to delegate rights and responsibilities to the Owners, Declarant shall send written notice of such delegation to the Board. Notwithstanding anything herein to the contrary, the termination of the Period of Declarant Control shall only occur upon the happening of an Event described in *Section 7.3.2*.

19.3 Transfer of Declarant's Rights

Any or all of the special rights and obligations of the Declarant may be assigned and transferred to other Persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective, unless it is in a written instrument signed by the Declarant and duly Recorded. Without limiting the generality of the foregoing, Declarant may by such Recorded instrument establish that Declarant and such Person or Persons be Co-Declarants under this Declaration, in which event such Persons shall be deemed collectively the Declarant for all purposes under this Declaration, and any ownership of portions of the Project by any such Persons shall be considered owned by Declarant. So long as Declarant continues to have rights under this *Article XIX*, no Person or entity shall Record any declaration of Covenants, conditions and restrictions, or similar instrument affecting any portion of the Project without Declarant's review and written consent thereto, and any attempted Recording without compliance herewith shall result in such declaration of Covenants, conditions and restrictions or similar instrument being void and of no force and effect, unless subsequently approved by a Recorded consent signed by Declarant.

19.4 Declarant's Rights in the Association

Until Declarant no longer owns any portion of the Project, the Association shall have no authority to, and shall not, without the written consent of Declarant, which may be withheld for any or no reason whatsoever, undertake any action which shall:

19.4.1. prohibit or restrict in any manner the sales and marketing program of Declarant or the leasing activities of Declarant;

19.4.2. decrease the level of maintenance services provided by the Association;

19.4.3. diminish the powers of the ARC as stated herein;

19.4.4. terminate or waive any rights of the Association under this Declaration;

19.4.5. alter or amend this Declaration, the Articles of Incorporation or the Bylaws;

19.4.6. convey, lease, Mortgage, alienate or pledge any easements in the Project;

19.4.7. accept the conveyance, lease, Mortgage, alienation or pledge of any real or personal property to the Association;

19.4.8. terminate or cancel any easements granted hereunder or by the Association;

19.4.9. terminate or impair in any fashion any easements, powers or rights of Declarant hereunder;

19.4.10. restrict Declarant's rights of Use, access and enjoyment of any of the Project; or

19.4.11. cause the Association to breach or default on any obligation of it under any contract or this Declaration.

In any such matter, Declarant's consent may be exercised by its representative on the Board or other Person designated to so act by Declarant.

19.5 Right of Declarant to Disapprove Actions

19.5.1. From the expiration of the Period of Declarant Control and until the Declarant no longer owns any portion of the Project, Declarant shall have a right to disapprove actions of the Board and any committees, as is more fully provided in this *Section*. This right shall be exercisable only by Declarant, its successors, and assigns who specifically take this power in a Recorded instrument, or who become a successor Declarant pursuant to a Recorded assignment or court order. No action authorized by the Board of Directors or any committee shall become effective, nor shall any action, policy or program be implemented until ten (10) days following Declarant's receipt of notice of the action taken at the meeting held pursuant to the terms and provisions hereof. At any time prior to the expiration of such ten (10) day period, Declarant may exercise its right to disapprove actions of the Board and any committees and the Association shall not take any action or implement any policy, program or rule or regulation previously approved by the Association that Declarant has disapproved.

19.5.2. This right to disapprove shall not extend to the requiring of any action or counteraction on behalf of any committee or the Board or the Association. Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and Regulations.

19.6 Recognition by Owners of Declarant's Rights to Develop and Construct Improvements on the Project

Each Owner on his, her or its own behalf and on behalf of such Owner's heirs, personal representatives, successors, Mortgagees, lienors and assigns acknowledges and agrees that the completion of the development of the Community may occur over an extended period of time and that incident to such

development and the construction associated therewith, the quiet Use and enjoyment of the Project and each portion thereof may be temporarily interfered with by the development and construction work occurring on those portions of the Project owned by Declarant or its successors and assigns. Each Owner, on behalf of such Owner's heirs, personal representatives, successors, Mortgagees, lienors and assigns does hereby waive all claims for interference with such quiet enjoyment and Use as a result of the development and construction of any portion of the Project. Each Owner on behalf of such Owner's heirs, personal representatives, successors, Mortgagees, lienors and assigns agrees that the development, construction and completion of the Project may interfere with such Owner's original and existing views, light and air and diminish the same and each such Owner on such Owner's behalf and on behalf of such Owner's heirs, personal representatives, successors, Mortgagees, lienors and assigns does hereby release Declarant and its successors in interest and others involved from all claims that they may have in connection therewith.

19.7 Declarants Rights in Connection with Development

Declarant has conducted site development and constructed Buildings and Improvements related thereto. The completion of that work and the sale, resale, rental and other disposal of Lots is essential to the establishment and welfare of the Community. In order that said work may be completed and the Community established as a fully occupied Community as rapidly as possible, no Owner or the Association shall do anything to interfere with Declarant's activities. Without limiting the generality of the foregoing, nothing in this Declaration or the Governing Documents or any amendment thereto shall be understood or construed to prevent Declarant, its successors or assigns, or its or their contractors or subcontractors and their representatives from:

19.7.2. erecting, constructing and maintaining on any property owned or controlled by Declarant, or its successors or assigns or its or their contractors or subcontractors, such Buildings as may be reasonably necessary for the conduct of its or their business of completing said work and establishing Lilac Hill East as a Community and disposing of the same by sale, lease or otherwise; or

19.7.3. conducting on any property owned or controlled by Declarant or its successors or assigns, its or their business of developing, subdividing, grading and constructing Improvements on such property and of disposing of Lots therein by sale, resale, lease or otherwise, including, but not limited to, placing signs and directional posts of any kind, shape or size, on any portion of the Project in Declarant's sole discretion.

19.7.4. Declarant hereby retains an easement over, under and through the Project, including without limitation each and every Lot, for development of the Community and to accomplish the purposes set forth herein, provided no such easement shall materially interfere with the Use of a Lot by the Owner of such Lot. Declarant expressly reserves the right to grant easements and rights-of-way over, under and through the Project, so long as Declarant owns any portion of the Project primarily for development and/or resale.

19.7.5. Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant or its duly authorized agents, of Buildings, Improvements or signs necessary or convenient to the development or sale of the Project.

19.8 Future Easements and Modifications

Declarant reserves the right to grant, modify or enter into easements, dedications, agreements, licenses, restrictions, reservations, Covenants and rights of way, to modify the boundary lines and to Plat or Re-Plat portions of the Project, for development of the Community. The Association and each Owner and Mortgagee of a portion of the Project agree to execute and deliver any and all agreements, documents, Plats and instruments that are necessary or desirable to accomplish the same.

19.9 Construction and Marketing

19.9.1. In recognition of the fact that Declarant will have a continuing and substantial interest in the development and administration of the Project, Declarant hereby reserves for itself, its successors, designees and assigns, the right to grant easements over, under and through the Project and use all other portions of the property owned by Declarant or the Association in conjunction with and as part of its program of selling, leasing, constructing, marketing and developing any property owned or controlled by Declarant or its successors, designees or assignees including, but not limited to, the right to enter and transact business, maintain management offices, maintain models and sales, resales and rental offices, place signs, employ sales and rental personnel, carry on construction, store construction materials and construct and assemble construction components, show Lots owned by Declarant, and Use any portion of the Project, Lots, and other Improvements owned by Declarant or the Association for purposes set forth above without any cost to Declarant and its successors, designees and assigns for such rights and privileges.

19.9.2 Construction, Sales and Management Offices. In addition, Declarant, its successors, designees and assigns, shall have the right to construct, maintain and use sales, resales, rental, management and construction offices within the Community. Any models, sales areas, sales, resales or rental centers, management offices, parking areas, construction offices, signs and any other designated areas or other property pertaining to the sale, construction and marketing efforts of Declarant shall remain the property of Declarant or its designees, as the case may be.

19.9.3 Declarant shall have the right to construct, maintain and repair Buildings and landscaping and other Improvements to be located on any portion of the Project owned by Declarant or the Association as Declarant deems necessary or appropriate for the development of any portion of the Project. Declarant's Use of any portion of the Project as provided in this *Section* shall not be a violation of the Association Documents. Notwithstanding anything to the contrary herein, the right of Declarant to maintain a resale office on any portion of the Project owned by Declarant or the Association in connection therewith shall be for a term coterminous with the term of the Declaration and shall not terminate at the expiration of the time described in *Section 18.1* above.

19.11 Sales Material

So long as Declarant continues to have rights under this *Article XIX*, all sales, promotional, and advertising materials, and all forms for Deeds, contracts for sale, and other closing documents for the Platting, development and sale of property in the Project by any Builder shall be subject to the prior approval of Declarant, which approval may be withheld at Declarant's sole and exclusive discretion. Declarant shall deliver notice to any Builder of Declarant's approval or disapproval of all such materials and documents within thirty (30) days of receipt of such materials and documents and, if disapproved, the specific changes requested. If Declarant fails to so notify any Builder within such thirty (30)-day period, Declarant shall be deemed to have disapproved such materials and documents. Upon disapproval, the foregoing procedure shall be repeated until approval is obtained or deemed to be obtained.

19.12 Modifications

Declarant reserves for itself and its assigns the right to vary the timing, mix, type, Use, style, and numbers of Lots within any portion of the Project. Notwithstanding any other provision of this Declaration to the contrary, Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to its development plan with respect to any property owned by Declarant in any way which Declarant desires including, but not limited to, changing the density of all or any portion of the property owned by Declarant or changing the nature or extent of the Uses to which such property may be devoted.

19.13 Assignment of Rights

Declarant reserves the right, in its sole and absolute discretion, to assign all or part of its rights under this Declaration.

19.14 Amendment

This *Article XIX* may not be amended without the express written consent of Declarant.

ARTICLE XX - MISCELLANEOUS

20.1 Interpretation of the Covenants

Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the Covenants and provisions hereof.

20.2 Severability

Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

20.3 Change of Circumstances

Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

20.4 Declarant's Disclaimer of Representations

Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a Plat or other Recorded instrument, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) Use, or if that land is once Used for a particular use, such Use will continue in effect. Not as a limitation of the generality of the foregoing, the Declarant expressly reserves the right at any time and from time to time to amend the Governing Documents.

20.5 References to the Covenants in Deeds

Deeds or any instruments affecting any Lot or any part of the Project may contain the Covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee-Owner of all Lots within the Project and upon all other Persons claiming an interest in any Lot through any instrument and upon such Persons' executors, administrators, successors and assigns.

20.6 List of Owners and Eligible Members

The Board shall maintain up-to-date Records showing: (1) the name of each Person who is an Owner, the Lot number and street address of the Lot which is owned by the Owner, an alternate preferred address of such Person, if any has been registered with the Association, and the number of votes the Owner is entitled to cast; and (2) the name of each Person who is an Eligible Mortgagee, and the address of such

Person and the Lot which is encumbered by the Mortgage held by such Eligible Mortgagee. In the event of any transfer of a fee or undivided fee interest in a Lot, the transferee shall furnish the Board with evidence establishing that the transfer has occurred in the form of a Deed or other instrument accomplishing the transfer which has been Recorded. The Board may for all purposes act and rely on the information concerning Owners and Lot ownership which is acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Lot obtained from the Office of the County Recorder of Summit County, Utah. The address of an Owner shall be deemed to be the address of the Lot owned by such Person, unless the Board is otherwise advised. The list of Owners shall be made available by the Board to any Owner for purposes deemed appropriate by the Board upon such Owner's written request and upon such Owner's payment of any copying charges and such Owner's execution of a privacy and nondisclosure statement prepared by the Board. In order for the Board to determine whether an Owner's written request for a list of the Owners or for other documents and Records maintained by the Board will be granted, the Owner's written request must be specific as to the types of Records being requested, and the Owner shall identify in the written request the purpose for which the Records are being requested. The Board shall then determine whether the purpose is proper and whether the Owner's request is made in good faith. The Board shall also determine whether the Records requested by the Owner are directly connected to the purpose deemed proper by the Board. In all cases, the Board shall comply with the requirements of Utah Code *Ann. § 57-8a-227* or any successor statutes, in responding to an Owner's request to examine or copy any of the Records of the Association.

20.7 General Obligations

Each Owner shall enjoy and be subject to all rights and duties assigned to Owners pursuant to this Declaration. With respect to unsold Lots, the Declarant shall enjoy the same rights and assumes the same duties with respect to each unsold Lot, unless otherwise expressly provided herein.

20.8 Rights of Action

Subject to the provisions of this Declaration, the Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of this Declaration or the decisions of the Association.

20.9 Successors and Assigns of Declarant

Any reference in this Declaration to Declarant shall include any successors or assigns of Declarant's rights and powers hereunder.

20.10 Gender and Number

Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

20.11 Captions and Titles

All captions, titles or headings of the *Articles* and *Sections* in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

20.12 Notices

Any notice permitted or required to be delivered as provided herein shall be delivered consistent with the processes described in the Bylaws.

20.13 Number of Days

In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays, and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday, or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday, or legal holiday.

20.14 Use of Lilac Hill East Term

No Person shall use the term "Lilac Hill East" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Owners may use the term "Lilac Hill East" in printed or promotional materials where such term is used solely to specify that a particular Lot is located within the Project.

20.15 Power of Attorney

Each Owner hereby unconditionally and irrevocably appoints the Association and the Declarant as its true and lawful attorney-in-fact, coupled with an interest, to execute any and all documents and take any and all actions necessary or desirable to fulfill the purposes and intentions of this Declaration.

[Signatures to follow on next page]

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day first above written.

LILAC HILL EAST DEVELOPMENT, INC, a Delaware corporation

By: Matthew B. Hutchinson
Its: Authorized Signatory

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged to me this 18th day of July, 2023, by Matthew B. Hutchinson, the authorized signatory for LILAC HILL EAST DEVELOPMENT INC., a Delaware corporation.

TASSIE WILLIAMS
Notary Public, State of Utah
Commission # 712003
My Commission Expires
May 19, 2024

NOTARY PUBLIC
Residing at: Summit County, Ut
My commission expires:
5-19-2024

EXHIBIT A

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR LILAC HILL EAST

LEGAL DESCRIPTION OF THE PROPERTY

Lots 1-5, Lilac Hill East Subdivision, according to the official plat thereof on file in the Summit County Recorder's Office.

Parcel Nos.: LHES-1
LHES-2
LHES-3
LHES-4
LHES-5

EXHIBIT B

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR LILAC HILL EAST

ARTICLE OF INCORPORATION

OF

LILAC HILL EAST OWNERS ASSOCIATION, INC.,

A Utah non-profit corporation

EXHIBIT C
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR LILAC HILL EAST

BYLAWS OF
LILAC HILL EAST OWNERS ASSOCIATION, INC.

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BYLAWS OF

LILAC HILL EAST OWNERS ASSOCIATION, INC.

BYLAWS OF

LILAC HILL EAST OWNERS ASSOCIATION, INC.

ARTICLE 1 – NAME, OFFICE, DEFINITIONS

1.01 Name

Lilac Hill East Owners Association, Inc. (the "Association") is a Utah nonprofit corporation.

1.02 Principal Office.

The Association's principal office shall be initially located at 1225 Deer Valley Drive, Suite 201, Park City, Utah 84060. The Association may change its principal office to the office of any professional management company retained by the Association to perform some of the duties of the Association arising under the Declaration.

1.03 Definitions.

The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms herein shall have the same meaning as set forth in Article I of the Declaration of Covenants, Conditions, Easements and Restrictions for Lilac Hill East (the "Declaration"), as Recorded, and as may be amended and supplemented from time to time unless otherwise defined herein or under the Utah Revised Nonprofit Corporation Act, *Section 16-6a-et seq. of the Utah Code* (the "Act") for which these Bylaws shall operate.

ARTICLE 2 – MEMBERSHIP, VOTING AND MEETINGS,

2.01 Membership and Voting

Provisions governing Membership in the Association and the voting rights of its Members are set forth in *Article VII* of the Declaration.

2.02 Annual Meeting

The annual meeting of the Owners shall be held at a time designated by the Board during the month of January each year, or at such other date designated by the Board, for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If the election of Directors shall not be held on the date designated herein for the annual meeting of the Owners, or at any adjournment thereof, the Board shall cause the election to be held at a special meeting of the Owners to be convened as soon thereafter as may be convenient. The Board may from time to time by resolution change the date and time for the annual meeting of the Owners.

2.03 Special Meetings

Except as otherwise prescribed by statute or the Declaration, special meetings of the Owners, for any purpose, may be called by (1) the president voluntarily, (2) by a majority of the Directors or (3) by the president at the written request of Owners entitled to vote thirty percent (30%) or more of the total votes of

the Members of the Association with such written request to state the purpose or purposes of the meeting and to be delivered to the Board.

2.04 Place of Meetings

The Board may designate the Association's principal offices or any place within Wasatch or Summit County, Utah, as the place for any annual meeting or for any special meeting called by the Board.

2.05 Notice of Meeting

The Board shall cause written or printed notice of any meeting of the Owners, stating the place, day, and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered not less than twenty (20) nor more than sixty (60) days before the date of the meeting to each Owner entitled to vote at such meeting. Notice shall be delivered in accordance with *Section 10.02 herein.* For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, the Board may set a Record date for such determination of Owners, in accordance with the laws of the State of Utah. If requested by the Person or Persons lawfully calling such meeting, the secretary shall give notice thereof at the expense of the Association.

(a) Adjourned or Rescheduled Meetings. If an annual or special meeting of the Members is adjourned to a different date, time or place, notice need not be given if the rescheduled meeting is no earlier than 24 hours and no later than twenty (20) days of the original meeting and is announced at the original meeting before adjournment.

2.06 Quorum

Subject to and except as otherwise required by law, the Declaration, or the Articles, as amended, the presence in person or by proxy of 20% or more Owners entitled to vote shall constitute a quorum. If a quorum is not present at any Owners meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time consistent with *Section 2.05(a)* above. Those Owners present at the rescheduled meeting and entitled to vote shall constitute a quorum at the rescheduled meeting, regardless of the number of Owners present at the rescheduled meeting. Notwithstanding the foregoing provisions of this *Section*, however, in any case in which the Declaration requires the affirmative vote of a certain percentage of Owners for authorization or approval of a matter, their consent, in person, by proxy or in writing is required for authorization or approval of the item, regardless of the quorum requirements.

2.03 Proxies

Votes may be cast in person or by proxy. Proxies must comply with *Section 16-6a-712* of the Utah Code, as such *Section* of the Utah Code may be amended, supplemented or replaced from time to time. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting. Timely submitted proxies shall remain effective for adjourned or rescheduled meetings. No proxy shall be valid after the expiration of eleven months from the date of its execution unless otherwise provided in the proxy.

2.04 Majority Vote

At any meeting of the Owners, if a quorum is present, the affirmative vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the act of the Owners, unless the vote of a greater number is required by law, the Articles, the Declaration, or these Bylaws.

ARTICLE 3 - BOARD OF DIRECTORS

3.01 Number and Election of Directors

The Board of Directors (the "Board") shall consist of three (3) or five (5) Directors. There shall be three (3) initial Directors, appointed by Declarant, identified in the Articles set forth in Exhibit B attached hereto and incorporated herein. The initial Board shall be controlled by Declarant until the expiration of the

Period of Declarant Control. At the first meeting after the expiration of the Period of Declarant Control, three Members of the Board shall be elected by the Owners; two Members shall be elected for two-year terms and one Member shall be elected for a one-year term. Thereafter, all Members of the Board shall be elected for staggered two-year terms. If the Board is expanded to five (5) Directors, the election shall happen on the year that only one (1) Director is elected. Despite the expiration of a Director's term, the Director shall continue to serve until the election and qualification of a successor or until there is a decrease in the number of Directors, or until such Director's earlier death, resignation, or removal from office.

3.02 Director Qualifications

After the Period of Declarant Control expires, Directors shall be Class A Members or a Person associated with a Class A Member. No individual who is a Class A Member (as defined in the Declaration) may serve as a Director of the Association if that individual, or if such individual is associated with a Class A Member, the Class A Member associated with that individual, is delinquent in the payment of any dues, fees, Assessments, or the like arising out of the Declaration, these Bylaws, or the Association's Articles of Incorporation, or is otherwise in material default of any of the Covenants within the Declaration, Bylaws, or the Articles of Incorporation. Provided, that nothing in the previous sentence shall require an officer or Director of the Association to also be an Owner.

3.03 Removal, Resignation, and Replacement of Directors

(a) Removal of Directors. During the Period of Declarant Control, Declarant shall appoint and remove any and all Directors. After the expiration of the Period of Declarant Control, each Director may be removed, with or without cause, by a majority vote of all Owners of the Lots entitled to vote.

(b) Resignations. Any Director may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

(c) Replacement of Directors. A vacancy on the Board created by the removal, resignation, or death of a Director appointed or elected by the Owners shall be filled by the remaining Directors until the next annual meeting of Owners, at which time the Owners shall elect a Director to fulfill the then-remaining term of the replaced Director. Any Director elected or appointed pursuant to this *Section* shall hold office for the remainder of the unexpired term of the Director who was replaced.

3.04 Regular Meetings

Regular meetings of the Board may be held without call or formal notice at such places within or outside the State of Utah, and at such times as the Board from time to time by vote may determine. Any business may be transacted at a regular meeting. The regular meeting of the Board for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, the annual meeting of Owners, or any special meeting of Owners at which a Board is elected.

3.05 Special Meetings

Special meetings of the Board may be held at any place within the State of Utah or by telephone, provided that each Director can hear each other Director, at any time when called by the president, or by two or more Directors, upon the giving of at least three (3) days' prior notice of the time and place thereof to each Director by leaving such notice with such Director or at such Director's residence or usual place of business, or by mailing it prepaid and addressed to such Director at such Director's address as it appears on the books of the Association, or by telephone or by electronic means (i.e. e-mail, text messaging or other

similar manner). Notices need not state the purposes of the meeting. No notice of any adjourned meeting of the Directors shall be required.

3.06 Quorum

A majority of the number of Directors fixed by these Bylaws, as amended from time to time, shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time. When a quorum is present at any meeting, a majority of the Directors in attendance shall, except where a larger number is required by law, by the Articles, by the Declaration, or by these Bylaws, decide any question brought before such meeting.

3.07 Waiver of Notice

Before, at, or after any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by such Director, except when such Director attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

3.08 Informal Action by Directors

Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a consent in writing (which may include consent by email without a signature), setting forth the action so taken, shall be signed (or approved by email without a signature) by all of the Directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Directors.

ARTICLE 4 - OFFICERS AND AGENTS

4.01 General

The officers of the Association shall be a president, vice president, a secretary, and a treasurer. The Board may appoint such other officers, assistant officers, committees, and agents, including assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board. One Person may hold any two offices, except that no Person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent, or employee are not prescribed by the Bylaws or by the Board, such officer, agent, or employee shall follow the orders and instructions of the president.

4.02 Officer Qualifications

After the Period of Declarant Control expires, officers shall be Class A Members or a Person associated with a Class A Member. No individual who is a Class A Member (as defined in the Declaration) may serve as an officer of the Association if that individual, or if such individual is associated with a Class A Member, the Class A Member associated with that individual, is delinquent in the payment of any dues, fees, Assessments, or the like arising out of the Declaration, these Bylaws, or the Association's Articles of Incorporation, or is otherwise in material default of any of the Covenants within the Declaration, Bylaws, or the Articles of Incorporation.

4.03 Removal of Officers

The Board may remove any officer, either with or without cause, and elect a successor at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

4.04 Vacancies

A vacancy in any office, however occurring, shall be filled by the Board for the unexpired portion of the term.

4.05 President

The president shall be the chief executive officer of the Association. The president shall preside at all meetings of the Association and of the Board. The president shall have the general and active control of the affairs and business of the Association and general supervision of its officers, agents, and employees. The president of the Association is designated as the officer with the power to prepare, execute, certify, and Record amendments to the Declaration on behalf of the Association.

4.06 Vice President

The vice president shall, in the absence or disability of the president, perform the duties and exercise the powers of the president, and shall perform such other duties as the Board or the president shall prescribe. If neither the president nor the vice president is able to act, the Board shall appoint a Member of the Board to do so on an interim basis.

4.07 Secretary

The secretary shall:

(a) keep the minutes of the proceedings of the Owners meetings and of the Board meetings,

(b) see that all notices are duly given in accordance with the provisions of these Bylaws, the Declaration, and as required by law;

(c) be custodian of the corporate Records and of the seal of the Association and affix the seal to all documents when authorized by the Board;

(d) maintain at the Association's principal offices a Record containing the names and registered addresses of all Owners, the designation of the Lot owned by each Owner, and, if such Lot is Mortgaged, the name and address of each Mortgagee; and

(e) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to it by the president or by the Board. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

4.08 Treasurer

The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board. The treasurer shall receive and give receipts and acquittances for moneys paid in on account of the Association and shall pay out of the funds on hand all bills, payrolls, and other just debts of the Association of whatever nature upon maturity. The treasurer shall perform all other duties incident to the office of the treasurer and, upon request of the Board, shall make such reports to it as may be required at any time. The treasurer shall, if required by the Board, give the Association a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his/her duties and for the restoration to the Association of all books, papers, vouchers, money, and other property of whatever kind in his/her possession or under his/her control belonging to the Association. The treasurer shall have such other powers and perform such other duties as may be from time to time prescribed by the Board or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

ARTICLE 5 - COMMITTEES

5.01 Designation of Committees

The Board may from time to time designate committees as appropriate to help in carrying out its duties, responsibilities, functions, and powers. The membership of each such committee designated hereunder shall be comprised of Members and shall include at least one (1) Board member. No committee member shall receive compensation from the Association or receive a waiver from the Association for any amount of assessments for services that he or she may render to the Association as a committee member; provided, however, that a committee member may be reimbursed for expenses incurred in performance of his or her duties as a committee member to the extent that such expenses are approved by the Board and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his or her capacity as a committee member.

5.02 Proceedings of Committees.

Each committee designated by the Board may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board.

5.03 Quorum and Manner of Acting

At each meeting of any committee, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board shall act only as a committee, and the individual members thereof shall have no powers as such.

5.04 Resignation and Removal

Any member of any committee designated hereunder may resign at any time by delivering a written resignation to the President, the Board, or the presiding officer of the committee of which he or she is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may at any time, for or without cause, remove any member of any committee.

5.05 Vacancies

If any vacancy shall occur in any committee designated by the Board, due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled by the Board at any meeting of the Board.

ARTICLE 6 - INDEMNIFICATION

6.01 Indemnification: Third Party Actions.

The Association shall indemnify any person who was, or is, a party, or is threatened to be made a party, to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is, or was, a Board member, or is, or was, serving at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding, if he or

she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by an adverse judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

6.02 Indemnification: Association Actions.

The Association shall indemnify any person who was, or is, a party, or is threatened to be made a party, to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he or she is or was a Board member, or is, or was, serving at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Association, unless, and only to the extent, that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnify for such expenses which such court shall deem proper.

6.03 Determinations.

To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in *Sections 6.01 or 6.02* hereof, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith. Any other indemnification under *Sections 6.01 or 6.02* hereof shall be made by the Association only upon a determination that indemnification of the person is proper in the circumstances because he or she has met the applicable standard of conduct set forth respectively in *Sections 6.01 or 6.02* hereof. Such determination shall be made either (i) by the Board by a majority vote of disinterested Board members or (ii) by independent legal counsel in a written opinion, or (iii) by the Members by the affirmative vote of at least fifty-one percent (51%) of those Members entitled to vote at any meeting duly called for such purpose.

6.04 Advances

Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Article may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon a majority vote of a quorum of the Board and upon receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately is determined that he or she is entitled to be indemnified by the Association as authorized by this Article or otherwise.

6.05 Scope of Indemnification.

The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, Declaration, Bylaws, agreements, vote of disinterested members or Board members, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding

such office. The indemnification authorized by this Article shall apply to all present and future Board members, officers, employees, and agents of the Association and shall continue as to such persons who cease to be Board members, officers, employees, or agents of the Association and shall inure to the benefit of the heirs and personal representatives of all such persons and shall be in addition to all other rights to which such persons may be entitled as a matter of law.

6.06 Insurance

The Association shall purchase and maintain insurance on behalf of any person who was or is a Board member, officer, employee, or agent of the Association, or who was, or is, serving at the request of the Association as a trustee, director, officer, employee, or agent of another corporation, entity or enterprise (whether for profit or not for profit), as may be required by the Declaration.

6.07 Payments and Premiums

All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this Article shall constitute Common Area Expenses of the Association and shall be paid with funds from the Association.

ARTICLE 7- EVIDENCE OF OWNERSHIP, REGISTRATION OF MAILING ADDRESS, AND LIEN HOLDERS

7.01 Proof of Ownership

Upon the transfer of a fee or an acceptance of a Deed to a Lot in the Project, any Person becoming an Owner shall furnish to the Association a photocopy or a certified copy of the Deed or Recorded instrument vesting that Person with an ownership interest in the Lot. Such copy shall remain in the files of the Association.

7.02 Registration of Mailing Address

If a Lot is owned by two or more Owners, such Owners shall designate one address as the registered address. The registered address of an Owner or Owners shall be furnished to the secretary of the Association within ten (10) days after transfer of title, or after a change of address. Such registration shall be in written form and signed by all of the Owners of the Lot or by such Persons as are authorized to represent the interests of all Owners of the Lot. If no address is registered or if all of the Owners cannot agree, then the address of the Lot shall be deemed the registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Lot.

7.03 Liens; Mortgagees

Any Owner who Mortgages or grants a deed of trust securing such Owner's Lot shall give the Association written notice of the name and address of the Eligible Mortgagee.

ARTICLE 8 - SECURITY INTEREST IN MEMBERSHIP

Owners shall have the irrevocable right to constitute and appoint a holder of a Mortgage or Deed of trust their true and lawful attorney-in-fact to vote their Membership in the Association at any and all meetings of the Association in which such Owner is entitled to vote and to vest in such holder any and all rights, privileges, and powers that they have as Owners under the Articles and these Bylaws or by virtue of the Declaration. Unless otherwise expressly provided in such proxy, such proxy shall become effective upon the filing of notice by such holder with the secretary of the Association. A release of the Mortgage or

Deed of trust covering the subject Lot shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve Owners, as mortgagors or grantors of a Deed of trust, of their duties and obligations as Owners or to impose upon the holder of a Mortgage or Deed of trust the duties and obligations of an Owner.

ARTICLE 9 - AMENDMENTS

9.01 By Directors.

Except as limited by law, the Articles, the Declaration, or these Bylaws, the Board shall have power to make, amend, and repeal the Bylaws of the Association at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is represented. If, however, the Owners shall make, amend, or repeal any Bylaw, the Directors shall not thereafter amend the same in such manner as to defeat or impair the object of the Owners in taking such action.

9.02 Owners

Subject to any rights conferred upon holders of a security interest in the Declaration, the Owners may, by the vote of the holders of at least fifty-one percent (51%) of the votes of the Owners entitled to vote, unless a greater percentage is expressly required by law, the Articles, the Declaration, or these Bylaws, make, alter, amend, or repeal the Bylaws of the Association at any annual meeting or at any special meeting called for that purpose at which a quorum shall be represented.

ARTICLE 10 - MISCELLANEOUS

10.01 Notice to Association and Board

(a) During Period of Declarant Control. During the Period of Declarant Control, all notices to the Association or the Board shall be sent to (i) the Registered Agent of the Declarant as registered with the Utah Department of Commerce by first class mail, (ii) to the principal office of the Association or to such other address as the Board may hereafter designate from time to time by first class mail and (iii) to the primary contact of the Association identified in the registry required by *Section 57-8a-105* of the Utah Code by email, with a copy sent to the email address of the Association's professional manager if the Association is professionally managed.

(b) After expiration of Period of Declarant Control. All notices to the Association or the Board shall be sent to (i) to the principal office of the Association as registered with the Utah Department of Commerce or to such other address as the Board may hereafter designate from time to time and (ii) to the primary contact of the Association by email, which may be a professional manager if the Association is professionally managed or the individual identified in the registry required by *Section 57-8a-105* of the Utah Code.

10.02 Notices to Owners

(a) Notice by Electronic Means. In any circumstance where notice is required to be given to the members, the Association may provide notice by electronic means, including email, text message, and/or an Association website, if the Board deems the notice to be fair and reasonable, unless a specific method of notice is designated in the Declaration or by Utah Law. Notice shall be deemed delivered within forty-eight (48) hours of electronic notice being sent or upon the receiving party's confirmation of receipt, whichever is sooner. If an electronic notice is returned as undeliverable, the serving party shall send notice via first-class mail, postage prepaid. The Board is authorized to promulgate rules and procedures facilitating the implementation of this section as it deems fit from time to time, including requiring members to furnish the Association with a current email address.

(b) Notice by Mail. If notice is mailed, such notice shall be deemed to be delivered

when deposited in the U.S. mail addressed to the Member at his or her registered address, with first-class postage prepaid. An Owner may require the Association, by written demand, to provide notice to the Owner by mail. Each Owner shall register with the Association such Owner's current mailing address for purposes of notice hereunder. Except as otherwise provided in the Declaration, these Bylaws or law, all notices to any Owner shall be sent to such address as may have been designated by him or her, from time to time, in writing to the Board, or if no address has been designated, then to the Owner's Lot.

(c) Notice to Co-Owners. If a Lot is jointly owned, notice shall be sent to a single address of which the secretary has been notified in writing by such parties. If no address has been given to the secretary in writing, then mailing to the Lot shall be sufficient.

10.03 Affairs, Electronic Means

Any transaction or action involving the business or affairs of the Association, including but not limited to voting and providing notice or records, may be conducted by electronic means. The Association may accept a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation as the act of the member if the Board does so in good faith and has no reason to believe it is not the act of the member. A writing may be delivered in an electronic medium or by electronic transmission, and may be signed by photographic, electronic, or other means. An electronic record or electronic signature is attributable to a person if it was the act of the person. An electronic signature may consist of a mark, symbol, character, letter, or number or any combination thereof attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record and the same shall be considered the signature of such person. A writing includes any document, record, vote, ballot, proxy, or instrument required or permitted to be transmitted by a member or by the Association.

10.04 Waiver, Precedent and Estoppel

No restriction, condition, obligation, or provision contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

10.05 Appeals; Informal Hearing Procedures

An Owner who has been deemed a Non-Conforming Member and has been assessed a fine by the Board or receives a decision from a Board-appointed Committee that the Owner disputes, may request an informal hearing before the Board within thirty (30) days after the day on which the Owner receives notice of the fine or decision. If the Owner fails to timely request a hearing in writing, the Non-Conforming Member shall be deemed to have waived the right to a hearing. The Board shall not be required to conduct a hearing unless the Non-Conforming Member formally and timely requests a hearing in writing. The following procedures shall apply for any Owner who requests an informal hearing:

(a) At the appeal hearing, the Board shall provide the Owner with a reasonable amount of time to present any and all defenses related to the fine or citation and/or claims related to a Committee decision. Any participant may participate in the hearing by means of electronic communication so long as all participants can hear one another speak. The Owner may have counsel present at the hearing at the Owner's own expense. Under no circumstances shall the Association be responsible for any attorney fees or costs incurred by an Owner relating a hearing conducted pursuant to this *Section*.

(b) Following the hearing, the Board of Trustees shall meet in executive session to discuss whether satisfactory proof was presented to show *extenuating circumstances* to justify the Member's non-confirming behavior or to overturn a decision. If a majority of the Board is required to affirm or overturn the prior assessment of a fine or a decision of a committee and the Board shall

issue an opinion consistent thereto. If the Board's decision is unfavorable to the Non-Conforming Member, as the case may be, the Board may affirm the initial fine and impose reasonable continuing fines and other monetary penalties, which shall constitute a lien upon the Lot until paid, and/or suspend the Non-Conforming Member's right to vote. The Board may also provide the Non-Conforming Member a final deadline to cure the violation if a cure is possible before the initial fine or additional fines become due or an Owner's privileges are suspended. If an Owner timely requests an informal hearing, no interest or late fees may accrue until after the Board conducts the hearing and the Owner receives or is deemed to receive a final decision. All decisions of the Board are final unless an Owner appeals by initiating a civil suit consistent with *Section 57-8a-202* of the Utah Code.

(c) The Board shall deliver notice of its decision to the Owner by Certified Mail (return receipt requested) and via first-class mail to the Owner's registered address or email to the Owner's email address on file within seven (7) days of the date of the hearing. If Non-Conforming Member does not cure the offense within the number of days noted in the decision, the Board or its delegate agents shall have the power to impose additional fines and/or suspend privileges pursuant to the authority granted in the Association's Governing Documents.

(d) The procedures outlined in this Section may be applied to any decision by an agent of the Association and all violations of the Association's Governing Documents and does not preclude the Association from exercising other enforcement procedures authorized by the Governing Documents, including, but not limited to, the initiation of suit or self-help remedies.

10.06. Conflicts

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

10.07 Invalidity: Number: Captions

The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

10.08 Fiscal Year

The fiscal year of the Association shall be such as may from time to time be established by the Board. The initial fiscal year of the Association upon formation by Declarant shall be a calendar year.

10.09 Conduct of Meeting

Robert's Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with these Bylaws.

10.10 Other Provisions

The Declaration contains certain other provisions relating to the administration of Lilac Hill East, which provisions are hereby incorporated herein by reference.

Continue to Next Page for Signature

IN WITNESS WHEREOF, the Association has caused the Bylaws to be executed by an officer duly authorized to execute the same this 18th day of July, 2023.

LILAC HILL EAST OWNERS ASSOCIATION, INC, a Utah non-profit corporation

By: Matthew B. Hutchinson
Its: Authorized Signatory

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged to me this 18th day of July, 2023, by Matthew B. Hutchinson, the authorized signatory for LILAC HILL EAST OWNERS ASSOCIATION, INC., a Utah non-profit corporation.

TASSIE WILLIAMS
Notary Public, State of Utah
Commission # 712003
My Commission Expires
May 19, 2024

NOTARY PUBLIC
Residing at: Summit County, Utah
My commission expires:
5-19-2024

Planning Commission
Staff Report

Subject: **52 & 60 Prospect Avenue**
Application: **PL-25-06778**
Author: **Nan Larsen, Senior Planner**
Date: **January 28, 2026**
Type of Item: **Plat Amendment**

Recommendation

(I) Review the 52/60 Prospect Plat Amendment to create two Lots from three Old Town Lots for two Significant Historic Sites, (II) conduct a public hearing, and (III) consider approving the Plat Amendment based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the draft Final Action Letter (Exhibit A).

Description

Applicant:	Luke Finney Applicant Representative: Megan Blosser
Location:	52 & 60 Prospect Avenue
Zoning District:	Historic Residential (HR-1)
Adjacent Land Uses:	Residential
Reason for Review:	The Planning Commission conducts a public hearing, reviews, and takes Final Action on Plat Amendments.[1]

HR-1	Historic Residential
LMC	Land Management Code
SF	Single-Family
SFD	Single-Family Dwelling

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC § 15-15-1.

Summary

52 & 60 Prospect Avenue consist of two Single-Family Dwellings (SFD) that front Prospect Avenue. Both 52 and 60 Prospect Avenue are listed as Significant Sites on Park City's Historic Sites Inventory. 52 Prospect, built in 1885, and 60 Prospect, built in 1895, straddle Lots 5, 6, and 7 of Block 18 in Park City Survey. The Applicant proposes combining the three Old Town Lots to create two Lots – one for each Significant Historic Site, resulting in two Lots measuring 2,918.03 square feet and 3,052.48 square feet.

[1] LMC § 15-1-8

Figure 1: 52 & 60 Prospect, westerly view from Prospect Avenue

Background

52 Prospect, constructed circa 1885, is a Significant Site in the Historic Residential (HR-1) Zoning District. The Site straddles Lots 5 and 6 and a remanent Parcel along the north Property Line, where the existing Property Lines cross through the SFD, Figures 2 and 3.

60 Prospect, constructed circa 1895, is also a Significant Site in the HR-1 Zoning District. This SFD straddles Lots 6 and 7.

On March 24, 2011, the City Council approved 44 Prospect Plat (Exhibit F). The 44 Prospect Plat amended the property line between Lots 4 and 5 on Block 18, Park City Survey, to create a triangle shaped remanent Parcel that fully excluded the SFD at 52 Prospect from encroaching on the property at 44 Prospect.

On December 12, 2011, a deck encroachment, snowshed encroachment, and retaining wall agreement was recorded against 44 Prospect, in favor of 52 Prospect, for a deck and snowshed encroaching onto 44 Prospect (Summit County Recorder, Entry No. 00935756).

On March 23, 2015, an easement agreement was recorded against 52 Prospect granting 44 Prospect access to the Site for the purpose of maintaining improvements towards the rear of the Property (Summit County Recorder Entry No. 01015911).

On July 27, 2015, an amendment to the deck encroachment, snowshed encroachment, and retaining wall agreement was recorded for 52 Prospect (Summit County Recorder Entry No. 01024456).

Figure 2: Existing conditions, aerial showing the two Historic Sites to the left

Figure 3: 1907 Sanborn Map, displaying 52 and 60 Prospect Ave structures, circled in red

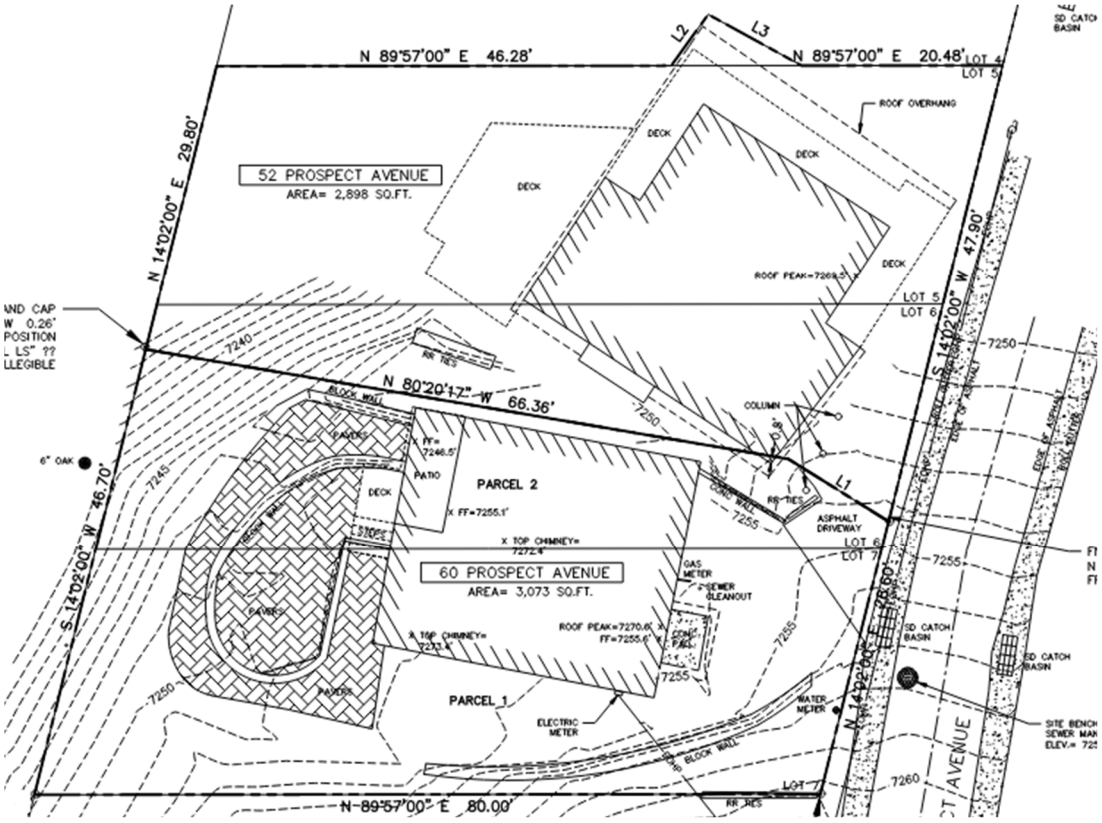


Figure 4: Existing conditions, provided by Applicant

Analysis

(I) The proposed Plat Amendment complies with the Historic Residential regulations outlined in Land Management Code Chapter 15-2.2.

Amendments to a Plat in the HR-1 Zoning District must comply with the Use in LMC § 15-2.2-2 and Lot and Site in LMC § 15-2.2-3 requirements outlined in the Table below:

Requirement	Analysis of Proposal
Use: SFD are allowed	**Complies:** Both 52 and 60 Prospect are SFDs.
Minimum Lot Area – 1,875 square feet	**Complies**: Both 52 and 60 Prospect have Lot Areas greater than the minimum, at 2,918.03 and 3,052.49 respectively.
Maximum Lot Area – 3,750 square feet	**Complies**: 52 and 60 Prospect are not proposed to exceed the Maximum Lot Area. 52 Prospect is 2,918 square feet; 60 Prospect is 3,052 square feet.
Minimum Lot Width – 25 feet, measured 15 feet back from the Front Lot Line.	**Complies**: 52 Prospect Lot Width measures 41 feet, measured 15 feet back from the Front Lot Line and is compliant. 60 Prospect Lot Width measures 34 feet, measured 15 feet back from the Front Lot Line and is

	compliant.
Maximum Building Footprint[2] - 52 Prospect = (2,918.03/2) x 0.9 $^{2,918/1,875}$ 60 Prospect = (3,052.48/2) x 0.9 $^{3,052.48/1,875}$	**Complies**: The Maximum Building Footprint allowed on the proposed 52 Prospect Lot is 1,237.86 square feet. The existing Historic Structure on this Site has a Building Footprint of approximately 728 square feet. The Maximum Building Footprint allowed on the proposed 60 Prospect Lot is 1,279.99 square feet. The existing Structure in the Site includes a Building Footprint of approximately 718 square feet.
Front and Rear Setbacks for Lots 75 feet to 100 feet are 12 feet and 13 feet.	**Complies, existing valid non-complying Structure**: 52 Prospect was built in 1885 and is a valid Non-Complying Structure in the HR-1 Zoning District. The Front Setback is approximately 6.5 feet; the Rear Setback is approximately 37 feet. Pursuant to LMC § 15-2.2-4 Historic Buildings that do not comply with Building Setbacks are valid Non-Complying Structures. **Complies:** 60 Prospect has a Front Setback of approximately 18 feet and a Rear Setback of approximately 28 feet. The proposed Plat Amendment will not alter the existing Front or Rear Setbacks.
Side Setbacks for Lots up to 50 feet in width 5 feet each side.	**Complies, existing valid non-complying Structure**: Currently, the shared Property line of Lots 5 and 6 runs through the existing Structures at 52 Prospect and 60 Prospect. Additionally, a portion of the Structure located at 52 Prospect encroaches on a remanent Parcel along the north Property Line. The reconfiguration of the Lots will result in Structures and Lots with an increased degree of compliance with the LMC, but will remain valid Non-Complying regarding the required Side Setbacks in the HR-1 District pursuant to LMC § 15-2.2-4. 52 Prospect proposed Side Setbacks are 0 feet to the south and less than 1 foot to the north. The proposed Plat Amendment will decrease the degree of non-compliance from the south and north Side Setbacks.

[2] MAX FP = (A/2) x 0.9 $^{A/1875}$
FP=maximum Building Footprint and A=Lot Area

	60 Prospect proposed Side Setbacks are approximately 9 feet to the south and 1 foot to the north. The proposed Plat Amendment will decrease the degree of non-compliance from the north Side Setback, while the south Side Setback will remain the same.[3]

(II) The proposed Plat Amendment complies with LMC Chapter 15-3, Off-Street Parking requirements.

Requirement	Analysis of Proposal
Single Family Dwelling: 2 spaces per Dwelling Unit	**Complies, existing valid non-conforming Use.** No Off-Street parking exists on either site. Pursuant to LMC § 15-2.2-4 Historic Buildings that do not comply with Off-Street parking requirements are valid Non-Complying Structures.

(III) The proposed Plat Amendment complies with LMC § 15-7.1-3(B), Classification of Subdivision, Plat Amendment.

Changes to a Plat require review and approval through the Plat Amendment process, pursuant to LMC § 15-7.1-3(B) and § 15-7.1-6, Final Subdivision Plat process.

Requirement	Analysis of Proposal
Plat Amendments require a finding of Good Cause.	**Complies:** LMC § 15-15-1 defines Good Cause as, "providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City, and furthering the health, safety, and welfare of the Park City Community." There is Good Cause for the proposed Plat Amendment as the proposed Amendment decreases the degree of non-compliance to the LMC by reconfiguring the Lots to remove the Lot lines that

[3] LMC § 15-9-6

	run through existing Non-Complying Significant Historic Structures and creates two separate Lots for Significant Historic Sites designated on Park City's Historic Sites Inventory.
Plat Amendments require a finding that no Public Street, Right-of-Way, or Easement has been vacated or amended.	**Complies:** The proposed 52/60 Prospect Avenue Plat Amendment will not alter or vacate a Public Street, Right-of-Way or easement.

(IV) The Development Review Committee reviewed the proposal on January 6, 2026 and requires Conditions of Approval.[4]

Conditions of Approval 1 — 3 are required by the Summit County recorder prior to Plat recordation:

- Show easements of record on the Amended Plat.
- On the north side of Lot 2 include a light-weight line where the north line of the original Lot 5, add text "lot line removed via this plat amendment."
- Replace text "old lot line" with "lot lines removed via this plat amendment."

The Engineering Department requires a 10-foot snow storage easement on the Lot Frontages (Condition of Approval 4).

Department Review

The Planning Department, Executive Department, and City Attorney's Office reviewed this report.

Notice

Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on January 12, 2026. Staff mailed courtesy notice to property owners within 300 feet on January 12, 2026. The *Park Record* published courtesy notice on January 13, 2026.[5]

Public Input

Staff did not receive any public input at the time this report was published.

Alternatives

The Planning Commission may:

- Approve the Plat Amendment for 52 & 60 Prospect Avenue.

[4] The Development Review Committee meets the first and third Tuesday of each month to review and provide comments on Planning Applications, including review by the Building Department, Engineering Department, Sustainability Department, Transportation Planning Department, Code Enforcement, the City Attorney's Office, Local Utilities including Rocky Mountain Power and Enbridge Gas, the Park City Fire District, Public Works, Public Utilities, and the Snyderville Basin Water Reclamation District (SBWRD).
[5] LMC § 15-1-21

- Deny the Plat Amendment for 52 & 60 Prospect Avenue and direct staff to make Findings for the denial.
- Request additional information and continue the discussion to date uncertain.

Exhibits

A: Draft Final Action Letter
    Attachment 1: Proposed Amended Plat
B: Applicant's Narrative
C: Block 18 Park City Survey
D: Existing Conditions
E: Applicant's Photo Exhibit
F: 44 Prospect Plat

Planning Department

January 28, 2026

Alliance Engineering
Attn: Megan Blosser

CC: Luke Finney

NOTICE OF PLANNING COMMISSION ACTION

Description

Address:	52 and 60 Prospect Avenue
Zoning District:	Historic Residential – 1 (HR-1)
Application:	Plat Amendment
Project Number:	PL-25-06778
Action:	APPROVED WITH CONDITIONS (See Below)
Date of Final Action:	January 28, 2026
Project Summary:	The Applicant proposes the 52 and 60 Prospect Plat Amendment to create two Lots from three Old Town Lots for two Significant Historic Sites.

Action Taken

On January 28, 2026, the Planning Commission conducted a public hearing and approved the 52 and 60 Prospect Plat Amendment according to the following findings of fact, conclusions of law, and conditions of approval:

Findings of Fact

1. 52 & 60 Prospect consist of two Single-Family Dwellings (SFD) that front Prospect Avenue.
2. Both 52 and 60 Prospect Avenue are listed as Significant Sites on Park City's Historic Sites Inventory.
3. 52 Prospect, built in 1885, and 60 Prospect, built in 1895, straddle across Lots 5, 6, and 7 of Block 18 in Park City Survey.
4. The Applicant proposes combining the three Old Town Lots to create two Lots – one for each Significant Historic Site, resulting in two Lots measuring 2,918.03 square feet and 3,052.48 square feet.

5. The proposed Plat Amendment complies with the Historic Residential regulations outlined in Land Management Code Chapter 15-2.2.

Requirement	Analysis of Proposal
Use: SFD are permitted	**Complies:** Both 52 and 60 Prospect are SFDs, which is an Allowed Use in the District.
Minimum Lot Area – 1,875 square feet	**Complies**: Both 52 and 60 Prospect have Lot Areas greater than the minimum, at 2,918.03 and 3,052.49 respectively.
Maximum Lot Area – 3,750 square feet	**Complies**: 52 and 60 Prospect are not proposed to exceed the Maximum Lot Area. 52 Prospect is 2,918 square feet; 60 Prospect is 3,052 square feet.
Minimum Lot Width – 25 feet, measured 15 feet back from the Front Lot Line.	**Complies**: 52 Prospect Lot Width measures 41 feet, measured 15 feet back from the Front Lot Line and is compliant. 60 Prospect Lot Width measures 34 feet, measured 15 feet back from the Front Lot Line and is compliant.
Maximum Building Footprint - 52 Prospect = (2,918.03/2) x 0.9 2,918/1,875 60 Prospect = (3,052.48/2) x 0.9 3,052.48/1,875	**Complies**: The Maximum Building Footprint allowed on the proposed 52 Prospect Lot is 1,237.86 square feet. The existing Historic Structure on this Site has a Building Footprint of approximately 728 square feet. The Maximum Building Footprint allowed on the proposed 60 Prospect Lot is 1,279.99 square feet. The existing Structure in the Site includes a Building Footprint of approximately 718 square feet.
Front and Rear Setbacks for Lots 75 feet to 100 feet are 12 feet and 13 feet.	**Complies, existing valid non-complying Structure**: 52 Prospect was built in 1885 and is a valid Non-Complying Structure in the HR-1 Zoning District. The Front Setback is approximately 6.5 feet;

	the Rear Setback is approximately 37 feet. Pursuant to LMC § 15-2.2-4 Historic Buildings that do not comply with Building Setbacks are valid Non-Complying Structures. **Complies:** 60 Prospect has a Front Setback of approximately 18 feet and a Rear Setback of approximately 28 feet. The proposed Plat Amendment will not alter the existing Front or Rear Setbacks.
Side Setbacks for Lots up to 50 feet in width 5 feet each side.	**Complies, existing valid non-complying Structure**: Currently, the shared Property line of Lots 5 and 6 runs through the existing Structures at 52 Prospect and 60 Prospect. Additionally, a portion of the Structure located at 52 Prospect encroaches on a remanent Parcel along the north Property Line. The reconfiguration of the Lots will result in Structures and Lots with an increased degree of compliance with the LMC, but will remain valid non-complying regarding the required Side Setbacks in the HR-1 District pursuant to LMC § 15-2.2-4. 52 Prospect proposed Side Setbacks are 0 feet to the south and less than 1 foot to the north. The proposed Plat Amendment will decrease the degree of non-compliance from the south and north Side Setbacks. 60 Prospect proposed Side Setbacks are approximately 9 feet to the south and 1 foot to the north. The proposed Plat Amendment will decrease the degree of non-compliance from the north Side Setback, while the south Side Setback will remain the same.

6. The proposed Plat Amendment complies with LMC Chapter 15-3, Off-Street Parking requirements.

Requirement	Analysis of Proposal
Single Family Dwelling: 2 spaces per Dwelling Unit	**Complies, existing valid non-conforming Use:** No Off-Street parking stalls exist on either site. Pursuant to LMC § 15-2.2-4 Historic Buildings that do not comply with Off-Street park requirements are valid Non-Complying Structures.

7. The proposed Plat Amendment complies with LMC § 15-7.1-3(B), Classification of Subdivision, Plat Amendment.

Requirement	Analysis of Proposal
Plat Amendments require a finding of Good Cause.	**Complies:** LMC § 15-15-1 defines Good Cause as, "providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City, and furthering the health, safety, and welfare of the Park City Community." There is Good Cause for the proposed Plat Amendment as the proposed Amendment decreases the degree of non-compliance to the LMC by reconfiguring the Lots to remove the Lot lines that run through existing Non-Complying Significant Historic Structures and creates two separate Lots for

	Significant Historic Sites designated on Park City's Historic Sites Inventory.
Plat Amendments require a finding that no Public Street, Right-of-Way, or Easement has been vacated or amended.	**Complies:** The proposed 52/60 Prospect Avenue Plat Amendment will not alter or vacate a Public Street, Right-of-Way or easement.

Conclusions of Law

1. There is Good Cause for this Plat Amendment
2. The Plat Amendment is consistent with Land Management Code Chapter 15-2.2 *Historic Residential 1 District*, Chapter 15-3 *Off-Street Parking*, and § 15-7.1-3(B) and § 15-7.1-6 *Subdivision Procedures*.
3. No Public Street, Right-of-Way, or Easement has been vacated or amended.

Conditions of Approval

1. Prior to finalizing the plat for recordation with Summit County:
    a. Include easements of record on the Amended Plat.
    b. On the north side of Lot 2 include a light-weight line where the north line of the original Lot 5, add text "lot line reviewed via this plat amendment."
    c. Replace text "old lot line" with "lot lines removed via this plat amendment."
2. Dedication of a non-exclusive 10-foot public snow storage easement along the Lot Frontages shall be shown on the plat.
3. 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.
4. The Applicant shall record the plat at the County within one year from the date of Planning Commission approval. If recordation is not complete within one year, the approval 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 Planning Director.

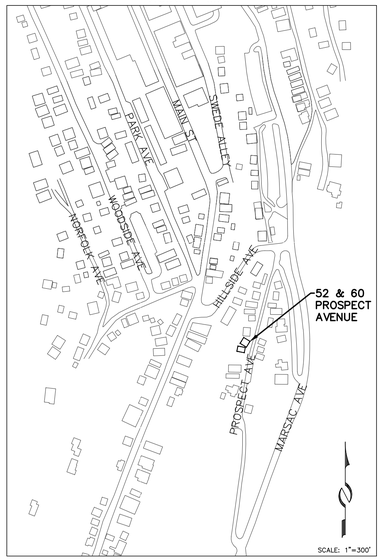
This Final Action may be appealed pursuant to LMC § 15-1-18. If you have questions or concerns regarding this Final Action Letter, please call (435)640-0558 or email nannette.larsen@parkcity.gov.

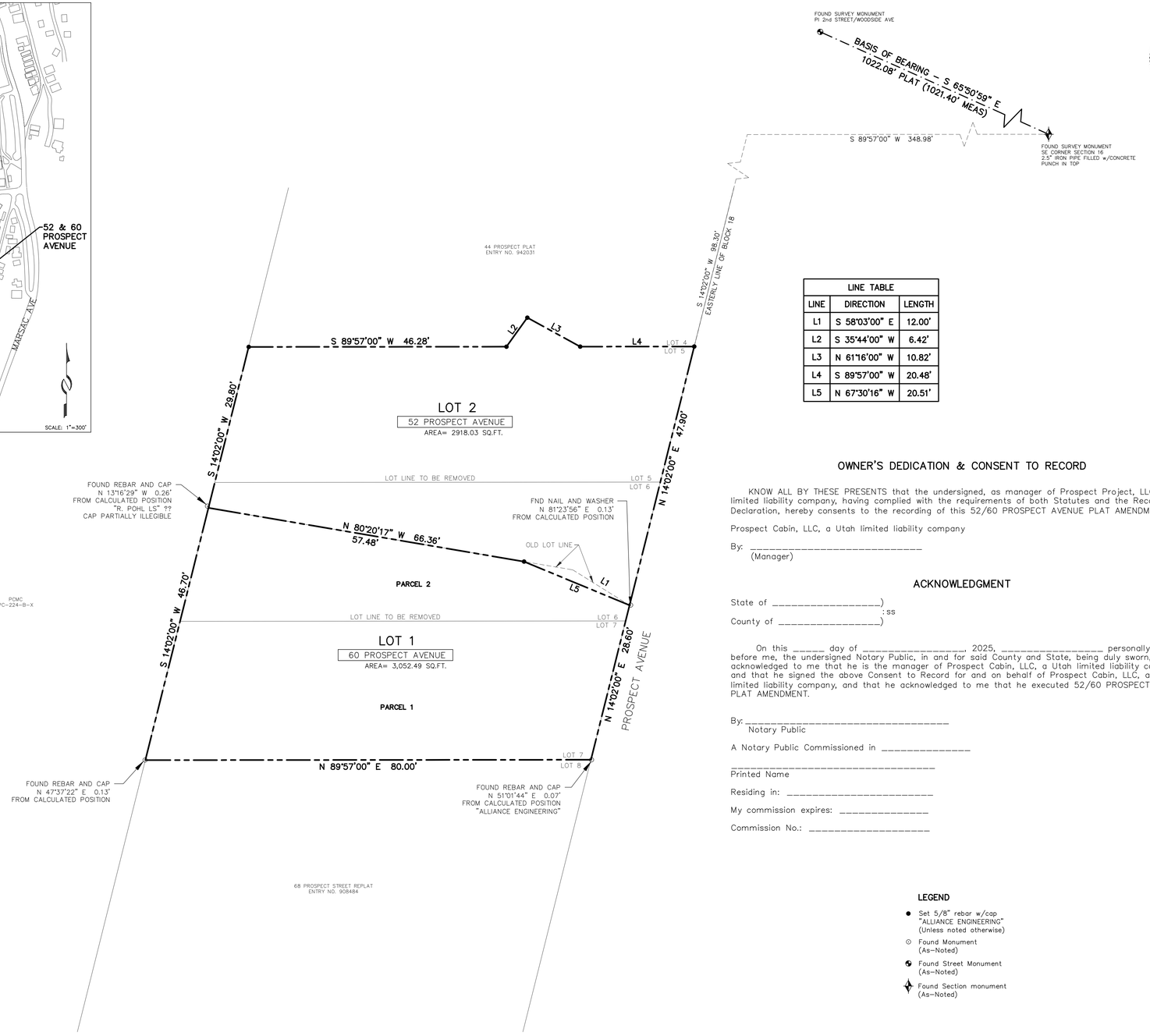
Sincerely,

Christin Van Dine, Planning Commission Chair

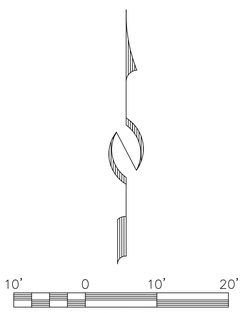
CC: Nan Larsen, Senior Planner

VICINITY MAP





LINE TABLE		
LINE	DIRECTION	LENGTH
L1	S 58°03'00" E	12.00'
L2	S 35°44'00" W	6.42'
L3	N 61°16'00" W	10.82'
L4	S 89°57'00" W	20.48'
L5	N 67°30'16" W	20.51'



SURVEYOR'S CERTIFICATE

I, Michael Demkowicz, do hereby certify that I am a Professional Land Surveyor in the State of Utah and that I hold License No. 4857264 in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act. I further certify that I have completed a survey and have referenced a record of survey map of the existing property boundaries in accordance with Section 17-23-17 and have verified the boundary locations and have placed monuments as represented on the plat. I do further certify that by authority of the owners, I have prepared this subdivision plat of the property described hereon, hereafter to be known as 52/60 PROSPECT AVENUE PLAT AMENDMENT.

REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR
No. 4857264
MICHAEL DEMKOWICZ
STATE OF UTAH

LEGAL DESCRIPTION

LOT 1

Parcel 1:

LOT 7, Block 18, PARK CITY SURVEY, according to the official plat thereof on file in the office of the Summit County Recorder.

Parcel 2:

Beginning at the Southeast corner of Lot 7, Block 18, PARK CITY SURVEY and proceeding thence North 14°02'00" East 2.9 feet; thence North 58'00'00" West along a fence 12.0 feet; thence North 80°17'17" West under an eave of an existing house 66.36 feet; thence South 13°59'00" West 21.00 feet; thence East 80.0 feet to the point of BEGINNING.

More Correctly known according to the Quit Claim Deed 210294 as:

Beginning at the Southeast corner of Lot 6, Block 18, PARK CITY SURVEY and proceeding thence North 14°02'00" East 2.9 feet; thence North 58'00'00" West along a fence 12.0 feet; thence North 80°17'17" West under an eave of an existing house 66.36 feet; thence South 13°59'00" West 21.00 feet; thence East 80.0 feet to the point of BEGINNING.

LOT 2

Beginning at the Southeast corner of Lot 4, Block 18, PARK CITY SURVEY; according to the Official Plat thereof, on file and of record in the Office of the Summit County Recorder; said points being South 14°02' West 8 feet from a stone wall on the Grantors property, and running thence West 20.48 feet; thence North 61°13' West 10.82 feet; thence South 35°47' West 6.42 feet; thence West 46.29 feet; thence South 13°59' West along the westerly lines of Lots 5 and 6, 29.80 feet; thence South 80°17'17" East 66.36 feet; thence South 58° East 12 feet to the Easterly line of Lot 6, thence North 14°02' East 47.9 feet to the point of beginning.

OWNER'S DEDICATION & CONSENT TO RECORD

KNOW ALL BY THESE PRESENTS that the undersigned, as manager of Prospect Project, LLC, a Utah limited liability company, having complied with the requirements of both Statutes and the Recorded Declaration, hereby consents to the recording of this 52/60 PROSPECT AVENUE PLAT AMENDMENT.

Prospect Cabin, LLC, a Utah limited liability company

By: _____
(Manager)

ACKNOWLEDGMENT

State of _____)
: ss
County of _____)

On this _____ day of _____, 2025, _____ personally appeared before me, the undersigned Notary Public, in and for said County and State, being duly sworn, acknowledged to me that he is the manager of Prospect Cabin, LLC, a Utah limited liability company, and that he signed the above Consent to Record for and on behalf of Prospect Cabin, LLC, a Utah limited liability company, and that he acknowledged to me that he executed 52/60 PROSPECT AVENUE PLAT AMENDMENT.

By: _____
Notary Public

A Notary Public Commissioned in _____

_____
Printed Name

Residing in: _____

My commission expires: _____

Commission No.: _____

OWNER'S DEDICATION & CONSENT TO RECORD

KNOW ALL BY THESE PRESENTS that the undersigned, as manager of Prospect Project, LLC, a Utah limited liability company, having complied with the requirements of both Statutes and the Recorded Declaration, hereby consents to the recording of this 52/60 PROSPECT AVENUE PLAT AMENDMENT.

Prospect Project, LLC, a Utah limited liability company

By: _____
(Manager)

ACKNOWLEDGMENT

State of _____)
: ss
County of _____)

On this _____ day of _____, 2025, _____ personally appeared before me, the undersigned Notary Public, in and for said County and State, being duly sworn, acknowledged to me that he is the manager of Prospect Project, LLC, a Utah limited liability company, and that he signed the above Consent to Record for and on behalf of Prospect Project, LLC, a Utah limited liability company, and that he acknowledged to me that he executed 52/60 PROSPECT AVENUE PLAT AMENDMENT.

By: _____
Notary Public

A Notary Public Commissioned in _____

_____
Printed Name

Residing in: _____

My commission expires: _____

Commission No.: _____

LEGEND

- ● Set 5/8" rebar w/cap "ALLIANCE ENGINEERING" (Unless noted otherwise)
- ⊙ Found Monument (As-Noted)
- ⚽ Found Street Monument (As-Noted)
- ✦ Found Section monument (As-Noted)

NOTES

1. This plat amendment is subject to the Conditions of Approval in the Final Action Letter dated the _____, and on file with the Planning Department (PL-25-_____).
2. Fire sprinklers are required for all new construction, to be approved by the Chief Building Official.
3. See Survey S-_____ on file with the Summit County Surveyor's Office.
4. The purpose of this Plat Amendment is to combine the subject Parcels into two new lots of record.

52/60 PROSPECT AVENUE PLAT AMENDMENT

WITHIN BLOCK 18, AMENDED PLAT OF PARK CITY,
LOCATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21,
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

12/8/2025 JOB NO.: 5-9-25 FILE: X\ParkCitySurvey\dwg\srv\plat2025\050925.dwg

435-649-9467

ALLIANCE ENGINEERING

CONSULTING ENGINEERS | LAND PLANNERS | SURVEYORS

P.O. Box 2664 | 2700 West Homestead Road
Suite 50, 60 | Park City, Utah 84098

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	PLANNING COMMISSION	ENGINEER'S CERTIFICATE	APPROVAL AS TO FORM	PUBLIC SAFETY ANSWERING POINT APPROVAL	RECORDED
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2025 BY _____	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2025 BY _____ CHAIR	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS _____ DAY OF _____, 2025 BY _____ PARK CITY ENGINEER	APPROVED AS TO FORM THIS _____ DAY OF _____, 2025 BY _____ PARK CITY ATTORNEY	APPROVED THIS _____ DAY OF _____, 2025 BY _____ SUMMIT COUNTY GIS COORDINATOR	ENTRY NUMBER:_____ STATE OF UTAH, COUNTY OF SUMMIT DATE:_____ TIME:_____ FEE PAID:_____ RECORDED AND FILED AT THE REQUEST OF:_____ _____ COUNTY RECORDER:

52 & 60 Prospect Avenue Project Intent

52 & 60 Prospect Avenue are both existing, single family residences, comprised of Lots 5, 6, and 7 of Block 18, Park City Survey. 52 Prospect was built in 1885 and 60 Prospect was built in 1895.

The purpose of this plat amendment is to remove the lot line between Lot 6 and Lot 7 of Block 18, Park City Survey, and the lot line between Lot 5 and Lot 6 of Block 18, Park City Survey, both of which run through the existing structures. This will create 2 unified lots of record for 52 & 60 Prospect Avenue and allow for future development/remodeling.

This plat will also amend the boundary line between 52 & 60 Prospect so that the building on 60 Prospect Avenue no longer encroaches onto 52 Prospect. This change will allow the lots to conform with current Park City building and zoning ordinances.

Note: # Refers to Street Address

PARK CITY - BLOCKS 18,19,51,64, SECTION 16 & 21, T2S R4E, S.L.B. & M.

BOOK PAGE

SEE PAGE 8

FIRST (SEVENTH) STREET (N 66°22' E)

HILLSIDE STREET

PROSPECT STREET AVE

CHAMBERS STREET

MARSAC AVENUE RIGHT OF WAY
MACSRW-B-X

CHAMBERS STREET RIGHT OF WAY
MACSRW-A-X

MARSAC AVENUE RIGHT-OF-WAY
CHAMBERS STREET RIGHT-OF-WAY
ROAD DEDICATION PLAT #825734

(B) PC-510-A
MOUNTEER WOODLAND LLC
M119-423, 1401-956-9
1868-1805

(C) PC-50
WEILI CHENG
1317-945
2389-190

PC-430-R-X
PARK CITY MUNICPAL CORP
M 197-720
2.25 Ac. M/L
2440-434

STANTON SUB. (2005)

PROSPECT AVENUE PLAT AMENDMENT (2015)

THE BLUEJAY PARCEL (1996)

(NOW: 36 PROSPECT AVENUE PLAT AMENDMENT) (2024)

(NOW: 44 PROSPECT PLAT SUBDIVISION) (2012)

68 PROSPECT STREET REPLAT SUB. (2010)

Now Plat # 1142841 (2020) Prospect Place Plat Amendment

42 1/2 ONTARIO CANYON ROAD ONE LOT SUB. (2000)

(NOW: ONTARIO CANYON SUB.) (2012)

#1148770 (2020) Little Maggie Subdivision

QUALLS SUB. (2004)

PC-224B-X
SEE NE1/4 SEC. 21, T2S, R4E, S.L.B.&M.
M113-31
850-736

PC-5-46-B-2
SEE NE1/4 NE1/4 SEC. 28, T2S, R4E, SLBM
FOR OWNERS

SEE NE1/4 SEC. 21 T2S, R4E, SLBM

SEC 16
SEC 21

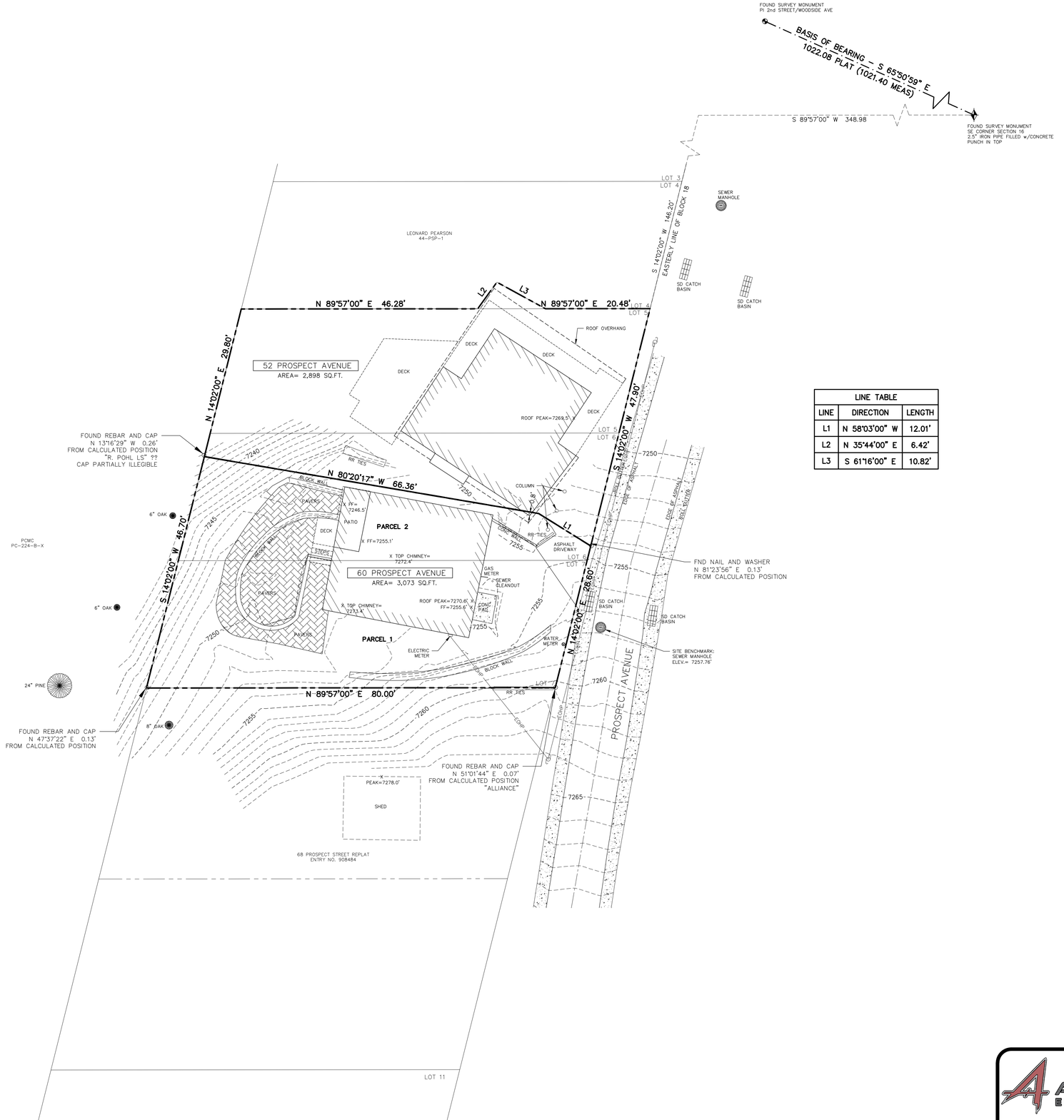
198.60'
188.6'
80 FT
EAST 147.88'

Approved Utah State Tax Comm	REVISIONS - DATE AND INITIAL (In Pencil)			
Date By				

Engineering Associates Inc.

SUMMIT COUNTY, UTAH

SCALE
ONE INCH 40 FEET
BOOK PAGE



LINE TABLE		
LINE	DIRECTION	LENGTH
L1	N 58°03'00" W	12.01'
L2	N 35°44'00" E	6.42'
L3	S 61°16'00" E	10.82'

SURVEYOR'S CERTIFICATE

I, Michael Demkowicz, do hereby certify that I am a Licensed Professional Land Surveyor in the State of Utah and that I hold certificate No. 4857264 in accordance with Title 58, Chapter 22, of the Professional Engineers and Land Surveyors Act; I further certify that by authority of the owners, I have completed a survey of the property described on this topographic map in accordance with Section 17-23-20 and have verified all measurements.

No. 4857264
MICHAEL DEMKOWICZ
10/29/2025
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF UTAH

LEGAL DESCRIPTION

60 PROSPECT AVENUE

Parcel 1:

LOT 7, Block 18, PARK CITY SURVEY, according to the official plat thereof on file in the office of the Summit County Recorder.

Parcel 2:

Beginning at the Southeast corner of Lot 7, Block 18, PARK CITY SURVEY and proceeding thence North 14°02'00" East 2.9 feet; thence North 58°00'00" West along a fence 12.0 feet; thence North 80°17'17" West under an eave of an existing house 66.36 feet; thence South 13°59'00" West 21.00 feet; thence East 80.0 feet to the point of BEGINNING.

More Correctly known according to the Quit Claim Deed 210294 as:

Beginning at the Southeast corner of Lot 6, Block 18, PARK CITY SURVEY and proceeding thence North 14°02'00" East 2.9 feet; thence North 58°00'00" West along a fence 12.0 feet; thence North 80°17'17" West under an eave of an existing house 66.36 feet; thence South 13°59'00" West 21.00 feet; thence East 80.0 feet to the point of BEGINNING.

52 PROSPECT AVENUE

Beginning at the Southeast corner of Lot 4, Block 18, PARK CITY SURVEY; according to the Official Plat thereof, on file and of record in the Office of the Summit County Recorder; said points being South 14°02' West 8 feet from a stone wall on the Grantors property, and running thence West 20.48 feet; thence North 61°13' West 10.82 feet; thence South 35°47' West 6.42 feet; thence South 13°59' West along the westerly lines of Lots 5 and 6, 29.80 feet; thence South 80°17'17" East 66.36 feet; thence South 58° East 12 feet to the Easterly line of Lot 6, thence North 14°02' East 47.9 feet to the point of beginning.

NARRATIVE/NOTES

1. Basis of Bearing for this survey is between the found monuments as shown on this plat.
2. Field work for this survey was performed September 24, 2025, and is in compliance with generally accepted industry standards for accuracy.
3. The purpose of this survey was to perform an Existing Conditions and Topography survey for the possibility of future improvements to the property.
4. A Title Report was not provided to the surveyor and only easements and setbacks per subdivision plat were located as part of this survey. This owner of the property should be aware of any items affecting the property that may appear in a title insurance report. The surveyor found no obvious evidence of easements, encroachments or encumbrances on the property surveyed except as shown hereon.
5. County tax maps, recorded deeds Entry No. 1241555 and 68 Prospect Street Replat, recorded October 12, 2010, as Entry No. 908484 (all aforementioned documents on file and of record in the Summit County Recorder's Office), and physical evidence found in the field were all considered when determining the boundary as shown on this plat.
6. Site Benchmark: Sanitary Sewer Manhole, Elevation=7257.76' as shown.
7. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
8. Property corners were found as shown.

LEGEND

- ⊙ Found Monument (As-Noted)
- Found Street Monument (As-Noted)
- Found Section monument (As-Noted)

10' 0 10' 20'

SCALE: 1"=10'

ALLIANCE ENGINEERING
P.O. BOX 2664 | 2700 W. HOMESTEAD RD. STE 50,
PARK CITY, UT 84098 | 435-649-9467

STAFF:
RYAN BORGER
MEGAN BLOSSER
CHRIS GERVAIS
ROB LOCK

DATE: 10/1/25

EXISTING CONDITIONS & TOPOGRAPHIC MAP
60 PROSPECT AVENUE
PARK CITY, UT

FOR: LUKE FINNEY
JOB NO.: 5-9-25
FILE: X\ParkCitySurvey\dwg\srv\topo2025\050925.dwg

SHEET 1 **OF** 1

52/60 Prospect Avenue - Front - Looking Westerly

52/60 Prospect Avenue - Front - Looking Westerly

52/60 Prospect Avenue - Front - Looking Westerly

52/60 Prospect Avenue – Front Looking Southerly

52/60 Prospect Avenue – Front Looking Northerly

52/60 Prospect Avenue – Back Looking Southerly

52/60 Prospect Avenue – Back Looking Northerly

52/60 Prospect Avenue – Back Looking Easterly

44 PROSPECT PLAT

A PORTION OF LOTS 3 & 4 OF AMENDED PLAT OF PARK CITY LYING WITHIN THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 4 EAST SALT LAKE BASE & MERIDIAN SUMMIT COUNTY, UTAH

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENT THAT, the undersigned owner(s) of the herein described tract of land known as Park City Survey Block 18, lots 3 & 4, to be known hereafter as the 44 Prospect Plat, do hereby certify that I have caused this Plat to be prepared, and we, Leonard J. Pearson and Diane M. Pearson, husband and wife, hereby consent to the recordation of this Plat. ALSO, the owners, or their representatives, hereby irrevocably offers for dedication to the City of Park City all the streets, land for local government uses, easements, parks, and required utilities and easements shown on the plat and construction drawings in accordance with an irrevocable of dedication.

In witness whereof, We have hereunto set our hand this 14 day of MARCH, 2012.

BY:

Leonard J. Pearson

Diane M. Pearson

SABIHA ZUBAIR NOTARY PUBLIC Commonwealth of Virginia ID# 261658

ACKNOWLEDGMENT

State of ~~Utah~~ Fairfax 32 Virginia
County of ~~Summit~~ Fairfax 2012

On this 14th day of March, ~~2010~~ 2012, personally appeared before me, the undersigned Notary Public, in and for said County of Summit, in said State of Utah, _____, the persons that executed the within instrument and known to me to be (or proved to me on the basis of satisfactory evidence) the persons who executed the within instrument on behalf of said person, being duly sworn acknowledged to me that they are the owners of the herein described tract of land and he signed the above Owner's Dedication and Consent to Record freely and voluntarily.

Sabiha Zubair
Notary Public

My Commission Expires: 11-30-2014

LIEN HOLDER'S CONSENT TO RECORD

State of Utah
County of Summit

The undersigned lien holder hereby consents to the recordation of this plat.
_____ BY: _____

The foregoing consent to record was acknowledged before me this _____ day of _____, 2004, by: _____

_____
Notary Public

My Commission Expires: _____

PLAT NOTES:

1. THE PURPOSE OF THIS PLAT AMENDMENT IS TO COMBINE PORTIONS OF BLOCK 18, LOT 3 AND LOT 4 INTO ONE LOT.

2. ALL NOTES AND COVENANTS OF "AMENDED PLAT OF PARK CITY" SUBDIVISION REMAIN IN EFFECT ON THIS PLAT AMENDMENT.

3. THE DECK AND RETAINING WALL ENCROACHMENTS SHOWN HEREON, ALONG WITH SNOWSHED ENCROACHMENTS ARE ADDRESSED IN THE "DECK ENCROACHMENT, SNOWSHED ENCROACHMENT AND RETAINING WALL AGREEMENT," ENTRY NO. 935756, BK. 2107, PG. 1586, ON FILE AND OF RECORD IN THE OFFICE OF THE SUMMIT COUNTY RECORDER.

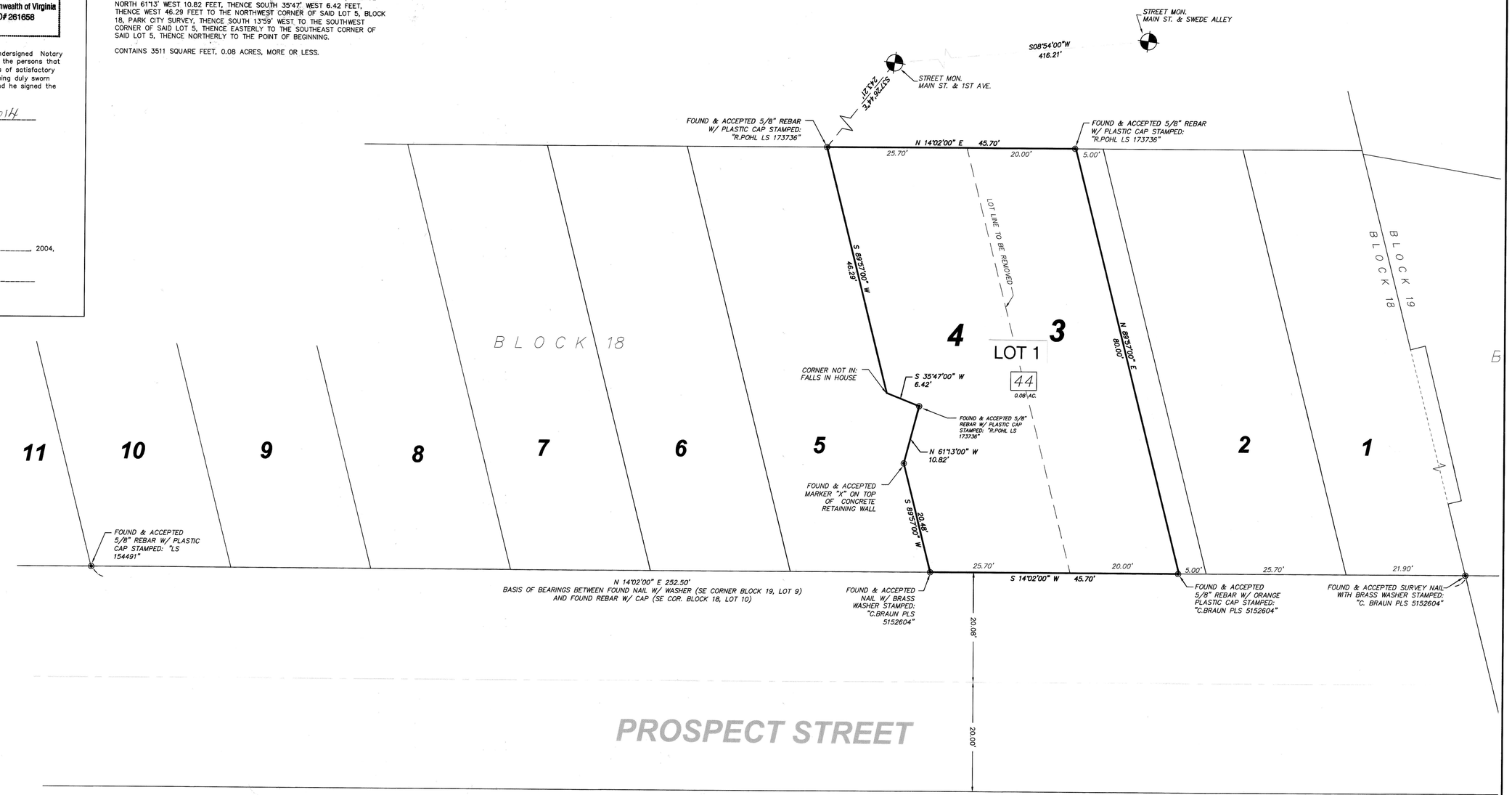
LEGAL DESCRIPTION:

THE SOUTH 20 FEET OF LOT 3 AND ALL OF LOT 4, BLOCK 18, OF AMENDED PLAT OF PARK CITY.

LESS AND EXCEPTING THE FOLLOWING PORTION:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 4, BLOCK 18, PARK CITY SURVEY (SAID POINT BEING SOUTH 14°02' WEST 8 FEET FROM A STONE WALL ON GRANTORS PROPERTY) AND RUNNING THENCE WEST 20.48 FEET, THENCE NORTH 61°13' WEST 10.82 FEET, THENCE SOUTH 35°47' WEST 6.42 FEET, THENCE WEST 46.29 FEET TO THE NORTHWEST CORNER OF SAID LOT 5, BLOCK 18, PARK CITY SURVEY, THENCE SOUTH 13°59' WEST TO THE SOUTHWEST CORNER OF SAID LOT 5, THENCE EASTERLY TO THE SOUTHEAST CORNER OF SAID LOT 5, THENCE NORTHERLY TO THE POINT OF BEGINNING.

CONTAINS 3511 SQUARE FEET, 0.08 ACRES, MORE OR LESS.



NORTH

GRAPHIC SCALE
10 0 5 10
1 INCH = 10FEET

LEGEND

- ◉ FOUND PROPERTY MONUMENT (AS DESCRIBED)
- XXXX ADDRESS
- XXX LOT NUMBER

SURVEYOR'S CERTIFICATE

I, Christopher Pentes, certify that I am a Registered Land Surveyor and that I hold Certificate No. 6449384, as prescribed by the laws of the State of Utah, and this Plat was prepared under my direction in accordance with the requirements of Park City Municipal Corporation. I further certify that the property boundaries as shown are correct.

Christopher Pentes
PLS 6449384

Date: 3/14/12

LICENSED PROFESSIONAL LAND SURVEYOR No. 6449384 CHRISTOPHER PENTES STATE OF UTAH

Park City Surveying
P.O. Box 682993
Park City, UT 84068
(435)649-2918
(435)649-4637 fax

PARK CITY PLANNING COMMISSION
APPROVED AND ACCEPTED BY THE PARK CITY PLANNING COMMISSION ON THIS 9th DAY OF March, 2011 A.D.
CHAIRMAN

CERTIFICATE OF ATTEST
I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS 24 DAY OF MARCH, 2011 A.D.
BY _____
PARK CITY RECORDER

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS 15th DAY OF March, 2012 A.D.
BY _____
S.B.W.R.D.

ENGINEERS CERTIFICATE
I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS 15th DAY OF March, 2012 A.D.
BY _____
PARK CITY ENGINEER

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS 22nd DAY OF March, 2012 A.D.
BY _____
PARK CITY ATTORNEY

COUNCIL APPROVAL AND ACCEPTANCE
APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS 24 DAY OF MARCH, 2011 A.D.
BY _____
MAYOR

RECORDED # 942031
STATE OF UTAH, COUNTY OF SUMMIT
AND FILED AT THE REQUEST OF FIRST AMERICAN TITLE
DATE 5/27/12 TIME 10:14 am
BOOK — PAGE —
$31.00 FEE
C. Willoughby - deputy RECORDER

Planning Commission
Staff Report

Subject: **7700 Marsac Avenue – Mine Bench Site**
Application: **PL-26-06800**
Author: **Alec Barton, Senior Planner**
Date: **January 28, 2026**
Type of Item: **Modification to Conditional Use Permit**

Recommendation

(I) Review the request to modify the Conditional Use Permit, (II) conduct a public hearing, and (III) consider approving the modification based on the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Draft Final Action Letter (Exhibit A)

Description

Applicant:	Park City Municipal Corporation Rhoda Stauffer, Affordable Housing Program Manager
Location:	7700 Marsac Avenue – Mine Bench Site
Zoning District:	Recreation and Open Space
Adjacent Land Uses:	Single-Family Dwellings, Multi-Unit Dwellings, Open Space
Reason for Review:	The Planning Commission reviews and approves requests to modify Conditional Use Permits.

CUP	Conditional Use Permit
LMC	Land Management Code

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC § 15-15-1.

Analysis

On December 10, 2025, the Planning Commission approved a modification to the Conditional Use Permit (CUP) at 7700 Marsac Avenue for two 400-square-foot temporary housing trailers for City employees through October 31, 2029 (Packet, Item 5.C; Minutes, p. 8). Please see the Staff Report for additional information about the approved modification.

Condition of Approval 5 from the Final Action Letter states, “The Housing Team shall acquire an extended agreement to October 31, 2029 with [Jordanelle Special Service District] within 30 days of this approval, or the approval is void.”

On January 8, 2026, the Housing Team submitted another request for modification of the CUP. The requested modification is to grant the Housing Team one additional year

to acquire an extended agreement to October 31, 2029, with Jordanelle Special Service District. No further changes to the CUP are requested.

The Draft Final Action Letter (Exhibit A) updates Condition of Approval 5:

"The Housing Team shall acquire an extended agreement to October 31, 2029 with [Jordanelle Special Service District] within ~~30~~ 365 days of this approval, or the approval is void."

The remaining conditions of approval, findings of fact, and conclusions of law remain in effect.

Department Review

The Planning Department, City Attorney's Office, and Executive Department reviewed this report.

Notice

Staff published notice on the City's website and the Utah Public Notice website and posted notice to the property on January 14, 2026. Staff mailed courtesy notice to property owners within 300 feet on January 14, 2026. The *Park Record* published courtesy notice on January 14, 2026.[1]

Public Input

Staff did not receive any public input at the time this report was published.

Alternatives

The Planning Commission may:

- Approve the modified Conditional Use Permit.
- Deny the modified Conditional Use Permit and direct staff to make Findings for the denial.
- Request additional information and continue the discussion to a date certain.

Exhibit

A: Draft Final Action Letter

[1] LMC § 15-1-21

Planning Department

January 28, 2026

Rhoda Stauffer
Affordable Housing Program Manager

NOTICE OF PLANNING COMMISSION ACTION

Description

Address:	7700 Marsac Avenue
Zoning District:	Recreation and Open Space
Application:	Modification of Approval
Project Number:	PL-26-06800
Action:	APPROVED WITH CONDITIONS (See Below)
Date of Final Action:	January 28, 2026
Project Summary:	The Applicant Requests to Modify a Condition of Approval of the Planning Commission Conditional Use Permit for City Employee Temporary Housing on the Mine Bench Site in the Recreation and Open Space Zoning District. The Requested Modification Is to Grant the Housing Team One Additional Year to Acquire an Extended Agreement to October 31, 2029, with Jordanelle Special Service District.

Action Taken

On January 28, 2026, the Planning Commission conducted a public hearing and approved the Modification of Approval according to the following Findings of Fact, Conclusions of Law, and Conditions of Approval.

Findings of Fact

1. The property is located at 7700 Marsac Avenue in the Recreation and Open Space (ROS) Zoning District.
2. On March 23, 2022, the Planning Commission reviewed a Conditional Use Permit (CUP) for Park City Fire District's (PCFD) proposal to temporarily install two Temporary Housing Trailers for personnel living quarters and storage of two

fire trucks on the Mine Bench property during the construction of Fire Station 34 in Upper Deer Valley.

3. Condition of Approval 7 from the 2022 approval required PCFC to request an extension of the approval from the Planning Commission if the use of the site extends beyond January 1, 2023.
4. PCFD did not request an extension prior to the expiration of the CUP, and the approval expired.
5. PCFD offered the City the opportunity to purchase the two Temporary Housing Trailers.
6. On July 27, 2023, the City council authorized the Housing Team to acquire the two Temporary Housing Trailers in the amount of $180,000.
7. The Housing Team requests to modify the March 23, 2022, approval to continue to use the Mine Bench site until October 31, 2029 for temporary employee housing while the City searches for a permanent location for the two Temporary Housing Trailers.
8. Park City's Public Works Department currently uses portions of the Mine Bench site for storage and maintenance of equipment.
9. The City leases portions of the Mine Bench property for other uses and the City provided notice to their existing tenants that City Employees will possibly occupy the two Temporary Housing Trailers.
10. The ROS Zoning District establishes a 25-foot front, side, and rear setback from the boundary line of the lot, district, or public right-of-way. The two Temporary Housing Trailers were installed in such a way they meet the required 25-foot setback.
11. LMC § 15-2.7-4 establishes a 28-foot Building Height limit. The tallest trailer is 16 feet, two inches.
12. Essential Municipal Public Utility Uses, Facilities, Services, and Structures greater than 600 square feet in the ROS Zoning District are a Conditional Use.
13. The two Temporary Housing Trailers are 400 square feet each.
14. The proposal, as conditioned, complies with the criteria outlined in LMC section 15-1-10(E).
    a. Size and Location of the Site – Since 2022, the two 400-square-foot Housing Trailers have been located within the JSSD parcel of the Mine Bench site. They will remain in the same location.
    b. Traffic Capacity - The Mine Bench is accessed from Marsac Avenue. Traffic Impact Studies are required for developments that generate 25 new

vehicle trips. The Housing Trailers are limited to one person or a couple per unit and do not generate more than 25 new vehicle trips.

c. Utility Capacity - PCFD worked with the Snyderville Basin Water Reclamation District and the Engineering and Public Works Departments to coordinate connections to existing sanitary sewer and water lines. The Housing Trailers are connected to existing onsite power sources.
d. Emergency Vehicle Access - On May 25, 2023 and November 18, 2025, PCFD confirmed the proposal meets their requirements.
e. Off-Street Parking - Public Utility Uses require:
    i. One space per five seats; or,
    ii. Two spaces per three employees; or,
    iii. One space per 1,000 square feet or floor Area, whichever is greater.

    The Site does not have dedicated parking, but there is ample unused space adjacent to the two Temporary Housing Trailers to provide up to eight parking spaces. Public Works will limit occupancy of the two Temporary Housing Trailers to one person or couple per unit.
f. Internal Vehicular and Pedestrian Circulation - The continued use of the two Temporary Housing Trailers will not impact internal vehicle or pedestrian circulation.
g. Fencing, Screening, and Landscaping - The existing site is well-screened from Marsac Avenue by the existing topography of the site; there is no new fencing or landscaping proposed.
h. Building Mass, Bulk, and Orientation - The two Temporary Housing Trailers are 38 feet long by 10.55 feet wide (400 square feet) each. They are set back more than 25 feet from the property line and are not visible from Marsac Avenue or the entrance of the Mine Bench.
i. Useable Open Space - The proposed use does not change or disturb the site's Open Space because the tiny homes will remain in the same approved location.
j. Signs and Lighting - No signs or lighting are proposed.
k. Physical Design and Compatibility with Surrounding Structures – The Housing Trailers are modern and compatible in style, scale, and mass with the industrial-type structures on the site.

l. Noise, Vibration, Odors, Steam, or Other Mechanical Factors – See Condition of Approval 1 – The current Use as two Temporary Housing Trailers for PCFD has not produced any known noise complaints. The surrounding buildings are industrial in nature and are more than 400 feet away. However, staff recommends including a Condition of Approval that requires compliance with Municipal Code Chapter 6-3, Noise.
m. Control of Delivery and Service Vehicles, Loading and Unloading Zones, and screening of Trash and Recycling Pickup Areas – See Condition of Approval 2 - Delivery and service vehicles do not need to access the site and do not require mitigation for loading and unloading zones. However, the occupants of the two Temporary Housing Trailers shall ensure trash and recycling is disposed of properly on site and removed weekly.
n. Expected Ownership and Management of the Project – See Condition of Approval 3 and 5 - Park City Municipal owns 29.07 acres of the Mine Bench property. In 2002, approximately two acres within the Mine Bench property was conveyed to JSSD (Parcel PCA-S-98-L-X). The City is currently looking to acquire that parcel from JSSD. Prior to the March 23, 2022, CUP approval, JSSD and PCFD entered into an agreement to use JSSD's parcel for the Housing Trailers. In 2023, PCMC purchased the Housing Trailers and the Housing team manages their occupancy and maintenance. Condition of Approval 5 requires the Housing team to acquire an extended agreement with JSSD.
o. Within and Adjoining Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste, Park City Soils Ordinance, Steep Slopes – The Housing Trailers are located on a level concreate pad and will not disturb mine hazards or mine waste. No physical changes are proposed to the site.
p. General Plan Consistency - Item H2 of the General Plan outlines that Park City will prioritize housing for 15% of the total workforce within the City boundary. The proposal assists with reaching that goal.
q. Radon Mitigation - Not required for temporary structures. Any permanent structure will need to be equipped with radon mitigation.

15. Staff published notice on the City's website, the Utah Public Notice website, and posted notice on the property on November 25, 2025.
16. The Park Record published notice on November 25, 2025.

Planning Department

Conclusions of Law

1. The application is consistent with the Land Management Code, including LMC Chapter 15-2.7 *Recreation and Open Space (ROS) District*, LMC § 15-1-10 *Conditional Use Review*, and LMC Chapter 15-2.21 *Sensitive Land Overlay Zone (SLO)* Regulations.
2. The Use is compatible with surrounding Structures in Use, scale, mass, and circulation.
3. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval

1. The Use of the two Temporary Housing Trailers shall comply with Municipal Code Chapter 6-3 *Noise.*
2. The occupants of the two Temporary Housing Trailers shall ensure trash and recycling is disposed of properly on site and removed weekly.
3. This Approval expires on October 31, 2029, and the two Temporary Housing Trailers shall either be removed, relocated, or the Applicant shall obtain Planning Commission approval for permanent use.
4. Use of the two Temporary Housing Trailers is limited to City Public Works employees, or those employees associated with the Essential Municipal Services provided in association with the Mine Bench Site. Public Works shall limit occupancy of the two Temporary Housing Trailers to one person or couple per unit.
5. The Housing Team shall acquire an extended agreement to October 31, 2029 with JSSD within 365 days of this approval, or the approval is void.

If you have questions or concerns regarding this Final Action Letter, please call (435) 731-6088 or email alexander.barton@parkcity.gov.

Sincerely,

Christin Van Dine,
Planning Commission Chair

CC: Lillian Zollinger, Project Planner
Alec Barton, Project Planner

Planning Commission
Staff Report

Subject: General Plan Implementation & 2026 Goals
Authors: Nan Larsen, Senior Planner
Alec Barton, Senior Planner
Date: January 28, 2026
Type of Item: Work Session

Recommendation

Staff recommends the Planning Commission review and provide input on potential Land Management Code updates to:

- Update Water-Wise Landscaping.
- Research potential updates to Transfer of Development Rights to incentivize preserving Open Space.
- Establish maximum impermeable surface per Lot to reduce stormwater runoff and preserve stormwater quality.
- Draft a community gardens ordinance to encourage and regulate the use of vacant parcels, or portions of a Lot for use as a community garden.
- Update the SLO to reflect best practices for ridgeline protection, mitigation on steep slopes, wetland and stream setbacks, and wildlife corridors and habitat
- Amend Chapter 15-6 *Master Planned Developments* to encourage development practices that minimize habitat fragmentation and maintain ecological connectivity.

Staff also recommends the Planning Commission review the list of General Plan implementation goals from previous work sessions and identify which goals to recommend the City Council prioritize in 2026.

Summary

The General Plan was adopted on September 25, 2025, after more than a year of public input, workshops, neighborhood consultation, and advisory committee review. Goals and implementation strategies of those goals were identified and reviewed with the Planning Commission in late 2025. This is the fourth General Plan implementation work session. After the Planning Commission recommendations, the Planning team will review the recommended goals, strategies, and actions with the City Council for their direction.

On January 7, 2026, the Historic Preservation Board conducted several work sessions and finalized their recommendations for historic preservation prioritizations (Packet, Item 6.B; Audio).

Of note, the Planning team also recommends consultant services to complete a comprehensive update to the Land Management Code—not for substantive changes—

to better integrate and organize the sections, to remove footnotes, and to update language for clarity and consistency.

Analysis

The first section of this staff report reviews the General Plan Water and Open Space Preservation Theme and outlines potential Land Management Code (LMC) updates recommended by the General Plan. The second section of this staff report recaps the previous work sessions held with the Planning Commission with the itemized prioritization of the General Plan implementation goals going forward in 2026.

(I) Water and Open Space Preservation

The General Plan specifies four core community values, including Water and Open Space Preservation:

We protect our resources and plan for future generations and climate change. We strive to preserve our open and natural lands and create a green buffer around Park City.

The preservation of open spaces and water resources is a key priority in the community. The goals, strategies, and actions aim to strengthen Park City's resiliency through water conservation and preservation of open space.

Some of these strategies and actions are ongoing and include the following:

Strategy 1A – Reduce water demand and protect water supply through collaboration, education, and technology.

Action: *Continue to incentivize water efficiency improvements in existing developments, such as offering rebates for turf replacement, smart irrigation controllers, or water audits.*
Action: *Continue updating land use regulations to reflect best practices for water-wise landscaping, including examples like native plantings and drip irrigation systems.*
Action: *Partner with programs like Localscapes and Utah Water Ways to amplify water conservation messaging and adoption of sustainable landscaping practices.*

The City continues requiring a WaterSense labeled irrigation controller and ongoing partnership with Weber Basin Water Conservancy District for smart controller rebates.[1] In 2025, 17 applications were received for review for the City's Landscape Incentive Program that encourages the removal of turf areas to be replaced with draught resistant landscaping with a possible rebate for turf removed.[2]

[1] Weber Basin Water Conservancy District
[2] Park City Landscape Incentive Program

Consider the following potential amendments:

(a) Update the code to require greater compliance with Water-Wise landscaping best practices.

In 2023, the LMC was amended with landscaping standards that comply with best practices, Ordinance No. 2023-10. As the focus on water conservation continues at the State Legislature and Water Conservation Districts where updates are required to qualify for rebates, staff will continue to update the LMC as needed.

Strategy 2A – Protect and enhance natural environments for current and future generations through managing use, preventing degradation of environments, maintaining or improving ecological functions and biodiversity, and protecting existing natural areas from development.

Action: *Continue to support policies that protect, rehabilitate, and maintain wetlands, riparian zones, and other natural areas to enhance their ability to filter pollutants, provide habitat for wildlife, and store water.*

In addition to the ongoing strategies and actions, the General Plan also identifies actions that pertain to possible updates to the LMC.

Strategy 1A – Reduce water demand and protect water supply through collaboration, education, and technology.

Action: *Continue updating land use regulations to reflect best practices for water-wise landscaping, including examples like native plantings and drip irrigation systems.*

Action: *Combine regulatory tools and incentives to encourage adoption of water-wise landscaping practices in both new developments and retrofits of existing properties, such as establishing enforceable water efficiency standards for landscaping, including a maximum water budget and plan water use categories tailored to local climate and soil conditions and evaluating site-level water demand—with a focus on outdoor use—during the development approval process to ensure long-term water efficiency and cost savings.*

The Planning Commission may consider updating and clarifying Water-Wise Landscaping regulations, including the minimum landscaped area required to be water wise (LMC § 15-5-5(N)(2)) and to better integrate the water wise and Wildland Urban Interface landscaping regulations.

(b) Research potential amendments and update Transfer of Development Rights that incentivizes preserving Open Space.

Strategy 2B – Continue conservation efforts to increase the land preserved as open space.

Action: *Evaluate increased opportunities for preservation of open space through comprehensive updates to the Transfer of Development Rights (TDR) sending zones and identify appropriate areas for increased density within receiving zones.*

The Planning Commission may direct staff to research potential amendments to LMC Chapter 15-2.24 to incentivize opportunities for preservation of open space, or to identify and expand the Transfer of Development Rights – Sending Sites (TDR-S) and Transfer of Development Rights – Receiving Sites (TDR-R) Overlay Zone to optimize undeveloped open space.

(c) Establish maximum impermeable surface per Lot to reduce stormwater runoff and preserve stormwater quality and draft a community gardens ordinance to encourage and regulate the use of vacant parcels, or portions of a Lot for use as a community garden.

Strategy 2C – Support efforts that maintain, add, and/or enhance natural features within urbanized areas of Park City to reduce heat island effect and improve access to green space for residents and visitors.

Action: *Evaluate areas outside of the Sensitive Lands Overlay to determine whether additional land use regulations are needed to protect the City's natural resources. Additional regulations could include:*

- Compatible uses that do not impact flooding or water quality in areas adjacent to streams and wetlands.

Action: *Update land use regulations related to impermeable surface area of lots to ensure proper drainage, hydrology, and mitigation of heat island effect.*

Action: *Encourage local agriculture through adoption of standards for community gardens and support structures within neighborhoods and public common areas. See Healthy Food Policy Project – Zoning for Urban Agriculture.*

The Planning Commission may consider:

- Creating maximum impermeable surface regulation per Lot, not to include the Building Footprint, to reduce stormwater runoff and preserve stormwater quality.
- Directing staff to draft a community gardens ordinance that encourages and regulates the use of vacant parcels, or portions of a Lot for use as a community garden.

(d) Update the Sensitive Land Overlay and Master Planned Development codes to reflect best practices for ridgeline protection, mitigation on steep slopes, wetland and stream setbacks, and wildlife corridors and habitat.

Strategy 3A – Support the maintenance and preservation of sensitive lands, including wildlife corridors.

Action: *Update the boundary and regulations of the Sensitive Land Overlay of the Land Management Code to reflect best practices for ridgeline protection, mitigation on steep slopes, wetland and stream setbacks, and wildlife corridors and habitat.*

Action: *Utilize findings of the Park City Natural Resource Inventory study to identify sensitive lands to be protected within the Sensitive Lands Overlay.*

Action: *Identify local and regional wildlife corridors with a protected area designation, establish buffer zones around these habitats to minimize human impact and maintain natural landscapes, and implement land-use planning and zoning regulations that prioritize the preservation and connectivity of these corridors. Re-evaluate local wildlife corridors approximately every 10 years unless major changes in vegetation are present which may necessitate more frequent evaluation.*

Action: *Within Master Planned Developments, encourage development practices that minimize habitat fragmentation and maintain ecological connectivity (without increasing wildfire risk), such as cluster lot design tactics, wildlife friendly fencing, reduction of fish barriers, and contiguous open space requirements.*

The Planning Commission may consider:

- Updates to the boundary and regulations of the Sensitive Land Overlay to reflect best practices for ridgeline protection, mitigation on steep slopes, wetland and stream setbacks, and wildlife corridors and habitat.
- Identifying wildlife corridors and establishing buffer zones around these habitats to minimize human impact and maintain natural landscapes, and implementing land-use planning and zoning regulations that prioritize the preservation and connectivity of these corridors.
- Amending Chapter 15-6 *Master Planned Developments* to encourage development practices that minimize habitat fragmentation and maintain ecological connectivity (without increasing wildfire risk), such as cluster lot design tactics, wildlife friendly fencing, reduction of fish barriers, and contiguous open space requirements.

(II) General Plan Implementation Goals 2026

Before this meeting, the Planning Commission held three work sessions on prioritizing certain actions in the General Plan. Staff seeks additional direction in identifying implementation goals for 2026 and the Planning Commission's recommended order of focus and implementation before continuing to City Council for their review.

On October 8, 2025, the Planning Commission reviewed Land Management Code (LMC) amendments completed in 2025, LMC amendments in progress, and potential amendments for consideration in 2026 (Meeting Packet, Item 6.A; Minutes, p. 18). The Planning Commission recommended:

- Updating the residential Zoning District regulations outside of the Historic Districts for compatible infill.
- Updating the regulations for Telecommunications Facilities.

On November 12, 2025, the Planning Commission reviewed potential Sustainability and Moderate-Income Housing LMC updates (Meeting Packet, Item 7.A; Minutes, p. 22). The Planning Commission recommended:

- Prioritizing integration of Wildland Urban Interface (WUI) regulations.
- Addressing additional Sustainability LMC amendments, including landfill diversion in construction mitigation plans, incentives for a zero emissions stretch code, and soil remediation criteria.
- Prioritizing updates to the Affordable Master Planned Development (AMPD) code and incentives for workforce housing through dormitories or single-room occupancies.
- Placing less emphasis on code updates for Accessory Apartments.

On December 10, 2025, the Planning Commission reviewed current initiatives and potential LMC updates for Transportation and Economic Development (Meeting Packet, Item 6.B; Minutes, p. 33). Potential LMC amendments include:

- Updating the Off-Street Parking requirements to prohibit separate leasing of parking spaces.
- Replacing parking minimums with parking maximums.
- Eliminating excess surface parking in core areas.
- Evaluating bicycle parking and storage requirements and considering incentives to bring existing developments into compliance.
- Considering a pilot parking permit program that provides residents access to transit stops in their neighborhood.

The table below summarizes priorities identified by the Planning Commission at the October 8 and November 12 Work Sessions:

Potential General Plan Implementation 2026 Priorities			
	Sustainability	**Housing**	**Community Character**
Highest	• Integration of Wildland Urban Interface (WUI) regulations		
High	• Landfill diversion in construction mitigation plans • Incentives for a zero emissions stretch code • Soil remediation criteria	• Updates to the Affordable Master Planned Development (AMPD) code • Incentives for workforce housing through dormitories or single-room occupancies	• Updates to the regulations for Telecommunications Facilities. • Updates to the residential Zoning District regulations outside of the Historic Districts for compatible infill
Lower		• Code updates for Accessory Apartments	

The table below includes remaining potential priorities from the December 10 and January 14 Work Sessions:

Remaining Potential Priorities (In no order of priority)
Update the Off-Street Parking requirements to prohibit separate leasing of parking spaces; replacing parking minimums with parking maximums.
Eliminate excess surface parking in core areas.
Evaluate bicycle parking and storage requirements and consider incentives to bring existing developments into compliance.
Consider a pilot parking permit program that provides residents access to transit stops in their neighborhood.
Update the code to require greater compliance with Water-Wise landscaping best practices.
Research potential amendments and update Transfer of Development Rights that incentivizes preserving Open Space.

Establish maximum impermeable surface per Lot to reduce stormwater runoff and preserve stormwater quality.
Draft a community gardens ordinance to encourage and regulate the use of vacant parcels, or portions of a Lot for use as a community garden.
Update the SLO in to reflect best practices for ridgeline protection, mitigation on steep slopes, wetland and stream setbacks, and wildlife corridors and habitat.
Amend Chapter 15-6 *Master Planned Developments*, to encourage development practices that minimize habitat fragmentation and maintain ecological connectivity.