



R. McConnell Group PLLC

VIA EMAIL

Chair Christin Van Dine
and Members of the Park City Planning Commission
Park City Municipal Corporation
445 Marsac Avenue
Park City, Utah 84060

September 17, 2026

*Re: Five-Acre Site—Applications PL-26-06914, PL-26-06915, PL-26-06917, and PL-26-06920;
Comment*

Dear Chair Van Dine and Members of the Commission:

The September 9 staff report asks the same question as this comment, bluntly: “[i]s the Planning Commission able to make these findings and conclusions? If not, what additional information or final modifications are needed for Final Action?” On this record, no. Unequivocally.

The Commission has never classified the 980-seat amphitheater, and the Code provides that “[a]ny Use not listed above as an Allowed or Conditional Use is a prohibited Use.” § 15-2.18-2(C). The report states no approved Building Height for any of the seven buildings, though § 15-6-5(F) requires that the approved additional Building Height “be specified as a Finding of Fact in the Master Planned Development Approval, in the Development Agreement, and on each plat within the Master Planned Development that includes a Building with an additional Height allowance.” Three documents the Code says a master planned development “shall contain”—a mine hazard map and mitigation plan, a soil remediation plan, and a historic inventory—do not exist in this record. § 15-6-5(K), (L), (N). Park City owns the land, proposes the redevelopment, and will decide the applications. The Commission cannot make legally required findings, and should deny the applications.

Park City wrote this Code. It wrote the parking table, the height limit, the definition of Open Space, and the list of permitted Uses. It wrote them to bind whoever came here to build. This Commission now sits as the land use authority over the redevelopment its own City proposes. Our clients ask the Commission to hold the City to the standard the City wrote for everyone else.

Park City has rebuilt itself more than once. What people do along Bonanza Drive and Kearns Boulevard has not changed—a juice on the way to work, a cookie on a Friday morning, breakfast with friends, gelato after school, a sandwich eaten standing up, lunch outside with the mountain in front of you, a pizza picked up on the way home, a ring left for repair, a room measured for somebody’s first house. The City wrote that down two years ago. The vision statement of its Bonanza Park Small Area Plan reads: “Bonanza Park is a neighborhood where Parkites gather to shop, dine, and express local art and culture.”

The plan's survey of existing conditions adds that the neighborhood "is long considered where locals live, shop, and dine." Bonanza Park Small Area Plan 5, 24 (adopted July 11, 2024). We represent twenty-two of the businesses that make that true. They do not stand alone. Residents have circulated a petition against this project, and the Commission has taken public comment on this project at three meetings—July 8, August 12 and August 26, 2026. At both work sessions, June 24 and September 9, the Commission declined to take public comment at all. Our clients do not ask the Commission to count the opposition. They ask it to apply the Code, which protects them whether one neighbor objects or two thousand do.

Our clients own businesses on and around the Five-Acre Site. We filed a comment for thirteen of them on September 2, 2026, which appears in the record at pages 166 through 181 of Exhibit R and pages 652 through 667 of the September 9 packet.

- Emily Burney, owner of Auntie Em's Baked Goods, 1351 Kearns Boulevard, Suite 150, in The Emporium, which adjoins the west edge of the Site.
- Mack Tilling, owner of Mack's Finest Gelato, 1890 Bonanza Drive #117, in Park City Plaza, across Bonanza Drive to the east.
- Kathryn Babcock, owner of Nosh, 1890 Bonanza Drive, Suite 112, in Park City Plaza.
- Jason Greenberg, owner of Stacked Sandwich Co., 1890 Bonanza Drive, Suite 118, in Park City Plaza.
- Angel Ruiz, owner of El Chubasco, 1890 Bonanza Drive, Suite 115, in Park City Plaza.
- Kreg Van Stralen, owner of Wasatch Bagel, 1890 Bonanza Drive, in Park City Plaza.
- Edwin Buitrago, owner of Booster Juice, 1890 Bonanza Drive, in Park City Plaza.
- Samuel Harris, owner of Samwell Enterprises LLC, doing business as Sammy's Bistro, 1890 Bonanza Drive #100, in Park City Plaza.
- Kelly Wallman, owner of San Francisco Design, 1890 Bonanza Drive, in Park City Plaza.
- Allison Cook, owner of PC Carriage House Retreat LLC, which operates lodging at 1940 Prospector Avenue, south of the Site.
- Dawn Kenton, owner of DK 611 LLC, 1940 Prospector Avenue, in the Carriage House, south of the Site.
- Jason Crobarger, owner of Fuego Bistro & Pizzeria, 2001 Sidewinder Drive.
- Diana Peterson, owner of Park City Massage Therapy LLC, 2273 Monarch Drive, in Prospector Square.
- Kelly Birkeland, owner of Alberto's Mexican Food, 1640 Bonanza Drive. The staff report's own table of neighboring parcels lists it.
- Mario Gonzalez, owner of Encanto, 1890 Bonanza Drive, Unit 111, in Park City Plaza.
- Duyen Le, owner of PC Pho, 1890 Bonanza Drive, Suite 105, in Park City Plaza.
- Duyen Le, owner of Polish Nail Bar, 1890 Bonanza Drive, Suite 110, in Park City Plaza.
- Bob Wilkinson, owner of PC Printink, 1733 Sidewinder Drive.
- Jordan Kaufman, owner of The Eatery, 136 Heber Avenue, in Old Town.
- Kelly Pfaff, owner of The Prospect, 2018 Prospector Avenue, in Prospector Square.

- Sagan Woodbury, owner of Woodbury Jewelers, 421 Main Street, in Old Town.
- Marjorie E. Manning, owner of Core Global Events, Inc., 2208 Sunset Court.

Eleven of the twenty-two occupy one building, Park City Plaza, directly across Bonanza Drive from the Site. One occupies The Emporium, which adjoins the west property line. One sits at 1640 Bonanza Drive. Two sit at 1940 Prospector Avenue, in the Carriage House south of the Site, one of them lodging. Two sit on Sidewinder Drive, one at an approach this project drops from level of service E to F in the opening year. Two sit in Prospector Square, two in Old Town, one in Park Meadows. Thirteen of the twenty-two prepare or serve food. One correction to our own filing: our September 2 comment placed Ms. Peterson's business in Prospector Village, and she places it in Prospector Square. Please include this letter in the record for each of the four applications and in the record for the public hearing whenever the City notices it.

Park City needs housing. The Code provides the legal framework. Our clients ask the Commission to follow the law. On this record the Commission cannot make the findings the Code requires. Our clients ask it to deny the applications.

I. Commission Must Make Findings that Comply with Law

No court can review a finding the Commission does not write. No court can sustain a finding the Commission's own report contradicts. This record offers nothing else.

Concerns voiced while voting do not count as findings. In *McElhaney v. City of Moab* the councilmembers stated reasons for their votes and the Utah Supreme Court still remanded, because a body sitting adjudicatively "needs to produce findings of fact capable of review on appeal." 2017 UT 65, ¶ 41, 423 P.3d 1284. The September 9 report makes findings of compliance on two criteria addressed below while stating in the same document that the applicant keeps changing the plans those criteria govern.

Facts on appeal get deference. The appeal authority "shall review factual matters on the record, with deference to the land use authority." § 15-1-18(G). Our clients must prove the decision "is illegal, or that the factual findings are clearly erroneous." Utah Code Ann. § 10-20-1105(2). The record makes that burden light. Deference runs to findings. It does not run to a range, an example, or a contradiction.

Interpretation gets zero deference. The same subsection tells the appeal authority to "determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations." § 15-1-18(G). For instance, at least four questions in the record turn on plain meaning:

1. Which listed Use covers a 980-seat amphitheater, and who may permit it
2. Whether Landscaped Open Space excludes a Structure
3. Whether the Frontage Protection Zone ties Building Height to the underlying district
4. Whether a plat that dedicates easements on three streets and builds trails and a bus stop creates public improvements

Objections of this kind are evidence. In *VR CPC Holdings Inc. v. Park City Municipal Corp.* the district court found, and the Court of Appeals affirmed, that residents' comments were "not public clamor, but are reasonable concerns based on evidence in the record that cast doubt onto whether the expert analysis under the Parking Mitigation Plan was reliable." 2025 UT App 130, ¶ 16, 578 P.3d 249. Every figure in this letter comes from the City's own filings, its own consultants, or the applicant's own engineer.

Those figures invite the Commission to deny the applications. The most damaging evidence comes from the applicant, which arrives at each meeting with a new plan. Not one of those plans complies with the law.

II. An Event Night Needs 515 Spaces. The Garage Holds 280.

The staff report states: “The Applicant proposes 280 parking spaces, 72 more than required by the LMC.” But the parking study attached to the report, prepared by the applicant’s engineer on September 2, 2026, concedes otherwise. The Code figure of 208 sets the requirement “for the proposed development without any event venues.” Applying the rates of the Institute of Transportation Engineers, “ITE would suggest that the parking demand for the proposed project will be 362 stalls,” and with the cushion the engineer recommends for garages, “a supply of 393 stalls should be provided.” Assuming shared parking on a typical weekday, “there is anticipated to be insufficient parking for the development during non-event operations. A total of 306 stalls should be provided to meet the shared parking requirements.”

Absurdly, that figure assumes the amphitheater will never have an event. “The most extensive event use of the proposed project includes plans for an amphitheater with a capacity of 980 seats.” At four seats to a vehicle, “the event space would generate demand for an additional 245 parking stalls,” and “the event space will bring the total parking need to a total of 515 parking spaces. This demand is 235 parking spaces greater than the proposed capacity of 280 stalls.” The study’s comparison table prints the six figures side by side: proposed 280, City requirement 208, ITE 393, time-of-day 306, recommended after reductions 275, event parking demand 515. The four-seat figure rests on the study’s own carpooling assumption, and it says so: “Using the Park City’s assumption of 4 seats per vehicle.” It cites no ordinance, standard, or prior study for the figure, nor anything to support the assumption that everyone who attends an event at the amphitheater will carpool in a four-seat vehicle. The engineer then concedes the likely scenario, and it names the one our clients fear: “Events held at the proposed project should utilize an off-site parking plan to accommodate the additional demand without negatively impacting the surrounding neighborhoods.” Read that again. The engineer’s answer to a 235-car shortfall sends those cars onto streets and lots that belong to other people, on a condition—no negative impact on the surrounding neighborhoods—that nothing in this record shows anyone can meet.

Yet the staff report’s analysis ignores this—the number 980 does not appear in its sixty-one pages. Neither does the phrase off-site parking. The word amphitheater appears three times—in the list of project components, in the Open Space breakdown, and in the noise criterion—and never in the parking section or the traffic section. The staff report tells the Commission of a seventy-two space surplus. The applicant’s own engineer reports a shortfall of 235, and offers no plan for it except to push the overflow onto streets and lots belonging to somebody else, causing traffic congestion and harm to local businesses.

The Code explicitly forbids this. The law reads plainly: “required parking must be on-Site unless the Planning Commission allows such parking on adjacent or nearby deed restricted Lots.” § 15-3-2(C). This record identifies no deed-restricted lot. On August 12 the applicant told the Commission where the cars would actually go: “Typically, the additional parking will be at the high school parking lot. This lot is generally available outside of school hours.” That lot belongs to the school district. Nothing in this record shows that anyone asked the district, and nothing shows that it agreed. An approval that depends on parking the applicant does not own, on a lot the Code forbids it to use, breaks the law on its face.

The Code also supplies rates for the use, whichever classification applies. For an “Auditorium and Assembly Hall” § 15-3-6 requires one space for every five seats, which for 980 seats yields 196. For a “Recreation Facility, Public” the same section gives three alternatives—“1 space per 4 seats or 5 spaces per 1,000 sf of floor Area, or 1 per 3 persons rated capacity depending on type of facility”—and the

applicant used the first, which produced the 245 stalls in its study. The City’s consultant asked why the seat rate rather than the floor-area rate. The applicant answered in its comment-resolution form of August 4, 2026 that the amphitheater “was thought to have a more accurate parking count based on seats,” and that on floor area “the area would only need 35 parking stalls with one parking stall per 200 feet, which does not seem resonable [sic].” The applicant’s own engineer rejected the lower rate as unreasonable and took the higher one. The staff report’s table takes neither. Where a project incorporates two uses, “the Use requiring higher number of Parking Spaces shall govern.” § 15-3-6(C). On any of these rates the required-parking table in the staff report has no line for the largest parking generator on the site.

The Code gives the Commission discretion in one direction only. “In Master Planned Developments and in review of Conditional Use permits, the initial parking requirement is determined by referring to the requirements for the Use and the underlying zone. The Planning Commission may reduce this initial parking requirement to prevent excessive parking and paving. The Applicant must prove by a parking study that the proposed parking is adequate.” § 15-3-7(A). The applicant’s plan sheet asserts the opposite—that the parking ratio “is determined by Planning Commission based on the proposed uses” and that the Code ratios “are for reference only.” The Code makes them the starting point, permits only a reduction, and places the burden of proving adequacy on the applicant. The applicant’s own study does not meet that burden. It shows the opposite. The Commission could stop reading now and deny the applications. But it gets worse.

III. Parking Numbers Do Not Comply with Law

Set the amphitheater aside and the table still fails on its own terms.

Section 15-3-6(C) provides that “[w]henver the calculation results in a fractional number, the number of spaces required must be rounded up to the next whole number.” The table in the staff report prints fractions and rounds only at the end: 6.56 for the leasing office, 8.08 for the arts space, 30.71 for retail, 6.6 for the café, 33.6 for the restaurant, and a subtotal of 89.55. Rounded as the Code directs, those five lines yield 7, 9, 31, 7 and 34, and the requirement on staff’s own square footages comes to 210, not 208. None of this rests on our arithmetic against the City’s. The City Engineer retained METHODS Consulting to review the parking study, and its July 10, 2026 memorandum found the defects. It wrote that “the required parking spaces for the 8,100 square-foot non-profit arts spaces should be 9 instead of 8.” Two months later the table still prints 8.08.

The table also omits the public gym. The applicant added 3,689 square feet of public gym to its own calculation on September 2, writing that “the gym that was originally considered an amenity for the residential but was updated to public use” and that “[a] public gym of 3,689 square feet was added to the parking calculations.” The staff report prints no line for it. At the rate that table applies to retail and service commercial it adds twelve spaces. The applicant’s own site plan, bound into the same study as Appendix A and dated August 12, 2026, still labels that space “(RESIDENT AMENITIES, ONLY)” and assigns it zero.

That sheet states the requirement a different way again. Sheet SD.G.01, titled Garage—Vehicle and Bicycle Parking Data, computes 118 residential spaces and 77 non-residential spaces, then applies a “20% MIXED-USE & TOD PARKING REDUCTION” that takes the non-residential figure from 77 to 62, and prints “REQUIRED PARKING: 180 SPACES REQUIRED” against “TOTAL PARKING PROVIDED: 281 SPACES PROVIDED.” Two things follow. The 281 includes the nine street spaces staff says do not comply with § 15-3-3(G), of which staff writes that “[b]ecause they require backing onto an adjacent roadway, these spaces do not comply with LMC § 15-3-3(G)” —so the finding that this project “complies with all requirements of the Land Management Code,” § 15-6-6(A), fails while they remain on

the plan. And the twenty percent reduction appears nowhere in § 15-3-6. Section 15-3-7(A) commits a reduction to the Commission, on proof by a parking study that the proposed parking suffices. The applicant has taken it on its own sheet, the staff report does not mention it, and the staff report's table reports the requirement as 208. Counting the two figures the City's consultant found in the June study, the record now states the Code requirement five ways: 165, 180, 208, 209 and 210. The last does not come from our arithmetic. The applicant's own Parking Management Plan says it four times—that the project “proposes 280 structured parking spaces compared to the 210 spaces required by the Park City Land Management Code,” that the Code “requires 210 parking spaces for the proposed mix of residential, commercial, and other uses,” and that the result leaves “70 spaces above the minimum code requirement.” The staff report's table says 208 and a surplus of 72. Both documents sit in the September 9 packet, and rounding the fractions in that table as § 15-3-6(C) directs also produces 210.

Source in the record	Code requirement stated
June parking study, as read by the City's consultant	165
Applicant's sheet SD.G.01, Garage—Vehicle and Bicycle Parking Data	180
September 9 staff report, required-parking table	208
The same study's Table 2, as read by the City's consultant	209
Applicant's Parking Management Plan, stated four times; and the staff report's own fractions rounded as § 15-3-6(C) directs	210

The Commission cannot approve a project against a requirement the record states five ways. § 15-6-6(A) requires a finding that the project complies with the Code. No finding can rest on five different numbers.

The four documents that state the square footages give four different sets of numbers—the September 9 report, the September 2 parking narrative, the applicant's September 2 response to the Commission's questions, and a site plan dated August 12. The staff report gives the café 2,220 square feet, the applicant's engineer gives it 2,680, and the applicant's own ground-floor use table gives it 2,200. The restaurant runs 3,360, 3,072 and 2,100. The arts pavilion runs 920 square feet in the staff report and on the site plan, and 2,563 square feet in the applicant's response to the Commission's questions. The leasing office appears in the staff report's table and drops out of the engineer's land-use list, as does the non-profit arts space. The child care center appears in both lists at two different figures. Table 1 of the engineer's study lists a Day Care Center at 4.3 thousand square feet, applies an 85th percentile rate of 3.42, and derives fifteen stalls of demand and seventeen of supply. The staff report's table gives the same use four spaces, at one space for each of four on-shift employees.

That child care figure remains unresolved, and the City's consultant said so in July. Section 15-4-9 requires “[o]ne off-Street parking space ... for each on-shift, non-resident or non-family member employee ... in addition to underlying parking requirements outlined in Section 15-3-6,” while § 15-3-6 refers back to § 15-4-9. The consultant wrote that “[i]t should be verified what is meant by underlying parking requirements as it could potentially mean that more than four parking spaces may be required for this land use.” Nothing in the September 9 report verifies it. The report still gives the center four spaces.

The applicant's proposals keep changing. Its answers do not. Remarkably, the applicant now proposes to pay tenants of the restricted units not to use the garage: “Tenants in LIHTC-restricted units will receive a monetary incentive for electing to forgo a space.” The report asks the Commission to rely on a Parking Management Plan dated June 2026 to prevent spillover. It commits to paid public parking. It

predates the public gym, the unbundling proposal and the September 2 study. Its own two statements of purpose still differ: under Protecting Surrounding Neighborhoods the objective reads “to reduce parking spillover into surrounding residential neighborhoods and nearby commercial areas,” § 2.2, and under Parking Spillover Prevention it reads “to minimize parking demand within surrounding neighborhoods,” § 4.4. Our clients occupy the nearby commercial area, and their lots charge nothing.

The report outlines the problem. Of the 280 spaces it writes that “the proposed increase in parking well above the minimum parking requirement could conflict with neighborhood and Citywide goals to reduce trips in single-occupancy vehicles,” and that “the General Plan calls for the City to replace minimum parking requirements with maximum parking allowances.” The report quotes the two adopted documents that say the same thing. Strategy 3D of the General Plan directs the City to “[s]trengthen policies that reduce reliance on single-occupancy vehicles by requiring and incentivizing multimodal transportation through planning, development, and transportation initiatives.” Park City General Plan 19 (2025). Recommendation UF4 of the Small Area Plan the City adopted for this neighborhood directs the City to “[c]reate a vibrant pedestrian-oriented neighborhood by restricting autocentric uses, lowering parking minimums, and incentivizing underground parking structures.” Bonanza Park Small Area Plan 70, 77 (adopted July 11, 2024). The applicant proposes seventy-two spaces more than the Code requires. The Commission has said the same thing out loud at two hearings running. The August 12 minutes record that Chair Van Dine “understands the rationale for the increased number of parking spaces,” that “this proposal goes against the goal to reduce vehicle trips and encourage transit use,” and that “[s]he would like to see a parking reduction brought forward.” On August 26 Commissioner Beal correctly stated that he “will struggle to approve the additional parking on the site,” because he believes “less available parking is what will change visitor behaviors.” Commissioner Frontero asked that evening what would happen to intersection delay if the Commission cut the 280 to 208. Tellingly, the applicant’s engineer answered that “there is not solid data to determine the impact of providing less parking.”

Compounding this problem, the applicant has conceded people will not want to use its parking irrespective of how many spaces it builds. Its representative told the Commission on August 26 that “all of the parking surrounding the site is surface parking” and that “[o]ne of the challenges facing the businesses on this site is that visitors need to be willing to park underground.”

IV. Amphitheater Use Lacks Legal Foundation

Our September 2 letter asked one question: under which listed Use does the Code approve the amphitheater? The September 9 report offers a legally infirm answer. Its heading reads: “Redevelopment of the Five-Acre Site requires Conditional Use Permits for Multi-Unit Dwellings, Outdoor Events, and a non-profit arts space.” A document heading does not supply a legally required finding, and this one fails on its own terms.

The Code lists Outdoor Event as a Conditional Use. § 15-2.18-2(B)(21). A footnote follows: “Requires an Administrative Conditional Use permit.” Section 15-2.18-10(B) governs it, captioned Outdoor Uses Prohibited/Exceptions, which provides that the five listed outdoor Uses “may be allowed by the Planning Department upon the issuance of an Administrative Permit,” that “[t]he Applicant must submit the required application, pay all applicable fees, and provide all required materials and plans,” and that “[a]ppeals of departmental actions are heard by the Planning Commission.” The fourth exception covers outdoor events and music. It requires “a Site plan and written description of the event” addressing seven items, the fifth of them “[p]arking demand and impacts on neighboring Properties.” § 15-2.18-10(B)(4).

That answer creates three legal problems.

The Department issues that permit, not the Commission. If the Commission grants it as a component of the master planned development, it decides in the first instance a matter the Code assigns to the Department, and the neighbors lose the appeal the Code gives them.

No such application exists. The Commission has before it PL-26-06914, PL-26-06915, PL-26-06917, and PL-26-06920. No one has applied for an Administrative Conditional Use permit for outdoor events and music, and the record contains none of the seven items § 15-2.18-10(B)(4) requires—no site plan of the events, no written description, no notification of adjacent property owners, no duration, no hours, and on parking demand and impacts on neighboring properties nothing but the sentence in which the applicant’s engineer reports that demand exceeds supply by 235 stalls.

And the label describes an activity, not a structure. An Outdoor Event happens. A 980-seat amphitheater gets built. If the amphitheater falls instead among the Recreation Facility uses, the Code lists Recreation Facility, Public as a Conditional Use in this district, § 15-2.18-2(B)(30), and defines it as “Recreation facilities operated by a public agency and open to the general public with or without a fee,” § 15-15-1. A City-owned amphitheater on City land meets that description. Two things then follow that this record does not contain. The classification sets the parking ratios of § 15-3-6, and the table in the staff report has no line for them. And the classification governs the Site for the life of the project, so it belongs in a finding rather than in a heading.

The Commission has not chosen between them. Utah Code Ann. § 10-20-507 sets the route for a “new or unlisted business use,” which the statute defines as “a business activity that does not align with an existing land use specified in a municipality’s land use ordinances.” Whatever that route requires, nothing in this record shows that anyone has taken it. If the amphitheater qualifies as a business activity, no one has run the process the statute contemplates. If it does not, the statute supplies no route at all, and the Code’s own rule governs unaided: “[a]ny Use not listed above as an Allowed or Conditional Use is a prohibited Use.” § 15-2.18-2(C). In *Carrier v. Salt Lake County* a county stretched a listed category to cover a use its ordinance omitted. The Utah Supreme Court held the omission deliberate, the use unauthorized, and the approval illegal. 2004 UT 98, 104 P.3d 1208. No one has classified this Use at all. A conditional use permit for a Use the Code prohibits breaks the law, and no condition can cure it.

The report itself confirms that events drive this project rather than accompany it. It proposes a condition that “[o]utdoor events with more than 75 attendees shall obtain any Special Event Permit required by the City and provide an event-specific transportation management plan.” The applicant describes what happens below that threshold: “an ongoing set of daily events including children’s reading hours, art classes and workshops in the arts pavilion, as well as ongoing meetings, rehearsals, and presentations, outdoor exercise classes, yoga, small art shows and food truck days,” and “[o]n a more weekly basis the site will be used as an event space for the arts community and other organizations,” with “special tented events including pop-up retail outdoor markets (winter and summer) and festivals,” and a trail system that will “make this an ideal place to start and finish bike and running races that occur on an almost weekly basis in Park City.” Its own transportation memorandum lists “recreational/event space” among the project’s land uses. The parking study models a typical weekday with a peak at 1:00 p.m.

The City has still not told the public. The agenda for September 9 describes the project in the same words the June 24, July 8, August 12 and August 26 notices used: a mixed-use development “Including 106 Residential Units, Over 30,000 Square Feet of Commercial and Multidisciplinary Art Space, Community Green Space, and an Underground Parking Garage.” That marks the fifth notice in this proceeding that mentions no amphitheater, no outdoor event use, and no event program. Approval of a master planned development requires the Commission to find that the project “was noticed and the

Planning Commission held a public hearing in accordance with this Chapter.” § 15-6-6(K). No notice in this proceeding states the height the applicant asks the Commission to approve. A hearing noticed that way does not satisfy § 15-6-6(K).

V. Building Height Numbers Remain Elusive, Notwithstanding Legal Requirements

Section 15-6-5(F) requires the Commission to make legal findings. The approved additional Building Height “shall only apply to the specific plans reviewed and approved by the Planning Commission,” and the Commission must specify it as a Finding of Fact in the approval, the development agreement, and each plat, as quoted at the opening of this letter.

The September 9 report gives no approved height. It gives the applicant’s evolving requests: three figures for Building One, six each for Buildings Two and Five, and none at all for Buildings Three, Four and Six. This moving target does not approve anything, and § 15-6-5(F) governs approvals.

Building	Figures in the record	Approved height
One	49’4”, 52’1”, 58’3” (three roof pitches)	None stated
Two	Six	None stated
Three	None	None stated
Four	None	None stated
Five	Six	None stated
Six	None	None stated

Section 15-6-5(F) requires the right-hand column. It has no entry for any building.

The report shows Building One at 49 feet 4 inches with a 4:12 roof, 52 feet 1 inch with a 7:12, and 58 feet 3 inches with a 12:12, requesting additional height of 14 feet 4 inches, 17 feet 1 inch, or 23 feet 3 inches. It shows Buildings Two and Five twice over, giving each a separate figure at each end of its own slope. Building Two measures 40 feet at the west grade and 41 feet 3 inches at the east with a 4:12 roof, 43 feet 7 inches and 42 feet with a 7:12, and 49 feet 9 inches and 48 feet 2 inches with a 12:12. Building Five measures approximately 38 feet at the south grade and 40 feet at the north with a 4:12, approximately 40 feet and 42 feet with a 7:12, and approximately 46 feet and 48 feet 2 inches with a 12:12. Six numbers for each of those two buildings. Buildings Three, Four and Six have no stated height at all. The report explains why: the Building Two elevations “serve as a conceptual example that may also be applied to Building Three,” and the Building Five design “may also be applied to Buildings Four and Six.”

The report warns that the remaining figures may continue to change. “The number of residential units and bedrooms and the amount of commercial floor area may vary in the submittal provided with a request for Final Action.” Because the applicant keeps adjusting footprints for façade variation, “the floor plans may change, and the overall square footage and density of the project may decrease.” The applicant said the same thing to the Commission on August 26: “Once there is additional feedback is received, the exact numbers for each building will be determined.”

The Commission has already signaled its conclusion. Staff reports that on August 26 the Commission “reached consensus” and stands “open to considering additional Building Height for the four-story Building One in the southwest corner of the Lot along Munchkin Road and the private driveway access proposed for the Site.” The minutes bear that out. Chair Van Dine “does not see Building One as an issue as far as a height exception given the fact that all of the other building heights have been

significantly reduced,” and she “believes the six criteria in LMC 15-6-5(F) have been met.” The Planning Director summed up the discussion: “It sounds like the majority of the Commission is supportive of considering the proposed height for Building One.”

The Commission spoke on August 26—before the September 2 submittal, before the applicant drew the three roof-pitch options, and while the applicant still adjusted footprints to meet the façade standard the first criterion incorporates. The Commission judged the six criteria satisfied before the plans those criteria govern existed. That does not amount to review. This record describes Building One three ways—49 feet 4 inches, 52 feet 1 inch, or 58 feet 3 inches. The report sets it back 40 feet from the west property line, the only boundary this project shares with private land. Staff says the property across that line will sit in shadow “through most of the morning” at the Winter Solstice. A judgment reached before the applicant drew the plans the criteria apply to cannot pass for the Site specific analysis § 15-6-5(F) requires, and any approval resting on it violates the Code.

The Commission cannot write an approval on this record. No one can hold a builder to an imaginary number that changes with every meeting, and § 15-6-5(F) does not permit the Commission to approve a range, an example, or a concept. An approval that states no number violates § 15-6-5(F) and binds no one. The Code does not make the Commission a rubber stamp for the builder.

The direction of the request has also changed. The reduction in the heights of Buildings Two through Six appears only in the 4:12 option. Building One exceeds forty-five feet at every pitch the report shows—49 feet 4 inches, 52 feet 1 inch, 58 feet 3 inches. Buildings Two and Five exceed it at the steepest. The Code allows additional height in an Affordable Master Planned Development only to forty-five feet, and only with a ten-foot setback on all perimeter Building Façade planes. § 15-6.1-8(A). The zoning district the Council considered and did not enact would have provided “a path toward increasing building heights to 45-feet,” as the City told the Environmental Protection Agency in its FY2026 Brownfields Cleanup Grant application. The tallest option here stands thirteen feet three inches above the number the Council declined to enact.

This Commission has already decided a case like this one. On March 26, 2025 it denied the Park and Kearns Master Planned Development at 1800 Park Avenue by a vote of five to one, in the same General Commercial district. That building stood at 45 feet against the same 35-foot limit, and the Commission decided it on the height exception. The applicant here asks 49 feet 4 inches, 52 feet 1 inch, or 58 feet 3 inches for Building One. The Commission should deny this one for the same reason.

VI. No One Has Ever Answered the Frontage Protection Zone Question

Section 15-2.20-4 begins: “Lot and Site Requirements and Building Heights for all Development Activities and uses within the Frontage Protection Zone must be consistent with the underlying Zoning District and are subject to the following additional requirements.” The underlying district allows 35 feet from Existing Grade, with five more feet for a gabled roof at 4:12 or steeper. §§ 15-2.18-4, 15-2.18-4(A)(1). Section 15-6-5(F) does not mention the Frontage Protection Zone.

The September 9 report discusses the zone at length and supplies figures our first letter did not have. Building Two has 56.7 percent of its footprint inside the hundred-foot zone and Building Three has 79.6 percent. Building Two’s nearest point to the Front Lot Line measures 51 feet 6 inches, Building Three’s more than 48 feet. Building Four “includes a first-story outdoor seating area within the FPZ,” and the applicant proposes a non-profit arts space in Building Two “partially within the 30- to 100-foot FPZ Setback.”

The report addresses Setbacks, curb cuts, fences and utility boxes inside the zone. It cites no provision that authorizes a Building above 35 feet within it. This question applies to Buildings Two and Three. Staff places Building One, the tallest, “outside of the FPZ.”

The question went to the Planning Department in writing on June 24, 2026, and came up from the dais on August 12, 2026. The August 26 minutes never mention § 15-2.20, and the September 9 report does not answer it. The height requested inside the zone has risen to 49 feet 9 inches.

The zone exists “to preserve Park City’s scenic view corridors” and to “preserve and enhance the rural resort character of Park City’s entry corridor.” § 15-2.20-1(A), (B). A visitor sees this corridor first. The question calls for interpretation, and a court reviews it for correctness. An unanswered interpretive question does not supply a finding, and an approval built on it fails on review.

VII. Two of the Six Height Findings Are Doomed by the Record

The first criterion permits additional height that provides architectural variation and forbids additional height that “result[s] in increased square footage or Building volume over what would be allowed under the zone-required Building Height and Density, including requirements for Façade variation and design.” § 15-6-5(F)(1). The criterion incorporates the façade standard by its own terms.

The report finds it satisfied: “Complies: The Applicant could build a project with 482,078 square feet but proposes a project with 185,512 square feet – 38% of the allowed density.” Pages earlier the same report states that the applicant “has shifted the footprint of several buildings to comply with the façade variation requirements in LMC § 15-5-8,” that “the floor plans may change,” and that because of those adjustments “the total Open Space may change in the final submittal.” The Commission cannot find that criterion satisfied while the report says the applicant keeps changing the plans to meet the very standard it incorporates.

The comparison also remains what our first letter described. Square feet measure area, not volume, and the 482,078 figure takes the site area, multiplies it by seven-tenths and by three, and subtracts no Setback. The September 9 report adds a second difficulty. The proposed plat states the Lot at 5.27 acres and 229,390 square feet. The 482,078 figure comes from 229,561 square feet. The same report gives the ratio as 38.5 percent in its narrative and 38 percent in its findings table. Commissioner Beal asked pointedly on June 24, 2026 “that the correct numbers be provided so there is consistency in the materials that are being reviewed,” and the July 8 report answered in a footnote that “[t]he numbers are now confirmed and accurate.” The numbers still do not match, and the footnote did not make them match.

The sixth criterion requires additional height “designed in a manner that provides a transition in roof elements in compliance with Chapter 15-5, Architectural Review.” § 15-6-5(F)(6). The report finds it satisfied. In the same section it states: “Final materials are under review because the Applicant’s requested metal requires a Planning Director exception.” An exception no one has granted does not establish compliance. The Commission must deny an application that does not satisfy an express requirement of the ordinance. *Sidwell v. Wasatch County*, 2026 UT App 67, 591 P.3d 1273.

The City’s historic preservation consultant, whose memorandum the report attaches, correctly recommends prioritizing “compatibility over imitation,” using “authentic, durable materials rather than synthetic imitations,” and avoiding “highly reflective materials, exaggerated forms, or architectural features that compete with historic resources.” Staff’s own text concedes that “the Applicant proposes materials not common in either the residential or commercial Historic Districts,” namely “stone veneer and metal cladding,” and that the façades of the six buildings run from 147 to 191 feet. Staff finds

compliance with Chapter 15-5 while reporting in the same section that the materials remain uncommon in either Historic District and that the metal still requires an exception no one has granted. *Sidwell* forecloses a finding of compliance that rests on an exception nobody issued.

VIII. The Criterion Names Three Required Impacts, the Record Reviews Two

Section 15-6-5(F)(2) requires the Commission to find that “[p]otential problems on neighboring Properties caused by shadows, loss of solar Access, and loss of air circulation have been mitigated as determined by the Site specific analysis.”

The phrase air circulation appears five times in the September 9 report: in the list of the six criteria, in the findings table, at the head of staff’s own analysis, and twice inside the applicant’s response, which asserts that “there are no impacts from shadows, loss of solar access, and loss of air circulation” and that “there are no potential problems caused by shadows, loss of solar access, and loss of air circulation.” Staff finds: “Complies: The project is designed to exceed required Setbacks and the Applicant’s solar study indicates minimal off-site disturbance.” Setbacks and a solar study cover two of the three. Neither staff nor the applicant analyzes air circulation. Staff answers a criterion the Commission must find satisfied by quoting it back.

The shadow half has its own problem. Staff relies on the “Solar/Shadow Study (August 12 Packet, Exhibit A, p. 42).” It analyzes the buildings as they stood on August 12. The applicant filed the roof pitches now before the Commission on September 2. Nothing in this record studies the shadows cast by the buildings the applicant asks the Commission to approve.

What the existing study does show, staff describes in one sentence: “The property to the west will experience shadows during the Winter Solstice through most of the morning; however, by noon, these shadows clear neighboring Properties.” Two properties lie to the west, The Emporium and Com-Park Plaza, as the report’s own table of adjacent land uses states. Ms. Burney’s bakery sits in The Emporium. The criterion asks whether the applicant mitigated the problem. A winter morning in shadow describes the problem. Building One stands nearest that line, the tallest of the seven, 40 feet from the property line and as much as 58 feet 3 inches tall.

The applicant’s basis for the west line remains an assertion about our client’s building: that “[t]he Emporium has a small ten-foot-wide side yard along the edge of the site with no employee or public access,” and that “there are no occupied outdoor spaces or public access along the property line.” The applicant neither owns nor occupies that building and cites no source. Its own two answers conflict. The description it gives—“the back of an industrial property with no pedestrian access and only one small window at ground level opening onto a small fenced outside storage area”—fits Com-Park Plaza, which the applicant’s own narrative places on the south half of the west edge, and in its next answer it acknowledges “existing trees along the edge of the Emporium that straddle the property line.” Its own landscape sheet draws that boundary with a row of trees and the note “COORDINATE PLANTING WITH EXISTING VEGETATION.” Staff describes the shared line as carrying “an approximately eight-foot landscaped Setback”; the applicant calls it ten feet.

In VR CPC the Court of Appeals affirmed this Commission’s denial of a conditional use permit where the applicant’s analysis contained discrepancies in its calculations and the City’s own expert had not verified them. VR CPC, 2025 UT App 130. An unsourced characterization of a neighbor’s building, contradicted by the applicant’s next paragraph, falls short of the Site specific analysis § 15-6-5(F)(2) requires.

IX. The Open Space Unlawfully Counts An Amphitheater

The Code defines Landscaped Open Space as “Landscaped Areas, which may include local government facilities, necessary public improvements, and playground equipment, recreation amenities, public landscaped and hard-scaped plazas, and public pedestrian amenities, but *excluding* Buildings or Structures.” § 15-15-1. It defines a Structure as “[a]nything constructed, the Use of which requires a fixed location on or in the ground, or attached to something having a fixed location on the ground and which imposes an impervious material on or above the ground,” and provides that the definition “includes ‘Building.’”

The September 9 report quotes the exclusion in its finding on the fifth height criterion. All of the proposed Open Space, it writes, “meet[s] the definition of Landscaped Open Space, which may include landscaped and hardscaped plazas, and public pedestrian amenities, and excludes all Buildings or Structures.”

The same report counts the amphitheater inside it. Its breakdown reads: “Active landscaped areas, including common areas, an amphitheater, and playgrounds – 22,756 square feet, or 9.9% of the site.” A 980-seat amphitheater requires construction, a fixed location in the ground, and impervious material. That makes it a Structure, and the definition the report itself quotes excludes Structures. Counting it as Landscaped Open Space contradicts the Code’s own words, and a finding that rests on the miscount violates the law.

That matters twice. The fifth criterion requires that the additional height “results in more than the minimum Open Space required.” § 15-6-5(F)(5). And the subdivision requirement stands on its own. Section 15-7.3-10(A)(1) requires recreation areas of 218 square feet per Multi-Unit Dwelling, which for 106 units comes to 23,108 square feet, a figure the report states. The report satisfies that requirement with the 142,114-square-foot Open Space total. Of that total, 58,804 square feet covers multi-use trails and sidewalks and 35,067 square feet covers “[p]assive landscaped areas adjacent to trails, driveways, and buildings.” The category that holds the recreation—active landscaped areas including the common areas, the amphitheater and the playgrounds—totals 22,756 square feet, 352 square feet less than the Code requires, before anyone takes the amphitheater out of it.

The Code also directs that “[t]he Planning Commission shall designate the preferable type and mix of Open Space for each Master Planned Development.” § 15-6-5(D)(3). The Commission has not made that designation, and the report states that the Open Space total “may change in the final submittal.”

X. The Traffic Study Pretends there is No School

The applicant filed no new traffic impact study. Exhibit Q to the September 9 report reprints the study dated July 23, 2026. The word school appears in it zero times. Park City High School sits on this corridor. The study dates the counts at the minor intersections to Friday, April 10, 2026, and the City’s consultant questioned the seasonal factor applied to them: the sheets show “a Month of Year Adjustment applied that appears to be based on data from a UDOT count station,” which “does not appear to match the specific adjustments prescribed in the TISG,” and “[t]he deviation from the TISG should be explained.” Whatever the merits of the applicant’s answer, the factor departs from the one the Guidelines prescribe, and no one in this record has decided whether the Guidelines permit the substitution. Section 15-6-4(E) provides that where the Commission requires a traffic study, “the Transportation Department and City Engineer shall recommend a method of modeling and scope of the study area.” No such recommendation appears anywhere in this record. Our records request of September 17, 2026 asks the

City for the scoping memorandum. Every failure our September 2 letter identified in this study remains unchanged.

Two things have changed.

The applicant's September 2 traffic narrative relies on a road that does not exist. "[I]t is anticipated that development traffic will re-route when Munchkin Road connects to the west," it states, and therefore "the proposed development will have a lesser impact on Bonanza Drive once Munchkin Road connects." The staff report gives that road's status: "The City is currently evaluating two potential alignments for the extension," and "[c]onstruction of the Munchkin Road extension is anticipated to begin in spring 2027." Of the signal at Kearns Boulevard and Homestake Road the same report says "[i]nstallation of the future signal is not tied to a specific date," and it describes bus rapid transit on Bonanza Drive as "being considered." Both documents sit in the same packet. A finding that the project "addresses and mitigates traffic," § 15-6-6(P), cannot rest on relief the City has not designed.

The narrative makes one affirmative point: the project's peak flows run "in the opposite direction, generally, than existing peak flows in a winter condition." That statement describes intersection averages. It does not touch the movements that fail. In the Future (2037) Plus Project scenario the westbound left at Bonanza Drive and Prospector Avenue shows 402.0 seconds of average delay in the morning peak and 689.0 seconds in the evening, each at level of service F. The study's own scenario tables name four poor-service locations rather than two: Sidewinder Drive and Kearns Boulevard, Prospector Avenue and Bonanza Drive, Munchkin Road and Bonanza Drive, and—depending on the scenario—Deer Valley Drive and Park Avenue or Bonanza Drive and Kearns Boulevard. Munchkin Road at Bonanza Drive forms this project's own southern frontage.

Nor does the study reach the hour nobody counted. It did not count the major intersections, Bonanza Drive and Kearns Boulevard among them. The City supplied those counts, taken on Friday, February 23, 2024, and the study fixed the morning peak hour at 9:00 to 10:00 and the evening peak at 4:00 to 5:00. On Fridays Park City High School runs an early release schedule that sends its students home around midday, hours before the afternoon analysis hour. This study never measures the corner at the hour the schools release their students onto it, and the figures for the major intersections rest on counts taken two and a half years before this hearing. On August 30, 2026 a member of the public filed photographs of Kearns Boulevard and Bonanza Drive taken "on Thursday around 2:30 in the afternoon," reporting that "[t]he traffic is backed up going both ways on Kearns and Bonanza" and that "[i]t was even backed up on Prospector." Exhibit R, pages 214 through 218. The mitigation finding depends on a study that never uses the word school.

XI. The Record Describes the Garage Access Two Ways

The staff report describes "two access points" to the garage, one "on Bonanza Drive near the intersection with Prospector Avenue," and states that "[t]he access to the parking structure from Bonanza Drive is proposed to be set back approximately 163 feet." The traffic study bound into the same packet states that "[t]he garage access will be located approximately 50 feet south of the Prospector Avenue / Bonanza Drive intersection," and from that location the study derives its central assumption: that because of "queuing from the Bonanza Drive / Kearns Boulevard intersection, the proximity of Prospector Avenue and other accesses creating unsafe offsets, and the presence of a traversable center median, the garage access was assumed to be limited to right turns only, at least functionally during the peak hours." The applicant's own site plan labels three garage entrances, not two: Munchkin Road, Kearns Boulevard, and Bonanza Drive.

Both readings create problems. If the 163 feet runs from the Prospector Avenue intersection, the access has moved 113 feet and no one has re-run the study that modeled it at fifty. If it describes the depth of the driveway inside the property, the curb cut remains fifty feet from the intersection, and the staff report has described it in terms that obscure the proximity the study itself called an unsafe offset. The delay figures for the left turn out of Prospector Avenue—the route Ms. Cook’s lodging guests use to leave—come from the shorter distance. The record describes this access two ways, and neither qualifies as a finding. No approval can rest on a dimension the file states twice and differently. The study names a second access problem on the same page and the staff report does not: of the Private Drive on Kearns Boulevard, “approximately 500 feet west of the Bonanza Drive / Kearns Boulevard intersection,” the study states that the access “does not meet UDOT’s access spacing requirements with nearby accesses and may require a variance request.” Neither access spacing nor variance appears in the staff report. Kearns Boulevard carries SR-248. Nothing in this record shows that anyone asked UDOT, and the Commission cannot make § 15-6-6 findings without that answer.

XII. *Forty-Four Crashes, Queues With No Storage, and Mitigation No One Analyzed*

Staff’s own assessment calls the network “already congested, often even during off-peak travel times.” No finding in this record acknowledges it. The study states the project’s contribution: “approximately 1,238 (+588 pass-by) weekday daily trips,” of which 104 arrive or leave in the morning peak hour and 112 in the evening. Those figures do not appear in the staff report.

The grades in that study hide their own size. Every failing movement prints in the summary tables as “f(>50)” at an unsignalized intersection and “F(>80)” at a signalized one, so a movement that fails by one second and a movement that fails by eleven minutes print the same entry. The delay figures sit in Appendix C. The staff report reproduces the grades and not the figures, and the number 689.0 appears nowhere in its sixty-one pages. The study reports the queues one way as well. It calculated only “the 95th percentile queue lengths,” and it states no available storage length for any intersection or turn lane, so nothing in the document lets a reader compare a queue to the room it has. It states the consequence anyway: the southbound queue at Deer Valley Drive and Park Avenue runs more than 1,500 feet in both peak hours, the southwest-bound queue at Bonanza Drive and Kearns Boulevard runs 1,000 feet in the morning, and queues at Deer Valley Drive and Park Avenue back “through the Kearns Boulevard / Park Avenue and Bonanza Drive / Deer Valley Drive intersections.”

The City’s consultant asked for the missing figures twice. Its first comment reads: “Heavy truck percentages, if used, were not documented. 50th percentile queues were not evaluated relative to storage.” On August 4, 2026 it wrote again: “The Park City TISG states that 50th and 95th percentile queues should be reported. The TIS does not report or discuss 50th percentile queues.” The applicant declined: “The 50th percentile stat does not help with any determinations. The analysis is already done on the busiest time of the busiest day of the year when queues are excessive.” The phrase 50th percentile appears in the study zero times, and no one ran the analysis on the hour the schools release.

The study also reports a crash history and draws nothing from it. Hales Engineering collected five years of crash data, January 1, 2021 through December 31, 2025, within 250 feet of the study intersections, and found 67 crashes. Forty-four occurred at Bonanza Drive and Kearns Boulevard, the corner this project fronts. The next highest location, Woodbine Way and Kearns Boulevard, has twelve. Of the forty-four, eighteen struck at an angle and fourteen front to rear. Tables 2 and 3, page 5. The study concludes in one sentence: “There are no trends or mitigation measures recommended based on the crash reports.” The City’s consultant pressed it: “there appears to be many front-to-rear and angle crashes at the Bonanza Drive / Kearns Boulevard intersection. Are there any common factors in these collisions that could lead

to recommended mitigation measures?” The applicant answered that the crash numbers run “actually below average for signalized intersections” and that the site saw “zero severe crashes within the last 5 years, which is also below average.” That response cites nothing for either comparison, and no average for signalized intersections appears anywhere in this record. The word crash appears nowhere in the staff report. Section 15-1-10(E) lists the criteria the Commission must weigh, among them “traffic considerations including capacity of the existing Streets in the Area,” § 15-1-10(E)(2), and the “internal vehicular and pedestrian circulation system,” § 15-1-10(E)(6). A record with forty-four crashes at the project’s own corner and no analysis of them will not support a finding on either.

The study’s mitigation section states an admission the staff report does not repeat. It offers two lists. The first matches the City’s premise—“Vehicle trips are discouraged and roadway improvements that encourage individual vehicle trips are not prioritized”—and adds no vehicle capacity: grade-separated pedestrian connections, signal timing changes, a restriction on egress left turns at Prospector Avenue and Bonanza Drive, and better interconnectivity among Homestake Road, Munchkin Road and Iron Horse Drive. The second list begins with a condition: “If multi-modal goals are not as successful as planned, the following additional mitigation measures could be considered based on traffic volumes at the intersections.” Every measure on it adds a vehicle lane—dual left-turn lanes and channelized right-turn lanes at Deer Valley Drive and Park Avenue, at Bonanza Drive and Kearns Boulevard, and at Bonanza Drive and Deer Valley Drive. The General Plan addresses that fallback: “if lane widening is ever considered in the future, it must only be used to provide multi-modal improvements and should not be used to increase car driving lanes.” Park City General Plan 17 (2025). One sentence applies to both lists: “None of the mitigation considerations were implemented and analyzed as part of the traffic impact study and are only provided for the City to consider.” Section 15-6-6(P) asks the Commission to find that the project addresses and mitigates traffic. This record contains two lists, no analysis of any measure on either, and a transit service the staff report describes as “being considered.”

The delay figures also already include a reduction the study did not measure. Table 7 of the traffic study applies a five percent multimodal reduction to the project’s trips before the intersection analysis runs. The study says where the figure comes from: the percentages “were based off of the Park City Transportation Demand Management Report and the strategies listed in Section C of this chapter,” and the study “rounded [them] down to be conservative in the analysis.” That assumption applies citywide; it measures nothing about these strategies on this Site. Every failing level of service in this record reflects the number after that reduction, not before it. Clive Bush, a Park City resident, has given us two memoranda dated September 9, 2026 that set out the same point at length for both traffic and parking.

A Commissioner asked the applicant’s traffic engineer at the September 9 work session whether any data shows how much each demand management strategy actually reduces trips. Mr. Bush’s transportation memorandum records the answer: “I wish there was. There’s not a lot of data... Not a lot of strong data to say if you do this, it’ll be this exact reduction.” The same memorandum records that the child care center’s assumed fifty percent resident use rate rests on one developer’s experience on unrelated projects; that transit and vanpool incentives remain a program the applicant has “not figured out... yet”; that the paid-parking trip reduction rests on what the engineer had “heard anecdotally” about Park City Mountain; and that on bike share, with roughly four months of Park City winter, the engineer said “there’s some seasonality” and then neither adjusted nor quantified the credit. Those months supply the basis the Guidelines require for the analysis: “the peak winter season, from January through mid-March.” His parking memorandum records one more: that the ten percent parking demand reduction, which takes the calculated need from 306 stalls to the recommended 275, came from “engineering judgment” and the City’s own draft and unadopted demand management tool, with “limited hard data” behind it. Nothing in the September 9 record contradicts any of it.

The conditions the report proposes measure the problem after construction. They require post-occupancy counts within twelve months of stabilized occupancy and then annually for three years, compared against the approved study. The report states the standard it must meet: a Conditional Use “shall be approved 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.” Section 15-6-6(P) requires a finding that the project addresses and mitigates traffic. Monitoring does not mitigate. Counting an intersection at level of service F does not move it to D.

XIII. The City Routed a Major Subdivision as a Minor One

The report routes the plat as a Minor Subdivision under LMC § 15-7.1-3(A)(1). The Code defines that category as “[a] Subdivision containing not more than three (3) Lots fronting on an existing Street, not involving any new Street or road, or the extension of municipal facilities, or the creation of public improvements.”

This plat creates public improvements. It dedicates “a public access, utility, drainage, and maintenance easement along Kearns Boulevard, Bonanza Drive, and Munchkin Road.” It includes emergency vehicle access easements along Kearns Boulevard and from Munchkin Road to Kearns Boulevard. The site plan adds fifteen-foot multi-use trails on two frontages. The City’s own Transportation Planning Memo describes what will sit in those easements: a bus stop with a hundred-foot by ten-foot waiting area, a sixty-foot delivery zone on Bonanza Drive, and space for two eleven-foot transit lanes with two-foot buffers. The Code defines a Public Improvement as “[a]ny Building, water system drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, Off-Street Parking Lot, space or Structure, Lot improvement, or other facility for which the City may ultimately assume responsibility, or which may affect a City improvement.” § 15-15-1. The plat also proposes a new twenty-four-foot driveway connecting Munchkin Road with Kearns Boulevard, and the Code defines a Street as “[a]ny highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, easement, or other way.”

A subdivision “requiring any new Street” qualifies as a Major Subdivision at any size, and a Major Subdivision proceeds by preliminary plat and final plat. § 15-7.1-3(A)(2). The Commission may combine those steps, but only by exercising the discretion the Code gives it: “At its discretion, the Planning Commission may waive one or more of the steps in the approval process by allowing the Applicant and/or Developer to combine the requirements of the Preliminary Plat and final Subdivision Plat into a single submittal.” § 15-7.1-3(A). No one has requested such a waiver, and the Commission has not granted one. Nothing in the record explains who made the classification, or how. A plat that dedicates easements on three streets and builds trails, a bus stop and a delivery zone creates public improvements. Routing it as a Minor Subdivision violates § 15-7.1-3(A)(1), and that footing makes any approval illegal.

XIV. Three Required Documents Remain Missing, and the Grade Finding Contradicts the Cleanup

Section 15-6-5 provides that all master planned developments “shall contain the following minimum requirements.” Three of them call for documents. The September 9 report repeats for each the sentence it used in June.

Section 15-6-5(K) requires “a map and list of all known Physical Mine Hazards on the Property and a Physical Mine Hazard mitigation plan.” The report states that “[t]he Applicant submitted an Analysis of Brownfield Cleanup Alternatives prepared by Terracon on August 15, 2024.” A cleanup alternatives analysis supplies no map, no list, and no mitigation plan.

Section 15-6-5(L) requires an applicant whose property lies within the Park City Soils Ordinance Boundary to submit a soil remediation mitigation plan. The site sits within that boundary by the City’s own statement. The report states that the applicant “is required to coordinate with the City’s Property and Environmental Services Manager.” A requirement to coordinate does not make a plan.

Section 15-6-5(N) requires “a map and inventory of Historic Structures and Sites on the Property and a Historic Structures Report prepared by a Qualified Historic Preservation Professional.” The report states that “[t]he property does not include any Historic Sites.” The Code requires a submittal, not a conclusion.

Sections 15-6-6(M), (N) and (O) require the Commission to find that the project addresses and mitigates Physical Mine Hazards, addresses and mitigates Historic Mine Waste and complies with the Soils Boundary Ordinance, and addresses Historic Structures and Sites. Section 15-6-6(B) requires a finding that the project “meets the minimum requirements of Section 15-6-5.” An applicant “must meet all of the requirements,” and “a failure on [the applicant’s] part to meet any of the requirements will render its application infirm.” Sidwell, 2026 UT App 67, ¶ 22. The court reversed the dismissal of the objectors’ petition and remanded with instructions to deny the conditional use permit. A condition of approval cannot substitute for a submittal the Code requires, and three of those submittals never reached the file. Three missing mandatory submittals make approval illegal, and Sidwell states what follows: the court remands with instructions to deny.

The September 9 report adds a finding the record contradicts. The report finds the site-planning requirement of § 15-6-5(G) satisfied—it renders that requirement as a project that “should be designed to fit the site, and not the Site modified to fit the project”—because, among other reasons, the applicant “[w]ork[s] with the Existing Grade to minimize cuts and fills.” In its FY2026 Brownfields Cleanup Grant application to the Environmental Protection Agency, the City states that “over 28,000 cubic yards of contaminated fill is present at the site,” that “Metals-impacted fill materials are present throughout the site at depths of up to 8.5 feet below ground surface (bgs),” and it budgets the removal of 23,135 tons of soil. Eight and a half feet measures the fill, not the cut. The garage goes eighteen feet down: the applicant’s own comment-resolution response places the delivery area at the west garage entrance “eighteen feet below grade.” A project that digs eighteen feet, through the full depth of the metals-impacted fill and past it, and hauls away 23,135 tons does not work with the Existing Grade—and § 15-2.18-4 measures every height in this application from the Existing Grade.

The report’s sustainability analysis does not reach the soil at all. The memorandum it relies on, dated August 12, 2026, contains no instance of the words soil, arsenic, remediation, Terracon, brownfield, excavation or dewatering. It does note the City’s study of district-scale thermal energy networks for the neighborhood, and the report lists geothermal among the features under consideration. The City has told the EPA that groundwater beneath this site contains trichloroethene and chloroform “above EPA Residential Vapor Intrusion Screening Levels (VISLs) but below maximum contaminant levels (MCLs).” The state regulator, not this Commission, decides whether vertical boreholes suit that ground, and our letter of September 17, 2026 to the Division of Environmental Response and Remediation asks about it.

The schedule the City gave the EPA has not changed: the Remedial Action Plan and the final cleanup-alternatives analysis in the first quarter of 2027, approval in the second, and soil removal complete in the fourth. This record contains no Remedial Action Plan, no site management plan, and no environmental covenant. The applicant asks the Commission to approve seven buildings and a below-grade parking structure on that ground at its next hearing.

XV. The Last Two Findings Have No Support in the Record

Approval of a master planned development requires seventeen findings. The September 9 report lists them under the words “Question for the Planning Commission” and asks again whether the Commission can make them. It provides no analysis of the sixteenth finding or the seventeenth.

The sixteenth finding requires that the project “addresses and mitigates traffic.” § 15-6-6(P). The City’s Transportation Department contributed one document to this record: Exhibit O, a two-page memorandum dated August 12, 2026. It addresses transit lanes, bus stop locations, a consolidated sixty-foot delivery zone and multi-use pathways, and it supports those elements. It does not mention level of service, intersection capacity, crash history or the high school, and its closing paragraph states its own scope: the memorandum “focuses on the transportation topics within the department’s area of expertise and is intended to support the Planning Commission’s consideration of the broader site plan, land use, architecture, building placement, parking supply, and other applicable review criteria.” The Transportation Department leaves parking supply and the balance of the criteria to the Commission. Its memorandum also predates the September 2 submittal by three weeks. No other City document in this record makes the finding § 15-6-6(P) requires.

The Transportation Department reports that the proposal “provides space for two 11-foot transit lanes with 2-foot buffers without impacting the Prospector Square properties.” Nothing in the approval would require that, and space on a plan does not satisfy § 15-6-6(P).

The seventeenth finding requires that the project “addresses the long-term operation of the project.” § 15-6-6(Q). The report says only this about who will own and run the project, in its conditional use analysis: “The City is the owner of the property, and the Applicant is working with the City Council on an agreement addressing long-term ownership/lease and management of the property.” That agreement does not exist. On July 10, 2025 the Council authorized “the exclusive negotiation agreement with Brinshore Development, LLC, in a form approved by the City Attorney, to proceed in good faith to negotiate pre-development and development agreements.” Park City City Council Minutes 8 (July 10, 2025). The City holds an agreement to negotiate, nothing more. The negotiation agreement does not set the ground-lease terms. At that same meeting Council Member Rubell noted that section 3(b)(8) of the draft spoke of key terms of a “permanent ground lease,” said he did not recall giving one, and the Economic Development Director answered that he would strike the word. *Id.* Fourteen months later the negotiation continues. The applicant asks the Commission to find that a lease no one has written, on terms this Commission will not see, addresses the long-term operation of a project on City land.

Staff itself has recommended two conditions, which measure the gap in this record. “LMC § 15-2.18-2(A)(4) allows Nightly Rentals—rentals for less than 30 days—in the GC Zoning District. Staff recommends that the Planning Commission consider a condition of approval prohibiting Nightly Rentals because the proposed residential units are intended for long-term rentals.” The proposal counts 88 deed-restricted rental units and 18 unrestricted ones, and every document in this record describes them as housing. Staff recommends a second condition in the same analysis: that the approval define delivery hours on Bonanza Drive, “[d]ue to traffic congestion during peak times.” Without those conditions the Code lets the owner rent by the night and schedule deliveries into peak congestion, and no finding in this record addresses either.

Our clients’ lots across Bonanza Drive, bizarrely, have been labeled tempting for the overflow by the press, on the view that it does not matter, because those lots are largely empty for a weekend or after-hours event. *First*, that is factually wrong. Those lots serve nine food businesses, and a weekend evening is their peak. *Second*, that view ignores the law and invites the Commission to ignore it. Section 15-3-2(C) permits off-Site parking only on adjacent or nearby deed-restricted Lots the Commission has approved,

this record identifies none, and the lots in question are the shared parking field of eleven of our clients. Every objection above challenges a conclusion in the September 9 report from a fact in the City's own file. Our clients do not ask the Commission to prefer their businesses to housing. They ask for the Code the City wrote before any of this began.

On the amphitheater, the parking count, the building heights, the Frontage Protection Zone, air circulation and the three missing submittals, this record contains no answer to any of them. An approval on this record will not stand up in this community, and it will not stand up in court.

XVI. Relief Demanded

Our clients demand that the Commission deny PL-26-06914, PL-26-06915, PL-26-06917, and PL-26-06920.

The amphitheater has no use classification, and § 15-2.18-2(C) makes a Use the Code does not list a prohibited Use. The record states no approved Building Height for any of the seven buildings, and § 15-6-5(F) requires the number in a Finding of Fact, in the development agreement and on the plat. The required-parking table omits the largest parking generator on the Site, and the applicant's own engineer proposes off-Site parking § 15-3-2(C) forbids. The Open Space total counts a Structure the definition excludes. The file lacks the three submittals § 15-6-5(K), (L) and (N) require. The plat creates public improvements and cannot proceed as a Minor Subdivision under § 15-7.1-3(A)(1). No City department has found that this project addresses and mitigates traffic, § 15-6-6(P), and no lease exists to address its long-term operation, § 15-6-6(Q).

An approval on this record is illegal. Our clients do not ask the Commission to condition it, improve it, or continue it. They ask the Commission to deny it.

This letter does not replace our comment of September 2, 2026, or our letter of August 19, 2026 to the Commission. Our clients reassert both in full. Each client states these objections in its own name, timely and specifically. Utah Code Ann. § 10-20-1101(2). Each client asserts each point above as a separate and independent ground. Because the City has not published the staff report and draft findings for final action, each client reserves the right to comment further and waives no ground not stated here.

A building code rests on a promise, and Park City made it twice. It adopted the Bonanza Park Small Area Plan and described this neighborhood in its own words: a place "where Parkites gather to shop, dine, and express local art and culture." Bonanza Park Small Area Plan 5 (adopted July 11, 2024). Then it adopted the Land Management Code and wrote down what a builder must show before anyone changes that. The Building Height, in a Finding of Fact. The parking, on the Site. The Open Space, with no Structure counted inside it. §§ 15-6-5(F), 15-3-2(C), 15-15-1. The first document holds the reason. The second holds the machinery. Neither one works without the other.

Park City wrote both. It now asks this Commission to set the second aside to get the first. Our clients built under the rules the City published. Ms. Burney's bakery will spend winter mornings in the shadow of a building set forty feet from her property line. Ms. Cook's guests turn left out of Prospector Avenue, the movement the applicant's own study puts at 689 seconds of delay in the 2037 evening peak. Nine food businesses share the parking field across Bonanza Drive, and a weekend evening is their peak—the hour the applicant's own study leaves 235 cars with nowhere on the Site to go. None of them objected to housing. They read the Code, signed their leases, and expected the City to apply to itself what it applies to them.

The staff report asked this Commission the right question first. Not whether the site should change. Whether this record lets the Commission make the findings the Code requires. An approval carries the Commission's name, not the applicant's. The Commission signs it, and the Commission defends it. Our clients do not ask for a favor. They ask for the Code the City wrote before any of this began, applied to the City that wrote it.

Best regards.

Very truly yours,

A handwritten signature in blue ink, appearing to be "RJMD", is positioned above the typed names.

Ryan D. McConnell (Utah Bar 20650)
Matthew S. Boyden (Utah Bar 20701)