

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
FEBRUARY 10, 2010

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Richard Luskin, Dick Peek, Adam Strachan

EX OFFICIO:

Planning Director, Thomas Eddington; Principle Planner, Brooks Robinson; Katie Cattan, Planner; Francisco Astorga, Planner; Jacque Mauer, Planner; Polly Samuels McLean, Assistant City Attorney; Michael Kovacs, Assistant City Manager

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REGULAR MEETING - 5:30 p.m.

I. ROLL CALL

Vice-Chair Russack called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except for Commissioner Pettit who was excused.

II. APPROVAL OF MINUTES

Minutes of January 13, 2010

Commissioner Peek referred to page 41 of the Staff report and noted that Condition of Approval #10 for the Racquet Club needed to be corrected to reflect that construction would be restricted to 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturdays. The ending times as written showed 00.

Commissioner Peek also noted that Condition of Approval #13 needed to be corrected to reflect that affected property owners within 300 feet would be notified by the applicant prior to construction commencing of conditioned work hours, for contact information and general project description. The notification area as written showed 00.

Commissioner Luskin thought the Saturday hours had been reduced to 7:00 a.m. to 3:00 p.m. Commissioner Peek recalled that the Planning Commission had discussed that a 3:00 p.m. stop time would be inefficient for the contractor. He did not believe that the 3:00 p.m. restriction was included in the motion.

Commissioner Luskin disputed that this was the case. Commissioner Peek asked if the Staff could re-listen to the recording to verify the motion.

MOTION: Commissioner Peek moved to CONTINUE the minutes of January 13, 2010 to the next meeting pending verification of the Saturday construction hours. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Minutes of January 20, 2010

Commissioner Strachan noted that he would be abstaining from the vote since he had not attended that meeting.

MOTION: Commissioner Hontz moved to APPROVE the minutes of January 20, 2010. Commissioner Luskin seconded the motion.

Assistant City Attorney, Polly Samuels McLean noted that the corrections made by Commissioner Peek were actually in the January 20, 2010 minutes. Planner Sintz pointed out that the actual approval for the Racquet Club occurred at the January 20th meeting.

Commissioner Hontz amended her motion to CONTINUE the minutes of January 20, 2010 to February 24th. Commissioner Luskin seconded the amended motion.

VOTE: The motion passed unanimously by the voting Commissioners. Commissioner Strachan abstained.

II. PUBLIC COMMUNICATIONS

There was no comment.

III. STAFF & COMMISSIONERS' COMMUNICATIONS/DISCLOSURES

Planning Director, Thomas Eddington, reported that the Planning Commission would discuss the General Plan, as well as the HR-2/HCB zoning amendments at the February 24th meeting.

Planner Sintz reported that on February 25th the City Council would be hearing the 1440 Empire CUP appeal. She thought it would be helpful if at least one Planning Commissioner could attend. Commissioner Strachan offered to attend the City Council meeting on February 25th.

Principal Planner, Brooks Robinson, reported that the project for 692 Main Street was noticed as a special meeting for discussion and public input. After further discussion between the Legal Department and Planning Department it was determined that it was not necessary for the Planning Commission to discuss the application. Therefore, the Planning Commission would not need to move for a continuance.

REGULAR AGENDA/PUBLIC HEARINGS

3. Treasure Hill - Conditional Use Permit
(Application #PL-08-00310)

Planner Katie Cattan noted that the applicant had prepared a model and a presentation for this

evening. The applicant was requesting direction from the Planning Commission regarding the conditional use permit criteria, specifically criteria 8, 11 and 15, addressing compatibility, mass and scale, and the existing slope retention.

Pat Sweeney, the applicant, reported that four months ago they asked the Elliott Workgroup to use their raw information to prepare a computer model and a physical model.

Chair Wintzer asked if the drawings provided were represented in the model. Mr. Sweeney answered yes. Chair Wintzer clarified that nothing had changed and the drawings were still the same. Mr. Sweeney replied that this was correct.

Craig Elliott, principle of the Elliott Workgroup, introduce Dallas Davis and Carla Lehi from his office. He noted that this was the first time his firm was asked to make a presentation for this project. Mr. Elliott remarked that the model presented was an effort to recreate a design that was planned before he was involved. He pointed out that everything the Planning Commission has seen in the past were represented in the computer model and the physical model.

Mr. Elliott provided a quick overview of the presentation he would be giving that evening. He has worked with the Sweeney's for a number of years on various projects and in various capacities, and he shares their values and their desire to create value for Park City.

Mr. Elliott explained that the Sweeney's have an agreement with the City that describes and defines what they can and cannot do on their property. The agreement also defines the parameters within which the City would evaluate the proposed development. Mr. Elliott felt it was important to understand this information to understand the reasons why the City was looking at this project.

Commissioner Luskin asked if the agreement Mr. Elliott referred to was the Sweeney Properties Master Plan approval summary that the applicant had submitted. Mr. Elliott clarified that it was a past agreement that was made with the City. Commissioner Luskin asked if the Sweeney Properties Master Plan approval summary was the agreement that Mr. Elliott had worked with to prepare the models. Mr. Elliot replied that he had worked from the parameters defined in the master plan approval.

Mr. Elliott explained that they used survey data, USGS data, aerial photography, Google Earth and Street View to create the physical model. This helped them associate and create over 200 buildings in Old Town that were shown on the physical model. They used that same information to locate the existing types of vegetation for the model. Mr. Elliott explained the materials used to make the model and noted that each layer stacked represented five feet of grade change. The model was at 1:40 scale and it represented half of the town and half of the mountain. Mr. Elliott stated that approximately a fifth of the Sweeney property was shown on the model.

Mr. Elliott explained that he would begin with a power point presentation. Following that presentation, he would describe the model, which was in several pieces. The model would start with the existing terrain and show a mass that defines the parameters the Sweeney's were required to work within. Mr. Elliott stated that the model would be taken apart and put back

together, showing the revised ski lifts and the proposed buildings and designs to date. He noted that the Planning Commission and the public would have the opportunity to see the existing definitions of the parameters and be able to compare that with the proposed project.

Mr. Elliott stated that the model was oriented so it is true to the world. North represents itself to the street and to Marsac.

Chair Wintzer stated that once Mr. Elliott completes his presentation, the Planning Commission would take a short recess to closely look at the model and to give the public an opportunity to look at the model. Once that had occurred, the meeting would be reconvened.

Mr. Elliott stated that the applicant was looking for constructive criticism from the Planning Commission this evening. They were also interested in hearing public comment and a response to the physical model.

Mr. Elliott gave the power point presentation. He presented a cut-out of the terrain showing the project area. Red boxes represented the parameters within which the Sweeney's have been working. He indicated the different heights based on the diagram they have been working within, starting at 15 feet and stepping to 75 feet above existing terrain. Above that was a flat section that is defined by a specific elevation. He indicated the preparation and excavation that would occur on the hillside. It fits within the parameters of the buildings that have been proposed to date and within the parameters of the existing height.

Commissioner Peek asked if the pink colored boundary was the development perimeter. Mr. Elliott replied that it was the box they had to work within.

Chair Wintzer indicated the area between two pink boxes and asked if the terrain at the back of the hill was altered. Mr. Elliott replied that it was shown as altered because of the excavation. He believed the primary reason was to allow the second lift access due to a change in the traditional geometry for that lift. Mr. Elliott showed the existing terrain and then removed it to show the revised terrain with the buildings on it.

Mr. Elliott presented a couple of the images that were previously presented, however, they had re-inserted a more accurate representation showing the cut. He then pasted in the buildings to show how the transition occurs.

Mr. Elliott presented an aerial photograph to show the areas from which they built the physical model. He noted that they used Google Earth and other means to go up and down the street and look at different building sizes. That information was used to create the physical model and the existing infrastructure of over 200 buildings.

Mr. Elliott uncovered the physical model and the Commissioners left the podium to see it up close.

Planner Cattan stated that once the Planning Commission had completed their review of the model, the model would be turned around and the public would have the opportunity to review it.

She requested that no more than five or six people come up to the model at one time. A public hearing would be held once everyone had an opportunity to see the model.

The Planning Commission recessed and reconvened the meeting at 6:45 p.m. Chair Wintzer requested that the public comments focus on the model, mass, scale and appropriate criteria.

Planner Cattan reviewed the three criteria for discussion this evening as follows:

Criteria 8 - Building mass, bulk and orientation and location of buildings on the site, including orientation to buildings on adjoining lots.

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

Criteria 15 - Within the adjoining site impacts on environmentally sensitive lands, slope retention, and appropriateness of the proposed structure to the topography of the site.

Planner Cattan noted that public comment should be directed to the Planning Commission. No questions would be answered during the public comment portion of the meeting. Planner Cattan stated that she would write down all the questions and the applicant and Staff would respond after the public hearing.

Chair Wintzer opened the public hearing.

Richard Hughes, 11 Thaynes Canyon, thought the model should be in a different color because it would be helpful in defining the exact project.

Neal Krasnick and Old Town resident, noted that this entire large project is being built in a drainage. He asked if a third-party study had been done to assess the existing drainage compared to the amount of drainage once the project has been excavated. Mr. Krasnick thought the study should also address what would need to be done to mitigate the increased amount of runoff. Mr. Krasnick wanted to know what would be done with the snow that would be moved from the entrance way to the driveway. He stated that he took part in a survey of the Park City area in 1997 and most of the trees are only 70-80 feet tall. He believed the project would block many 100 year old trees and the runoff would drain through the top soil and subsoil. Mr. Krasnick wanted to know how the applicants would handle the drainage runoff during construction and after the project is built. He also wanted to know how the applicants plan to take care of the amount of sewage generated and the amount of reflective heat that would come off of the buildings.

Jane Toly, a resident at 1017 Empire, and she looked up to see what it would look like if she was standing in front of her house or driving up her street. Ms. Toly stated that if the project is built, all she would see is buildings. That is the only view she has left because houses were built behind her. Ms. Toly remarked that the houses on Empire and Lowell are more dense than what was displayed on the model. She can not longer see the mountains behind her because

of the size of the homes and it was sad to have her view taken away. When she drives past the resort she cannot see the mountains because of the large structures. Ms. Toly stated that the view at the end of Empire was all she had left and that will be ruined by this project. Ms. Toly remarked that a beautiful view is not contrived landscape or a big retaining wall. A beautiful view is a mountain hillside and she hoped the Planning Commission would take that into consideration.

Jim Porquette, stated he has owned property on Woodside Avenue a few blocks from the proposed project since 1968. Mr. Porquette thinks the design is nice but the project is in the wrong place. He suggested that the Treasure Hill project as designed would look great at the Canyons where this type of architecture is dominant. The mass and scale is wrong for the area in terms of everything that exists around it. Mr. Porquette stated that he was not qualified to comment on the environmental impacts but he assumed there would be many. He believed the color of the model made the project look smaller in scale.

Jennifer Steinwizel, stated that she spent her day looking at spaces in Old Town because she is a potential business owner in town. One reason for choosing to bring her business to Old Town is the small community feel. She would like the ability to renovate her space and she respects the guidelines. Ms. Steinwizel was surprised when she saw the magnitude of this project because it did not represent the small, quaint town she thought she was getting involved in. Mr. Steinwizel remarked that the project is too large and does not fit with the town. In addition, she lives on Empire Avenue and she and her dog go hiking in that area. She agreed with Mr. Toly that the beautiful landscape would be replaced by a monstrosity and that would be a loss for the town.

John Stafsholt, a resident at 633 Woodside Avenue, stated that his comments referred to the Treasure Hill project and not to the Sweeney family personally. Mr. Stafsholt stated that he researched back to the beginning in 1985 and none of this is new. He referred to CUP Criteria 8, building mass and bulk, and noted that as of December 18, 1985, the Planning Commission approval addressed scale. He read a number of excerpts verbatim. "Located in the historic district it is important for the project design to be compatible with the scale already established." "The focus throughout the review process has been to examine different ways of accommodating the development of the property while being mindful of and sensitive to the surrounding neighborhood." "The overriding design features on this site are buildings being consistent and oriented to allow for maximum heights through excavation of the existing hillside. The excavation is proposed at unprecedented volumes."

Mr. Stafsholt referred to Criteria 11, physical design, compatibility with surrounding structures. He read from the 1985 approval, "Style, design and architectural detail should be determined by the Historic District Design Guidelines." Mr. Stafsholt noted that this was required by the original Planning Commission approval dated December 18, 1985. "MPE, Inc., which is the developers, its successors or assigned, shall be bound by and obligated for the performance of the following." Mr. Stafsholt read number 3, item 6, "At the time of project review and approval, all building shall be reviewed for conformance with the historic district design guidelines and related architectural requirements." Mr. Stafsholt remarked that the Treasure Hill buildings shown on the model have not passed a review with the Historic District Design Guidelines. He could not understand why this requirement of the 1985 approval has been ignored.

Mr. Stafsholt referred to Criteria 15, Within and adjoining the site impacts on environmentally sensitive lands, slope retention, etc. He stated that the topography of the site should be respected by the proposed development and the cuts clearly show that the topography is not respected. Every tree, bush and blade of grass would be removed from the proposed site. This would destabilize all the soil in the project above Old Town. Mud and snow slides are known to have occurred on this site in the past. As far back as 1926, there is a law entitled "Protecting of Standing Timber on Treasure Hill, Dangerous Excavation". Mr. Stafsholt noted that tree cutting on Treasure Hill was punishable by a \$100 fine or up to 90 days in jail. Mr. Stafsholt stated that the developer's site planner from Alta Engineering called for approximately 960,000 cubic yards of excavation, which is equivalent to 80,000 single dump truck loads. Mr. Stafsholt pointed that the Montage development in Empire Pass excavated 780,000 square feet, and their original estimate was 50,000 cubic yards. He stated that Treasure Hill plans to move nearly 20 times as much dirt as the Montage planned to move.

Mr. Stafsholt remarked that the developers are adamant that the dirt would be relocated on the mountain and not removed from the site. He was unsure how this could be guaranteed when there are five mining sites within close proximity to the proposed development with elevated levels of lead and arsenic.

Mr. Stafsholt remarked that full geological and geotechnical data are not available as yet. According to the Alta Engineering document, it appears that the Treasure Hill building 4A sits directly on top of the Creole, which is a horizontal shaft that runs northwest to the Creole Mine shaft and beyond. If this is the case, the largest hotel building 4B, sit directly on top of the Creole. Mr. Stafsholt reiterated that additional data is needed to confirm this and to understand the depth and extent of the mining activity. As an example, the geo-tech study for the Montage found four mining operations. However during excavation, four additional mining operations were found. Mr. Stafsholt noted that there is no approved soil remediation plan in place for Treasure Hill. Their plan was to take the contaminated Creole soils up to the Creole Mine shaft and dump it down in to the shaft. Mr. Stafsholt pointed out that the shaft is also contaminated. He noted that the City rejected this plan outright and considered such placement of contaminated soil within the Creole Mine shaft as a potential pollution source for the Spiro drinking water protection zone.

Mr. Stafsholt stated that typically the developers are very willing to work with the City and the model is a good example. However, in terms of soils remediation and contaminated soils, the developers have argued the City's findings and not cooperated with the City at all. Mr. Stafsholt believed this is a big issue because geo-technical and environmental issues could be a future deal breaker for this project.

Steve Swanson, representing the THNC group stated that historically Treasure Hill has been mined, stripped and cut. It has witnessed the great fire, as well as the decay and decline of mining, and it has miraculously healed itself more than once. It is not right to deny the connection with the historic spirit of Park City. Mr. Swanson stated that he could talk at length about what they have lost historically to date and he named a number of lost structures and places. He remarked that it's the people who make Park City a special place and each time

they lose a living thread of history, each person loses a thread of connection. Mr. Swanson stated that THNC is here to inform, research facts, engage and elevate the dialogue. They do not believe they are stopping anything. They think of themselves as a resource to help guide the process. Mr. Swanson stated that We the People are from THNC and they here to help the Planning Commission as the government. They have 400 members and they are still growing. Mr. Swanson noted that the applicant argues that this project would put beds on Main Street. In response, THNC will say that it sets a new low for Park City guests. He asked the applicant if he would be willing to live in one of the back units. The applicant will say it is a tax benefit for the City and THNC would respond that the cost is too high and there is too much socialization of risk at the benefit of privatization of the profits. On the issue of vested rights and approval, Mr. Swanson remarked that in 1986 the project was poorly defined and this is literally not the same project. He believed THNC could raise serious doubts that Criteria 1-15 have been adequately addressed. To those who might say the mission is too big to stop, his response is that the citizens have as much time as the applicants have money.

Brian Van Hecke, a resident at 1101 Empire Avenue stated that he is also with THNC. Mr. Van Hecke concurred with the comments that the Treasure Hill development needed to be a different color in the model to help people understand the project in comparison to what exists. He believed the massive cuts on the side of the hill were the most stunning things shown this evening. He wanted to make sure people understand those cuts through the model and through the slides. If the model is put on public display, the public should be able to see the cuts and not just the buildings. Mr. Brian Van Hecke pointed out that the cuts would be visible from anywhere in Park City and he would argue that Treasure Hill is the signature of Park City. Based on what was shown this evening, Treasure Hill would be forever changed, and changed for the worst.

Mr. Van Hecke asked for clarification on the penthouse and the height limitations. He appreciated that the applicants had spent the time and money on the model, because it helps the citizens better understand the significant impacts this development would have on everyone in Park City, including the tourists. Mr. Van Hecke wanted some assurance that the model was built true to scale. He understood that the Sweeney's have property rights, but their request to build over a million square feet in the heart of Old Town is excessive, unreasonable and intolerable. The size, mass and scale of the proposed project are completely incompatible with Old Town and would cause irreparable damage to the historic integrity of the town. Mr. Van Hecke questioned whether Park City would continue to maintain its historic designation if the Treasure Hill project was built. He pointed out that the applicant has failed to present any workable solution to mitigate the significant increase in traffic and safety issues that would result from this project. Traffic and safety issues already exist and present significant challenges in Old Town and this project would severely worsen the problem. Mr. Van Hecke stated that the Treasure Hill project does not fit and it should not be approved.

Jack Campbell a resident in Park Meadows reiterated some of the points made by John Stafsholt concerning the number of dump trucks and the size, mass and scale of the project. Mr. Campbell commented on the parking and questioned whether the number of parking spaces proposed was adequate based on the number of residential units and hotel rooms. He requested that the Planning Commission consider these issues in their discussion. Mr.

Campbell felt it was inappropriate to allow a 20 foot retaining wall that backs up to some houses. He had looked at the employee housing and noted that he found one 440 square foot building that was labeled for employees. He was told that it was envisioned as dormitory housing and he wondered where those people would park. Mr. Campbell noted that two parallel roads come in to the property that go in to a couple of underground tunnels on the property. He was concerned about what would happen if the roads were closed due to a mud slide or water main break. He did not believe it was good design for a property of this scale to have two roads side by side within a 100 feet of each other as the only access to the property. Mr. Campbell ask the Planning Commission to look at the parking garage access for the same safety reasons.

Tina Smith, a resident at 423 Woodside noted that the City previously sent out a census and skiing was the number one answer for why people came to Park City. In contrast, unmanaged development was the number one answer to the question of what would make them leave Park City. Ms. Smith indicated a framed poster on the wall identifying the top priorities of the City Council for Park City. The number one priority was the preservation of Park City's character. She believes that people have the right to develop their property, but the Treasure Hill project as proposed would overwhelm and change the character of Park City.

Nylene O'Neal, a Main Street merchant, stated that it would benefit her business to have a five-star hotel that would help serve businesses on Main Street. She has seen the benefits from this at Deer Valley and the Canyons because it centralizes the people. Ms. O'Neal understood the fear of changing the character of Park City, but over time things have to change. She has been a merchant in Park City for fifteen years and she supports the projects and likes the design.

Ruth Meintsma, a resident at 305 Woodside, referred to Criteria #15 and asked how the Land Management Code applies to existing grade and final grade because it is extremely different in both the cut on the mountain and the building height.

Gary Knudsen, a resident on Empire Avenue, commented on the amount of traffic he encounters every morning when he backs out of his house to go down Empire. He asked the Planning Commission to realize that Empire is the only one way to approach the Resort and that same road would be used to reach the Treasure Hill project. Beyond the Resort parking lot, you would have to make a right up Manor Way to Lowell to continue to Treasure Hill. Mr. Knudsen identified traffic problems on the road during the winter when cars are parked, snow is piled up and garbage cans are put on the street on garbage day. He questioned the thinking of the traffic engineers and asked the Planning Commissioners to go up there themselves to visualize whether they think the traffic patterns could actually work.

Chair Wintzer told Mr. Knudsen that the Planning Commission would address traffic at the next meeting.

Lara Guercio stated that her husband and in-laws purchased a house on Park Avenue. Ms. Guercio remarked that her family has only been in Park City for the past five or six years, but they enjoy the area. She felt the model was extremely helpful in terms of visualization. Ms. Guercio did not understand how the project meets the criteria in terms of mass and bulk. She

thinks the applicant tried to do a good job in putting some of the larger buildings back in to the drainage, but she agreed with previously stated concerns about the runoff issues. Ms. Guercio had concerns with the amount of excavation and the size of the structures. She stated that the Treasure Hill project does not work with the site and it is not compatible with Old Town.

Elaine Stevens stated that the Sweeney's are good people and her comments were not directed to them personally. She believes they have a right to build on their property; however, they do not have the right to build the project shown on the model. Ms. Stevens stated that she had read the original agreement between the Sweeney's and the City. She understood that the only access to the project as proposed would come off of Lowell and Empire. Ms. Stevens pointed out that the original agreement says that the primary access would be from Lowell and Empire and she wanted to know why there would not be another access. She questioned whether only having one access violated the original agreement.

Annette Keller, a resident on Norfolk, stated that she is opposed to the Treasure Hill project for multiple reasons. A development of this magnitude would ruin the aesthetics in Old Town Park City. With many buildings over 90 feet tall looking over Creole Gulch, it would resemble Miami and spoil Old Town's charm and appearance. The sheer size of the project would destroy acres of open space, thousands of trees, hiking and biking trails, and ski runs. Ms. Keller stated that Park City is a recreation area and they need these open spaces to remain unspoiled. She remarked that increased population and density and the increased traffic would increase pollution and contribute to global warming, which is counter to the green efforts of Park City. Ms. Keller remarked that Park City has strict standards for the size and type of structures in Old Town. To allow the creation of a project of this size makes a mockery of these regulations and opens the door for challenges by future developers. She thinks the project is incompatible with existing buildings in both size and architecture. Ms. Keller believes the development would frighten people away from Main Street establishments. Ms. Keller stated that these were only a few of the reasons why she was strongly opposed to the Treasure Hill project. The vast majority of Park City citizens do not want this project forced upon them because it would reduce the ability for Old Town residents, Park City residents, and tourists to enjoy their surroundings and their quality of life.

Kate Geegan stated that she has lived in Park City for six years on Summer Cloud Drive, and this was the first time she felt the need to attend a meeting voice her concerns. After seeing the model Ms. Geegan echoed all the comments this evening about the scale versus compatibility with the rest of Old Town and the project not complying with the guidelines for maintaining the historic nature of Park City. Ms. Geegan was greatly concerned about the environmental impacts and agreed with earlier comments. She was concerned with how this project would change the Park City that draws the residents to live there and the tourists to visit. She expressed her request to make the project more in character with Old Town with regards to scale. Ms. Geegan wanted to know why they were talking about a million square feet when there was still some question regarding the 400,000 square feet identified in the 1985 agreement. She felt the City needed to look at the agreement and resolve the square footage issue before the applicants spend any more time and money to try and move this project forward.

Rich Wyman, a member of THNC, stated that his comments would address the issue of the size of the proposed project in the area. He noted that 771,824 square feet of occupied space in the building and 245,063 square feet of parking structures result in a total of 1,016,887 square feet. Mr. Wyman pointed out that 1 million square feet equals 2-1/2 city blocks in Salt Lake City. Twenty three acres equals the area of an eighteen hole golf course. It is equivalent in area to ten average Walmarts. Mr. Wyman stated that in comparison, the entire allowed build out at Newpark at Kimball Junction is 819,000 square feet, of which 579,000 square feet has been constructed to date. New Park and Redstone combined as currently constructed approach 1 million square feet.

Mr. Wyman read a quote from the September 23, 2009 Staff report, "The current design is very excessive in the amount of accessory space, storage and circulation, which is creating impacts on the overall massing and bulk of the buildings." Regarding Criteria 15, Mr. Wyman stated that the excavation requires 960,000 cubic yards of soil to be removed and relocated. He noted that the total volume of proposed new construction can be estimated by taking the area times the average heights of walls. Therefore, they are excavating twice as much volume as it being replaced by new building volume. He did not believe this was an efficient way to gain open space within a project.

Referring to Criteria 11 and 15, Mr. Wyman wanted to know why so many units are buried against the cliffs with no sun or view. He asked if the developers or their families would be willing to live in one of those units. He believed there was also a problem with the built up base adjoining Lowell/Empire which cannot be mitigated. Mr. Wyman noted that Criteria 8 and 11 address the layout of the buildings in relation to the base of the Treasure Hill project as supporting the infrastructure of Main Street. He remarked that the project overall is much too dense. The steep slope vertical offset buildings required a funicular to access the other side of the ski run. The relocated base of the Town Lift creates a new base for Park City Mountain Resort remote from Main Street. Mr. Wyman believed this could impact property values at the current base of the Town Lift.

He suggested the possibility that all this new density and square footage in the project would pull people up and away from Main Street.

Mr. Wyman remarked that Criteria 11 and 15 require that the historic context of the buildings are in relation to the surrounding neighborhoods and the larger historic districts. He wanted to know why no attempt was made to incorporate historic building forms from the Park City area. The building forms presented are more appropriate for urban areas. Creole Gulch, which is historically significant to the mining era and later as the first ski jump, should not be wiped out. This would result in a significant loss of a historic asset to the community. Mr. Wyman was unsure how the City could reconcile the massive scale and altered site relationships of the project in contrast with the surrounding historic neighborhoods.

Mr. Wyman noted that Criteria 11 and 15 address the excavation of the project, as well as the high density and visible development. This project is contrary to the letter and spirit of the City's General Plan and the community characteristic policies regarding compatible new developments that preserve the historic character and context with neighbors. Mr. Wyman stated that another important point is that the project is at 7200 foot contour level and the full height of twelve stories would be visible against the backdrop of the cut slope. He remarked

that colors, materials and glazing patterns on the towers are inharmonious and inappropriate for the location. The attempt to break up the masses by changes in color and materials makes it more chaotic. Much of the project, particularly the northwest quadrant are boxy and of terrific proportions. It appears that to maximize unit equivalents, the building mass is pushed in to the property corners and conflicts with the natural setting of the other side.

Mr. Wyman remarked that the project will excavate down to bring the buildings in under the height restriction. If the project is stopped or goes under, there is no way to restore what was lost in the way of natural soils, vegetation, habitat and aesthetic features. Mr. Wyman felt it was incumbent on the Planning Commission to carefully consider the proposed excavation of the natural hillside, which clearly violates the General Plan in this respect. Mr. Wyman read from the Utah Geologic and Mineral Survey Study, Engineering and Geology of Summit County, Utah from June 1984, "The map on page 24 shows soils analysis crossed by soils in the project area as medium and highly erodable with trees and vegetation removed". He noted that the study specifically recommends against developing steep hillsides where such soil types exist. He stated that the map shows at least a dozen mine surface features existing in and around the project site and underground workings could be uncovered by the excavation.

Joann Hall, a Main Street merchant, stated that over the years she has seen people come and go on Main Street and she heard stories this evening about a number of businesses that have closed in the past. Ms. Hall remarked that Park City is beautiful and Main Street is very important. For this reason she hoped they could find a way to come together to move this project forward in a way that would add to the ambience of Park City. She believed the Treasure Hill project would benefit the town.

Tom Fey, a Park Meadows resident, agreed with all the previous comments. In his opinion, the mass and scale of this project does not fit with the community in that location. He pointed out that people keep talking about the soil but there is mostly rock. In order to build the proposed project on that land, they will have to blast a significant amount of rock. Mr. Fey wanted to know how much of a bond would be necessary to protect the people in Old Town once the blasting begins. He was concerned that some of the fragile homes on Hillside would start sliding down the hill. Mr. Fey stated that if he lived in Old Town he would personally be concerned. Secondly, blasting where there are existing mine tumbles puts the water system in jeopardy if the blasting causes the tunnels to collapse.

Chair Wintzer closed the public hearing.

Planner Cattan reported that she had received a letter from Parsons Behle and Latimer, the applicant's attorney. She had also received two emails that day. One was given to the Planning Commission prior to the meeting. The second email was received later and she would make sure the Commissioners received that email as well. Planner Cattan noted that the administrative assistant would make sure those emails were included as part of the record. Chair Wintzer requested that the correspondence be included in the April 14th Staff report.

Commissioner Luskin agreed with the comments about making the development project a different color in the model. He asked if that could be done for future meetings or displays.

Chair Wintzer thanked the applicants for the model. He felt it did a good job of demonstrating the project. In looking at the plans, he thought the model was accurate. Commissioner Hontz believed there was a tie between the issues raised in the letter from Parsons Behle and Latimer and what they were trying to accomplish this evening. She referred to the first page of the letter which referenced the vesting analysis that was prepared by the attorney. The language stated that the Planning Commission has the duty to provide a full and fair review of the application, to which the applicant is entitled. Commissioner Hontz agreed with that statement and noted that whether this was 1986, 1996, or 2006 they would be going through this same exercise in the process.

Commissioner Hontz read from page 3 of the MPD approval, section 3, #1, "Allows for the Master Plan approval and establishes a general project and maximum density". She noted that it also established a respect for the CUP process, which is the process they are going through today. Commissioner Hontz referred to page 7 of the MPD, section 4, "The applicant will present only general development concepts that may be approved at this juncture. Final unit configuration and mix may be adjusted by future developers at the time of conditional use review." She pointed out that any word could be used for "future developers". Commissioner Hontz referred to page 9, section 6, major issues, "The master plan development procedure attempts to deal with the general concept of a proposed development and defers or relegates the very detailed project and new elements to the conditional use stage of review". Commissioner Hontz summarized that the language in the MPD supports this process and relegates review of the details to the Planning Commission. Regardless of when the development came forth, this was the process that needed to occur.

Commissioner Peek stated that on September 23, 2009 four Commissioners made specific comments that were in agreement with the Staff report. Five Commissioners wanted the applicant to prepare a rebuttal for the next meeting. Commissioner Peek noted that there were eight discussion points in that report. While the model attempts to address two discussion points from the last meeting; 1) providing additional streetscape; and 2) are the structures appropriate to the topography, it does not address the other significant discussion points of; a) excessive proposed support commercial; b) excess square footage; and c) efficiency of design. Commissioner Peek remarked that coming to an agreement on these points would certainly affect the mass and scale and, therefore, any model.

Commissioner Peek did not find that the applicants' proposal on points a, b or c comply with Criteria 8, 11 or 15.

Commissioner Peek stated that based on the excavation as demonstrated on the model, the project does not comply with Criteria 8 or 15. He deferred his comments on the mass and scale of the structures until he had time to digest the model and review what was presented this evening. Regarding the MPD, Commissioner Peek thanked Commissioner Hontz for pointing out the development parameters and conditions in Section 3 of the document. He noted that the final sentence on part 1 reads, "The Staff and Planning Commission shall review projects for compliance with the adopted Codes and ordinance in effect at the time. In addition, to insure conformance with the approved master plan." Commissioner Peek read a quote from the last

Staff report, "Staff analysis of the approved MPD and current CUP application found that the current application contains more total square footage and the modification to grade is more extensive than anticipated in the MPD. "Additionally, excavation and permanently exposed site shoring for the Creole Gulch portion occurs in the recreation open space zone outside of the approved MPD development boundary." Commissioner Peek indicated the area he was referring to in the Creole portion that was outside of the development boundary.

Commissioner Peek did not find the project to be in compliance with the MPD.

Commissioner Peek felt the first step in the process was to reach agreement that the conditional use permit application complies with the underlying MPD. If the application contains elements that are not allowed in the MPD, it is unacceptable to discuss them as a conditional use. The elements that do not comply with the MPD should be removed from the application.

Chair Wintzer commented on the property lines behind the buildings that encroach on to open space. He did not believe anyone had anticipated going into open space, excavating material and taking out the trees, and then leaving it as a guide wall or cliffscape, which is not a natural open space setting. Chair Wintzer thought the buildings were sited in a way that excessively fights the grade. The amount of excavation and grading required would not meet Criteria 11 and 15. Chair Wintzer commented on the number of trees on site. He noted that on other sites that were developed through an MPD, the open space was not violated. In addition, the Planning Commission made those applicants retain some trees and natural grading within the developable area of the project. In this case, it appears that the applicants took every piece of vegetation out of the area and started over. Chair Wintzer was concerned about the excavation and toxic waste, since they have no idea how much toxic waste is involved. He did not believe either issue was compatible with Criteria 15.

Chair Wintzer commented on the amount of support commercial and questioned why they would consider anything over the 5% realm. If the applicant was really trying to mitigate traffic issues and mass and scale issues, they should be looking at less than 5%. Chair Wintzer did not think that part of the proposal was appropriate with Criteria 2, 8, 11 or 15. In looking at the project going up Lowell Avenue, Chair Wintzer was unsure how anyone could say that the project was compatible with the neighborhood in mass, scale, style and design. In his opinion, it does not work with Criteria 8 or 11.

Chair Wintzer commented on the efficiency of design and noted that in 2004 they received a design that was roughly 500,000 square feet. In that design 57% was residential units and he thought that was an inefficient design. Now they have a design that is over a million square feet and 39% of the area is residential units. He thought the project was going backwards in its efficiency rather than forward. The project now is 20% larger than it was when they began talking about mass and scale.

Chair Wintzer noted that the 1986 plan showed the development starting with natural grade and excavating only what was needed for the buildings. The buildings appeared to step up the mountain and then it went back to existing grade. Chair Wintzer stated that there was very little change between the existing grade and the finished grade. The proposed excavation and

grade change is a major contrast to the 1986 plan and he did not believe it was compatible with Criteria 8, 11 or 15. Chair Wintzer pointed out that the applicant had done nothing to reduce the parking requirement, including the commercial space. This was one reason why the project was lopsided on its efficiency.

Chair Wintzer commented on the mass and scale of Buildings 3A and 5A and suggested pushing those buildings further into Creole Gulch to keep them from looming over Empire and Lowell.

Commissioner Strachan asked if the plans provided were the final plans for the project. He assumed they were, since the plans are posted on their website and the model was based off those plans. Commissioner Strachan stated that if the plans were final, the Planning Commission needed to assess those plans and vote on them. In order to do that, the Staff needed to prepare all the documents, all the studies, and all the Staff reports so the Planning Commission could vote on the project. Commissioner Strachan noted that the letter from the Sweeney's attorney stated that they were in the midst of preparing an analysis of where they might compromise with Staff. He suggested that the document be provided to the Planning Commission prior to the April meeting. Commissioner Strachan believed the Planning Commission was ready to vote on this project. They have received a veiled threat from an attorney saying that the further they go down this road the more the applicant detrimentally relies on what the applicant is being told by Staff. Commissioner Strachan stated that the way to stop that detrimental reliance is to stop the Staff's analysis and vote on what appears to be the final plan.

Commissioner Strachan stated that if the applicant intends to change their plans substantially based on comments from the Planning Commission, the April meeting may not be a vote. However, unless there are substantial changes to the plans provided, the Planning Commission has the obligation to vote on the plan and stop the alleged detrimental reliance by the applicant. Commissioner Strachan fairly warned the applicant that April would be the deadline.

Commissioner Strachan asked the Staff to prepare the documents the Planning Commission would need to decide on this project. He had a long list of items that should be included and he read them aloud to give the other Commissioners the opportunity to add their own items. Commissioner Strachan outlined the items as follows:

1. The MPD, which includes the 1986 Staff report and the original plans.
2. Crowd, traffic and parking studies and all traffic and parking plans that have been generated by both the applicant and the City.
3. All mitigation plans in any form submitted by the applicant. All excavation plans submitted by the applicant. Any construction mitigation plans submitted by the applicant.
4. Any environmental studies by both the City and the applicant or any third party.

5. Applicable 1986 Code sections for both the LMC and the historic guidelines. If the current historic guidelines apply, those should be included and not the ones from 1986.

Assistant City Attorney noted that the guidelines that apply are the ones in force at the time of the application.

6. All legal opinion memoranda that has been submitted by both the applicant's attorney and by the outside counsel retained by the City.
7. Minutes from all the meetings since the time the DVD was given to the Planning Commission.

Commissioner Strachan requested input from the Commissioners on his comments and/or the documents to make sure they were all in agreement.

Chair Wintzer echoed the request to receive the information well in advance of the April meeting.

Commissioner Luskin noted that Item 6 in the original master plan was raised in public comment. The language states that, "All buildings shall be reviewed for conformance with the Historic District Design Guidelines and related architectural requirements". Commissioner Luskin felt it was important that the document be part of their packet. Commissioner Strachan pointed out that he had requested the guidelines in Item 5 of his list.

Commissioner Strachan echoed the comments made by Commissioners Peek and Wintzer in their entirety.

Commissioner Strachan wanted to know where in the MPD it says that the penthouses are exempt from the height limit because he could not find that language. Craig Elliott explained that penthouse is a term used for mechanical housing.

Commissioner Strachan stated that according to the applicant, there is a date certain when the MPD expires. That date was 2006, twenty years from the 1986 approval. Commissioner Strachan thought the 20 year deadline was a consideration that the Planning Commission should review if and when they decide to vote on the plans.

Commissioner Strachan clarified that he considered the MPD to be the December 18, 1985 revised Staff report, which includes 15 pages plus Exhibit A, which is the development parameters and conditions. It would also be the Sweeney Properties Master Plan density, the master plan phasing exhibit, all of the maps and drawings, and the City Council minutes from the final approval on October 16, 1986.

Commissioner Peek requested that they also include the December 18, 1985 Planning Commission minutes, development parameters and conditions. Commissioner Strachan pointed out that those were actually Exhibit A in the December 18, 1985 Staff report.

Commissioner Hontz noted that the MPD references average heights on pages 4, 9, 11 and again on page 6 of the conditions. She had looked through everything and could not find a breakdown of the average height. Commissioner Hontz requested that the Staff provide clarification on the average height.

Commissioner Hontz requested that the Staff run the numbers and prepare a comparison chart of similar developments to better understand the support commercial. She suggested using the Montage, St. Regis, and Stein's. The Commissioners concurred. Chair Wintzer pointed out that the commercial in the Sweeney Master Plan was not designed to attract people to the project. The other projects mentioned have commercial spaces that were designed to attract people. He wanted to know more about the projects in the comparison to understand their operation or business plan compared to the Sweeney Plan.

Commissioner Luskin requested that the materials include a copy of the geological study of Summit County that Rich Wyman had referenced.

Commissioner Peek referred to his previous comments regarding the permanent shoring and excavation outside of the approved development boundary, and asked for a Staff and legal opinion on whether that is appropriate in the ROS zone. He understood that the limits of disturbance for the construction site is going outside of what he would interpret to be the property line.

Commissioner Strachan pointed out that it was addressed on B-12 of the Sweeney submittal. Planner Cattan stated that typically development is supposed to occur within the property line as defined. She would review the MPD to make sure nothing different was allowed.

Chair Wintzer asked Planner Cattan to research the idea of entering into open space for construction purposes. In his opinion, it would not be allowed but he wanted clarification.

Commissioner Peek agreed with Commissioner Strachan that there was no reason for the Planning Commission to continue with this exercise if the project plans were not going to change.

Planner Cattan asked if there was consensus among the Commissioners that if the applicant was not willing to make changes, the Staff should prepare a Staff report for action in April. The Staff concurred that action should be taken in April if there were no changes to the proposal.

Chair Wintzer was unsure if the Commissioners had provided enough direction on the eight discussion points outlined in the last and current Staff reports. He suggested that the Commissioners respond to each point this evening.

Assistant City Attorney McLean noted that the purpose of this meeting was to discuss mass and scale in relationship to viewing the model. She stated that it was appropriate for the Planning Commission to say they were prepared to vote at the next meeting if the project has not changed; however, they should wait until the next meeting to provide direction on the eight

discussion points so it could be noticed. There would still be time to draft findings based on the vote and the comments.

Chair Wintzer stated that the questions were in the last two Staff reports and he could not remember if the Planning Commission had provided sufficient direction. Commissioner Peek noted that in the minutes of the last meeting, there was a consensus among the Commissioners for the opportunity to discuss and have a rebuttal at the next meeting. He believed the public record indicated their intent to have this discussion.

Mr. Elliott noted that the applicants were preparing a response to the Staff report. He thought the applicants would say whether or not they were willing to make changes based on comments this evening regarding the model. He expected that response to be available for the next meeting. Mr. Elliott stated that the applicants were waiting to hear the response to the model and the discussion so they could make that decision based on specific comments and questions.

Chair Wintzer stated that if the applicants intend to respond to the Staff report, he wanted to make sure they understand whether the Commissioners agree or disagree with the Staff's analysis.

Mr. Elliott requested a response from the Staff or the Planning Commission that the application was complete. He was concerned about opening up the discussion only to find that they do not have a complete application. Planner Cattan stated that there was no question regarding the completeness of the application.

Commissioner Strachan expected that the applicants would prepare a rebuttal to address the questions Planner Cattan raised in the Staff report. He requested that the applicants provide the Planning Commission with that rebuttal in advance of the April meeting so they could assess it. If at that point the Commissioners determine that they have made substantial changes to the plans, they can stop the vote and address the new plans.

The Planning Commission responded to the eight points outlined in the Staff report as follows:

- 1) Support Commercial. All the Commissioners concurred with the Staff's analysis.
- 2) The applicant's willingness to make changes. The Commissioners had already addressed this point in their comments.
- 3) Staff request for discussion and direction on additional square footage. The Commissioners had addressed this point in their comments.
- 4) Should the design be revised to become more efficient and comply with the limits of the MPD. The Commissioners concurred that the first step is to comply with the MPD.
- 5) Whether the Planning Commission wanted another streetscape of the project showing full elevations of the building. Chair Wintzer believed the model accomplished what

they needed to see. The Commissioners concurred. Commissioner Peek requested detailed photographs of the model for future reference. Commissioner Strachan thought it would be helpful to have GPS coordinates for the top parts of the buildings. He felt there needed to be an objective standard for measuring height about sea level. Chair Wintzer requested copies of the slides that Mr. Elliott had presented this evening.

6) Whether the Planning Commission had other concerns not identified by Staff. Commissioner Peek was interested in seeing an avalanches assessment due to the risks involved with the amount of excavation proposed and the slope retention.

7) Should a separate design review task force be created to evaluate style, design, architecture detailing of the project, and the HDDR. Commissioner Strachan felt the Historic Preservation Board was qualified and the MPD identifies the HPB as the body for review. Planner Cattan noted that the Historic District Design Review is usually conducted by Staff, but it could go before the HPB at the request of the Planning Commission. Commissioner Strachan believed the MPD envisioned a review by the HPB. Chair Wintzer noted that the Historic Review has changed since the time of the MPD and he preferred to have the HPB involved. Commissioner Peek commented on other projects where the City Council had designated a design review task force. He believed that the scale and impacts of this project would warrant a design review task force. The Commissioners concurred.

8) Are the proposed structures appropriate to the topography of the site. Chair Wintzer reiterated an earlier comment that the applicants have spent more time fitting things in to the site as opposed to fitting them on the site. He did not believe it was appropriate as proposed. Simply based on the excavation, Commissioner Peek did not think it was appropriate to the topography. Commissioner Hontz thought the model helped demonstrate the sprawl and excessive height, which was not appropriate for the site. Commissioner Strachan pointed out the absence of any stepping.

Planner Cattan asked for additional comments regarding the design.

Chair Wintzer stated that in reading the minutes of the MPD, he believed the intent was for the project to be hidden in the Gulch. At this point, that has not been accomplished. There is too much of the project out front and not enough in the Gulch. Chair Wintzer thought the buildings on the left side were appropriate, except for the cliffscape behind them that is outside of the limits of disturbance. In addition, the backdrop is altered so much that it changes the mass of the project. Chair Wintzer remarked that the buildings on the other side do not follow the topography of the hill.

Commissioner Luskin stated that the mass had changed in the project, and he was concerned that the appearance of the mass would be even greater once the project was excavated. He questioned whether the project as proposed should require a new MPD. He had additional concerns with the project that had not yet been addressed.

Mr. Elliott felt the Planning Commission had provided good comments and direction this

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evening. The applicants would take those comments, consider their options and provide a response as soon as possible regarding the next step to move forward.

MOTION: Commissioner Peek moved to CONTINUE the Treasure Hill project to April 14, 2010. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 8:45 p.m.

Approved by Planning Commission_____