



AGENDA

MEETING CALLED TO ORDER AT 5:30 PM

WORK SESSION – Discussion only, no action will be taken		<i>pg</i>
1555 Iron Horse Loop Road – Master Planned Development	PL-10-00899	5
Echo Spur on Rossi Hill – Plat Amendment	PL-09-00818	61

ROLL CALL

ADOPTION OF MINUTES OF MARCH 24, 2010

PUBLIC COMMUNICATIONS – Items not scheduled on the regular agenda

STAFF/BOARD COMMUNICATIONS AND DISCLOSURES

CONTINUATION(S) – Open public hearing and continue as outlined below

1555 Iron Horse Loop Road – Master Planned Development	PL-10-00899	
<i>Open public hearing and continue to a date uncertain</i>		
Echo Spur on Rossi Hill – Plat Amendment	PL-09-00818	
<i>Open public hearing and continue to a date uncertain</i>		
1440 Empire Avenue – Conditional Use Permit	PL-09-00725	
<i>Open public hearing and continue to May 12, 2010</i>		

CONSENT AGENDA – Public hearing and possible action

7660 Royal Street, Sterling Lodge – Amendment to Record of Survey	PL-08-00561	107
1059 Park Avenue – Plat Amendment	PL-10-00918	117
352 Main Street – Plat Amendment	PL-09-00750	125
1895 Sidewinder Drive, Marriott – Plat Amendment	PL-10-00920	135

REGULAR AGENDA – Discussion, public hearing, and possible action as outlined below

1150 Deer Valley Drive – Conditional Use Permit	PL-09-00858	143
<i>Public hearing and possible action</i>		
1150 Deer Valley Drive – Amendment to Record of Survey	PL-09-00768	153
<i>Public hearing and possible recommendation to City Council</i>		
Lot B of Northside Village Suvdivision II, Nakoma – Amendment to Record of Survey	PL-10-00898	177
<i>Public hearing and possible recommendation to City Council</i>		
692 Main Street, Town Lift Project, Phase 1 – Pre-Master Planned Development	PL-10-00928	193
<i>Public hearing and possible action</i>		
North Silver Lake – Conditional Use Permit	PL-09-00858	249
<i>Public hearing and possible action</i>		

ADJOURN

Items listed on the Regular Meeting may have been continued from a previous meeting and may not have been published on the Legal Notice for this meeting. For further information, please call the Planning Department at (435) 615-5060.

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

Park City Vicinity & Zoning Map



April 28, 2010
Planning Commission Meeting

1895 Sidwinder Drive, Marriot
Plat Amendment

1555 Lower Iron Horse Loop
Master Planned Development

1150 Deer Valley Drive - CUP
and Amendment to Record of Survey

1440 Empire Avenue
Conditional Use Permit

1059 Park Avenue
Plat Amendment

692 Main Street, Town Lift Project, Ph. 1
Pre-Master Planned Development

Echo Spur on Rossi Hill
Plat Amendment

352 Main Street
Plat Amendment

North Silver Lake
Conditional Use Permit

7660 Royal Street East, Sterling Lodge
Amendment to Record of Survey

Lot B of Northside Village Subdivision II, Nakoma
Amendment to Record of Survey



WORK SESSION

Planning Commission Staff Report



Subject: Iron Horse Mixed Use Building
Author: Jacquye Mauer, Planner
Project #: PL-10-00899
Date: April 28, 2010
Type of Item: Master Planned Development - Work Session

Summary Recommendations

Staff requests the Planning Commission review and discuss the updates that have been made to the Iron Horse Mixed Use Building since it was last seen by the Commission in the Pre-MPD stage and give both staff and the applicant direction on the items laid out in the analysis section below.

Topic

Applicant: Mark Fischer, represented by Craig Elliott, architect
Location: 1555 Lower Iron Horse Loop Road
Zoning: Light Industrial (LI)
Adjacent Land Uses: General Commercial, Rail Trail, Multi-family condominiums
Reason for Review: Master Planned Developments require Planning Commission review and approval

Background

A requirement for any Master Planned Development (MPD) is a pre-application public meeting and determination of initial compliance with the General Plan (LMC 15-6-4(B)). On August 26, 2009, the Planning Commission held a pre-application public hearing for the Iron Horse Mixed Use Building MPD located at 1555 Lower Iron Horse Loop Road. At this public hearing, the Planning Commission unanimously found the conceptual plans to be in initial compliance with the General Plan. The staff report and minutes are included as Exhibit H.

On February 3, 2010, the City received a complete application for a Master Planned Development to be located at 1555 Lower Iron Horse Loop Road. The property is situated on the east side of Bonanza Drive and the south side of the Rail Trail across from the Rail Central Phase I project. The property is comprised of one lot, known as Lot 1 of the Iron Horse Industrial Subdivision, and totals 1.47 acres.

The property is in the Light Industrial (LI) zoning district. It is currently occupied by a 6,540 square foot light industrial building, known as the Deer Valley Lodging building, and a 2,160 square foot light industrial Park City Transportation building. These buildings have been used as maintenance, laundry, and transportation facilities. A portion of the lot is currently used for transportation fleet parking. Underground fuel storage tanks and fuel pumps exist on the property.

The Master Planned Development process is required for any residential project larger than ten (10) units or new commercial projects greater than 10,000 square feet Gross Floor Area (LMC 15-6-2(A)). The MPD process is necessary for the Iron Horse Mixed Use Building since both of these numbers are exceeded in the proposal.

The applicant proposes to remove the two existing buildings and build three connected mixed-use buildings with a combined footprint of 19,332 square feet. The buildings range from two (2) to three (3) stories above ground with a below ground parking area. There is also perpendicular and parallel parking located along Lower Iron Horse Loop Road. The mixed use project includes commercial, office, and residential spaces. No affordable housing is being proposed on site, but is required as part of the MPD. This is explained further in the Employee/ Affordable Housing section of this report.

Residential Units	21 units
Residential Area	31,759 sq. ft.
Commercial Area	10,488 sq. ft.
Number of Parking Spaces	73 spaces

The applicant provided an introduction to the building design at the August 26, 2009 Planning Commission pre-application work session meeting. The Summary of the Commissioners' comments included:

- Non-compliance with the setbacks would require a variance or a proposal that changes the setbacks to meet the Code.
- Concern regarding the surface parking configuration.
- Discussion on the bridge proposed to extend from property to the Rail Trail.
- Discussion about too much affordable housing being condensed into one project.
- Potential height exceptions
- What the change of intensity of use would be
- The project meets the General Plan requirements outside of the parking issue.

The analysis section below summarizes how the above comments have been addressed and how the project has been modified. It also calls out areas on which Staff would like the Commission to provide direction and feedback.

Analysis

Setbacks.

The minimum Setback around the exterior boundary of an MPD shall be twenty five feet (25') for Parcels greater than one (1) acre in size (LMC 15-6-5(C)).

Initially, the project did not comply with the required Setbacks. The applicant requested an exception to have the setback reduced to 15' off the back of curb or the right-of-way known as Lower Iron Horse Loop Road. The applicant has since modified the project so all of the required setbacks are now met. Within an MPD, the required setback is twenty five feet (25') for all sides of the development. The project complies with the twenty five foot (25') setback. A twenty foot (20') non-exclusive utility and drainage easement exists

on the property along Bonanza Drive and ten foot (10') non-exclusive utility and drainage easements exist along the remaining property lines. No structures, either above or below ground, will occupy these easements.

Parking.

The applicant has requested the City to allow a parking area right off Iron Horse Loop Road and to permit the vehicles parking in this short-term surface parking area to back out directly onto Iron Horse Loop Road. Although Section 15-2.19-3 of the LMC states, "Open yards used for storage or parking may not adjoin any public right-of-way and must be fully screened from public rights-of-way and adjoining properties," the proposed parking configuration does not violate this section of the code since Iron Horse Loop Road is a private road and the section of road affected by this parking configuration is actually located within the project property. Furthermore, Section 15-3-3(G) of the Land Management Code states, "Off-Street Parking Areas must have unobstructed Access to a Street or alley. The Parking Area design for five (5) or more vehicles must not necessitate backing cars onto adjoining public sidewalks, parking strips, or roadways." Again, because the road is private, this section of the code is not being violated.

Changes have been made to the configuration of the off-street parking since the Planning Commission last reviewed the project. Engineering and Planning have written the property owner a letter stating they will allow the parking configuration as it is now being proposed with the recommendation that the space between the edge of the private road and the proposed parking stalls be maximized and speeds be reduced to ten (10) to fifteen (15) miles per hour. See Exhibit I. Planning and Engineering find five feet of space as a buffer between the parking stalls and edge of road would help to significantly alleviate any possible obstructed views. The applicant is proposing for this five (5) foot wide buffer strip to be of sidewalk material.

Discussion Question #1: Staff requests the Planning Commission review the new parking configuration and provide feedback.

The applicant is not requesting a reduction in the required off-street parking. Seventy-three (73) parking spaces are required and provided for. Twenty-two (22) of the spaces are provided along Lower Iron Horse Loop Road. The remaining fifty-one 51 spaces are located in the underground parking garage.

Pedestrian Bridge.

The final approval of the pedestrian bridge will be determined by City Council, but it is appropriate for the Planning Commission to discuss whether or not the location and circulation patterns of the bridge are suitable for the project. Exhibit J explains history of the pedestrian bridge and the approval process.

Discussion Question #2: Staff requests the Commission review and discuss the proposed pedestrian bridge regarding the location and circulation it provides for the project and surrounding areas.

Employee/Affordable Housing.

MPD Applications shall include a housing mitigation plan which must address employee Affordable Housing as required by the adopted housing resolution in effect at the time of Application. (LMC 15-6-5 (J))

At this time there is not any Affordable Housing proposed to be located on site. Since affordable housing is not proposed on site, it will need to be located off site. According to the 2007 Housing Resolution, the Developer is required to provide affordable housing units in an amount equal to fifteen percent (15%) of the total residential units constructed. The 2007 Housing Resolution also states the Developer shall be required to mitigate housing for twenty percent (20%) of the employees generated. Employee generation is determined by a formula that takes into account the type of commercial use. The applicant is creating a Housing Mitigation Plan. The Housing Authority will need to approve the Housing Mitigation Plan which will be done concurrently with this application. Affordable Housing must comply with the 2007 Housing Resolution.

Height.

The height requirements of the Zoning Districts in which an MPD is located shall apply except that the Planning Commission may consider an increase in height based upon a Site specific analysis and determination. (LMC 15-6-5 (F))

Applicant is requesting a 5' 2" height allowance as permitted by the Code. The proposed maximum height is 35' 2" which exceeds the 30' LI zone height.

The LMC Section 15-6-5 (F) grants the Planning Commission the authority during review of an MPD to allow additional building height based upon site-specific analysis provided the Commission can make the following findings:

1. The increase in building height does not result in an increase in square footage or building volume over what could be allowed under the zone-required building height and density, including requirements for facade variation and design, but rather provides desired architectural variation.

The applicant has provided an analysis to demonstrate the proposed maximum height exception does not cause the allowable building volume to be exceeded. It is included as Exhibit B. The allowable building volume on the property is 870,000 cubic feet. The proposed building volume including the height exception is 565,083 cubic feet.

2. Buildings have been positioned to minimize visual impacts on adjacent structures. Potential problems on neighboring properties caused by shadows, loss of solar access, and loss of air circulation, have been mitigated to the extent possible as defined by the Planning Commission.

Neighboring properties would not be negatively affected by the height increase as the Fireside and Ironhorse residential units are located above the proposed project and there are substantial buffers and space between the proposed project and neighboring projects.

3. There is adequate landscaping and buffering from adjacent properties and uses. Increased setbacks and separation from adjacent projects are being proposed.

The project has increased setbacks at several locations. The mixed use project buildings are buffered from adjacent properties by the topography and proposed trees and shrubs. Fireside and Ironhorse residential units are set above the proposed project and the Rail Central project is separated from the Iron Horse Mixed Use Building by the Rail to Trail and stream.

4. The additional Building height has resulted in more than minimum open space required and has resulted in the open space being more usable.

Required open space for the project has been exceeded by a significant amount. Thirty percent (30%) open space is required and over forty-five percent (45%) open space is provided. The height exception allows for space that could be utilized as built area to instead be utilized as open space.

5. The additional Building height shall be designed in a manner so as to provide a transition in roof elements in compliance with Chapter 5, Architectural Review or Historic District Design Guidelines if within the Historic District.

The proposed height request does not comply because the additional Building height does not provide transitions in roof elements.

Discussion Question #3: Staff requests the Commission open up the discussion of a height exception and consider the exception based on the five (5) criteria above.

Uses.

The proposed uses of the Iron Horse Mixed Use Building are a mixture of retail and residential units. Any future conditional use will go through the conditional use process at a later date. Uses that would require a CUP include but are not limited to a Bar, Drive-Up Restaurant Window, a Café or Deli, Auto-related Retail and Service Commercial, Transportation Services, Restaurant and Restaurant Outdoor Dining, and Medical Office and Clinic.

Density.

The type of Development, number of units and Density permitted on a given Site will be determined as a result of a Site Suitability Analysis and shall not exceed the maximum Density in the zone, except as otherwise provided in this section. The Site shall be looked at in its entirety and the Density located in most appropriate locations (LMC 15-6-5 (A)).

The Light Industrial (LI) district does not have maximum density requirements in terms of allowable maximums for residential/commercial unit equivalents, but rather has setback, height, and parking limitations. The location of the Density is located in a suitable location for the site. The Density is appropriate for the site and compatible with

the Density of surrounding sites.

Open Space.

All Master Planned Developments subject to redevelopment shall contain a minimum of thirty percent (30%) open space (LMC 15-6-5 (D)).

Adequate open space is provided at 45.49% when the covered walkways are included in the percentage. The percent of open space still meets the requirement at 36.85% when the covered walkways are excluded from the calculation. Open space is shown on the site plan which is included as Exhibit D.

Façade Length and Variations

(A) Structures greater than sixty feet (60') but less than 120 feet in length must exhibit a prominent shift in the façade of the Structures so that no greater than seventy five percent (75%) of the length of the Building Façade appears unbroken. Each shift shall be in the form of either a ten foot (10') change in Building Façade alignment or a ten foot (10') change in the Building Height, or a combined change in Building Façade and Building Height totaling ten feet (10'). (B) Structures that exceed 120 feet in length on any façade shall provide a prominent shift in the mass of the Structure at each 120 foot interval, or less if the Developer desires, reflecting a change in function or scale. The shift shall be in the form of either a fifteen foot (15') change in Building Façade alignment or a fifteen foot (15') change in the Building Height. A combination of both the Building Height and Building Façade change is encouraged and to that end, if the combined change occurs at the same location in the Building plan, a fifteen foot (15') total change will be considered as full compliance. (LMC 15-5-8).

Staff finds this criterion has not been met. There is variation and interest on each building façade created by balconies and covered walkways. However, the ten foot (10') and fifteen foot (15') required shifts do not exist in all of the necessary areas. The north, south and west facades all exceed the allowed façade length before a prominent shift in either Building Façade alignment or Building Height is required. The north façade measures 236', the south façade measures 210' and the west façade measures 94' without any shift in Building Height or Building Façade alignment. See Exhibit E for building elevations.

Discussion Question #4: Staff finds the proposed buildings do not meet the language and intent of section 15-5-8 of the LMC regarding façade and building height. Does the Planning Commission concur?

Environmental Compliance.

Information regarding substantial environmental issues has been provided by Jeff Schoenbacher, the City's Environmental Coordinator, and is included as Exhibit K. The applicant is aware of the issues and will work with required entities at the permitting stages.

Child Care.

A Site designated and planned for a Child Care Center may be required for all new

single and multi-family housing projects if the Planning Commission determines that the project will create additional demands for Child Care (LMC 15-6-5(K)).

Discussion Question #5: Staff requests direction from Planning Commission as to whether or not they find the project will create an additional demand for Child Care.

Discussion Questions:

#1: Staff requests the Planning Commission review the new parking configuration and provide feedback.

#2: Staff requests the Commission review and discuss the proposed pedestrian bridge regarding the location and circulation it provides for the project and surrounding areas.

#3: Staff requests the Commission open up the discussion of a height exception and considers the exception based on the criteria above.

#4: Staff finds the proposed buildings do not meet the language and intent of section 15-5-8 of the LMC regarding façade and building height. Does the Planning Commission concur?

#5: Staff requests direction from Planning Commission as to whether or not they find the project will create an additional demand for Child Care.

Future Process:

Approval of the Master Planned Development is required for the project to move forward.

Recommendation:

Staff requests the Planning Commission review and discuss the requested Master Planned Development and provide direction to the applicant and staff regarding the proposed Iron Horse Mixed Use Building and its compliance with the Land Management Code and General Plan. A public hearing should be opened to receive input on the proposed project.

Exhibits

Exhibit A – Iron Horse Mixed Use Building Cover Sheet

Exhibit B – Volume Analysis

Exhibit C – Record of Survey

Exhibit D – Site Plan

Exhibit E – Iron Horse Mixed Use Building Sheets

Exhibit F – Building and Site Model Photos

Exhibit G – Iron Horse Industrial Subdivision plat

Exhibit H – Pre-MPD Staff Report and Minutes

Exhibit I – Parking Letter

Exhibit J – Pedestrian Bridge Information

Exhibit K – Environmental Information

Mark Fischer

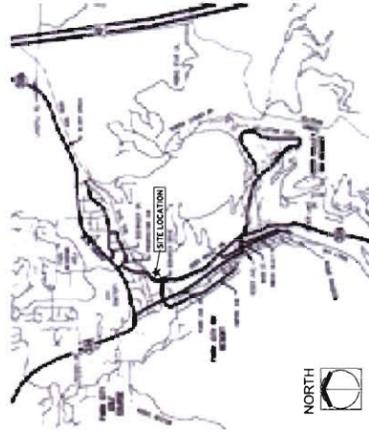
Iron Horse Mixed Use Building

Iron Horse Loop Road
Park City, Utah 84060

Master Planned Development

June 11th, 2009 (Revised 03/31/2010)

VICINITY MAP



Master Planned Development
June 11th, 2009 (Revised
03/31/2010)



ELLIOTT WORKGROUP
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CONTACT: CRAIG ELLIOTT, AIA

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LAND SOLUTIONS PLANNING & DESIGN
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P.O. BOX 693175
PARK CITY, UTAH 84068
435-645-0623
CONTACT: PETE GILLWALD

CIVIL ENGINEER
T.B.D.

INTERIOR DESIGN
T.B.D.

LANDSCAPE ARCHITECTURE
T.B.D.

STRUCTURAL ENGINEER
T.B.D.

PLUMBING ENGINEER
T.B.D.

MECHANICAL ENGINEER
T.B.D.

ELECTRICAL ENGINEER
T.B.D.

SERVICE CONTACTS

Rocky Mountain Power
201 South Main St, Suite 2300
Salt Lake City, UT 84111
(800) 870-3419

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2700 Kearns Blvd
Park City, UT 84060
(435) 645-5600

Park City Municipal Corp
Park City, UT 84060
(435) 658-9471

Comcast Cable
Park City, UT 84060
(435) 649-6106

Quest Phone Company
Salt Lake City, UT
(800) 922-7387

Park City Fire Department
730 Blinn Rd
Park City, UT 84098
(435) 646-6106

Comcast Cable
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Division of Water Quality
288 South 1460 East
Salt Lake City, UT 84112
(800) 541-2824

Snyderville Basin Water
Reclamation District
2800 Homestead Rd
Park City, UT 84098
(435) 647-1932

DRAWING INDEX

GENERAL DRAWINGS
GI - 1 COVER SHEET
GI - 2 VOLUME REPORT
SV - 1 SURVEY
PRESENTATION DRAWINGS
A - 01 AERIAL VIEW
A - 10 SITE PLAN
A - 11 LEVEL 0
A - 12 LEVEL 1
A - 13 LEVEL 2
A - 21 ELEVATIONS
A - 31 SECTIONS
A - 3.2 FISCAL MODEL

NO.	DESCRIPTION	DATE	BY	CHECKED
1	GI - 1 COVER SHEET	03/31/2010	MF	MF
2	GI - 2 VOLUME REPORT	03/31/2010	MF	MF
3	SV - 1 SURVEY	03/31/2010	MF	MF
4	A - 01 AERIAL VIEW	03/31/2010	MF	MF
5	A - 10 SITE PLAN	03/31/2010	MF	MF
6	A - 11 LEVEL 0	03/31/2010	MF	MF
7	A - 12 LEVEL 1	03/31/2010	MF	MF
8	A - 13 LEVEL 2	03/31/2010	MF	MF
9	A - 21 ELEVATIONS	03/31/2010	MF	MF
10	A - 31 SECTIONS	03/31/2010	MF	MF
11	A - 3.2 FISCAL MODEL	03/31/2010	MF	MF

COVER SHEET
GI - 1

Mark Fischer
Iron Horse
Mixed Use Building
Park City, Utah 84060

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Master Planned Development
June 11th, 2009 (Revised 03/31/2010)



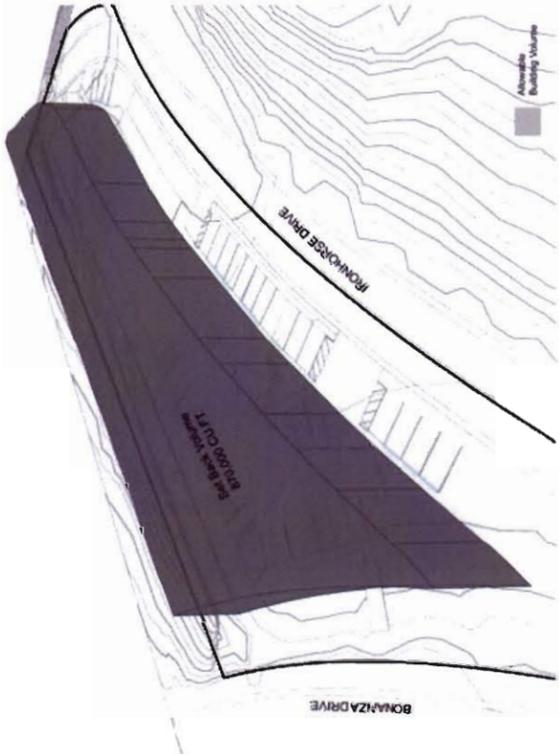
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Iron Horse Loop Road
Park City, Utah 84060

VOLUME REPORT

GI - 2

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1 SET BACK VOLUME
SCALE: N.T.S.



VOLUME REPORT			
	AREA (SQ.FT.)	(X) HEIGHT (FT.)	VOLUME (CU.FT.)
BUILDING "A"	5238	24	125,712
BUILDING "B"	6781	32	216,992
BUILDING "C"	7313	32	232,379
PROPOSED BUILDING VOLUME			565,083
SET BACK VOLUME	29,000	30.00	870,000

2 PROPOSED BUILDING VOLUME
SCALE: N.T.S.

3 SET BACK & PROPOSED BUILDING VOLUME
SCALE: N.T.S.

Master Planned Development
June 11th, 2009 (Revised 03/02/2010)

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Iron Horse Loop Road
Park City, Utah 84060

03/02/2010 10:18:18 AM
AERIAL VIEW
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1 AERIAL VIEW
SCALE: 1" = 40'-0"
N

Master Planned Development
June 11th, 2009 (Revised 03/31/2010)



354 Main Street PO Box 3419 Park City, Utah 84060
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SITE PLAN

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1 SITE PLAN
SCALE: 1" = 20'-0"

Master Planned Development
June 11th, 2009 (Revised 03/02/2010)

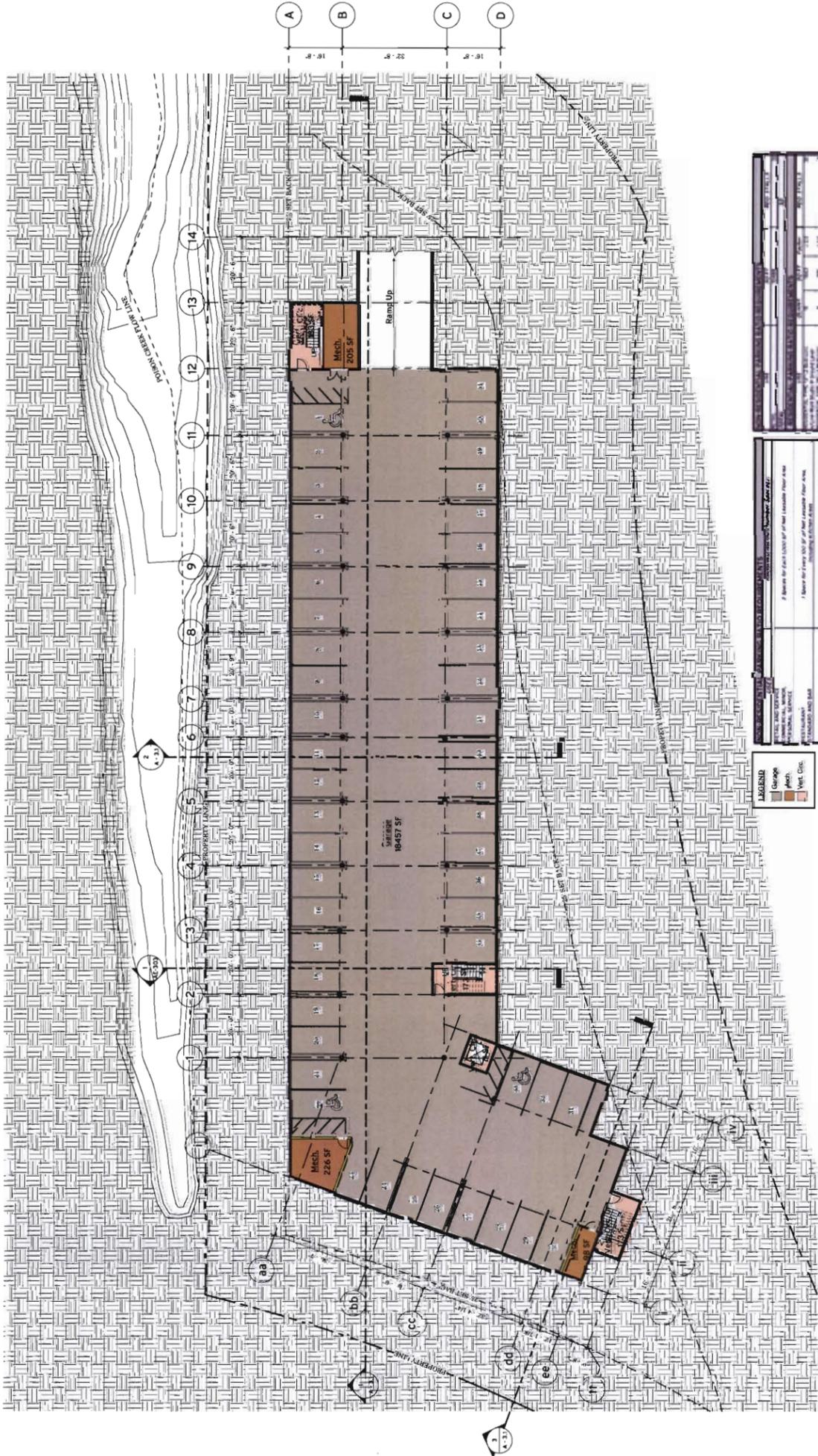


Mark Fischer
Iron Horse
Mixed Use Building
Park City, Utah 84060
Iron Horse Loop Road

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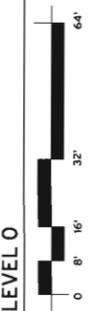
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LEVEL 0

1

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Master Planned Development
June 11th, 2009 (Revised 03/02/2010)



Mark Fischer
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Mixed Use Building
Iron Horse Loop Road
Park City, Utah 84060

LEVEL 1
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Master Planned Development
June 11th, 2009 (Revised 03/02/2010)

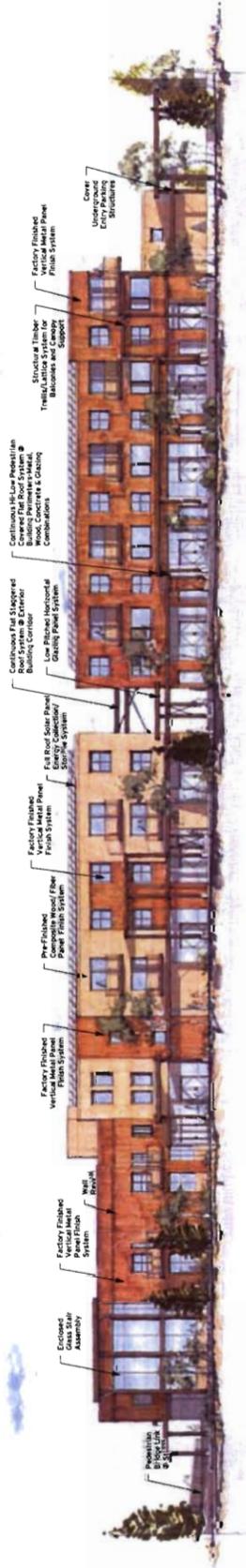


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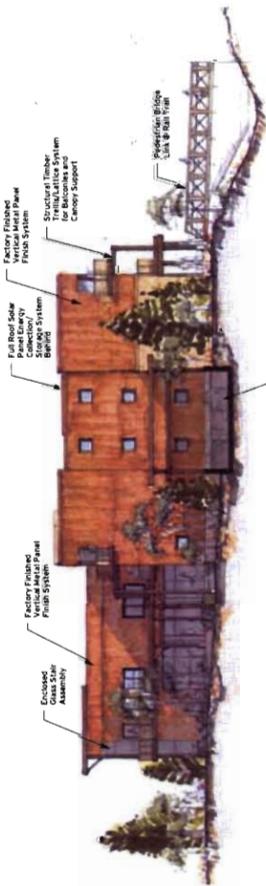
ELEVATIONS

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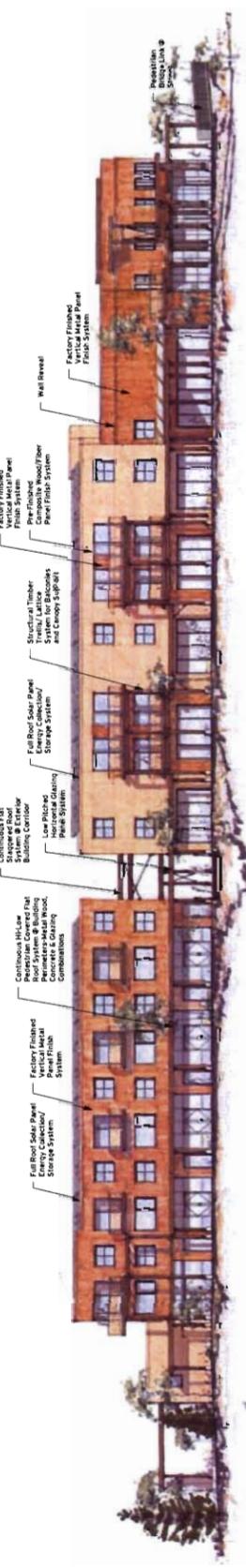
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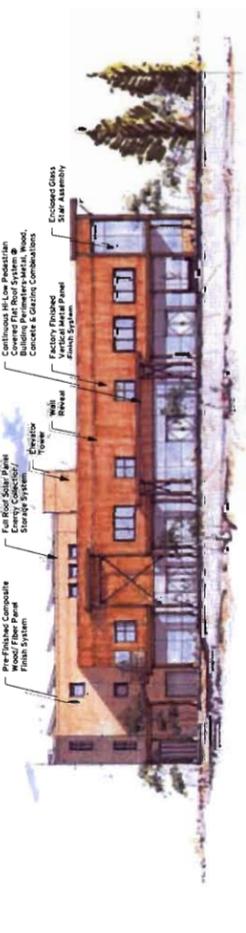
1 SOUTH ELEVATION



2 EAST ELEVATION



3 NORTH ELEVATION



4 WEST ELEVATION



Exhibit F

Master Planned Development
June 11th, 2009 (Revised 03/02/2010)



Mark Fischer
Iron Horse
Mixed Use Building
Iron Horse Loop Road
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FISCAL MODEL
A - 3.2
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VIEW IRONHORSE DR. - SOUTH
ENTRANCE
13 N.T.S.



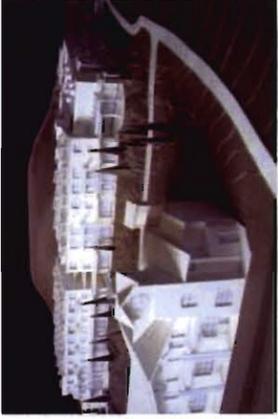
VIEW IRONHORSE DR. - BLDG. "A" & "B"
14 N.T.S.



VIEW IRONHORSE DR. - BLDG. "B"
15 N.T.S.



VIEW PARKING ENTRANCE
16 N.T.S.



CORNER VIEW IRONHORSE DR. - RAIL
CENTRAL
9 N.T.S.



BONANZA DRIVE - BLDG. "A"
10 N.T.S.



CORNER VIEW BONANZA DR. -
IRONHORSE DR.
11 N.T.S.



CORNER VIEW IRONHORSE DR. - BLDG
"A"
12 N.T.S.



AERIAL VIEW 5
5 N.T.S.



ROOF TERRACE
6 N.T.S.



VIEW LOOKING DOWN RAIL TRAIL
7 N.T.S.



CORNER VIEW IRONHORSE DR. - RAIL
TRAIL
8 N.T.S.



AERIAL VIEW 1
1 N.T.S.



AERIAL VIEW 2
2 N.T.S.



AERIAL VIEW 3
3 N.T.S.



AERIAL VIEW 4
4 N.T.S.

Planning Commission Staff Report



PLANNING DEPARTMENT

Subject: 1555 Lower Iron Horse Loop
Author: Katie Cattan
Date: August 26, 2009
Type of Item: MPD Pre-Application Work Session

Summary Recommendations

Staff requests that the Commission review and discuss the requested Master Planned Development and provide direction to staff and the applicant regarding initial General Plan compliance. A public hearing should be opened to receive input on the pre-application for the MPD.

Topic

Applicant:	Elliot Workgroup
Location:	1555 Lower Iron Horse Loop
Zoning:	LI-Light Industrial
Adjacent Land Use:	Rail Trail, Commercial, Multi-family condominiums
Reason for Review	Pre-MPD requires Planning Commission review and make a finding of general compliance with the General Plan

Background

On July 1, 2009, the applicant submitted a Master Planned Development pre-application for a mixed use Master Planned Development for the property located at 1555 Lower Iron Horse Drive. The property is situated on the east side of Bonanza Drive, on the south side of the Rail Trail across from the Rail Central Phase I project. The property is comprised of one lot totaling 1.474 acres and is known as Lot One of the Iron Horse Industrial Subdivision.

The property is in the Light Industrial (LI) zoning district. The property is currently occupied by a 6,540 sf light industrial building, known as the "Deer Valley Lodging" building, and a 2,160 sf light industrial Park City Transportation building. These buildings are used as maintenance, laundry, and transportation facilities. A portion of the lot is currently used for transportation fleet parking. Underground fuel storage tanks and fuel pumps exist on the property.

A MPD is required for this proposal because the project is more than 10,000 square feet gross floor area of commercial use and more than 10 units of residential. A requirement for any Master Planned Development (MPD) is a pre-application public meeting and determination of compliance (LMC 15-6-4(B)):

"At the pre-Application public meeting, the Applicant will have an opportunity to present the preliminary concepts for the proposed Master Planned Development. This preliminary review will focus on identifying issues of

compliance with the General Plan and zoning compliance for the proposed MPD. The public will be given an opportunity to comment on the preliminary concepts so that the Applicant can address neighborhood concerns in preparation of an Application for an MPD.

The Planning Commission shall review the preliminary information to identify issues on compliance with the General Plan and will make a finding that the project initially complies with the General Plan. Such finding is to be made prior to the Applicant filing a formal MPD Application. If no such finding can be made, the applicant must submit a modified Application or the General Plan would have to be modified prior to formal acceptance and processing of the Application."

The applicant is seeking to remove the existing buildings and build three connected mixed-use building with a combined footprint of 20,377 square feet. The buildings range from two to three stories above ground and a below ground parking area. There is also parking located along Lower Iron Horse Drive. The proposed buildings contain three stories of mixed use including commercial, office, and residential uses. The residential units will include affordable units.

Residential Units	24
Commercial Area	11,162 sq. ft. gross
Number of Parking Spaces	81

Analysis

A. Zoning

The LI District does not have maximum density requirements in terms of allowable maximums for residential/commercial unit equivalents, but rather has setback, height, and parking limitations. The LI District has certain minimum required setbacks, there are also minimum setbacks for Master Planned Developments, and the Planning Commission has the ability to allow certain exceptions to these set backs as per LMC Section 15-6-5 (C). The following are minimum standards for the LI- Limited Industrial District and the Land Management Code:

	CODE REQUIREMENT	PROPOSED
SETBACKS	MPDs require 25' around the perimeter of the site. May be reduced to zone or adjacent zone setbacks	Requesting exception to the 25' around the perimeter as follows:
FRONT	Light Industrial 30' General Commercial 20'	30' off of Bonanza Drive (there is a 20' utility and drainage easement too) <u>Complies</u> 15' off of the back of curb or the right-of-way known as Lower Iron Horse Loop <u>Does not Comply</u>

SIDES	10'	10' (no exceptions permitted as this is a 10' utility and drainage easement) <u>Complies</u>
REAR	10'	10' <u>Complies</u>
HEIGHT	30'5'	Approximately 34'- <u>Requesting exception within MPD</u>
PARKING	1 per bedroom for affordable housing if processed as an Affordable MPD. Otherwise depends on unit size. 3 per 1,000 sf for commercial 3 per 1,000 sf for gen office 2.5 per 1,000 sf for industrial	Not enough detail on square footage of units to calculate required parking
OPEN SPACE	30% required due to redevelopment of the site. Can be reduced by the Planning Commission in exchange for project enhancements/amenities per MPD.	Approximately 42% <u>Complies</u>

A 20' non-exclusive utility and drainage easement exists on the property along Bonanza Drive and 10' non-exclusive utility and drainage easements exist along the remaining property lines. No structures, either above or below ground, may occupy these easements. Additional discussions with the City Engineer, Chief Building Official, and Planning Department are recommended prior to submittal of the Master Planned Development plans.

Two issues regarding zoning have been identified by staff during the pre-application review. The setbacks and location of onsite parking must be revised prior to MPD submittal to comply with code.

The project is located on a corner lot. Within the LMC setback requirements for unusual lot configurations (Section 15-4-17), development on corner lots shall have two front setbacks. Within an MPD the required setback is 25 feet for all sides of the development. There is an allowance to decrease the 25 feet setback to the zone setbacks or adjacent zone setbacks. Staff has identified a compliance issue with the setbacks as proposed. The setback along Iron Horse Loop Road does not meet the zone setback of 30 feet, the MPD setback of 25 feet, or the adjacent zone (General Commercial) setback of 20 feet. The future MPD application must comply with the setback regulations at the time of review.

The applicant has proposed parking along Iron Horse Loop Drive. The proposed parking is in violation of the community requirements of the zone. Section 15-2.19-3(B) states "Open yards used for storage or parking may not adjoin any public right-of-way and must be fully screened from public rights-of-way and adjoining properties. The parking adjoins the public right-of-way. Staff has

consistently applied this standard for reasons of public safety to not allow the public visiting the commercial stores to back into a public street and oncoming traffic. This standard has been applied to the proposed office building across Iron Horse Loop to the south. The parking configuration on the MPD must comply with the LMC zoning standards.

B. Initial Compliance with General Plan

Pursuant to LMC Section 15-6-4(B), in order for the applicant to proceed with a MPD application, the Planning Commission must first find that the proposed project preliminarily is consistent with the requirements of the General Plan. If a finding for initial compliance cannot be made, then the pre-application will need to be changed. Alternatively, the applicant could attempt to modify the General Plan in a separate application. The following are elements of the General Plan that staff and the Commission will consider for compliance with the General Plan.

COMMUNITY CHARACTER ELEMENT (developing area policies)

New development should maintain the distinctive character of a mountain resort community in developing areas outside of the historic core. Steps should be taken to prevent the area from developing with traditional suburban features that would be incompatible with the community's goals. (General Plan pages 13- 14).

New commercial buildings should relate to the mining/historic architectural heritage. Projects should encourage alternatives to the use of autos and discourage driving where feasible. (General Plan pages 14).

Comprehensive, efficient developments that consider the overall impact on surrounding properties are encouraged. Approve development only when adequate public services and facilities are available or will be available when needed to serve the project. (General Plan, page 58).

Encourage affordable housing in close proximity to lodging, bus routes, resorts and such essential services as shopping, recreation, and medical services. (General Plan, page 58).

Minimize parking expanses between the street and the front facades of buildings. Require landscaped entries that connect with streets to provide easy, safe pedestrian access. (General Plan page 17).

The applicant will continue to work with staff, and the Planning Commission throughout the MPD process to ensure that the proposed new construction is compatible with the surrounding architecture and historic character of Park City's past.

OPEN SPACE ELEMENT

Carefully evaluate the open space components of annexation and development proposals to define the community needs and the value of any dedicated open space... consider various types of open space, ie. trails and trail connections,

access to streams, passive recreation opportunities, neighborhood open space such as plazas, ... and private open space (open space areas that enhance the livability of individual dwelling units or tenants-for private use). (General Plan page 22).

Provide substantial connections to other open spaces. (General Plan page 24).

Consider all environmentally sensitive regions. (General Plan page 24).

Regulate use of unnatural landscape materials or landscape alterations that are not indigenous to the area. (General Plan, pages 23-25).

Incorporate pedestrian trail linkages and open space to allow movement between and through neighborhoods. Trails should link to other recreational and community facilities and provide a viable alternative to vehicular transportation. Trail and pedestrian linkages should be consistent with the Park City Trails Master Plan. (General Plan page 34).

The applicant will be building the bridge from the rail trail to the property creating connectivity to a major pedestrian artery. The bridge will pass over the stream providing a path to the rail trail which is environmentally sensitive and connects to greater open space areas and recreation. The applicant is proposing approximately 42% open space on the site. The applicant has discussed the connection of the commercial space to the open space with outdoor dining being proposed in the future development along the north façade of the building adjacent to the stream and rail trail.

LAND USE ELEMENT

This property is designated as commercial on the Land Use Plan (General Plan Land Use Map).

Mixed use development with housing, commercial, and limited industrial are included in the first phase of the Rail Central MPD. This current proposal is an extension of those types of uses. The types of uses proposed are consistent with the Land Use Element and with the LI Zoning District.

TRANSPORTATION ELEMENT

Mixed land uses – Zoning designations shall be reviewed to identify opportunities to provide neighborhood-serving commercial uses with convenient walking or bicycling distance from residential areas. This strategy reduces auto use while providing increased opportunities for transit and pedestrian activity (General Plan, page 76).

Cluster land use densities close to major transit stops – The potential for transit rider ship drops off dramatically with distance from the nearest transit stop, particularly when the distance exceeds ¼ mile. Land use plans shall therefore concentrate high intensity uses near existing transit stops or modify the transit route so and efficient transit stop lies within ¼ mile (General Plan, page 75).

Identified as an issue: Traffic congestion throughout the year in the Prospector Square area (and on Bonanza Drive) generated by high traffic volumes and many driveway intersections. (General Plan Page 70-72).

Cluster land use densities close to major transit stops. Street network should be developed to allow efficient transit service. Safe and convenient pedestrian and bicycle facilities shall be provided. Site design that serves auto and transit users is encouraged. Mixed land uses reduce auto use while providing opportunities for transit and pedestrian activity. Development in commercial areas shall be pedestrian friendly. A variety of landscaping and other compatible land uses shall be encourage within rights-of- way where feasible. (General Plan pages 73-76).

Review the capacity constraints of Bonanza Drive and develop design solutions to improve the vehicular and pedestrian movement through this area. (General Plan page 77).

Residential uses are in close proximity to commercial, office, and recreation uses. The project is along a winter bus route. The applicant is willing to grant the City an easement for a bus pullout in front of the building, on Bonanza Drive, which could be used by the public school buses as well, although this is not a typical situation and would require discussion with the School District and Public Works Department. There are currently conflicts between school buses, parents parking to pick-up children from the school bus stop on Lower Iron Horse, and the existing traffic and pedestrian activity along Bonanza Drive.

GROWTH MANAGEMENT ELEMENT

These policies primarily address LMC amendments, Annexation policy amendments, and TDR policies. Applicable to this development are existing policies and regulations that involve approval of a Construction Mitigation Plan prior to issuance of any building permits. These CMPs address construction staging, limits of disturbance, parking during construction, impacts on the neighborhood, maintenance of pedestrian ways during construction, stockpiling of materials, hauling of materials, recycling of construction wastes, time of construction activity, noise, dust, mud, etc. Current policies also address securities that are posted to help enforce the CMP and to provide guarantees for completion of public amenities. (General Plan page 65-67).

This project would be required to meet or exceed all current construction mitigation policies in effect at the time of a building permit. Of special concern with this development is the issue of constructing the parking structure and building without blocking access to the condominiums that rely on the access easement on Lower Iron Horse Drive for primary and secondary access. This will require detailed plans and specific approval by the Chief Building Official and Fire Marshall.

ENVIRONMENTAL ELEMENT

Exercise caution when disturbing or developing on soils that may have the potential of containing contaminants from previous mining (or other industrial activities) operations. Require CMPs to provide for silt control, detention areas, and proper maintenance during and after construction. Protect the quality of the community's air by encouraging a reduction in the use of personal vehicle trips, etc. Address recycling of construction materials. Maintain and enhance trail and open space linkages. (General Plan p. 87-89)

This property is located within the Prospector Soils Ordinance area and all of the regulations and restrictions of the Ordinance will apply. The removal and clean-up for the underground tanks and fuel distribution activities will be closely reviewed for compliance with applicable ordinances and requirements. The mixed use nature of the project; its proximity to bus routes, shopping, the Rail Trail; and the proposal to link the Rail Trail to other trails and City Park are positive environmental attributes. Additionally, the stream has wetlands that were deemed to be jurisdictional.

HOUSING ELEMENT

Encourage the construction of affordable housing that is not disproportionately borne by any single sector of the community.

Ensure that new development does not adversely affect the supply of affordable housing in Park City. Continue to work with private developers, local non-profits organizations and other interested parties to supply affordable housing. (General Plan page 99-100).

Maintain the social, economic and political fabric of the community by requiring the construction of affordable housing when new projects are approved.

Affordable housing units are included within this mixed use development. One issue for discussion is whether this sector of the community is bearing a disproportionate share of the affordable housing in the community.

Departmental Review

The MPD pre-application request was discussed at a Staff Review Meeting where representatives from local utilities and City Staff were in attendance. Numerous problems with the concept were discussed, including setbacks, height, access and parking.

Notice

Notification of the Master Plan Development pre-application was provided to the public in the form of published notification, an on-site sign, and a letter mailed to property owners within 300 feet of the site fourteen days in advance of the Planning Commission meeting.

Public Input

No comments have been received by staff at the date of this writing.

Alternatives

1. The Planning Commission may find that the project initially complies with the General Plan; or
2. The Planning Commission may find that the project does not initially comply with the General Plan, and direct the applicant to make modifications; or
3. The Planning Commission may continue the discussion on whether or not the project initially complies with the General Plan.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking action on the Suggested Recommendation

The applicant will have to revise the current application.

Recommendation

Staff requests that the Commission review and discuss the requested Master Planned Development pre-application and consider providing further direction for amendments to the applicant prior to making a finding that the project initially complies with the General Plan.

EXHIBITS

- A. Proposed Site Plans
- B. Setbacks

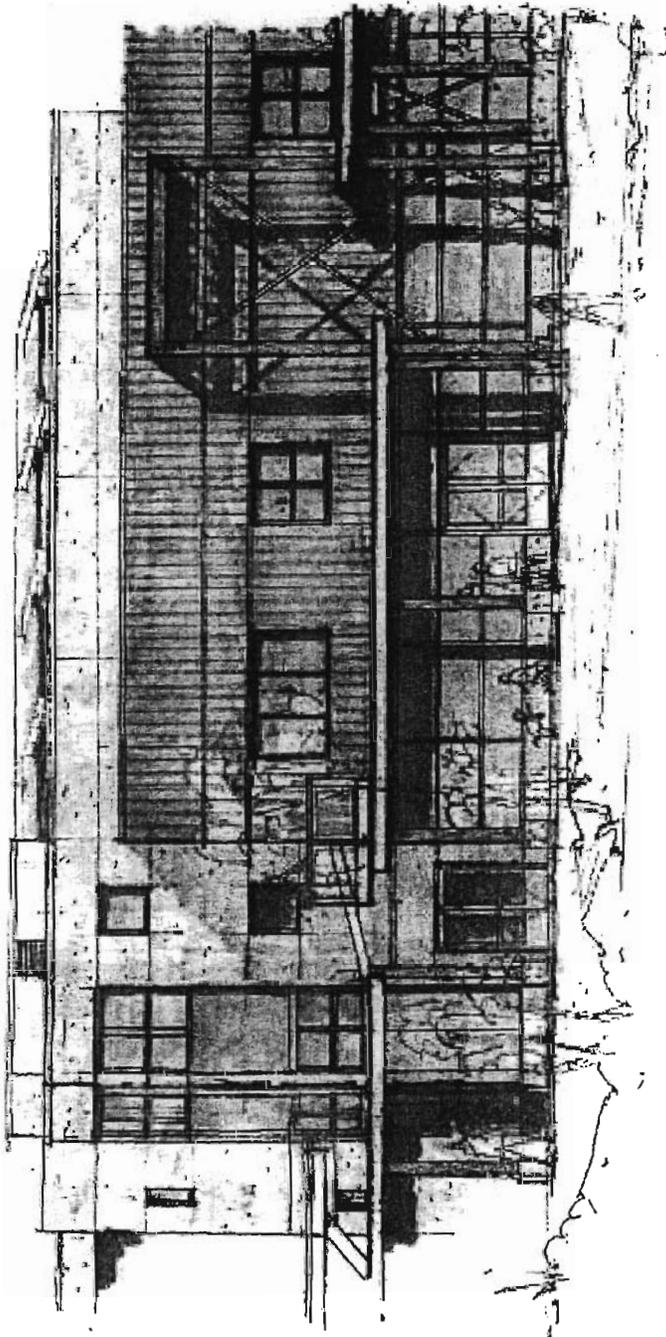
orse

Use Building

oop Road
ah 84060

Development (Pre-App.)

Planning Commission April 28, 2010



INFORMATION

ARCHITECT	BUILDER
Rocky Mountain Power Southwest Region, 2300 South Main Street, Suite 500, Salt Lake City, UT 84111 (866) 870-3419	N/A
ARCHITECT	LANDSCAPE ARCHITECTURE
Rocky Mountain Power Southwest Region, 2300 South Main Street, Suite 500, Salt Lake City, UT 84111 (866) 870-3419	N/A
PLUMBING ENGINEER	ELECTRICAL ENGINEER
Rocky Mountain Power Southwest Region, 2300 South Main Street, Suite 500, Salt Lake City, UT 84111 (866) 870-3419	N/A

SERVICE CONTACTS

- Rocky Mountain Power
Southwest Region, 2300
South Main Street, Suite
500, Salt Lake City, UT 84111
(866) 870-3419
- West Phone Company
Salt Lake City, UT
(800) 922-7387
- Park City Fire Department
730 Blinnier Rd
Park City, UT 84098
(435) 649-4706
- Concert Cable
771 Park City Dr, #105
Park City, UT 84098
(435) 649-4020
- Division of Water Quality
288 South 1460 East
Salt Lake City, UT 84112
(801) 531-6116
- Snyder's Post Office
6440 Hwy 224
Park City, UT 84098
(801) 975-4777
- Snyder's Post Office
6440 Hwy 224
Park City, UT 84098
(801) 975-4777
- Snyder's Post Office
6440 Hwy 224
Park City, UT 84098
(801) 975-4777

DRAWING INDEX

- ARCHITECTURAL DRAWINGS
- A - 1 COVER SHEET
- A - 2 SITE PLAN
- A - 3 ELEVATIONS

MOTION: Commissioner Wintzer moved to APPROVE the conditional use permit for 108 Park Avenue in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the Staff report. Commissioner Russack seconded the motion.

VOTE: The motion failed 2-3. Commissioners Pettit, Strachan and Hontz voted against the motion.

MOTION: Commissioner Strachan moved to CONTINUE the Steep Slope CUP for 108 Park Avenue to the first meeting in October. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Strachan clarified that the Commissioners would like a picture of the hillside encompassing the various street, not just Park Avenue, showing the existing houses, with the proposed project superimposed on to that picture. This would help the Planning Commission do a compatibility analysis of all the homes in the area. Mr. White clarified that they wanted something from across canyon. Commissioner Strachan replied that this was correct.

Chair Thomas recommended that the Planning Commissioners also do their own site visits and look at the adjacent properties. They have a responsibility to familiarize themselves with the property and the plans, as well as the across canyon views.

2. 1555 Iron Horse Loop Road - Pre-Master Planned Development

Planner Cattan noted that 1555 Iron Horse Loop Road is the existing site of the Deer Valley Lodging and Park City Transportation. She stated that the purpose for reviewing a pre-master planned development is to find compliance with the General Plan. The Staff had issues regarding this project in terms of the LMC, however, those issues were not part of this review. The reason for identifying the issues was to make the applicant aware that the MPD application must comply with the setback and parking requirements of the zone.

Craig Elliott, representing the applicant, presented the proposed project. He noted that Iron Horse Drive is used as access to the apartment complex behind this project. Mr. Elliott reviewed a survey of the property to orient the Planning Commission to the site and to show the relationship of the property and how it works. He stated that the existing roadway has an existing non-exclusive easement. It is not a road but it is a piece for access with a setback.

Mr. Elliott stated that the proposal is for a mixed use project with a housing component, a commercial scenario and affordable housing. The parking is primarily underground. Mr. Elliott remarked that the applicant had also submitted greater detail on the project in order to get insight for the next step, which is the MPD process. He requested discussion on parking and the issues with the central tunnel. Mr. Elliot showed how they plan to use Iron Horse in the parking scenario to create a simple solution for accessing commercial. They are currently considering live/work spaces on one end and to look at larger retail spaces. He noted that a link was created as a walkway and boardwalk all around the perimeter of the building. They understand that the City has a future pull-out design of Bonanza for a bus stop and they anticipate the need for a bridge. Mr. Elliott also anticipated that something would occur with the

Mr. Elliott requested an interpretation of roadway, setbacks, underlying easements and property rights on this property. He wanted to know if the existing non-exclusive easement would be converted into a roadway. He understood that provisions in the LMC allow for different interpretation and he felt that discussion was important.

Chair Thomas asked Planner Cattan if the ingress/egress was classified as a roadway or a driveway. Planner Cattan stated that when she spoke with Ron Ivie, she was told that it is an emergency access to the buildings in back and for that reason it is a public right-of-way. Mr. Elliott stated that before you reach those buildings, existing parking backs on to that access. He could not believe their proposal would be any different in approach in terms of life/safety issues. Mr. Elliott requested dialogue on interpretation of Code and suggested that it may be a discussion for another meeting.

Chair Thomas believed it was a matter of legal interpretation and he requested an opinion from the Legal Department. Mr. Elliott clarified that he would like a discussion on whether or not it is appropriate. Chair Thomas felt the concept was logical, but they need to follow legal propriety to determine whether or not it can work. Planner Cattan suggested that the City Engineer also be involved in that discussion.

Commissioner Wintzer liked the idea of having retail space with parking in front because it identifies a business. However, his concern is that busloads of children walk in front of that property every day and having cars back out is an issue. Commissioner Wintzer pointed out that the project on the corner is a different project, but it was initially submitted with a plan similar to the one proposed and the Planning Commission denied that application. He understood that this was a different piece of property but what they allow for this project would set a precedent for the rest of the area. Commissioner Wintzer agreed with the concept of having a draw to encourage people to use the retail space. He noted that the difference between this proposal and the Yarrow project is that the Yarrow backs into a parking lot and not a street. Commissioner Wintzer found it difficult to argue against the Staff interpretation.

Mr. Elliott agreed with the safety concern regarding the children, which is why they provided sidewalks and walkways on both sides of the building to allow access through the parking and roadway.

Commissioner Russack commented on the underground parking proposed and asked if surface parking was necessary. He agreed in theory that it is good to have cars in front of retail; but in this particular location it was not a benefit because the cars would not be clearly visible. Commissioner Russack recalled that in theoretical discussion for this area, the intent was to make it more pedestrian friendly. He believed the applicant had accomplished that with bridges and walkway connections. Commissioner Russack suggested that the surface parking be eliminated.

Mr. Elliott remarked that it makes more sense to have the ability to get out of your car and walk into a business. Parking underground provides a different perception of accessibility to a business. Chair Thomas agreed that surface parking lends itself to more successful retail.

easement. Mr. Fisher stated that he has unsuccessfully tried to get information from the City. He intends to be extremely reasonable, but he needs to know the trade-offs and he expects some consideration before he signs anything. He noted that the land he is being asked to give is substantially larger than the amount of land on the other side of the street.

Commissioner Strachan asked if the easement Mr. Fisher would sign was for the outlet of the Bonanza tunnel. Mr. Fisher replied that it was the outlet and all the way to the Rail Trail. Mr. Fisher felt the decisions should be made together and in a way that allows for nice plazas and other benefits. As the landowner, he felt the City should engage him in dialogue.

Commissioner Wintzer agreed with Mr. Fisher, noting that negotiation was a City Council matter and not within the purview of the Planning Commission.

Mr. Fisher stated for the record that the City Engineer, Matt Cassel, has been great but the process is slow. He understands municipal government and it is time to make decisions on a parallel path. The decisions need to be made together because if he signs the easement he most likely would not get the building proposed. Mr. Fisher understood that this issue was outside of the scope of the Planning Commission.

Mr. Fisher disagreed with Commissioner Russack on the parking issue. People expect convenience and they want to park quickly, grab what they want and be on their way. Commissioner Russack stated that people are inherently lazy and if they make it easy people will never change. As influencers in the committee, the Planning Commission and the developers need to do what they can to encourage change. He was not convinced that eliminating 26 surface parking spaces would cause the project to fail.

Chair Thomas opened the public hearing.

John Stafsholt liked the solar aspect of the project. He encouraged the Planning Commission to remember that two school buses go together to pick up the kids. Two public easements exist and he was unsure why they were talking about moving those easements, unless it was to obtain another easement on the street for the tunnel. Mr. Stafsholt noted that there is not a set density in the LI zone and density is determined by the setbacks and height. He did not believe the MPD process was put in place to increase density by giving exceptions to setbacks or height.

Chair Thomas closed the public hearing.

Mr. Fisher explained that bus stops are the reason for the easements.

MOTION: Commissioner Russack made a motion to find initial compliance with the General Plan for the MPD pre-application for 1555 Lower Iron Horse Loop based on the comments and direction given to the applicant. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.



February 18, 2010

Mr. Mark Fischer
1790 Bonanza Drive
Park City, Utah 84060

RE: Parking along Lower Iron Horse Loop
Iron Horse Mixed-Use Building Development

Dear Mark:

As part of your proposed Iron Horse Mixed Use Building Development, you have requested the City to allow vehicles parking in your short-term parking area to back out directly onto Iron Horse Loop Road. As you are aware, Iron Horse Loop Road is a private road and the section of road affected by this parking area is actually on your property.

As a follow up to our discussions concerning this proposed parking, I have reviewed Park City Municipal Code, Title 9 - Parking Code and Title 15 of the Land Management Code, Chapter 3 – Off-Street Parking. Backing out directly onto a private road does not appear to violate our Parking Code as outlined in Title 9.

Chapter 15-3-3 of the Land Management Code, Paragraph G states “Off-Street Parking Areas must have unobstructed Access to a Street or alley. The Parking Area design for five (5) or more vehicles must not necessitate backing cars onto adjoining public sidewalks, parking strips, or roadways.” Because your road is private, I do not believe your request violates this code either.

In summary, Engineering and Planning will allow your proposed parking configuration for the Iron Horse Mixed Use Building Development. Additionally, we recommend you maximize the space between the end of the proposed parking stalls and the edge of road (5 feet of space would help to significantly alleviate any possible obstructed views) and to post slower speed limits on this section of road in the range of 10 to 15 mph.

If you have any questions or concerns, please call Matt at (435) 615-5075 or matt.cassel@parkcity.org or Thomas at (435) 615-5008 or Thomas.eddington@parkcity.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Eddington", written over a horizontal line.

Thomas Eddington
Planning Director

A handwritten signature in black ink, appearing to read "Matthew Cassel", written over a horizontal line.

Matthew Cassel, P.E.
City Engineer

Park City Municipal Corporation ~ 1255 Iron Horse Drive ~ P.O. Box 1480 ~ Park City, UT 84060-1480
435/ 615-5055 (PH) 435/ 615-4906 (FAX)

SECOND ADDENDUM TO ENCROACHMENT PERMIT FOR IMPROVEMENTS IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS

THIS SECOND ADDENDUM is made and entered into in duplicate this ____ day of _____, 2008, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah ("City"), M.J.F. 1998 INVESTMENT PARTNERSHIP, LT, a Georgia limited partnership company ("MJF Investment Partnership"), to amend the ENCROACHMENT PERMIT FOR IMPROVEMENTS IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS signed and executed by the Parties, and recorded on November 19, 2003.

WITNESSETH;

WHEREAS, the parties entered into ENCROACHMENT PERMIT FOR IMPROVEMENTS IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS (hereinafter "Original Agreement"); and

WHEREAS, the 2007 Walkable/Bikeable Neighborhood Study identified a pedestrian bridge as a high priority; and

WHEREAS, the Study identified a pedestrian bridge approximate to the pedestrian connection identified in the encroachment permit; and

WHEREAS, MJF Investment Partnership requires additional time to prepare plans for a pedestrian connection; and

WHEREAS, the parties desire to amend the Original Agreement to provide sufficient time for such performance;

NOW, THEREFORE, in consideration of the mutual promises made herein and other valuable consideration, the parties hereto now amend the Original Agreement as follows:

1. **Section (2)(D) Pedestrian Connection.** Subject to the approval of the City Council of Park City, MJF Investment Partnership may construct a pedestrian connection connecting the Rail Trail and Rail Central parcel in a southerly direction across the creek to parcel(s) located south of the Rail Trail. The Parties hereby agree that the City Council of Park City, as owner of the Rail Trail Parcel, has unfettered discretion to approve or deny the pedestrian connection for any reason, including but not limited to aesthetics and scale. If the City Council of Park City has not approved design plans for said pedestrian connection on or before December 31, 2010, then this subsection (2D) shall be null and void and MJF Investment Partnership request to construct said pedestrian bridge shall be considered denied.
2. **OTHER TERMS.** All other terms and conditions of the Original Agreement shall continue to apply.
3. **ENTIRE AGREEMENT.** This Second Addendum is a written instrument pursuant to Section 8 of the Original Agreement between the parties and cannot be altered or amended except by written instrument, signed by all parties.

*Mailed for recording
November 19, 2003 ji*

When recorded please return to:
PARK CITY MUNICIPAL CORPORATION
Legal Department
P O Box 1480
Park City UT 84060

Fee Exempt per Utah Code
Annotated 1953 21-7-2

**ENCROACHMENT PERMIT FOR IMPROVEMENTS
IN CITY PROPERTY AND EASEMENT FOR PUBLIC ACCESS**

THIS AGREEMENT is made by and between **PARK CITY MUNICIPAL CORPORATION** (hereinafter City) and **CENTURA RAIL CENTRAL, L.L.C., FORMERLY KNOWN AS CENTURA CANYONS L.L.C.**, a Utah limited liability company (hereinafter Centura) and **OL MINER PARTNERS, L.L.C.**, a Utah limited liability company (hereinafter Ol Miner) to set forth the terms and conditions under which the City will permit Centura to build, maintain, and use certain improvements within the City property and right-of-way known as the Rail Trail Parcel, Park City, Utah, and whereby Centura and Ol Miners will grant a public access easement across their properties to a parking area on the Rail Trail Parcel for use as Rail Trail parking only.

1. This encroachment permit and easement agreement shall be appurtenant to the following described property:

A. Centura Commons, a two lot subdivision containing Lots A and B, located at 1790 and 1800 Bonanza Drive, as more specifically described at Exhibit A, attached hereto and incorporated herein by reference (hereinafter "Centura Commons property"); and

B. Rail Trail Parcel, as more specifically described at Exhibit B, attached hereto and incorporated herein by reference (hereinafter "Rail Trail Parcel").

This agreement is not transferable to other property, but is freely transferable with the title to each of the properties identified above. The license and conditions as stated in the agreement, are binding on the successors in title or interest of Centura and Ol Miner.

2. Centura is hereby permitted to build, maintain, and use the following improvements¹ within the City's Rail Trail Parcel (All improvements contemplated by this agreement shall be installed

¹ Unless otherwise stated herein, Centura shall be solely responsible for all costs of installing, building and maintaining the improvements discussed herein.

and/or constructed in substantial conformance with the locations and scales depicted on the site plan dated November 3, 2003 and approved by the City Council of Park City, attached hereto and incorporated herein as Exhibit C):

- A. Driveway: Centura shall construct and maintain an asphalt driveway beginning at a location between Buildings One and Two of the Rail Central Development (hereinafter "Rail Central") and running easterly behind Building Two to the Rail Trail Parking Lot and connecting to the Rail Central parking located to the north of the Rail Trail. The driveway shall be limited to a maximum of sixteen feet (16') in width. No parking shall be allowed on the driveway.
- B. Rail Trail Parking Lot: Centura shall construct and maintain an asphalt eleven (11) space parking lot for use as Rail Trail parking only. Centura shall install signs marking the lot as "Parking for Rail Trail Users Only."
- C. Landscaping and Irrigation: Centura shall landscape and irrigate the areas surrounding the driveway and Rail Trail Parking Lot discussed herein at Paragraphs 2A and 2B for the full length of Centura's property line to the east. City will landscape and irrigate the Rail Trail Parcel lying south of Rail Central Building One—the City intends to landscape as close to the property line as possible adjacent to Centura's deck/patio and also intends to place a few picnic tables on said property to encourage use of the area.
- D. Pedestrian Connection: Subject to the approval of the City Council of Park City, Centura may construct a pedestrian connection connecting Rail Central Building One to the Rail Trail, and continuing in a southerly direction across the creek located south of the Rail Trail. The Parties hereby agree that the City Council of Park City, as owner of the Rail Trail Parcel, has unfettered discretion to approve or deny the pedestrian connection for any reason, including but not limited to aesthetics and scale. If the City Council of Park City has not approved design plans for said pedestrian connection on or before December 31, 2005, then this subsection (2D) shall be null and void and Centura's request to construct said pedestrian bridge shall be considered denied.
- E. ADA Connection to Rail Trail: Centura shall construct an ADA compliant ramp

connecting the Rail Trail Parking Lot to the Rail Trail. City shall pay the full cost of constructing this ADA connection to the Rail Trail.

- F. Public Art: The City, at its sole discretion, may install public art on the Rail Trail. If the City elects to install public art on the Rail Trail, Centura agrees to match the City's contribution to the cost of said public art up to a maximum of Five Thousand Dollars (\$5,000.00). If the City elects to install public art in a location other than the Rail Trail, then Centura at its sole discretion may elect to match the City's contribution to the public art up to a maximum of Five Thousand Dollars \$5,000.00).
- G. Public Restrooms: Centura agrees to build and maintain public restrooms on the ground floor, east end of Rail Central Building One. Centura agrees that said public restrooms will remain open to the public during normal Park City Parks operating hours (ie., same hours of operation as the Park City Skate Park).
- H. Public Access Easement: Centura and Ol Miner hereby grant and convey a public access easement across the Centura Commons property (Lots A and B) for access between Bonanza Drive and the Rail Trail Parking Lot, as shown on Exhibit C herein. City hereby grants and conveys to Centura and Ol Miner a site circulation easement on those portions of the driveway discussed herein at Paragraph 2A lying within the Rail Trail Parcel.
- I. Soil Exportation/Fill Materials: Except as expressly provided otherwise herein, Centura shall not export soil from the Centura Commons property to the Rail Trail Parcel. Centura shall be solely responsible to pay all costs associated with the exportation of any/all hazardous soils from the Centura Commons property—no hazardous soils shall be exported from the Centura Commons property to the Rail Trail parcel. Subject to review and approval by the City's Environmental Specialist and/or Chief Building Official, non-hazardous soils may be exported from the Centura Commons property to the Rail Trail Parcel for use as fill material in areas to be landscaped by the City.
- J. Project Coordination: Centura hereby agrees to coordinate the construction and/or installation of improvements discussed herein with the City's Rail Trail improvements project.

3. Development Review Process Unaffected by this Agreement: Centura acknowledges that the City is party to this agreement solely as property owner. Nothing in this Agreement constitutes nor shall be construed as a waiver of any development code provisions applicable to Centura's Rail Central development project, including but not limited to the Park City Land Management Code, Municipal Code, Sign Code, and International Building Code. This agreement shall not be construed to create any assumption of development approvals. Centura's Rail Central development, including any/all improvements contemplated by this agreement, shall be subject to all applicable development processes and requirements.

4. No permanent right, title, or interest of any kind shall vest in Centura or Ol Miner in the Rail Trail Parcel by virtue of this agreement. No interest shall be perfected under the doctrines of adverse possession, prescription, or other similar doctrines of law based on adverse use, as the use hereby permitted is entirely permissive in nature.

5. Centura or its successors shall maintain the improvements described herein at Paragraph 2 in a safe, functional, and good state of repair at all time, and upon notice from the City, will repair any damages, weakened, or failed sections. Centura shall have complete maintenance responsibility for all improvements described herein, less and excepting any improvements installed or constructed by City on the Rail Trail Parcel. Centura agrees to hold the City harmless and indemnify the City for any and all claims arising from Centura's use of the Rail Trail Parcel, or from the failure of the Centura's improvements.

6. In the event that Centura or its successors or assigns fails to maintain the improvements described herein at Paragraph 2 in a safe, functional, and good state of repair at all times, City may elect, at its sole discretion, one or more of the following remedies after providing thirty (30) days written notice to Centura of such failure to maintain and opportunity to cure:

- A. Require specific performance of Centura of maintenance necessary to render the offending improvement safe and functional;
- B. Perform the necessary maintenance and recover the costs and expenses therefore from Centura;
- C. Close, stabilize, demolish, or remove the offending improvement if the improvement represents a hazard to the public health or safety if the offenses are not promptly cured;

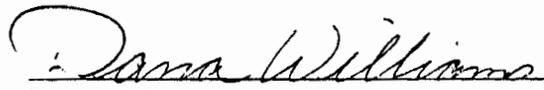
- D. All other remedies available at law or equity;
- E. Terminate this agreement; and
- F. Obtain reimbursement from Centura for City's costs, including administrative time and legal fees, incurred in pursuing its remedies under this agreement.

7. This agreement shall be perpetual unless terminated pursuant to Paragraph 6 herein. In the event that this agreement is so terminated, Centura shall remove the pedestrian bridge at its sole expense. The City may elect, at its sole discretion, to maintain the driveway and/or Rail Trail Parking Lot or remove said improvements at its sole expense.

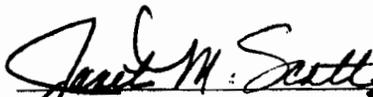
8. This agreement represents the entire integrated agreement between City and Centura and Ol Miner and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written modification signed by both parties.

DATED this 6 day of NOVEMBER, 2003.

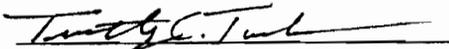
PARK CITY MUNICIPAL CORPORATION


Dana Williams, Mayor

ATTEST:


City Recorder's Office

APPROVED AS TO FORM:


City Attorney's Office

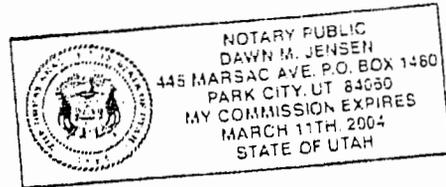


CENTURA RAIL CENTRAL, L.L.C., FORMERLY KNOWN AS CENTURA CANYONS L.L.C.
2476 Aspen Springs Drive
Park City, UT 84060


Rodman W. Jordan, Corporate Manager

Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)



On this 18th day of Nov., 2003 personally appeared before me Rodman W. Jordan, whose identity is personally known to me or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he is the Corporate Manager of Centura Rail Central, L.L.C. by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged to me that said L.L.C. executed the same.

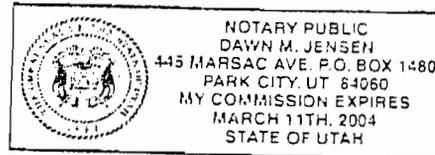

Notary Public

OL MINER PARTNERS, L.L.C., A UTAH LIMITED LIABILITY COMPANY
2476 Aspen Springs Drive
Park City, UT 84060


Rodman W. Jordan, Corporate Manager

Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)



On this 18th day of Nov., 2003, personally appeared before me Rodman W. Jordan, whose identity is personally known to me or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he is the Corporate Manager of Ol Miner Partners, L.L.C. by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged to me that said L.L.C. executed the same.

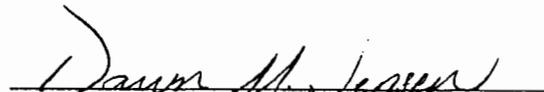

Notary Public

EXHIBIT A

Order Number: 13852

LEGAL DESCRIPTION

PARCEL 1:

LOT A, CENTURA COMMONS, A TWO LOT SUBDIVISION ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE.

(TAX SERIAL NO. CCOM-A)

PARCEL 2:

LOT B, CENTURA COMMONS, A TWO LOT SUBDIVISION ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SUMMIT COUNTY RECORDER'S OFFICE.

(TAX SERIAL NO. CCOM-B)

ADDRESSES:

PARCEL 1

1790 BONANZA DRIVE, PARK CITY, UTAH 84060

PARCEL 2

1800 BONANZA DRIVE. PARK CITY, UTAH 84060

UNION PACIFIC RAILROAD COMPANY
Park City, Summit County, Utah

EXHIBIT "A"

A 100 foot wide strip of land situate in the NW ¼ of the SE ¼ of Section 9, Township 2 South, Range 4 East Salt Lake Meridian, Summit County, Utah, said strip of land lying 50.0 feet on each side of the centerline of main track of the Union Pacific Railroad Company, as was constructed and operated, extending southwesterly from the north line to the west line of said SE ¼ of Section 9.

Containing an area of 1.977 acres, more or less

Office of Real Estate
Omaha, Nebraska
January 6, 2000

Written by: JCO
41998.leg

Exhibit B
Rail Trail Parcel

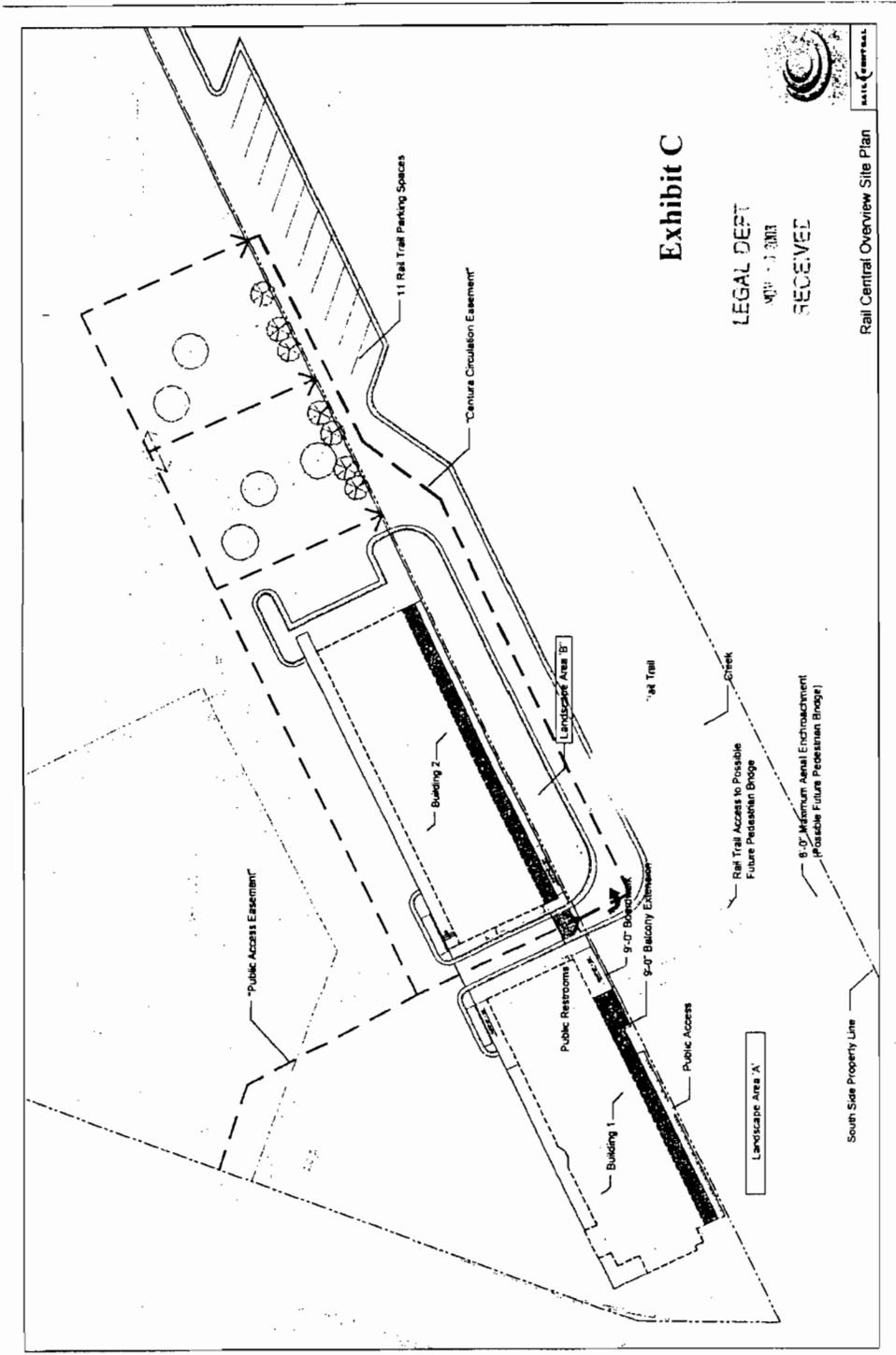


Exhibit C

LEGAL DEPT
 APR 1 2010
 RECEIVED



Rail Central Overview Site Plan

Jacquelyn Mauer

From: Jeff Schoenbacher
Sent: Monday, February 22, 2010 9:29 AM
To: Jacquelyn Mauer
Cc: Thomas Eddington; Building_Mail; Brooks Robinson; Patricia Abdullah; Engineering_Mail
Subject: RE: Development Review packet 02/23/10
Attachments: 1555LILFEMA.pdf; WorkingOrdinance032706.pdf

Jacquelyn;

Related to 1555 LOWER IRON HORSE LOOP there are four issues that need to be conveyed regarding this proposed development.

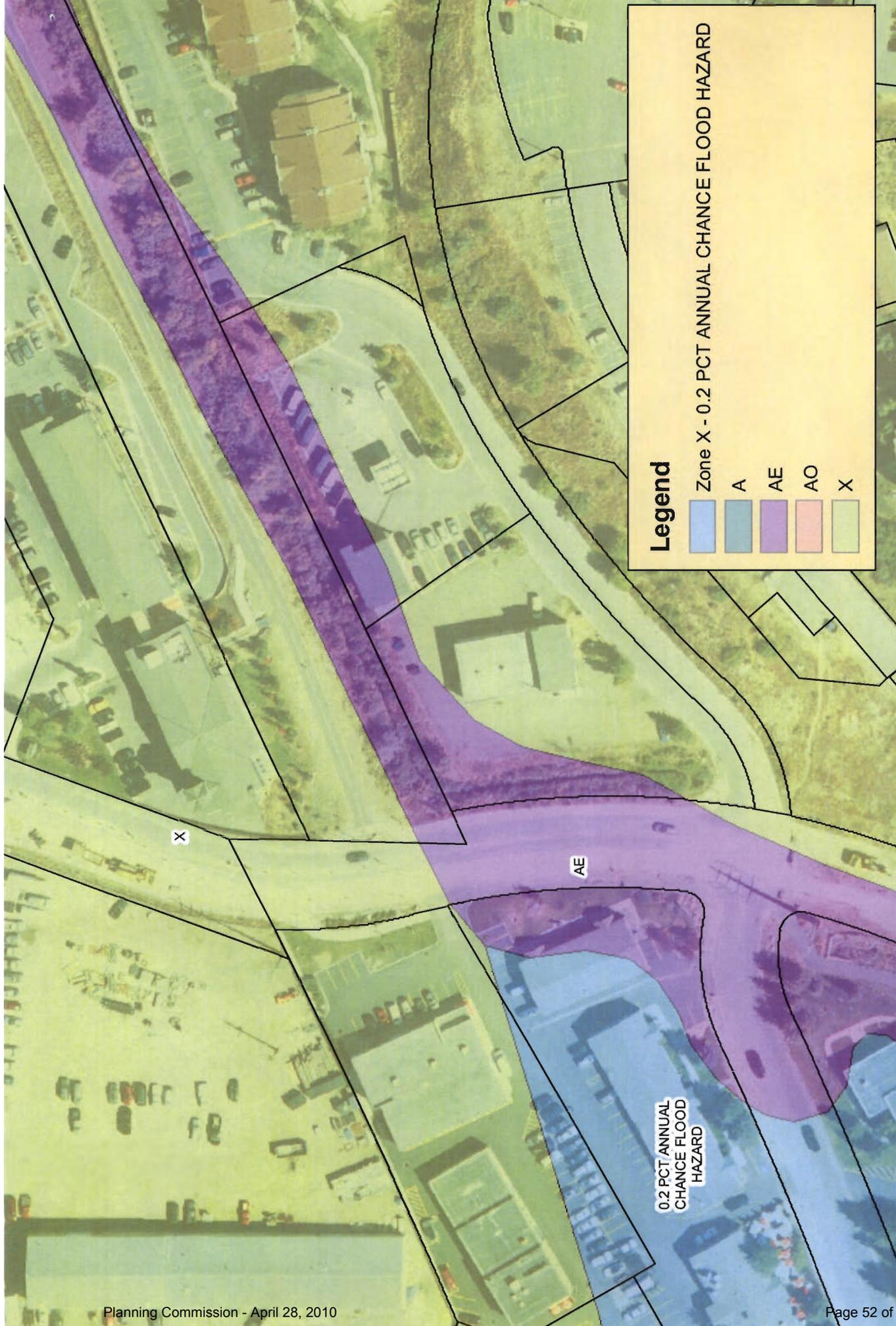
- First, the site is located within or in proximity of a listed CERCLIS site known as Old Park City Dump - UTD988078606. The CERCLIS listing identifies sites that are considered to be contaminated, therefore needing remediation and/or further investigation under Superfund. In the past, remediation that has occurred in this area has been done under the Soils Ordinance. Nonetheless, construction in this area has resulted in extremely "hot" soils being generated – 10,000 ppm lead and 350 ppm arsenic. As a result, it should be anticipated that any development in this area will need characterize generated soils and arrangements made with a disposal facility as a requirement of the plan check. Additionally, under the Soils Ordinance, Worker Health and Safety notices must also be a component of the work plan. Finally, if the goal is to have this particular site delisted from CERCLIS, the applicant should consultant with UDEQ under the Voluntary Clean-up Program.
- Secondly, it appears the underground storage tank (UST) at the CFN facility will be removed, thereby triggering a UDEQ – UST permit and work plan. This information can be incorporated into the soils ordinance work plan as mentioned above.
- Third, a portion of the property is within FEMA regulated Zone of AE according to the 1996 FIRM map.
- Lastly related to permits, in the event a bridge is going to be constructed over Silver Creek a DNR Stream Alteration Permit may be required. If there is encroachment into the riparian zone of Silver Creek an Army Corp General Permit may be required. During actual construction, it should be anticipated that shallow ground water will have to be managed, so a UDEQ dewatering permit and tertiary treatment should be a component of this project.

This is kind of a difficult site, so I wanted to give you a heads up on the issues up front. If you need clarification or need any more documentation from me, let me know and I will accommodate.

Thanks,

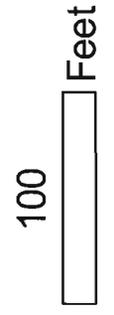
Jeff

From: Patricia Abdullah
Sent: Friday, February 19, 2010 4:34 PM
To: Brian Andersen; Brooke Hontz; Dave Gustafson; Dawn Jensen; Deb Wilde; Heinrich Deters; Jeff Schoenbacher; Jonathan Weidenhamer; Kathy Lundborg; Kent Cashel; Kyle Macarthur; Mark Harrington; Matt Cassel; Matt Twombly; Michelle Downard; Pacificorp; Pacificorp; PCFD; Phyllis Robinson; Planning_Mail; Polly Samuels McLean; Questar; Ron Ivie; SBWRD; SBWRD; Summit County; Tyler Poulson; Adam Strachan; Charlie Wintzer; Julia Pettit; Richard Luskin (Rick@bdel.com); Richard Peek
Subject: Development Review packet 02/23/10



Legend

	Zone X - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
	A
	AE
	AO
	X



1555 Lower Iron Horse Loop

CHAPTER 15 - PARK CITY LANDSCAPING AND MAINTENANCE OF SOIL COVER

11-15- 1. AREA.

This Chapter shall be in full force and effect only in that area of Park City, Utah, which is depicted in the map below and accompanied legal description, hereinafter referred to as the Soils Ordinance Boundary.

(Amended by Ord. No. 03-50)



MAP OF AREA SUBJECT TO LANDSCAPING AND TOPSOIL REQUIREMENTS (ORIGINAL MAP AMENDED BY THIS ORDINANCE ON FILE IN THE CITY RECORDER'S OFFICE) and as described as follows:

Beginning at the West 1/4 Corner of Section 10, Township 2 South, Range 4 East, Salt Lake Base & Meridian; running thence east along the center section line to the center of Section 10, T2S, R4E; thence north along the center section line to a point on the easterly Park City limit line, said point being South 00°04'16" West 564.84 feet from the north 1/4 corner of Section 10, T2S, R4E; thence along the easterly Park City limit line for the

following thirteen (13) courses: North 60°11'00" East 508.36'; thence North 62°56' East 1500.00'; thence North 41°00' West 30.60 feet; thence North 75°55' East 1431.27'; thence North 78°12'40" East 44.69 feet; thence North 53°45'47" East 917.79 feet; thence South 89°18'31" East 47.22 feet; thence North 00°01'06" East 1324.11 feet; thence North 89°49'09" West 195.80 feet; thence South 22°00'47" West 432.52'; thence South 89°40'28" West 829.07 feet; thence North 00°09'00" West 199.12 feet; thence West 154.34 feet to a point on the west line of Section 2, T2S, R4E; thence south on the section line to the southerly right-of-way line of State Route 248; thence westerly along said southerly right-of-way line to the easterly right-of-way line of State Route 224, also known as Park Avenue; thence southerly along the easterly line of Park Avenue to the west line of Main Street; thence southerly along the westerly line of Main Street to the northerly line of Hillside Avenue; thence easterly along the northerly line of Hillside Avenue to the westerly line of Marsac Avenue, also known as State Route 224; thence northerly along the westerly line of Marsac Avenue to the westerly line of Deer Valley Drive; thence northerly along the westerly line of Deer Valley Drive, also known as State Route 224, to the southerly line of Section 9, T2S, R4E; thence easterly to the west line of Section 10, T2S, R4E; thence northerly to the point of beginning.

Together with the following additional parcels:

Spiro Annexation Area Legal Description:

A parcel of land located in Summit County, Utah, situated in the southeast quarter of Section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at a point that is South 396.80 feet and West 1705.14 feet from the East quarter corner of Section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said point being a 5/8" rebar on the westerly right-of-way line of Three Kings Drive, as described on the Arsenic Hall Annexation Plat, recorded no. 345954 in the office of the Summit County Recorder, said point also being on a curve to the left having a radius of 625.00 feet of which the radius point bears North 71°08'49" East; and running thence southeasterly along said right-of-way line the following three (3) courses: (1) southeasterly along the arc of said curve 352.91 feet through a central angle of 32°21'09"; thence (2) South 51°12'20" east 141.13 feet to a point on a curve to the right having a radius of 290.00 feet, of which the radius point bears South 38°47'40" West; thence (3) along the arc of said curve 70.86 feet through a central angle of 14°00'00"; thence along the southwesterly right-of-way line of Three Kings Drive and along the arc of a 680.00 foot radius curve to the left, of which the chord bears South 47°16'17" East 235.91 feet; thence along the westerly boundary of the Dedication Plat of Three Kings Drive and Crescent Road, recorded no. 116010 in the office of the Summit County Recorder, the following eight (8) courses: (1) South 57°12'20" east 39.07 feet to a point on a curve to the right having a radius of 495.00 feet, of which the radius point bears South 32°47'40" West; thence (2) along the arc of said curve 324.24 feet through a central angle of 37°31'50"; thence (3) South 19°40'30" East 385.45 feet to a point on a curve to the left having a radius of 439.15 feet, of which the radius point bears North

70°19'30" East; thence (4) along the arc of said curve 112.97 feet through a central angle of 14°44'21" to a point of reverse curve to the right having a radius of 15.00 feet, of which the radius point bears South 55°35'09" West; thence (5) southerly along the arc of said curve 22.24 feet through a central angle of 84° 57'02" to a point of compound curve to the right having a radius of 54.94 feet, of which the radius point bears North 39°27'49" West; thence (6) westerly along the arc of said curve 115.99 feet through a central angle of 120°57'49"; thence (7) North 08°30'00" West 31.49 feet to a point on a curve to the left having a radius of 105.00 feet, of which the radius point bears South 81°30'00" West; thence (8) along the arc of said curve 378.43 feet through a central angle of 206°30'00" to a point on the easterly line of Park Properties, Inc. parcel, Entry no. 129128, Book M73, page 31, in the office of the Summit County Recorder; thence along the easterly boundary of said parcel the following five (5) courses: (1) North 42°30'00" West 220.00 feet; thence (2) North 11°00'00" West 235.00 feet; thence (3) North 21°32'29" West 149.57 feet (deed North 21°30'00" West 150.00 feet) to a 5/8" rebar; thence (4) North 42°30'49" West 195.18 feet (deed North 42°30'00" West 195.29 feet) to a 5/8" rebar; thence (5) North 89°57'46" West 225.95 feet (deed West 224.19 feet) to a 5/8" rebar; thence along a boundary of Park Properties, Inc. parcel, Entry no. 324886, Book 565, Page 717, in the office of the Summit County Recorder the following three (3) courses: (1) North 02°45'19" East 99.92 feet (deed North 100.20 feet) to a 5/8" rebar; thence (2) North 89°51'20" West 496.04 feet to a 5/8" rebar; thence (3) North 89°35'52" West 481.94 feet (deed North 89°45'00" West 992.17 feet for courses (2) and (3) to a point on the west line of the southeast quarter of Section 8, Township 2 South, Range 4 East, Salt Lake Basin and Meridian; thence along said quarter section line North 00°15'24" West 407.62 feet to a point on the Bernolfo Family Limited Partnership parcel, Entry no. 470116, Book 1017, Page 262, in the office of the Summit County Recorder, thence North 89°59'54" East 482.91 feet (deed East 493.92 feet) to a point on the Vince D. Donile parcel, Entry no. 423999, Book 865, Page 287, in the office of the Summit County Recorder, said point being a 5/8" rebar and cap; thence along said parcel the following five (5) courses: (1) South 89°59'49" East 358.30 feet (deed East 358.35 feet) to a point on a non tangent curve to the right having a radius of 110.00 feet, of which the radius point bears South 88°41'47" East (deed South 88°44'18" East); thence (2) northerly along the arc of said curve 24.32 feet (deed 24.14 feet) through a central angle of 12°39'58" to a 5/8" rebar cap; thence (3) North 13°46'17" East 49.98 feet (deed North 13°50'00" East 50.00 feet) to a 5/8" rebar and cap on a curve to the right having a radius of 60.00 feet (chord bears North 27°16'47" East 28.00 feet); thence (4) northeasterly along the arc of said curve 28.26 feet (deed 28.27 feet) through a central angle of 26°59'09" to a 5/8" rebar and cap; thence (5) North 40°46'38" East 83.23 feet (deed North 40°50'00" East 83.24 feet) to the point of beginning.

The basis for bearing for the above description is South 00°16'20" West 2627.35 feet between the Northeast corner of Section 8, and the East quarter corner of Section 8, Township 2 South, Range 4 East, Salt Lake Base & Meridian. TAX SERIAL NOS. PP-25-A AND PCA-1002-C-1

To be combined with a parcel of land located in Summit County, Utah, situated in the southeast quarter of Section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at a point that is West 1727.82 feet and South 310.72 feet from the East quarter corner of Section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said point being on the westerly right-of-way of Three Kings Drive and running thence West 417.99 feet; thence South 246.59 feet; thence East 358.35 feet to a point on a curve to the right, the radius point of which bears South 88°44'18" east 110.00 feet; thence northeasterly along the arc of said curve 24.14 feet to the point of tangency; thence North 13°50'00" East 50.00 feet to the point of a 60.00 foot radius curve to the right; thence northeasterly along the arc of said curve 28.27 feet to the point of tangency; thence North 40°50'00" East 83.24 feet to a point on the westerly right-of-way of Three Kings Drive, said point being on a curve to the right, the radius point of which bears North 71°07'38" East 625 feet; thence northwesterly along the arc of said curve and along the right-of-way 89.33 feet to the point of beginning. TAX SERIAL NOS. PCA-1002-F

Also including the Park City High School and Elementary School properties identified as Tax Serial Numbers (PCA-2-2300-X, PCA-2-2300-A-1-X, PCA-2-2101-6-A-X, PCA-2-2101-6-X).

EXCEPTING THEREFROM all lots and parcels platted as Chatham Crossing Subdivision, Hearthstone Subdivision, Aerie Subdivision and Aerie Subdivision Phase 2, according to the official plats thereof recorded in the office of the Summit County Recorder.

(Amended by Ord. No. 03-50)

11-15- 2. MINIMUM COVERAGE WITH TOPSOIL OR OTHER ACCEPTABLE MEDIA.

- (A) All real property within the Soils Ordinance Boundary must be covered and maintained with a minimum cover of six inches (6") of approved topsoil and acceptable cover described in Section 11-15-3 over soils exceeding the lead levels specified in Section 11-15-7, except where such real property is covered by asphalt, concrete, permanent structures or paving materials.
- (B) As used in this Chapter, "approved topsoil" is soil that does not exceed 200 mg/Kg (total) lead representatively sampled and analyzed under method SW-846 6010.
- (C) Parking of vehicles or recreational equipment shall be contained on impervious surfaces and not areas that have been capped with acceptable media.

(Amended by Ord. No. 03-50)

11-15- 3. ACCEPTABLE COVER.

- (A) All areas within the Soils Ordinance Boundary where real property is covered with six inches (6") or more of "approved topsoil" defined in Section 11-15-2 (B) must be vegetated with grass or other suitable vegetation to prevent erosion of the 6" topsoil layer as determined by the Building Department.
- (B) Owners that practice xeriscape are allowed to employ a weed barrier fabric if the property is covered with six inches (6") of rock or bark and maintained to prevent soil break through.
- (C) As used in this Chapter, "soil break through" is defined as soil migrating through the fabric and cover in a manner that exposes the public and shall be deemed in violation of this Chapter.
- (D) As used in this Chapter, "xeriscape" is defined as a landscaping practice that uses plants that grow successfully in arid climates and a landscaping design intended to conserve City water resources.

(Amended by Ord. No. 03-50)

11-15- 4. ADDITIONAL LANDSCAPING REQUIREMENTS.

In addition to the minimum coverage of topsoil requirements set forth in Section 11-15-2 and the vegetation requirements set forth in Section 11-15-3, the following additional requirements shall apply:

- (A) **FLOWER OR VEGETABLE PLANTING BED AT GRADE.** All flower or vegetable planting beds at grade shall be clearly defined with edging material to prevent edge drift and shall have a minimum depth of twenty-four inches (24") of approved topsoil so that tailings are not mixed with the soil through normal tilling procedures. Such topsoil shall extend twelve inches (12") beyond the edge of the flower or vegetable planting bed.
- (B) **FLOWER OR VEGETABLE PLANTING BED ABOVE GRADE.** All flower or vegetable planting beds above grade shall extend a minimum of sixteen inches (16") above the grade of the six inches (6") of approved topsoil cover and shall contain only approved topsoil.
- (C) **SHRUBS AND TREES.** All shrubs planted after the passage of this Chapter shall be surrounded by approved topsoil for an area, which is three times bigger than the rootball and extends six inches (6") below the lowest root of the shrub at planting. All trees planted after the passage of this Chapter shall have a minimum of eighteen inches (18") of approved topsoil around the rootball with a minimum of twelve inches (12") of approved topsoil below the lowest root of the tree.

(Amended by Ord. No. 03-50)

11-15- 5. DISPOSAL OR REMOVAL OF AREA SOIL.

- (A) Following any work causing the disturbance of soils within the Soils Ordinance Boundary, such as digging, landscaping, and tilling soils, all disturbed soils must be collected and reintroduced onsite by either onsite soil capping specified in Section 11-15-2 or off-site disposal as required by this Chapter and/or State and/or Federal law.
- (B) All soil generated from the Soils Ordinance Boundary that cannot be reintroduced within the Soils Ordinance Boundary and are destined for off-site disposal must be sampled and characterized with representative sampling and tested at a State Certified Laboratory.
- (C) Soils exhibiting a hazardous characteristic exceeding the following Toxic Characteristic Leaching Procedure (TCLP) standards, must be managed as a hazardous waste and disposed of within a Utah Department of Environmental Quality permitted facility:

Arsenic – 5.0 mg/L (TCLP) Method 6010 B

Lead – 5.0 mg/L (TCLP) Method 6010 B

- (D) Soils not failing the TCLP standards may be disposed within a non-hazardous landfill facility providing a “Disposal Acceptance Letter” to the Building Department is issued by the disposal facility.
- (E) No soils generated within the Soils Ordinance Boundary are allowed to be exported for use as fill outside the Soils Ordinance Boundary.
- (F) Reuse of generated soils within the Soils Ordinance Boundary is acceptable provided the receiving property is covered with six inches (6”) of clean topsoil or covered with an acceptable media, i.e. vegetation, bark, rock, as required by this Chapter.
- (G) Soils that are relocated within the Soils Ordinance Boundary must be pre-approved by the Building Department before being relocated and reused.

(Amended by Ord. No. 03-50)

11-15- 6. DUST CONTROL.

Contractor or owner is responsible for controlling dust during the time between beginning of construction activity and the establishment of plant growth sufficient to control the emissions of dust from any site. Due care shall be taken by the contractor or owner, to protect workmen while working within the site from any exposure to dust emissions during construction activity by providing suitable breathing apparatus or other appropriate control.

11-15- 7. CERTIFICATE OF COMPLIANCE.

- (A) Upon application by the owner of record or agent to the Park City Building Department and payment of the fee established by the department, the Park City Building Department shall inspect the applicant's property for compliance with this Chapter. When the property inspected complies with this Chapter, a Certificate of Compliance shall be issued to the owner by the Park City Building Department.
- (B) Verifying soil cap depth and representative samples results that are equal to or below the following standards will result in full compliance and eligibility for the certificate:

Occupied Property – Lead 200 mg/Kg (Total) Method SW-846 6010

Vacant Property – Lead 1000 mg/Kg (Total) Method SW-846 6010

(Amended by Ord. No. 03-50)

11-15- 8. TRANSIT CENTER DISTURBANCE

All construction activity, utility modification, and landscaping that results in the breach of the installed protective cap or the generation of soils must be conducted in accordance to the implemented Site Management Plan, which is retained within the Building Department.

(Amended by Ord. No. 02-32; 03-50)

11-15- 9. PROPERTY WITH KNOWN NON-COMPLIANT LEVELS OF LEAD

- (A) Property exceeding the lead levels defined in Section 11-15-7 that have been representatively sampled and have not been capped per Section 11-15-2 are required to comply with this Chapter by December 31, 2004.
- (B) Non-compliant lots exceeding the criteria within Section 11-15-7 will be sent two (2) warning notices in an effort to correct the non-compliance issue.

(Amended by Ord. No. 03-50)

11-15- 10. WELLS.

All wells for culinary irrigation or stock watering use are prohibited in the Area (Soils Ordinance Boundary).

11-15- 11. NON-SAMPLED AND UNCHARACTERIZED LOTS.

- (A) Lots that have not been characterized through representative sampling and are

within the original Soils Ordinance Boundary are required to be sampled by the year 2006.

- (B) After the property has been sampled, lots exceeding the lead levels within Section 11-15-7 are required to comply with this Chapter within a 12-month period.

11-15- 12. FAILURE TO COMPLY WITH CHAPTER.

Any person failing to landscape, maintain landscaping, control dust or dispose of tailings as required by this Chapter and/or comply with the provisions of this Chapter, shall be guilty of a Class B misdemeanor. Any person failing to comply with the provisions of this Chapter may be found to have caused a public nuisance as determined by the City Council of Park City, and appropriate legal action may be taken against that person.

(Amended by Ord. No. 03-50)

Planning Commission Staff Report



Subject: Echo Spur on Rossi Hill
Author: Francisco Astorga
Project Number: PL-09-00818
Date: April 28, 2010
Type of Item: Administrative – Plat Amendment
Work Session Discussion

Summary Recommendations

Staff recommends the Planning Commission review the Echo Spur on Rossi Hill Plat Amendment located on Rossi Hill Road and McHenry Avenue for compliance with the Land Management Code (LMC) and provide direction to the applicant and Staff regarding the proposed lot layout and access.

Description

Applicant: Connie Bilbrey
Location: North of the intersection of Rossi Hill Drive and McHenry Avenue
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential
Reason for Review: Plat amendments require Planning Commission review and City Council approval

Background

On March 29, 2010 the City received a completed application for the Echo Spur on Rossi Hill Plat Amendment. The property is located on platted McHenry Avenue between platted Fourth Street (Rossi Hill Road) and platted Third Street in the Historic Residential (HR-1) District. The plat amendment entails Lots 17-29, Block 58 of the Park City Survey. The proposed plat reconfigures the thirteen (13) lots into nine (9) lots. The applicant also owns lots 30-32, Block 58 and remnants of Lots 17-19, Block 59. These Lots are not affected by this plat amendment. The developer is in the final stages of improving McHenry Avenue on the east side of the property.

In April 2007, the City received an application for a plat amendment to lots 17-32, Block 58 of the Park City Survey. The applicant proposed to combine the sixteen (16) lots into seven (7) lots; four (4) of the lots were of sufficient size to have a duplex built on each although one lot was proposed to be deed restricted to a single unit. Ten (10) units were possible.

In July 2007, the Planning Commission discussed the original submittal at both a work session and public hearing. The primary issue at that time was the vacation of platted, but un-built McHenry Avenue adjacent to the lots in question. At the

hearing the Planning Commission requested a joint hearing with the City Council to get direction on the street vacation request. The joint meeting was held in August 2007. Based on the outcome of the joint meeting, the applicant revised their plans and was no longer requesting the vacation of McHenry but requested to construct an access road within the right of way.

In May 2008, the Planning Commission reviewed the applicant's request of the street vacation of platted Fourth Street (approximately 1,831 square feet) in exchange for a dedicated access and paved drive for neighboring Ontario Avenue lots (approximately 1,875 square feet). A second driveway between Lots 5 and 6 would be platted as an easement to provide necessary fire truck turnaround.

The revised plans also reflected a dedication of land to Ella Sorenson, owner of property fronting Ontario Avenue but with historical access and use of land on the eastern border of her property. Also shown was possible widening of Rossi Hill Drive for street parking between platted McHenry and Lot 13, block 59. As the City does not have right of way across Lot 14, block 59, except by prescriptive use, this pullout was likely to be shorter than proposed. The Planning Commission voted unanimously to direct staff to prepare findings for a negative recommendation to the City Council. In July 2008, the application was withdrawn by the applicant.

Analysis

Purpose Statement

The purpose of the Historic Residential HR-1 District is to:

- A. preserve present land Uses and character of the Historic residential Areas of Park City,
- B. encourage the preservation of Historic Structures,
- C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- D. encourage single family Development on combinations of 25' x 75' Historic Lots,
- E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Lot and site requirements

The minimum lot area in the HR-1 District is 1,875 square feet for a single family dwelling. The minimum width of a lot is twenty five feet (25'). The maximum building footprint of any structure located on a lot is calculated according to the formula for building footprint, illustrated in Table 15-2.2 of the Land Management Code (LMC). The front and rear yard setbacks are determined by the depth of

each lot. The side yards setbacks are determined according to the width of each lot.

Existing conditions

Lots 17-25 and Lot 29 (ten lots) all comply with the LMC minimum lot and site requirements. These lots have the existing configuration of 25 feet in width and 75 feet in depth. The maximum footprint for a lot of this configuration would be 844 square feet.

Currently, Lots 26-28 (three lots) do not have the minimum lot area of 1,875 square feet. These three (3) lots had the same configuration of 25 feet in width and 75 feet in depth. However, due to a shed and wire fence encroachment located on the rear (west) portion of these lots, the applicant deeded this area to rear property owner in 2009. The City considers this an illegal subdivision.

Currently these three (3) lots would have to receive variances as these lots do not comply with the minimum lot size. The size of Lots 26, 27, and 28 are approximately 1,723, 1,475, and 1,619 square feet, respectively. According to the footprint formula outlined in the LMC the footprints of these three lots are 782, 679, and 739 square feet, respectively.

Proposed lot configuration

The proposed plat amendment reconfigures the thirteen (13) lots of record into nine (9) complying lots. All lots currently have access to platted McHenry Avenue (soon to be renamed). See Exhibit A – Proposed Plat Amendment. The table below explains the approximate configuration of the nine (9) proposed lots

	Lot 1	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6	Lot 7	Lot 8	Lot 9
Lot width	34.29'	51.71'	25'	32'	25'	32'	25'	25'	75'
Lot depth	75'	58.69'	75'	75'	75'	75'	75'	75'	75'
Lot size	2,571.8	3,050.6	1,875	2,400	1,875	2,400	1,875	1,875	5,625
Maximum footprint	1,113	1,285	844	1,049	844	1,049	844	844	2,050
Front/rear setbacks	10'/10' (all lots)								
Side setbacks	3'/3'	5'/14'	3'/3'	3'/3'	3'/3'	3'/3'	3'/3'	3'/3'	5'/18'
Height	27 feet from existing grade								
Parking	Two (2) parking spaces required for each unit								

Single family dwellings are an allowed use within the district. A duplex is a conditional use, which are reviewed and approved by the Planning Commission. According to the proposed layout of the requested plat amendment the only proposed lot eligible for a conditional use for a duplex will be Lot 9. Also a conditional use permit is required for any structure in excess of one thousand square feet (1,000 sq. ft.) if said structure and/or access is located upon any existing slope of thirty percent (30%) or greater.

Footprint reduction

The combined footprint of the existing lot configuration is currently 10,640 square feet. The combined footprint of the proposed lot configuration would be 9,922 if approved. The reconfiguration of the existing thirteen (13) lots into the proposed nine (9) lot configuration will reduce the overall footprint by 718 square feet.

Recommendation

Staff recommends the Planning Commission review the Echo Spur on Rossi Hill Plat Amendment located on Rossi Hill Road and McHenry Avenue for compliance with the Land Management Code (LMC) and provide direction to the applicant and Staff regarding the proposed lot layout and access.

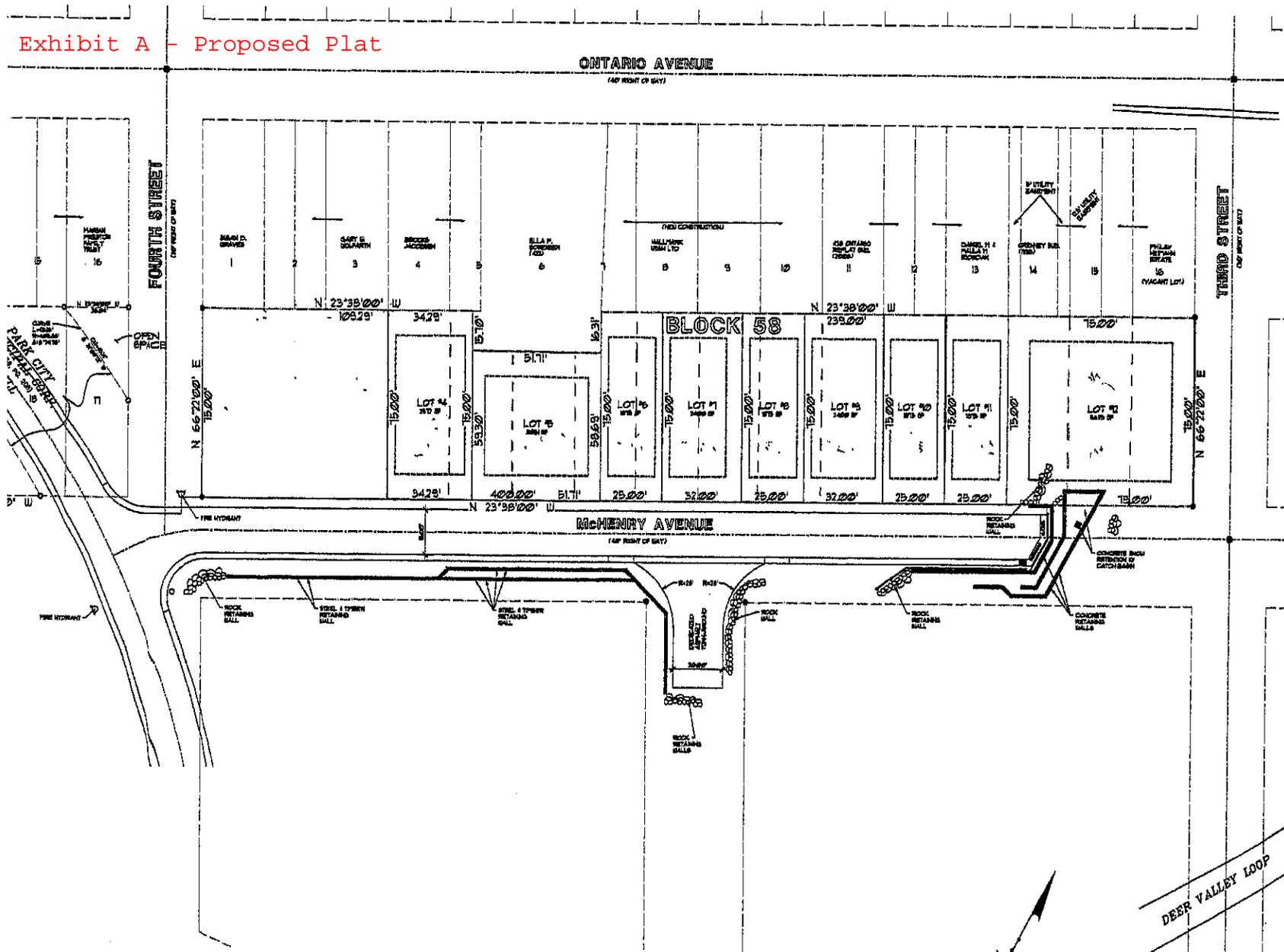
Exhibits

Exhibit A – Proposed Plat

Exhibit B – Existing Condition Survey

Exhibit C – Aerial Photograph with existing lot layout

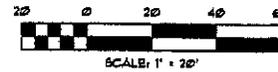
Exhibit A - Proposed Plat



SITE PLAN (PROPOSED RE-PLAT)

SCALE: 1" = 20'
 ECHO SPUR ON ROSSI HILL
 BLOCK 58
 PARK CITY, UTAH
 20,000 SQ. FT. (0.46 ACRES)

- LOT BOUNDARY
- - - BUILDING PAD
- - - PUBLIC EASEMENT
- - - EXISTING GRADE
- - - PROPOSED GRADE
- EXISTING WOOD FENCE





Hunter Design Group, Inc.
 Design & Drafting Services
 2525 East South Temple #207
 Salt Lake City, Utah 84127
 email: hunter@hdcgroup.com
 phone: (801) 719-9780



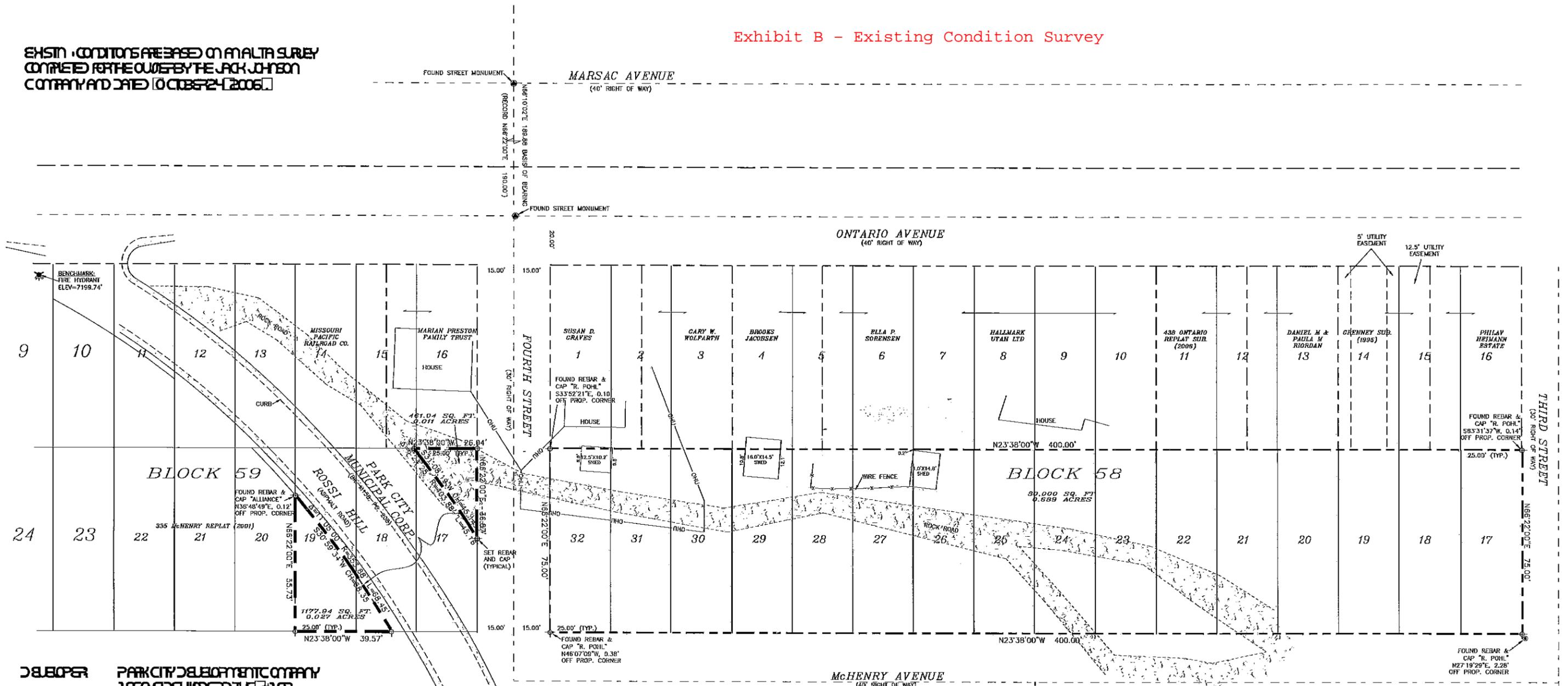
SITE PLAN (PROPOSED RE-PLAT)
ECHO SPUR ON ROSSI HILL
 FOR PARK CITY DEVELOPMENT COMPANY
 PARK CITY, UTAH

RELEASE DATE	12/03
REV/NO	DATE
1/000	12/03
1/001	01/04
1/002	02/04
1/003	02/04
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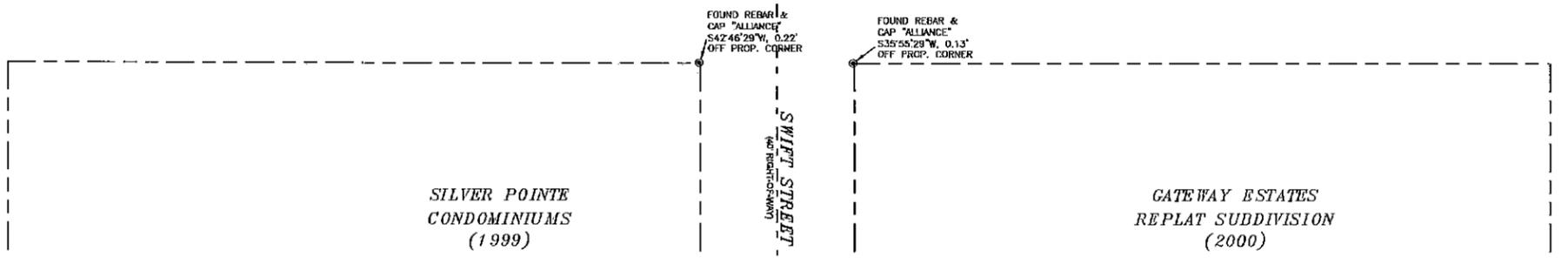
S1b

EXISTING CONDITIONS ARE BASED ON AN ALTA SURVEY COMPLETED FOR THE OWNER BY THE JACK JOHNSON COMPANY AND DATED OCTOBER 24, 2006.



DEVELOPER PARK CITY DEVELOPMENT COMPANY
 1960 S DEWING DRIVE #102
 PARK CITY, UTAH 84080
 (435) 658-0707

DESIGNER PSOMAS
 4179 SOUTH RIVERBOAT ROAD, SUITE 200
 SALT LAKE CITY, UTAH 84129
 (801) 270-5777



1008 08 2008



Existing Condition Survey

'Echo Spur' on Rossi Hill

Park City, Utah





Echo Spur on Rossi Hill Vicinity Map & 2009 Aerial



Legend

- Parcels
- Streets

1 inch = 100 feet

WORK SESSION NOTES – MARCH 24, 2010

**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
MARCH 24, 2010**

PRESENT: Charlie Wintzer, Brooke Hontz, Richard Luskin, Julia Pettit, Adam Strachan, Thomas Eddington, Kirsten Whetstone, Francisco Astorga, Mark Harrington, Ron Ivie

Dick Peek was excused

WORK SESSION ITEMS

Montage - Possible Changes to Construction Hours

Chief Building Official, Ron Ivie, reported that in the technical report on mitigation for the Montage Project at Empire Pass, the City is given the authority extend work hours and other matters of that nature. Based on that authority, a decision was made to approve an extension of the work hours on the Montage project to a 24 hour work period with conditions.

Mr. Ivie would outline the conditions this evening and he encouraged the Commissioners to visit the Building Department to discuss concerns regarding these conditions. He noted that there would be additional truck traffic this year. At this point he was not prepared to identify the exact quantity or what might be further required by USEPA. He expected to know that information very soon. The hope was to complete that activity early this summer so the site could be capped and completed. Mr. Ivie had met with the affected neighbors immediately in the area of the Montage to address their concerns. He believed those concerns were satisfied. However, two other Montage related complaints have been raised recently, both of which were lighting related. Mr. Ivie stated that the lighting has been reduced by half and it would be reduced further once the tower frames are removed within the next few weeks.

Mr. Ivie stated that the Montage is behind schedule and the intent is get the project on a more reasonable schedule to achieve the currently projected opening date of November. The idea is to extend the construction hours to complete the project during the down season in time to open for the ski season. Mr. Ivie noted that there are only a few close proximity neighbors. The extend works hours would be limited to inside finish work, such as laying carpet and painting. Mr. Ivie stated that currently the construction is operating with 850 people and they anticipate adding 50 to 100 to the night crew. Transporting workers back and forth would be prohibited during the night times hours. Once they arrive, the crew would remain on site until the next shift arrives. Mr. Ivie pointed out that the City has access to the Montage security system and they can view activity any time during the day or night.

Mr. Ivie remarked that regardless of the conditions, there would be additional trucks and additional impacts from extended construction hours. Once he has all the information, it will be treated the same as all other activities that have been conditioned. He asked that everyone bear with them for the next few months until the project reaches a point where the impacts can be diminished.

Chair Wintzer asked if the extended hours would be from now until the project is completed. Mr. Ivie replied that this was correct. He asked if the approval for extended hours could be pulled at any time if the conditions are not met or the approval is being abused. Mr. Ivie answered yes. Mr. Ivie pointed out that the hours of construction were already extended by half an hour earlier and a

half an hour later and there have been very few complaints. Most of the complaints have been from people in Deer Valley or in the Marsac region and those complaints primarily relate to lighting and noise. Mr. Ivie stated that there would continue to be noise because excessive deliveries are required to keep 850 people working. Everyone should expect excessive activity and traffic during the next time period, but there was no way to avoid it.

Chair Wintzer asked if the deliveries could be done during the day for the night shift workers. Mr. Ivie clarified that night time deliveries would be prohibited as a condition.

Commissioner Pettit wanted to know if Mr. Ivie anticipated other construction activity unrelated to Montage that would be going on in that area. She was concerned about the cumulative impacts. Mr. Ivie stated that a few houses are currently under construction in Red Cloud. Nothing new has been scheduled for that area at this point. Construction hours have not been extended for any residential construction in the neighborhood.

Chair Wintzer called for public input regarding the extended construction hours.

Marianne Cone, a resident at 86 Prospect, asked what load in/load out periods the neighbors could expect.

Mr. Ivie replied that there would be no change to the current time sequence. The load in/load out would be consistent and they would double-load for the second shift.

Ms. Cone asked if the additional truck traffic would still go to Montage.

Mr. Ivie stated that not all the traffic would be for Montage because there are other projects in that area. He commented on the restriction of not driving personal vehicles to the Montage site. Workers are bused from the parking lot at Richardson Flats to the site.

General Plan

Planner Francisco Astorga stated that the Planning Commission has the responsibility to consider long range zoning and land use objectives, which was a topic of discussion this evening. The focus was on change. Planner Astorga read a quote indicating that change is certain and the world they are planning for today will not exist in this form tomorrow. He noted that the Planning Commission was looking at a specific redevelopment area with regards to land use and transportation.

Planner Astorga reviewed a power point presentation on the general concepts. He assumed that everyone was aware of the boundaries from Kearns to Deer Valley Drive, Park Avenue to Bonanza. According to the General Plan supplemental update that was done a few years ago, the boundaries also include some of the properties on the east side of Bonanza Drive.

Planner Astorga outlined the broad range of land uses in the area. He noted that the area also has one of the only two supermarkets in town and a movie theater. The Staff recognized that this is an area that has been struggling, which is why it was included in the redevelopment area. Planner Astorga stated that some of the owners have tried to brand this area to move forward with redevelopment efforts.

Planner Astorga wanted to talk about the concepts that relate to long range planning of this area, which might also include other parts of town. He introduced the 3% strategy that was done by Envision Utah. Planner Astorga stated that the 3% strategy is illustrated to accommodate 33% of future development on 3% of the available land. He noted that the document provided to the Planning Commission was prepared in conjunction with the Wasatch Choices 20/40, a four County land use and transportation vision that was conducted last year. It outlines principles that allow them to move forward with progressive planning principles.

Planner Astorga requested comment from the Planning Commission regarding the 3% strategy.

Chair Wintzer thought it made sense to consolidate and move things closer together. Commissioner Strachan agreed and felt it was particularly important to move things closer to transit.

Commissioner Pettit stated that conceptually, the idea of putting density into areas of town that have access to transportation, walkability, and eliminating the need or desire to use a car is fantastic. However, she struggles with that concept in terms of how to encourage growth in that manner, but still have the ability to preserve that other part of town they want to preserve as open space for recreation activity and trails.

Planner Astorga believed that the purpose of the 3% strategy is to preserve open space. Commissioner Pettit commented on landowners who own property in parts of town where they do not want development to occur. She asked how they could encourage, incentivize and coordinate to keep development only where they want it to occur. Planner Astorga suggested that additional study and analysis could be done on transfer and development rights as a tool utilized for mitigation. He offered to spend more time looking into this in the future, as well as looking at alternative solutions to help mitigate development.

Planner Astorga reported on the benefits of the 3% strategy found in the study. These include improved air quality, reduced traffic, less water usage, create vibrant communities and gathering places, marketing of more choices for living, working, shopping and playing. Planner Astorga noted that every City has the same goal of wanting their city to be where people live, work and play.

Planner Astorga presented the five guiding principles for achieving the 3% strategy. The first is to focus growth in economic centers and along major transportation corridors. Planner Astorga stated that Park City has that opportunity in this redevelopment area through Park Avenue and Kearns Boulevard. The second is to create significant areas of mixed use development throughout the region. Planner Astorga pointed out that this study was prepared for the entire Wasatch Front, but it could also be utilized for Park City. Other principles include targeting growth around transit stations, encourage infill and redevelopment, and preserve rural, recreational and all open spaces.

Planner Astorga requested input from the Planning Commission on whether or not to move forward with the principles outlined within the 3% Strategy, relative to long range planning for the Bonanza/Park District. He stated that the need to provide a master plan for this district is essential to the City to realize improved design and economic development opportunities. Planner Astorga remarked on the importance of bringing these ideas into the General Plan to help achieve the main

principles.

Commissioner Pettit questioned this type of approach in a resort/mountain town community versus a more metropolitan area. She understood that what makes this approach more successful is the economic center or economic business component to the mixed-use development. Commissioner Pettit was unsure what type of businesses they could incorporate that would be consistent with who they are as a town, but would also create economic opportunities for people who want to live, work and recreate in town.

Chair Wintzer felt this was a discussion for later in the process. He agreed with the importance of looking at the types of businesses and the roads to get there, but they first need to decide if this is something they want to pursue. Planner Astorga clarified that this was a working instrument that could be fine tuned. The Staff was not suggesting that the Planning Commission adopt this as a final plan to move forward. The intent is to see how it can be applied to the Park City community in general. Planner Astorga stated that the idea is to come up with a similar strategy that would be specific to Park City's needs and challenges.

Commissioner Luskin stated that Newpark came to mind when he first saw this strategy. He asked if the Staff was looking at moving towards a Newpark model. Planner Astorga stated that the concept is similar to Newpark but it would be more sensitive to the needs of the Park City community, particularly in terms of retaining visitors. Park City wants visitors to stay in Park City and enjoy the amenities and services; and not go to Newpark.

Commissioner Luskin clarified that he was asking if they were envisioning Newpark where Fresh Market is located in this redevelopment area. Planner Astorga replied that it was the direction they would like to take.

Director Eddington clarified that in talking about Newpark, Commissioner Luskin was talking about a different scale. Newpark has a lot of large scale development and while they have a mix of uses, they also have a more typical suburban layout. Director Eddington stated that the approach for the Park City redevelopment area would be a main street concept with people living above. It would be a smaller scale than Newpark and parking would be hidden on the backside and on the inside of blocks. Director Eddington envisioned a local mountain village concept where people live but are intermixed with boutique hotels and visitors. Commissioner Luskin understood that it would be more like the Interwest Village concept. Director Eddington agreed.

Planner Astorga commented on form based codes versus euclidean zoning as a different way of regulating development. He explained that form base code focuses primarily on the form of such buildings, and it talks a little bit about use and management. The traditional zoning focuses on use and identifies what is allowed, what is conditional use and what is prohibited. It also focuses on the management of such uses and how they are treated. Planner Astorga noted that traditional zoning touches on specific form.

Planner Astorga provided examples of conventional suburban development and traditional patterns. One example showed significant parking around the building. An additional exhibit showed a grid pattern with zero lot lines and a second exhibit showed buildings that go to from property line to

hide the parking. Planner Astorga stated that cities who have been more progressive in their zoning efforts have been able to utilize form base codes and their success can be documented.

Planner Astorga presented slides of another town similar to Park City. He used an existing site condition and then added different amenities to show examples of using form based codes.

Planner Astorga stated the standards for form based codes include building height, building orientation and uses in general terms. Other parameters that Staff would consider in their analysis is landscape standards and quantity and placement of trees. Form based codes also focus on architectural standards that dictate specific architectural styles, materials, colors and construction techniques.

Planner Astorga requested that the Planning Commission discuss the concepts presented this evening and determine whether or not they concur with the Staff's recommendation to move forward with additional analysis of form based codes for the long range planning of the Bonanza/Park Area.

Chair Wintzer disclosed that he owns property in the Bonanza/Park area. He recalled recalled that when the Planning Commission previously made changes to the General Plan for the Bonanza/Park Area it included the east side of Bonanza to encompass all of Bonanza Road. He felt that was a better idea than what is currently presented because it allows the opportunity to look at both sides of the street in the same context.

Director Eddington clarified that Chair Wintzer was referring to the supplement to the General Plan that was done in 2004-2005.

Commissioner Pettit noted that by extension, there is another quasi-residential/commercial area that extends to the Silver Mountain Sports Club. She believed there were opportunities to create a vision for the entire area to provide essential inter-connectiveness between Prospector and Bonanza/Park. Commissioner Pettit asked if the Staff was looking at form based codes only for the Bonanza/Park area or in the context of the whole town.

Director Eddington replied that the Staff was initially looking at the form based codes for the Bonanza/Park area because of larger scale redevelopment. There is also an opportunity for more transition in the Bonanza/Park area in the immediate future. The idea was to try form based codes in the Bonanza Park area and if it goes well, they can see if it is applicable for other zones. Director Eddington stated that it is more challenging to put form based coding in an existing area that has a lot of fabric that would remain.

Chair Wintzer commented on projects currently approved and in-process in the Bonanza/Park area. He remarked that any projects that would be part of the five to ten year re-development plan should be included. Director Eddington agreed and stated that they also see re-development potential to the Dan's Market area to the north.

Commissioner Strachan liked how the 3% strategy targets the development of economic centers around transportation corridors. However, since this is an area with space amendable to

transportation, he thought it made sense to put in the transit stations and the transportation corridors first and then put development around them. Commissioner Strachan pointed out that once development is in, it is difficult and expensive to condemn land for a transportation system. They should dictate where the transportation hubs are going to be before they decide on where to place the buildings.

Commissioner Pettit felt this was one reason why it was important to identify where the optimal transportation corridors would be located. She understood that a study is currently occurring and a separate group is working on that issue. Commissioner Pettit agreed with Commissioner Strachan that transportation and development should dovetail together.

Director Eddington stated that the group currently working on the Transportation Plan is coordinating with the Planning Staff to tie into the General Plan, land use zoning, redevelopment, etc. They are working with Sustainability, with Public Works and the Engineering Department to make sure it all ties together.

Planner Astorga noted that in Bonanza/Park area they need to focus on the pedestrians and then plan for the vehicles. They should have an urban linear road alignment that would support the grid system and include narrow streets, natural traffic calming strategies, and smaller blocks. They should try to hide parking behind the buildings as much as possible and they should move forward with increased density and zero lot lines that would facilitate some of these planning principles.

Planner Astorga presented exhibits showing the progressive principles in examples of form based codes used in a Los Angeles suburb and downtown Portland. Planner Astorga commented on the challenges of Los Angeles versus Portland and felt these were good examples of form based coding.

Planning Director Eddington stated that the Staff tried to apply the concepts of form based coding and new urbanism concepts to the Bonanza/Park area. He asked the Planning Commission to remember that the presentation this evening was very conceptual in terms of applying the planning techniques. He asked for them to consider preliminary thoughts in putting these concepts on the ground in Park City.

Director Eddington presented slides of the Bonanza/Park area and explained how the Staff incorporated form based coding and new urban concepts into conceptual development and connectivity.

Chair Wintzer asked about the next step. Director Eddington stated that the Staff would do additional analysis with regard to form based coding and density and square footage numbers. They have already started a detailed number analysis for the Bonanza/Park area utilizing existing zoning, square footages, and how that would lay out in the future. The current zoning supports a traditional suburban layout typical to the Fresh Market, with parking up front and the building in the back. Director Eddington stated that the Staff has also looked at the numbers with regards to master planned developments with 60% open space, as well as redevelopment master planned developments under the current Land Management Code that talks 30% open space. The Staff would look at square footage numbers for form based coding and provide the Planning Commission

with those numbers. Director Eddington pointed out that overall development would be long-term with many phases. The long range planning they do now will set the stage for the future of the Bonanza/Park in terms of land use, transportation and economic viability.

Director Eddington noted that there are many re-development opportunities and in-fill properties in town, but only three main sites are left to be developed; Deer Valley's parking lot, PCMR's parking lot and NOMA.

Director Eddington stated that the Staff would continue their analysis and provide some of the specific numbers to the Planning Commission to consider in determining how to move forward.

Chair Wintzer stated that if they include the east side of Bonanza, he wanted to know if the Staff envisioned Bonanza as the escape route in and out of town or a neighborhood street. Director Eddington replied that Bonanza is envisioned as a complete street that would function as a route for moving skiers in and out of town. He noted that currently Bonanza is a physical barrier between Bonanza/Park and Prospector. It is important for the road to serve both functions. Director Eddington felt this was a good example of looking for ways to create connectivity. He stated that part of the transportation network solution is pacing how people leave the City so they are encouraged to stay and spend money in Park City before they leave. It would be better economically and for the road system.

Commissioner Pettit remarked that a corollary was thinking about not over-parking the area and actually reducing the amount of parking to encourage people to use alternative transportation. Director Eddington agreed, as long as they can provide alternative methods. Commissioner Pettit noted that the challenges in Old Town are cars and snow. She thought it was important to face the reality of location and address some of those challenges.

Chair Wintzer recalled previous discussions on a different concept. At that time questions were raised about the traffic study and trying to create public transportation. Chair Wintzer noted that the issue was stopped at the City Council level. He suggested that the Staff make this same presentation to the City Council so they could understand that the whole community needs to embrace the transportation issue, because it is not the problem of one neighborhood. Director Eddington concurred and expressed his willingness to take the presentation to the City Council.

Director Eddington reiterated that the issue is tying transportation to zoning, land use and economic development. These elements are interrelated and are part of the long range future of Park City.

Commissioner Hontz echoed Commissioner Pettit regarding incentivizing density and being able to support and grow new businesses in this area. However, an incentive program must go hand in hand with whatever Code they develop for this area. Commissioner Hontz stated that as they talk about the uses that currently occur in the area, it is important to decide if they need to continue to support those uses. She noted that the Bonanza/Park area is the only place in town that has industrial or quasi-industrial uses. If they follow a land use pattern in some of the concepts shown this evening, she wondered if they would be able to accomplish the storage and some of the staging and industrial uses that currently exist. If a new pattern forces out those uses, is there another place where those businesses can be relocated. Commissioner Hontz felt it was necessary to

look at the existing uses because many of those uses are necessary and should be accommodated.

Director Eddington stated that the uses should be mixed and most of the uses can co-exist. That is the advantage of form based coding. Planner Astorga noted that form based coding allows more uses by managing the form and design of the building.

Chair Wintzer stated that he was more concerned with businesses that people use everyday such as the sign company or the paint store. If they end up with no support commercial in the area, people would have to drive to Silver Creek for something as minor as a screwdriver. That by itself would generate traffic. Chair Wintzer stressed the importance of keeping smaller support commercial uses in town. Director Eddington hoped the businesses in the area would remain. It might be a different form, but all of the uses would still belong.

Chair Wintzer stated that an incentive plan is crucial because a support commercial cannot pay higher rent. Director Eddington replied that these issues and the mix is why form based coding is a better option.

The work session was adjourned.

MINUTES – MARCH 24, 2010

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MARCH 24, 2010

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Richard Luskin, Julia Pettit, Adam Strachan

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Katie Cattan; Planner, Mark Harrington, City Attorney

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REGULAR MEETING - 6:30 p.m.

I. ROLL CALL

Chair Wintzer called the meeting to order at 6:40 p.m. and noted that all Commissioners were present except Commissioner Peek, who was excused.

II ADOPTION OF MINUTES

Chair Wintzer referred to page 20 of the minutes and a comment by Commissioner Peek regarding the size of the siding panels. Chair Wintzer corrected 5' x 18' to read, **5' x 18"**.

MOTION: Commissioner Pettit moved to APPROVE the minutes of March 10, 2010 as corrected. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

III. PUBLIC COMMENT

Jim Hier commented on a transportation issue related to the Treasure Hill project. He understood that the City had reviewed the conceptual transportation of the as-built configuration, but he was strongly concerned about construction traffic. Mr. Hier noted that construction traffic was passed over during the conceptual review because the size, scope and scale of the facility was uncertain. In his mind, the overall impacts to the City during the construction period would be greatly worse than it would be once the project is completed. Mr. Hier stated that before anything is finalized on the Treasure Hill project, there should be a request for time-phased construction transportation impacts and the Planning Commission should have the opportunity to review those impacts to see how or if they can be mitigated. Mr. Hier requested that the Planning Commission consider his comments during their deliberations as they move forward. If there is not enough detail to firm up a valid analysis, he suggested that the conditions of approval or findings for denial, whichever action is taken, addresses construction traffic as an element that requires strong mitigation and Planning Commission review.

IV. STAFF & COMMISSIONERS' COMMUNICATIONS/DISCLOSURES

Director Eddington reported that the Staff would be contacting the Commissioners over the next week to schedule times to meet one-on-one with their assigned Staff Planner regarding the General Plan elements.

Planner Katie Cattan reported that Treasure Hill was scheduled and continued to April 14th. Since the April 14th meeting was canceled, a formal continuation would be required at the April 28th meeting. A notice would also be posted in the paper.

Commissioner Pettit stated that the type space in the Staff report was difficult to read. Director Eddington explained that at the request of the public to access the Staff report on the website, it was converted to an OCM-PDF which allows people to cut and paste sections. Unfortunately, the conversion automatically alters the tabbing. Director Eddington stated that the Staff was looking at utilizing another PDF method that could accommodate cut and paste for the public without changing the format.

REGULAR AGENDA/PUBLIC HEARINGS

1. Land Management Code - Amendments to Chapter 1 (General Provisions and Procedures) regarding designation of appeal authority for appeals and call-ups for land in all zones; Chapter 2.3 (HR-2) zoning district regarding CUP and MPD regulations in subzone A; Chapter 6 (Master Planned Developments) regarding calculation of support commercial and meeting space and regulation of MPDs in HR-2 Subzone A; Chapter 10 (Board of Adjustment) regarding process; and Chapter 12 (Planning Commission) regarding appeals and call-ups for land in all zones. Application #PL-09-00874

Planner Kirsten Whetstone reported that the recommended Land Management Code amendments to Chapters 1, 2.3, 6, 10, 11 and 12 were outlined in the Staff report. The Staff requested that the Planning Commission break the amendments into three sections with three separate public hearings and action.

The first section would be Chapter 1, General Provisions and Procedures, and the amendments regarding the appeals process for Planning Commission decisions on conditional use permits and master planned developments.

The second section would be Chapter 2.3 and Chapter 6. The amendments would tie changes to the HR-2 zone with the master planned development changes.

The third section would be Chapters 10, 11 and 12, which are procedural amendments for the Board of Adjustment and Historic Preservation and streamlining the process for minor projects. Amendments related to the Planning Commission and the Board of Adjustment primarily address the appeal period and requires that an appeal must be heard within 45 days.

Chapter 1 - General Provisions and Procedures

Planner Whetstone stated that the proposed language allows the City Council to appoint a hearing officer to hear appeals of Planning Commission decisions. She clarified that this amendment would not impact or change how the Planning Commission processes a conditional use permit or a master planned development as specified in Chapters 1 and 12 of the LMC.

The Staff recommended that the Planning Commission conduct a public, consider input and forward a positive recommendation to the City Council for the proposed amendments to Chapter 1 and outlined in the Staff report and in accordance with the findings of fact found in the draft ordinance.

City Attorney Mark Harrington, explained the thought process behind the proposed amendment. He noted that it was envisioned to be used primarily for the Treasure Hill project. He clarified that the procedure, the standards of review and the scope remain the same for CUPs and MPDs. The only change is that an individual who would be selected by the City Council, would hear the appeal instead of the Council. Mr. Harrington stated that the biggest impact of this amendment is the public accountability of the City Council, and the Staff believes this change would allow the City Council to be more accountable for their decision.

City Attorney Harrington explained that under the current process, if someone approaches a Council member and tries to engage him or her in a conversation regarding alternatives to this project, the Council member is required to appropriately stop the conversation regardless of the input, because the matter could potentially come up in appeal. Mr. Harrington stated that the amendment removes that barrier to engage the City in a more proactive role. If the City Council was to hear the appeal, they would need to remain completely objective and free from prior participation in the project. The amendment would free up the City Council to set aside the appeal and judge limitations and engage politically in all things that may be on the table.

City Attorney Harrington stated that a hearing officer would cure the appearance of fairness in the due process and insures objectivity with an end result, without sidetracking any ability from the public to fully participate and engage in the process. He noted that the City Council would still retain the power to call up an appeal under the Code as written.

City Attorney Harrington stated that in conjunction with the General Plan and what was previously heard in terms of the redevelopment authority, there is a limited opportunity to explore alternatives of both third parties and the City's own resources, and possibly float another bond. They may not have this opportunity two or three years from now. Mr. Harrington felt this was a good window for getting the body politic more involved in alternatives without jeopardizing the fair due process that the applicant and the neighbors are entitled to.

City Attorney Harrington believed this was a potential solution that was not predicated on any end result. It is literally an enabling legislation to open a new process to begin a dialogue if requested by the applicant.

City Attorney Harrington reported that he had received formal correspondence an hour earlier from the Sweeney's attorneys and that correspondence was distributed to the Planning Commission. He noted that the attorneys have expressed concerns that can primarily be address through language

clarification. These same concerns have been expressed by some Commissioners and the public regarding qualifications of the individual and clarification that the process would not conflict with Board of Adjustment language regarding City projects. Mr. Harrington emphasized that the Board of Adjustment would not be eligible to be appointed as the hearing officer under this amendment.

City Attorney Harrington believed most of the issues could be addressed by incorporating more specific language. He stated that in most enabling statutes that were researched in other cities and states, the criteria was generally expertise and has a preference for legal training and/or planning training. These are fairly broad and gives the City Council a broad discretion in who to appoint. Primary qualifications would be experience with land use matters and neutrality. It could not be a City board or employee or appointed official. Mr. was confident that the concerns could be codified in language that would be added to the amendment if it is forwarded to the City Council.

Commissioner Pettit understood that the intent is to use this in the context of the Sweeney project because under the current Code language the City Council cannot entertain discussion due to pending administrative action that could go up on appeal. She noted that the amendment as currently written talks about the selection or appointment of the hearing officer occurring upon appeal. Commissioner Pettit asked about the procedure for making it clear that the distinction would be made earlier rather than later, since no decision has been rendered and an appeal is not pending.

City Attorney Harrington explained that if the Planning Commission forwards a recommendation, they would request that the City Council make that intent and declaration at the time of action, should the Council decide to take action. To be consistent with the amendment, the City Council would have to make it a formal vote at the time an appeal is made.

Commissioner Luskin questioned how the procedure would work with an independent hearing officer. He noted that language in the description of the implementation says that public input would be discretionary. Commissioner Luskin did not think it was appropriate to make public input discretionary. Public input is an important part of the process and he thought it should be incorporated into the enabling language.

City Attorney Harrington explained that the procedure would be the same as it is now before the City Council. Currently, an appeal to City Council does not de facto include a public hearing. The appeal is limited to the parties who appeal, unless the Council votes to enlarge the scope to allow public input. That is the process under current Code for any appeal and it would remain the same. The City Council would still have the ability to allow public input at the time the appeal is referred to the hearing office. Mr. Harrington offered to further codify the language to say that public input would be allowed if the Planning Commission preferred. However, if that change is made to the language, he recommended including it for all appeals to keep the process consistent for all projects.

City Attorney Harrington stated that the reason for not having automatic public hearings as part of the process is to focus the appeal and the burden to sustain the Planning Commission's decision, and limit the scope at the next level to only the issue being appealed. He noted that an appeal is not a complete re-hearing of the application.

Commissioner Luskin asked if a public hearing would be part of the review process at the Planning Commission level and made part of the record. Mr. Harrington replied that public hearings before the Planning Commission would remain the same.

Commissioner Pettit remarked that this was a procedural uncertainty for her as she tried to put herself in the shoes of the applicant, as well as the shoes of a member of the community who has been actively involved in the process. Hypothetically, if the Planning Commission votes a decision to deny and the applicant appeals to the next level, she wanted to know who would represent the other side of the argument to make sure there is a fair balance of representation to the appeal authority.

City Attorney Harrington stated that this issue is already encountered at the City Council level in terms of who represents the Planning Commission's decision. The Planning Staff is charged with carrying that burden, which is why they encourage Planning Commission representation at those hearings. Mr. Harrington remarked that Commissioner Pettit's question was difficult to answer without knowing the scope of an appeal. A cross appeal is the best way for the neighbors to be represented to insure that they have a place at the appeal table. Mr. Harrington noted that he advises people to follow that procedure whenever he is asked that question.

City Attorney Harrington stated that the Land Management Code currently defines "standing" and that remains unchanged. It includes the City, and the City would have that same right of appeal should a hearing officer make a decision that the City Council did not favor. The City Council or the Staff would have the ability to initiate an appeal to District Court.

Chair Wintzer understood that this Code amendment for a hearing officer would be the process for any future project. City Attorney Harrington replied that this was correct, but it would need to meet the general criteria of findings and it could not be arbitrary. It would have to be attached to a concern related to due process or conflict, which he believes exists with the Treasure Hill project. Chair Wintzer clarified that the City Council would make the decision whether to hear the appeal or hire a hearing officer. Mr. Harrington stated that it would give an applicant the additional ability to request it, but the City Council would ultimately make that decision.

Chair Wintzer wanted to know who would decide whether or not to take public input during the appeal hearing. City Attorney Harrington replied that the City Council could make that decision by majority vote when they refer it to the hearing office. The hearing officer would not have the ability to change that decision to a lesser degree, but the hearing officer would have the authority to expand factual issues and take additional testimony.

Chair Wintzer asked if the neighbors rather than the applicant could file the appeal, and whether that would change any recourse. City Attorney Harrington answered no. In terms of the procedure and the standard of review, both are treated the same.

Commissioner Strachan wanted to know what would happen if the City Council engaged in conversations regarding the Sweeney project, and in the end did not appoint a hearing officer. He suggested implementing a mechanism to make sure that if the council members conflict themselves on an application, another entity could make the decision to appoint a hearing officer. City Attorney

Harrington stated that the applicant always has the ability to seek court intervention if they feel they are not getting due process. He noted that some of that was already occurring based on the letters received. Mr. Harrington pointed out that the City disagrees with most comments in the letters. This amendment would alleviate the necessity to formally rebut and engage the comments because it removes the alleged problems from the process. Mr. Harrington believed that currently the City Council could still hear the appeal on Treasure Hill. He would continue to diligently advise the City Council to keep that position, which would limit their ability to engage in solutions.

Commissioner Strachan agreed that at this point in time the City Council could hear the appeal. However, as time moves forward and the City Council operates under the assumption that a hearing officer would be appointed and dictates their statements accordingly, they would have no choice but to appoint a hearing officer. Mr. Harrington stated that this was why the decision should be telegraphed, because the City Council cannot go back once they change their behavior.

Commissioner Strachan asked if the standard of review at the District Court level would be the same as if the District Court would be reviewing the City Council's decision. Mr. Harrington answered yes. It would be arbitrary and capricious.

Commissioner Pettit understood that there were additional language changes to the proposed amendment. City Attorney Harrington stated that they could nail down minimum qualification language. The language would be general but it would cover the points regarding experience. It would specify a priority for residency and a priority for either a legal or planning degree that could be substituted by experience. Mr. Harrington stated that the industry standards for these qualifications are fairly generic but there are minimum thresholds.

Commissioner Pettit asked if the changes would be made and brought back to the Planning Commission for review prior to taking action. She was concerned about the disconnect between the other remaining sections that outline procedures related more to the City Council process. Commissioner Pettit felt it was important to create a new section that outlines the procedures a hearing officer should follow.

City Attorney Harrington pointed out that the changes were non-substantive and it was mostly clarification language. He was confident that the revisions would be made appropriately if the Planning Commission incorporated the direction to Staff to make those changes in forwarding their recommendation to the City Council. The Planning Commission could send a representative to the City Council meeting to make sure the language meets their intent. Given the time frame, Mr. Harrington recommended that the Planning Commission take action this evening if possible.

Commissioner Luskin asked if the formal appeals, the burden of proof, etc, were statutory or if the Planning Commission has some leeway to reconsider. City Attorney Harrington replied that they do have the ability to reconsider. The City currently mirrors what the State Code suggests, but it allows cities to deviate. Mr. Harrington advised that any deviation should be done cautiously. That would be a substantive change as opposed to a procedural change and it would need to be re-noticed.

Commissioner Pettit summarized that the proposed changes to Chapter 1 were contained in the Staff report. Based on comments received from the public and the applicant, City Attorney Harrington was proposing to incorporate within Section 15-1-18(C) qualification language that outlines qualifications for a hearing officer and procedural clarification to the references of "City Council" in subsequent sections. Commissioner Pettit clarified that these revisions would be incorporated before the amendments were forwarded to the City Council.

Chair Wintzer stated that if the Planning Commission chooses to forward this amendment to the City Council, he wanted to know if the Planning Commission could obtain a copy of the language revisions in time to contact the City Council members to discuss these changes. Mr. Harrington answered yes.

Commissioner Hontz referred to the highlighted language on page 55 and asked if they preserve fairness in any appeal or if they have to preserve the appearance of fairness. City Attorney Harrington replied that it gives the City Council the ability at the higher standard, which is the appearance of fairness, to make a decision. Mr. Harrington offered examples to explain the language.

Chair Wintzer opened the public hearing.

Rich Wyman, commended the Planning Commission for raising questions that he had intended to raise this evening. Mr. Wyman stated that he was representing THINC, the Treasure Hill Impact Neighborhood Coalition. THINC generally supports the concept and the idea of a hearing officer, but they did have questions and requests. Mr. Wyman stated that the first request was to make sure that selection of the hearing officer is a transparent process. He wanted to know if there would be pool of candidates and whether the candidates would apply or be pursued. He also requested transparency in negotiations and decision-making.

Mr. Wyman referred to Commissioner Luskin's comment about public input being discretionary, and he emphasized that public input is essential. Mr. Wyman noted that the Treasure Hill process has been ongoing for 20 years. The elected officials live in Park City and personally know the history and the impacts of the proposal. THINC believes the elected officials should be making these decisions. If a hearing officer is appointed, they would want that person to have a personal connection with Park City and the impacts of these proposals.

Mr. Wyman referred to the handout listing the pros and cons of a hearing office that was available from Washington State, and the language regarding the appearance of fairness and impartiality in decision making. He remarked that this could apply to the process in Park City if the hearing officer is the right person and he or she is fair and open-minded. Mr. Wyman noted that there were pros and cons on the handout, and under the cons it said, "these concerns can be addressed by making the hearing examiner's decision a recommendation to the Council." He was unsure how that would work and why, after hearing the appeal, the decision would only be a recommendation to the City Council. Mr. Wyman noted that further language stated, "or providing for an administrative appeal to the legislative body," He understood that to mean that either way, the decision would be appealed to the Courts.

Mr. Harrington explained that the handout was a general paper discussing pros and cons. He clarified that they were not proposing to adopt the same process for Park City. He noted that in some jurisdictions, the Board of Adjustment or the Planning Commission is replaced with a hearing officer, which is why they have the ability for an additional level to the City Council. Park City would not have that ability, therefore, the next level would be the District Court.

Mr. Wyman liked the idea of removing the gag from the City Council so they can be more involved in discussions. However, he felt it was a little unnerving to put a new person and an unknown element into the process. Mr. Wyman stated that currently THINC believes they have a voice in the process. If a hearing officer is appointed, they want to make sure that THINC and the public would still have a voice. He noted that currently the City Council has a gag order, and he assumed that a hearing officer would also have a gag order.

Mr. Harrington clarified that the hearing officer would not be allowed to engage in conversations outside of the appeal hearing.

Carol Kotter, a resident on Woodside, stated that a number of her questions had already been addressed. She still had concerns regarding the fiscal responsibility. With each request for appeal, it is uncertain how long it would take and what would be involved. Ms. Kotter remarked that money would need to be allocated in future budgets to cover those costs. Ms. Kotter requested that the Planning Commission discuss fiscal responsibility.

Kyra Parkhurst expressed her concern that THINC and the community in general would lose their voice in the process. Regarding fiscal responsibility, she pointed out the hours the Planning Commission, the City, and the public have already spent on the Treasure Hill project. Ms. Parkhurst asked if the hearing officer would be able to review all the material that has been presented up to this point or whether it would be an outline prepared by another person.

Ms. Parkhurst supports the LMC amendment because it would give the City Council flexibility in negotiating a buy down in density, transferring density, utilizing land conservancy and taxation aspects in order to compensate the Sweeney family. However, given the 20 year history of the Treasure Hill project, Ms. Parkhurst questioned whether a hearing officer was in the best position to hear the appeal on this project. She asked if the hearing officer would understand the dramatic changes in the community since the Sweeney MPD was approved. Ms. Parkhurst believed that the City Council members who participate in the community and understand the concerns of the people. They were the ones in the best position to determine whether a project of this magnitude is appropriate for the town. While a hearing officer may insulate the City from potential due process or conflict of interest challenges by the Sweeney family, the community's interest as a whole need to be represented and protected by those elected to preserve the community.

John Stafsholt, a resident at 633 Woodside and a member of THINC, thought this concept came forth rather quickly. He believed additional items need to be added or reconsidered before any decision or vote. Mr. Stafsholt noted that the process for choosing a hearing officer was not

outlined in the Code language. Secondly, because of the required legal background, there would be a limited qualified pool of people to choose from. Mr. Stafsholt thought it was important for the hearing officer to be from Park City, however, the requirements do not specify that the hearing officer must be a County, City, State or U.S. resident. He felt that issue needed to be specified and written in the Code. Mr. Stafsholt pointed out that if the hearing officer is a local resident, it would provide the best perspective for making a decision, but it would limit the qualification pool. Thirdly, Mr. Stafsholt remarked that the concept of a hearing officer gives extreme power to one person. Without specific residency requirements, a hearing officer could come in from anywhere outside of Park City, make a decision that could adversely affect the entire community forever, and then leave. That single person with extreme power also has a higher chance of improper influence and corruption.

Mr. Stafsholt referred to the handout of pros and cons. Listed as pros was the separation of policy or advisory functions from quasi-judicial functions. Mr. Shafsholt did not believe this was a pro. Another pro was time-savings for legislative body and freeing legislatures to focus on legislative policy and other priority issues. Mr. Stafsholt stated that in his opinion, the quasi-judicial functions of the City Council are the priority, which is why the City officials were elected. A third pro was the removal of quasi-judicial decision-making from the political arena. Mr. Stafsholt stated that elected officials get their authority from the people who elect them. He disagreed that removing elected officials from decision-making was a pro.

Mr. Stafsholt noted that a listed con was the additional expense to the County or City of hiring a hearing examiner and Staff. An issue that was not discussed is the fact that a hearing officer may require support staff to research 25 years of history. A de Novo review of multi-year Planning Commissions would be lengthy and expensive, and would generate increased costs to the City and the developer. Mr. Stafsholt commented on lack of accountability to the voters by having an appointed hearing examiner making the decision. As a citizen, he did not vote for elected officials so they could vote to abdicate their decision to someone else.

Mr. Shafsholt noted that City Attorney Harrington and others have portrayed that a main benefit for a hearing officer is freeing up the Mayor and the City Council to proactively negotiate with the developers. Mr. Stafsholt stated that Treasure Hill was used as an example, but based on what is written in the Code, there would not be new negotiations on Treasure Hill. The City Council would still be bound by the current requirements until an appeal is filed and the Council votes on whether or not to hire a hearing officer. Mr. Stafsholt noted that Mr. Harrington presented a different approach for doing that, but he personally had reservations on that issue and the timing.

Mr. Stafsholt remarked that the Staff reports states that the City Council's role in hearing an appeal is limited to determining if the Planning Commission correctly applied the Code. He read from the LMC 15-1-18(I)(3), "City Council review of petitions of appeal shall be limited to consideration of only those matters raised by the petition, unless the Council, by motion, enlarges the scope of the appeal to accept the information on other matters." Mr. Stafsholt believed the Code language went against the Staff report. He further noted that the Code further states that in calling up the matter, the Council may limit the scope of the call-up hearing to certain issues and need not take public

input at the hearing. Mr. Stafsholt stated that while everyone talks about wanting transparency, it is not required by Code, as written.

Steve Swanson, a member of THINC, stated that THINC is a unique organization that represents approximately 400 people and it continues to grow. The core members have their own independent opinions; and what primarily pulls them together is that they all think about the issues. Mr. Swanson did not intend to re-state their position on Treasure Hill this evening because it would not serve this discussion. He outlined THINC's position on a person or panel. The person should be qualified, impartial, and thoughtful. The appointment hearing process and judgement if required should not usurp powers of duly elected officials. He believed Mr. Wyman had sufficiently discussed the issue of transparency. Open door meetings and public participation is critical to the public process. Mr. Swanson stated that THINC would remain diligent and active in the process regardless of the outcome. He believes THINC is uniquely qualified to participate in this way and they are committed to being vigilant and an active participant on behalf of its members and the community as a whole. Mr. Swanson stated that after seeing the Staff presentation during work session and the possibilities of what the City faces in the future, he could and see that going hand in hand with the idea of a transformation or an adjustment in terms of how they address the bigger projects with bigger impacts. Mr. Swanson remarked that density is definitely coming to Park City. He appreciated that the Planning Staff and the Legal Department were attempting to plan for the future, not only for Treasure Hill, but for the entire community. He was certain that Park City would see itself transformed once again.

Chair Wintzer closed the public hearing.

City Attorney Harrington felt the public had made good comments and it was a good illustration of the pros and cons. He stated that this was not a bullet-proof process and the community was being asked to take those risks. He believed it is a better process than currently envisioned and he stands by the Staff recommendation.

Regarding transparency, City Attorney Harrington remarked that the selection process would occur in a similar format to the selection of the outside special counsel. There would be a public RFP and a public appointment by the City Council at a public meeting. Mr. Harrington believed people would see many of the same qualifications built into the language discussed.

Commissioner Pettit asked if the public RFP concept was codified anywhere. City Attorney Harrington replied that it was codified in the City's purchasing policy as they have to use best efforts to spread the word. An RFP is standard practice.

City Attorney Harrington stated that the City Council would be accountable for insuring that a fair individual is appointed. That is key to the process because there would be a consolidation of authority. On the fiscal issue, Mr. Harrington noted that specific funds are not budgeted. However, like the Outside Counsel contract or any other arbitration or mediation that may arise through the ombudsman process or quasi-litigation, the City has a risk management pool and a backup pool that would have ample resources for a hearing officer.

Commissioner Hontz asked about the cost to file an appeal. Mr. Harrington believed the charge was still a \$100, although there was some discussion about increasing the fee. He noted that there is a hardship waiver provision.

City Attorney Harrington clarified that when the paper was talking about efficiency, the intent was that if the Council had to invest this degree of time on an appeal, it would obviously impact their workload and public prioritization. There would be a cost of doing business and that would offset this cost. Mr. Harrington felt that efficiency was a lesser issue and that the City Council's time would be better spent being proactive and trying to engage the applicant in solutions. Under the current process, the City Council cannot do anything with respect to the Treasure Hill project because of the appeal potential.

Mr. Harrington stated that for the sake of the public process, the City Council should make a decision on whether or not to hire a hearing officer before any appeal is filed. He was willing to add that language if necessary, but he was not concerned about it from a challenge perspective.

City Attorney Harrington commented on the importance of separating accountability from political influence. A mis-perception is that people feel they can politically influence the City Council on this decision. He explained that per Code, the Council's decision must be based on the record; not by political influence. Mr. Harrington pointed out that this was a subtle distinction but an important one. Mr. Harrington agreed with Mr. Stafsholt regarding the power of one person making a decision. However, in terms of expertise and the complicated nature of the decision, the argument could be made that it is better to have that round of professional review, rather than re-educate a lay person body of five or six individuals. Mr. Harrington remarked that there are pros and cons and all are great arguments. The Treasure Hill process requires hard decisions, but it has brought out the best in the community in terms of public input. He was confident that public input would continue throughout the process.

City Attorney Harrington reiterated that overall, hiring a hearing officer would allow the City Council to be more engaged publicly, and the community could be more engaged and less re-active to the developer's application.

Commissioner Pettit asked if there would be a residency element to the qualifications. City Attorney Harrington recommended that residency of the City should be labeled as a high priority, but it should not be a dis-qualifier.

Commissioner Pettit wanted to know what would be the record the hearing officer would have on appeal. Mr. Harrington replied that it would be the same as City Council. The hearing officer would be required to look at materials and documents. Commissioner Pettit clarified that "record" would include minutes of all Planning Commission meetings, including public comments and anything that has been provided in writing from the public, Staff reports, and any other material or documents that would constitute the record that could be brought up on appeal to a hearing officer. She understood that the amount of information reviewed would depend on the scope of the appeal. Mr. Harrington replied that this was correct.

Chair Wintzer noted that the role of the Planning Commission is to forward a recommendation to the City Council, but the vote belongs to the City Council. Chair Wintzer stated that while all the comments and questions during the public hearing were valid, budget and fiscal questions were under the purview of the City Council and out of the realm of the Planning Commission. He encouraged the public to ask these same questions at the City Council level. Chair Wintzer agreed with the concerns that were expressed this evening and he thought the City Council should hear it from the public so they understand that it is important.

Chair Wintzer believed this was an opportunity to begin negotiations. He has personally found it frustrating to have ideas and suggestions for Treasure Hill that he cannot discuss, and he assumed the City Council and the public had the same frustrations. Chair Wintzer stated that this would give everyone the opportunity to talk about it.

Chair Wintzer encouraged the public to voice their comments to the City Council. He suggested the possibility that the City Council could add their own language regarding the process for hiring a hearing officer.

Commissioner Luskin could see some advantages for having an independent hearing officer. Even if the hearing officer was a resident, he or she would not have been involved in the process as closely as the Planning Commission. If the decision is made to use an independent officer, it is important to coordinate with the standard of proof. If the appeal is reviewed de novo and for error, the standards are low. Commissioner Luskin stated that in deference to the time and effort that the Planning Commission has put into the Treasure Hill project, he requested that they raise the burden of proof that a hearing officer would go through. He pointed out that the same standards should also apply to future appeals beyond Treasure Hill. Commissioner Luskin personally felt that raising the standard of proof would make this process that has been ongoing for 20+ years more meaningful.

City Attorney Harrington stated that Commissioner Luskin's suggestion would require substantively changing the Code provision. The Sweeney application is already vested in substantive matters in the current Code; and therefore, the revision could not be applied to their application. Mr. Harrington noted that the proposed amendment is only a procedural change, which is why it can be done in the middle of the process. He would need to research whether a substantive Code change as suggested by Commissioner Luskin would be triggered with the Sweeney vesting. He assumed it would, since the applicant has the right to a particular standard of review currently in the Code.

Commissioner Pettit stated that she was personally conflicted. She understood the desire and the need to create more flexibility, and she agreed that the City Council cannot wear too many hats at the same time and still be effectively flexible. Commissioner Pettit could think of many instances where it would be desirable to take the burden off the City Council in terms of the "appeal hat" and allow them to wear the hat that would do the most pro-active good, given the fact that the standard of review in a quasi-judicial appeal process is very limited. From a legislative perspective and other ways the City Council functions as a body, Commissioner Pettit believes the Council members have a greater ability to guide the community and find solutions that fit the community vision of who they are and what they want to be. However, public comment also resonated with her in terms of

elected officials being outside of the accountability mode and a decision by one person versus a body. Commissioner Pettit stated that as she weighs the benefits versus the potential cons, she favored the change and the process. However, she wanted the procedure tightened up and clarified. Commissioner Pettit suggested that they give more thought to the standing to appeal and the timing, and how the public can become more involved in the process. She pointed out that someone may not disagree with a decision that might be rendered, so they would not be appealing a decision, but they would like a place at the table to intervene and participate. Commissioner Pettit felt it was important to think about how they can give people an opportunity to participate and what would trigger that ability.

Commissioner Strachan echoed Commissioner Pettit's sentiments. Overall, he thought the pros outweighed the cons. Commissioner Strachan pointed out that the residency requirement could go both ways. He assumed the Sweeney's would dispute their due process in the procedure, and if the hearing officer is a resident of Park City, they could likely make the accusation that the resident was predisposed to denial of the project. Commissioner Strachan was not convinced that a residency requirement was important as it appears. He felt it was more important to maintain the appearance of fairness throughout. The appearance of fairness is best maintained by an impartial selection process where the City Council picks the person without any one determinative criteria, such as a residency requirement. Commissioner Strachan agreed that there should be some criteria for selection. There should be an RFP process and that process should be according to criteria. He thought the selection process should be better specified in the language. He felt the wording in the Code amendment as written was too vague.

Commissioner Strachan did not believe the recommendation by the hearing officer should go back to the City Council. Once the hearing officer has made a decision, it should go to the District Court. Sending it to the City Council puts the Council in a conflicted position.

In terms of burden of proof, Commissioner Strachan was certain it would go to the District Court, and that would be an arbitrary and capricious review. He noted that the Court would have the full record before them consisting of all Planning Commission documents, Staff reports, public comment, minutes, etc. Commissioner Strachan did not think the standard of review of burden of proof at the hearing officer level was that significant. He felt it was more about the District Courts standard of review and the record that would be reviewed at that level. As long as the hearing officer cannot constrict the scope of the record that the District Court can review, it should not be a problem. Commissioner Strachan stated that he was prepared to vote for the amendment with the caveat that the selection process be more specific.

Chair Wintzer asked if the Planning Commission preferred to see the revised language before voting, or if they were comfortable letting the City Attorney draft the language before sending it to the City Council.

Commissioner Luskin understood Commissioner Strachan's point regarding the residency issue, but he disagreed. He stated that a lot of issues could be challenged and being close to these issues does not necessarily mean biased. Commissioner Luskin believed that someone close to

the issues would have a better context to interpret the testimony and documents. He still thought a residency requirement was important.

Chair Wintzer asked about the other requirements besides residency. City Attorney Harrington stated that typically in choosing an administrative law judge or a hearing officer, there is a basic minimum qualification of experience in conducting hearings and some type of professional competency as a minimum threshold. It would be someone who has objectivity in terms of neutrality and no conflicts with the City or the applicant. Mr. Harrington explained that typically there is a priority list in terms of priority qualifications, similar to a job description. The qualifications could include residency, law degree, planning degree, engineering degree, or possibly supplemented by equal experience. Based on comments by the public and the Planning Commission, Mr. Harrington believed everyone was in agreement with the Staff's perspective that the success lives and dies with the City Council's ability to choose a qualified individual.

Chair Wintzer thought it would be hard to find someone with those qualifications who lives in Park City and is not conflicted in some way. He was concerned that if residency was a requirement, they would not be able to find a qualified individual. Chair Wintzer was not comfortable with that limitation.

Commissioner Pettit understood the concern about a resident of Park City being too limiting, but she cautioned them about underestimating how connected the County residents are to Park City and to Old Town. She was reminded during the visioning process that people outside of Park City feel that they are a part of this community and have that connection.

Chair Wintzer asked Commissioner Pettit if she was comfortable having a hearing officer from the City or the County, or if she was suggesting that it should be someone from the City or the County as a priority.

Commissioner Strachan suggested a series of criteria that is not determinative, similar to the CUP criteria. Commissioner Pettit asked if criteria can be weighted in the RFP process. City Attorney Harrington answered yes. Commissioner Pettit suggested that if someone satisfies one criteria, they would be weighted heavier for the rest of the criteria. Chair Wintzer noted that weighting is part of the process for construction RFPs.

Commissioner Pettit expressed her preference to review the revised language before the Planning Commission takes action. Director Eddington noted that the Planning Commission had eliminated the first meeting in April and was not scheduled to meet again until April 28th. He asked if they wanted to re-instate the April 14th meeting to complete this LMC process.

Chair Wintzer asked if the City Attorney could draft the language this evening while the Planning Commission continued with the remaining LMC amendments. City Attorney Harrington stated that he could at least do bullet points so the Planning Commission could make sure all their comments and concerns were included. The Planning Commission concurred with that approach and requested that this item be left open for further discussion when Mr. Harrington returns with the language.

Commissioner Strachan asked if the criteria should be weighted. Mr. Harrington understood that he was given direction to codify a transparent, public RFP selection process that should include a prioritization of residency. The City Council would determine what that should be.

Chair Wintzer clarified that when the City Council makes the decision to hire a hearing officer, it would be advertised as a public meeting and the public would have the opportunity at that time to make comment and express their preference for or against a hearing officer. Mr. Harrington replied that this was correct.

City Attorney Harrington left the meeting to draft additional language.

Chapter 2.3 and Chapter 6

Planner Whetstone noted that Chapter 2.3 addressed the HR-2 zone and Chapter 6 was the Master plan regulations. She reviewed the summary of Planning Commission direction from the February 24, 2010 meeting that was outlined on page 44 the Staff report.

Planner Whetstone stated that the HR-2 zone is a residential district on the east side of Park Avenue from Heber Avenue to Third Street. It is a unique zone that backs to the HCB District. She noted that the Planning Commission has reviewed these amendments for Chapter 2.3 and Chapter 6 on several occasions. Previous discussions occurred on June 11, 2008, September 23, 2009, November 11, 2009 and again on January 20, 2010. A neighborhood meeting was held in October 2009. Planner Whetstone stated the most recent public hearing was held on February 24, 2010 and the minutes from that meeting were included in the Staff report.

Planner Whetstone noted that the outline on pages 44 and 45 of the Staff report were the issues discussed by the Planning Commission in February and their request to make amendments to the language. As suggested by Chair Wintzer, the page numbers with revisions were bolded in the outline so the Planning Commission could refer to an exact page in the exhibits to identify the changes. She pointed out that current changes since the last meeting were highlighted in yellow.

Planner Whetstone distributed a handout to the Planning Commission, which contained additional Staff recommended changes based on input she received from a citizen the day before. Those four changes were highlighted on page 3 of the handout under Section 15-2.3. The changes were minor, but the Staff agreed that it helped to clarify the purpose and the intent of the HR-2 zone and speak to the challenges and uniqueness of the zone.

Planner Whetstone noted that two revisions were in the purpose statements, one was under the conditional use permit review and replaces "buildings" with "structures" for consistency. The last revision was under the steep slope review. Planner Whetstone explained that the Staff had not made changes to this section. However, to be consistent with the changes that were recommended on February 24th regarding compatibility with the historic character of the surrounding neighborhood; the language in 15-2.3-7 was revised to read, "between the proposed structure and the historic character of the neighborhood's existing residential structures."

The Staff requested that the Planning Commission incorporate the four additional changes with all other amendments that would be forwarded to the City Council.

Planner Whetstone stated that the first page of the handout was presented at the request of Chair Wintzer and pertained to Chapter 6. The language was a better clarification of the differences between existing and the proposed language for the support commercial and meeting space. This would not pertain to the HR-2 zone. It was the master planned development language on the 5% meeting space and 5% support commercial. The original paragraph was condensed into simple language. Planner Whetstone noted that the actual changes were highlighted on page 98 of the Staff report.

Based on Planning Commission discussion at the February 24th meeting and input received that day, the Staff recommended changes that were highlighted on page 2 of the handout. She noted that “back of house uses” was removed from the list of back of house uses because it was redundant. However, it was added back in to say “residential accessory uses including typical back of house uses and facilities....” Further language described those uses.

The Staff recommended that the Planning Commission incorporate the changes on page 2 of the handout with all other amendments that would be forwarded to the City Council.

Planner Whetstone noted that the Planning Commission had discussed these back of house uses as contributing to the massing of projects. In addition, they wanted to see a restriction or limitation in terms of efficiency to achieve the most efficient use of the buildings. Back of house uses should not be used as an excuse to expand a building that could later be used for other things. Planner Whetstone stated that the Staff was researching that particular issue to determine the percentage of floor area allocated for back of house uses.

Chair Wintzer pointed out that what happens at the Montage in terms of efficiency is less bothersome than what happens in Old Town, where mass and scale are factors. Planner Whetstone clarified that it was complicated and the Staff was still looking to define a number or formula. The Staff would come back to the Planning Commission with appropriate language.

Planner Cattan stated that she is currently going through condominium plats and she wanted to discuss which ones she was using to calculate those numbers. They included the Sky Lodge, the Summit Watch and Marriott Mountainside in Old Town. She also intended to look at the St. Regis, the Montage and Stein Eriksen. Director Eddington suggested the Marriott in Prospector for a different perspective. Chair Wintzer suggested that Planner Cattan also look at the Yarrow. He recognized that the Yarrow is old, but it is an established Old Town use that is compatible with Old Town.

Commissioner Hontz stated that Planner Cattan could provide her analysis, but she was also interested in seeing the data in order to adequately discuss different types of products and business plans. Planner Cattan thought a field visit would also be helpful to understand the products.

Planner Whetstone commented on a substantive change that was not highlighted in the Staff report. “Gross floor area” was removed and replaced with the “floor area of the approved residential unit

equivalents.” This would apply to both the support commercial and the meeting space because neither requires unit equivalents to be used up because they are truly support to the residents. Planner Whetstone clarified that the language puts into Code what has been done in practice.

Commissioner Pettit noted that the language is worded so that it may not exceed 5%. Therefore, if in the analysis of the complete MPD a determination was made from a compatibility standard that it needed to be less than 5%, there would be flexibility for change. She clarified that 5% is not a given, but it can be as high as 5% depending on the rest of the project. Planner Whetstone replied that this was correct.

The Staff recommended that the Planning Commission conduct a public hearing, consider any input, and consider forwarding a positive recommendation to the City Council on the proposed amendments as outlined in the Chapter and in the handout provided, based on the findings outlined in the Staff report and in the draft ordinance.

Chair Wintzer opened the public hearing on Chapters 2.3 and Chapter 6 of the LMC.

There was no comment.

Chair Wintzer closed the public hearing.

Commissioner Pettit noted that one draft ordinance was attached to the Staff Report. If the Planning Commission made a motion to forward a positive recommendation as to Chapters 2.3 and 6, she wanted to know how that would be broken out with respect to the attached ordinance.

Planner Whetstone stated that the Planning Commission could amend the ordinance to remove the references to Chapter 1 in this particular motion. Director Eddington noted that the handout did not contain any references to Chapter 1. He suggested that the Planning Commission recommend language for Chapters 2.3 and 6 as currently outlined in the Staff report, as well as the supplemented provided this evening.

Commissioner Pettit pointed out that in addition to Chapter 1, the ordinance references 1 and Chapters 10, 11 and 12, which would be addressed later in the meeting. She was unsure how to apply one ordinance under three separate motions. Chair Wintzer asked if the Planning Commission could vote on the ordinance as a separate motion at the end of the LMC discussion.

After further discussion, the Planning Commission and the Staff concurred on the procedure to vote on the amendments to Chapters 1, 2.3, 6, 10 11, and 12 as one motion at the end of the meeting.

Chapters 10, 11 and 12.

Planner Whetstone noted that the amendments to Chapters 10, 11, and 12 relate to procedural issues for the Board of Adjustment, Historic Preservation Board, and the Planning Commission. The proposed changes were recently reviewed by the Planning Commission February 24th. The changes were outlined on pages 101, 103, 106 and 111 of the Staff report.

Based on discussion and input at the last meeting, the Staff recommended the following changes.

Page 101, under powers and duties for the Board of Adjustment, #4 was revised to read, "appeals and call-ups of final action by Planning Commission for **City development** at the request of the City Council". This revision is a consistent and defined term used in Chapter 1, where the City Council may allow the Board of Adjustment to review an appeal for a City development.

Page 103, under Appeals, Planner Whetstone requested revising the end of the third paragraph to read, "...unless specifically requested by the City Council for **City development.**" Planner Whetstone clarified that this was for city projects only and it was not related to appeals with a hearing officer.

Commissioner Pettit clarified that the new language was synching this Chapter with the powers and the role of the Board of Adjustment with changes to Chapter 1, relative to the appeal process. Planner Whetstone clarified that his was correct.

Planner Whetstone referred to revisions highlighted on pages 106 a107. A tier was created for projects that could essentially go through a more streamlined process. The tier went from non-historic sites and structures to significant structures or landmark structures. She noted that landmark structures are the most restricted. The only items that could be streamlined are roof repairs, replacement of existing windows and doors in their existing or historic locations.

Planner Whetstone commented on the language change for both the Board of Adjustment and the Planning Commission, that appeals must be heard within 45 days.

Commissioner Pettit recalled that the Planning Commission previously directed the Staff to look at solar in the context of the Historic District Design Guidelines and whether that process could be streamlined for things that do not impact or are consistent with the guidelines. Director Eddington stated that the Staff would work with Sustainability and come back with a recommendation. Until then, projects would still go through the full process. Commissioner Pettit clarified that she supported streamlining the process, but she wanted to make that solar was still a consideration. Planner Whetstone noted that the amendments include a clause on similar work. If someone wanted to put solar panels on a shed behind a non-historic structure and it would not have negative impacts, the Planning Director could make the determination that it is a minor project that would not require a full process.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council for the amendments to Chapter 10, 11 and 12 highlighted in the Staff report, and with the language regarding "City development" as discussed in Chapter 10.

Chair Wintzer opened the public hearing for Chapters 10, 11 and 12 of the LMC.

Doug Stephens asked if he could comment on Chapter 6. Chair Wintzer allowed his comments, since the Planning Commission had not yet voted.

Mr. Stephens referred to Chapter 15-6-2, with regards to the MPD, on page 85 of the Staff report. He noted that there was subsection a, b and c; but he was unclear as to whether someone would qualify for an MPD process under either a, b or c, or if all three were related. From his reading, he understood that you must have a historic structure on the site in order to do an MPD process between the HCB and the HR2 District.

Planner Whetstone read subsection C, and noted that MPDs are allowed in the Historic HR1 and HR2 Zones when combining adjacent HRC or HCB zone parcels, and the property is not part of the original Park City survey.

Mr. Stephens noted that the last line in C(1) states “as part of an allowed MPD. The language then says see criteria above, which refers to D. He pointed out that the criteria for an MPD is two more zoning designations, the property must have a significant historic structure, the MPD must reduce surface parking.

Planner explained the Staff’s interpretation of the language.

Commissioner Pettit read subparagraph 1, “HR1 or HR2 zone parcels are combined with adjacent HRC or HCB zoned properties as part of an allowed MPD, see criteria above.” She noted that A and B are above and the question was whether there would need to be compliance with all the criteria.

Mr. Stephens suggested that they could strike the language, “see criteria above” to avoid confusion. Director Eddington pointed out that striking the reference to the above criteria would eliminate the requirement that the structure must be on the historic sites inventory. It would also eliminate the criteria in B(1) for two or more zoning designations. If they do that, they would also need to strike B(2). He asked if it would matter if it was limited to Historic Site Inventory Structures.

Commissioner Strachan suggested that they reference the precise criteria they would want incorporated. It could be B(1) or B(2), but not both.

Mr. Stephens commented on new structures on Main Street that he felt should be encouraged for development. He did not think development should be restricted to historic structures. Chair Wintzer could not understand why it would be restricted to historic buildings.

Director Eddington agreed and suggested that they strike B(2) from the language. If that occurred, B(3) would be B(2). Commissioner Hontz suggested that C(1) remain with the exception of striking “see criteria above”. “The property includes two or more zoning designations”, would become B(2) and (2) under C would become number (3).

Planner Whetstone clarified that B(2) would be stricken. Under C, “see criteria above” would be stricken. The Commissioners and Staff discussed whether or not to eliminate B(3), “the proposed Master Planned Development includes reduced surface parking”.

Mr. Stephens was concerned about the wording of reduced surface parking. A residential lot on Park Avenue already has parking requirements. After further discussion, Director Eddington stated that even if the language was stricken, the Planning Commission would still have the ability under the MPD process and the criteria to reduce parking according to a specific development.

Chair Wintzer suggested that Director Eddington and Planner Whetstone work on drafting the revised language as discussed, while the City Attorney presented his revised language for Chapter 1.

Chair Wintzer closed the public hearing.

City Attorney Mark Harrington provided a handout of the revised changes to the amendment regarding a hearing officer. He noted that he had revised the language in Section 1(a), Hearing Officer Qualification, regarding the decision to appoint and the appointment of a hearing officer. He noted that additional language was added further in the text that would give the City Council the ability to make that decision in advance. He had also added language at the bottom of 15-1-18(G-I) under process. Mr. Harrington read the handout aloud as follows:

1)(a) Hearing Officer Qualifications. The decision to appoint and the appointment of a Hearing Officer shall be made by the City Council at a duly noticed public meeting after publicly noticed request for qualifications. Qualifications include a weighted priority for the following: Park City or area residency, five years or more of prior experience in an adjudicative position, and/or a legal or planning degree.

Commissioner Luskin questioned the five years or more experience in an adjudicative position. Mr. Harrington replied that the experience could be specified as prior experience as a hearing officer or judicial experience. Commissioner Luskin suggested, "five years or more in an adjudicated position". City Attorney Harrington was comfortable with that language.

The Hearing Officer shall have the ability to: 1) conduct quasi-judicial administrative hearings in an orderly, impartial and highly professional manner. 2) Follow complex oral and written arguments and identify key issues of local concern; 3) Master non-legal concepts required to analyze specific situations, render findings and determinations; 4) Absent any conflict of interest, render findings and determinations on cases heard, based on neutral consideration of the issues, sound legal reasoning and good judgment.

Mr. Harrington continued to read the language under (b) Process.

Any hearing before a Hearing Officer shall be publically noticed and meet all requirements of the Utah Open Meetings Act. The Hearing Officer shall have the same authority and follow the same procedures as designated for the "City Council" in this section 15-1-18(G-I). The City Council may decide to appoint a Hearing Officer for a particular matter at any time an application is pending, but the appointment of the individual shall not occur until an actual appeal is pending.

City Attorney Harrington anticipated that the City Council would tweak the qualifications but he felt it covered the main point. He would look at the issues regarding the standing appeal that the Planning Commission wanted considered. He believed the drafted language captured the gist of the qualification and public representation concerns.

Commissioner Strachan referred to the last sentence under Process, and asked why a hearing officer would not be appointed at the outset. If an appeal is not filed and the hearing officer is not necessary, they could be relieved of their duty. City Attorney Harrington stated that he would do that if this were replacing the current process. The process is cumbersome and he anticipates community tension over the possibility of appointing this individual. Mr. Harrington felt it was in no one's interest to go through the process unless it was needed. If they prematurely go to that forum, it takes away from some of the neutrality and bifurcation of the non-regulatory role and the regulatory role they are trying to achieve in this window of opportunity.

Chair Wintzer pointed out that the qualification for the right person could change during the process. Commissioner Strachan agreed that the right person could change. However, he wanted to know what would hold the City Council to their decision to appoint? Mr. Harrington stated that once the decision is made it cannot be changed. Commissioner Strachan was comfortable with that aspect as long as it was made clear.

Commissioner Pettit was concerned that appointing a hearing officer ahead of time would increase the opportunity for ex parte contact and the issues with the hearing process. She did not favor selecting a hearing officer in advance of an appeal.

Commissioner Luskin asked about the requirements of the Utah Open Meetings Act. City Attorney Harrington replied that the public input section in the current Code would remain the same, but there would be public notice. At worst case scenario, if notice was not received, people could still comment under the Public Input portion of the meeting.

Commissioner Pettit stated that if the Planning Commission rendered a decision to deny an application, and the applicant filed an appeal and used his ability to retain legal counsel to argue the appeal to the appeal authority, she wanted to know how the City would represent itself. She asked if outside counsel has been hired in the past to represent the City in the appeal process. City Attorney Harrington could not recall hiring outside counsel for that level in a Planning appeal. They have hired outside counsel for different appeals in employment matters where there was more of a direct conflict. He noted that nothing prohibits the Planning Commission from requesting that the City Council consider retaining separate counsel to represent them.

Chair Wintzer re-opened the public hearing.

John Stafsholt appreciated the effort by the City Attorney to draft the revised language. Mr. Stafsholt noted that the added language did not codify that a hearing officer would only be appointed after the City Council makes a majority vote during an open meeting.

City Attorney Harrington explained that the reason for adding the phrase at the beginning of (1)(a) was to make it clear that the decision to appoint or the actual appointment need to be public.

Mr. Stafsholt felt the majority vote was important. Mr. Harrington clarified that a majority vote is required and the City Council would not have any other option.

Laura Susser recalled that someone had raised the idea of a "pool of candidates" for the City Council to choose from. She asked if that would still be considered.

Mr. Harrington replied that it would be hard to guarantee a pool, but he tried to address the issue by having a codified requirement for public notice request for qualifications. Therefore, anyone of interest could apply.

Commissioner Pettit understood that the language that references the publicly noticed request for qualification is the RFP process. Mr. Harrington replied that this was correct. Chair Wintzer closed the public hearing.

Commissioner Strachan requested a change to qualification (1)(a)4, to require that the hearing officer render written findings. City Attorney Harrington pointed out that written findings are specified and required in 15-1-18(G-I). Commissioner Pettit believed that qualification #4 was the criteria that requires the ability to render findings. Commissioner Strachan concurred.

Commissioner Luskin was concerned that the qualification were too narrow, particularly with respect to the requirement of five years or more of prior experience in an adjudicated position and a legal planning degree. He asked if the language should say "and/or a legal planning degree." Mr. Harrington pointed out that the language could say "and/or a legal or planning degree. He noted that the qualifications would be written like a job description. None of the qualifications would be determinant or disqualifying. Commissioner Luskin thought the language should say, "qualifications should include a weighted priority for the following...". Mr. Harrington offered to add that language.

Director Eddington and Planner Cattan returned with revised language for 15-6-2.

Director Eddington stated that he and Planner Cattan read through the language and found that it was necessary to leave in B and C because they discuss slightly different issues. He noted that in 16-6-2(B), HR1 and HR2 were switched for numeric purposes. In B they removed 2 and 3 and revised the last two lines of the paragraph to read, "provide the subject property in proposed MPD includes two or more zoning designations." In C, the language was revised to read, "For sake of consistency with A and B, the master plan development process is allowed in historic residential one and historic residential two zones only when 1) HR1 and HR2 zone parcels are combined with HR, adjacent HRC or HCB zone properties; strike "see criteria above", or 2) the property is not part of the original Park City survey."

The Commissioners were comfortable with revised language.

MOTION: Commissioner Strachan made a motion to forward a positive recommendation to the City Council changes to Chapter 1 of the Land Management Code as amended by the City Attorney;

Chapter 2.3 as amended in the Staff report; Chapter 6, as amended by Staff during the meeting, including the supplement prepared by Staff based on input from a citizen addressing LMC Section 15-2.3-1,7; Chapter 10, as amended, and Chapters 11 and 12. Commissioner Pettit seconded the motion.

There were questions regarding the supplement. Commissioner Strachan clarified that his motion included the amendments to 15-6-2 that were revised during the meeting and the amendments in the supplement. Commissioner Pettit stated that her second also included both documents.

VOTE: The motion passed unanimously.

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

CONSENT AGENDA

Planning Commission Staff Report



Subject: Sterling Lodge at Deer Valley
Author: Francisco Astorga
Project Number: PL-08-00561
Date: April 28, 2010
Type of Item: Administrative – Amendment to Record of Survey Plat

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the Second Amended Sterling Lodge at Deer Valley amendment to Record of Survey Plat and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Description

Applicant: The Sterling Lodge at Deer Valley Association of Owners represented by Gay Hugo-Martinez
Location: 7660 Royal Street East
Zoning: Residential Development (RD) District with Master Planned Development (MPD) Overlay
Adjacent Land Uses: Residential to the east, south and west, commercial to the north
Reason for Review: Plat amendments require Planning Commission review and City Council approval

Background

On February 4, 2010 the City received a completed application for the Second Amended Sterling Lodge at Deer Valley Amendment to Record of Survey Plat. The property is located at 7660 Royal Street East in the Residential Development (RD) District with Master Planned Development (MPD) overlay. The proposed amendment to the record of survey plat converts approximately 92 square feet of common area to limited common. The conversion includes ability to remodel the common hallway area into a limited common storage closet. The proposed amendment is located on level seven of the building and is adjacent to the upper level of unit 9.

Analysis

Residential Development (RD) District

The purpose of the Residential Development RD District is to:

- A. allow a variety of Residential Uses that are Compatible with the City's Development objectives, design standards, and growth capabilities,

- B. encourage the clustering of residential units to preserve natural Open Space, minimize Site disturbance and impacts of Development, and minimize the cost of municipal services,
- C. allow commercial and recreational activities that are in harmony with residential neighborhoods,
- D. minimize impacts of the automobile on architectural design,
- E. promote pedestrian connections within Developments and between adjacent Areas; and
- F. provide opportunities for variation in architectural design and housing types.

The applicant wishes to amend this area to reflect the intent to use 92 square feet as storage similar to the limited common area storage units on the same level as the garage and level one of the building for which each storage unit is designated for use to a particular unit in the building. Those storage units as well as the one they are requesting are used to store various items including luggage, extra bedding, seasonal equipment, household items, etc.

The current space is a hallway and platted as Common. It is proposed to be Limited Common appurtenant to Unit 9. The Association took a vote to approve this change on October 8, 2008 and received 79% in favor with no negative votes and three (3) owners not voting.

Staff finds good cause for this amendment to the record of survey plat as area would be converted from common to limited common for storage use.

Process

A building permit was issued in October 2008 to convert the hallway area into a storage closet. A condition of approval was placed on the building permit that indicated that the Certificate of Occupancy would be held until the Amendment to the Record of Survey Plat was approved and recorded. The approval of this application constitutes Final Action that may be appealed following the procedures found in LMC 1-18. A Building Permit is publicly noticed by posting of the permit.

Department Review

This project has gone through an interdepartmental review. A site visit took place in December 2009 to assist the City identifying the area to be changed. The site visit was attended by Francisco Astorga, City Planner, Polly Samuels McLean, Assistant City Attorney, Mark Kozak, Applicant's attorney, and Gay Hugo-Martinez, applicant. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

No public input has been received by the time of this report.

Alternatives

- The Planning Commission may forward positive recommendation to the City Council for the Second Amended Sterling Lodge at Deer Valley Amendment to Record of Survey Plat as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for Second Amended Sterling Lodge at Deer Valley Amendment to Record of Survey Plat and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on Second Amended Sterling Lodge at Deer Valley Amendment to Record of Survey Plat.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The improvements made on site that include the conversion of a hallway into a closet would have to be removed to reflect the previous condition of the hallway.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the Second Amended Sterling Lodge at Deer Valley amendment to Record of Survey Plat and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance

Exhibit B – Sterling Lodge at Deer Valley Association of Owners

Exhibit C – Applicant's letter of intent

Exhibit A: **Draft Ordinance No. 10-**

AN ORDINANCE APPROVING THE SECOND AMENDED STERLING LODGE AT DEER VALLEY RECORD OF SURVEY PLAT LOCATED AT 7660 ROYAL STREET EAST, PARK CITY, UTAH.

WHEREAS, the owners of the property located at 7660 Royal Street East have petitioned the City Council for approval of the Second Amended Sterling Lodge at Deer Valley Record of Survey Plat; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on April 28, 2010, to receive input on the Second Amended Sterling Lodge at Deer Valley Record of Survey Plat;

WHEREAS, the Planning Commission, on April 28, 2010, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Second Amended Sterling Lodge at Deer Valley Record of Survey Plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Second Amended Sterling Lodge at Deer Valley Record of Survey Plat as shown in Attachment A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 7660 Royal Street East.
2. The property is within the Residential Development (RD) District with Master Planned Development (MPD) Overlay.
3. The proposed amendment is located on level seven of the building and is appurtenant to the upper level of unit 9.
4. The proposed amendment to the record of survey plat converts approximately 92 square feet of Common area to Limited Common to be used as storage.
5. The Homeowners Associated voted 78.77% affirmative to approve the proposed change.

Conclusions of Law:

1. There is good cause for this Amendment to Record of Survey Plat

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment (or Record of Survey) for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment (or Record of Survey) at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ___th day of May, 2010.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

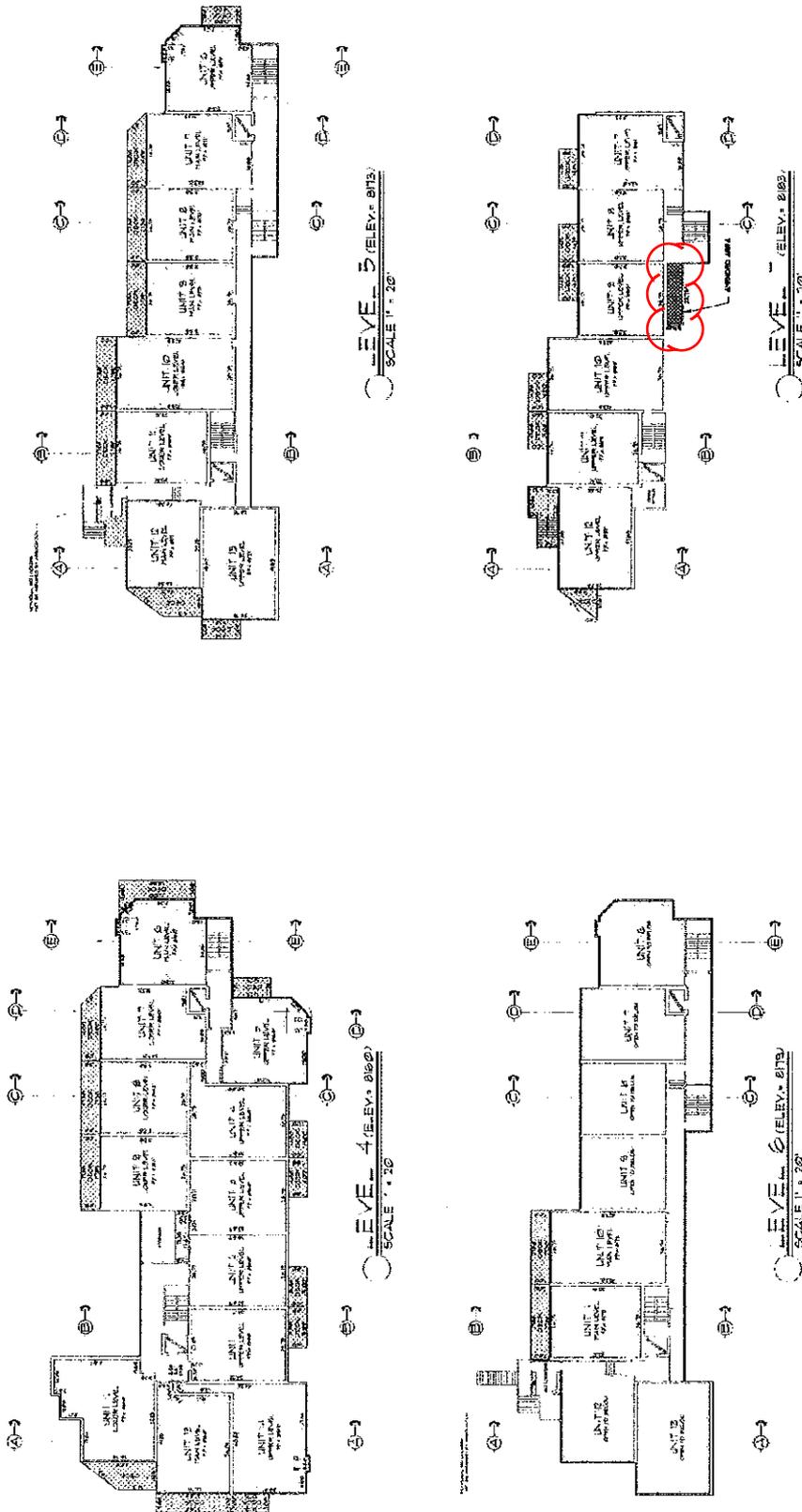
Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Attachment A – Proposed Record of Survey plat

Attachment A - Proposed Record of Survey plat

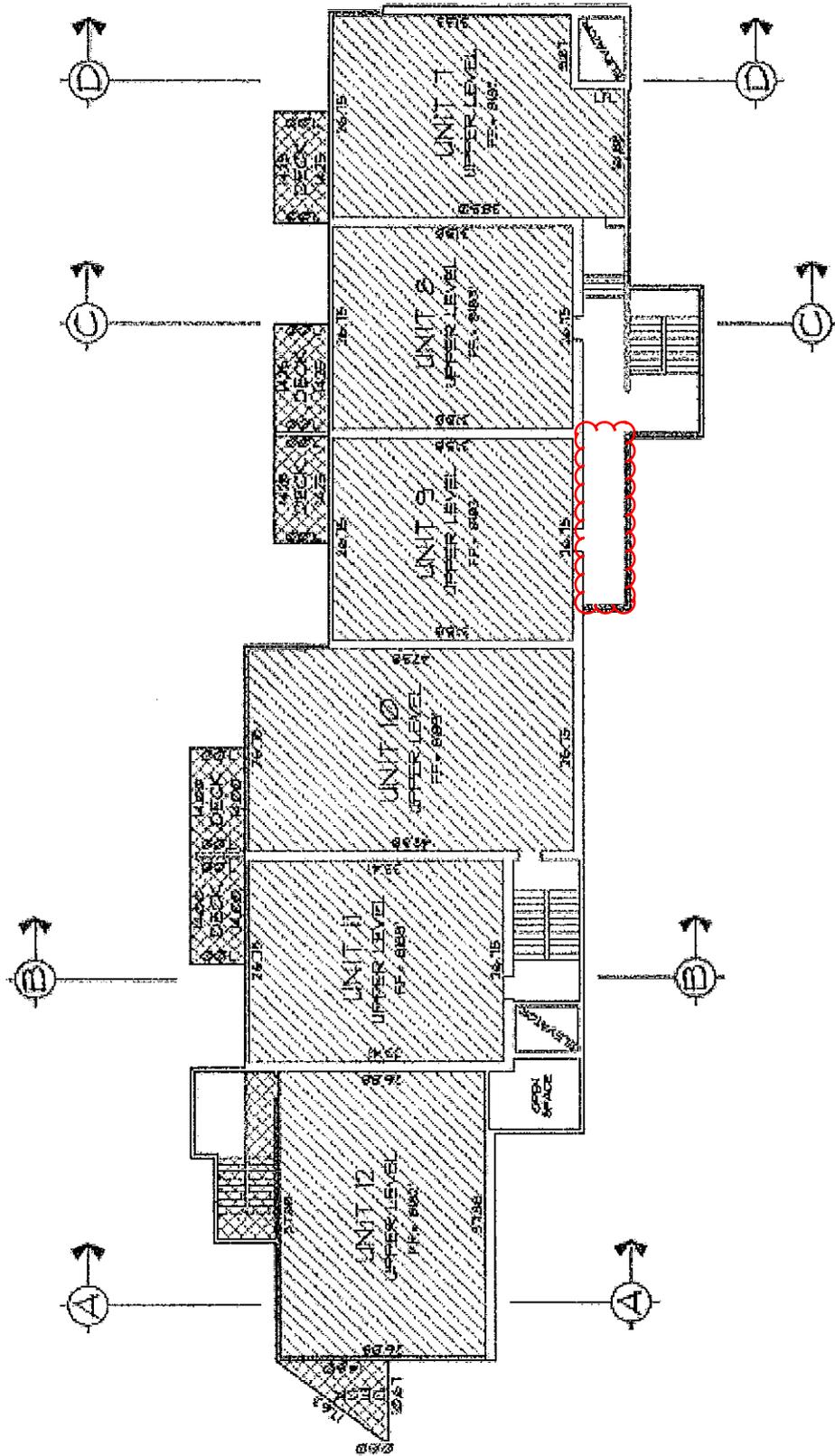


Second Amended
THE STERLING LODGE
 at DEER VALLEY
 SHEET 3 OF 5

THE JACK
 JOHNSON
 COMPANY
 1810 Independence Avenue • Park City, Utah 84060
 (801) 734-2300 • Fax: (801) 734-1628

RECORDED
 STATE OF
 COUNTY OF
 RECORD AND FILED AT THE REQUEST OF:
 COUNTY RECORDER

NOV 05 2008



LEVEL 7 (ELEV. = 8183)
 SCALE 1" = 20'

MINUTES OF A SPECIAL MEETING
OF
THE STERLING LODGE AT DEER VALLEY ASSOCIATION
OF UNIT OWNERS

October 10, 2008

A Special Meeting of The Sterling Lodge at Deer Valley Association of Unit Owners was held on October 10, 2008 at 1:00 p.m. at the offices of Deer Valley Lodging, 1375 E. Deer Valley Drive, pursuant to resolution of the Board of Trustees with formal notice to all homeowners.

The following owners were represented in person:

None

The following owners were represented by Proxy:

2 Rudy Puryear
3 Rosendo Parra
4 Larry Pollock
5 Robert Koury
6 Allen Kohl
7 Natomas Meadows LLC
11 Douglas DeMartin
13 113 Sterling LLC

The following Owners were represented by Telephone Conference:

1 Gary Kaminsky
9 Gay and Albert Hugo-Martinez
12 Terry Buckner

Representing Deer Valley Lodging, Management Company for the Association:

Don R. Mangum
Bill Riley

The meeting was called to order at 1:00 PM by Board Member Terry Buckner. A quorum representing 78.77% of the Owners was present to conduct Association business.

Mr. Buckner explained that the Special Meeting of the Association was held for the specific purpose of voting on the proposal to allow conversion of approximately 92 square feet of common area directly behind the master bathroom on the upper level of unit 109, Gay and Albert Hugo-Martinez, Owners, to limited common area for the exclusive use of unit 109 per the proposal made to all Owners by unit 109. In exchange, the Owners of unit 109 would make an immediate \$50,000 contribution to the

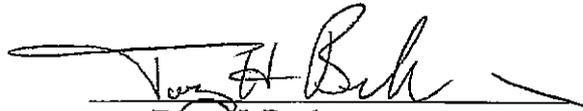
NOV 05 2008

Association. A copy of the proposal is attached and made a part of the minutes of this meeting.

A ballot had been embedded within the proxy sent each Owner for the meeting requesting each Owner specifically vote for/against allowing the conversion. Mr. Mangum indicated that each proxy returned had specifically voted the ballot, and proxy holders would be obligated to vote the proxy accordingly

Upon motion made and duly seconded, a motion calling for a vote on the issue was made. Mr. Mangum counted the proxy ballots and reported that there were eight proxy ballots, representing 57.70 % of the total unit votes of the Association, cast in favor of converting the common area to limited common area. Three Owners represented via telephone and representing 21.07% of the total unit votes of the Association, all cast their votes in favor of converting the common area to limited common area. In total, eleven of the fourteen Owners representing 78.77% of the total unit votes of the Association voted affirmatively for the proposal. There were no Owners voting negatively, and three Owners did not vote. Accordingly, the issue of converting the described common area to limited common area was approved. President Martinez was authorized to immediately have the Association's documents amended.

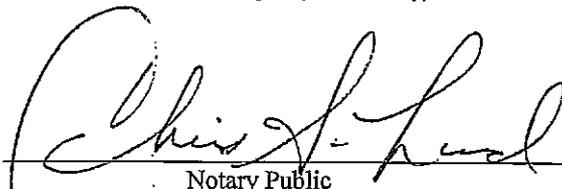
With no other business to come before the meeting, the same was adjourned at 1:10 PM.


Terry H. Buckner
Board Member

ACKNOWLEDGEMENT CERTIFICATE

State of Utah)
 §
County of Salt Lake)

On this 14th day of October, 2008, before me Chris A. Lund, a notary public, personally appeared Terry H. Buckner, proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same. Witness my hand and official seal.


Notary Public

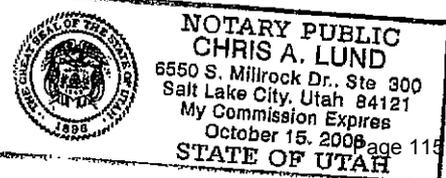


Exhibit C - Applicant's letter of intent

February 4, 2010

7660 Royal Street East #109
Park City, UT 84060

City of Park City
Attention Planning Department
445 Marsac Avenue
Park City, UT 84060

Re: Requested amendment to Record of Survey for Sterling Lodge at Silver Lake Condo Plat
Amendment, building permit no. BD-08-14298 for Unit 109

We are amending our requested amendment to Record of Survey application for Sterling Lodge at Silver Lake Condo Plat Amendment to reflect the intent to use 86 sq. ft as storage similar to the limited common area storage units on the same level as the garage and level one of the building for which each storage unit is designated for use to a particular unit in the building. Those storage units as well as the one we are requesting are used to store various items including luggage, extra bedding, cots, humidifiers, files, seasonal equipment, household items such as planters, extra supplies, extra chairs and furnishings, sports equipment, paintings not being currently used, and empty picture frames. This area will be used by the tenants and owners of Unit 109 and treated in the same manner as the other limited common area storage areas in the building.

Respectfully submitted,



S. Gay Hugo-Martinez
Owner Unit 109
Sterling Lodge at Silver Lake

FEB 04 2010

Planning Commission Staff Report



Subject: 1059 Park Avenue
Author: Katie Cattan
Application #: PL-10-00918
Date: April 28, 2010
Type of Item: Administrative – Plat Amendment

Summary Recommendations

Staff recommends that the Planning Commission review the plat amendment application, conduct a public hearing, and consider forwarding a positive recommendation to the City Council for the 1059 Park Avenue Plat Amendment according to the findings of fact, conclusions of law, and conditions of approval outlined in the attached ordinance.

Topic

Applicant: Craig Elliott, AIA, Representative
Location: 1059 Park Avenue
Zoning: Historic Residential (HR-1)
Adjacent Land Uses: Residential
Reason for Review: Plat amendment require Planning Commission review and City Council approval

Background

On March 5, 2010, the City received a completed application for a plat amendment for the existing property at 1059 Park Avenue. The plat amendment combines all of Lot 14 with the southerly 10 feet of Lot 15 in Block 4 of Snyders Addition to the Park City survey. The resulting lot of record is 35 feet wide by 75 feet deep. Another existing house occupies the northerly 15 feet of Lot 15 and all of Lot 16, Block 10.

The applicant has also submitted an historic district design review application for an addition to the existing historic home. The applicant cannot obtain a building permit to build across a lot line. A plat amendment must be recorded prior to issuance of a building permit for the proposed addition.

Analysis

The application is to create one lot of record at 1059 Park Avenue. Currently, the existing historic home is situated upon an interior lot line. The plat amendment will reflect the current ownership and will bring the existing home into compliance with the Land Management Code for setbacks in the HR-1 district.

The proposed plat amendment will create one lot of record that is 35 feet wide by 75 feet deep. The area of the proposed lot is 2625 square feet. The minimum lot size in the HR-1 zoning district is 1875 square feet. The minimum lot width in the HR-1 zone is 25 feet.

The following table explains the site requirements for lots within the HR-1 zoning district and how the proposals comply with the zoning regulations:

Required	Proposed Lot
Lot Size: Minimum 1875 square feet	2625 square feet
Density: Minimum lot size for single family dwelling is 1875 square feet and for a duplex 3,750 square feet.	Single family dwelling is an allowed use.
Front yard. The minimum front yard is ten feet. (10')	Existing historic home is 20' from front property line.
Rear yard. The minimum rear yard is ten feet (10')	Existing historic home is 25' from rear lot line.
Side yard. The minimum side yard is ten feet (10').	Existing historic home is 4 feet from side lot line.
Footprint: based on 2,625 square foot lot	1,132.5 square feet

Planning Staff finds there is good cause for the plat amendment as it will remove an interior lot line and create a clean ownership boundary for the property. Staff finds that the plat will not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Department Review

The Planning Department has reviewed this request. The City Attorney and City Engineer will review the plat for form and compliance with the LMC and State Law prior to recording. The request was discussed at internal Staff meetings where representatives from local utilities and City Staff were in attendance. Issues which were brought up during the staff meeting have been resolved.

Notice

Notice of this hearing was sent to property owners within 300 feet. Legal notice was also placed in the Park Record.

Public Input

No comments have been received by staff at the date of this writing.

Alternatives

1. The Planning Commission may forward a positive recommendation to the City Council for the 1059 Park Avenue Subdivision as conditioned or amended; or
2. The Planning Commission may forward a negative recommendation to the City Council for the City Council for the 1059 Park Avenue Subdivision and direct staff to make Findings for this decision; or
3. The Planning Commission may continue the discussion on the City Council for the 1059 Park Avenue Subdivision.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The lot would remain as is and a future building permit for an addition could not be obtained by the owner.

Recommendation

Staff recommends that the Planning Commission hold a public hearing for the City Council for the 1059 Park Avenue Subdivision and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval outlined in the attached ordinance.

Exhibits

Exhibit A – Proposed Ordinance

Exhibit B – Survey

Ordinance No. 10-

**AN ORDINANCE APPROVING THE 1059 PARK AVENUE SUBDIVISION
LOCATED WITHIN LOT 14 AND THE SOUTHERLY 10 FEET OF LOT 15 IN
BLOCK 4, SNYDERS ADDITION TO THE PARK CITY SURVEY, PARK CITY,
SUMMIT COUNTY, UTAH**

WHEREAS, the owner of the properties known as 1059 Park Avenue, has petitioned the City Council for approval of a plat amendment for the existing Lot 14 and the southerly 10 feet of Lot 15 in Block 4, Snyders Addition to the Park City Survey; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on April 28, 2010, to receive input on the 1059 Park Avenue Subdivision; and

WHEREAS, the Planning Commission, on April 28, 2010, forwarded a positive recommendation to the City Council; and

WHEREAS, on May __, the City Council approved the 1059 Park Avenue Subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the 1059 Park Avenue Subdivision.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL The above recitals are hereby incorporated as findings of fact. The 1059 Park Avenue Subdivision as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 1059 Park Avenue within the HR-1 zoning district.
2. The plat amendment is for the existing Lot 14 and the southerly 10 feet of Lot 15 in Block 4, Snyders Addition to the Park City Survey
3. The proposed plat amendment will create one lot of record that is 35 feet wide by 75 feet deep. The minimum lot width in the HR-1 zone is 25 feet.
4. The area of the proposed lot is 2625 square feet. The minimum lot size in the HR-1 zoning district is 1875 square feet. There is an existing historic

- home located at 1059 Park Avenue.
5. The neighborhood is characterized by single family and multi-family homes and condominiums.
 6. All findings within the Analysis section are incorporated herein.

Conclusions of Law:

1. There is good cause for this subdivision.
2. The subdivision is consistent with the Park City Land Management Code and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed subdivision.
4. As conditioned the subdivision is consistent with the Park City General Plan.

Conditions of Approval:

1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. The applicant will record the subdivision at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
3. A ten foot wide public snow storage easement is required along the front of the property.
4. No remnant parcels are separately developable.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ___th day of May 2010.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

LOT 1
OWNER: []
OWNER: []

1059 PARK AVENUE SUBDIVISION

LOCATED IN THE NORTH HALF OF SECTION 18,
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN,
PARK CITY, SUMMIT COUNTY, UTAH

ENGINEER'S CERTIFICATE

I, [], a duly licensed Professional Engineer, State of Utah, do hereby certify that the above described subdivision is in accordance with the provisions of the Utah Subdivision Map Act, Chapter 67, Utah Code, and the provisions of the Park City Ordinance, Chapter 10, Park City, Utah, and that the subdivision is in accordance with the provisions of the Park City Ordinance, Chapter 10, Park City, Utah, and that the subdivision is in accordance with the provisions of the Park City Ordinance, Chapter 10, Park City, Utah.

DATE: _____ BY: _____

PLANNING COMMISSION

APPROVED AS TO FORM AND SUBSTANCE BY THE PLANNING COMMISSION OF THE PARK CITY, UTAH, ON _____ 2010 A.D.

DATE OF OFFICE USE: _____ 2010 A.D.

BY: _____

ENGINEER'S CERTIFICATE

APPROVED AS TO FORM AND SUBSTANCE BY THE PLANNING COMMISSION OF THE PARK CITY, UTAH, ON _____ 2010 A.D.

DATE OF OFFICE USE: _____ 2010 A.D.

BY: _____

CERTIFICATE OF ATTEST

I, [], a duly licensed Professional Engineer, State of Utah, do hereby certify that the above described subdivision is in accordance with the provisions of the Utah Subdivision Map Act, Chapter 67, Utah Code, and the provisions of the Park City Ordinance, Chapter 10, Park City, Utah, and that the subdivision is in accordance with the provisions of the Park City Ordinance, Chapter 10, Park City, Utah.

DATE: _____ BY: _____

COUNCIL APPROVAL AND ACCEPTANCE

APPROVED AND ACCEPTED BY THE PARK CITY COUNCIL, THIS _____ 2010 A.D.

DATE: _____ BY: _____

RECORDED

STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE OFFICE OF THE CLERK OF THE COUNTY OF SUMMIT, UTAH, ON _____ 2010 A.D.

DATE: _____ BY: _____

Planning Commission Staff Report



Subject: 354 Main Street & First Amended 352
Main Street
Project: PL-10-00945
Author: Kayla Sintz
Date: April 28, 2010
Type of Item: Administrative – Plat Amendment

Summary Recommendation

Staff recommends the Planning Commission hold a public hearing for the 354 Main Street & First Amended 352 Main Street plat amendment and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Owner: Aaron Hofmann
Owner's Representative: Craig Elliott, Architect
Location: 352 & 354 Main Street
Zoning: Historic Commercial Business (HCB)
Adjacent Land Uses: Residential & Commercial
Reason for Review: Plat amendments require Planning Commission review and City Council approval

Background

On October 5, 2009 the applicant submitted a complete application for a Lot Line Adjustment. However, due to multiple lots being combined, it was determined a plat amendment would be required. The applicant submitted a complete application for a Plat Amendment on April 7, 2010. The proposed plat creates the 354 Main Street & First Amended 352 Main Street plat. The first lot consists of Lot 1 of the 352 Main Street Plat, which was subject to a plat amendment in 2006 and incorporated portions of Lot 12 and Lot 13 and 14, Block 22 and Lot 15, Block 69. The second lot, shown as Lot 2, consists of 354 Main Street, which is a parcel of land containing Lot 14 and a portion of Lot 13, Block 22, Park City Survey. There is an existing contemporary commercial building at 352 Main Street (Dugins West and The Spur) and an existing historic mixed use building at 354 Main Street (previously known as the Bald Eagle Realty building). There is a 5 foot wide pedestrian access from Main Street to Swede Alley along the south property line.

The applicant is requesting the plat amendment to create a two lot subdivision, which is a parcel combination amending the previously platted 352 Main Street plat and creates

a second Lot consisting of 354 Main Street. The proposed Lot 1 cleans up parcel lines and accommodates expansion and renovation to properties located on the second level (Dugins West and The Spur). As proposed, Lot 1 would be 6,805 square feet. The proposed Lot 2 cleans up lot lines for 354 Main Street and creates a legal lot of record. As proposed, Lot 2 would be 1,520 square feet.

Analysis

The purpose of the application is to modify lot and parcel lines, create a legal lot of record, and create a two lot subdivision. There is good cause for the application as the parcel combination will bring the two properties into compliance with state law by removing all interior lot lines and enabling the proposed development. Staff finds that the plat will not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Land Management Code Compliance

	Permitted	Proposed
Height	30' Front façade 24' Rear facade. 45' interior	Complies, no changes proposed
Front setback	0'	Complies
Rear setback	0'	Complies
Side setbacks	0'	Complies
Lot size	1,250 square feet	Lot 1: 6,805 s.f. Complies Lot 2: 1,520 s.f. Complies
Footprint	N/A	N/A

The subdivision would create two lots; Lot 1 of 6,085 square feet and Lot 2 of 1,520 square feet. No expansions of the building footprint or height are proposed at this time. The applicant proposes an interior remodel of the building that encompasses Lot 1. This expansion occurs within the Spur Bar and Grill in combining a portion of the Dugins West building. Section 15-2.6-7 of the LMC establishes criteria for development on Swede Alley. These criteria establish requirements for pedestrian circulation, height, access, design open space and pedestrian connections. Staff finds that because no external changes to the building are proposed, no additional review of the building as it relates to these criteria is necessary.

There are 6 existing access easements on the property and an additional easement proposed, for a total of 7. Each easement is located on the bottom floor of the building. The proposed expansion is located on the second floor. In order to maintain a secondary ingress/egress, the old Bald Eagle Real Estate Building (354 Main) and the Main Street Mall (333 Main), have separate easements through the 352 Main property to Swede Alley, and there are other separate utility easements. It is important that these easements remain open and unobstructed, as it provides emergency access to

both buildings. Staff finds that as proposed, this lot combination will not negatively impact any existing easements on the property or limit existing ingress/egress. Further, the applicant is adding an additional easement for additional access to the offices and condos at 354 Main and 364 Main which will tie into the ingress/egress easement of the tunnel. This easement will be recorded just prior to plat recordation and can be seen on the Easement Detail 3. The applicant may build a retail shell infill space into the northeast corner of Lot 1 in the future. The newly created easement as well as plat note indicating utility relocation at future date may eliminate the need for a plat amendment at this parcel if expansion occurs.

Process

Approval or denial of the ordinance by City Council may be appealed to District Court within 30 days as provided by state code.

Department Review

This project has gone through an interdepartmental review. All issues identified during the meeting have been addressed by the applicant.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

Staff has not received input regarding this matter as of the date of this report.

Alternatives

- The Planning Commission may forward positive recommendation to the City Council for the 354 Main Street & First Amended 352 Main Street plat amendment as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for the 354 Main Street & First Amended 352 Main Street plat amendment and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on the 354 Main Street & First Amended 352 Main Street plat amendment.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The lot and parcel lines would remain where they currently stand and expansion and modification of the mixed use commercial building could not take place.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the 354 Main

Street & First Amended 352 Main Street plat amendment and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Ordinance with Proposed Plat

Exhibit B – reference survey (First Amended 350 ½ Main Street Plat)

Exhibit A
Draft Ordinance No. 10-

AN ORDINANCE APPROVING THE 354 MAIN STREET & FIRST AMENDED 352 MAIN STREET PLAT AMENDMENT LOCATED AT 352/354 MAIN STREET, PARK CITY, UTAH

WHEREAS, the owner of the property located at 352 and 354 Main Street have petitioned the City Council for approval of the 354 Main Street & First Amended 352 Main Street plat amendment; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on April 28, 2010, to receive input on the 354 Main Street & First Amended 352 Main Street plat amendment;

WHEREAS, the Planning Commission, on April 28, 2010, forwarded a positive recommendation to the City Council; and

WHEREAS, on _____, 2010 the City Council held a public hearing on the proposed subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the 354 Main Street & First Amended 352 Main Street plat amendment.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The 354 Main Street & First Amended 352 Main Street plat amendment as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 352/354 Main Street in the Historic Commercial Business (HCB) zone.
2. The HCB District is characterized by a mix of historic commercial structures and larger contemporary commercial structures.
3. The proposed plat amendment will combine Lot 14 and a portion of Lot 13, Block 22, Park City Survey and all of the 352 Main Street plat into two lots of record.
4. Proposed Lot 1 will be 6,085 square feet. Proposed Lot 2 will be 1,520 square feet.

5. An existing 8' wide access/utility easement exists from 354 Main through the 352 Main Street subdivision of the Park City Survey.
6. There is an existing 8' wide access easement with a 6' wide utility easement overlay from 333 Main through 352 Main to Swede Alley.
7. There is an existing 5' wide public sidewalk easement on the eastern side of the property running parallel to Swede Alley.
8. A new easement is being created to the rear of 354 Main Street and to connect to the existing 8' wide access easement as identified in Finding of Fact 5 above.
9. The building meets all required setbacks for the HCB zone.
10. The plat amendment will not create any remnant lots.

Conclusions of Law:

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ___day of___, 2010.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney



SURVEYOR'S CERTIFICATE

I, John Demasewitz, a duly Licensed and Registered Land Surveyor and member of the Utah State Board of Professional Engineers and Surveyors, and that by authority of the above, I have prepared this Record of Survey and that the same has been monumented on the ground as shown on this plat. I further certify that the information on this plat is accurate.

Date _____
John Demasewitz

LEGAL DESCRIPTION

PARCEL 1
LOT 1, 352 MAIN STREET, according to the official plat thereof on file and of record in the Summit County Recorder's Office.

PARCEL 2
A portion of land consisting of Lot 14, and a portion of Lot 13, Block 22, Park City Survey, and described as follows:

Beginning at the northeast corner of Lot 14, Block 22, Park City Survey, and running thence along the north line of Lot 14 North 69°30'00" East 70.00 feet; thence along the east line of Lot 14 South 89°34'45" West 11.95 feet; thence South 23°34'33" East 0.48 feet; thence along the outside face of an existing building and sidewalk and the north line of Lot 14 North 23°38'00" West 25.47 feet to the corner of Lot 13 and Lot 14 North 23°38'00" West 25.47 feet to the point of beginning.

Less and excepting therefrom the following described property:

A portion of Lot 14, Block 22, Park City Survey, according to the official plat being more particularly described as follows:

Beginning at the northeast corner of Lot 14, Block 22, Park City Survey, said point also being at January 24, 2000 as Entry No. 553719 in the office of the recorder, Summit County Utah, and running thence along the easterly line of Lot 14 and the north line of Lot 14 North 69°30'00" East 70.00 feet to the point of beginning; thence along the exterior of an existing concrete block wall, thence along the face of said block wall the following (2) courses: 1) South 69°27'34" West 5.74 feet; 2) South 69°27'34" West 5.74 feet; thence along the northerly line North 69°30'00" East 6.79 feet to the point of beginning.

OWNER'S DEDICATION AND CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS that HOFMANN PROPERTIES, L.C. the undersigned owner of the herein described tract of land to be known hereafter as 354 MAIN STREET and LOT 1 AND LOT 2, to the City of Park City, Utah, do hereby consent to the dedication of this tract of land to the City of Park City, Utah, for the use of the City of Park City on the streets, and for local government uses, easements, poles, and required utilities and easements shown on the plat in accordance with an irrevocable order of the City of Park City.

IN WITNESS WHEREOF, the undersigned set his hand this _____ day of _____, 2010.

HOFMANN PROPERTIES, LC

Arvo A. Hofmann, Manager

ACKNOWLEDGMENT

State of _____
County of _____

On this _____ day of _____, 2010, Arvo A. Hofmann, personally appeared before me, the undersigned Notary Public in and for said state the said Arvo A. Hofmann, Manager of HOFMANN PROPERTIES, L.C. a Utah Corporation, organized and existing under the laws of the State of Utah, for and in behalf of the said HOFMANN PROPERTIES, L.C. and acknowledged to me that he executed the above Owner's Dedication and Consent to Record freely and voluntarily.

A Notary Public commissioned in Utah

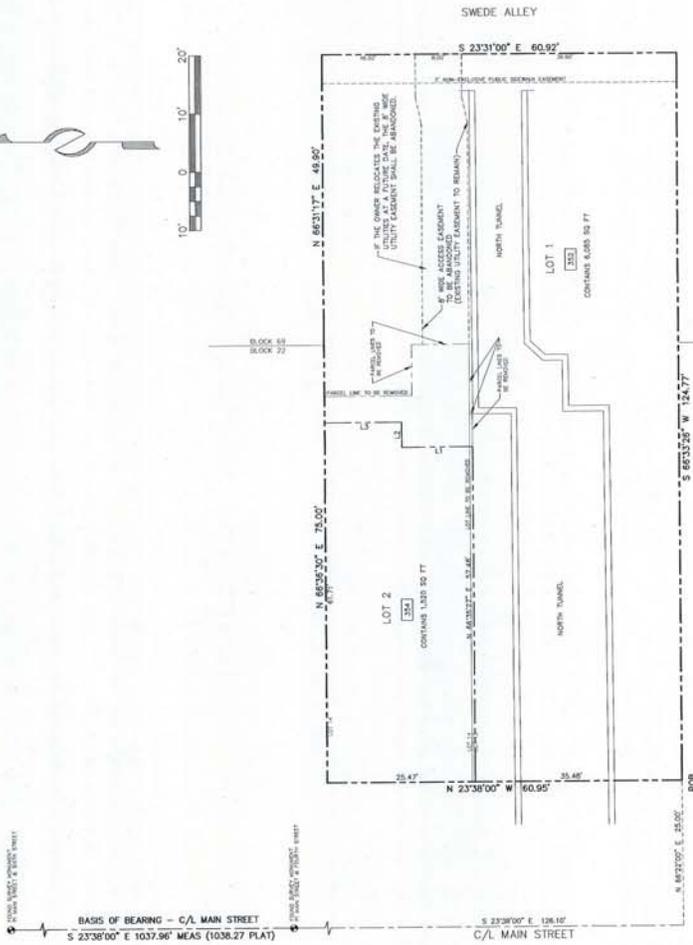
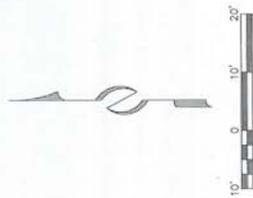
Printed Name _____

Residing in _____

My commission expires _____

LEGEND

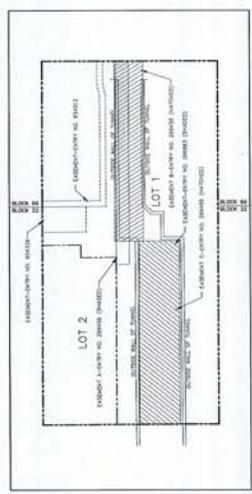
[352] Denote street address as Main Street



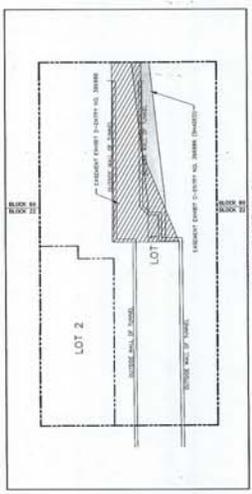
LINE	BEARING	DISTANCE
1	N 23°38'00" W	12.71
2	N 69°34'45" E	4.38
3	N 23°38'00" W	13.21

**A PARCEL COMBINATION PLAT
354 MAIN STREET &
FIRST AMENDED 352 MAIN STREET**

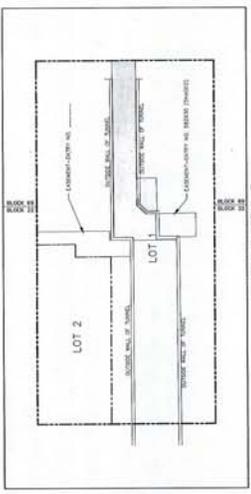
LOCATED IN SECTION 16
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE
AND MERIDIAN, PARK CITY, SUMMIT COUNTY, UTAH



EASEMENT DETAIL 1
ENTRY NO. 14883
RECORDED OCTOBER 21, 1988
BOOK 1351, PAGE 1488



EASEMENT DETAIL 2
ENTRY NO. 58483
RECORDED JANUARY 28, 1984
BOOK 1351, PAGE 283



EASEMENT DETAIL 3
ENTRY NO. 58335
RECORDED FEBRUARY 22, 2001
BOOK 1351, PAGE 1488

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS DAY OF _____, 2010 A.D.
BY _____, S.W.A.D.

PLANNING COMMISSION
APPROVED BY THE PARK CITY PLANNING COMMISSION THIS DAY OF _____, 2010 A.D.
BY _____, CHAIRMAN

ENGINEERS CERTIFICATE
I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE ON THIS DAY OF _____, 2010 A.D.
BY _____, PARK CITY ENGINEER

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS DAY OF _____, 2010 A.D.
BY _____, PARK CITY ATTORNEY

CERTIFICATE OF ATTEST
I CERTIFY THIS RECORD OF SURVEY MAP COUNCIL THIS DAY OF _____, 2010 A.D.
BY _____, PARK CITY RECORDER

COUNCIL APPROVAL AND ACCEPTANCE
APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS DAY OF _____, 2010 A.D.
BY _____, MAYOR

RECORDED
STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF _____ PAGE _____
DATE _____ TIME _____ BOOK _____
FEE _____ RECORDER _____

Planning Commission Staff Report



Subject: Prospector Square Amended Plat
Author: Brooks T. Robinson
Project #: PL-10-00920
Date: April 28, 2010
Type of Item: Administrative – Subdivision Plat

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the Prospector Square Amended Plat and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Applicant: Park City Marriott, represented by Jack Johnson Company
Location: 1895 Sidewinder Drive
Zoning: General Commercial (GC)
Adjacent Land Uses: Other commercial developments in Prospector Square

Background

On February 18, 2010, the City received a completed application to amend the Prospector Square subdivision plat. The proposed plat combines lots 10A, 10B, 10C, 10D, 11, 12A, 12B, and 12C into one lot of record. The existing Park City Marriott straddles all the aforementioned lots. The proposed single lot would be 45,195 square feet in size. The City requested the lot combination as a condition of approval of a building permit for an addition to the building. The addition would extend the second floor meeting space into the common area of the Prospector Square Property Owners Association. The Association has a signed easement agreement for this construction and use. In addition, the long-standing non-compliant tent will be removed from the area.

Analysis

The zoning for the subdivision is General Commercial subject to the following criteria:

	Permitted	Proposed
Height	35' (+5' for pitched roof)	No height exception
Setback	Zero Lot Lines in Prospector	0'
Parking	Meeting space is considered Support Commercial not requiring additional parking	Parking is allowed in all Prospector Square lots (A-K); in addition Marriott has underground parking.

Staff finds good cause for this amended subdivision plat as it removes lot lines under an existing building, which is a non-complying situation.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

Staff has not received any public input at the time of this report.

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council for the Prospector Square Amended Subdivision plat as conditioned or amended, or
- The Planning Commission may forward a negative recommendation to the City Council for the Prospector Square Amended Subdivision plat and direct staff to make Findings for this decision, or
- The Planning Commission may continue the discussion on the Prospector Square Amended Subdivision plat.

Significant Impacts

There are no significant fiscal or environmental impacts to the City from this application.

Consequences of not taking the Suggested Recommendation

The addition would not be permitted.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the Prospector Square Amended Subdivision plat and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Ordinance with plat

Ordinance No. 10-

AN ORDINANCE APPROVING THE PROSPECTOR SQUARE AMENDED SUBDIVISION PLAT LOCATED AT 1895 SIDEWINDER DRIVE, PARK CITY, UTAH.

WHEREAS, the owners of the property known as the Park City Marriott, located at 1895 Sidewinder Drive, Lots 10A, 10B, 10C, 10D, 11, 12A, 12B, and 12C of the Prospector Square Subdivision, have petitioned the City Council for approval of the Prospector Square Amended Subdivision plat; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on April 28, 2010, to receive input on the Prospector Square Amended Subdivision plat;

WHEREAS, the Planning Commission, on April 28, 2010, forwarded a recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Prospector Square Amended Subdivision plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Prospector Square Amended Subdivision plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 1895 Sidewinder Drive.
2. The Park City Marriott is located in the General Commercial (GC) zoning district.
3. The subject property combines Lots 10A, 10B, 10C, 10D, 11, 12A, 12B, and 12C of the Prospector Square Subdivision into one lot of record.
4. The Park City Marriott proposes to add a second story meeting space over the Common Area of the Prospector Square Property Owners Association (PSPOA).
5. The PSPOA has signed an easement granting permission for the addition.
6. Meeting space is considered Support Commercial not requiring additional parking. Parking is allowed in all Prospector Square lots (A-K): in addition Marriott has underground parking.

Conclusions of Law:

1. There is good cause for this amended record of survey.

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the amended record of survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the amended record of survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ____ day of May, 2010.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Exhibits

Exhibit A – Record of Survey plat

REGULAR AGENDA

Planning Commission Staff Report



Subject: Snow Country Condominiums
Author: Francisco Astorga
Project Number: PL-09-00858
Date: April 28, 2010
Type of Item: Administrative – Conditional Use Permit for Construction within the Frontage Protection Zone

Summary Recommendations

Staffs recommends the Planning Commission hold a public hearing and consider approving the Conditional Use Permit for the construction of two (2) parking spaces within the Frontage Zone based on the Findings of Fact, Conclusions of Law, and Conditions of approval as found in this staff report.

Description

Applicant: Snow Country Condominiums HOA
represented by Chris Haynes
Location: 1150 Deer Valley Drive
Zoning: General Commercial (GC) District with Frontage Protection Zone (FPZ) Overlay
Adjacent Land Uses: Commercial and Open Space
Reason for Review: Conditional use permits require Planning Commission review and approval

Background

On March 12, 2010 the City received a completed application for the Snow Country Condominiums Conditional Use Permit for the construction of two (2) parking spaces within the Frontage Protection Zone. The property is located at 1150 Deer Valley Drive in the General Commercial (GC) District with Frontage Protection Zone (FPZ) Overlay. The site contains three (3) multi-dwelling buildings containing 71 units. The existing parking lot is located north of the buildings and south of Deer Valley Drive.

The applicant wishes to add two (2) parking spaces to their existing parking lot. The proposed parking spaces are to be constructed of asphalt and located on the northeast corner of the site 30 feet from Deer Valley Drive. Although the parking lot met the requirements when it was built in 1976, it currently does not comply with today's code because it does not have the sufficient number of parking spaces currently required by the Land Management Code (LMC) and it is within the 30-foot "no-build" zone of the FPZ.

The applicant brought an Amendment to the Record of Survey Plat application before Planning Commission on October 28, 2009. The applicant requested to amend the plat to convert the laundry area from common area to private area. At that meeting the

Commission agreed with Staff's recommendation of not supporting the amendment to the Record of Survey due to the increase of the degree of the existing non-compliance due to the lack of parking mandated by the LMC. The Commission recommended to the applicant to consider other options for complying with the Code.

Analysis

Purpose of the GC District

The purpose of the General Commercial District is to:

- A. allow a wide range of commercial and retail trades and Uses, as well as offices, Business and personal services, and limited Residential Uses in an Area that is convenient to transit, employment centers, resort centers, and permanent residential Areas,
- B. allow Commercial Uses that orient away from major traffic thoroughfares to avoid strip commercial Development and traffic congestion,
- C. protect views along the City's entry corridors,
- D. encourage commercial Development that contributes to the positive character of the City, buffers adjacent residential neighborhoods, and maintains pedestrian Access with links to neighborhoods, and other commercial Developments,
- E. allow new commercial Development that is Compatible with and contributes to the distinctive character of Park City, through Building materials, architectural details, color range, massing, lighting, landscaping and the relationship to Streets and pedestrian ways,
- F. encourage architectural design that is distinct, diverse, reflects the mountain resort character of Park City, and is not repetitive of what may be found in other communities, and
- G. encourage commercial Development that incorporates design elements related to public outdoor space including pedestrian circulation and trails, transit facilities, plazas, pocket parks, sitting Areas, play Areas, and public art.

Purpose of the FPZ Overlay

The purpose of the Frontage Protection Zone (FPZ) is to:

- A. preserve Park City's scenic view corridors,
- B. preserve and enhance the rural resort character of Park City's entry corridor,
- C. provide a significant landscaped buffer between Development and highway Uses,
- D. minimize curb cuts, driveways and Access points to highways,
- E. allow for future pedestrian and vehicular improvements along the highway corridors.

Frontage Protection Zone Compliance

The LMC indicates that within the FPZ no structure shall be allowed within thirty feet (30') of the nearest highway right-of-way and that all construction activity in the setback area between thirty feet (30') and one hundred feet (100') from the nearest right-of-way (Deer Valley Drive) line requires a Conditional Use Permit. The proposed parking area

will be 30 feet away from the Deer Valley Drive Right-of-Way.

Conditional Use Permit Criteria

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

(1) Size and location of the Site

No unmitigated impacts.

The proposed parking spaces will be set back 30 feet from the Deer Valley Drive Right-of-Way. The overall area for the parking spaces will be eighteen feet (18') by eighteen feet (18').

(2) Traffic considerations including capacity of the existing Streets in the Area

No unmitigated impacts.

There are no traffic considerations as the site already operates as a parking area for the Snow Country Condominiums.

(3) Utility capacity

No unmitigated impacts.

There are no utility considerations with the addition of the parking spaces.

(4) Emergency vehicle Access

No unmitigated impacts.

The internal layout of the parking plan does not impact emergency vehicle access.

(5) Location and amount of off-Street parking

Impacts have been mitigated.

The proposed parking spaces will be located thirty feet from the Right-of-Way on the east side of the landscaped area on the northeast corner of the site.

The existing complex was approved by the City in 1976 which required one (1) parking space per dwelling unit, which would be 71 spaces. The original plat calls for a total of 74 parking spaces, which were platted in the common area. There currently exist a total of 81 parking spaces, which is allocated as 72 spaces (one for each unit and one space for the laundry area), 4 spaces rented out by the HOA, and 5 spaces for visitors.

The parking requirement has changed over time creating this condominium complex legal non-compliant relating to the current parking requirement. According to the number of units and their corresponding floor area the current LMC mandates a total of 89 parking spaces in order for this complex to be considered compliant.

The purpose of this application is to add two (2) additional parking spaces to have a total of 83 parking spaces which would enable the applicant to move forward with their previous plat application which will be reviewed by the Commission. The

applicant requests to amend the Record of Survey Plat to reflect a change in the laundry area platted as common space to private. This proposed amendment previously caused an increased in the level of non-compliance which is now being mitigated with the addition of the two (2) requested parking spaces. The level of non-compliance is now being reduced with the addition of the proposed spaces.

The City acknowledges that there may be an overflow of parking from Snow Country Condos into the City Park parking lots and recommends that a parking management plan is provided to address this issue. The plan is to be approved by the Park City Planning Dept. and City Engineer.

(6) Internal vehicular and pedestrian circulation system

No unmitigated impacts.

The internal vehicular system will not change with the addition of the parking spaces and the pedestrian circulation will not be affected.

**(7) Fencing, Screening, and landscaping to separate the Use from adjoining Uses
Impacts have been mitigated.**

Since the parking lot is a buffer between the street and the residential units the fence actually starts once you approach the buildings. The entire parking lot is surrounded by landscaping except on east side where there is a rock retaining wall. This area needs to be landscaped in conjunction with the approval of the requested parking spaces. In order to facility a comprehensive approach to the site, staff recommends that the applicant submit a landscape plan for the entire site showing existing conditions and proposed landscaping within this area. The site currently complies with the required 20% amount of landscaping and 15% amount of snow storage.

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

No unmitigated impacts.

The existing buildings on site will not be changed with this application.

(9) Usable Open Space

No unmitigated impacts.

The site does not contain any usable open space. The property owner has worked in the past with the Building Department regarding compliance with the Soils Ordinance. Currently the paved areas are in compliance with such ordinance. The site is within the Soils Ordinance Boundary with known lead levels as high as 2,600 parts-per-million. As a result any soils generated would have to comply with Park City Landscaping and Maintenance of Soil Cover regulated by the City's Environmental Specialist.

(10) Signs and lighting

No unmitigated impacts.

The site has a legal non-conforming sign within the Frontage Protection Zone which has recently been updated.

The site has four (4) lights affixed to the two (2) buildings adjacent to the parking lot. The LMC indicates lighting fixtures affixed to buildings for the purpose of lighting parking areas shall be prohibited. The applicant must either remove these lights or apply a cover to them so that they do not light the parking areas.

(11) Physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing

No unmitigated impacts.

The existing buildings on site will not be changed with this application.

(12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site

No unmitigated impacts.

The applicant does not expect any issues that might affect people other than what is currently found in a residential complex. The site will need to comply with the Park City Noise Ordinance.

(13) Control of delivery and service vehicles, loading and unloading zones, and Screening of trash pickup Areas

No unmitigated impacts.

The applicant has indicated that the proposed parking spaces will be utilized for service vehicles that assist in the maintenance of the site. Loading and unloading zones and trash areas will not be affected. Staff recommends that a parking management plan is provided to address control of delivery, service vehicles, loading zones, and trash pick up. The plan is to be reviewed and approved by the Park City Planning Dept. and City Engineer.

(14) Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities

No unmitigated impacts.

The ownership is private. Long term and nightly rentals are allowed in the district. There are no unusual affects on taxing entities.

(15) Within and adjoining the Site, impacts on Environmentally Sensitive Lands, Slope retention, and appropriateness of the proposed Structure to the topography of the Site. The site is not within the Sensitive Land Overlay Zone

No unmitigated impacts

The entire site is on relatively flat land and requires no slope retention other than the rock retaining wall which is already in place along the front yard setback area located on the east side.

Staff finds good cause for this construction of the two (2) proposed parking spaces as they comply with the criteria set up for Conditional Use Permits and are found within the Frontage Protection Zone build area.

Process

The approval of this application constitutes Final Action that may be appealed following the procedures found in LMC 1-18. A Building Permit is publicly noticed by posting of the permit.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

Staff has received negative verbal public input by a resident at Snow Country Condominiums. The resident claims that there is not enough snow storage and that the proposal does not meet the landscaping requirements.

Alternatives

- The Planning Commission may approve the CUP as conditioned or amended; or
- The Planning Commission may deny the CUP and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on CUP.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The parking lot would remain as is.

Recommendation

Staffs recommends the Planning Commission hold a public hearing and consider approving the Conditional Use Permit for the construction of two (2) parking spaces within the Frontage Zone based on the Findings of Fact, Conclusions of Law, and Conditions of approval as found in this staff report.

Findings of Fact:

1. The property is located at 1150 Deer Valley Drive.
2. The property is located within the General Commercial (GC) District with Frontage Protection Zone (FPZ) Overlay.
3. The applicant proposes to construct two (2) asphalt parking spaces.
4. The proposed parking spaces are to be located on the northeast corner of the site, 30 feet south from Deer Valley Drive.
5. The proposed parking spaces will meet the minimum requirement of exterior parking spaces of nine feet (9') in width and eighteen (18') in depth.

6. There are no traffic considerations as the site already operates as a parking area for the residential Snow Country Condominiums.
7. There are no utility considerations with the addition of the parking spaces.
8. The internal layout of the parking plan does not impact emergency vehicle access.
9. There currently is a total of 81 parking spaces.
10. According to the number of units and their corresponding floor area the LMC mandates a total of 89 parking spaces in order for this complex to be considered compliant.
11. The condominium complex is legal non-compliant because it does not have the required number of parking spaces currently required by the Land Management Code.
12. The addition of two (2) parking spaces decreases the degree of non-compliance.
13. The internal vehicular system will not change with the addition of the parking spaces and the pedestrian circulation will not be affected.
14. The City acknowledges that there may be an overflow of parking from Snow Country Condos into the City Park parking lots and recommends that a parking management plan is provided to address this issue.
15. The entire parking lot is surrounded by landscaping except on east side where there is a rock retaining wall.
16. The area adjacent to the proposed parking spaces needs to be landscaped in conjunction with the approval.
17. The site currently complies with the required 20% amount of landscaping and 15% amount snow storage.
18. The existing buildings on site will not be changed with this application.
19. The site is within the Soils Ordinance Boundary with known lead levels as high as 2,600 parts-per-million.
20. Any soils generated would have to comply with Park City Landscaping and Maintenance of Soil Cover regulated by the City's Environmental Specialist.
21. The site has a legal non-conforming sign within the Frontage Protection Zone which has recently been updated.
22. The site has four (4) lights affixed to the two (2) buildings adjacent to the parking lot.
23. The LMC indicates lighting fixtures affixed to buildings for the purpose of lighting parking areas shall be prohibited.
24. A parking management plan is to be provided to address control of delivery, service vehicles, loading zones, and trash pick up.

Conclusions of Law:

1. The application complies with all requirements of the Land Management Code.
2. The use will be compatible with surrounding structures in use, scale, mass, and circulation;
3. The use is consistent with the Park City General Plan, as amended; and
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval:

1. The applicant will work with Park City's Environmental Coordinator prior to beginning any work to assure compliance with Park City Landscaping and Maintenance of Soil Cover.
2. The applicant shall bring the non-compliant light fixtures into compliance with the Park City lighting requirements prior building permit issuance to use of the new parking spaces.
3. The applicant will construct the two (2) proposed parking spaces within a year of issuance of this Conditional Use Permit.
4. The applicant will include the proposed parking spaces within the building permit required for the private unit conversion if approved.
5. The applicant is required to submit a landscape plan for the entire site showing existing conditions and proposed landscaping. The landscape plan is to be reviewed and approved by the Park City Planning Dept.
6. A parking management plan is to be submitted to the City to mitigate impacts of overflow into City Park and is to address control of delivery, service vehicles, loading zones, and trash pick up, etc. The plan is to be reviewed and approved by the Park City Planning Dept. and City Engineer.

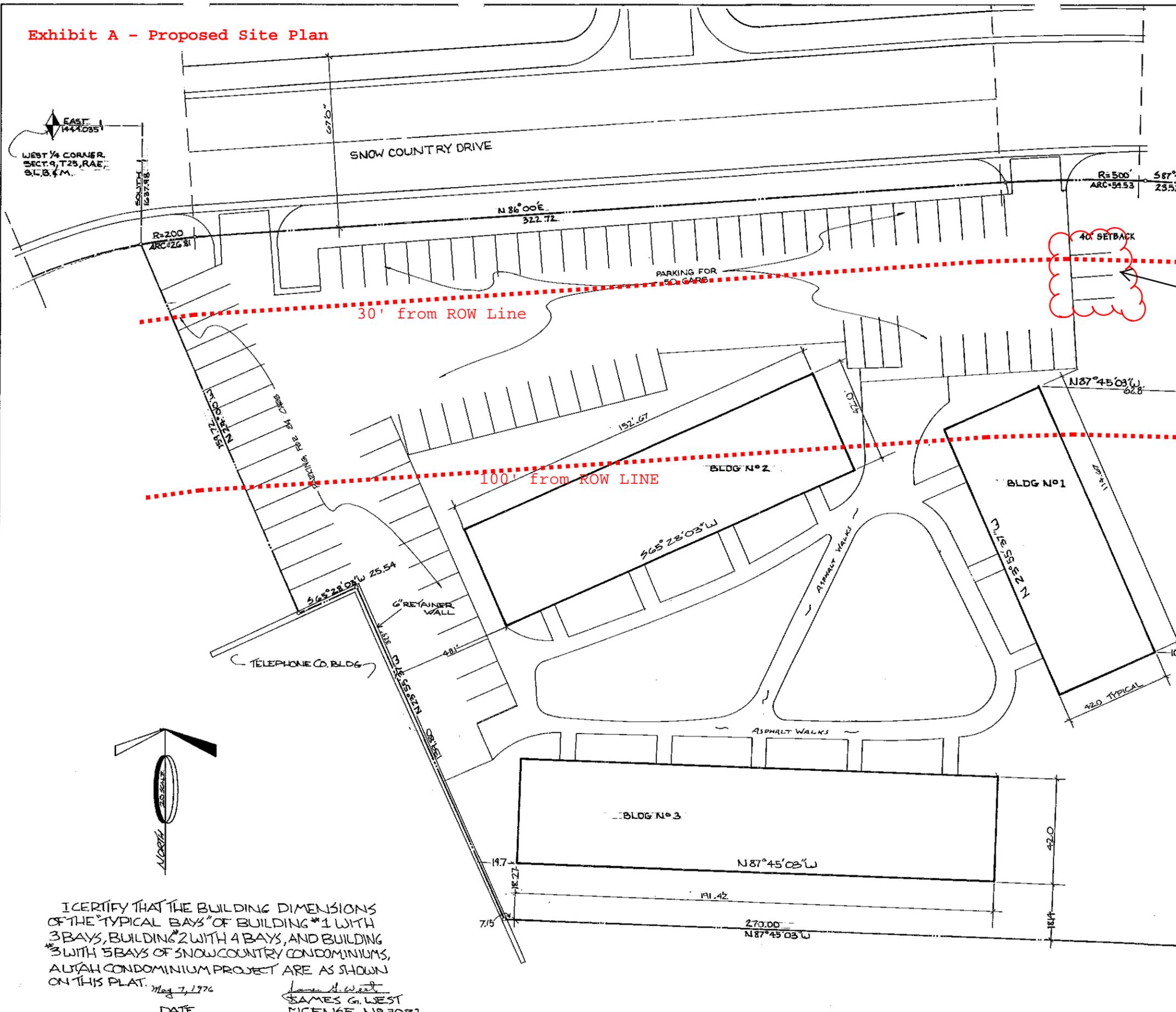
Exhibits

Exhibit A – Proposed Site Plan

Exhibit B – HOA approval letter

Exhibit A - Proposed Site Plan

DEC 14 2009



The parking pad to be set back 40' from the front property line. To measure 18' x 18' and be made of asphalt.

I CERTIFY THAT THE BUILDING DIMENSIONS OF THE "TYPICAL BAYS" OF BUILDING #1 WITH 3 BAYS, BUILDING #2 WITH 4 BAYS, AND BUILDING #3 WITH 5 BAYS OF SNOW COUNTRY CONDOMINIUMS, ALTAH CONDOMINIUM PROJECT ARE AS SHOWN ON THIS PLAT.

James G. West
 JAMES G. WEST
 LICENSE NO 3082

DATE

EXHIBIT "A" RECORD OF SURVEY MAP OF
 SNOW COUNTRY
 CONDOMINIUMS
 "ALTAH CONDOMINIUM PROJECT"
 LOCATED IN THE SW 1/4 OF SEC 9 TOWNSHIP 2
 SOUTH RANGE 4 EAST S.L.C. BASE & MERIDIAN
 PREPARED BY: J.J. JOHNSON & ASSOCIATES
 1515 PARK AVENUE P.O. BOX 1661
 PARK CITY, UTAH 84060

RECORDED ENTRY NO 153157
 STATE OF UTAH, COUNTY OF SUMMIT;
 RECORDED & FILED AT THE REQUEST OF
 BY: Summit ca Title

DATE 8-6-76 TIME 1:05
 BOOK PAGE
 FEE SUMMIT COUNTY RECORDER

SHEET 3
 OF 5
 Page 151 of 327

Exhibit B - HOA approval letter

Francisco Astorga

From: Chris Haynes [chaynes@ppbh.com]
Sent: Friday, March 12, 2010 1:12 PM
To: Francisco Astorga
Subject: Snow Country

Francisco,

Regarding the Conditional Use Permit for Snow Country Condominiums addition of two parking spaces for maintenance on the east side of the current parking area, the association has received response in the affirmative.

FCS Property Management received 54 votes out of a total 71 possible unit owner responses. Of the response votes 50 were for the Conditional Use Permit and 4 were against the Conditional Use Permit. 50 yes votes comes to a 70.45%, which per Article XXVI in the CC&R's is above the 6.66% required to amend documents or maps.

Therefore we request the application for the permit to be deemed complete. We would appreciate a response from you regarding this situation.

Below are the dates of projects at Snow Country Condominiums you requested per our phone conversation 3/10/2010.

- The parking lot was replaced in 2006
- The landscaping was redone in 2007
- The additional lights were put in in 2007/2008

Please let me know if any additional information is needed.

I would appreciate being appraised of any additional grievances presented by current owners of Snow Country units so we can address them as quickly as possible.

Hoping to hear from you early next week.

Thank you,
Chris Haynes

+ + + + + + + + + + + + + + +
 Chris Haynes | Agent
LITTLE & CO. REAL ESTATE
 Cell 801-209-9300 Fax 801-582-4550

Planning Commission Staff Report



Subject: Snow Country Condominiums
Author: Francisco Astorga
Project Number: PL-09-00768
Date: April 28, 2010
Type of Item: Administrative – Amendment to Record of Survey

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the Snow Country Condominiums Amendment to Record of Survey Plat and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

Description

Applicant: Snow Country Condominiums HOA
represented by Brandon Bertagnole and Chris Haynes
Location: 1150 Deer Valley Drive
Zoning: General Commercial (GC) with Frontage Protection Zone
(FPZ) Overlay
Adjacent Land Uses: Commercial and Open Space
Reason for Review: Amendments to Record of Survey Plats require Planning
Commission review and City Council approval

Background

On August 14, 2009 the City received a completed application for the Snow Country Condominiums Amendment to Record of Survey Plat. Snow Country Condos is located at 1150 Deer Valley Drive between Park Avenue and the Bonanza/Deer Valley Drive intersection. It is a 71 unit condominium complex. The plat was recorded with the County in 1976. The proposed amendment converts the 556 square feet of common area into a private one bedroom unit.

The plat shows an area within one of the buildings that is platted common and labeled "laundry". According to the applicant the laundry facility has not been in operation for several years. The HOA has submitted an application to amend the Record of Survey to change the common laundry to a private dwelling unit. The subject area is exactly the same area as a one bedroom lower level unit. The applicant has expressed that the room is plumbed and wired and will not require any structural and exterior modifications. The HOA has indicated that the once the area is platted privately the HOA would rent out the unit to an on-site property manager. The HOA would also have the ability to sell the unit if they deemed desirable.

During the October 28, 2009 meeting the Planning Commission heard this application during their work session and their regular meeting as a public hearing was held. At

that meeting the Commission agreed with Staff's recommendation of not supporting the amendment to the Record of Survey due to the increase of the degree of the existing non-compliance due to the lack of parking mandated by the LMC. The Commission recommended to the applicant to consider other options for complying with the Code and continued the item to the December 9, 2009 meeting.

During the December 9, 2009 meeting the Planning Commission opened the public hearing and continued the item to a date uncertain since the applicant did not have any other options at the time. The only comments made were from a Snow Country Condominium resident opposing to the applicant's request.

In December 2009 the applicant submitted a Conditional Use Permit application for the construction of two (2) parking spaces within the Frontage Protection Zone. That application is being heard contemporaneously with this one.

Analysis

Purpose of the GC District

The purpose of the General Commercial District is to:

- A. allow a wide range of commercial and retail trades and Uses, as well as offices, Business and personal services, and limited Residential Uses in an Area that is convenient to transit, employment centers, resort centers, and permanent residential Areas,
- B. allow Commercial Uses that orient away from major traffic thoroughfares to avoid strip commercial Development and traffic congestion,
- C. protect views along the City's entry corridors,
- D. encourage commercial Development that contributes to the positive character of the City, buffers adjacent residential neighborhoods, and maintains pedestrian Access with links to neighborhoods, and other commercial Developments,
- E. allow new commercial Development that is Compatible with and contributes to the distinctive character of Park City, through Building materials, architectural details, color range, massing, lighting, landscaping and the relationship to Streets and pedestrian ways,
- F. encourage architectural design that is distinct, diverse, reflects the mountain resort character of Park City, and is not repetitive of what may be found in other communities, and
- G. encourage commercial Development that incorporates design elements related to public outdoor space including pedestrian circulation and trails, transit facilities, plazas, pocket parks, sitting Areas, play Areas, and public art.

The proposed amendment to the record of survey plat creates one (1) additional dwelling unit in the existing multi-unit dwelling. Staff has reviewed the proposed amendment to the record of survey plat and found a non-compliance with the Land Management Code (LMC) requirements for parking.

The existing complex was approved by the City in 1976 which required one (1) parking space per dwelling unit, which would be 71 spaces. The original plat calls for a total of 74 parking spaces, which were platted in the common area. There currently exist a total of 81 parking spaces, which is managed as 72 spaces (one for each unit and one space for the laundry), 4 spaces for rental by the HOA, and 5 spaces for visitors. The parking requirement has changed over time creating this condominium complex legal non-compliant.

The City acknowledges that there may be an overflow of parking from Snow Country Condos into the City Park parking lots and recommends that a parking management plan is provided to address this issue. The plan is to be approved by the Park City Planning Dept. and City Engineer.

The LMC currently requires the following number of parking spaces depending on the size of the unit:

| | | |
|---------------------|---|-----------------------|
| Multi-Unit Dwelling | Apartment/condominium not greater than 650 sq. ft. floor area | 1 per dwelling unit |
| | Apartment/condominium greater than 650 sq. ft. and less than 1,000 sq. ft. floor area | 1.5 per dwelling unit |
| | Apartment/condominium greater than 1,000 sq. ft. and less than 2,500 sq. ft. floor area | 2 per dwelling unit |
| | Apartment/condominium 2,500 sq. ft. floor area or more | 3 per dwelling unit |

According to the number of existing units and their corresponding floor areas the LMC mandates a total of 89 parking spaces per the following analysis:

| Number of units - floor area | Required parking spaces |
|------------------------------|-------------------------|
| 24 units - 575 sq. ft. | 24 |
| 11 units - 556 sq. ft. | 11 |
| 24 units - 827 sq. ft. | 36 |
| 12 units - 773 sq. ft. | 18 |
| 71 units | 89 |

Currently the parking is non-compliant because the LMC requires 89 spaces and there are only 81 spaces on site. In conjunction with this application the applicant has also submitted a Conditional Use Permit (CUP) application for the construction of two (2) additional parking spaces within the Frontage Protection Zone. The purpose of the CUP application is to not make the degree of non-compliance greater by converting the laundry into a unit since the additional parking spaces will address the parking needs of that unit.

The additional conversion of the laundry area from common into a private one (1) bedroom dwelling unit will increase the number of required parking spaces from 89 to

90. If the CUP is approved the site will have a total of 83 approved parking spaces. The site will remain legal non-compliant regarding to the parking but the degree of non-compliance will be reduced since the site will be lacking seven (7) parking spaces instead of eight (8).

Chapter 15-9 of the LMC regulates non-conforming uses and non-complying structures. While non-complying structures may continue, this chapter is intended to limit enlargement, alteration, restoration, or replacement which would increase the discrepancy between existing conditions and the development standards prescribed by the LMC. Applications are reviewed to ensure that they are reducing the degree of non-compliance. Section 15-9-6(A) indicates the following:

Any Non-Complying Structure may be repaired, maintained, altered, or enlarged, provided that such repair, maintenance, alteration, or enlargement shall neither create any new non-compliance nor shall increase the degree of the existing non-compliance of all or any part of such Structure.

Staff finds good cause for this amendment to Record of Survey Plat for Snow Country Condominiums due to the decrease of the degree of non-compliance due to the lack of parking spaces outlined above.

Process

The approval of this application constitutes Final Action that may be appealed following the procedures found in LMC 1-18. A Building Permit is publicly noticed by posting of the permit.

Department Review

This project has gone through an interdepartmental review. All items have been addressed throughout this staff report.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

Staff has received negative verbal public input by a resident at Snow Country Condominiums. The resident claims that there is not enough snow storage and that the proposal does not meet the landscaping requirements.

Alternatives

- The Planning Commission may forward positive recommendation to the City Council for the Snow Country Condominiums Amendment to Record of Survey Plat as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for Snow Country Condominiums Amendment to Record of Survey Plat and direct staff to make Findings for this decision; or

- The Planning Commission may continue the discussion on Snow Country Condominiums Amendment to Record of Survey Plat.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The laundry area would remain as is and no improvements could take place.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the Snow Country Condominiums Amendment to Record of Survey Plat and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance with Proposed Amendment to Record of Survey Plat

Exhibit B – Aerial & Vicinity Map

Exhibit C – Original Record of Survey Plat

Exhibit D – Minutes from 10.28.2009 Planning Commission work session

Exhibit E – Minutes from 10.28.2009 Planning Commission regular meeting

Exhibit F – Minutes from 12.09.2009 Planning Commission regular meeting

Exhibit A – Draft Ordinance No. 10-

**AN ORDINANCE APPROVING THE SNOW COUNTRY CONDOMINIUMS
AMENDMENT TO RECORD OF SURVEY PLAT LOCATED AT 1150 DEER VALLEY
DRIVE, PARK CITY, UTAH.**

WHEREAS, the owners of the property located at 1150 Deer Valley Drive have petitioned the City Council for approval of the Snow Country Condominiums Amendment to Record of Survey; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on April 28, 2010, to receive input on the Snow Country Condominiums Amendment to Record of Survey Plat;

WHEREAS, the Planning Commission, on April 28, 2010, forwarded a positive recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Snow Country Condominiums Amendment to Record of Survey Plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Snow Country Condominiums Amendment to Record of Survey Plat as shown in Attachment A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 1150 Deer Valley Drive.
2. The property is located within the General Commercial (GC) District.
3. The existing Record of Survey Plat shows an area within one of the buildings that is platted common and labeled “laundry”.
4. The applicant requests to amend 556 square feet from common (laundry) to private.
5. The proposed amendment adds one (1) additional dwelling unit in the existing multi-unit dwelling.
6. The subject area is exactly the same area as a one bedroom lower level unit.
7. According to the number of units and their corresponding floor area the LMC mandates a total of 89 parking spaces in order for this complex to be considered compliant.

8. The condominium complex is legal non-compliant because it does not have the required number of parking spaces currently required by the Land Management Code.
9. The current parking non-compliance is that the LMC requires 89 spaces and there are only 81 spaces on site.
10. The applicant has also submitted a Conditional Use Permit (CUP) application for the construction of two (2) additional parking spaces within the Frontage Protection Zone to reduce the degree of non-compliance relating to the parking requirement.
11. The additional conversion of the laundry area from common into a private one (1) bedroom dwelling unit will increase the number of required parking spaces from 89 to 90.
12. If the CUP is approved the site will have a total of 83 parking spaces.
13. The site will remain legal non-compliant regarding to the parking but the degree of non-compliance will be reduced since the site will be short of seven (7) parking spaces instead of eight (8).
14. The City acknowledges that there may be an overflow of parking from Snow Country Condos into the City Park parking lots and recommends that a parking management plan is provided to address this issue.

Conclusions of Law:

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment (or Record of Survey) for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment (or Record of Survey) at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. If the Conditional Use Permit for the construction of two (2) parking spaces within the Frontage Protection Zone is approved, such improvements shall take place prior to final plat recordation.
4. All conditions of approval of the Snow Country Condominiums Conditional Use Permit for the construction of two (2) parking spaces within the Frontage Protection Zone shall continue to apply.
5. A parking management plan is to be submitted to the City. The plan is to be reviewed and approved by the Park City Planning Dept. and City Engineer.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 20th day of May, 2010.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR
ATTEST:

Jan Scott, City Recorder

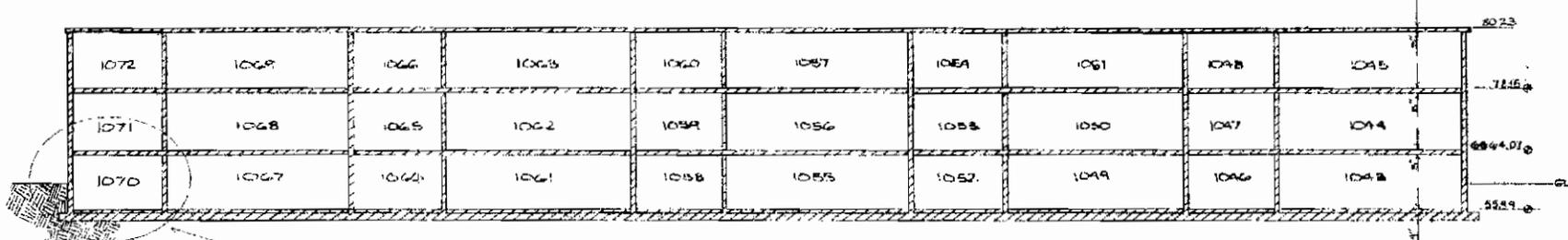
APPROVED AS TO FORM:

Mark Harrington, City Attorney

Attachment A – Proposed Amendment to Record of Survey Plat

Attachment A - Proposed Amendment to Record of Survey Plat

Proposed Snow Country Modification



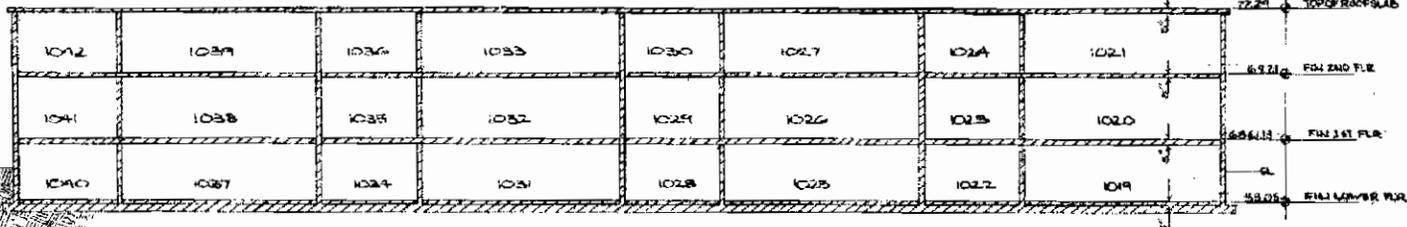
Unit 1070 will be created pursuant to this proposed plat amendment. The existing laundry area will become a unit

BUILDING NO. 3 (3 MODULE) SECTION A-A
 NOTE: ALL CROSS-HATCHED AREAS TO THE COMMON OWNERSHIP ARE NOT CROSS-HATCHED TO BE PRIVATE OWNERSHIP

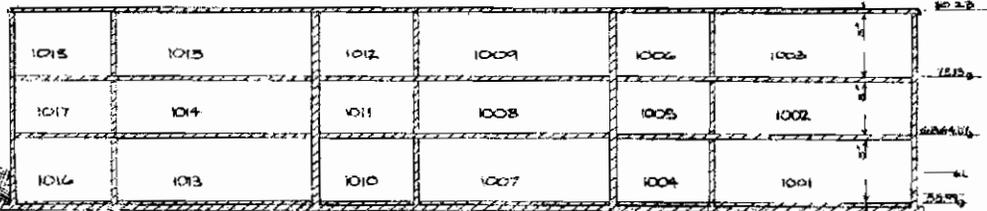
I CERTIFY THAT THE BUILDING DIMENSIONS OF THE TYPICAL BAYS OF BUILDING #1 WITH 3 BAYS, BUILDING #2 WITH 4 BAYS, AND BUILDING #3 WITH 5 BAYS OF SNOW COUNTRY CONDOMINIUMS UTAH CONDOMINIUM PROJECT ARE AS SHOWN ON THIS PLAT

Aug 7, 2009
 DATE

James G. West
 JAMES G. WEST
 LICENSE NO. 3082



BUILDING NO. 2 (4 MODULE) SECTION A-A



BUILDING NO. 1 (3 MODULE) SECTION A-A

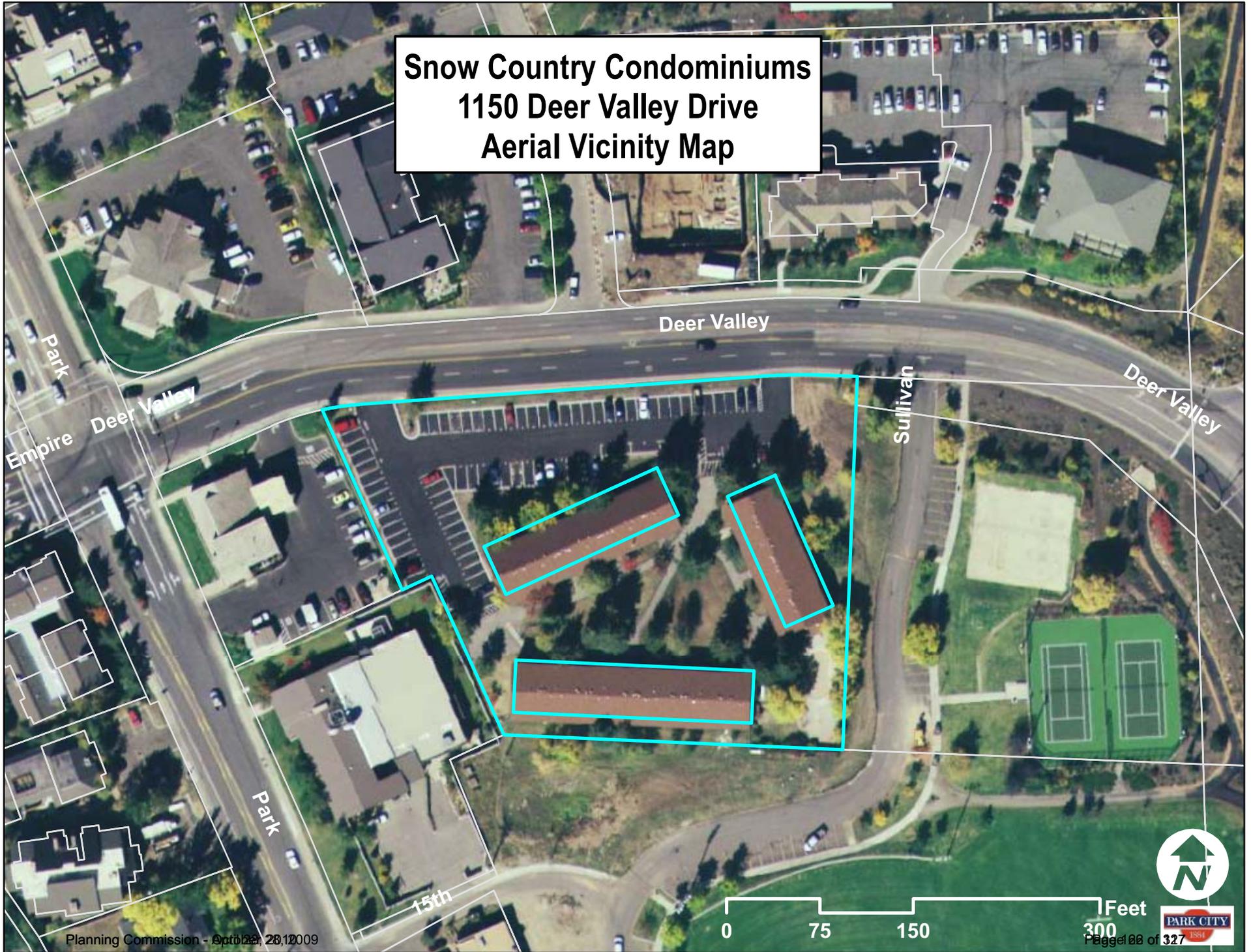
OWNER _____
 LAND SURVEYOR _____
 BOARD _____
 MAYOR _____
 CITY RECORDER _____
 PLANNING COMMISSION CHAIR _____
 CITY ENGINEER _____
 CITY ATTORNEY _____

EXHIBIT 'A' RECORD OF SURVEY MAP OF
 SNOW COUNTRY
 CONDOMINIUMS
 UTAH CONDOMINIUM PROJECT
 LOCATED IN THE SW 1/4 OF SEC. 9 TOWNSHIP 2
 SOUTH RANGE 4 EAST S.L.C. BASE & MERIDIAN
 PREPARED BY: J. JOHNSON & ASSOCIATES
 1515 PARK AVENUE P.O. BOX 1661
 PARK CITY, UTAH 84060
 RECORDED (ENTRY) NO. 133157
 STATE OF UTAH, COUNTY OF SUMMIT
 RECORDED & FILED AT THE REQUEST OF _____
 BY: _____
 DATE 8.27.09 TIME 1.05
 BOOK _____ PAGE _____
 FEE SUMMIT COUNTY RECORDER _____

SHEET 2
 OF 5

AUG 14 2009

**Snow Country Condominiums
1150 Deer Valley Drive
Aerial Vicinity Map**



OWNER'S CERTIFICATE OF CONSENT TO RECORD

KNOW ALL MEN BY THESE PRESENTS THAT WE, RAY I. JOHNSON, PRESIDENT AND MERLE H. HUSETH, VICE PRESIDENT, TREASURER, OF GREATER PARK CITY COMPANY, A UTAH CORPORATION, WHO ARE THE OWNERS OF THE TRACT OF LAND DESCRIBED HEREON AND SNOW COUNTRY CONDOMINIUMS, A UTAH CONDOMINIUMS PROJECT, LOCATED ON SAID TRACT OF LAND, DO HEREBY MAKE THIS CERTIFICATE FOR AND ON BEHALF OF SAID CORPORATION BY AUTHORITY OF DULY PASSED RESOLUTION BY ITS BOARD OF DIRECTORS OF SAID CORPORATION, THAT SAID CORPORATION HAS CAUSED A SURVEY TO BE MADE AND THIS RECORD OF SURVEY MAP CONSISTING OF 5 SHEETS TO BE PREPARED AND SAID CORPORATION HAS CONSENTED AND DOES HEREBY CONSENT TO RECORDATION OF THIS RECORD OF SURVEY MAP IN ACCORDANCE WITH THE UTAH CONDOMINIUM OWNERSHIP ACT

IN WITNESS WHEREOF WE HAVE HEREUNTO SET OUR HANDS THIS 24th DAY OF June; A.D. 1976

GREATER PARK CITY COMPANY
A UTAH CORPORATION

Ray I. Johnson
RAY I. JOHNSON
PRESIDENT

Merle H. Huseth
MERLE H. HUSETH
VICE PRESIDENT
TREASURER

PARK CITY APPROVAL

ON THIS 19 DAY OF June, 1976, THE CITY OF PARK CITY, A BODY POLITICAL AND CORPORATE OF THE STATE OF UTAH AND THE MUNICIPALITY IN WHICH THE SNOW COUNTRY CONDOMINIUMS ARE LOCATED, HEREBY GIVES FINAL APPROVAL TO SAID PROJECT, TO THE DECLARATION RECORDED CONCURRENTLY HEREWITH, TO THE RECORD SURVEY MAP CONSISTING OF FIVE SHEETS NUMBERED 1-5 AND TO THE ATTRIBUTES OF SAID PROJECT WHICH ARE MENTIONED IN SECTION 57-8-25 (3) OF THE UTAH CONDOMINIUM OWNERSHIP ACT AS AMENDED AND EXPANDED BY THE LAW OF UTAH, 1975, CHAPTER 173, SECTION 173. BY Scott Urwin MAYOR
BY Gene C. Duke RECORDER

ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF SUMMIT
BE IT REMEMBERED THAT ON THIS 24th DAY OF June A.D. 1976, PERSONALLY APPEARED BEFORE THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, RAY I. JOHNSON, PRESIDENT, AND MERLE H. HUSETH, VICE PRESIDENT, TREASURER OF GREATER PARK CITY COMPANY, A UTAH CORPORATION WHO BEING BY ME DULY SWORN DID SAY THAT THEY ARE THE PRESIDENT AND VICE PRESIDENT, TREASURER OF SAID CORPORATION AND THAT THE WITHIN AND FOREGOING OWNER'S CERTIFICATE OF CONSENT TO RECORD WAS SIGNED FOR AND IN BEHALF OF SAID CORPORATION BY AUTHORITY OF ITS BY-LAWS AND A RESOLUTION DULY PASSED BY ITS BOARD OF DIRECTORS, AND RAY I. JOHNSON AND MERLE H. HUSETH DULY ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME.

Paula D. Spring
NOTARY PUBLIC

RESIDING IN Wasatch COUNTY, UTAH
MY COMMISSION EXPIRES 6-1-77
DATE

SURVEYOR'S CERTIFICATE

I JAMES G. WEST, SALT LAKE CITY, UTAH, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR AND THAT I HOLD LICENSE NO 3082, AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH, AND I HAVE MADE A SURVEY OF THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT A POINT EAST 1444.03 FEET & SOUTH 1637.98 FEET FROM THE WEST QUARTER CORNER OF SECTION 9, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN, SAID POINT BEING ON A CURVE TO THE RIGHT, THE RADIAL POINT OF WHICH IS SOUTH 11°40'50" EAST 200.00 FEET; AND RUNNING THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE 26.81 FEET TO A POINT OF TANGENCY; THENCE NORTH 86°00' EAST 322.72 FEET TO A POINT OF A 500.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE EASTERLY ALONG THE ARC OF SAID CURVE 54.53 FEET TO A POINT OF TANGENCY; THENCE SOUTH 87°45'03" EAST 23.51 FEET; THENCE SOUTH 2°14'57" WEST 300.00 FEET; THENCE NORTH 87°45'03" WEST 270.00 FEET; THENCE NORTH 23°55'37" WEST 139.80 FEET; THENCE SOUTH 65°28'03" WEST 25.54 FEET; THENCE NORTH 24°00' WEST 19.72 FEET TO THE POINT OF BEGINNING. AREA BEING APPROXIMATELY 2.295 ACRES.

I FURTHER CERTIFY THAT THE ABOVE DESCRIPTION DESCRIBES THE LAND SURFACE UPON WHICH HAS BEEN CONSTRUCTED "SNOW COUNTRY CONDOMINIUMS" IN ACCORDANCE WITH THE UTAH CONDOMINIUM OWNERSHIP ACT. I FURTHER CERTIFY THAT THE REFERENCE MARKERS AS SHOWN ON THIS PLAT ARE LOCATED AS SHOWN, AND ARE SUFFICIENT TO READILY RETRACE OR RE-ESTABLISH THIS SURVEY.

DATE 20 June 7, 1976

James G. West
JAMES G. WEST
LICENSE NO 3082

EXHIBIT "A" RECORD OF SURVEY MAP OF

SNOW COUNTRY
CONDOMINIUMS

A UTAH CONDOMINIUM PROJECT

LOCATED IN THE S.W. 1/4 OF SEC 9, TOWNSHIP 2 SOUTH, RANGE 4 EAST SLC BASE & MERIDIAN.

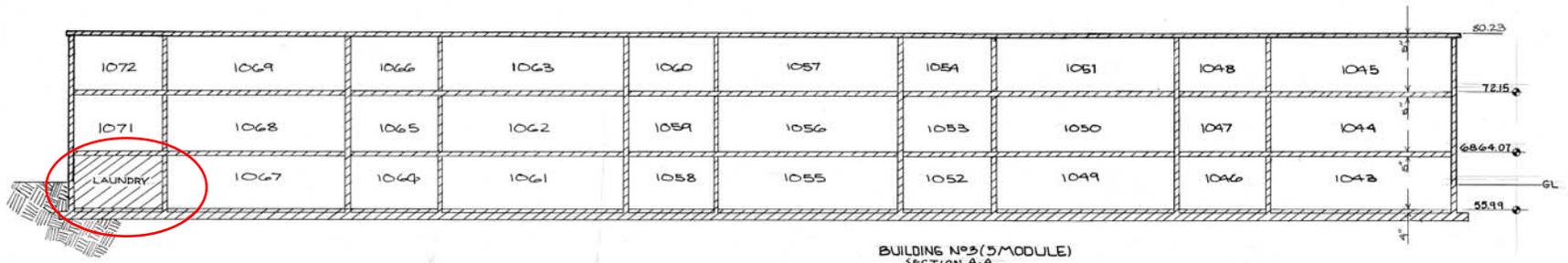
PREPARED BY: JJ JOHNSON & ASSOCIATES
1515 PARK AVE. PARK CITY, UTAH

SHEET 1
OF 5

RECORDED ENTRY NO 133157 STATE OF UTAH,
COUNTY OF SUMMIT;

RECORDED & FILED AT THE REQUEST OF Summit Co. Title
BY: _____
DATE 8-26-76 TIME 1:05 BOOK --- PAGE ---
FEE 37.00 Paula D. Spring
SUMMIT COUNTY RECORDER

SNOW COUNTRY 1976



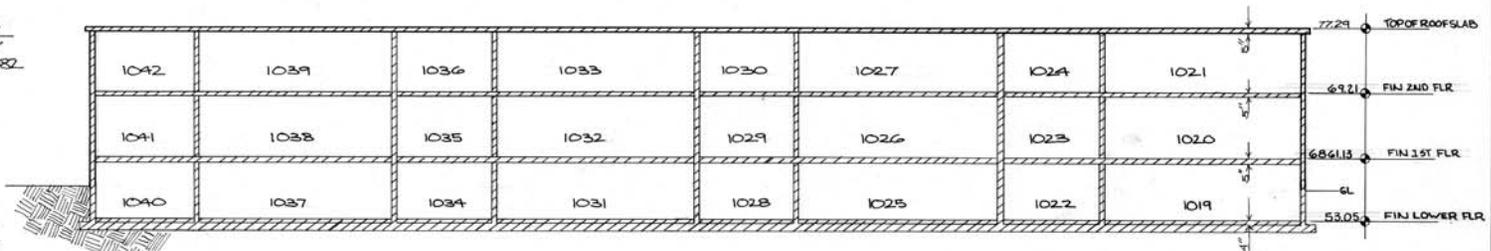
BUILDING NO. 3 (5 MODULE)
SECTION A-A

NOTE - ALL CROSS-HATCHED AREAS TO BE COMMON OWNERSHIP AREAS NOT CROSS-HATCHED TO BE PRIVATE OWNERSHIP

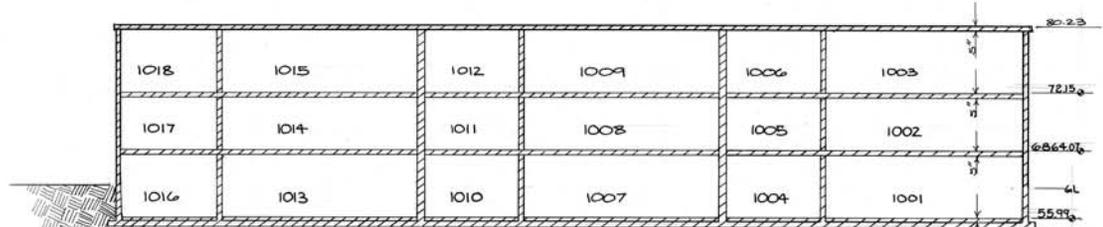
I CERTIFY THAT THE BUILDING DIMENSIONS OF THE "TYPICAL BAYS" OF BUILDING NO. 1 WITH 3 BAYS, BUILDING 2 WITH 4 BAYS, AND BUILDING 3 WITH 5 BAYS OF SNOW COUNTRY CONDOMINIUMS UTAH CONDOMINIUM PROJECT ARE AS SHOWN ON THIS PLAN.

May 3, 1976
DATE

James G. West
JAMES G. WEST
LICENSE NO. 3082



BUILDING NO. 2 (4 MODULE)
SECTION A-A



BUILDING NO. 1 (3 MODULE)
SECTION A-A

EXHIBIT "A" RECORD OF SURVEY MAP OF

SNOW COUNTRY
CONDOMINIUMS
"UTAH CONDOMINIUM PROJECT"

LOCATED IN THE SW 1/4 OF SEC 9 TOWNSHIP 2
SOUTH RANGE 4 EASTS L.C. BASE & MERIDIAN

PREPARED BY: J. JOHNSON & ASSOCIATES
1515 PARK AVENUE, P.O. BOX 1661
PARK CITY, UTAH 84060

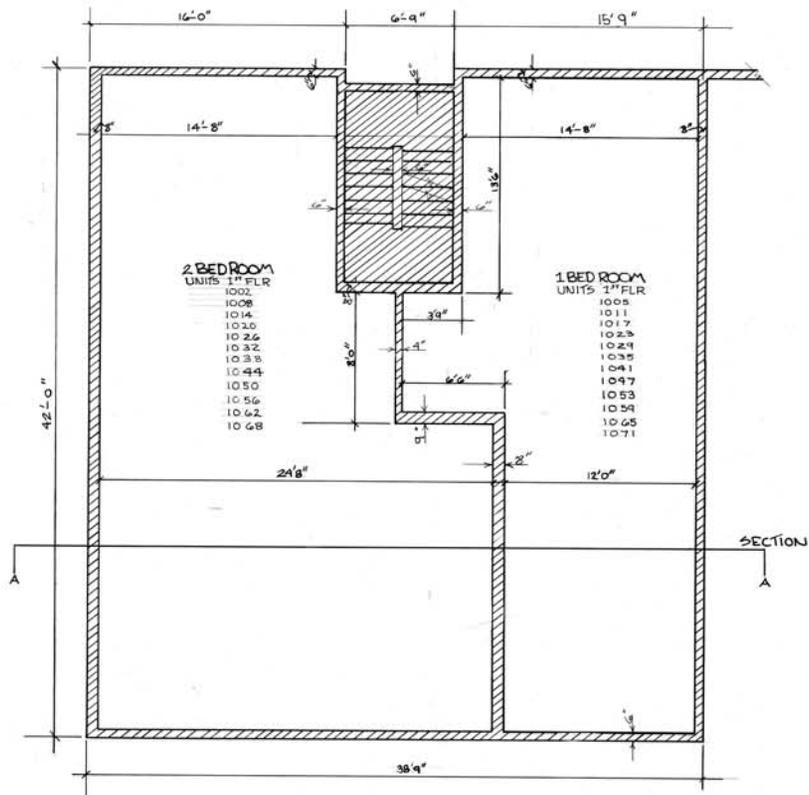
RECORDED (ENTRY) NO. 133157
STATE OF UTAH, COUNTY OF SUMMIT;
RECORDED & FILED AT THE REQUEST OF _____
By: _____

DATE 8.6.76 TIME 1:05
BOOK _____ PAGE _____

FEE SUMMIT COUNTY RECORDER

SHEET 2
OF 5

James G. West



TYPICAL BAY (FIRST FLOOR)

SCALE 1/4" = 1'-0"
DIMENSIONS TYPICAL
1st & 2nd FLOORS

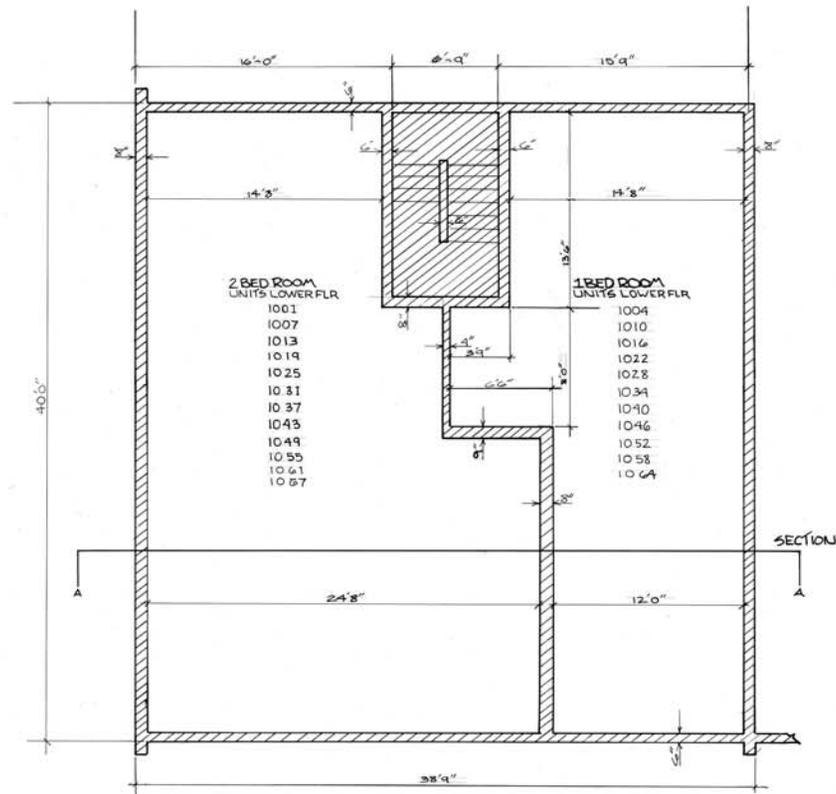
NOTE ALL CROSS HATCHED AREAS TO BE COMMON OWNERSHIP ARE NOT CROSS HATCHED TO BE PRIVATE OWNERSHIP

ALL DIMENSIONS ARE TO THE FINISHED SURFACE

I CERTIFY THAT THE BUILDING DIMENSIONS OF THE TYPICAL BAYS OF BUILDINGS #1 WITH 3 BAYS, BUILDING 2 WITH 4 BAYS AND BUILDING 3 WITH 5 BAYS OF SNOW COUNTRY CONDOMINIUMS, UTAH CONDOMINIUM PROJECT ARE AS SHOWN ON THIS PLAN

May 7, 1976
DATE

James G. West
JAMES G. WEST
LICENSE N19302



TYPICAL BAY

EXHIBIT A RECORD OF SURVEY MAP OF

(LOWER FLOOR)

NOTE ALL CROSS HATCHED AREAS TO BE COMMON OWNERSHIP ARE NOT CROSS HATCHED TO BE PRIVATE OWNERSHIP ALL DIMENSIONS ARE TO THE FINISHED SURFACE

SNOW COUNTRY CONDOMINIUMS

A UTAH CONDOMINIUM PROJECT LOCATED IN THE SW 1/4 OF SEC 9, TOWNSHIP 2 SOUTH, RANGE 4 EAST S.L.C. BASE & MERIDIAN

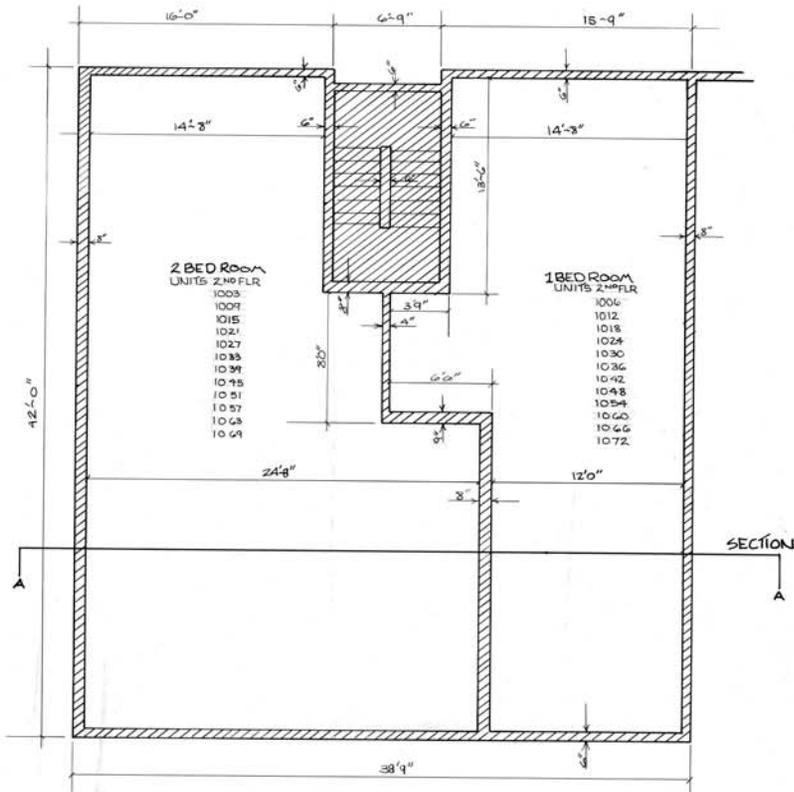
PREPARED BY: J.J. JOHNSON & ASSOCIATES
1515 PARK AVENUE P.O. BOX 1661
PARK CITY, UTAH 84060

RECORDED (ENTRY) NO. 133157
STATE OF UTAH, COUNTY OF SUMMIT;
RECORDED & FILED AT THE REQUEST OF:
By Summit Co Title

DATE 8-26-76 TIME 1:05
BOOK PAGE
FEE SUMMIT COUNTY RECORDER

SHEET 4
OF 5

SNOW COUNTRY 4165



TYPICAL BAY (SECOND FLOOR)

SCALE 1/4" = 1'-0"

NOTE ALL CROSS-HATCHED AREAS TO BE COMMON OWNERSHIP ARE NOT CROSS-HATCHED TO BE PRIVATE OWNERSHIP

ALL DIMENSIONS ARE TO THE FINISHED SURFACE

I CERTIFY THAT THE BUILDING DIMENSIONS OF THE "TYPICAL BAYS" OF BUILDING #1 WITH 3 BAYS, BUILDING 2 WITH 4 BAYS, AND BUILDING 3 WITH 5 BAYS OF SNOW COUNTRY CONDOMINIUMS, UTAH CONDOMINIUM PROJECT ARE AS SHOWN ON THIS PLAT.

May 7, 1976
DATE

James G. West
JAMES G. WEST
LICENSE NO 3082

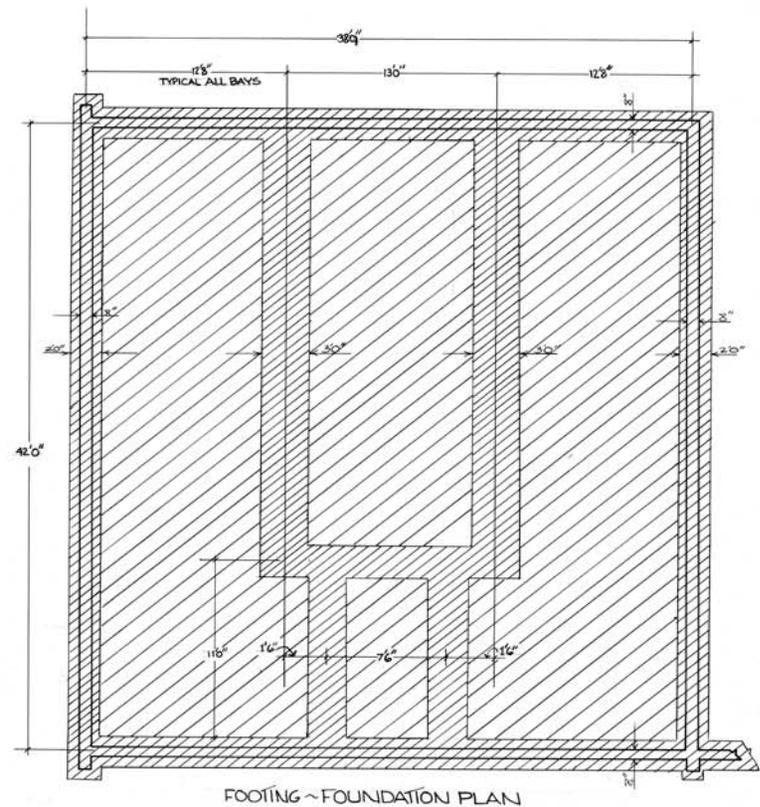


EXHIBIT "A" RECORD OF SURVEY MAP OF

SNOW COUNTRY
CONDOMINIUMS
A UTAH CONDOMINIUM PROJECT

LOCATED IN THE S.W. 1/4 OF SEC. 9 TOWNSHIP 2
SOUTH RANGE 4 EAST S.L.C. BASE & MERIDIAN

PREPARED BY: J.J. JOHNSON & ASSOCIATES
1515 PARK AVENUE, P.O. BOX 10661
PARK CITY, UTAH 84060

RECORDED (ENTRY) NO. 133157
STATE OF UTAH, COUNTY OF SUMMIT;
RECORDED & FILED AT THE REQUEST OF
BY: Summit CO T-11e

DATE 8-6-76 TIME 1:05
BOOK PAGE
FEE SUMMIT COUNTY RECORDER

SHEET 5
OF 5

SNOW COUNTRY 5065

**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
OCTOBER 28, 2009**

PRESENT: Charlie Wintzer, Julia Pettit, Dick Peek, Evan Russack, Adam Strachan, Jack Thomas, Thomas Eddington, Katie Cattan, Francisco Astorga, Kayla Sintz
Commissioner Brooke Hontz was excused

WORK SESSION ITEMS

Treasure Hill Site Visit

Due to the weather, the Treasure Hill Site visit was cancelled. The Commissioners concurred that there was a need to visit the site and rescheduled the site visit for Thursday, November 5th at 8:30 a.m. Everyone should meet at the Town Bridge. The public would be noticed for the November 5th site visit.

Planner Cattan reported that the applicants have commissioned an architect to prepare a model of the project that will be presented at the December 9th meeting. She understood that the model would show how the structure fits within the landscape. Planner Cattan noted that the purpose of the site visit was to calculate the height for a better perception and she thought the model could provide that information.

Chair Wintzer remarked that there were two issues; the height and the height in relationship to other buildings in close proximity. Commissioner Thomas stated that they were also interested in the existing natural grade versus finished grade. Commissioner Peek pointed out that the section drawings showed existing grade but not the final grade.

Pat Sweeney, the applicant, distributed information packets for Treasure Hill to each Commissioner.

**1150 Deer Valley Drive, Snow Country - Amendment to Record of Survey
(Application # PL-09-00768)**

Planner Francisco Astorga reported that this was a work session discussion for the amendment to the record of survey for the Snow Country Condominiums located at 1150 Deer Valley Drive in the General Commercial (GC) District. He explained that the purpose for the request is to create a privately owned dwelling unit from an area that was platted as common. As indicated in the Staff report, Unit 1070 is the unit being discussed. The main issue is that the complex is legal non-complying. In 1976 each unit was required to provide one parking space. Since that time, the parking regulations in the Land Management Code have changed and the parameters are different. A table in the Staff report outlined the number of units and corresponding floor area and the number of required parking spaces.

Planner Astorga reported that currently there are 71 units and 81 parking spaces. Under the current Land Management the required parking would be 89 spaces, resulting in a shortfall of 8 spaces. If the Planning Commission moved forward with the plat amendment, the number of dwelling units would increase to 72 and the parking requirement would be 90 spaces.

The Staff finds that the requested plat amendment would increase the level of non-compliance from negative eight to negative nine parking spaces. He requested input from the Planning Commission as to whether or not they concur with the Staff's finding.

Planner Astorga provided the Planning Commission with copies of a letter he received that afternoon from a property owner who opposed the requested plat amendment. Planner Astorga noted that a public hearing was scheduled during the regular meeting.

Chair Wintzer asked for the size of the unit. Planner Astorga replied that it is 556 square feet. Planner Astorga reviewed the current plat, which showed the unit designated as common space. A plat amendment would change that space to a private unit. He explained that if the unit had a legal boundary it would have been a regular living dwelling unit. The issue is that the unit was not platted as private ownership.

Commissioner Thomas noted that Snow Country buffers up against the existing parking in City Park. He wanted to know how the Code addresses additional parking on the perimeter of this site and whether shared parking is allowed. Planner Astorga replied that the issue has not been addressed. He believed that the City has had problems with the Snow Country complex over the last five to ten years, where people from the complex parked at City Park. That was the reason why the signs for "no parking from 2:00 a.m. to 6:00 a.m." were posted. Parking problems have not occurred because of the new parking regulation at City Park.

Christina Haines stated that she owns a unit in the Snow Country condominiums and she sits on the HOA Board. Ms. Haines remarked that Unit 1070 has always been there and nothing would need to be changed. Parking stall #70 has been designated to that unit and no one has ever used it because Unit 1070 is not occupied. Ms. Haines stated that the unit would continue to be common because every person who owns a piece of the property has a piece of that unit. She explained that they previously had problems with people who just loitered there and had nothing to do with Snow Country Condos. Because of that, the unit was locked and it has been sitting empty for the five years since she purchased her unit. The hope is that the owners could all earn a little revenue to put towards snow plowing and other maintenance. Ms. Haines believed the parking problem has been addressed and they now have owners who really care about their units. She took a poll and out of 71 units, 70 of the unit owners favor the plat amendment to turn this space into a private unit. She noted that the space has always had a bedroom and a bathroom, as well as the area for the washer and dryer. She noted that there is a tiny kitchen and the intent is to have a live-site person who can help with some of the maintenance. Ms. Haines stated that a security company was hired to police the parking. Since then the Snow Country unit owners no longer have parking problems and some spaces are left empty.

Ms. Haines stated that she oversaw the rebuild of the parking. When the re-striping was done, the configuration was changed and each parking space is slightly larger than what the law requires. She remarked that in theory, they could re-stripe the parking and gain all but one of the spaces required for current compliance with the LMC.

Wintzer wanted to know why that unit was no longer used as a laundry facility. Ms. Haines replied that the machines were broken and they also have problems with vagrants who hang around the property or wander into the units. The doors are locked to the hallways but if one owner leave the door open it is open to anyone. She explained that the laundry room was becoming a hangout for vagrants.

Commissioner Pettit understood that there is no longer a current parking problem because a security company was hired. She asked what the security does to control the parking. Ms. Haines explained that every owner is given a tag with their unit number. Each unit is allotted a parking space, regardless of the size or number of bedrooms. In addition, there are five visitor spots and four others are rented out to bring in income. Those spaces are also communal ownership. Ms. Haines stated that when they first saw the huge parking problem, they started looking at the cause of the problem. After a two month study they determined that there was over-use of units. Landlords had purchased these units for \$25,000 to \$30,000, rented them out seasonally, and several families were living in each one. That generated too many cars and people were parking wherever they could find. Five years ago the parking stalls were assigned to numbered units, stickers were given out and they began towing. As a result, there are no signs of overcrowding. Her space is always available and as a Board member she has had no complaints in two years.

Ms. Haines clarified that the purpose for the security is to keep the condominiums secure and not necessarily to control the parking. She encouraged the Planning Commission to drive by and observe the fact that they no longer have a parking problem.

Chair Wintzer stated that he drives by Snow Country all the time and he has noticed all the work that has been done with the parking and landscaping. Chair Wintzer noted that this item was not scheduled for action and suggested that if Ms. Haines could submit a document that proves the required parking spaces could be provided, it would help alleviate some of the concerns related to the parking issue. At this point he was not inclined to vote in favor of increasing the non-compliant parking.

Commissioner Thomas asked the Staff for their recollection on how the parking for the Montage was addressed. Planner Astorga noted that the Montage was under a master planned development. Director Eddington pointed out that if parking is the only issue with the plat amendment, the Planning Commission could recommend that the applicant apply for a parking variance from the Board of Adjustment. Planner Astorga remarked that the Staff would have to do an analysis to see if Snow Country meets the criteria to reduce the parking.

Chair Wintzer stated that if the applicant can demonstrate that they can add eight additional parking spaces by re-striping, the Planning Commission could make it a condition of approval that after a year if the parking is not working, they would need to restripe the lot. That would bring them within one parking space of being compliant.

Commissioner Russack pointed out that the current parking is already non-compliant and he felt they would be setting a bad precedent if they encourage non-compliance to another degree.

Commissioner Pettit remarked that she was not challenging the parking requirements in the LMC, but by the same token, they are trying to evolve into a community that creates car-free solutions. If a parking management plan is short parking spaces, it requires someone to eliminate a car. She was not opposed to that idea, particularly given the location of Snow Country and its proximity to public transportation. Commissioner Pettit clarified that she was still on the fence on the parking issue.

Commissioner Russack suggested the idea of doing an inventory of the parking spaces and how they are used. That would tell them if the spaces are truly being used by the owners or by guests and visitors. He did not disagree with the idea of trying to reduce the use and impacts of the automobile. Commissioner Pettit stated that the caveat for allowing reduced parking is that the residents would not be adversely impacted by not providing adequate parking.

Chair Wintzer applauded Ms. Haines for doing the equivalent of a parking management plan; however, the Planning Commission needs to find a way to make it fit the Code. Commissioner Russack asked if the five spaces designated for visitors and four spaces for rental by the HOA is defined in the LMC. Planner Astorga stated that it is not defined. Commissioner Russack suggested looking at doing something different with the five visitor spaces to help meet the parking requirement. Ms. Haines stated that when the condominiums were built those spaces were extra. Now, according to the new Code, they are considered essential parking spaces. Ms. Haines stated that since there has always been a designated #70 parking space for Unit 1070, she wondered if that parking space was grandfathered in. Planner Astorga clarified that the Unit 1070 on the plat was always labeled laundry. He agreed that the parking space could have been designated to 1070, but it would be treated the same as the visitor parking or extra parking spaces. Planner Astorga clarified that the unit itself was labeled "laundry" and not "1070".

Chair Wintzer suggested that Ms. Haines work with the Staff to find options for making this work. Commissioner Thomas asked if the Code allows smaller parking spaces for compact cars. Planner Astorga replied that the Code designates a standard parking space as 9' by 18', but it allows the City Engineer to authorize smaller parking spaces.

Commissioner Peek felt the Planning Commission should not deviate from the Code to avoid setting a precedent for granting the same exception for other developments. Commissioner Strachan stated that he was uncomfortable waiving the 9th required parking space. Allowing exceptions for non-compliance is the purview of the Board of Adjustment and not the Planning Commission.

Chair Wintzer reiterated his suggestion that Ms. Haines should meet with the Staff to consider her options for complying with the Code.

Crested Butte Update

Planner Cattan reported that she, Commissioner Pettit and Planning Director Eddington went on the City Tour to Crested Butte. Planner Cattan had prepared a video and presentation for the Planning Commission. She noted that some of the recurring themes were bicycles, appropriate size homes, old sheds, and a very cute Main Street.

Chair Wintzer asked for the population of Crested Butte. Director Eddington recalled that it was just under 2,000 full time residents.

Commissioner Pettit reported that the town of Crested Butte has a similar mining history of Park City. It was established during the same time period and the architecture was very similar. In walking the streets, she was amazed at how many outbuildings had been preserved and the number of alleyways that are still alleyways. Commissioner Pettit stated that panelization is not

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Page 3

Chair Wintzer disclosed that he would be recusing himself from the Racquet Club project due to a conflict.

Commissioner Peek disclosed that he would be recusing himself from the 1950 Woodbine Way CUP. His brother owns a unit and he was involved in helping his brother address some of his concerns with the Planning Department.

Commissioner Thomas thanked the City Council for the opportunity to participate on the Planning Commission. He found it enlightening in terms of understanding how government works in the community and ways that it does not. As he leaves the Planning Commission and becomes a private citizen, the City Council will undoubtedly be hearing his unsensored input. Commissioner Thomas stated that he plans to continue participating in the Planning process and reminded the Commissioners that the Planning Commission is a regulatory board. They use the word "Planning", which is a verb meaning to do something, however, the Planning Commission mostly does regulatory processing. He stated that the Codes and the General Plan have a lot of words and criteria, but the purpose for those words is better planning to achieve a better plan.

Commissioner Thomas remarked that it is important for the Planning Commission to understand the words and details, but they also need to be able to recognize good planning and a good plan when they see it. He recommended that the Planning Commission remain as objective as possible and treat every applicant and developer the same, including the City. Commissioner Thomas thanked the Staff for being accessible and willing to help him. He believes that sometimes the Staff gets caught between the Planning Commission and the City Council and he appreciates their patience. Commissioner Thomas believed that the Staff understands Planning better than anyone because they have been educated and know the process. Commissioner Thomas thanked the Legal Department for their guidance and for keeping him out of trouble. He encouraged everyone to focus on the big picture of the community and to think of themselves as part of the whole. Planning is thinking more holistically. It is about "us" and not, I, me or my. He hoped they could shift from "not in my backyard" to a holistic approach to the community.

Commissioner Thomas appreciated the relationship he has with each of the Commissioners.

Planner Cattan reported that the North Silver appeal to the City Council has been continued to November 12th at 6:00 p.m. The City Council has requested additional information on the viewpoints and other items.

CONTINUATIONS AND PUBLIC HEARINGS

1150 Deer Valley Drive, Snow Country - Amendment to Record of Survey (Application #PL-09-00768)

Chair Wintzer opened the public hearing.

Kris Clark stated that she owns a condominium unit at Snow Country condominiums. Ms. Clark supported converting the laundry room to a residential unit. She purchased her condominium as an investment but she does not rent it. She uses it when she comes to Park City. Many of her friends

like Snow Country because it is a small place in a location where you can get on the bus or you can walk to Starbucks or Albertson's. She has heard many solutions for this issue and believes there is a way to bring Snow Country in to compliance with the current Code on parking spaces. She has personally never experienced a parking problem or had anyone park in her space. In addition, there are always many empty parking spaces. Ms. Clark assumed that if spaces were added, they would not be required to change the bylaws and assign two parking spaces to some of these units. Ms. Clark did not understand why Snow Country was out of compliance because those units have always been condominium and, therefore, structurally has never been non-complying. She did not believe there was any discrepancy between switching from a laundry room to a condo and no discrepancy between the fifteen conditions and the Code. When Snow Country was built in 1976 there were 72 units, one used for a laundry room, and seventy-two parking spaces. She understood that at one time there was actually 74 parking spaces. Ms. Clark pointed out that 72 parking spaces would have been required if the laundry room unit had been used as a condo. Because there are 72 spaces, converting the laundry room would not generate a non-compliant situation. No alterations or changes are being proposed that would trigger Section 15-9(A). In addition, they are not increasing the discrepancy between existing conditions and the development standard prescribed by the LMC. Changing the existing condition from a laundry room would not generate the need for another parking space because the space is already there. Ms. Clark understood the solutions for coming into compliance, but she was not convinced that they were out of compliance. She favored the proposed amended record of survey.

Nick Krasnick, an owner at Snow Country Condominiums, opposed changing the laundry room unit to a residential unit. Mr. Krasnick stated that he had emailed notes to Planner Astorga regarding the Snow Country CC&Rs. He understood that the Planning Commission had a lot of work to do and they do the best they can based on the information they are given. Mr. Krasnick stated that some of the information given is not true. He believed that people who know him know that he would not misrepresent information or lie, and he believes this application is a very bad idea. Mr. Krasnick stated that Snow Country does not need more renters. It needs more people to use the condominiums as they were originally intended, which is for residents or their family and friends. Mr. Krasnick stated that he was on the HOA Board when they actually put stripes and numbers in the parking lot in the early 1990's. This was done because the owners were unable to find places to park during the holidays because the renters had more than one car in the parking lot. Mr. Krasnick noted that the parking lot is now physically larger than the plat and two of the existing parking spaces would need to go through an amendment in the CC&Rs to be designated as parking spots. Mr. Krasnick stated that none of the owners he has spoken with think the current spaces are not big enough for larger cars and SUVs. He believes the only people who want smaller parking stalls are those who do not live in town and only want to generate income. Everything he has read and understands says that this proposal is not allowed and it is a bad idea.

Kris Clark stated that she had asked Mr. Krasnick about having another person actually live there and a notice was sent to all the owners asking who would be willing to sell that unit and divide the money for maintenance and repairs. All but one person favored selling the unit. They would love to have someone own it, take care of it and pay taxes. Ms. Clark stated that she lives in Salt Lake but she spends a lot of time in Park City and spends money and pays taxes. She pointed out that she pays three times more property tax than Mr. Krasnick because it is not her primary residence.

Chair Wintzer closed the public hearing.

Based on direction given during the work session, Planner Astorga requested time to speak with the HOA representative and schedule a meeting with the Staff and the City Engineer to see if there is a parking plan that would comply with the direction provided. Planner Astorga recommended that the Planning Commission continue this item to December 9, 2009.

MOTION: Commissioner Thomas moved to CONTINUE 1150 Deer Valley Drive, Snow Country Amendment to Record of Survey to December 9, 2009. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously.

380 Mountain Top Drive - Conditional Use Permit
(Application #PL-09-00736)

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Thomas moved to CONTINUE 380 Mountain Top Drive to a date uncertain. Commissioner Russack seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA/PUBLIC HEARINGS

1. **1950 Woodbine Way - Conditional Use Permit**
(Application #PL-09-00780)

Commissioner Peek recused himself and left the room.

Planner Katie Cattan reviewed the request for a conditional use permit for a brewery at 1950 Woodbine Way. She stated that the brewing process creates a dust which can be combustible. The applicant is in the process of working with the Building Department on a hazard waste material management plan. A condition of approval requires that the hazard waste material management plan must be approved by the Building Department prior to commencing the brewing operation. If the application is approved this evening and the Building Department does not approved the hazard waste material management plan, the CUP approval would become void within three months.

Planner Cattan reported that she was recently informed of a plumbing issue at this location. She would alert the Building Department, as well as the Snyderville Basin Water Reclamation, that the plumbing issue would need to be resolved. Planner Cattan clarified that the plumbing issue was not part of the Conditional Use Permit review this evening.

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Commissioner Strachan asked if a provision in State law identifies a specific period of time for the Planning Commission to make a decision on an application once the Staff has made their determination. Mr. Harrington believed the first public hearing must be scheduled within 45 days of the Staff determination. Commissioner Strachan asked Director Eddington how long it typically takes for an application to be scheduled on the agenda once the Staff makes their determination. Director Eddington stated that the application is assigned to a Planner and it is usually scheduled on the agenda within a month. Mr. Harrington noted that additional language reads "within a reasonable time" and that applies to all applications.

Commissioner Strachan asked if Mr. Harrington would advise against a hard deadline of 10:30 p.m. Mr. Harrington replied that he would not recommend setting an ending time, particularly with the current change in their meeting schedule. If they return to the traditional two meetings a month to hear applications, the Planning Commission could re-consider the matter at that time.

Chair Wintzer recommended that the Planning Commission move through the items scheduled to be continued this evening, and wait until 6:30 to begin the regular meeting. Commissioner Hontz disclosed that she previously worked with the applicant for 1765 Sidewinder Drive on issues unrelated to this project. She did not believe that association presented a conflict or affected her ability to participate and vote on that item.

Commissioner Hontz disclosed that she previously worked with two of the attorneys involved with 1440 Empire Avenue. She did not believe that association presented a conflict on those items.

Commissioner Peek disclosed that he had a brief discussion with Councilman-elect Butwinski regarding the procedure for the Racquet Club.

Commissioner Pettit stated that two months ago she had a brief meeting with Dave Olsen regarding 1440 Empire Avenue where they discussed process and procedure, but nothing specific to the project. She did not believe that discussion would affect her ability to make a decision on that application.

OPEN PUBLIC HEARING AND CONTINUE TO DATE CERTAIN

1. 1150 Deer Valley Drive, Snow Country - Amendment to Record of Survey (Application #PL-09-00768)

Chair Wintzer opened the public hearing.

Neal Krasnick stated that after researching various documents, he believes the application for 1150 Deer Valley Drive does not comply with the current Code and many things may be grandfathered in. Mr. Krasnick had filed a complaint and he assumed Planner Francisco Astorga would provide the Planning Commission with a detailed written report on why he thinks the project is not compliant. Mr. Krasnick believed that the Planning Commission was reluctant to approve converting the laundry room to a unit because they know doing so would make it further non-compliant. He encouraged the Planning Commission to deny the request for 1150 Deer Valley Drive.

There was no comment.

Chair Wintzer continued the public hearing.

MOTION: Commissioner Russack moved to CONTINUE 1150 Deer Valley Drive to a date uncertain. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

2. 518 Deer Valley Drive - Subdivision
(Application #PL-09-00733)

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer continued the public hearing.

MOTION: Commissioner Russack moved to CONTINUE 518 Deer Valley Drive to a date uncertain. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Pettit entered the meeting.

REGULAR AGENDA/PUBLIC HEARINGS

1. 1200 Little Kate Road, Racquet Club - Master Planned Development
(Application #PL-09-00785)

Chair Wintzer recused himself from this item due to a business interest with the Racquet Club on this project. Vice-Chair Russack assumed the Chair.

Planner Kayla Sintz distributed copies of a drawing that was included in the packet and noted that the new drawing showed the trees in front of the building.

Planner Sintz reviewed the application for a Master Planned Development for the Park City Racquet Club located at 500 Little Kate Road. She reported that on October 28th, the Planning Commission found initial compliance with the General Plan during a pre-application public hearing. On November 11th, the applicant came before the Planning Commission during work session and introduced the building design and architecture.

Planner Sintz stated that on December 2nd the Recreation Advisory Board, the Staff and VCBO Architecture hosted a public open house at the Racquet Club. Approximately 40 people attended. On December 3rd the project went through an update process before the City Council.

Planning Commission Staff Report



Subject: Nakoma Condominiums – First Amendment to Amended and Restated Nakoma Condominiums Plat
Author: Brooks T. Robinson
Project #: PL-10-00898
Date: April 28, 2010
Type of Item: Administrative – Condominium Plat

Summary Recommendations

Staff recommends the Planning Commission hold a public hearing for the Nakoma Condominiums First Amendment to the Amended and Restated record of survey plat for units 9 through 16 and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Topic

Applicant: Friends of Flagstaff, LLC
Location: 8800 Marsac Avenue, Lot B, Northside Subdivision II, Pod B1, Village at Empire Pass
Zoning: Residential Development (RD) as part of the Flagstaff Master Planned Development (MPD)
Adjacent Land Uses: Other development parcels of the Village at Empire Pass, Pod B1, and Open Space.

Background

On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the 1,655 acre Flagstaff Mountain area. Resolution 20-99 granted the equivalent of a “large-scale” master planned development (MPD) and set forth the types and locations of land use; maximum densities; timing of development; development approval process; as well as development conditions and amenities for each parcel.

On September 11, 2002, the Planning Commission approved a Master Planned Development for the Flagstaff Mountain Resort Phase II. This Master Planned Development included eighteen (18) detached single-family dwelling units utilizing 27 Unit Equivalents (UEs) on the Northside Village Subdivision II, Lot B; 25 townhouse multi-unit dwellings utilizing 37.5 UEs on Northside Village Subdivision II, Lot C; and a twenty-two (22) condominium multi-unit building utilizing 33 UEs on Northside Village Subdivision II, Lot D. Lot C has been developed as Ironwood at Deer Valley, Lot D is being constructed as the Grand Lodge at Deer Valley.

The Planning Commission approved an amendment to Lot B on October 27, 2004, in which the UE count on Lot B increased from 27 to 45, while maintaining the same footprint and maximum house size requirements as previously approved (3,000 square foot footprint with a maximum house size of 5,000 square feet).

The Planning Commission approved a MPD amendment to Lot B on October 26, 2005, in which the unit locations and the road alignment were reconfigured, while maintaining the same footprint and maximum house size requirements as previously approved.

On July 6, 2006, the City Council approved the Nakoma Condominiums record of survey located on Lot B. That record of survey platted the first 8 units (Units 9-16) plus additional land. The condominium record of survey for the remaining units (1-8, 17 and 18) was approved by the City Council on September 20, 2007. That record of survey has not been recorded yet and has expired.

A second amendment to the MPD was approved by the Planning Commission on April 23, 2008. That amendment allowed for the combination of units 17 and 18 into a single unit of 7,500 square feet and further allowed the distribution of the square footage to the other un-built units. Units 1-16 still have a maximum footprint of 3,000 square feet while unit 17 (combined unit) is allowed a maximum footprint of 5,000 square feet. The total Unit Equivalent count remained unchanged and cannot exceed 45 UEs (90,000 square feet).

On April 23, 2008, the Planning Commission approved a third amendment to the MPD to remove the 5,000 square foot cap on the total square footage of each unit while maintaining the total square footage cap for the project (45 Unit Equivalents or 90,000 square feet of total square footage). That amendment would allow for variations in size from 4,300 to 5,750 square feet and also maintain the cap of 3,000 square feet on the footprint. An exception to both the maximum house size and footprint was allowed with the combination of units 17 and 18. In this case, the maximum square footage would be 7,500 square feet with a footprint of 5,000 square feet. The 2,500 square feet lost from the combination of 17 and 18 can be redistributed through the other units. An amended plat was also approved in conjunction with the Third MPD Amendment. The Amended and Restated Nakoma Condominiums plat was recorded on December 31, 2008.

On November 11, 2009, the Planning Commission approved a Fourth Amendment to the MPD. The Fourth Amended MPD allows the following:

- Units 1 and 2 combined into a duplex configuration, maximum footprint of 6000 square feet.
- Unit 17 (previously combined with unit 18 into one larger unit) with an option to become a duplex, returning the unit count back 18. As a duplex, footprint increases from 5000 square feet to 6000 square feet.
- Reduce minimum unit size from 4300 to 4000 square feet.
- Maintain maximum unit size at 5,750 square feet (except if unit 18 is not constructed as a duplex with unit 17 and 17 can be 7,500sf).
- Maximum cap of 45 Unit Equivalents remain.

On January 28, 2010, the City received a completed application for the First amendment to the Amended and Restated Nakoma Condominiums plat. A plat note on each of the previous record of survey plats required the re-platting once the units were constructed to show to actual unit configuration. This First Amendment proposed record of survey is for units 9 through 16. All units have been issued Building Permits and are in various stages of construction (most completed).

Analysis

The zoning for the subdivision is Residential Development subject to the following criteria:

| | Permitted | Proposed |
|---------------|---------------------------------|-------------------------------------|
| Height | 28' (+5' for pitched roof) | No height exception |
| Front setback | 20', 25' to front facing garage | No setback reductions |
| Rear setback | 15' from Lot B boundary | Exceeds the 15' requirement (160'+) |
| Side setbacks | 12' from Lot B boundary | Exceeds the 12' requirement (30'+) |
| Parking | Two spaces required | Two spaces in garages provided |

In addition, the MPD restricts Lot B units 1-16 to a 3,000 square foot footprint with a maximum house size between 4,300 square feet and 5,750 square feet (whether considered Basement or Floor Area by LMC definition), plus 600 square feet for a garage. Unit 17 may have up to 7,500 square feet of total floor area (again, whether Basement or Floor Area as defined by the LMC) with a footprint not to exceed 5,000 square feet. The 17 units represent the irrevocable consumption of 45 Unit Equivalents.

The platted units 9-16 are the following sizes:

| | |
|---------|-------------------|
| Unit 9 | 5,564 Square feet |
| Unit 10 | 5,449 Square feet |
| Unit 11 | 5,112 Square feet |
| Unit 12 | 5,114 Square feet |
| Unit 13 | 5,541 Square feet |
| Unit 14 | 5,167 Square feet |
| Unit 15 | 4,582 Square feet |
| Unit 16 | 4,868 Square feet |

Each unit has a garage less than 600 square feet. The Total Unit Equivalents consumed in these eight units are 20.7.

Staff finds good cause for this record of survey as this condominium is consistent with the development pattern envisioned in the amended MPD, the 14 Technical Reports, and the previous requirement that the units be replatted.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

Staff has not received any public input at the time of this report.

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council for the Nakoma Condominiums First Amendment to the Amended and Restated Nakoma Condominiums record of survey plat as conditioned or amended, or
- The Planning Commission may forward a negative recommendation to the City Council for the Nakoma Condominiums First Amendment to the Amended and Restated Nakoma Condominiums record of survey plat and direct staff to make Findings for this decision, or
- The Planning Commission may continue the discussion on the Nakoma Condominiums First Amendment to the Amended and Restated Nakoma Condominiums record of survey plat.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The plat would not be in compliance with the amended Master Planned Development and previous plat requirements.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the Nakoma Condominiums First Amendment to the Amended and Restated Nakoma Condominiums record of survey plat and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance.

Exhibits

Exhibit A – Ordinance with plat

Ordinance No. 10-

AN ORDINANCE APPROVING THE NAKOMA CONDOMINIUMS FIRST AMENDMENT TO THE AMENDED AND RESTATED NAKOMA CONDOMINIUMS RECORD OF SURVEY PLAT LOCATED AT 8800 MARSAC AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property known as the Nakoma Condominiums, located at 8800 Marsac Avenue, Lot B of the Northside Village Subdivision II, have petitioned the City Council for approval of the Nakoma Condominiums First Amendment to the Amended and Restated Nakoma Condominiums record of survey plat; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on April 28, 2010, to receive input on the Nakoma Condominiums First Amendment to the Amended and Restated Nakoma Condominiums record of survey plat;

WHEREAS, the Planning Commission, on April 28, 2010, forwarded a recommendation to the City Council; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the Nakoma Condominiums First Amendment to the Amended and Restated Nakoma Condominiums record of survey plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The Nakoma Condominiums First Amendment to the Amended and Restated Nakoma Condominiums record of survey as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 8800 Marsac Avenue.
2. The Nakoma Condominiums are located in the RD-MPD zoning district.
3. The City Council approved the Flagstaff Mountain Development Agreement/Annexation Resolution 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development Agreement sets forth maximum densities, location of densities, and developer-offered amenities.

4. On September 11, 2002, the Planning Commission approved a Master Planned Development for the Flagstaff Mountain Resort Phase II (Pod B-1).
5. The approved Flagstaff Mountain Resort Phase II MPD includes a maximum density assignment and conceptual site design for eighteen (18) detached single family units utilizing not more than 27 Unit Equivalents on Northside Village Subdivision II, Lot B.
6. The Planning Commission approved an MPD amendment to Lot B on October 27, 2004, in which the UE count on Lot B increased from 27 to 45, while maintaining the same footprint and maximum house size requirements as previously approved.
7. The Planning Commission approved a second amendment to the Nakoma Master Planned Development on April 23, 2008. That amendment allowed for the combination of units 17 and 18 into a single unit of 7,500 square feet and further allowed the distribution of the square footage to the other un-built units. Units 1-16 still have a maximum footprint of 3,000 square feet while unit 17 (combined unit) is allowed a maximum footprint of 5,000 square feet. The total Unit Equivalent count remained unchanged and cannot exceed 45 UEs (90,000 square feet).
8. On April 23, 2008, the Planning Commission approved the third amendment to the MPD to remove the 5,000 square foot cap on the total square footage of each unit while maintaining the total square footage cap for the project (45 Unit Equivalents or 90,000 square feet of total square footage). That amendment would allow for variations in size from 4,300 to 5,750 square feet and also maintain the cap of 3,000 square feet on the footprint. The approved maximum building footprint for the units 1-16 detached single-family units on Northside Village Subdivision II, Lot B, is 3,000 square feet with a maximum house size between 4,300 square feet and 5,750 square feet (whether considered a Basement or Floor Area by LMC definition). An additional 600 square feet is allowed for a garage.
9. Unit 17 may be up to 7,500 square feet of floor area (again, whether Basement or Floor Area as defined by the LMC) with a footprint not to exceed 5,000 square feet.
10. On November 11, 2009, the Planning Commission approved a Fourth Amendment to the MPD. The Fourth Amended MPD allows the following:
 - Units 1 and 2 combined into a duplex configuration, maximum footprint of 6000 square feet.
 - Unit 17 (previously combined with unit 18 into one larger unit) with an option to become a duplex, returning the unit count back 18. As a duplex, footprint increases from 5000 square feet to 6000 square feet.
 - Reduce minimum unit size from 4300 to 4000 square feet.
 - Maintain maximum unit size at 5,750 square feet (except if unit 18 is not constructed as a duplex with unit 17 and 17 can be 7,500sf).
 - Maximum cap of 45 Unit Equivalents remain.
11. The proposed amended record of survey is consistent with the approved and amended Master Planned Development for the Flagstaff Mountain Resort Phase II and the previous record of survey plats requiring a replatting of the units.
12. Two parking spaces are required for each unit.
13. Each building is required to conform to the 28+5 foot height requirement of the RD zone.
14. Each building meets or exceeds the required setbacks of the RD zone.
15. Each unit has a garage less than 600 square feet.

16. The Total Unit Equivalents consumed in these eight units are 20.7 UEs.

Conclusions of Law:

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

Conditions of Approval:

- 1. The City Attorney and City Engineer will review and approve the final form and content of the amended record of survey for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
- 2. The applicant will record the amended record of survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
- 3. All conditions of approval of the Flagstaff Mountain Resort Phase II (Pod B-1) Master Planned Development, as amended, and the Northside Village Subdivision II plat shall continue to apply.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ____ day of May, 2010.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

ATTEST:

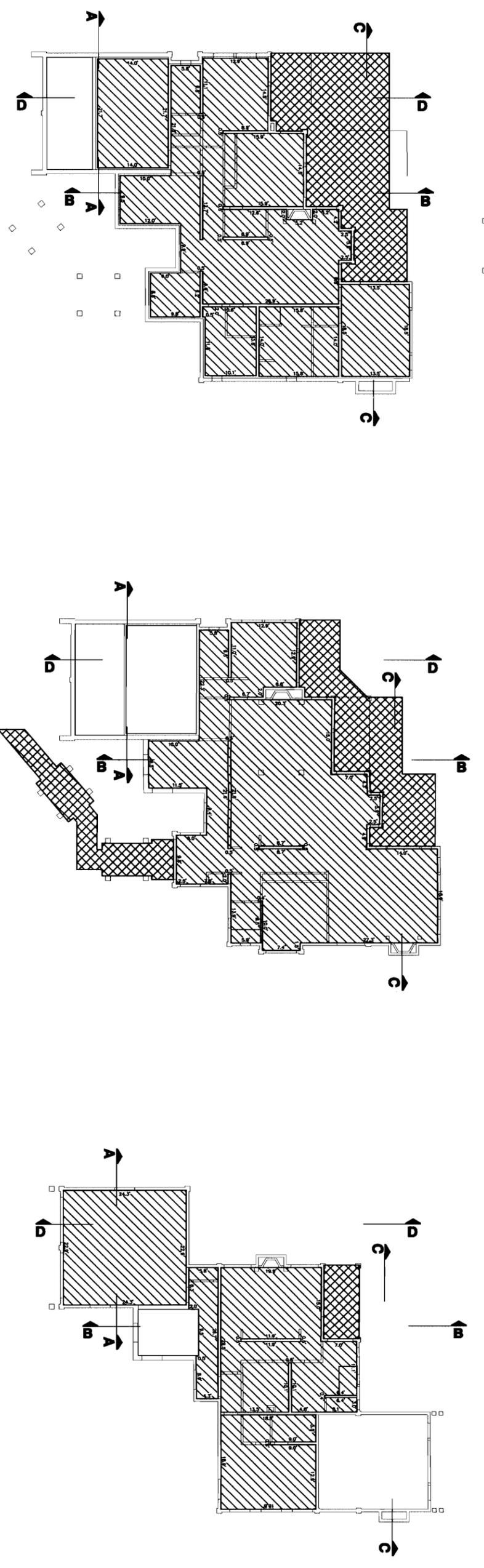
Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

Exhibits

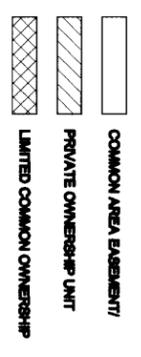
Exhibit A – Record of Survey plat



1 LOWER LEVEL AREAS
SCALE: 1" = 10'

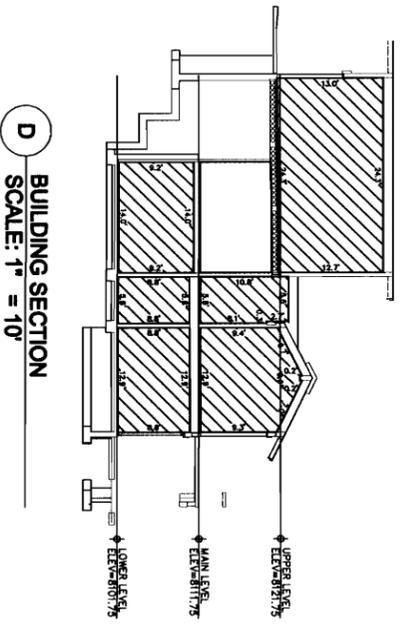
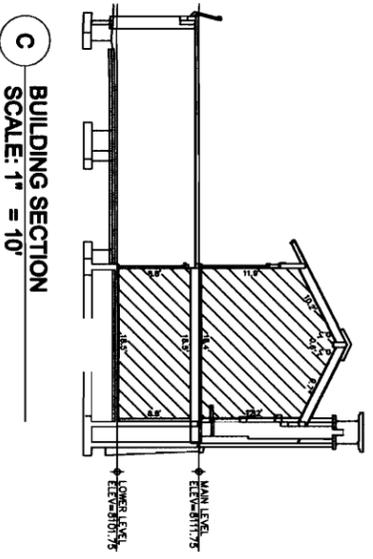
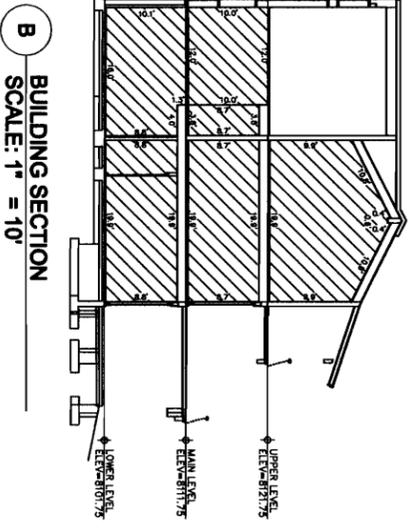
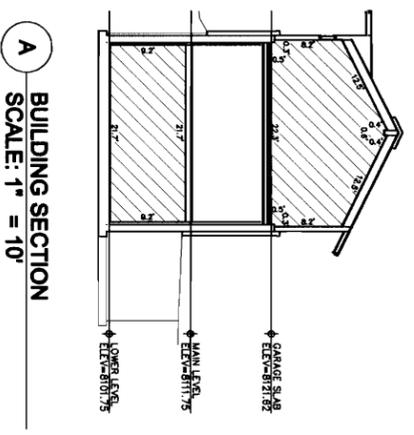
2 MAIN LEVEL AREAS
SCALE: 1" = 10'

3 UPPER LEVEL AREAS
SCALE: 1" = 10'



UNIT SQUARE FOOTAGE TABLE

| LEVELS | SQUARE FOOTAGE |
|----------|----------------|
| LOWER | 2,313 SF |
| MAIN | 2,104 SF |
| UPPER | 1,147 SF |
| TOTAL SF | 5,564 SF |
| GARAGE | 598 SF |



A BUILDING SECTION
SCALE: 1" = 10'

B BUILDING SECTION
SCALE: 1" = 10'

C BUILDING SECTION
SCALE: 1" = 10'

D BUILDING SECTION
SCALE: 1" = 10'

NAKOMIA PHASE ONE UNIT 9

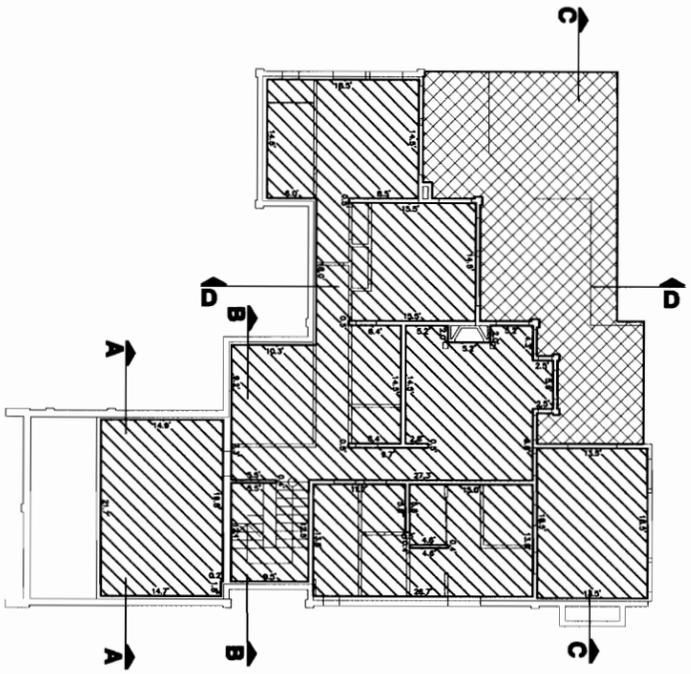
A UTAH PROJECT
LOCATED IN SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN AND LEMMONIA PARK CITY, SARASOT COUNTY, UTAH

RECORD OF SURVEY PLAT

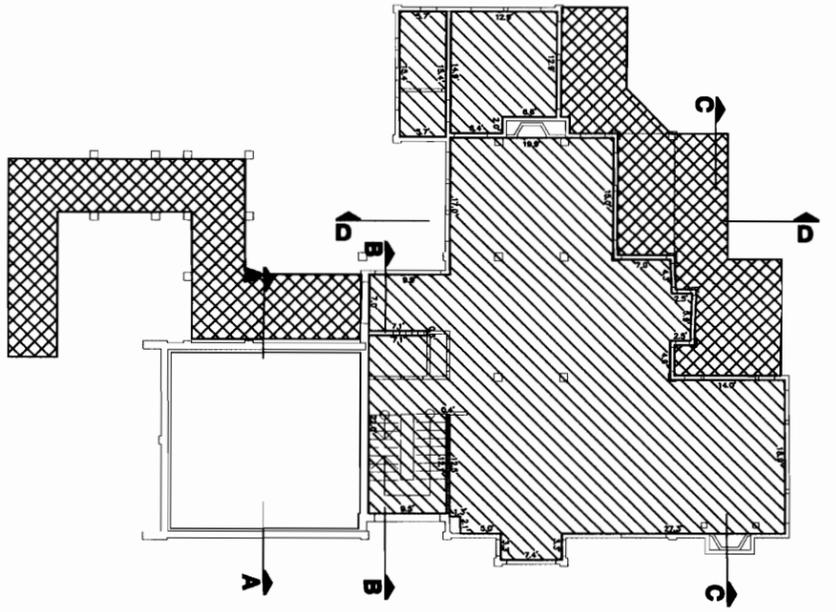
JAN 28 2010

SHEET 2 OF 9

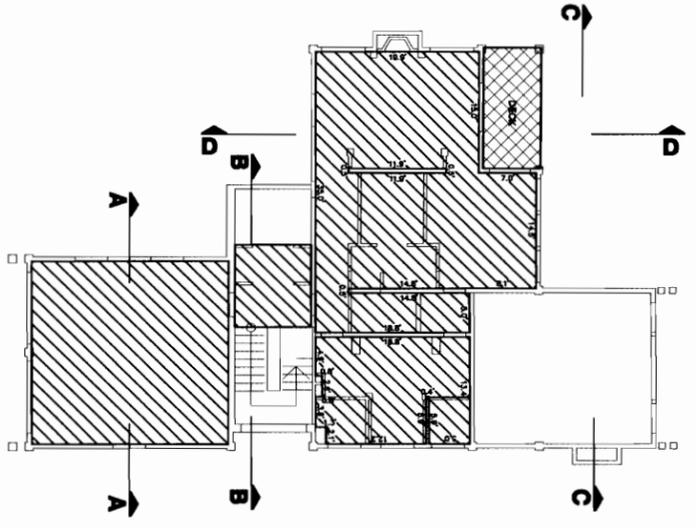
JOB NO: 2-10-03
 RECORDED
 STATE OF UTAH, COUNTY OF SARASOT, AND FILED
 AT THE RECORDS OFFICE OF SARASOT COUNTY, UTAH
 DATE: _____ TIME: _____ BOOK: _____ PAGE: _____
 FILE RECORDER



1 LOWER LEVEL AREAS
SCALE: 1" = 10'



2 MAIN LEVEL AREAS
SCALE: 1" = 10'

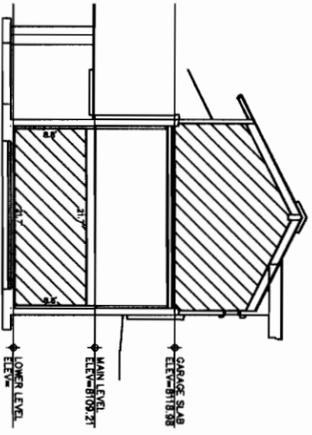


3 UPPER LEVEL AREAS
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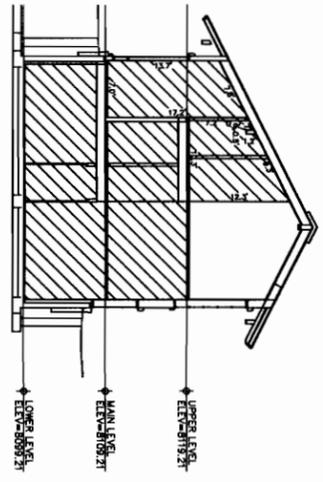


UNIT SQUARE FOOTAGE TABLE

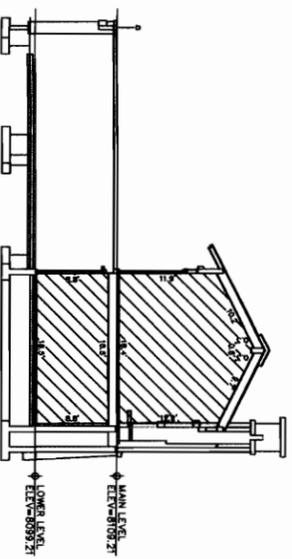
| FLOOR | SQUARE FOOTAGE |
|----------|----------------|
| LOWER | 2,280 SF |
| MAIN | 2,082 SF |
| UPPER | 1,118 SF |
| TOTAL SF | 5,480 SF |
| GARAGE | 591 SF |



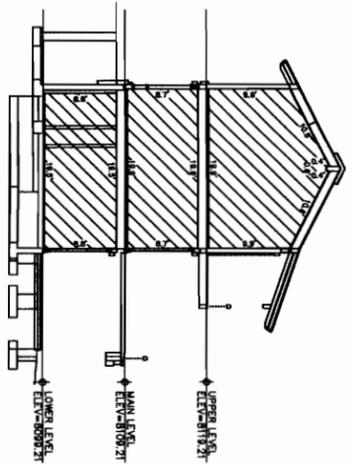
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B BUILDING SECTION
SCALE: 1" = 10'



C BUILDING SECTION
SCALE: 1" = 10'



D BUILDING SECTION
SCALE: 1" = 10'

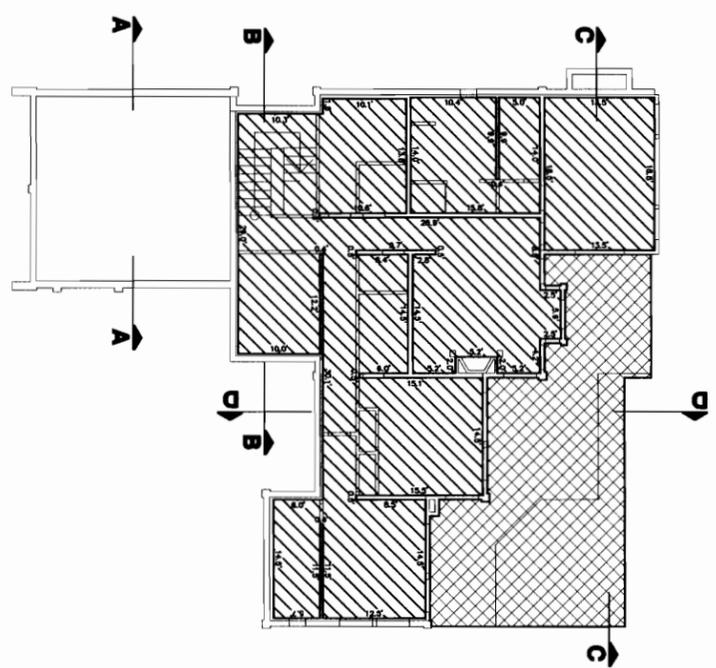
NAKOMIA PHASE ONE UNIT 10

RECORD OF SURVEY PLAT
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LOCATED IN SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN AND LINDEN PARK CITY, SALT LAKE COUNTY, UTAH

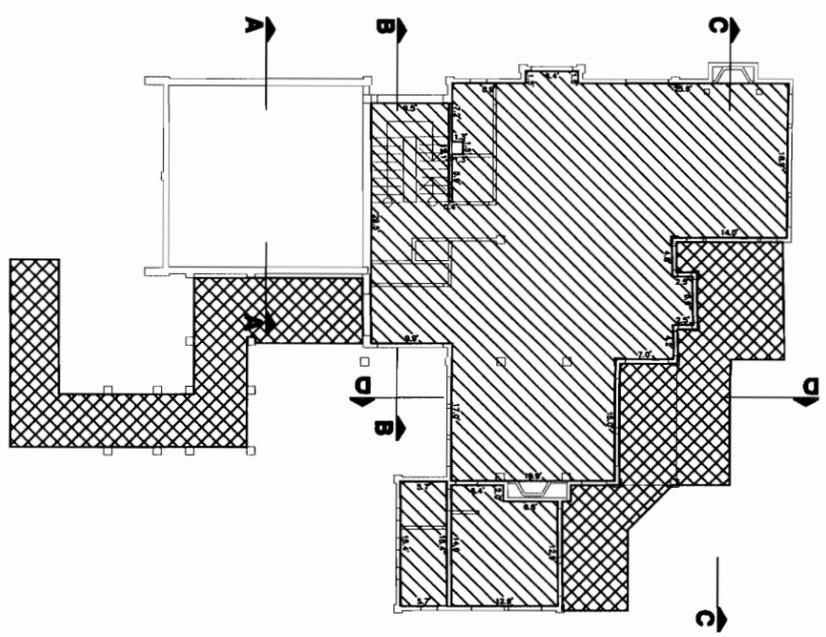
JAN 28 2010

JOB NO: 2-10-03
RECORDED
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FILE RECORDED

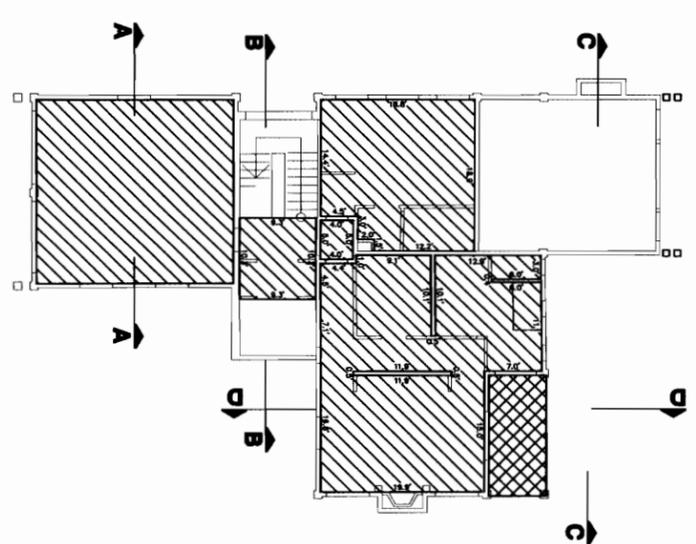
SHEET 3 OF 9



1 LOWER LEVEL AREAS
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2 MAIN LEVEL AREAS
SCALE: 1" = 10'

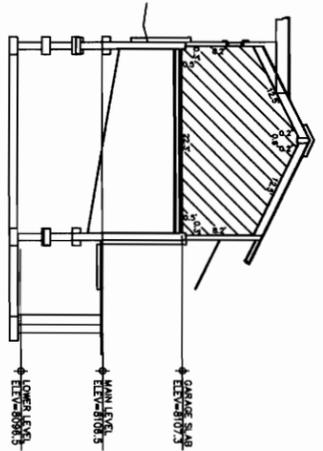


3 UPPER LEVEL AREAS
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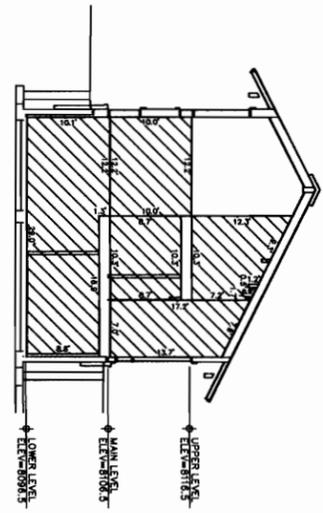


UNIT SQUARE FOOTAGE TABLE

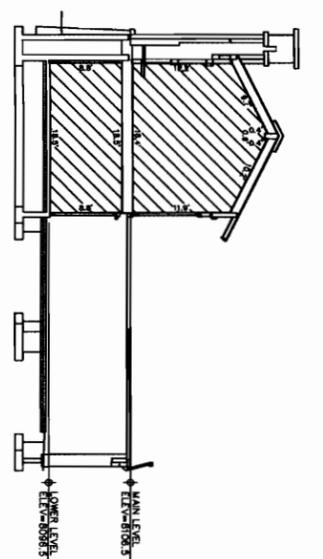
| FLOOR | SQUARE FOOTAGE |
|----------|----------------|
| LOWER | 1,942 SF |
| MAIN | 2,082 SF |
| UPPER | 1,118 SF |
| TOTAL SF | 5,142 SF |
| GARAGE | 551 SF |



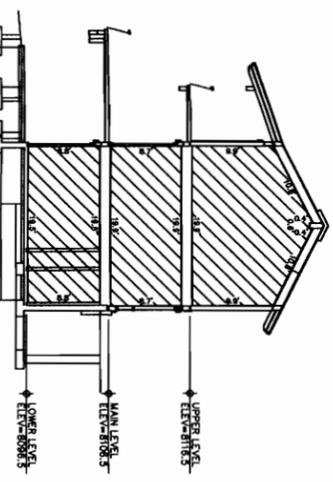
A BUILDING SECTION
SCALE: 1" = 10'



B BUILDING SECTION
SCALE: 1" = 10'



C BUILDING SECTION
SCALE: 1" = 10'



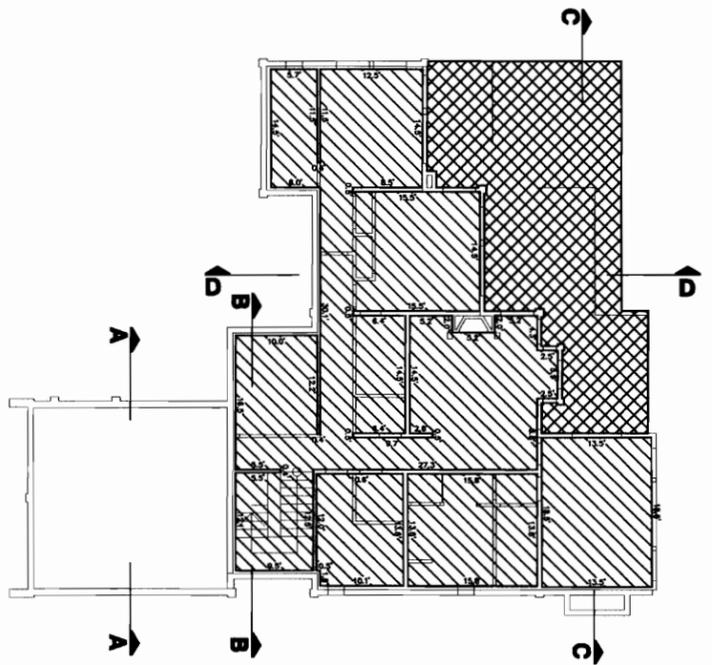
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NAKOMA PHASE ONE UNIT 11

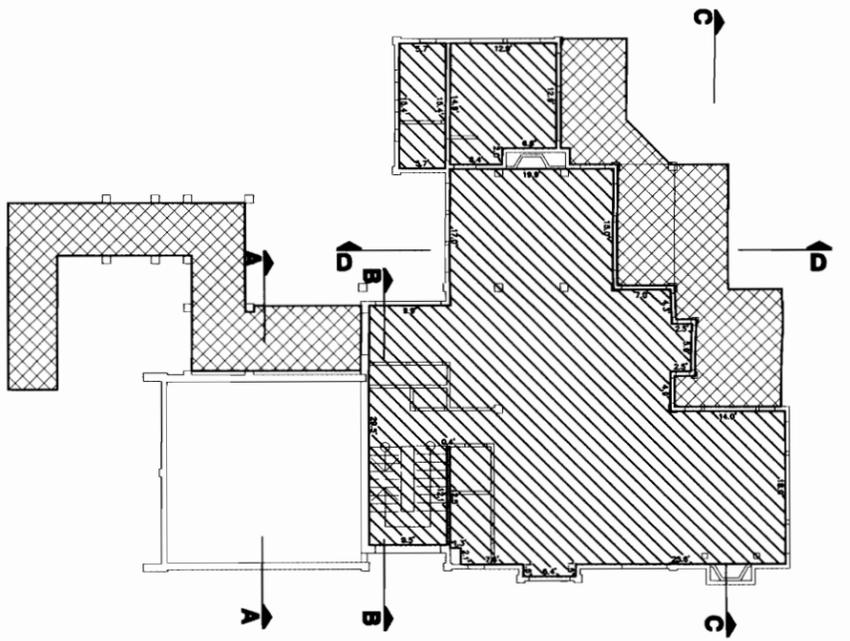
RECORD OF SURVEY PLAT
A UTAH PROJECT
LOCATED IN SECTION 28, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN AND MERRIVALE PARK CITY, SALT LAKE COUNTY, UTAH

JAN 28 2010

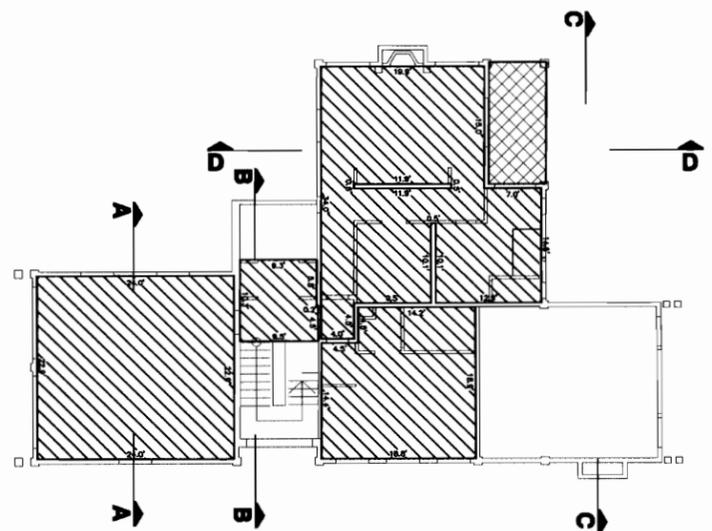
JOB NO.: 2-10-03
RECORDED
STATE OF UTAH, COUNTY OF SALT LAKE, AND FILED AT THE RECORDS OFFICE OF SALT LAKE COUNTY, UTAH
DATE: _____ TIME: _____ BOOK: _____ PAGE: _____
SHEET 4 OF 9



1 LOWER LEVEL AREAS
SCALE: 1" = 10'



2 MAIN LEVEL AREAS
SCALE: 1" = 10'

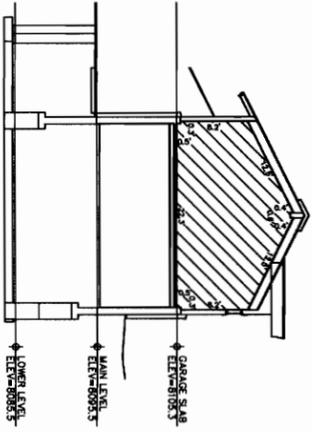


3 UPPER LEVEL AREAS
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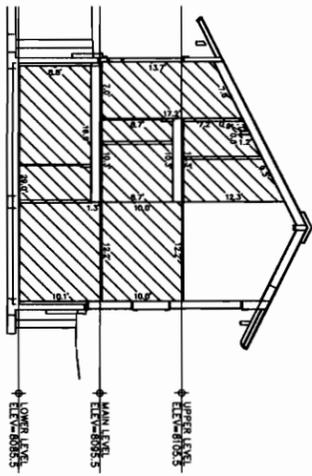


UNIT SQUARE FOOTAGE TABLE

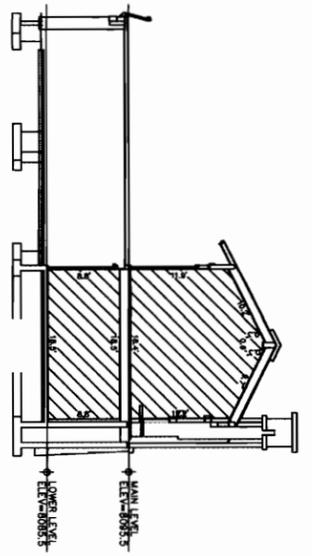
| FLOOR | SQUARE FOOTAGE |
|----------|----------------|
| LOWER | 1,898 SF |
| MAIN | 2,082 SF |
| UPPER | 1,128 SF |
| TOTAL SF | 5,114 SF |
| GARAGE | 551 SF |



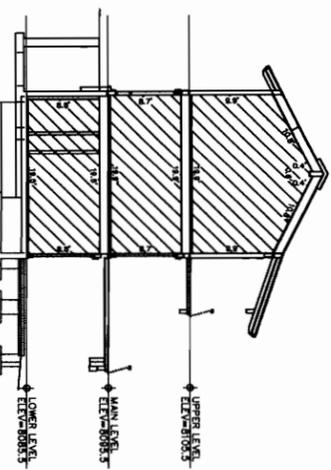
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SCALE: 1" = 10'



B BUILDING SECTION
SCALE: 1" = 10'



C BUILDING SECTION
SCALE: 1" = 10'



D BUILDING SECTION
SCALE: 1" = 10'

NAKOMIA PHASE ONE UNIT 12

RECORD OF SURVEY PLAT

A UTAH PROJECT

LOCATED IN SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN AND MERRIAM PARK CITY, SALT LAKE COUNTY, UTAH

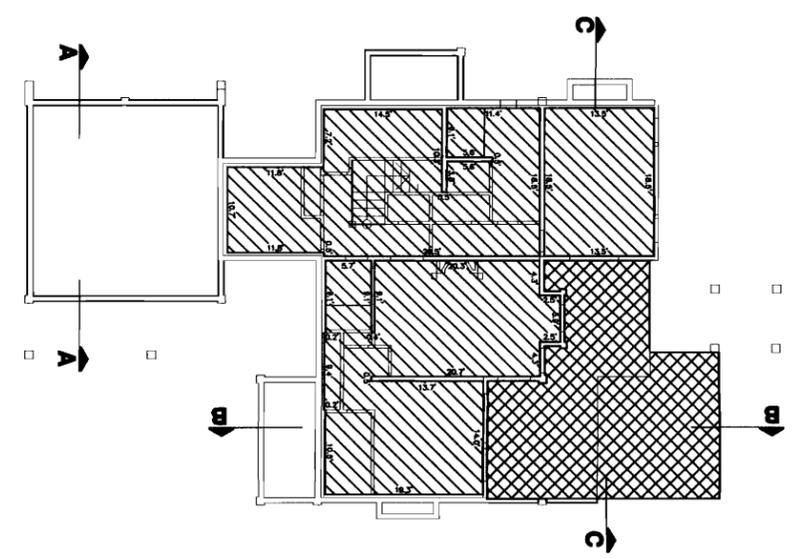
JAN 28 2010

SHEET 5 OF 9

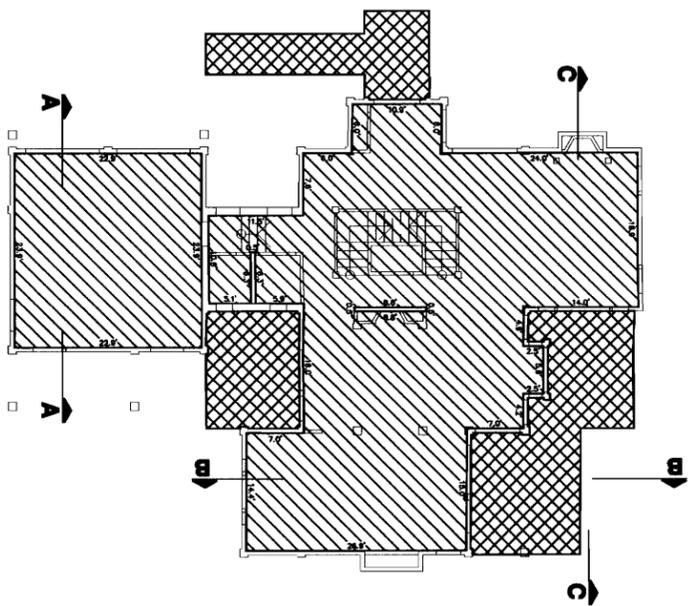
JOB NO: 2-10-03

RECORDED
STATE OF UTAH, COUNTY OF SALT LAKE, AND PLAT
AT THE RECORDS OFFICE OF
DATE: _____ TIME: _____ PAGE: _____
FILE: _____ RECORDER: _____

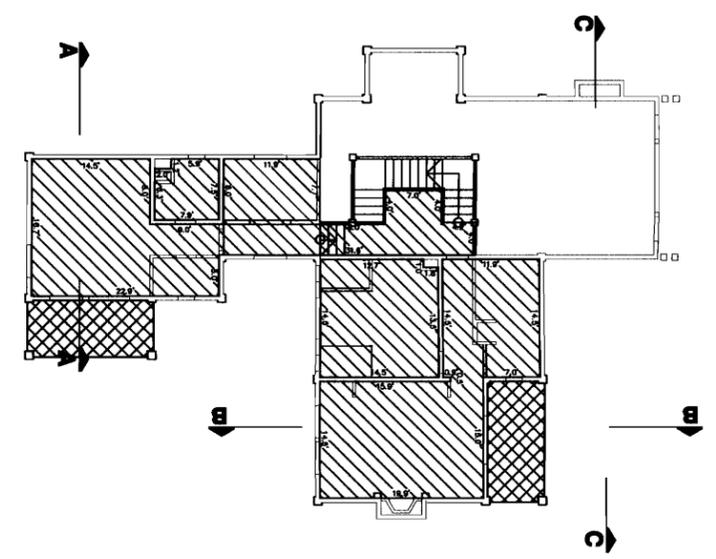
3/29/09



1 LOWER LEVEL AREAS
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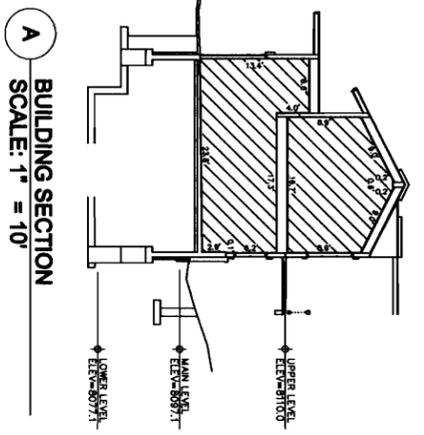


3 UPPER LEVEL AREAS
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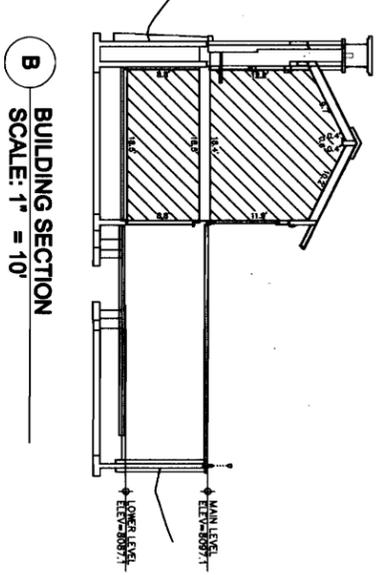


UNIT SQUARE FOOTAGE TABLE

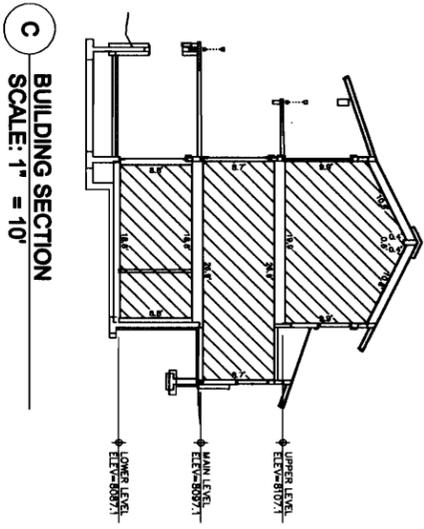
| FLOOR | SQUARE FOOTAGE |
|----------|----------------|
| LOWER | 1,518 SF |
| MAIN | 1,778 SF |
| UPPER | 1,288 SF |
| TOTAL SF | 4,582 SF |
| GARAGE | 648 SF |



A BUILDING SECTION
SCALE: 1" = 10'



B BUILDING SECTION
SCALE: 1" = 10'



C BUILDING SECTION
SCALE: 1" = 10'

NAKOMIA PHASE ONE UNIT 15

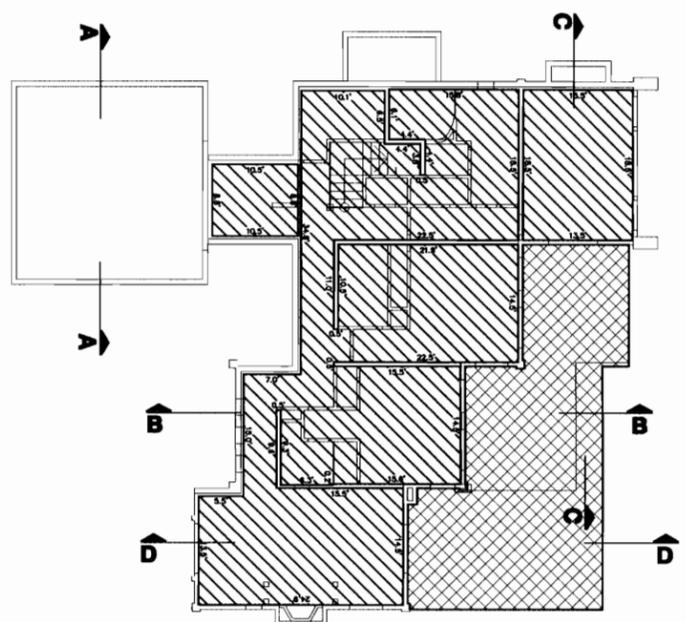
RECORD OF SURVEY PLAT

A UTAH PROJECT
LOCATED IN SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN AND HARBORLAND PARK CITY, SALT LAKE COUNTY, UTAH

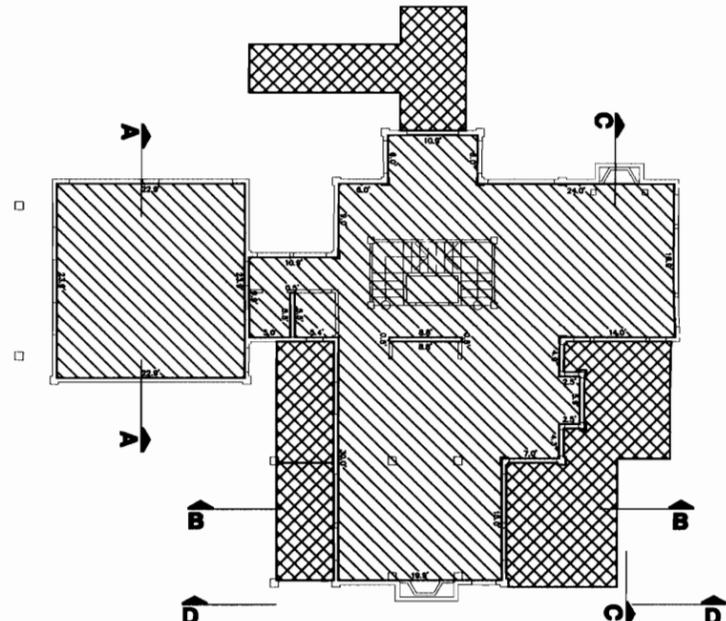
JAN 28 2010

SHEET 8 OF 9

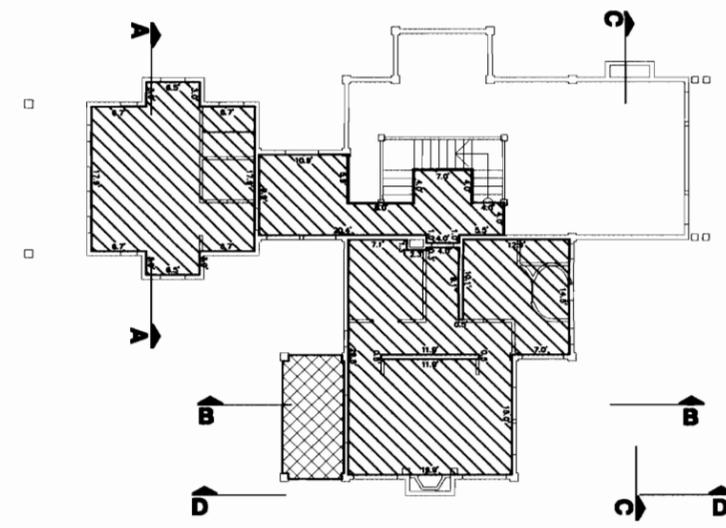
JOB NO.: 2-10-03
RECORDED
STATE OF UTAH, COUNTY OF SALT LAKE
AT THE REQUEST OF _____
DATE: _____ TIME: _____ BOOK: _____ PAGE: _____
FEE: _____ RECORDER: _____



1 LOWER LEVEL AREAS
SCALE: 1" = 10'



2 MAIN LEVEL AREAS
SCALE: 1" = 10'

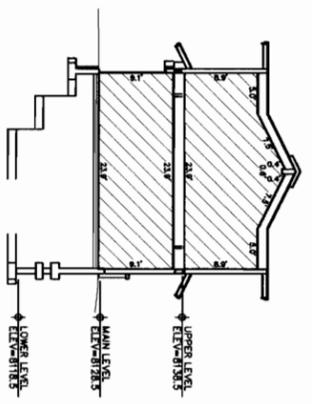


3 UPPER LEVEL AREAS
SCALE: 1" = 10'

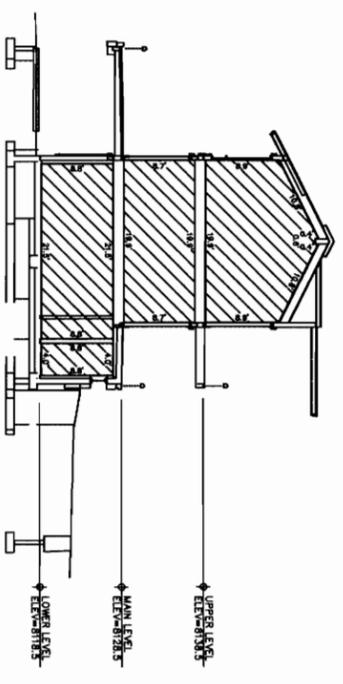


UNIT SQUARE FOOTAGE TABLE

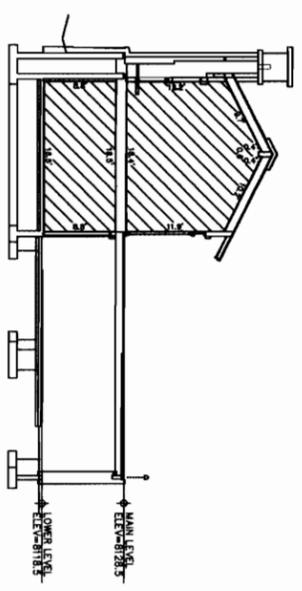
| FLOOR | SQUARE FOOTAGE |
|----------|----------------|
| LOWER | 1,890 SF |
| MAIN | 1,957 SF |
| UPPER | 1,281 SF |
| TOTAL SF | 4,888 SF |
| GARAGE | 648 SF |



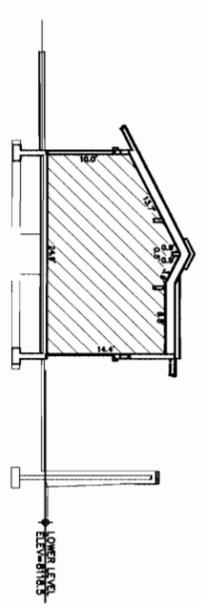
A BUILDING SECTION
SCALE: 1" = 10'



B BUILDING SECTION
SCALE: 1" = 10'



C BUILDING SECTION
SCALE: 1" = 10'



D BUILDING SECTION
SCALE: 1" = 10'

NAKOMMA PHASE ONE UNIT 16

RECORD OF SURVEY PLAT

A UTAH PROJECT

LOCATED IN SECTION 28, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASIN AND JORDAN PARK CITY, SALT LAKE COUNTY, UTAH

JAN 28 2010

SHEET 9 OF 9

JOB NO.: 2-10-03
 RECORDED
 STATE OF UTAH, COUNTY OF SALT LAKE, AND FILED
 AT THE RECORDS OFFICE OF _____
 DATE: _____ TIME: _____ BOOK: _____ PAGE: _____

Planning Commission Staff Report



Subject: 692 Main Street (Marriot Summit Watch/Town Lift MPD)
Author: Brooks T. Robinson
Application #: PL-10-00928
Date: April 28, 2010
Type of Item: Designation of Town Lift Design Review Task Force and Pre-Meeting for a Master Planned Development Amendment

Summary Recommendations

Staff recommends that the Planning Commission hold a public hearing and provide direction on two issues:

- 1) Discuss who should serve on the Town Lift Design Review Task Force; and.
- 2) Review the application to amend the 1994 Summit Watch Revised Concept Plan (Revised Large Scale MPD of the Town Lift);

Description

Applicant: LCC Properties, LC, represented by Kevin Horn, architect and David Luber
Location: 692 Main Street
Zoning: Historic Recreation Commercial (HRC) with Historic Commercial Business (HCB) uses. Master Planned Development
Adjacent Land Uses: Commercial, Summit Watch to north, Zoom restaurant to south

Background

The building at 692 Main Street has been used as the Sales Gallery for the Marriott Summit Watch project since its construction in 1992. The Summit Watch project was originally part of the Town Lift development that included the Sweeney properties to the west but was subsequently bifurcated. The Town Lift project was subject to a Property Exchange Agreement with Park City which paved the way for the development of Lower Main Street and two subsequent 1992 Amendments (documents available at Planning Department).

In September 1991, the City Council approved a Concept Plan of the Town Lift Project (Exhibit B). In that Concept Plan, the Council laid out maximum square footages for the project as well as anticipating the project would be developed in Phases. In that approval the Council required the Historic District Commission (HDC) to review and approve the volumetrics for Phase I (p.4). The HDC was required to approve specific building design for the proposed structures prior to construction.

In April 1992, Planning Commission approved a small scale MPD for Town Lift Phase I. Phase I included buildings A1-A3. The building at 692 Main Street was called A1. In the

MPD Building A1 was proposed to have 6 residential units comprising 4.5 Unit Equivalents (UEs) and 1,832 square feet of commercial space (1.8 UEs).

In November 1994, the City approved the Summit Watch Revised Concept Plan. The revised plan superseded the action taken to approve the original concept plan in 1991. Condition of approval 2 stated that the Town Lift Design Review Task Force shall review and approve plans for each building prior to construction commencing. At that time Building A1 was constructed and the unit configuration for that building was referenced as 7,200 square feet of commercial.

City Council adopted three resolutions concerning the Town Lift Project Task Force. The first one in 1991 acknowledged that the conditions of approval of the 1991 Concept Plan required the HDC to review the buildings in the project. Because of conflicts of interest, the HDC was unable to fill that role and a task force of HDC, Planning Commission and City Council members was created. In 1993, the Task Force membership was changed. In 2000, the task force was re-established.

The applicant is a contract purchaser of the Building at 692 Main Street, formerly known as Building A-1. The 1992 MPD allocated for A-1 1,832 square feet of Commercial (1.8 Unit Equivalents) and 7,446 square feet of Residential (4.5 Unit Equivalents under the LMC at the time). The existing building does not meet the 1992 MPD for density in that there is currently 6,556 square feet (net) of Commercial space and no Residential. Building plans dated August 1993 for building A-1 reflect the as built conditions. The 1994 revised Concept Plan indicated Building A1 to be allocated 7,200 square feet of Commercial with no Residential.

Conditions of Approval for both 1992 and 1994 Concept Plans required the review and approval of all building plans by the Town Lift Design Review Task Force.

Planning Commission should give direction on who should serve on the Town Lift Design Review Task Force specifically whether it be assigned to the Historic Preservation Board (HPB) or created from other members of the community. The Pre-MPD meeting is a public hearing where the applicant presents preliminary concepts for amendment to the Master Planned Development and the public can address neighborhood concerns. The Planning Commission shall review the concepts and identify issues, if any, and make a finding whether the project initially complies with the General Plan and zoning regulations in the Land Management Code.

Analysis

The existing Marriott Summit Watch project was built under the 1994 Summit Watch Revised Concept Plan. Conditional Use Permits for each Phase of the project were granted. . The project is a mixed use development with commercial and residential uses and underground parking. Although the approved 1992 Concept Plan proposed Building A1 as 1.8 UEs of commercial and 4.5 UE of residential, these numbers were superseded by the 1994 Revised Concept Plan which indicated a completed building with an allocation of 7,200 square feet of commercial. The actual built condition is 6,556

square feet (net) (6.56 UE Commercial) of Commercial space. It is two stories with a basement. A second story balcony protrudes from the front of the building towards Main Street.

Minor Addition

The applicant is requesting the ability to modify the building by adding to the 2nd story balcony and enclosing the space underneath it. This modification would add 549 square feet to the building for a total of 7,105 net leasable square feet. The 1994 Plan allowed 7200 square feet of commercial space. The footprint of the building would remain the same except for the minor addition and enclosure under the deck facing Main Street.

Town Lift Design Review Task Force

Staff and applicant are requesting direction on who should serve on the Design Review Task Force. The 1991 Concept plan delegated the design review of the buildings in the MPD to the HDC (former HPB). Additionally, Conditions of Approval for both 1992 MPD and 1994 Concept Plans included the review and approval of building plans by the Town Lift Design Review Task Force. Due to conflicts of interest on the HDC and complexity of the project, City Council appointed members of the HDC, Planning Commission and City Council to the Task Force. The Task Force reviewed each building in the Summit Watch project and further reviewed the west side projects, Caledonia and Town Lift buildings, and was re-constituted for the discussion on the design of the Park Avenue skier bridge.

The applicant is requesting that the minor addition be reviewed under the LMC and Historic District Guidelines in place today. The current process would be a design review by City Staff and the Historic Preservation Consultant, with appeal authority remaining with the Historic Preservation Board. However, the 1991 Concept Plan approved by Council delegated design review to the HDC. All subsequent amendments, MPDs and CUPs required the Task Force to review all building plans. Therefore:

- Should the Task Force be comprised of the HPB?
- Should its composition include other members and be referred to City Council for a resolution?
- Or should an amendment to the 1991 Concept Plan be referred to Council to remove the requirement that Design Review go before the Historic Board?

Major Addition/Remodel (Amendment to MPD)

Pursuant to Land Management Code 15-6-4(l) MPD Modifications: *“Changes in a Master Planned Development, which constitutes a change in concept, Density, unit type or configuration of any portion or phase of the MPD will justify review of the entire master plan and Development Agreement by the Planning Commission, unless otherwise specified in the Development Agreement. If the modifications are determined to be substantive, the project will be required to go through the pre-Application public hearing and determination of compliance as outlined in Section 15-6-4(B) herein. “*

According to 15-6-4(B), in the pre-Application public meeting, the Planning Commission shall review the preliminary information to identify issues on compliance with the General Plan and will make a finding that the project initially complies with the General Plan.

In addition to the Minor Addition, the applicant proposes to remodel and add two stories to the existing building and create a mix of Commercial and Residential uses. This proposal reduces the current Commercial uses from 6,556 square feet (net) to 3,050 square feet (net) (not including 5% support commercial or 5% Meeting space) and adds 6760 SF Residential. According to applicant, this new mix of Unit Equivalents will stay below the 7.2 Unit Equivalents (UEs) limit from the 1994 Concept Plan. Based on the square footages provided, the Unit Equivalents under today's Land Management Code would be 3.05 UEs of Commercial and 3.38 UEs of Residential. The footprint of the building would remain the same except for the addition to the balcony and the enclosure under the deck facing Main Street. The Applicant would add two stories to the building.

The proposed addition is planned to meet the height of the HCB zone (45 feet) angling back from the front and rear property lines.

Parking is already provided for with 23 spaces recorded as an easement within the greater Summit Watch project. The amount of parking is sufficient to meet the size of each of the proposed uses.

Process

For the minor addition, appeals can be made of the Task Force to the Board of Adjustment. For the Amendment to the MPD, any addition to the building will be required to be reviewed under the Design Guidelines for Historic Districts and Sites. A condominium record of survey must be approved and recorded prior to the selling of any units and would reflect the Commercial and Residential ownership pattern.

Recommendation

Staff recommends that the Planning Commission hold a public hearing and provide direction on two issues: 1) Discuss who should serve on the Town Lift Design Review Task Force; and 2) Review the application to amend the 1994 Summit Watch Revised Concept Plan (Revised Large Scale MPD of the Town Lift);

Exhibits:

- Exhibit A – Applicant's narrative and proposed plans
- Exhibit B – 1991 Council approval of Conceptual Town Lift Project
- Exhibit C – 1992 MPD Approval for Town Lift Phase I
- Exhibit D– 1994 Summit Watch Revised Concept Plan
- Exhibit E- Minutes from Planning Commission approving 1994 Revised Concept Plan
- Exhibit F- Resolutions Establishing the Town Lift Project Task Force (1991, 1993, 2000)


HORN PARTNERS
ARCHITECTURE**MEMO**

**MPD MODIFICATION PRE-APPLICATION HEARING FOR:
SUMMIT WATCH REVISED CONCEPT PLAN PHASE I, BUILDING A-1**

To: Park City Planning Department
 From: LCC Properties, L.C. and Horn and Partners Architecture
 Subject: Application to modify MPD Summit Watch Revised Concept Plan Phase I, Building A-1
 Re: Pre-Application Hearing for overall review of 1994 MPD Modification and
 Decision to not reconvene Town Lift Design Review Task Force (TLDRTF) for purposes of
 Processing the application
 Date: March 9, 2010

This is a request for a Planning Commission Pre-Application Meeting to accomplish two things:

- A) To review the application to modify the 1994 Summit Watch Revised Concept Plan MPD for the purposes of converting 7200 SF allowable commercial net leasable space in Building A1, Phase I into a combination of Residential and Commercial space not exceeding the Unit Equivalent of the original 7200 SF commercial. And to determine if a reconvene of the Town Lift Design Review Task Force (TLDRTF) is required to accomplish this.
- B) To separately determine if staff can review and approve an enclosure of only 549 SF of the Existing Covered Patios (see table in item 4 below) on the Existing Building without an MPD Modification or a reconvene of Town Lift Design Review Task Force (TLDRTF) so long as the enclosure remains within the 7200 SF commercial allowed by the existing MPD.

Explanations:

1. The project consists of the existing building located at 692 Main Street located within the Historic Commercial (HCB) District with the "Town Lift Project Phase I" Master Planned Development (MPD) overlay. The project proposes retaining the existing Commercial, Retail and Sales Office Space on the Main Level; retaining the existing Mechanical and Restroom spaces on the lower level; converting Lower Storage to residential; and remodeling the existing 2nd floor into Residential Units and adding 3rd and 4th floor within the allowed Floor Area Ratios, Maximum Building Volume and Height of the overlying Historic Commercial (HCB) District (see items 6 & 7 below). This requires that the applicant modify the 1994 MPD to convert 7.2 Commercial Unit Equivalents (UE's) to a combination of Commercial UE's and Residential UE's.
2. The building is located on the Park City zoning map in the Historic Commercial Business district (HCB) with a Master Planned Development (MPD) overlay. The MPD overlay is "The Town Lift Project Phase I" modified in November 1994.
3. The Park City Planning Department Staff Report (dated Nov. 23, 1994) and Planning Commission Approval thereof (dated November 30, 1994) provide for 7200 SF Net Leasable Commercial which equals 7.2 Commercial Unit Equivalents (UE) per the Land Management Code 15-6-8.E. (see attachment A and B).
4. The existing structure has been built out to the following area based on the approved construction drawings dated August 17, 1993 and as-built verification. The table shows that 6,556 SF of Net Leasable area has been built of the 7,200 SF Net Leasable allowed by the 1994 MPD.

HORN AND PARTNERS, L. L. C.
 284 West 400 North, Salt Lake City, Utah 84103
 Phone : 801 - 933 - 4676, Fax : 801 - 933 - 4675

Email: hornandpartners.com

Page 1 of 4

EXISTING LOWER FLOOR: SHEET A1.0

| AREA | TOTAL | GROSS* | NET LEASABLE** |
|-----------------|-------------|-------------|----------------|
| MECHANICAL | 309 | | |
| ELEVATOR EQUIP | 75 | | |
| RESTROOMS | 409 | 409 | |
| STAIRS | 209 | 209 | |
| ELEVATOR | 60 | 60 | |
| ELEVATOR LOBBY | 68 | 68 | |
| HALL | 215 | 215 | |
| STORAGE 1 | 955 | 955 | 955 |
| STORAGE 2 | 966 | 966 | 966 |
| SUBTOTAL | 3266 | 2882 | 1921 |

EXISTING MAIN FLOOR: SHEET 1.1

| AREA | TOTAL | GROSS* | NET LEASABLE** |
|---------------------|-------------|-------------|----------------|
| ELEVATOR | *** | | |
| DUCTS | 55 | | |
| REAR STAIRS | 160 | 160 | |
| REAR ENTRY | 200 | 200 | |
| OPEN STAIRS | 121 | 121 | |
| ROOM 1 | 955 | 955 | 955 |
| ROOM 2 | 675 | 675 | 675 |
| ROOM 3 | 639 | 639 | 639 |
| SUBTOTAL | 2805 | 2750 | 2269 |
| REAR COVERED PATIO | 126 | | |
| FRONT COVERED PATIO | 423 | | |

EXISTING UPPER FLOOR: SHEET 1.2

| AREA | TOTAL | GROSS* | NET LEASABLE** |
|-----------------|-------------|-------------|----------------|
| ELEVATOR | *** | | |
| REAR STAIRS | *** | | |
| STAIR OPENING | *** | | |
| DUCTS | *** | | |
| REAR LOBBY | 200 | 200 | |
| ROOM 1 | 1372 | 1372 | 1372 |
| ROOM 2 | 364 | 364 | 364 |
| ROOM 3 | 630 | 630 | 630 |
| SUBTOTAL | 2566 | 2566 | 2366 |
| DECK | 297 | | |

RECAP ALL FLOORS:

| | TOTAL | GROSS* | NET LEASABLE** |
|-------------------------|-------------|-------------|----------------|
| EXISTING TOTAL | 8637 | 8198 | 6556 |
| BALANCE OF 7200 ALLOWED | | | 644 |
| DECKS & PATIOS | 846 | | |

- * LMC CH. 15 1.100(B)
- ** LMC CH. 15 1.100 (C)
- *** SHAFT CALCULATED IN FLOOR BELOW

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Page 2 of 4

5. Conversion of UE's in the 1994 MPD

Based on our concept plans, we are proposing to modify the 1994 MPD and break down the 7.2 Commercial UE's (see Land Management Code 15-6-8.E) into Commercial and Residential UE's totaling less than the 7.2 allowed in the 1994 MPD and LMC 15-6 as follows:

| <u>Use</u> | <u>Proposed SF</u> | <u>Proposed UE</u> | <u>Allowed SF</u> | <u>Allowed UE</u> |
|--|--------------------|--------------------|-------------------|-------------------|
| Lower Comm. | 450 (n) | 0.45 | | |
| 1 st Commercial | 2600 (n) | 2.60 | | |
| Less 5% Support | -338 | -0.33 | | |
| <u>Less 5% Meeting</u> | <u>-338</u> | <u>-0.33</u> | | |
| Subtotal Comm. | 2374 (n) | 2.37 | 7200 (n) | 7.2 |
| Lower Residential Storage 1471 (n)
(below grade residential SF does not count per LMC Ch. 15 1-100) | | | | |
| 2 nd Residential | 2580 (g) | 1.29 | | |
| 3 rd Residential | 2580 (g) | 1.29 | | |
| 4 th Residential | 1600 (g) | 0.80 | | |
| <u>Subtotal Res.</u> | <u>6760 (g)</u> | <u>3.38</u> | | |
| Totals | 9134 (n) | 5.75 | 7200 (n) | 7.2 |

(n) = net leasable commercial square footage per Land Management Code Ch 15 1-100 C
(g) = gross residential square footage per Land Management Code Ch 15 1-100 A

6. The building height for the MPD was addressed in the Conceptual Approval of the Town Lift Project approved by the Planning Commission in the Sept. 19, 1991. Condition of Approval Item 1. states: "These maximum building heights represent building heights as permitted in the HCB zone with a redefinition of natural grade." This Conceptual Approval was again restated in the April 16, 1992 Staff Report. The maximum building height for the HCB Zone is currently 30' on the Main Street and Rear face and then can be increase at a 45 deg. Angle to a height of 45' above existing grade. An additional 5' is permitted for sloped roof structures above the height limit. This will allow for a third floor to be added to the existing height of approximately 29' as long as it is set back from the Main Street and Rear façade at the 45 deg. angle, and a loft can extend up into the roof structure above the third floor. This Application is compliant with the height requirement for an HCB zone. (See attached plans demonstrating compliance)
7. 15-2.6-4 requires a maximum Floor to Area Ratio (FAR) of 4.0 which means that a building with zero setbacks all around (which is the same footprint as the site) could be 4 stories tall or 4 times the area of the site. This building will meet this requirement with the three stories plus the loft.

8. According to 15-3-12 A and B the residential and commercial parking requirements are as follows:

| <u>Use</u> | <u>Ratio</u> | <u>Quantity</u> | <u>Required</u> | <u>Provided</u> |
|---|--------------|-----------------|-----------------|-----------------|
| Multi Family<650 sf | 1/BR | 6 Units | 6 | 6 |
| Multi Family<1000 sf | 1.5/BR | 4 Units | 6 | 6 |
| Multi Family>1000 sf | 2/BR | 1 Unit | 2 | 2 |
| Café
(Including lower kitchen) | 3/1000 SF | 955 SF | 3.18 | 3 |
| Lobby, Store & Lower
(Retail & Services minor) | 3/1000 SF | 1764 SF | 5.88 | 6 |
| Totals | | | 23 | 23 |

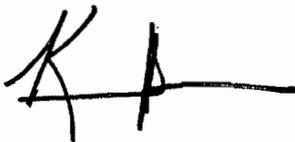
A parking easement exists and is recorded in: record no. 00384600, Book 00743, Page 00178, Summit County. The easement provides for 23 permanent parking spaces which will be used to meet the parking calculation indicated above.

11. In accordance with the MPD declaration requirement the Applicant intends to sell Timeshares for this Project as part of its own ownership program under a Condominium Plat. A Nightly Rental program shall be provided as well. Pending the initial review under this Application, neither the timeshare documents nor nightly rental program have been finalized at this time ("Program") The City Attorney will review those documents for compliance with the regulations set forth in Chapter 8 of the Land Management Code but will be generally consistent with the previous Marriott Ownership type program approved in 1993. Further, it is anticipated that the Applicant will be before the Planning Commission for approval of a Condominium Plat in 2010.

Conclusion:

The Remodel, Addition, Use and Sale described above and as indicated on the conceptual drawings attached indicate compliance the proposed modification to the 1994 MPD, the overlying HCB Zoning for the parcel and the Park City Land Management Code. It is our request to accomplish two things:

- A) To review the application to modify the 1994 Summit Watch Revised Concept Plan MPD for the purposes of converting 7200 SF allowable commercial net leasable space in Building A1, Phase I into a combination of Residential and Commercial space not exceeding the Unit Equivalent of the original 7200 SF commercial. And to determine if a reconvene of the Town Lift Design Review Task Force (TLDRTF) is required to accomplish this.
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Kevin D. Horn, A.I.A.

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| CHECKED BY: | |
| DRAWN BY: | |
| FILE NO.: | |
| JOB NO.: | 0916 |

692 MAIN
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PARK CITY, UTAH

284 W 400 N
SLC UTAH 84103
PHN: 801.933.4676
FAX: 801.933.4675

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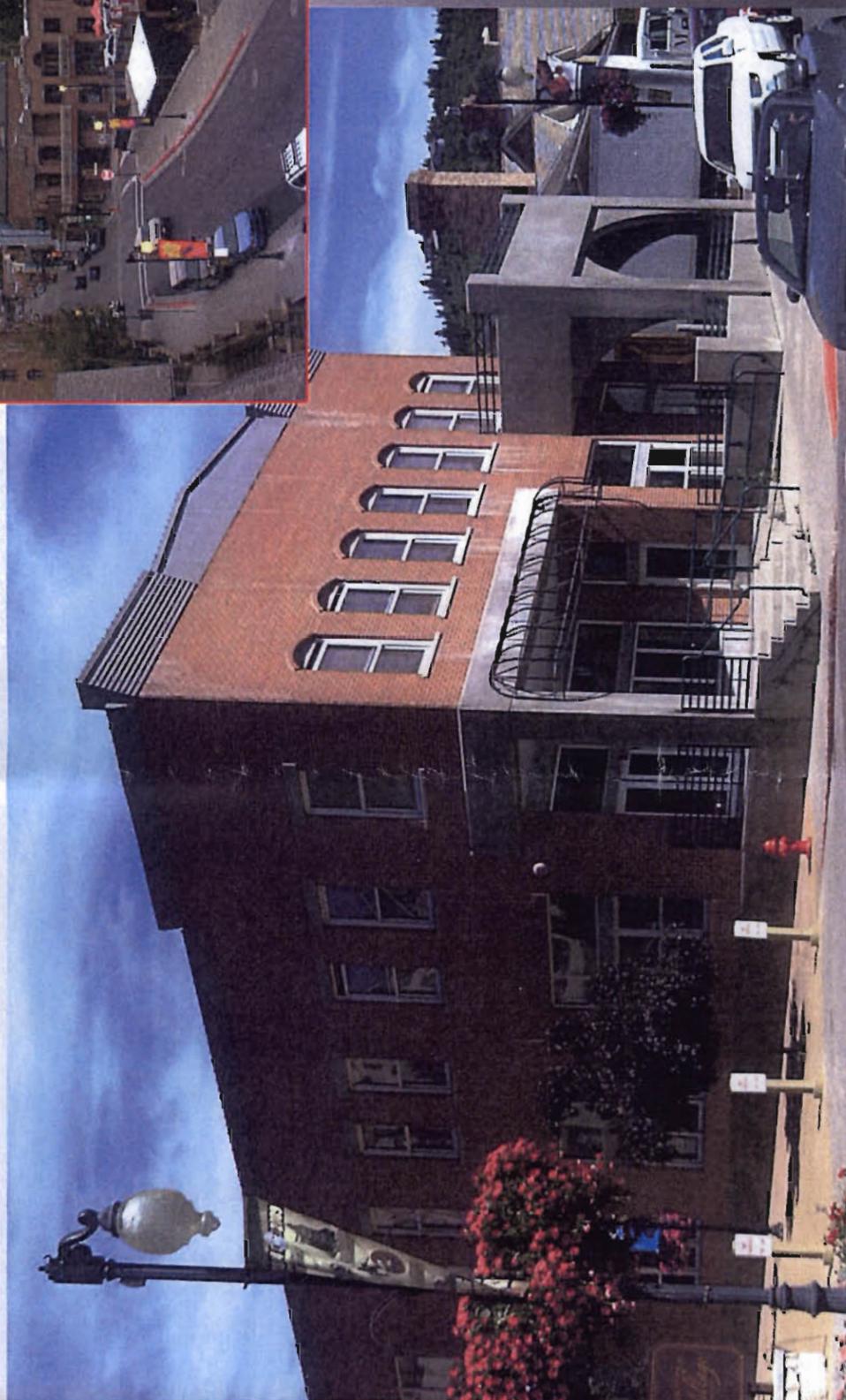
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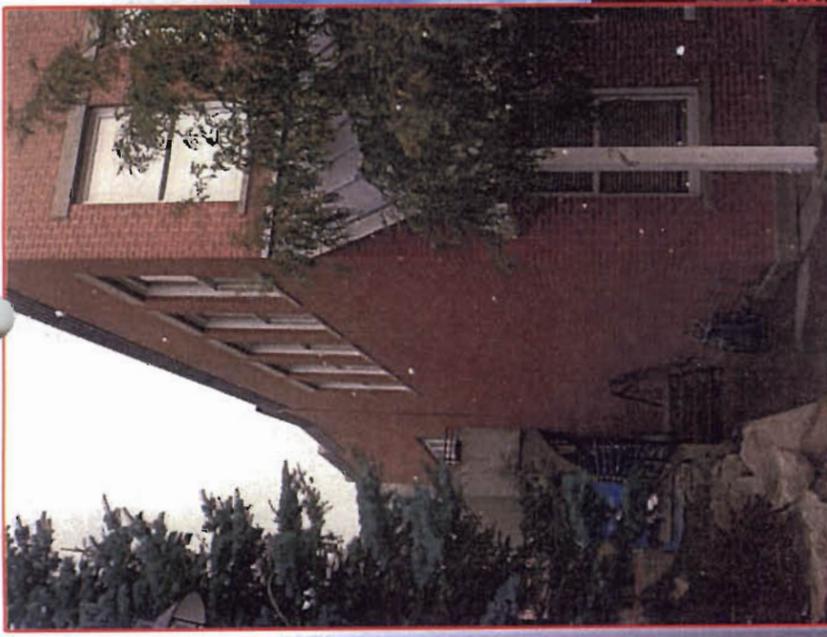
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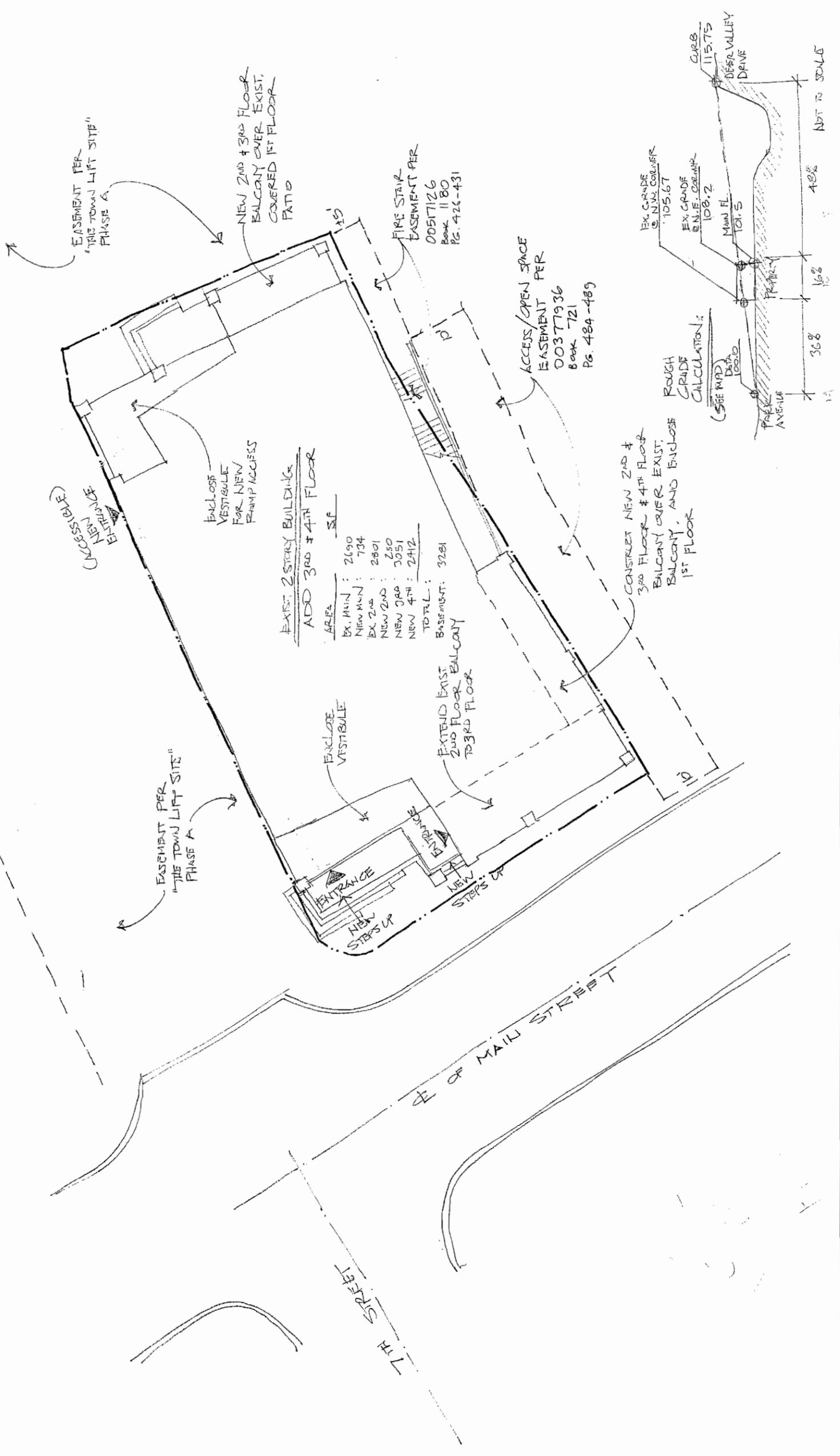


692 MAIN STREET



PARKING CALCULATIONS
23 STALL PROVIDED BY EASEMENT
00384600 Book 743 Pg. 166-178

RES. UNITS (10) 10 SPACES
COMMERCIAL 5.5
LOBBY/BASEMENT 2.9
REQUIRED 18.4



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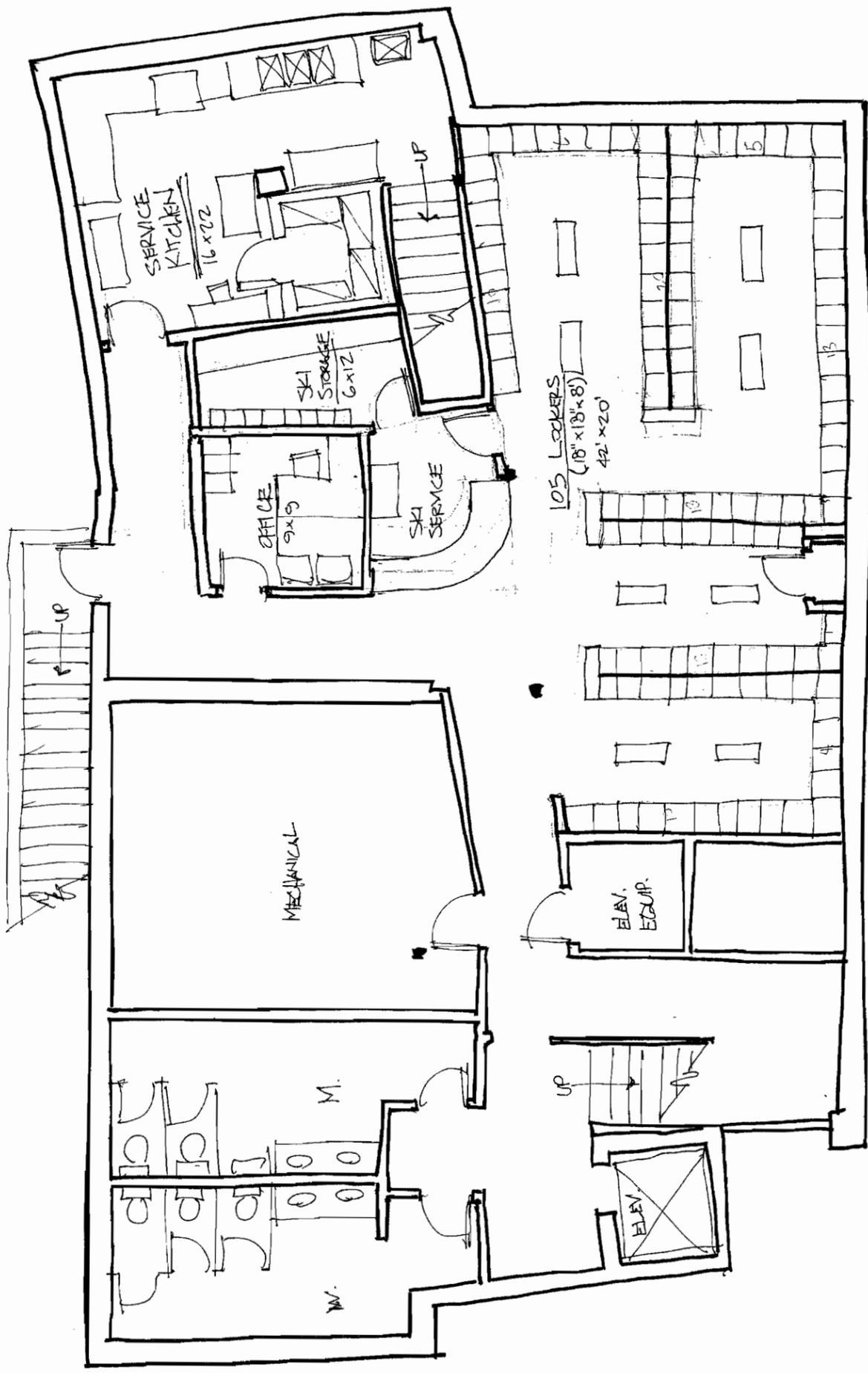
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LOWER LEVEL
 A2.0



1214

LOWER LEVEL

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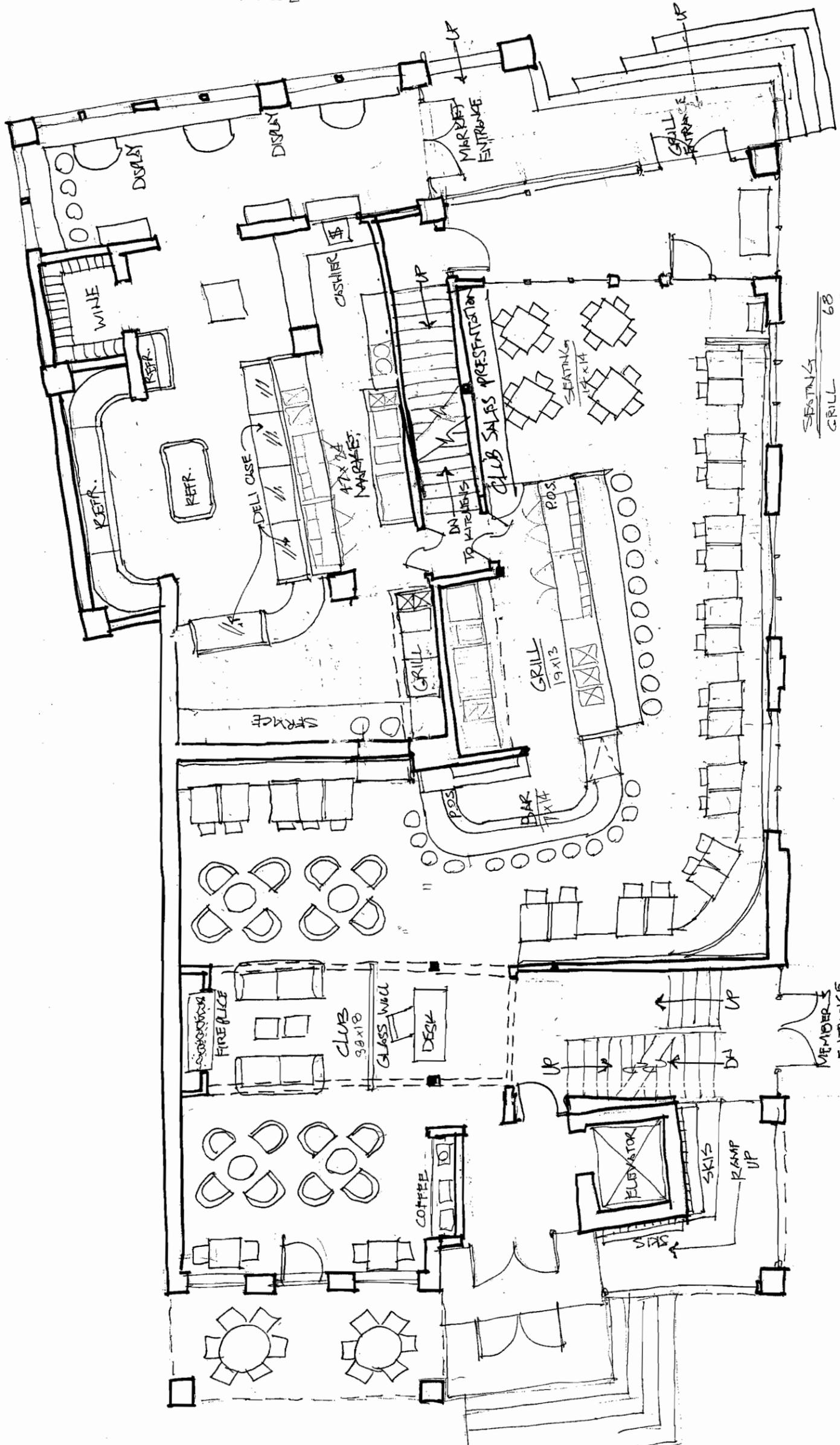
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MAIN LEVEL
 A2.01

MARKET 16 LF
 DELI CASE 27 LF
 REFR. CASE 60 LF
 DISPLAY



| | |
|---------|-----|
| SEATING | 68 |
| GRILL | 12 |
| BAR | 32 |
| CLUB | 12 |
| PATIO | 12 |
| TOTAL | 124 |

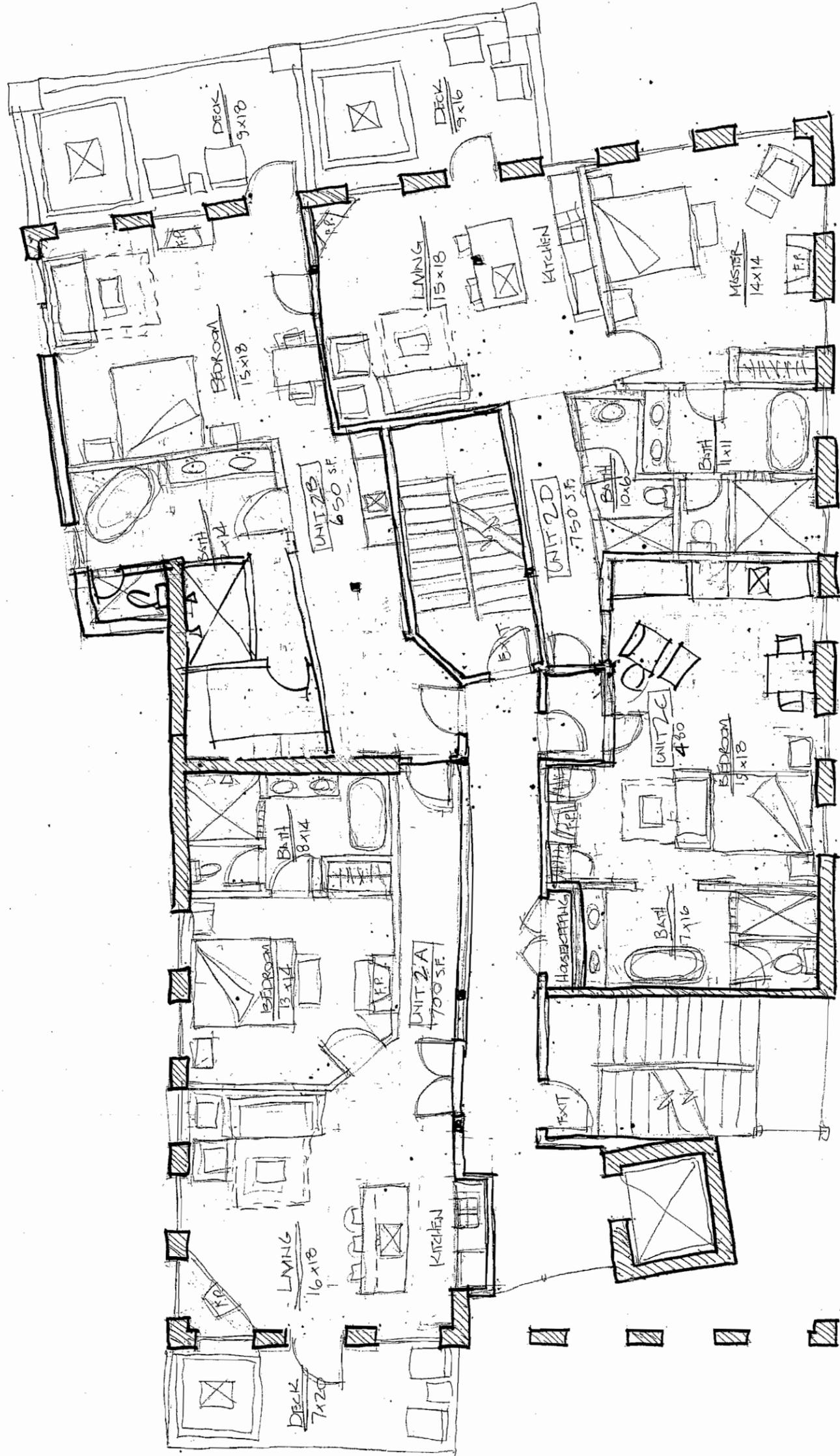
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SECOND LEVEL
 A2.02



SECOND LEVEL

| | |
|--------------|-------------|
| UNIT 2A | 700 |
| UNIT 2B | 650 |
| UNIT 2C | 480 |
| UNIT 2D | 750 |
| Common | 740 |
| TOTAL | 3320 |

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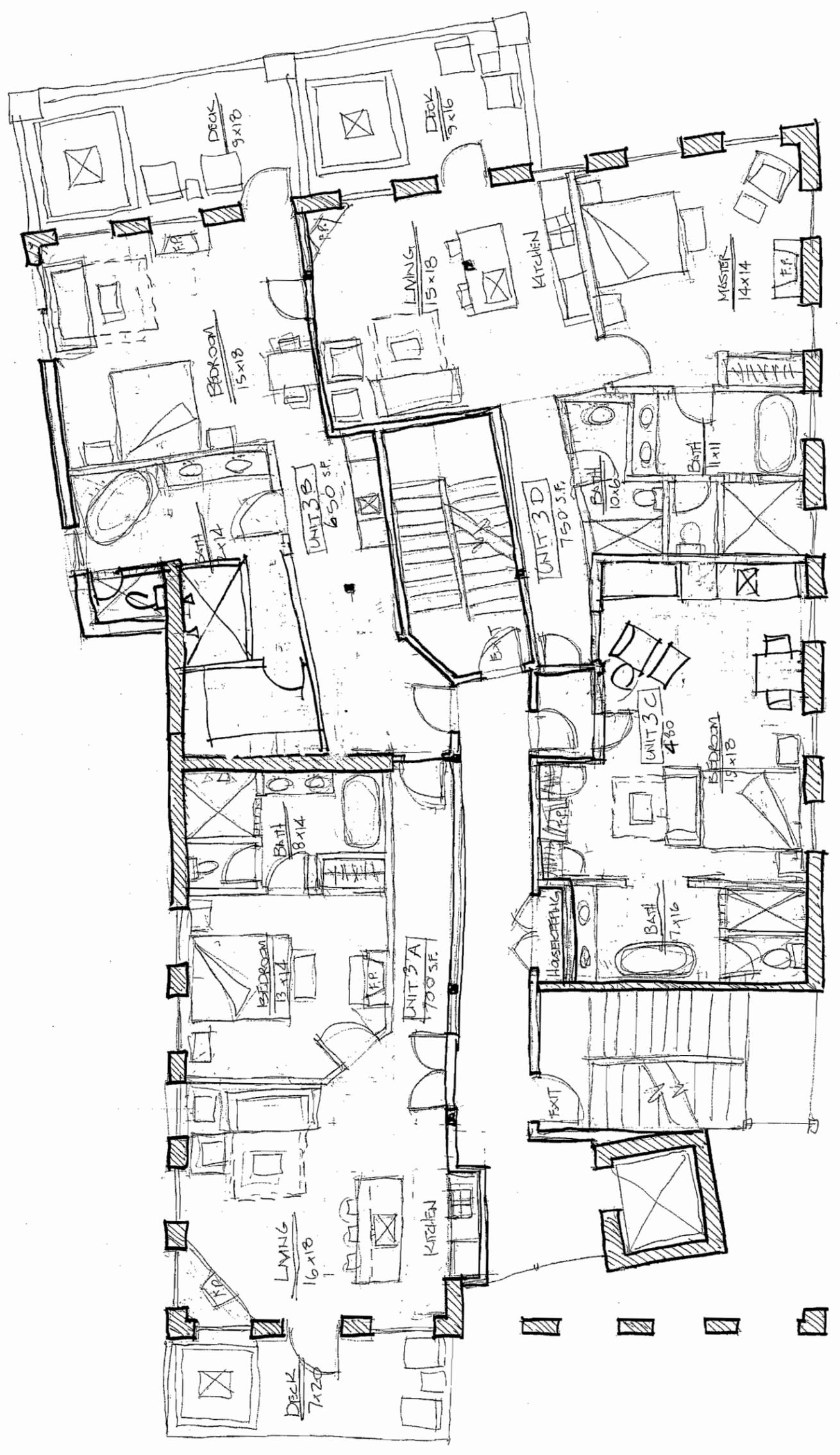
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 PARK CITY, UTAH

THIRD LEVEL
A203



THIRD LEVEL

| | |
|--------------|-------------|
| UNIT 2A | 700 |
| UNIT 2B | 650 |
| UNIT 2C | 480 |
| UNIT 2D | 750 |
| Common | 740 |
| TOTAL | 3320 |

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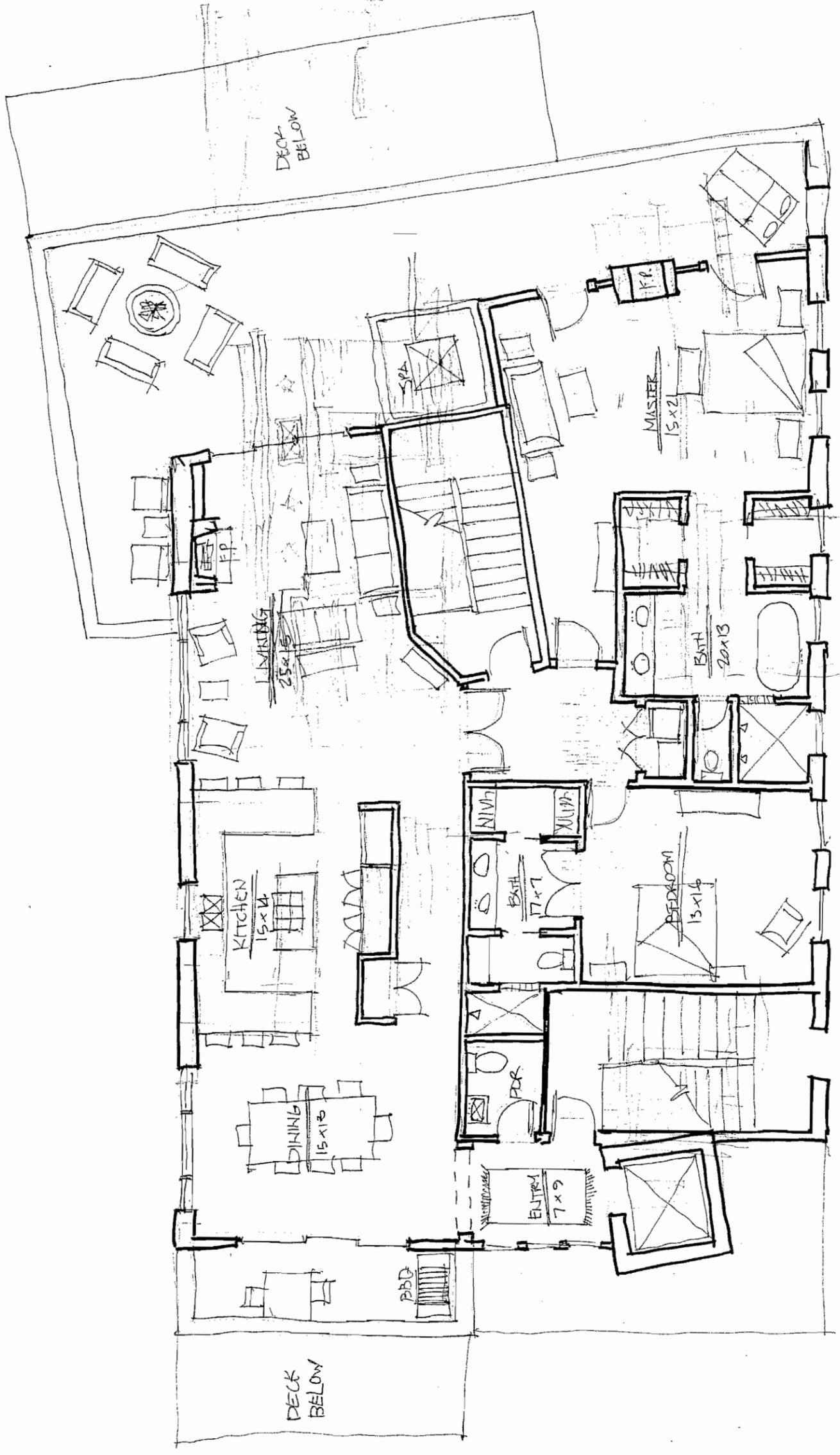
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FOURTH LEVEL
 A2.04



FOURTH LEVEL

| | |
|-------------|------|
| WALL | 1600 |
| STAIRS/ELEV | 240 |
| <hr/> | |
| | 1840 |
| DECK-S | 760 |

ELEVATION
A3.01

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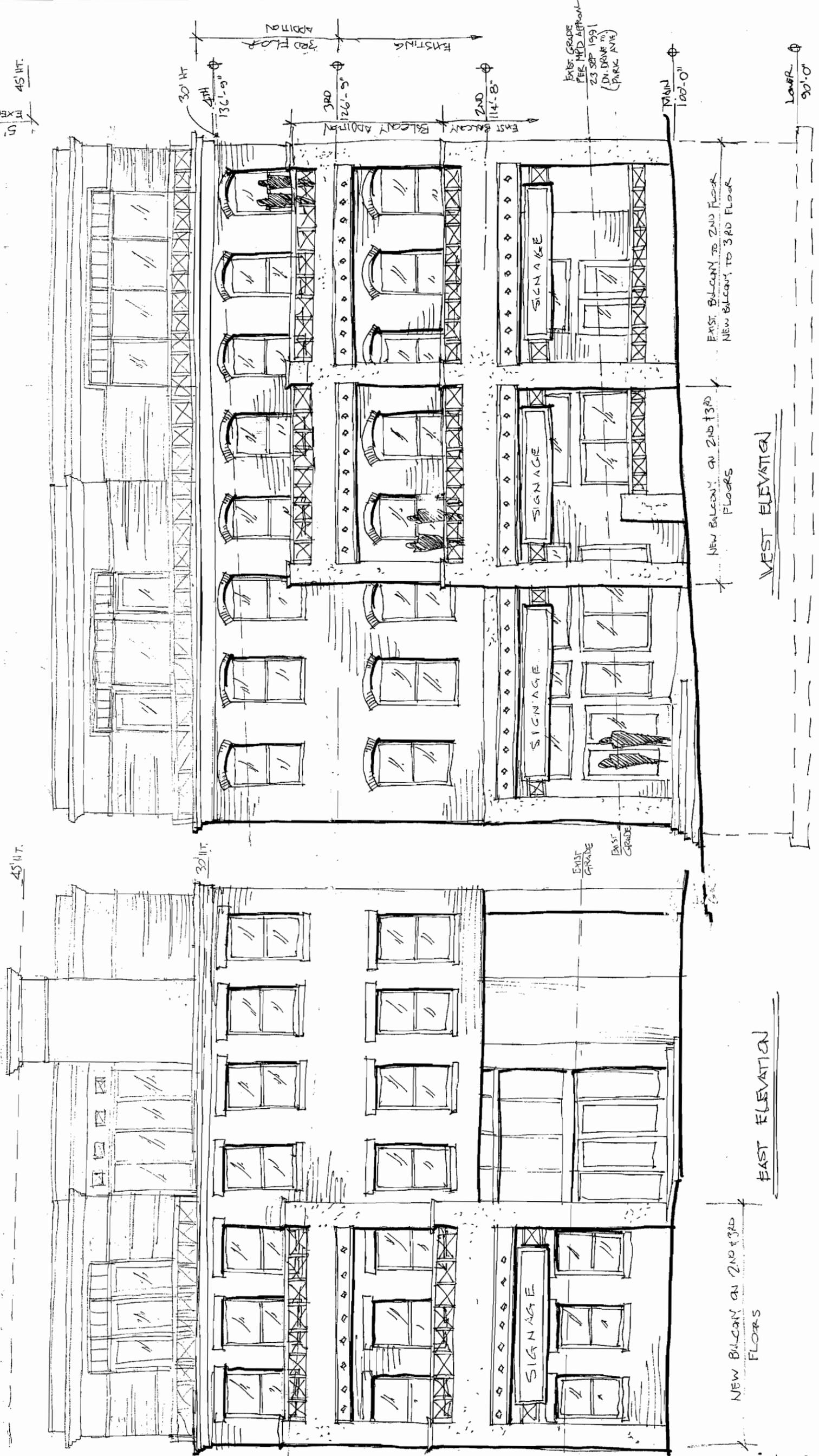
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725 ARIZONA AVE, SUITE 301
SANTA MONICA, CA 90401



WEST ELEVATION

EAST ELEVATION

45' HT.
EXTERIOR

45' HT.

30' HT.

30' HT.

4TH
136'-9"

3RD
126'-5"

2ND
114'-8"

MAIN
100'-0"

LOWER
90'-0"

EXIST. BALCONY
NEW BALCONY TO 3RD FLOOR

NEW BALCONY ON 2ND & 3RD FLOORS

EXIST. BALCONY TO 2ND FLOOR
NEW BALCONY TO 3RD FLOOR

NEW BALCONY ON 2ND & 3RD FLOORS

EXIST. GRADE
PEK MFD APPROV
23 SEP 1991
(DR. DRIVE TO
PARK AVI)

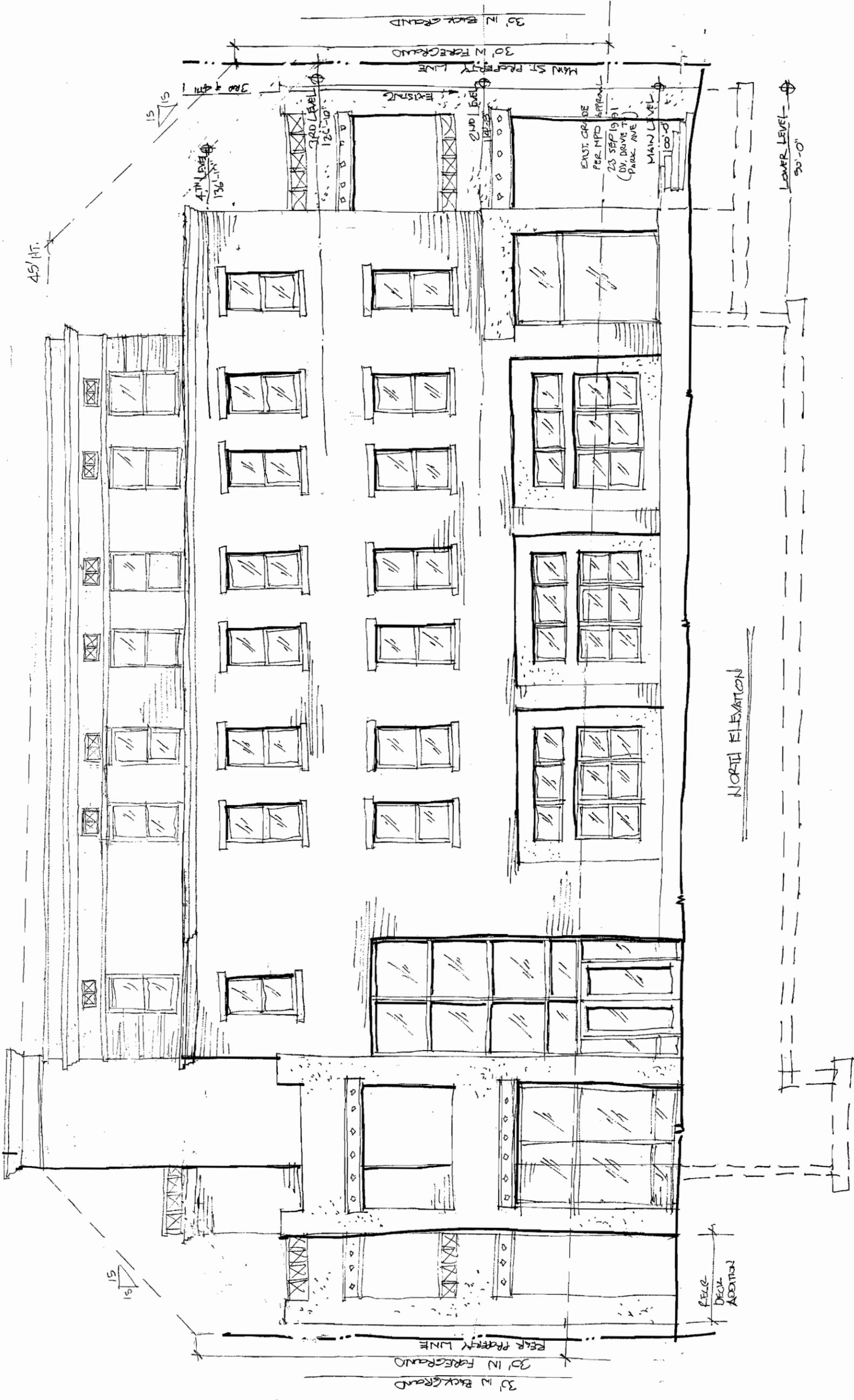
EXIST. GRADE
EXIST. GRADE

ELEVATION
A3.02

FORM
692 MAIN
CONCEPT PLANS
PARK CITY, UTAH
JOB NO. 0916
FILE NO.
DRAWING DATE: 2/19/10
DRAWN BY:
CHECKED BY:

HORN PARTNERS
ARCHITECTURE
284 W 400 N
SLC UTAH 844103
PHN: 801.933.4676
FAX: 801.933.4676

RENEW
LCC PROPERTIES L.C.
725 ARIZONA AVE. SUITE 301
SANTA MONICA, CA 90401
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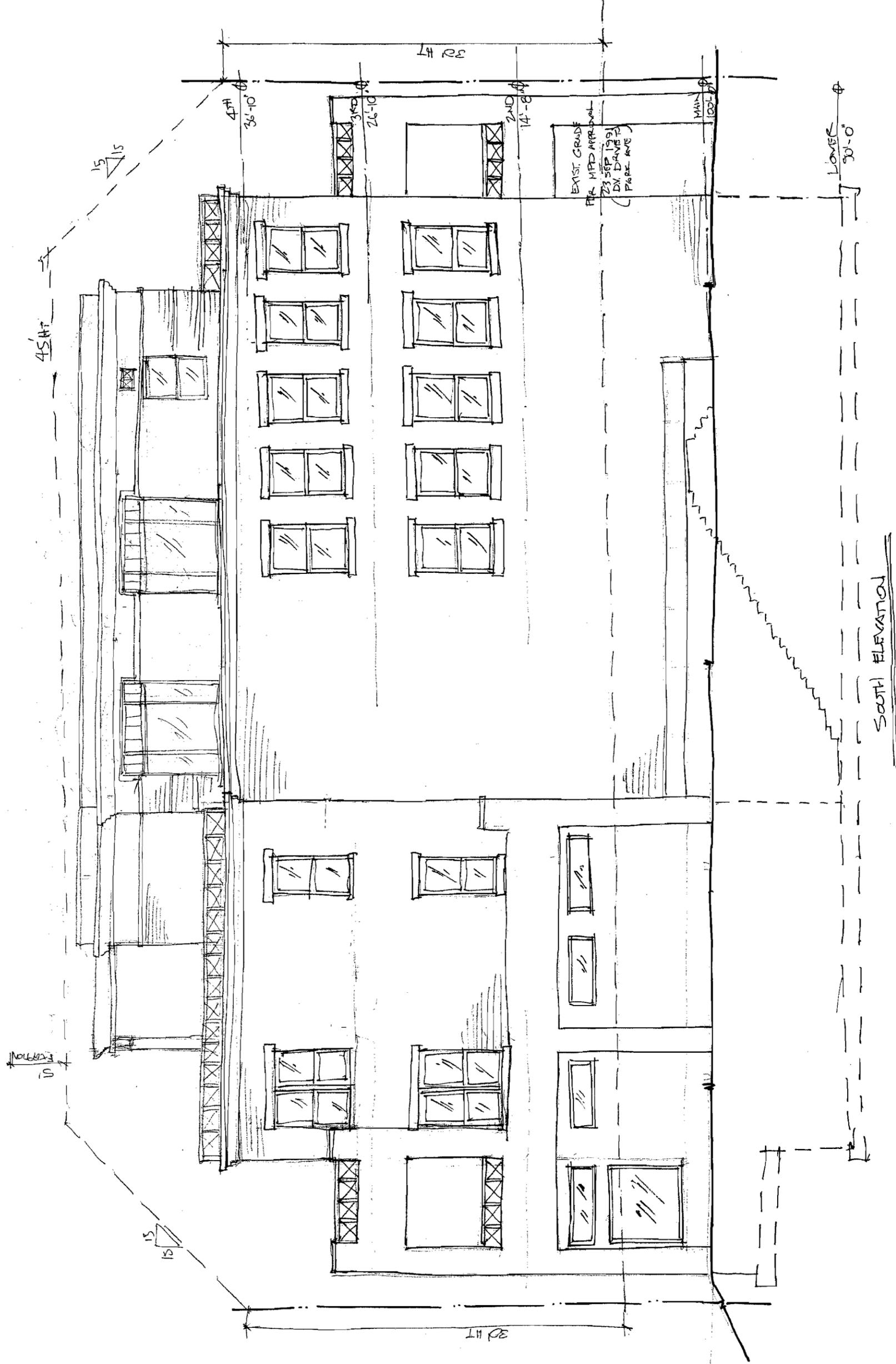


LCC PROPERTIES L.C.
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HORN PARTNERS ARCHITECTURE
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692 MAIN
 CONCEPT PLANS
 PARK CITY, UTAH
 JOB NO. 0916
 FILE NO. 219/10
 DRAWING DATE: 2/9/10
 CHECKED BY:

ELEVATION
 A303



1994
1004 MPD SUMMARY

MPD RES: 135 UNITS
RECORDED RES: 135 UNITS
MPD COMM: 50496 SF
RECORDED COMM: 44581 SF

PLAT: PHASE 3
MPD: PHASE 5: A5

| | APPVD | REC'D |
|-------|-------|-------|
| UNITS | 20 | 20 |
| COMM | 9194 | 8952 |

PLAT: PHASE 3A
MPD: PHASE 4: A6

| | APPVD | REC'D |
|-------|-------|-------|
| UNITS | 33 | 33 |
| COMM | 5536 | 2471 |

PLAT: PHASE 2A
MPD: PHASE 3a LOBBY

| | APPVD | REC'D |
|-------|-------|-------|
| UNITS | 20 | 20 |
| COMM | 3160 | 3058 |

PLAT: PHASE 2
MPD: PHASE 3b: A4

| | APPVD | REC'D |
|-------|-------|-------|
| UNITS | 14 | 14 |
| COMM | 9170 | 8209 |
| | 1455 | |

PLAT: PHASE 1A
MPD: PHASE 2: A3

| | APPVD | REC'D |
|-------|-------|-------|
| UNITS | 28 | 28 |
| COMM | 6358 | 6298 |

PLAT: PHASE I
MPD: A2

| | APPVD | REC'D |
|-------|-------|--------|
| UNITS | 20 | 20 |
| COMM | 8393 | 8393+- |

PLAT: PHASE I
MPD: A1

| | APPVD | REC'D |
|-------|-------|-------|
| UNITS | 0 | 0 |
| COMM | 7200 | |



9-23-91

Department of Community Development
 Engineering • Building Inspection • Planning

September 23, 1991

McIntosh Mill
 P. O. Box 1330
 Park City, Utah 84060

MPE, Inc.
 P. O. Box 2429
 Park City, Utah 84060

NOTICE OF CITY COUNCIL ACTION

Project Description: Conceptual Approval of Town Lift Project

Date of Meeting: September 19, 1991

Action Taken By City Council: APPROVED

FINDINGS:

The following principles on development for the Town Lift site were agreed to by the City Council. The proposed concept plans are consistent with the principles:

1. The site is suitable for commercial development. Such development should be massed in the downtown area and anchor projects at both ends of the Main Street district (Brewpub on the south and the Town Lift on the north) is a desirable development pattern.
2. The site is zoned for commercial and resort development.
3. Main Street should be extended through the project and should connect back into Park Avenue. Historic District guidelines should apply to this extension of Main Street.
4. A 1982 Agreement exists for which the City received a quid pro quo, but this Agreement in and of itself is not sufficient to insure either quality development or the rights to develop what was contemplated under the Agreement.
5. The Town Lift chair connecting the ski area to town exists. It was constructed with the expectation that significant commercial development, including tourist housing and retail space, would be built on this site in the future.

6. Open space, pedestrian paths and connections to the neighborhood are important aspects of developing this property.

7. Phasing the development so as to (a) not overwhelm the commercial absorption and viability of current Main Street; and (b) insure that each phase is complete in and of itself, is of utmost importance.

8. A comprehensive concept plan should be a prerequisite of approval and this should modify the 1982 Agreement.

9. Under no circumstances will building height be approved which results in heights in excess of HCB zone height based upon a redefined natural grade from back of curb on the east side of Park Avenue to the back of curb on the west side of Deer Valley Drive. Any height in excess of this cannot be supported as this will overwhelm the scale and feel of the Historic District which is Park City's major tourist draw. The Council may desire to further reduce the building heights as a part of the comprehensive renegotiation of the 1982 Agreement. It is understood that the Sweeney Master Plan is not included in the 1982 Agreement and is therefore not subject to this limitation. The Sweeney MPD sets forth maximum building heights for that portion of the project.

10. It is advantageous for the community to maintain future options for open space, plazas, and a ski run, even if these elements are not decided on at this time.

11. It is in the public interest that development on adjoining properties be coordinated, especially as this relates to the Sweeney properties which have already received master plan approval.

12. It is important that balanced growth is fostered in Park City. The impacts and demands on facilities and services generated by residential development (including primary and secondary homes), tourist and resort facilities, and commercial development must be balanced so that the overall fees and revenues they generate will insure a high quality of living environment.

13. If a comprehensive agreement based on these principles cannot be reached and the applicants seek to develop in a piecemeal fashion, the City will strictly apply all its laws and ordinances to insure that such development is as close to these principles as is legally possible.

CONDITIONS OF APPROVAL:

1. This approval is for a conceptual plan for the Town Lift Project. The Town Lift Project is a mixed use residential and commercial project which includes the extension of Main Street. The maximum square footages for the project are as follows:

| | <u>Gross</u> | <u>Net</u> | <u>Cars</u> |
|--------------------------|----------------|----------------|-------------|
| Street Level Commercial | 56,910 | 51,220 | 154 |
| Level 6980 Skier Service | 16,710 | 15,040 | 45 |
| Podium/Plaza Commercial | 78,670 | 70,800 | 212 |
| Support/Service | 34,550 | 31,100 | 31 |
| Resid./Accom. Unit | <u>208,500</u> | <u>166,800</u> | <u>167</u> |
| Total | 395,340 | 334,960 | 609 |

The project is anticipated to be developed in Phases. Attachment A is a breakdown of maximum square footages and associated required parking by phase. These phases represent a preliminary phasing plan for planning purposes only and is referenced in these conditions of approval. The phasing and square footages may change slightly if the Sweeney Master Plan proceeds as currently approved.

The maximum building heights for the project are shown on Exhibit 1. These maximum building heights represent building heights as permitted in the HCB zone with a redefinition of natural grade. Natural grade is redefined as a grade extending from the back of curb on the east side of Park Ave. to the back of the curb on the west side of Deer Valley Drive. The Planning Commission has considered the requirements for height exceptions in Section 10.9.c of the Land Management Code and no further height exceptions will be considered. In no case shall any building exceed the maximums set forth except as specifically excepted in these conditions as it relates to the replication of the Coalition Building and as specified in the Sweeney MPD as it applies to the Sweeney properties included in this project.

2. This approval does not include seasonal or permanent closures of any roadways to accommodate an extension of the Town Lift Ski Run.

3. A number of special agreements are required which are addressed in these conditions of approval. Because of the length and complexity of the necessary negotiations, the City will consider the processing of applications necessary to allow commencement of construction. A subphase of Phases A and B will be permitted to proceed with processing and will be referred to as Phase 1. Phase 1 will require the following discretionary approvals and be subject to the following conditions:

a. Prior to commencement of construction of Phase 1, the 1982 Agreement must be revised to reflect the building height as approved in this conceptual approval.

b. The Planning Commission must review and approve an MPD for Phase I. Phase I must be consistent with the concept plan approval and will include details on public improvements, landscaping, circulation especially as it relates to public transit, street and pedestrian improvements and other items normally reviewed in the MPD process. A preliminary landscape and pedestrian circulation plan will be approved by the Community Development Staff for the entire project. Each phase will have a final landscape plan and public improvements plan approved prior to construction which shall be consistent with the preliminary landscape plan.

As a part of the MPD review process, the Planning Commission will ~~consider the establishment of~~ require an employee housing fund to be established which would contribute a proportionate share of the 26 proposed employee housing units.

c. The Historic District Commission will be required to review and approve volumetrics for Phase I which will address maximum building heights, necessary stepping, acceptable building materials and colors as well as general design features. The HDC will also be required to approve specific building design for the proposed structures prior to construction.

d. The Planning Commission and City Council will review and approve any subdivisions necessary pursuant to the subdivision regulations of the Land Management Code.

e. A Master Property Owners Association will be formed which will be responsible for the maintenance of all landscaping within the project, the walkways and plazas. The City staff shall review and approve the documents which establish this Master Association. The developer and City shall enter into an agreement specifying that the Master Property Owners Association shall be responsible for maintenance of the landscaping and plaza areas. Said agreement shall indicate the minimum level of maintenance acceptable to the City. The developer shall provide the City with an acceptable financial guarantee in the amount of one year's maintenance cost as a part of the agreement.

f. An Open Space Enhancement Plan will be required to be approved as a part of the MPD for phase I. That plan shall address the level of improvement for the open areas which are not to be developed at this time between extended Main Street and Park Ave. and between Park Ave. and Woodside Ave. This plan shall include a comprehensive plan to address the lift base which shall include, but not be limited to, public

restrooms, drinking fountains, signage, landscaping and lighting. It shall also address pedestrian and trail access. When plans are finalized for these areas, trail easements will be required to be dedicated to provide winter and summer access. At some time in the future, these areas may contain development parcels consistent with the existing Sweeney MPD.

g. As a part of the approval of Phase I, a portion of the Sweeney Master Plan will be formally amended. That amendment will include the consolidation of the Coalition East buildings into one structure and will commit to leave the balance of the property open until at least January of 1993. After that time, the Coalition West buildings and a part of the Coalition East North Building within the boundaries of Phase B4 as shown on Exhibit 1 will be allowed to proceed with the conditional use process consistent with the existing Sweeney MPD.

h. Financial guarantees will be required for public improvements associated with the first phase of construction.

i. The City Engineer shall review and approve all grading, drainage and utility plans.

4. Prior to any activity on the Town Lift Project beyond Phase I, the following conditions must be met:

a. The 1982 Agreement shall be comprehensively renegotiated. The revised agreement will contain provisions of the concept approval and will include the revised plan reflecting this approval as an attachment, including a revised phasing plan. A revised phasing plan shall be produced as a part of the revisions of the 1982 agreement which shall indicate an increase in the early phase residential and concurrent reduction in total commercial space for the project. The phasing plan shall consider Hillside Avenue improvements and shall give as much consideration as possible to further reductions in height, not at the expense of residential square footage.

As a part of this comprehensive renegotiation of the 1982 agreement, the City Council will determine the level of appropriate mitigation necessary to achieve the desired building heights for the project.

b. Design Guidelines and building volumetrics will be approved for each building or group of buildings. An independent consultant will be hired to assist in the formulation of these Guidelines. The Planning Commission and Historic District Commission will establish the scope of work for the consultant. Two members of the Planning Commission will work with the HDC in the formulation of the Guidelines. The Planning Commission will be required to approve the final Guidelines.

The Guidelines shall include volumetrics of each building describing necessary stepping and maximum heights. The Guidelines shall also address acceptable building materials and colors as well as general design features which may be reflective of Park City's mining history.

c. Final Phasing Plans, including an economic analysis of commercial demand, shall be submitted and approved by the Community Development Staff. These plans shall include the timing and staging of public improvements and construction staging plans. The construction staging plans shall include staff approval of areas of disturbance and material storage and necessary screening for each phase. Each phase shall be designed to stand on its own and represent a complete project without reliance of future phases for completion. The revised phasing plan shall also include those items listed in condition 4(a).

d. The City Council shall enter into a land trade agreement for the RDA property. This shall include requirements and restrictions for the control of the 26 proposed employee housing units. The employee housing units can be built any time, but shall not occur later than Phase C (as shown on the concept approval plans).

e. Main Street extended shall be completed to Park Ave. and shall be built to standards approved by the City.

f. At least 50% of the buildings and required parking in Phase 1 shall have received certificates of occupancy and 75% of the retail spaces for which certificates of occupancy have been issued shall be occupied with long term leases of not less than 1 year.

5. There are other conditions which refer the preliminary phasing plan as shown on the concept plan. Before future phases commence construction, a minimum build-out is required for previous phases. These conditions refer to the preliminary phasing plan, and shall be revised when the final phasing plan is approved:

a. Prior to commencement of any construction on Phase C:

- Street and utility construction must be 100% complete on Main Street extended and the connection to Deer Valley Drive.

- All public improvements associated with phases A and B shall be completed.

- At least 50% of the buildings and required parking in Phases A and B shall have received certificates of occupancy and 75% of the ~~completed~~ retail spaces for which certificates of occupancy have been issued shall be occupied with long term leases of not less than 1 year.

- Vacant parcels in Phases A and B shall be landscaped according to an approved plan.

- Financial guarantees to assure the installation of public improvements associated with Phase C will be required to be posted.

b. The following conditions are required as a part of construction of Phase C and must be completed prior to any construction commencing on Phase D:

- At least 75% of the buildings and required parking in Phases A and B must have received certificates of occupancy. At least 75% of the ~~completed~~ retail spaces for which certificates of occupancy have been issued must be occupied with long term leases of not less than 1 year.

- The employee housing shall be constructed prior to or concurrent with the commencement of construction for any other structures in Phase C. The employee housing shall be completed no later than Phase C.

- Vacant parcels in Phase C will be landscaped according to an approved plan.

- All public improvements associated with Phase C shall be completed.

- Financial guarantees to assure that installation of public improvements associated with Phase D will be required to be posted.

c. The following conditions are required as a part of construction of Phase D and must be completed prior to any construction commencing on Phase E:

- At least 50% of the buildings and required parking in Phase D must have received certificates of occupancy. At least 75% of the retail spaces for which certificates of occupancy have been issued shall be occupied with long term leases of not less than 1 year.

- Vacant parcels in Phase D shall be landscaped according to an approved plan.

- All public improvements associated with Phase D shall be completed.

- Financial guarantees to assure that installation of public improvements associated with Phase E will be required to be posted.

6. As indicated in attachment A, the minimum parking required is 609 spaces. If building square footages are reduced significantly during project build-out, the Planning Commission may consider reductions in the total amount of parking required. Parking spaces in excess of demand should be designated to accommodate open parking.

7. No density (gross or net square footages or building height) transfers will be allowed between phases. If a project chooses to use less than the maximum densities, it has no effect on any other portion of the project and cannot be used elsewhere in the project.

8. The plans shall be revised to include the possibility of a Coalition Building replica and exclude the small commercial space located in the edge of the originally proposed ski run extension. The Coalition Replica shall require approval by the Historic District Commission and will be as close as possible to the original design and location.

9. The plans shall be modified to address the concerns raised by the traffic report as deemed appropriate by the Staff.

10. The project is in an identified Flood Plain and will be subject to the Flood Plain Ordinance. If the buildings need to be modified to meet the Ordinance, no additional building height and no parking reduction will be considered. If parking is required to be reduced as a result of compliance with the Flood Plain Ordinance, associated reductions in square footage will also be required.

11. Before, after and during all phases of construction, access shall be provided to the Avise property. Plans for each phase shall reflect this access.

12. Amendments to this concept plan will be considered by the Community Development Department. If the amendment is determined to be substantive, the amendment will be referred to the Planning Commission for review and approval. For purposes of amendments, the revised property agreement and this approval shall be considered the base line and no consideration will be given to prior agreements or approvals on the property.

Conceptual Approval of Town Lift Project
September 23, 1991
Page Nine

Nora L. Seltenrich
Nora L. Seltenrich, AICP
Planning Director

9/23/91
Date

ACKNOWLEDGEMENT

I, the undersigned, hereby acknowledge the conditions by which the project referred to above was approved.

_____ Date _____

NO CONSTRUCTION SHALL BE PERMITTED UNTIL A SIGNED COPY OF THIS LETTER, SIGNIFYING CONSENT TO THE CONDITIONS OUTLINED ABOVE, HAS BEEN RETURNED TO THE PLANNING DEPARTMENT.

PARK CITY PLANNING DEPARTMENT
STAFF REPORT

TO: PLANNING COMMISSION
 FROM: PLANNING STAFF NS
 DATE: APRIL 16, 1992
 RE: MPD APPROVAL FOR TOWN LIFT PHASE I

=====

I. PROJECT STATISTICS

Project Name: Town Lift Phase I
 Applicant: McIntosh Mill
 Location: Extended Main Street, North of Heber Ave.
 Proposal: MPD for Phase I of the Town Lift
 Zoning: HRC with special agreements allowing the
 use of the HCB zoning
 Adjacent Land Uses: Commercial, Residential, Vacant
 Project Planner: Nora Seltenrich
 Recommended Action: Approval with Conditions

II. BACKGROUND INFORMATION

In September of 1991, the City Council granted conceptual approval of the Town Lift Project. That approval was subject to a lengthy list of conditions which must be satisfied prior to construction commencing on the site. The conditions and findings for that approval are attached for your review.

It was anticipated that the applicants would come forward with an application for a first phase of the project fairly quickly. Their goal is to be able to commence construction this building season.

A Town Lift Design Review Task Force was set up to review the architectural drawings for the first phase. That group has met several times and has granted preliminary approval to the design of the buildings in the first phase. Prior to commencement of construction of any structure, final design approval must be granted.

There are a number of conditions which have to be satisfied prior to the first phase commencing construction. The most critical of which is an amendment in the 1982 agreement dealing with the building height. The applicants are working with the City Manager and the City Council on this requirement. The applicants are anxious to conduct negotiations and do a revision to the 1982 Agreement at this time.

III. PROJECT DESCRIPTION

The first phase contains three structures which are broken up into 11 smaller building elements. A common parking structure is proposed under two of the three buildings and surface parking is proposed to the east of the three buildings until later phases are constructed. All the structures lie on the east side of what would be extended Main Street. The structures to the west side are now under different ownership.

The phase would consist of 29 residential units which are 1250 sq. ft. in size, 15,153 net square feet of commercial space. The commercial space would front both extended Main Street and the Podium Plaza level. The building square footages break down as follows:

| | GROSS | NET | UNITS | U.E.'s |
|-------------|--------|--------|----------------|--------|
| BUILDING A1 | | | | |
| Commercial | 2,036 | 1,832 | | 1.8 |
| Residential | 12,780 | 7,446 | 6 @ 1250 SF = | 4.5 |
| BUILDING A2 | | | | |
| Commercial | 8,497 | 7,648 | | 7.6 |
| Residential | 21,175 | 18,805 | 15 @ 1250 SF = | 11.25 |
| BUILDING A3 | | | | |
| Commercial | 6,304 | 5,673 | | 5.7 |
| Residential | 10,696 | 10,294 | 8 @ 1250 SF = | 6.0 |
| TOTALS | | | | |
| Commercial | 16,837 | 15,153 | | 15.1 |
| Residential | 44,651 | 36,546 | 29 @ 1250 SF = | 21.75 |

IV. STAFF ANALYSIS

Comparison with Original Plan - The concept plan for this phase showed quite a bit more commercial space and slightly less residential space. One of the Planning Commission conditions of approval was that the commercial/residential ratio be changed to decrease the amount of commercial proposed. That ratio has changed significantly as is shown:

| | GROSS COMM. | NET COMM. | GROSS RESID. | NET RESID. | TOTAL NET SQ. FTG. |
|-----------------|-------------|-----------|--------------|------------|--------------------|
| Conceptual Plan | 30,900 | 28,091 | 32,102 | 26,752 | 54,843 |
| Current Plan | 16,837 | 15,153 | 44,651 | 36,546 | 51,699 |

Street Elevation Modifications - In the past couple of months, the applicant has been trying to meet the new American Disabilities Act requirements while satisfying the Flood Plain Requirements. A number of alternatives have been explored and the result changes the original concept slightly. The pedestrian level along extended Main Street was anticipated originally to follow the Main Street grade as it heads downhill to the north of the site. A podium pedestrian level was anticipated to be elevated one level from Main Street and follow that grade one level higher. The current proposal flattens the Main Street pedestrian level so that at the south end of the project, the pedestrian level is about 2 feet higher than Main Street, and at the North end of building A3, the pedestrian level is about 12 feet above Main Street.

This was discussed during a Planning Commission work session and the Planning Commissioners expressed concern over how this separation might be treated. Revised plans have been submitted which show a number of stairways connecting the two levels, combined with planter boxes and landscaping. As the separation between the pedestrian arcade and Main Street increases, the buildings are stepped back from Main Street to allow for landscaping and buffering of the elevation difference. Where there is the most separation, the applicants are now proposing some shallow storefronts under the arcade level.

The podium level would no longer be elevated, but would follow the Main Street pedestrian arcade level. This would provide better opportunities for delivery and service access as well as emergency access.

Construction Phasing - Buildings A1, A2 and A3 are all being reviewed as part of Phase I because it is important to understand how the pedestrian arcade idea works. Only buildings A1 and A2 are being proposed to be built at this time, however. The parking plan and construction phasing plan therefore only addresses buildings A1 and A2. Eventually, the parking structure between buildings A2 and A3 will be connected. Until building A3 is constructed, a portion of the parking structure will be exposed.

There is a construction staging area shown on the plans which is proposed to be fenced. The exact location of this area will be determined in the field to avoid significant existing vegetation. The applicant has agreed that the security for public improvements for the project will include adequate funds to restore this area if construction does not continue on the project for any reason.

Parking - Since only buildings A1 and A2 are being planned to be constructed at this time, the parking plan proposed addresses only those buildings. A portion of the parking structure will be constructed and there will be surface parking to the east of the buildings until future phases are constructed. For the first two buildings, 64 parking spaces are required and 82 are proposed.

Prior to commencement of construction on building A3, a revised parking plan will have to be submitted.

The current proposal includes modifying the entrance to the parking structure. The original plan indicated that the primary entrance for the first phases would be off of extended 7th street. The revised plans show the entrance on the north side of building A2. In the future, a Main Street entrance is proposed under the pedestrian bridge.

Construction Access - It is important that construction access occur so that it does not impact Park Ave. and Heber Ave. A temporary construction access is therefore proposed off of Deer Valley Drive. In order to accommodate this access, the bike path will have to be rerouted somewhat. The applicants have agreed that the security required for public improvements will include sufficient funds to restore this area if construction does not continue for any reason.

Ownership - The applicants have indicated that they intend to sell timeshares for this project as a part of the Marriott Ownership program. That approval will be part of this Planning Commission action. The program is set up so that an owner owns a time period. Although they receive a deed for a specific unit, they may not stay in that particular unit. There are other such Marriott resorts and the intervals are exchangeable. In addition, ownership of an interest can also translate into time at other Marriott hotels and discounts for other travel services. The interiors of all of the units will be very similar in size and design.

The timeshare documents have not been finalized at this time. The City Attorney will review those documents for compliance with the regulations set forth in Chapter 8 of the Land Management Code. The applicants do not intend to begin marketing the project until at least this fall. The timeshare documents shall have been approved by the City prior to the marketing of the project.

Subdivision - Along with the MPD approval and approval of the timeshare use, a subdivision plat is being processed. This is vital in order to create Main Street and 7th Street. The Plat is covered under a separate staff report.

Architectural Details - The Town Lift Design Review Task Force has granted a preliminary approval of the building design for phase I. That design will change as a result of the change in the pedestrian plan. The Task Force has met once to discuss the revisions and they will review more detailed plans on Monday, April 20, 1992. Since the Task Force was set up specifically to deal with building design issues on this project, the Planning Commission's time would be better spent addressing the MPD and subdivision review.

Employee Housing - The concept approval included an employee

housing project of 26 units to be constructed in a later phase. That project was originally offered by the developer and is not a requirement specified in the Land Management Code. The applicant has taken the position that they are not willing to commit to the employee housing requirement at this time since the project has been changed substantially by the decrease in building height and associated density and by the elimination of the extension of the Town Lift Ski Run. The City Council felt strongly about this component of the plan and it will be part of the discussion on the renegotiation on the 1982 agreement.

V. COMPLIANCE WITH MPD REQUIREMENTS

Section 10.9 of the Land Management Code specifies general criteria for review. An analysis of that criteria follows:

a) Uses Permitted. The proposed uses of transient residential and retail commercial are permitted in the HCB Zone District. The Timeshare ownership is a conditional use which is being considered concurrently by the Planning Commission. The Master Planned Development is consistent with the Comprehensive Plan which designates this area as Historic Commercial. In addition, it is an extension of Main Street types of uses and is therefore compatible with the neighborhood.

b) Density. There is no maximum density in the HCB Zone.

c) Open Space. MPD's generally have a requirement of 60% Open Space. Phase I of the Town Lift Project certainly meets that requirement, since the majority of the Town Lift Site is not being developed at this time and will remain Open Space. At buildout, however, 60% Open Space can only be achieved by including the ski run to the west of the project. However, the 60% Open Space requirement does not apply to projects on Main Street since the historic pattern of development did not include open space and this is an area which was intended to be very dense.

d) Off-Street Parking. As mentioned above, this phase proposed parking in excess of that required by Code. In addition, the project as a whole is expected to provide Code required parking at buildout.

e) Setbacks. There are no required setbacks in the HCB Zone.

f) Building Height. The building height for this project is controlled through a special agreement which occurred in 1982 and was amended in the concept approval for the project which occurred in 1991. Phase I is consistent with that concept approval and is below that which would have been allowed by the 1982 agreement.

g) Nightly Rental and Timeshare Use. The Code requires that if the project is to be nightly rented or timeshared, a declaration must

occur at the MPD stage. This project will be nightly rented and timeshared and will be back before the Planning Commission for a condominium plat in the future.

h) Site Planning. This phase of the Town Lift project is planned to fit into future structures both as a part of the Town Lift and adjacent developments. This area was intended to be densely developed and has been planned as such with consideration of pedestrian circulation and plaza spaces. Those areas will be maintained by a property owners association. The Main Street grade will generally follow the existing grade. A significant amount of utility relocation will be necessary for Main Street to extend from its current location.

The project is designed to be an extension of Main Street while maintaining an identity of its own. For the first phase, the existing bike path will have to be relocated temporarily to accommodate construction access to the site. Pedestrian circulation shall be provided all the way to Park Avenue, even though not all of the area is to be developed at this time.

Landscaping and streetscape elements are vital to the success of this plan and a final, detailed plan will be required to be submitted by the applicant and approved by Staff. The City's Landscape Architects will be consulted during the review of these plans.

i) Building and Lot Requirements. The building and lot configuration are consistent with the Historic District Guidelines and with the conceptual approval for the Town Lift Project.

j) Commercial Facilities. Commercial uses are permitted in the HCB zone. At the direction of the Planning Commission, however, the amount of commercial square footage in this phase has been decreased from the concept approval.

k) Limits of Disturbance. A limits of disturbance plan will be required prior to construction commencing on the site. That plan shall attempt to retain as much of the significant vegetation on the site as possible. The majority of the larger trees are along the channel adjacent to Deer Valley Drive and will not be disturbed as a part of this phase.

VI. STAFF RECOMMENDATION

The staff recommends APPROVAL of the Town Lift Phase I MPD and the conditional use request for Timeshare based upon the following findings:

1. The MPD is consistent with the general criteria for review as outlined in Section 10.9 of the Land Management Code.

2. The MPD is consistent with the Comprehensive Plan which designates this area as Historic Commercial and anticipated dense development.

3. The MPD is consistent with the Concept Plan approval for the Town Lift Project.

4. There was an agreement executed in 1982 which sets forth unusual criteria for development on the parcel.

The following conditions of approval are recommended:

1. Prior to commencement of construction, the 1982 agreement must be revised to reflect the building height as approved in the conceptual approval.

2. Prior to commencement of construction, a final landscape and streetscape plan shall be submitted by the applicant and approved by the City's Landscape Architect. A security shall be required to be posted to ensure installation of the improvements.

3. The subdivision plat creating extended Main Street and 7th Street shall be recorded prior to commencement of construction.

4. The Town Lift Design Review Task Force has granted a preliminary design approval for Phase I. It shall review and approve the final plans for the buildings in Phase I prior to commencement of construction of those buildings.

5. A construction phasing and staging plan shall be submitted and approved prior to the commencement of construction. That plan shall address the limits of disturbance for construction, fencing and screening of construction staging areas, and relocation of the bikepath to accommodate construction access. A security shall be required to be posted to ensure restoration of the areas disturbed during construction and restoration of the Bike Path if future phases do not proceed.

9. Pedestrian circulation will be required to be provided along Extended Main Street to the new intersection with Park Ave. as a part of this phase of construction. A security to ensure placement of this shall be included in the security for the subdivision unless other arrangements are agreed to by the City Council.

10. Prior to recordation of a condominium plat for any of the buildings, a Master Homeowners Association will be formed which will be responsible for the maintenance of all landscaping within the project, the walkways and plazas. The City staff shall review and approve the documents which establish this Master Association. The developer and the City shall enter into an agreement specifying that the Master Association shall be responsible for maintenance of

the landscaping and plaza areas. Said agreement shall indicate the minimum level of maintenance acceptable to the City. The developer shall provide the City with an acceptable financial guarantee in the amount of one year's maintenance cost as a part of the agreement. Until such an association is set up, it is the responsibility of the developer to install and maintain facilities.

11. The commercial or residential square footage not used as a part of this phase will not be allowed to be used in later phases.

12. The documents creating the timeshare uses shall be reviewed and approved by the City Attorney and shall be found to be consistent with the City requirements prior to marketing of the units as timeshares.

13. The City Engineer shall review and approve all grading, drainage and utility plans.

PARK CITY PLANNING DEPARTMENT

STAFF REPORT

TO: PLANNING COMMISSION
 FROM: PLANNING STAFF NS
 DATE: NOVEMBER 23, 1994
 RE: SUMMIT WATCH REVISED CONCEPT PLAN

I. PROJECT STATISTICS

Project Name: Summit Watch Revised Concept Plan
Applicant: Marriott Ownership Resorts Inc. (MORI) and
 McIntosh Mill, Ltd. (MML)
Location: Town Lift Area, North of Heber Ave. and East of
 Extended Main Street
Proposal: Revised Large Scale MPD
Zoning: HRC/HCB
Adjacent Land Uses: Historic Residential, Commercial, Timeshare, Nightly
 Lodging
Project Planner: Nora Seltenrich

II. BACKGROUND INFORMATION/PROJECT DESCRIPTION

In April of this year, the City Council reviewed an appeal of the Planning Commission denial of Phase II of the Summit Watch Project (aka Town Lift). During that review, the Council granted the staff the authority to work with the applicant to develop an acceptable design of the next building for construction, building A3. Permits have been issued for construction of A3.

Over the past few months, the following has occurred:

Architectural Review of Building A-3. This review is complete. The bike path has been rerouted prior to excavation commencing on the site.

Acquisition of Avise Property. The applicants have purchased the Avise property. This has the following implications:

-7th Street east of extended Main Street no longer has to be a public street accessing a future development parcel. As such, it can be decreased in width and can take on a more "plaza-like" appearance. It will be a private plaza with public easements for access and utilities rather than a public street.

-Emergency Access will be maintained in 7th Street and plaza areas to the satisfaction of the Chief Building Official. A maintenance agreement shall be entered into to insure adequate maintenance.

-The Avise parcel will become open space and the structure demolished. The applicant is discussing deeding the property to the City.

RDA Parcel. 7th Street was anticipated as the primary access to the RDA parcel which exists in the area. The parcel contains the bike path and a significant amount of vegetation. Given the configuration of the site and the vegetation on the site, it is unlikely that it would be developed independently. There is a possibility that it could be combined with other parcels. The other parcels would access off of Heber Avenue. Although there will be a public access easement for the 7th Street Plaza, it is unlikely that this access would be adequate to serve a development on the RDA parcel.

Finalization of Plans of the Aquacade - A building permit has been issued for the aquacade.

III. PLANNING COMMISSION ACTION REQUIRED

The Planning Commission is being asked to take two actions. The first is approval of a revised concept plan, or Large Scale Master Plan Development for the entire project. This will supersede the action taken to approve the original concept plan in 1991. A revision of the first phase of the project was previously approved by the Planning Commission and this action will revise the balance of the project. A revision to the Sweeney portion of the Master Plan was also previously granted by the Planning Commission. This concept plan covers the property on the east side of extended Main Street. The original conditions of approval of the concept plan must be reviewed and modifications made.

The second action is covered in a separate staff report and involves the Conditional Use Approval of items related to Phase II of the project. Consistent with Chapter 10 of the Land Management Code, each portion or phase of a Large Scale Master Plan must receive Conditional Use Approval.

The Town Lift Design Review Task Force will be required to review and approve the revised concept plan as well as final plans for each individual building.

VI. PROJECT DESCRIPTION

UNIT CONFIGURATION

The Summit Watch Project consists of 8 buildings. Buildings A1 and A2 have been constructed and buildings A3 and the Aquacade are currently under construction. The project buildings and phases are as follows:

Phase 1

Building A1 7200 sq.ft. commercial
Building A2 20units 8393 sq.ft. commercial

Phase 2

Aquacade support commercial only
Building A3 28units 6358 sq.ft. commercial

Phase 3a

Lobby 20units 3160 sq.ft. commercial

Phase 3b

Building A4 14units 9170 sq.ft. commercial
Conversion of old Lobby area in A2 to comm. 1455sq ft

Phase 4

Building A6 33units 5563 sq.ft. commercial

Phase 5

Building A5 20units 9194 sq.ft. commercial

The residential units are 1250 sq.ft. (or .75 unit equivalent) and the commercial numbers represent net leasable square footage.

The total project consists of 135 residential units and 50,496 sq.ft. of net leasable commercial square footage.

ARCHITECTURAL THEME AND BUILDING HEIGHTS

The project as proposed will follow the architectural themes which have been established by the construction of the first 2 buildings and by the approval of plans for Building A3. The buildings along Main Street will be flat roofed structures which will be broken up in modules through the use of different facade treatments. The "arcade" commercial frontage will continue down Main Street with Building A4. Building A5 will not have commercial frontage along Main Street.

The buildings to the east, along Deer Valley Drive are proposed to have more of a mining theme. They will have pitched roofs and provide roof and facade variation. Preliminary design concepts have been submitted and have been distributed for your review. The Town Lift Design Review Task Force will be required to approve the preliminary plans and the final plans for each building. The Planning Commission will also have the opportunity to review more detailed designs at the Conditional Use stage for each phase.

The proposed building heights for the balance of the project are within the building height plane as defined and approved in the 1992 amendment to the 1982 agreement. Buildings A3, Lobby and A6 are 4 levels above the plaza (or parking structure) level. The plaza level steps down between the Lobby Building and Building A6. Building A4 will be 3 stories along Main

Street and 4 along the plaza, with an increasing difference in elevation between Main Street and the arcade level. Building A5 will be 4 stories.

PARKING

Buildings A2, A3, A4, A5 and A6 are built upon a common parking structure which will contain a total of 337 spaces at buildout. During some of the phases there will be a deficit of parking in the structure. During those times, the applicant is proposing to provide spaces in surface lots. During the conditional use approval of each phase the number, exact location and surfacing requirements of the lots will be specified. A plan has been submitted which shows how the parking requirements will be met with each phase. At buildout, the parking provided will meet the minimum required based upon a ration of 1.25 spaces per unit and 3 spaces per 1000 sq.ft. of net leasable commercial.

PHASING CONTINGENCY PLANS

A major concern with a large, phased project such as this one is that the project may not proceed and that there may be long periods of time between phases moving forward. This developer has certainly indicated their intention to continue to move the project along to completion, but we must plan for every eventuality.

The applicant has prepared phasing contingency plans which indicate how the project area will be restored, how minimum required parking will be provided, how pedestrian and vehicular circulation will work and how utilities will be provided for each phase. Those contingency plans will become part of the approved plans for the Summit Watch Project. Prior to construction commencing on any of the buildings, the City will require that a security posted to cover the cost of site renovation and installation of contingency plans, should the project not move to the next phase. There are specific conditions of approval which address this issue.

PLAZA

The staff and the applicants have been working on plans for the pedestrian plaza area which is over what was 7th Street and is between the buildings. Plaza improvements will include planters, window boxes, hanging planters, benches, trash containers, and light fixtures with banners. The plaza will be privately maintained. It is necessary to maintain a 20 foot fire lane through the plaza. A maintenance agreement is being finalized to ensure that the plaza is maintained to a minimum standard and that snow removal occur so as to allow for adequate fire and emergency access.

EMPLOYEE HOUSING

According to the 1992 amendment to the 1982 agreement, the applicant has an obligation to provide employee housing. This housing requirement is based upon the buildout of the square footage of the project. Based upon this revised concept plan, the requirement would kick in at phase 4. Based upon input received by the Planning Commission at a previous work session, the City is exploring a number of options for provision of City property. The staff will keep the Planning Commission updated as that research progresses.

V. ISSUES FOR DISCUSSION

COMPARISON WITH 1991 CONCEPT APPROVAL

When this project came before the Planning Commission in April, 1994, the staff raised serious concerns regarding the revisions to the concept plan and recommended denial of the revised concept plan at that time. Since then, the applicant has worked to resolve those staff concerns. Improvements to the plans include:

- modification of building design to provide more variation in facade and building height
- detailed planning for the plaza and public features of the project
- revision to Building A6 to provide more opportunity for a pleasing entry to the project and to Main Street
- revision to the plans in order to enhance the stream corridor and bike path
- a greater degree of commitment to work with the City to make the Summit Watch Project as good as it can be

Although there is still quite a bit of detail which has to be finalized, the plans received at this time are a significant improvement over what was proposed earlier this year. The staff can identify no major issue.

The current proposal is significantly smaller than the 1991 concept plan. The residential square footage is virtually the same while the commercial component has been dramatically decreased (from 137,060 sq.ft to 50,496 sq.ft.).

COMPLIANCE AND REVISION TO 1991 AND 1994 CONDITIONS

The 1991 conditions of approval have been reviewed by the staff. Some of the conditions apply to what is now the Sweeney portion of the Town Lift Project and have been attached to those approvals. Many of the conditions of approval have been complied with or have been superseded by the 1992 amendment to the 1982 agreement. Since the project is now being developed by one party, rather than individual parcels being sold for development, as was originally anticipated, many of the conditions no longer apply. New conditions of approval are drafted as a part of this approval and will supersede the 1991 conditions.

The 1994 conditions are being complied with through this revision to the concept plan and the Conditional Use approval of Phase 2.

UTILITIES

The City Engineer has expressed concerns over the adequacy of fire flow for the project as it builds out. The applicant continues to work with the City Engineer on complete preliminary

utility plans. Final plans for the entire project have not yet been agreed upon, but the Conditional Use approval for each phase shall require that utilities adequate to serve that phase are approved. Conditions of approval are included to address the utility issues.

STREAM CORRIDOR AND BIKE PATH IMPROVEMENTS

The staff has been concerned with the stream channel/bike path corridor which runs east of the buildings and west of Deer Valley Drive. This is a heavily used corridor and it is important that it remains a pleasing pedestrian experience. The current plans show the stream channel being reconstructed adjacent to building A6. This is unavoidable due to the construction of the Deer Valley Drive-Main Street intersection, the removal of 2 existing culverts and the construction of the driveway to the Lobby building. South of this area, every attempt will be made to retain as much existing vegetation as possible. The acquisition of the Avise parcel has enabled the applicants to propose that the 4 foot "soft surface" path be separated from the 10 foot hard surfaced bike path. The work will be done by hand and will involve minimal vegetation removal.

PRELIMINARY NATURE OF PLANS

The Large Scale MPD process is intended to approve preliminary plans with the understanding that the details for each phase must be worked out in the Conditional Use process. The plans submitted to date are of greater detail than is customary or anticipated in Chapter 10 of the Land Management Code. This greater level of detail was deemed necessary by the staff for a project of this size and prominence. The plans are still preliminary, however, and conditions of approval have been drafted to address this preliminary nature and to make clear that more detailed plans will be required to be submitted and approved.

VI. FINDINGS AND CONDITIONS

The staff has reviewed the plans submitted and recommends **APPROVAL** of the revised Large Scale MPD for the Summit Watch Project.

FINDINGS

1. In 1991, the Planning Commission and City Council approved a concept plan for the Town Lift Project which included the Summit Watch project currently under review. The current proposal for the Summit Watch Large Scale MPD proposes revisions to that concept plan. Those revisions require review and approval by the Planning Commission.
2. This project is unique in that there are prior agreements which apply to it. The City has entered into a 1992 amendment to the 1982 agreement which applied to this project. In terms of the Master Plan Development Review, the agreement gives the property owners the right to use HCB zoning, establishes natural grade for measuring building height, imposes an employee housing requirement and addresses stream channel modifications.
3. The project is being reviewed as an amendment to a Large Scale Master Plan. The applicant has provided information consistent with requirements for review.

4. This project is large in scale and is in a prominent location in Park City's Historic District.
5. This area is identified as Historic Commercial in the Park City Comprehensive Plan.
6. Plans have been submitted and, once approved, will be part of the approval record.
7. The applicants have worked diligently with the City and have revised the plans to address concerns raised by the Staff, Planning Commission and City Council.

CONCLUSIONS OF LAW

1. The proposed project is consistent with the Historic Commercial designation in the Park City Comprehensive Plan.
2. The project and proposed uses are consistent with the HCB zoning which is allowed to be applied to it.
3. The project is generally consistent with the 1992 amendment to the 1982 agreement and with the findings and conditions of the 1991 approval. Some of the terms and conditions are no longer applicable and some terms and conditions are modified as a part of this approval and are necessary due to changes in the project and in circumstances.
4. The project complies with the Criteria for Review of a Master Planned Development as outlined in Section 10.9 of the Land Management Code.
5. The Master Plans relationship to its surrounding have been considered in order to avoid adverse impacts caused by traffic circulation, building height or bulk, lack of screening, ridgeline and view corridor intrusion, wetland encroachments or intrusions on privacy.
6. Additional detailed plans and conditions of approval are deemed necessary to ensure compliance with section 10.9 of the Land Management Code, such as detailed landscape plans and architectural drawings.

CONDITIONS OF APPROVAL

1. This approval is for a Large Scale Master Planned Development. Every phase shall require conditional use approval by the Planning Commission.
2. The Town Lift Design Review Task Force shall review and approve plans for each building prior to construction commencing.
3. Uses in the project shall be governed by the HCB zone. Any use which is shown as conditional in the HCB zone shall require conditional use approval by the Planning Commission.

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4. A phasing plan has been submitted and is a part of this project approval. During the Conditional Use review of each phase, final details of the contingency plans shall be reviewed and approved. Prior to commencement of construction of any phase, a security shall be posted which shall be adequate to allow site restoration and completion of the contingency plan.
5. The Conditional Use review for each phase shall include review and approval of temporary and permanent pedestrian, vehicular and construction circulation plans.
6. No phase or building may proceed unless the City Engineer reviews and approves the utility plans.
7. No building permits will be issued unless and until the City Engineer and Fire Marshall review and approve plans which adequately address fire and emergency access and fire flow.
8. The Conditional Use review for each phase shall include the review and approval of landscape, streetscape and lighting features which are consistent throughout the project and are consistent with this approval. The landscape plans shall include specimen size trees, particularly between Deer Valley Drive and the buildings.
9. A Master Property Owners Association will be formed which shall be responsible for maintenance of all plaza streetscape and all landscaping. A Maintenance Agreement shall be entered into which guarantees the level of maintenance.
10. The building heights and density shall not exceed what is shown in this approval.
11. The applicant shall be required to provide employee housing consistent with the terms of the 1992 amendment to the 1982 agreement.
12. All signage shall receive appropriate review and approval.

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PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
NOVEMBER 30, 1994

COMMISSIONERS IN ATTENDANCE:

Tom Calder, Bruce Erickson, Fred Jones, Chuck Klingenstein, Joe
Tesch, Diane Zimney

EX OFFICIO:

Rick Lewis, Community Development Director; Nora Seltenrich,
Special Projects Manager; Megan Ryan, Planner II; Janice Lew,
Planner I

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The Commissioners and the Staff met in work session from 6:00 to
8:00 p.m. to review items on the regular agenda.

REGULAR MEETING - 8:00 P.M.

I. ROLL CALL

Vice-Chair Bruce Erickson called the meeting to order at 8:10 p.m.
and noted that all Commissioners were present with the exception of
Chair Alison Child who was excused.

II. PUBLIC COMMUNICATIONS

Vice-Chair Erickson called for public input on items not on the
regular agenda.

David Belz, an architect and property owner in Old Town, addressed
the HRC issue that was not scheduled on the agenda. He referred to
comments made at the work session by some Commissioners that the
Planning Commission should assume a leadership role in the planning
process for the HRC zone and other planning issues. Mr. Belz
agreed that the Planning Commission should assume a leadership
role, but he felt that there was an underlying attitude that the
leadership position was going to take place regardless of public
opinion. He was concerned about that attitude and felt that it
discounted the value of public opinion. He shared Commissioner
Tesch's concern that ideas coming from a group forum were often
biased by the group leader's position. He was more concerned that
too often the leadership role was assumed by the Planning
Commission and other City bodies, resulting in the hiring of
outside consultants and experts to dictate what the public wanted
to hear. If outside experts were hired, Mr. Belz felt the
consultants should be allowed to give the public their unbiased
expert opinion and let the public decide whether to accept or deny

it. He encouraged the Planning Commission to keep an open mind when dealing with outside sources. He noted that, for the public meeting on December 14, the Commissioners would establish the objectives, and the public group meetings would discuss how to facilitate the objectives. In addition to the Planning Commission's objectives, he proposed that the big picture for the area also be discussed in the groups. His suggestion was initiated by the issue of the ski run extension of which many of the Commissioners were unaware, and Mr. Belz felt the Planning Commission should temper their ideas for the whole area with the ski run in mind and encourage the developer to submit a revised MPD showing the ski run extension.

III. STAFF/COMMISSIONERS' COMMUNICATIONS

Community Development Director Rick Lewis reported that a meeting of the General Plan Update Citizens Advisory Committee is scheduled for 6:00 p.m. on December 19 at City Hall. The agenda will include what is happening in the City and County regarding the tiering system, annexation proposals, and past growth trends. He noted that Commissioners Jones, Calder, and Child are members of that Committee.

Commissioner Chuck Klingenstein reported on an article in the Urban Land Institute addressing growth issues in the Rocky Mountains. He summarized the article and noted that the growth currently being experienced would not abate for at least a decade. It was not necessarily an issue of growth versus no growth or conservation versus open markets, but rather how to determine and conserve what was worthy in the landscape while simultaneously allowing and supporting economic development. He acknowledged the hard work being done but suggested taking a broader look at the impacts. A copy of the article was provided for each of the Commissioners.

IV. PUBLIC HEARINGS/ACTION ITEMS

1. 2581 Larkspur Drive (Lot 34 Westridge Subdivision Phase II) Plat Amendment

Director Lewis explained that the application had not moved forward and the Staff had notified the applicant several times without response. The last communication was by certified letter over 60 days. According to ordinance, after that length of time the Community Development Director may make a recommendation to the Planning Commission to deny and terminate the application. Director Lewis recommended that the Planning Commission take that action.

MOTION: Commissioner Fred Jones moved to ACCEPT the Staff recommendation to terminate the application due to inaction. Commissioner Klingenstein seconded the motion.

VOTE: The motion passed unanimously.

2. Prospector Square Subdivision of Lot G (Lost Prospector)

The Staff recommended that this item be continued. Director Lewis stated that information was required to be submitted by December 1 at 5:00 p.m. or he would recommend that the application be terminated or re-started.

Vice-Chair Erickson opened the public hearing.

There was no public comment.

MOTION: Commissioner Klingenstein moved to CONTINUE the request for Plat Amendment, Lot G, 1777 Prospector Avenue until December 14, 1994, provided that information is submitted by 5:00 p.m. on December 1 subject to the Staff recommendation for termination of action for failure to submit. Commissioner Jones seconded the motion.

VOTE: The motion passed unanimously.

3. Summit Watch Revised Concept Plan and Phase II Approval

Due to a conflict of interest, Commissioner Diane Zimney abstained from discussion and voting on both Summit Watch matters.

Special Projects Manager Nora Seltenrich reported that the Planning Commission was being asked to take two actions. The first was a revised concept plan for the entire Summit Watch project from the east of extended Main Street to Deer Valley Drive and south of Park Station. The concept plan included a phasing plan with five phases, with Phase I nearly complete, and Phase II being under construction. The Phasing plan included revised architectural schemes and revised parking. Phasing contingency plans would insure that, if the project stopped at any point, it would look like and function as a complete project. The project would include a pedestrian plaza which would be privately maintained. The proposed plan was a revision to a 1991 concept approval for the Town Lift project and would constitute a revised large-scale MPD. The Staff recommended a number of conditions of approval that would give the Staff authority to continue working with the applicant to achieve a satisfactory level of detail. Conditions would require that each phase come back to the Planning Commission for

conditional use approval and that the Town Lift Design Review Task Force review and approve all building designs.

Commissioner Joe Tesch asked for clarification of what the Planning Commission would be approving. Manager Seltenrich responded that a large-scale master plan included density determination, footprints of the buildings, general landscape design, general utility plan, circulation plans, and pedestrian circulation plans. The Planning Commission would also base their action on a set of approved drawings addressing all of the above-stated issues.

Vice-Chairman Erickson clarified that each building in the next phase would go before the Town Lift Design Review Task Force and the Planning Commission. Manager Seltenrich explained that each phase would be considered a conditional use permit.

Based on Commissioner Tesch's comments made during the work session, Commissioner Klingenstein did not want him to feel that he was being rushed into taking action on something he had not had time to consider fully. Commissioners Klingenstein and Child had worked with Manager Seltenrich to review the project which had put them at an advantage. He encouraged Commissioners Tesch and Calder to request more time for consideration if they found it necessary.

Commissioner Tom Calder stated that he was prepared to move forward but would agree to additional time if it was needed.

Commissioner Tesch felt that, although this seemed a little fast and he had not seen the set of plans mentioned by Manager Seltenrich until the work session, he had made himself familiar with prior plans and studied the new footprint as best he could. He had a good idea of the project and trust in the work of his fellow Commissioners who had been more involved. Based on those reasons, he was prepared to take action.

Vice-Chair Erickson opened the public hearing.

There was no public comment.

Vice-Chair Erickson summarized that the Staff had asked for two actions, and he was prepared to entertain two motions on Summit Watch.

Summit Watch Revised Concept Plan

MOTION: Commissioner Klingenstein moved to APPROVE the revised concept plan as outlined in the Staff report covering the Summit Watch Revised Concept Plan, the applicant being Marriott Ownership Resorts, Inc., and MacIntosh Mill, with all the conditions outlined

by the Staff with the Conclusions of Law and Findings. Commissioner Jones seconded the motion.

Commissioner Tesch asked Manager Seltenrich for a public explanation of the changes in the project over the course of time. He noted that the current proposal had a lot to commend it over the prior plans including lower commercial and lower density.

Manager Seltenrich reported that a number of plans had been presented over the years, and a concept plan was approved in 1991 by the Planning Commission and the City Council. The current plan contained 135 residential units and 50,496 square feet of net leasable commercial area. The 1991 plan contained the same amount of residential square footage and approximately 137,000 square feet of net leasable commercial space. The current plan significantly decreased the commercial area. When the 1991 plan was approved, the concept was that it would be developed more like Main Street, and individual parcels would be subdivided and developed by different developers. It included the pedestrian plaza, and the buildings were in the same general location. The Seventh Street Plaza area was always discussed as having a pedestrian component, although it had now become a full pedestrian plaza. The current concept would be developed by one developer with a common plaza management and some continuity in maintenance. The form of the buildings had changed, but building heights had not increased over the original 1991 plan.

In early 1994, MacIntosh Mill and Summit Watch presented another concept plan proposal with buildings in the same general location. The proposal was denied by the Planning Commission and City Council. There was concern about variation in building facade and building height, planning for the plaza was not detailed sufficiently, there was inadequate entry statement where Main Street met Deer Valley Drive, and there were concerns about the stream corridor and bike path. Since April 1994, the Staff had worked with Summit Watch and MacIntosh Mill to refine the plans to address those issues, and the Staff felt that significant modifications had been made to improve the master plan and recommended approval. The lengthy conditions of approval from 1991 and 1994 had been reviewed when considering the current plan, and the new conditions of approval replaced the previous conditions.

Commissioner Tesch remarked that the current plan was the best one he had seen, and he was ready to vote on the matter because he did not want to see it go away.

VOTE: The motion passed unanimously with Commissioner Zimney abstaining from the vote.

Conditions of Approval - Summit Watch Revised Concept Plan

1. This approval is for a Large Scale Master Planned Development. Every phase shall require conditional use approval by the Planning Commission.
2. The Town Lift Design Review Task Force shall review and approve plans for each building prior to construction commencing.
3. Uses in the project shall be governed by the HCB zone. Any use which is shown as conditional in the HCB zone shall require conditional use approval by the Planning Commission.
4. A phasing plan has been submitted and is part of this project approval. During the Conditional Use review of each phase, final details of the contingency plans shall be reviewed and approved. Prior to commencement of construction of any phase, a security shall be posted which shall be adequate to allow site restoration and completion of the contingency plan.
5. The Conditional Use review for each phase shall include review and approval of temporary and permanent pedestrian, vehicular and construction circulation plans.
6. No phase or building may proceed unless the City Engineer reviews and approves the utility plans.
7. No building permits will be issued unless and until the City Engineer and Fire Marshall review and approve plans which adequately address fire and emergency access and fire flow.
8. The Conditional Use review for each phase shall include the review and approval of landscape, streetscape and lighting features which are consistent throughout the project and are consistent with this approval. The landscape plans shall include specimen size trees, particularly between Deer Valley Drive and the buildings.
9. A Master Property Owners Association will be formed which shall be responsible for maintenance of all plaza streetscape and all landscaping. A Maintenance Agreement shall be entered into which guarantees the level of maintenance.
10. The building heights and density shall not exceed what is shown in this approval.

11. The applicant shall be required to provide employee housing consistent with the terms of the 1992 amendment to the 1982 agreement.
12. All signage shall receive appropriate review and approval.

Summit Watch Phase II

Vice-Chair Erickson opened the public hearing.

Commissioner Klingenstein commented on the connection of Main Street to Deer Valley Drive outlined in the Staff report and noted the discussion of bridges vs. tunnels. He pointed out that the concept of the ski run called for a bridge, and he felt that bridges made more sense than tunnels aesthetically and from a health and safety standpoint.

Commissioner Jones asked if the concept plans showed a bridge or boxed culvert. Manager Seltenrich responded that it was a bridge and that a bridge was preferred by Marriott but the applicant was willing to go either way and would make either one attractive. The Public Works Director and City Engineer preferred a culvert, but they were open to the bridge option and suggested that the Staff meet next week to discuss the City's liability and interest. Condition 2 would leave the decision up to the City.

Commissioner Jones felt that, if a bridge would be better from an aesthetic standpoint, they should consider it.

MOTION: Commissioner Klingenstein moved to APPROVE the Summit Watch Phase II conditional use as outlined in the staff report for the applicant Marriott Ownership Resorts, Inc., and MacIntosh Mill with all the Findings, Conclusions of Law and Conditions of Approval outlined in the staff report with the addition of Condition 3 stating that "the City along with the developer will look at a bridge concept for the connection of Main Street to Deer Valley Drive to enhance the entry statement." The motion included a recommendation for the bridge option to enhance the entry statement. Commissioner Jones seconded the motion.

VOTE: The motion passed unanimously with Commissioner Zimney abstaining from the vote.

Commissioner Tesch asked that the Summit Watch project also be referenced as the Town Lift Project when publicly noticed in the future. He believed that many citizens interested in the Town Lift Project did not make the connection to Summit Watch, and he felt it should be better identified.

Conditions of Approval - Summit Watch Phase II

1. Final details on the landscape and plazascapes shall be reviewed and approved by the Staff and a security posted to ensure installation prior to any certificates of occupancy being issued on the buildings in Phase 2.
2. Construction plans and details on the Main Street/Deer Valley Drive connection shall be reviewed and approved by the community development department. The structure shall be designed in the "mining theme" established by the design of the structures along Deer Valley Drive. Similar materials will be used including heavy timbers and sandstone.
3. The City and the developer will look at a bridge concept for the connection of Main Street to Deer Valley Drive to enhance the entry statement.
4. High Chaparral a.k.a. Comstock Lodge Final Plat

Due to a conflict of interest, Commissioner Zimney abstained from discussion and voting on this matter.

Director Lewis noted that the public hearing was for a condominium conversion. The original action was taken by the City Council on September 1 to approve the final plat. This is a two-lot project with 20 condominium units and one single-family unit. The final plat was recorded, and the applicant is asking for a condominium conversion for the 20 units on the larger parcel. The Staff recommended that the Planning Commission forward a positive recommendation to the City Council with the conditions outlined in the staff report.

Commissioner Tesch stated that the project was originally approved with a reduction in parking spaces. He asked if condominiums generated more car use than non-condominium projects. Director Lewis responded that the information provided by Deer Valley indicated fewer vehicles in a condominium unit than in a single-family dwelling, so the Planning Commission and City Council had allowed the parking reduction. Manager Seltenrich explained that the form of ownership did not dictate the parking as much as the unit type and configuration, amount of storage, and type of parking arrangements. She felt High Chaparral was more conducive to a nightly rental pool than a permanent residence. She noted that the units were always intended to be condominiumized. Commissioner Calder noted that the two adjacent parcels, Corchevel and Powder Run, did not have parking problems.

Vice-Chair Erickson opened the public hearing.

Resolution No. 36-91

**RESOLUTION ESTABLISHING THE TOWN LIFT PROJECT TASK FORCE
AND APPOINTING MEMBERS
TO THE TOWN LIFT PROJECT TASK FORCE**

WHEREAS, the Town Lift Project application, submitted by McIntosh Mill Ltd. and MPE, Inc. on August 28, 1990, has received conceptual approvals by the Planning Commission on July 26, 1991 and the City Council on September 17, 1991; and

WHEREAS, the conditions of approval dated September 17, 1991, state that the Historic District Commission (HDC) shall be required to review and approve volumetrics for Phase I which shall address maximum building heights, necessary stepping, acceptable building materials and colors as well as general design features; and to approve specific building design for the proposed structures prior to construction; and

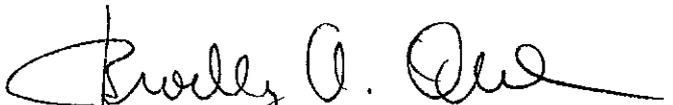
WHEREAS, the conditions of approval dated September 17, 1991, state that the Coalition Replica shall require approval by the HDC and shall be as close as possible to the original design and location; and

WHEREAS, two members of the current Historic District Commission membership have disclosed conflicts of interest with regard to the Town Lift Project, and the City Council has deemed it appropriate and in the best interest of the community to enable a Task Force with the same responsibilities, powers, and purpose of the Historic District Commission, as described in Chapter 4 of the Land Management Code, for specific review of the Town Lift Project;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council that a Town Lift Project Task Force is hereby established. Alison Child, Jacquie Cote and David Hampshire from the Historic District Commission; Chris Erickson and Ron Whaley from the Planning Commission; Ruth Gezelius from the City Council; and Allen Roberts, a technical advisor, who shall be a non-voting member; are hereby appointed to the Task Force.

PASSED AND ADOPTED this 5th day of December, 1991.

PARK CITY MUNICIPAL CORPORATION


Mayor Bradley A. Olch

Resolution No. 5-93

**RESOLUTION REESTABLISHING THE
TOWN LIFT PROJECT DESIGN REVIEW TASK FORCE**

WHEREAS, the City Council originally formed the Town Lift Design Review Task Force on December 5, 1991 to provide a broad-based review of the designs of the proposed structures within the Town Lift Project and because of conflicts of interest on the then seated Historic District Commission; and

WHEREAS, because of changes in membership on the Historic District Commission, those conflicts do not now exist; and

WHEREAS, newly proposed structures in the Town Lift Project area are, in fact, new developments of a scale significantly larger than those traditionally reviewed by the Historic District Commission, and the broader representation on the Town Lift Design Review Task Force has been beneficial in the review of projects in the area;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council that the Town Lift Project Design Review Task Force is reestablished as follows:

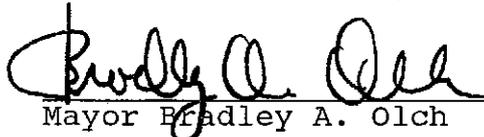
SECTION 1. MEMBERSHIP. The membership of the Town Lift Project Design Review Task Force shall include all members of the Historic District Commission, two Planning Commissioners appointed by the Planning Commission, and one ex-officio, non-voting City Council member appointed by the Mayor. In making appointments, the Planning Commission and Mayor shall take into consideration the background and experience of the candidates in matters affecting Park City's Historic District.

SECTION 2. DUTIES. The Town Lift Project Design Review Task Force shall conduct design review of new structures in the vicinity of the Town Lift Project in accordance with the City's Historic District Design Guidelines. This shall include all new construction between Heber Avenue and Park Station and between Park Avenue and Deer Valley Drive.

SECTION 3. OVERSIGHT. Decisions of the Town Lift Project Design Review Task Force are appealable to the City Council and may be called up in the same manner as final actions of the Planning Commission and Historic District Commission, subject to the same procedures as outlined in the Park City Land Management Code.

PASSED AND ADOPTED this 28th day of January, 1993

PARK CITY MUNICIPAL CORPORATION



Mayor Bradley A. Olch



Resolution No. 18-00

**RESOLUTION REESTABLISHING THE
TOWN LIFT PROJECT DESIGN REVIEW TASK FORCE**

WHEREAS, the City Council originally formed the Town Lift Design Review Task Force on December 5, 1991 to provide a broad-based review of the designs of the proposed structures within the Town Lift Project and because of conflicts of interest on the then seated Historic District Commission; and

WHEREAS, because of changes in membership on the Historic District Commission, those conflicts do not now exist; and

WHEREAS, the newly proposed pedestrian bridge in the Town Lift Project area is, in fact, new development having a greater visual impact than those traditionally reviewed by the Historic District Commission, and the broader representation on the Town Lift Design Review Task Force has been beneficial in the review of projects in the area;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council that the Town Lift Project Design Review Task Force is reestablished as follows:

SECTION 1. MEMBERSHIP. The membership of the Town Lift Project Design Review Task Force shall include all members of the Historic District Commission, two Planning Commissioners appointed by the Planning Commission, and one ex-officio, non-voting City Council member appointed by the Mayor. In making appointments, the Planning Commission and Mayor shall take into consideration the background and experience of the candidates in matters affecting Park City's Historic District.

SECTION 2. DUTIES. The Town Lift Project Design Review Task Force shall conduct design review of the proposed pedestrian bridge spanning lower Main Street, in the vicinity of the Town Lift Project in accordance with the City's Historic District Design Guidelines. The review shall occur prior to the issuance of the Conditional Use Permit for the project by the Planning Commission. The review is supplemental to Community Development Department review pursuant to Land Management Code, Section 4.5(b). There shall be no separate review by the Historic District Commission.

- (A) Chairperson. The Historic District Commission chairperson shall serve as chairperson of the Task Force. The Chairperson shall vote.

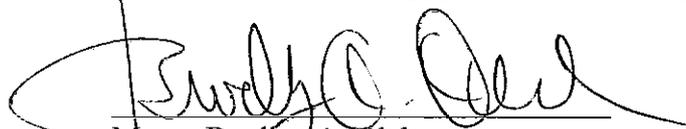
- (B) Quorum. No business shall be conducted without a quorum at the meeting. A quorum shall consist when a majority (at least 4) of the voting members are present. All meetings must comply with the Utah Open and Public Meetings Act.
- (C) Voting. All actions and final design approval of the Task Force shall be represented by a vote of the membership. A simple majority of the members voting at a meeting shall approve any proposed action.

SECTION 3. APPEALS. Decisions of the Town Lift Project Design Review Task Force are appealable to the City Council and may be called up in the same manner as final actions of the Planning Commission and Historic District Commission, subject to the same procedures as outlined in the Park City Land Management Code.

SECTION 4. TERM. The Task Force shall dissolve upon final action of the proposed pedestrian bridge, but in no event shall the Task Force remain active past August 17, 2001, without subsequent City Council approval.

PASSED AND ADOPTED this 17th day of August, 2000

PARK CITY MUNICIPAL CORPORATION



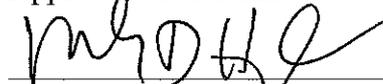
Mayor Bradley A. Olch

Attest:



Janet M. Scott, City Recorder

Approved as to form:



Mark D. Harrington, City Attorney



Planning Commission Staff Report



Subject: North Silver Lake Lodges
Author: Katie Cattan
Application # PL-08-00392
Date: April 28, 2010
Type of Item: Administrative - Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission review the CUP application for the North Silver Lake Lodges, conduct a public hearing and consider approving the North Silver Lake Lodges CUP according to the findings of fact, conclusions of law, and conditions of approval in the staff report.

Topic

Applicant: North Silver Lake Lodge, LLC
Location: Lot 2B Subdivision of Lot 2, North Silver Lake
Zoning: Residential Development (RD)
Adjacent Land Use: Ski resort area and residential
Reason for Review: Conditional Use Permit is required per the Deer Valley MPD

Background

On May 15, 2008, the applicant submitted a complete application for a Conditional Use Permit (CUP) to develop the North Silver Lake Subdivision Lot 2B. Under the Deer Valley Resort Master Plan the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space. The Deer Valley MPD requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC chapter 15-1-10.

The CUP application was before Planning Commission on five different occasions (August 13, 2008, October 22, 2008, February 25, 2009, and May 27, 2009, July 8, 2009). During the July 8, 2009 review, the Planning Commission approved the application with a 3 – 2 vote.

On July 17, 2009, the neighboring property owners submitted an appeal for the Conditional Use Permit (CUP) approval of the North Silver Lake Subdivision Lot 2B. The City Council reviewed the appeal on October 15, 2009. During this meeting the City Council asked staff and the applicant for more information and continued the appeal to November 12, 2009. The City Council requested staff to review the open space calculation for accuracy. The Council also requested that the applicant return with a clearer visual analysis. During the November 12, 2009 meeting, the City Council remanded the CUP application to the Planning Commission with specific items included in the order to be addressed (Order and CC Minutes: Exhibit A).

The final Order from the appeal stated “The appeal is granted in part and denied in part. The CUP is remanded to the Planning Commission for further consideration of only the following matters:

1. The height, scale, mass and bulk of Building 3 shall be further reduced to meet the Compatibility standard;
2. Further specificity regarding a final landscape plan and bond with consideration for Wild Land Interface regulations shall be reviewed and/or further conditioned; and
3. Construction phasing and additional bonding beyond public improvement guarantee shall be required.”

1. The height, scale, mass and bulk of Building 3 shall be further reduced to meet the Compatibility standard. The City Council adopted the following findings of fact:

#23 In determining Compatibility, the Deer Valley MPD does create a baseline for the area plan but specific neighborhood impacts must still be mitigated with as built conditions.

#24 The height of Building 3 is incompatible because the maximum MPD height (45') used at a site location that steps down the hill magnifies the scale of the resulting façade (nearly 79') as compared to adjacent uses (33') and designated view points.

#25 The impacts of the incompatible height, scale, bulk and massing of Building 3 have not been mitigated because of its site location on the most exposed area, maximized height due to stepping downhill and 220' long façade that is disproportionate in scale to the neighborhood. The proposed vegetation will not screen the façade to the same degree as the other structures within or near the project based upon the View Analysis provided.

#26 Comparison of internal unit size is not an objective evaluation of Compatibility with adjacent uses or the neighborhood as such bears little relation to external scale and massing.

2. Further specificity regarding a final landscape plan and bond with consideration for Wild Land Interface regulations shall be reviewed and/or further conditioned. The City Council adopted the following finding:

#29 Wild Land Interface Regulations will likely further limit proposed mitigation by requiring the elimination of vegetation proposed to screen various portions of the project.

3. Construction phasing and additional bonding beyond public improvement guarantee shall be required. The City Council adopted the following finding:

#28 Construction phasing and bonding is necessary to mitigate visual and construction impacts that would result if the external ring of units were allowed to be completed without the central structures and parking due to disproportionate site exposure of the interior of the site.

The applicant has been on two Planning Commission work sessions on November 11, 2009 and January 13, 2010 to address the order and findings of the City Council. During the two work sessions, the applicant introduced a new design and floor plans for Building 3. (Exhibit B: Floor Plans and Elevations) On March 10, 2010, the Planning Commission reviewed the modified plans during the regular agenda. (Exhibit C: Minutes) During this meeting the Planning Commission made five requests:

1. Phasing plan to include development of all buildings.
2. Bonding and Phasing: set clear parameters not an amount
3. Receive minutes and audio of the City Council appeal meetings.
4. Have the Chief Building Official, Ron Ivie, attend the next Planning Commission meeting to discuss the bonding and phasing.
5. Staff to provide further analysis of height on finding #24 in regards to height of 70 feet.

There is a full sized set of plans in the Planning Department. To set up an appointment to review the full size set please contact kcattan@parkcity.org. The design for Building 3 decreased the overall square footage of the building and created two interconnected buildings of smaller scale and size than the original single building.

Analysis

The height, scale, mass and bulk of Building 3 shall be further reduced to meet the Compatibility standard. Discussion requested.

This portion of the remand takes into consideration criterion 8 and criterion 11 of the CUP criteria.

Compatibility is defined in the LMC (Section 15-15-1.55) as “Characteristics of different uses or designs that integrate with and relate to one another to maintain and/or enhance the context of a surrounding area or neighborhood. Elements affecting compatibility include, but are not limited to, height, scale, mass and bulk of building, pedestrian and vehicular circulation, parking, landscaping and architecture, topography, environmentally sensitive areas, and building patterns.”

Within the revisions, the applicant has split Building 3 into two smaller buildings which are connected through the basement floor and an above ground hallway connecting each level. The original design had a front façade of 220 feet. The current design creates a differentiation between two portions of the revised Building 3. Building 3A is 65 feet wide at the widest point. Building 3B is 82 feet wide at the widest point. The

section between the two buildings is 30 feet wide. This middle section is a hallway connection between the two buildings. It is set back 65 feet from the northern façade of Building 3A and 3B facing north. The entire building including 3A, 3B, and the hallway is 195 feet wide. This is 25 feet less than the original design and includes the 30 feet wide hallway that is set 65 feet back. The overall massing and scale as perceived from the north façade has been reduced.

City Council made the finding of fact #24 that states “The height of Building 3 is incompatible because the maximum MPD height (45’) used at a site location that steps down the hill magnifies the scale of the resulting façade (nearly 79’) as compared to adjacent uses (33’) and designated view points.” During the March 10, 2010 Planning Commission meeting, the Commission requested further analysis of the height of the modified building 3. This finding has two main points. The first point being that the design takes advantage of the slope creating more stories than would be allowed on a flat lot and therefore more overall height. The second point is that by utilizing the steepness of the existing slope, the larger mass is more visible from the view points.

The property is located in the RD zone. The homes within the RD zone are allowed a maximum height of 28 from existing grade. Homes with a gable, hip and similar pitched roofs may extend up to five feet (5’) above the zone height to 33 feet from existing grade. The development and surrounding neighborhood are located on the mountainside on sloped lots. The majority of the existing home in the neighborhood step with the existing grade due to the sloped lots. Within the RD zone, the height is measured from existing grade. There are no regulations for measurements from final grade. Many of the homes within the area appear to be taller than 33 feet due to final grade being lower than the original existing grade. The following pictures represent homes within the adjacent neighborhood that comply with the 33 feet height limit yet utilized the existing slope and/or alteration of final grade to create more mass.





The Planning Commission must look at the revised design and decide whether or not the new design has addressed the remand order that “The height, scale, mass and bulk of Building 3 shall be further reduced to meet the Compatibility standard” has been achieved. The new design reorients the building on the site, decreases the overall massing, divides the massing into two smaller elements, and introduces greater stepping in the mass.

The overall height of the building has not been modified drastically. Within the revision, the overall height from the finished floor of the 1st story to the peak of the 6th story is 77 feet in height. The stepping of the buildings has increased in greater increments. The basement level is visible only in the center of the building. The three stories above the basement introduce decks at varying depths. The fifth and sixth stories have large (18 feet plus) steps in the façade. This creates a four story building from the internal road of the project and a six story building from the north façade, albeit stepped. A person standing at the base of the downhill side of building 3 would not see the top story. From the side elevation the first story would not be visible, yet the 5th and 6th stories would be. The photographs of the view of from Heber Avenue and Main Street show a decrease in the visible massing (Exhibit D). Although the overall height continues to have six stories, the massing has decreased and the stepping has increased.

The following are the elevations of the revised building 3.



NORTH ELEVATION



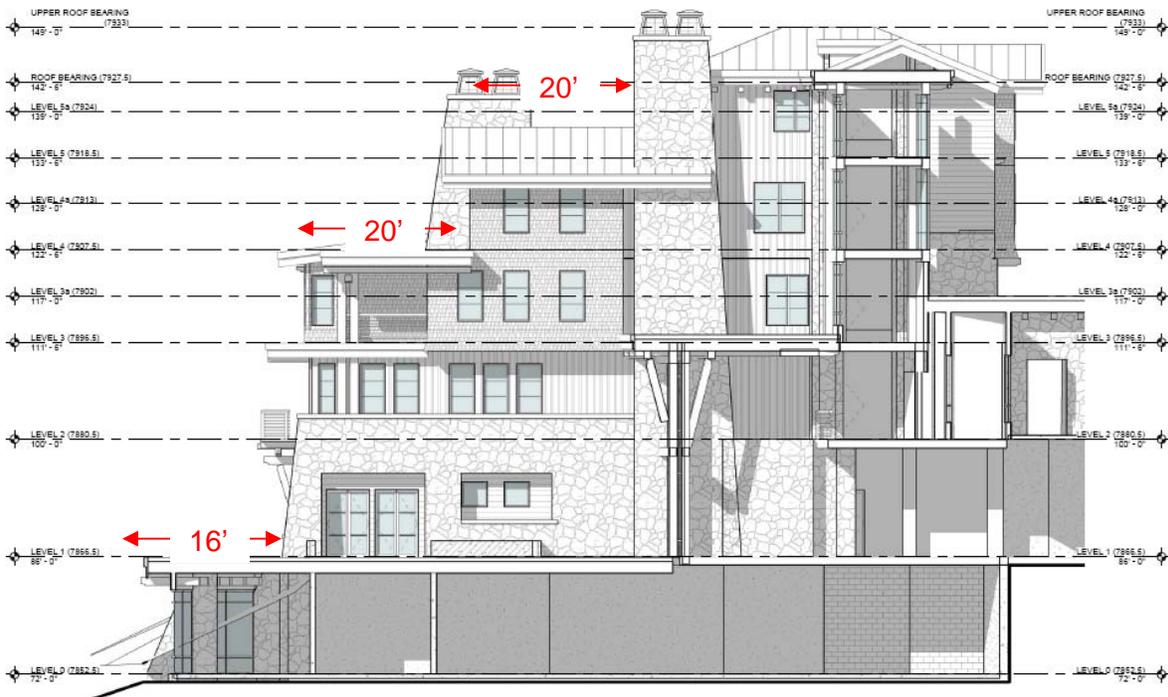
SOUTH ELEVATION



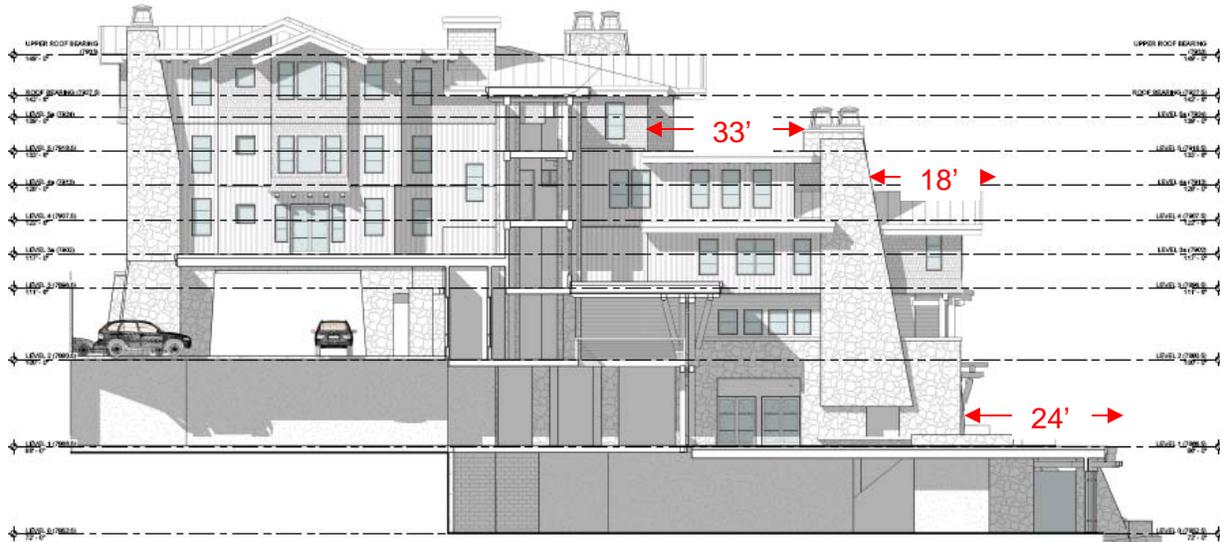
BLDG. 3A EAST ELEVATION
1/8" = 1'-0"

1
803.02

EAST ELEVATION (3A)



WEST ELEVATION (3A)



EAST ELEVATION (3B)



WEST ELEVATION (3B)

The City Council also adopted finding of fact #25 that states “The impacts of the incompatible height, scale, bulk and massing of Building 3 have not been mitigated because of its site location on the most exposed area, maximized height due to stepping downhill and 220’ long façade that is disproportionate in scale to the neighborhood. The proposed vegetation will not screen the façade to the same degree as the other structures within or near the project based upon the View Analysis provided.” As previously discussed, the revisions continue to step with the grade but the building has been bifurcated into two smaller sections. There is no longer a façade width of 220’ which was found to be disproportionate in scale to the neighborhood.

Building 3 has been rotated approximately 29 degrees toward the east further mitigating the view analysis. The applicant has submitted an updated view analysis based on the current design. The large scale view point analysis is available in the Planning Department. A smaller version has been added within Exhibit D.

In regards to landscaping as screening the façade, the landscape plan has been revised. The original plan saved 17 existing trees in the area in front of the Building 3. The original landscape plan added 6 large specimen trees to be planted in front of Building 3. The current plan saves the 17 existing trees and introduces 46 large specimen trees to be planted. The addition trees have been placed to help buffer the view of the Building 3 from Main Street and Heber Ave.

The new design has also decreased the amount of disturbance to the natural grade of the site. The original design had lowered the final grade along the north façade of the building, exposing greater height along that elevation of the building. The following images (provided by the applicant) show the buildings as they relate to the existing grade.



This slide illustrates the area of excavation to expose the lowest levels.

Previous Buildings Design Natural Grade



The current design minimizes the amount of exposed excavation and allows less disturbance to natural grade

Minimal excavation along North facade minimizes visible stories.

Current North Building Design Natural Grade

The Planning Commission must look at the revised design and decide whether or not the new design has adequately addressed the remand order that “The height,

scale, mass and bulk of Building 3 shall be further reduced to meet the Compatibility standard”.

Further specificity regarding a final landscape plan and bond with consideration for Wild Land Interface regulations shall be reviewed and/or further conditioned; and

During the City Council review, members of the public raised the concern that the landscape plan had not been reviewed for Wild Land Interface regulations compliance and therefore, more trees may have to be removed. The City Council ordered that the final landscape plan be reviewed for compliance with the Wild Land Interface regulations. The Building Department has reviewed the proposed landscape plan for compliance with the Wild Land Interface regulations. During the review, six trees were identified which must be removed due to fire risk and proximity to the proposed buildings. The six trees to be removed will be replanted according to the tree mitigation plan.

The mitigation plan proposed by the applicant replaced each high quality tree with two 20'-30' trees and all second tier trees at a ratio of 1.5 20'-30' trees to 1 second tier tree. This is included in the Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009. In the July 8, 2009 approval, Condition of Approval #4 states “The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be adhered to. A member of the Planning Staff and Planning Commission will be invited to attend the pre-installation conference. Prior to operating any excavation machinery, all operators of any excavation machinery must sign off that they have read, understand, and will adhere to the Temporary Tree and Plant Protection plan.”

Bonding of the landscape plan was also included in the remand. Staff has added a new condition of approval to create a bond to cover the cost of the proposed landscape plan. Condition of Approval #16 states “A bond shall be collected prior to issuance of a grading or building permit to cover the cost of the landscape plan.”

Construction phasing

During the March 10, 2010 Planning Commission meeting, the Commission had many questions regarding the construction phasing and additional bonding. The Commission requested that Ron Ivie, the Chief Building Official, be present at the April 28th meeting to discuss the phasing and bonding. Ron Ivie will be at the April meeting to discuss the phasing and bonding.

There was confusion during the March 10th meeting regarding the phasing plan. The March 10th Planning Commission staff report was unclear on the issues regarding the phasing. Staff, the Planning Commission, and the City Council did not require a phasing plan for the proposed development. During the initial review by the Planning Commission, the Planning Commission had asked the applicant whether or not the phasing could be contained within the site. At that point, the applicant put together a phasing plan showing that the project could be phased on site. The Chief Building

Official reviewed the phasing plan and confirmed that all the phasing could take place on site. The purpose of the phasing plan was solely to show that the phasing could be done within the site. The phasing plan was not tied to the approval. The real estate market and site constraints will determine the phasing of the project with approval by the Building Department. Staff would not recommend that a phasing plan be required as part of the CUP approval as it was not a requirement initially and in an effort to not interfere with the economic vitality of the project. At the time of the building permit review, a phasing plan will be required and the building department will review the phasing plan.

Additional bonding beyond public improvement guarantee shall be required.

During the appeal, the City Council placed a new requirement on the project that construction phasing and additional bonding beyond a public improvement guarantee shall be required. Staff suggested during the March 10th Planning Commission meeting that the following condition of approval be added to the CUP:

“A phasing and bonding plan beyond a public improvement guarantee must be approved by the Building Department in which phasing shall ensure site restoration with re-vegetation including the existing disturbance to mitigate visual and construction impacts within each phase of construction. “

During the March 10th Planning Commission meeting, the Commission requested that Staff return with a better condition of approval that sets clear parameters for the bonding and phasing. . The City Council discussed the bonding and phasing during the November 19, 2010 meeting. The Council clarified that they were not asking for a completion bond. They specified that the intent was to ensure throughout the stages of construction should there be an abandonment that the City would be able to restore the site back to a visually acceptable level. They expressed that the project should be staged and that the building department should manage the bonding with the notion that the bonding shall be addressed to ensure sight restoration in conjunction with building phasing.

Staff met with Ron Ivie to discuss the minutes from the City Council meeting and create clear parameters to the bonding and phasing In discussions with Ron Ivie, this would require enough bonding to ensure perimeter enhancement and screening into the project, soil capping for any new disturbance and previous disturbance of the site, and clean-up of all staging areas. He would require that each stage, as approved by the Building Department, be bonded to these requirements. Staff has added condition of approval #17 which sets clearer parameters to the bonding for site restoration and phasing:

“A phasing and bonding plan to ensure sight restoration in conjunction with building phasing beyond a public improvement guarantee must be approved by the Building Department. The plan shall include re-vegetation for perimeter enhancement and

screening into the project, soil capping for any new disturbance and previous disturbance of the site, and clean-up of all staging areas.“

The Chief Building official also recommended that an addition condition of approval be added to mitigate the existing impacts on the site. He suggested that the applicant be required to mitigate the existing disturbance at the site if the CUP were to expire or be extended. The impacts that should be addressed are soil capping in the existing rock area, import enough soil for capping and re-vegetation, and perimeter enhancement and screening into the project. Condition of approval #18 states:

“A bond shall be collected to at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. The existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released.”

As discussed earlier, Condition of Approval #16 states that “A bond shall be collected prior to issuance of a grading or building permit to cover the cost of the landscape plan.” This condition also mandates that the landscape plan as proposed shall be completed.

Open Space

The open space calculation has changed from the previous review by the Planning Commission and City Council. At the time of Planning Commission review the open space was calculated by the applicant to be 74%. During the appeal process, the City Council requested that staff re-evaluate the calculation for accuracy. The staff came within 150 square feet of the building footprints. Next staff calculated the roads, driveways, and private patio space. Staff found that the applicants calculation were accurate except that they included the private patios of the homes within the calculation. The 4280 square feet of patio space decreased the open space from 74% to 72.9%.

The applicant has submitted a new site plan showing the areas utilized in the calculation of open space. The applicant has calculated 70.6% open space in the new plan. Staff has reviewed the site plan and found that the applicant’s calculation is accurate.

The following analysis of the CUP criteria has been imported from the original staff report as approved on July 8, 2009. Any new analysis has been written in *italics*.

Conditional Use Permit Review

A conditional use shall be approved by the Planning Commission if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. The Planning Commission must review each of the following items when considering whether or not the proposed conditional use mitigates impacts of and addresses the following items:

1) Size and location of the Site: **No Unmitigated Impacts**

The North Silver Lake Subdivision is located off of existing Silver Lake Drive within the Deer Valley Ski Resort. The development is slope side and accommodates ski-in/ski-out utilization. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area. This lot was identified for development of 54 units within the Deer Valley MPD. The Deer Valley MPD determines densities on parcels as an apartment unit containing one bedroom or more shall constitute a dwelling unit and a hotel room or lodge room shall constitute one-half a dwelling unit. The Deer Valley MPD does not limit the size of units constructed provided that following construction the parcel proposed to be developed contains a minimum of 60% open space and otherwise complies with MPD and all applicable zoning regulations. Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating "This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B." Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2D towards the 60% open space requirement. The Bellemont Subdivision utilized ¼ acre of the Lot 2D parcel to comply with the open space requirement. *The applicant has submitted a new site plan showing the areas utilized in the calculation of open space. The applicant has calculated 70.6% open space in the new plan. Staff has reviewed the site plan and found that the applicant's calculation is accurate.*

2) Traffic considerations including capacity of the existing Streets in the area: **No Unmitigated Impacts**

Lot 2B was identified during the Deer Valley MPD to be developed. The traffic impact from the 54 unit development was analyzed during the original Deer Valley MPD and has been accounted for within the existing street design in the area. The City Engineer has found that the proposed internal loop is sufficient for the development. The applicant submitted a traffic study from Riley Transportation Consultants on April 14, 2009. The study concluded that "Existing traffic is relatively low, even during the winter months. During the existing peak traffic period, there is approximately 1 vehicle every 2 minutes. Traffic is projected to increase to slightly more than 1 car per minute. Both the roadway and all affected intersections are projected to remain at a level of service A."

During the March 10, 2010 Planning Commission meeting, a member of the public requested that the Planning Commission consider mandating that construction traffic utilize SR224 and prohibit the use of Royal Street. This request was outside of the City Council order in the appeal. Planning Commission did discuss the request and did not ask staff to create a condition of approval mandating that construction be prohibited from utilizing Royal Street. The Building Department will regulate Construction Mitigation and will make the determination as to the safest and least impactful means for construction traffic to reach the site.

3) Utility capacity: **No Unmitigated Impacts**

An updated utility plan has been submitted. During the February 25, 2009 (*Planning Commission*) meeting, Commissioner Peek raised concern for the location of utilities and the impact to existing vegetation. Chris Kolb, a certified arborist, reviewed the

updated utility plan and made findings that the utility plan is aligned sufficiently far enough away from the existing vegetation but in order to ensure the protection of the vegetation the excavation must be monitored closely. Mr. Kolb created a tree protection plan which includes a pre-installation conference and standards for fencing, excavation, grading, filling, repair, pruning, fertilization, and insect control. Staff created condition of approval #4 that states "The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be adhered to. A member of the Planning Staff and Planning Commission will be invited to attend the pre-installation conference. Prior to operating any excavation machinery, all operators of any excavation machinery must sign off that they have read, understand, and will adhere to the Temporary Tree and Plant Protection plan."

The Water Department reviewed the original utility plans. A peak day demand has been provided by the applicant to the Water Department. The Water Department has made findings that the existing infrastructure is sufficient to supply the development. Other utilities (gas, power, electric, and sewer) are available on or adjacent to the site. The developer will have to mitigate impacts of storm water drainage and run-off. The post-development run-off must not exceed the pre-development run-off.

4) Emergency vehicle access: **No Unmitigated Impacts**

The Fire Marshall has done a preliminary review of the site plan. Upon Planning Commission approval of the site layout, a final determination and review will be provided by the Fire Marshall.

The proposed development shall comply with the regulations of the Urban Wild Land Interface Code. A thirty foot defensible space will be mandatory around the project, limiting vegetation and mandating specific sprinklers by rating and location. This approach has been utilized through out Empire Pass for development due to the unique topography of the area. Compliance with the urban wild land interface regulations is included as a condition of approval.

5) Location and amount of off-street parking: **No Unmitigated Impacts**

Parking for the 54 units must be provided within the North Silver Lake Cottages development. According to the Deer Valley MPD off-street parking requirements shall be determined in accordance with the LMC at the time of application for Conditional Use approval. The North Silver Lake Cottages has a mix of single family dwellings and multi-unit dwellings. Each single family dwelling requires 2 off-street parking spaces. Multi-unit dwellings greater than 1,000 square feet and less than 2,500 square feet require 2 parking spaces. Multi-family units greater than 2,500 square feet require 3 parking spaces.

The Planning Commission requested that a reduction in parking be evaluated for the site. With the proposed unit configurations the applicant is required by the LMC to provide 106 spaces for the 38 units within the stacked flats. The applicant is proposing a 25 % reduction in the parking for the stacked flats. This results in a total of 80 spaces and approximately 2 spaces per unit.

LMC section 15-3-7 allows the Planning Commission the ability to reduce initial parking requirements to prevent excessive parking and paving if the following is found:

- 1) parking uses will overlap,
- 2) commercial spaces within the project will serve those residing within the project rather than the general public,
- 3) or other factors that support the conclusion that the project will generate less parking than this Code would otherwise require.

There is support commercial space within the project. The total support commercial within the Building 3 is 5,140 square feet. No parking is required for the support commercial area within Building 3. The applicant is proposing to limit each unit to two parking spaces, rather than utilize a third space for any unit over 2,500 square feet. Due to the single family ownership of each unit, staff finds that two spaces per unit will be adequate for the development. The Planning Commission must make the final decision to allow a 25% percent deduction in the required parking. Staff has included finding of fact #14 stating that the Planning Commission supports a 25% reduction in the parking for the stacked flats within the development. This finding is based on the direction provided during the February 25, 2009 meeting. *The unit count and parking have not changed.*

6) Internal vehicular and pedestrian circulation system: No Unmitigated Impacts

The site plan has become more favorable in terms of internal vehicular and pedestrian circulation. Most relevant is the relocation of the main lodge, Building 3. Building 3 accommodates *twelve* residential units as well as the main lobby, the club area, the ski lockers, the pool and the fitness center. This building area is located on the north end of the property. *The skier access for the internal condominiums is from Building 3. The previous ski elevator has been removed from the plan.* Parking for the multi-unit buildings will be located beneath the three central buildings.

7) Fencing, Screening, and Landscaping to separate the use from adjoining uses: No Unmitigated Impacts

As discussed earlier within the analysis section, during the appeal to City Council, members of the public raised the concern that the landscape plan had not been reviewed for Wild Land Interface regulations compliance and therefore, more trees may have to be removed. The City Council clearly ordered that the final landscape plan be reviewed for compliance with the Wild Land Interface regulations. The building department has reviewed the proposed landscape plan for compliance with the Wild Land Interface regulations. During the review, six trees were identified which must be removed due to fire risk and proximity to the proposed buildings. The six trees to be removed have been redesigned into the landscape plan in compliance with the tree mitigation plan. The mitigation plan proposed by the applicant replaced each high quality tree with two 20'-30' trees and all second tier trees at a ratio of 1.5 20'-30' trees to 1 second tier tree. This is consistent with the Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009.

During the prior approval, Staff created Condition of Approval #4 which stated that "The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be

adhered to. A member of the Planning Staff and Planning Commission will be invited to attend the pre-installation conference. Prior to operating any excavation machinery, all operators of any excavation machinery must sign off that they have read, understand, and will adhere to the Temporary Tree and Plant Protection plan.” Staff included a new condition of approval to create a bond to cover the cost of finalizing the landscape plan. Condition of Approval #16 states “A bond shall be collected prior to issuance of a grading or building permit to cover the cost of the landscape plan.”

8) Building mass, bulk, and orientation, and the location of Buildings on the site; including orientation to Buildings on adjoining lots; **Discussion Requested**

This criterion was analyzed previously within the remand analysis above. Please review the previous remand analysis above.

9) Usable open space; **No Unmitigated Impacts**

Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating “This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B.” Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2D towards the 60% open space requirement. The Bellemont Subdivision utilized ¼ acre of the Lot 2D parcel to comply with the open space requirement. The applicant has submitted a new site plan showing the areas utilized in the calculation of open space. The applicant has calculated 70.6% open space in the new plan. Staff has reviewed the site plan and found that the applicant’s calculation is accurate.

10) Signs and Lighting; **No Unmitigated Impacts**

A sign plan must be submitted for any identification signs for the development. A sign plan is regulated on a staff level. Condition of approval #8 states “Approval of a sign plan is required prior to installation of any signs on the property.”

A final lighting plan will be submitted with the building plans. Planning Staff will review all the exterior lighting for compliance within the LMC Supplemental Regulation of Chapter 4. Condition of approval #9 states “Staff review and findings of compliance with the lighting regulations of LMC Section 15-5-5(I) are required prior to the issuance of an electrical permit.”

11) Physical Design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing; **Discussion Requested**

This criterion was analyzed previously within the remand analysis above. Please review the previous remand analysis above.

12) Noise, vibration, odors, steam, or other mechanical factors that might affect people and property off-site; **No Unmitigated Impacts**

A construction mitigation plan must be approved by the Building Department prior to issuance of any permits. This plan must mitigate construction impacts of noise, vibration, and other mechanical factors affecting adjacent property owners (Condition of

Approval #2). No post-constructions negative impacts relating to mechanical factors are anticipated.

13) Control of delivery and service vehicles, loading and unloading zones, and screening of trash pickup areas; No Unmitigated Impacts

A delivery and service vehicle loading and unloading zone has been established within the parking garage. A trash pick up area is also within the garage. This location is under the central condominiums and screened from the general public. The applicant has also discussed an area for recycling.

14) Expected ownership and management of the project as primary residences, condominiums, time interval ownership, nightly rental, or commercial tenancies, how the form of ownership affects taxing entities; and No Unmitigated Impacts

The North Silver Lake Cottages will be both whole ownership and nightly rental. The units will be sold as whole ownership. It is expected that many of the purchased units will also be utilized as nightly rentals requiring a nightly rental business license from the City. The two ADA units are to be platted as common space and cannot be separately rented without renting another unit.

15) Within and adjoining the site, impacts on Environmentally Sensitive Lands, slope retention, and appropriateness of the proposed structure to the topography of the site. No Unmitigated Impacts

Planning Staff received two certified arborist reports, a wildlife study, and a steep slope analysis from the applicant. The Planning Director and staff have reviewed the proposed development for compliances with the Sensitive Lands Overlay Zone and for compliance with the Significant Vegetation regulations of the RD zone. Staff and the Planning Director have no further concerns for compliance with the Sensitive Lands Overlay Zone. The current site plan is in compliance with all regulations of this overlay zone.

During an internal review of the current site plan, the Planning Director had concerns for the existing vegetation at Home 14 and for the retaining of the steep slope for the North East corner of Building 3, Home 13, and Home 14. Changes were made to the site plan addressing the Planning Director's concerns. Home14 was moved to protect the existing vegetation. The applicant determined that no retaining walls will be necessary for Home 14.

There are two stepped retaining walls proposed between the north east corner of Building 3 and Home 13. The lower wall is seven feet high at the greatest point and the higher wall is 6.5 feet high at the greatest point. The purpose for the two retaining walls is to retain the driveway and street above as well as create a walk out patio for the lowest level in the stacked flat and a ski out area from the locker room. The Planning Director has found that the impact of two rock walls is minimal and will not impact the development or neighboring developments negatively. The planter between the rock walls must be planted with relatively mature vegetation in order to diffuse any visual impacts.

Several Planning Commissioners requested that the applicant return with a professional opinion on the correlation between the wildlife and the re-vegetation plan. The wildlife specialist contracted by the applicant, SWCA, created a wildlife mitigation plan. The plan identified four actions which will help mitigate the impacts for lost wildlife habitat. These are: 1) using native plants, especially Douglas-fir, to create a natural setting, 2) increasing species diversity through planting of native species, 3) allowing contiguous open space to remain on the parcel, and 4) conducting weed control. Condition of Approval #12 states "The SWCA wildlife mitigation plan dated April 15, 2009 must be included within the construction mitigation plan and followed." The applicant also provided the Temporary Tree and Plant Protection plan from Arborcare to mitigate impacts to existing vegetation.

Process

The applicant must receive approval of a Conditional Use Permit from the Planning Commission to receive a building permit for the development. If a Conditional Use Permit is granted, the applicant must submit building plans in order to develop the land. A building permit must be applied for within the time limit set by the Planning Commission otherwise the Conditional Use Permit will become void. Final building plans are reviewed by the Planning Staff and must comply with the architectural review section of the Land Management Code. The approval of this application constitutes Final Action that may be appealed following the procedures found in LMC 1-18. Staff review of a Building Permit is publicly noticed by the posting of the Building Permit on the property. A condominium record of survey will be required in the future in order for individual units to be sold. That process includes noticed public hearings with the Planning Commission and City Council.

Department Review

This project has gone through several interdepartmental reviews. The Building, Engineering, and Planning Departments have reviewed the current site plan and have not identified any outstanding issues.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

At the time of writing this report, several new letters of concern were received by Staff. The new letters and previous letters addressed concern for existing vegetation, density of new development is too high, compatibility, maximizing unit count and square footage count, height impacts of center buildings, the view from Main Street, massing, back of house square footage, and impacts on wildlife. During the previous Planning Commission meetings and City Council meetings there has been a mix of support and opposition from the public on the proposed project.

On April 5, 2010, the Planning Staff received a letter from Robert Dillon, an Attorney representing property owners in the surrounding neighborhood. Mr. Dillon claimed that his clients had not been given notice of the November 19, 2010 meeting where Council

adopted its findings. However, the meeting was publically notice, staff had sent the City Council remand findings to Attorney Eric Lee (of Jones and Waldo) prior to the November 19, 2010 City Council meeting. Also, under Utah Code 10-9a-209, notice is considered adequate and proper if not challenged within 30 days of a meeting. The notice was not challenged within 30 days of the meeting. The letter also suggested the City add additional requirements (subdivision application) that are not requirements of the Land Management Code. In regards to bonding and phasing, in its remand the City Council did not request a completion date and specified that bonding and phasing should be managed by the building department.

On April 20, 2010, Planning Staff received a response from Mr. Tom Bennett, attorney for the Applicant concerning Mr. Dillon's letter. Both attorney letters are included within the public comment exhibit (G).

Alternatives

1. The Planning Commission may approve the CUP as conditioned or amended; or
2. The Planning Commission may deny the CUP and direct staff to make Findings for this decision; or
3. The Planning Commission may continue the discussion on the CUP and provide Staff and the Applicant with specific direction regarding additional information that is necessary to find compliance with the review criteria.

Significant Impacts

There are no significant fiscal or environmental impacts that have not been previously identified from this application.

Recommendation

Staff recommends that the Planning Commission review the Conditional Use Permit, hold a public hearing, and consider approving the CUP according to the findings of fact, conclusions of law, and conditions of approval incorporated herein (new or amending findings, conclusions and conditions are in *italics*):

Findings of Fact

1. The subject property is at 7101 North Silver Lake Drive. This property is also known as Lot 2B of the North Silver Lake Subdivision.
2. The proposed development is located within the Deer Valley Master Plan Development.
3. Within the Deer Valley Master Plan, the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space.
4. The applicant has applied for a conditional use permit for the development of 54 units located on Lot 2B of the North Silver Lake Subdivision. The applicant has included 5140 square feet of support commercial space within this application. The project consists of 16 detached condominium homes and four condominium buildings containing 38 condominium units. The remaining commercial units are not transferable.

5. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area.
6. The Deer Valley Master Plan requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC chapter 15-1-10.
7. The Deer Valley MPD determines densities on parcels as an apartment unit containing one bedroom or more shall constitute a dwelling unit and a hotel room or lodge room shall constitute one-half a dwelling unit. The Deer Valley MPD does not limit the size of units constructed provided that following construction the parcel proposed to be developed contains a minimum of 60% open space and otherwise complies with MPD and all applicable zoning regulations.
8. Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating "This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B." Lot 2D is 4.03 acres in size.
9. Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2B towards the 60% open space requirement. The Bellemont Subdivision utilized $\frac{1}{4}$ acre of the Lot 2B parcel to comply with the open space requirement.
10. The current application site plan contains 70.6% of open space on the site including the remainder 3.78 acres of open space on Lot 2D.
11. The property is located in the Residential Development zoning district (RD) and complies with the Residential Development ordinance.
12. The property is within the Sensitive Lands Overlay Zone and complies with the Sensitive Lands Ordinance.
13. The height limit for Lot 2B was established at 45 feet within the Deer Valley Master Plan. The development complies with the established height limit utilizing the exception of five feet for a pitched roof.
14. The onsite parking requirements for the four stacked flat condominiums have decreased 25% in compliance with section 15-3-7 of the Land Management Code. The Planning Commission supports a 25% reduction in the parking for the stacked flats within the development.

Conclusions of Law

1. The application is consistent with the Deer Valley Master Planned Development and the Park City Land Management Code, particularly section 15-1-10, Conditional Use Permits.
2. The Use is compatible with surrounding structures in use, scale, mass, and circulation.
3. The Use is consistent with the Park City General Plan.
4. The effects of any differences in Use or scale have been mitigated through careful planning.

Conditions of Approval

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. This plan must address mitigation for construction

impacts of noise, vibration, and other mechanical factors affecting adjacent property owners. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be included within the construction mitigation plan.

3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be adhered to. A member of the Planning Staff and Planning Commission will be invited to attend the pre-installation conference. Prior to operating any excavation machinery, all operators of any excavation machinery must sign off that they have read, understand, and will adhere to the Temporary Tree and Plant Protection plan.
5. A landscape plan is required with the building permit. The landscape plan must reflect the site plan and existing vegetation plan as reviewed and approved by the Planning Commission on *April 28, 2010*.
6. The developer shall mitigate impacts of drainage. The post-development run-off must not exceed the pre-development run-off.
7. Fire Marshall review and approval of the final site layout for compliance with City standards is a condition precedent to building permit issuance. The proposed development shall comply with the regulations of the Urban Wild Land Interface Code. A thirty foot defensible space will be mandatory around the project, limiting vegetation and mandating specific sprinklers by rating and location. The Fire Marshal must make findings of compliance with the urban wild land interface regulations prior to issuance of a building permit.
8. Approval of a sign plan is required prior to installation of any signs on the property.
9. Staff review and findings of compliance with the lighting regulations of LMC Section 15-5-5(I) are required prior to the issuance of an electrical permit.
10. This approval will expire *April 28, 2011*, 12 months from *April 28, 2010*, if no building permits are issued within the development. Continuing construction and validity of building permits is at the discretion of the Chief Building Official and Planning Director.
11. Approval is based on plans reviewed by the Planning Commission on *April 28, 2010*. Building Permit plans must substantially comply with the reviewed and approved plans. Any substantial deviation from this plan must be reviewed by the Planning Commission.
12. The SWCA wildlife mitigation plan dated April 15, 2009 must be included within the construction mitigation plan and followed.
13. The two ADA units are to be platted as common space and cannot be separately rented without renting another unit.
14. The Sustainable Design Strategies created by Living Architecture as reviewed by the Planning Commission on *April 28, 2010* must be adhered to within the building permit process. Any substantial deviation from this plan must be reviewed by the Planning Commission.
15. *The final condominium plat for North Silver Lake Lot 2B may not exceed the square footage for common space, private space, and commercial space as shown in the plans approved by the Planning Commission on April 28, 2010.*

16. *A bond shall be collected prior to issuance of a grading or building permit to cover the cost of the landscape plan as approved.*
17. *A phasing and bonding plan to ensure sight restoration in conjunction with building phasing beyond a public improvement guarantee must be approved by the Building Department. The plan shall include re-vegetation for perimeter enhancement and screening into the project, soil capping for any new disturbance and previous disturbance of the site, and clean-up of all staging areas.*
18. *“A bond shall be collected to at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. The existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released.”*

Exhibits

- Exhibit A: City Council Order and Minutes
- Exhibit B: Minutes from PC Meeting on March 10, 2010
- Exhibit C: Floor Plans and Elevations of Building 3
- Exhibit D: View from Heber Avenue and Main Street
- Exhibit E: Amended Landscape Plan
- Exhibit F: Applicant letter and packet
- Exhibit G: Public Comment

City Council Staff Report



PLANNING DEPARTMENT

Subject: North Silver Lake Cottages
Author: Katie Cattan
Date: November 19, 2009
Type of Item: Quasi-Judicial - Appeal of CUP Application

Summary Recommendation

Staff requests that the City Council review the draft findings of fact, conclusions of law and order remanding the Conditional Use Permit (CUP) for North Silver Lake Lot 2B to the Planning Commission.

Topic

Appellant: Robert Dillon and Eric Lee, Attorneys representing adjacent property owners
Location: Lot 2B Subdivision of Lot 2, North Silver Lake
Zoning: Residential Development (RD)
Adjacent Land Use: Ski resort area and residential
Reason for review: Written findings must be adopted within 15 days

Background

On July 17, 2009, the appellant submitted a complete appeal for the Conditional Use Permit (CUP) approval of the North Silver Lake Subdivision Lot 2B. The Planning Commission approved the CUP on July 8, 2009 according to the findings of fact, conclusions of law, and amended conditions of approval. The Land Management Code (LMC) section 15-1-18 requires that final action by the Planning Commission on CUPs be appealed to the City Council within ten calendar days of the final action. The appellant submitted the appeal on July 17, 2009, within ten calendar days of final action. The CUP application was reviewed by the Planning Commission on five different occasions (August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009). On July 8, 2009, the Planning Commission approved the CUP.

The City Council reviewed the appeal on October 15, 2009. During this meeting the City Council asked staff and the applicant for more information and continued the appeal to November 12, 2009. The City Council requested staff to review the open space calculation for accuracy. The Council also requested that the applicant return with a clearer visual analysis. On November 12, the Council voted unanimously to remand the CUP to the Planning Commission for additional consideration of three areas and directed staff to prepare Findings, Conclusions and an Order consistent with Councilmember comments and the motion. The Council should review the draft findings to make sure they reflect the Council's decision and modify as necessary.

Findings of Fact, Conclusions of Law and Order re: North Silver Lake CUP

On November 12, 2009, having been duly advised, the City Council hereby modifies the Planning Commission Findings of Fact and adopts the new Conclusions of Law and Order as follows:

Findings of Fact

1. The subject property is at 7101 North Silver Lake Drive. This property is also known as Lot 2B of the North Silver Lake Subdivision.
2. The proposed development is located within the Deer Valley Master Plan Development.
3. Within the Deer Valley Master Plan, the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space.
4. The applicant has applied for a conditional use permit for the development of 54 units located on Lot 2B of the North Silver Lake Subdivision. The applicant has included 5102 square feet of support commercial space within this application. The project consists of 16 detached condominium homes and four condominium buildings containing 38 condominium units. The remaining commercial units are not transferable.
5. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area.
6. The Deer Valley Master Plan requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC chapter 15-1-10.
7. The Deer Valley MPD determines densities on parcels as an apartment unit containing one bedroom or more shall constitute a dwelling unit and a hotel room or lodge room shall constitute one-half a dwelling unit. The Deer Valley MPD does not limit the size of units constructed provided that following construction the parcel proposed to be developed contains a minimum of 60% open space and otherwise complies with MPD and all applicable zoning regulations.
8. Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating "This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B." Lot 2D is 4.03 acres in size.
9. Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2B towards the 60% open space requirement. The Bellemont Subdivision utilized ¼ acre of the Lot 2B parcel to comply with the open space requirement.
10. The current application site plan contains 72.9% of open space on the site including the remainder 3.78 acres of open space on Lot 2D.
11. The property is located in the Residential Development zoning district (RD) and complies with the Residential Development ordinance.
12. The property is within the Sensitive Lands Overlay Zone and complies with the Sensitive Lands Ordinance, with the exception of Building 3 as stated below.

13. The height limit for Lot 2B was established at 45 feet within the Deer Valley Master Plan. The development complies with the established height limit, with the exception of five feet for a pitched roof.
14. The onsite parking requirements for the four stacked flat condominiums have decreased 25% in compliance with section 15-3-7 of the Land Management Code. The Planning Commission supports a 25% reduction in the parking for the stacked flats within the development.
15. The Planning Commission held public hearings on August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009.
16. The Planning Commission approved the CUP on July 8, 2009.
17. An appeal of the CUP approval was received July 17, 2009 within ten days per LMC 15-1-18.
18. The City Council reviewed the appeal of North Silver Lake lot 2B on October 15, 2009 and on November 12, 2009.
19. During the Council appeal, argument was heard by counsel for both Appellants and the Applicant, and the public hearing was re-opened.
20. During the Council appeal, Planning Commissioners Strachan, Peek and Windsor provided testimony regarding the Planning Commission consideration of the application.
21. No violations of specific zone standards (setbacks, etc.) were alleged, although questions regarding open space calculations were made.
22. The Council finds the staff calculations as modified in the November 12, 2009 staff report are correct, specifically the Landscaped Open Space calculations including ski runs as noted.
23. In determining Compatibility, the Deer Valley MPD does create a baseline for the area plan but specific neighborhood impacts must still be mitigated with as built conditions.
24. The height of Building 3 is incompatible because the maximum MPD height (45') used at a site location that steps down the hill magnifies the scale of the resulting façade (nearly 70') as compared to adjacent uses (33') and designated view points.
25. The impacts of the incompatible height, scale, bulk and massing of Building 3 have not been mitigated because of its site location on the most exposed area, maximized height due to stepping downhill and 120' long façade that is disproportionate in scale to the neighborhood. The proposed vegetation will not screen the façade to the same degree as the other structures within or near the project based upon the View Analysis provided.
26. Comparison of internal unit size is not an objective evaluation of Compatibility with adjacent uses or the neighborhood as such bears little relation to external scale and massing.
27. Improvements to the site plan from the 2001 approval and therefore its relevance as having mitigated impacts are discounted by testimony regarding square footage misrepresentations and alleged changes made at the staff level subsequent to Planning Commission approval.
28. Construction phasing and bonding is necessary to mitigate visual and construction impacts that would result if the external ring of units were

allowed to be completed without the central structures and parking due to disproportionate site exposure of the interior of the site.

29. Wild Land Interface regulations will likely further limit proposed mitigation by requiring the elimination of vegetation proposed to screen various portions of the project.

Conclusions of Law

1. With the exception of items 1-3 in the Order below, the Planning Commission's approval on July 8, 2009 was consistent with the Deer Valley Master Planned Development, the Park City Land Management Code, particularly section 15-1-10, Conditional Use Permits, and the General Plan.
2. The Planning Commission erred in applying LMC § 15-1-10(D)(2 and 4) and LMC § 15-1-10(E)(7, 8, and 11) by failing to mitigate the height, scale, mass and bulk of Building 3 to ensure compatibility and maintain or enhance the context of the neighborhood, failing to consider a specific landscape plan in relation to restrictions of Wild Land Interface to better separate the Use from adjoining sites, and failing to mitigate visual and construction impacts by requiring a specific construction phasing plan.
3. Neither Appellants nor the public provided evidence demonstrating that the Planning Commission erred on matters relating to open space calculation, the Commission's standard of review as it related to vesting under the Deer Valley Master Plan and LMC, or the overall site plan's Compatibility.

Order:

The appeal is granted in part and denied in part. The CUP is remanded to the Planning Commission for further consideration of only the following matters:

1. The height, scale, mass and bulk of Building 3 shall be further reduced to meet the Compatibility standard;
2. Further specificity regarding a final landscape plan and bond with consideration for Wild Land Interface regulations shall be reviewed and/or further conditioned; and
3. Construction phasing and additional bonding beyond public improvement guarantee shall be required.

Adopted November 19, 2009

Dana Williams, Mayor

Planning Commission Meeting
 March 10, 2010
 Page 8

5. The Condominium Plat reflects the MPD approval of the Snow Creek Cottages as approved by the Planning Commission on July 9, 2008.
6. The zone is Residential Development Medium Density (RDM).
7. The neighborhood is characterized multi-family condominium, public facilities, a bike trail, and commercial.
8. All findings within the Analysis section are incorporated herein.

Conclusions of Law - 2060 Snow Creek Drive - Condominium Plat

1. There is good cause for this condominium plat.
2. The condominium plat is consistent with the Park City Land Management Code and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed condominium plat.
4. As conditioned, the condominium plat is consistent with the Park City General Plan.

Conditions of Approval - Snow Creek Cottages - Condominium Plat

1. The City Attorney and City Engineer review and approval of the final form and content of the condominium plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. The applicant will record the condominium plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
3. The applicant will record the Snow Creek Crossing Lot No. 9B Subdivision prior to or at the same time as the Condominium Plat.
4. North Silver Lake - Conditional Use Permit
(Application #PL-08-00392)

Planner Cattan noted that the Planning Commission has reviewed this application on five separate occasions. The last time it was reviewed on July 8, 2009, the Planning Commission approved the application with a 3-1-1 vote. Commissioner Murphy had abstained. Planner Cattan stated that the 3-2 vote written in the Staff report was incorrect because it did not reflect the abstention. She corrected page 121 of the Staff report to reflect the 3-1-1 vote.

Planner Cattan reported that on July 18, 2009 the conditional use permit was appealed. The City Council reviewed that appeal on October 15, 2009 and requested additional information. On November 12, 2009, the City Council remanded the CUP application to the Planning Commission with direction to address three specific items. The Planning Commission has held two work sessions on this project since the City Council remand, at which time the applicants presented changes that had not been through a Staff analysis.

Planner Cattan had prepared an analysis based on the findings of the City Council, and requested feedback from the Planning Commission on whether or not the findings have been addressed. Planner Cattan explained that the appeal was granted in part and denied in part and the CUP was remanded to the Planning Commission for further consideration regarding the following matters:

1. The height, scale mass and bulk of Building 3 shall be further reduced to meet the compatibility standards;
2. Further specificity regarding a final landscape plan and bond with consideration for Wild Land interface regulations shall be reviewed and/or further conditioned;
3. Construction phasing and additional bonding beyond public improvement guarantee shall be required.

Planner Cattan believed the applicant was prepared to address the first issue this evening.

Regarding the second issue, Planner Cattan stated that there were previous concerns that the landscape plan had not been checked for Wild Land Interface regulations. The Building Department conducted a review and determined that six trees must be removed due to fire risk and proximity to the proposed buildings. Planner Cattan noted that the applicants had revised the landscape plan and removed those six trees. The proposed landscape mitigation plan replaces those trees with two 20-30 foot trees and all second tier trees at a ratio of 1.5 20-30 foot trees.

To address the third issue, Planner Cattan stated that the City Council made the finding that construction phasing and bonding is necessary to mitigate visual and construction impacts that would result if the external ring of units were allowed to be completed without the central structures and parking, due to disproportionate site exposure of the interior of the site. Planner Cattan stated that the Building Department typically approves the bonding whenever there is construction. After working with Ron Ivie, Planner Cattan drafted a new condition to require that each phase of the plan would have a bonding plan to ensure site restoration and re-vegetation, including the existing disturbance, to mitigate visual and construction impacts within each phase of construction. The Building Department would approve each phasing plan along with the bonding. Planner Cattan stated that Ron Ivie had offered to attend the next meeting to discuss this matter with the Planning Commission.

Planner Cattan reported on a letter she received from Bob Dillon, the attorney for the appellants, regarding the construction phasing and bonding plan. She believed Ron Ivie could address the issues raised in Mr. Dillon's letter when he speaks to the Planning Commission.

Planner Cattan had received a significant amount of public comment. She explained that the internal policy is that all public comment should be received by the Friday prior to the Planning Commission meeting. She requested that the public keep to that schedule to ensure that the Planning Commission receives their comments in the Staff report and has time to review them.

Commissioner Pettit pointed out that the public does not have access to the Staff report until it is posted late in the day on Friday. She felt it was unfair to expect the public to comments on a project before they have the opportunity to read the Staff report. For that reason, she was uncomfortable asking the public to submit their comments by Friday. Commissioner Pettit asked if it was possible to change the deadline for receiving public comment to Monday morning. Chair Wintzer shared the same concern.

Assistant City Attorney, McLean, explained that the reason for requesting public input by Friday was to include the comments in the Staff report. Ms. McLean stated that the policy could be changed to a different date to allow the public time to read the Staff report and make their comments, but the issue was giving the Planning Commission sufficient time to review those comments. Ms. McLean clarified that the Planning Commission is given everything that comes from the public, but if it is not included in the Staff report they continue to receive it piecemeal.

Commissioner Pettit suggested that this was a discussion for another day. She only raised the issue because she understood the difficulty for the public to make helpful comments without the benefit of the details and analysis in the Staff report. Ms. McLean stated that the Staff could look at alternatives to address this concern.

Doug Clyde, representing the applicant, recapped that the project was remanded back to the Planning Commission on the design of Building 3 and the two other items outlined by Planner Cattan. Mr. Clyde noted that during two work sessions the applicants had shown the Planning Commission incremental progress on the design. Based on comments during those meetings, the applicant submitted a complete conditional use application.

On the issue of bonding, Mr. Clyde stated that he and Planner Cattan met with Ron Ivie and reviewed the actual language in the remand. He noted that the language was very specific to bonding for a specific case, where the developer would build the perimeter units without having built the center of the project. In that event, the bonding language should be written to require the applicant to re-vegetate the disturbed area that currently exists on the site. Mr. Clyde felt that was the direction given by the City Council in Finding of Fact #28 and he was comfortable with the interpretation by Mr. Ivie and the Staff based on the remand finding.

Mr. Clyde stated that the applicants were also directed to look at the potential for loss of trees for the implementation of the defensible space plan. He recalled that when the Planning Commission approved the plan, there was some discussion on the matter. At that time Ron Ivie spoke to the Planning Commission and acknowledged that some trees would need to be removed. Mr. Clyde noted that based on the language in the remand, the applicants presented Mr. Ivie with a plan that specifically addressed the issue. He pointed out that every tree on the site was surveyed and

numbered. Mr. Ivie and the Staff reviewed the plan and determined that seven trees needed to be removed in order to meet the defensible space requirements. Mr. Clyde clarified that the seven trees were small and no large trees were removed. He noted that the tree removal had no impact on the visual analysis of the building. In most cases they were smaller trees that were behind other trees. Mr. Clyde remarked that the plan is no different than what was disclosed during the original approval, however, now they have a specific answer that no significant impacts are created.

Mr. Clyde reported that the remand was primarily about reducing the bulk and mass of Building 3. John Shirley, Jr., the project architect, was prepared to comment on this issue. John Shirley, Sr., stated that during the work session the applicants presented a massing model that they had brought back again this evening. Since that time the design was revised in response to some of the comments made during the work session meetings. Mr. Shirley clarified that the model was available this evening for reference purposes, but he did not intend to repeat the same exercise.

Mr. Shirley explained that the intent this evening was to address the basic height issue, and the massing and stepping of the project.

John Shirley, Jr, reviewed the aerial site plan to show how the design had been refined. He believed it was a better plan that blends in with the community. The new northeast and northwest buildings are more compatible in footprint size to the home and condos in the surrounding neighborhoods and inside the project.

Mr. Shirley reviewed specific changes that were made in the site itself and compared it to the previous site plan to demonstrate the changes. The building has been separated into two masses, the northeast, which is the smaller building, and the northwest building. The two buildings have terraced facades that blend with the surrounding homes and condos. A portion of the mass was moved up and over the road between the northwest building and the west building, which screens more of the mass from public view.

Mr. Shirley noted that the smaller northeast building was rotated towards Home 13 in an effort to pull the masses apart and to place more of the mass behind the existing vegetation. The funicular was also eliminated, which reduced the amount of excavation and allows the grade to run naturally up to the building. Mr. Clyde pointed out that they were also able to create a planting of trees on the east end of the building positioned between the building and the view from Main street.

Mr. Shirley commented on a previous issue about the length of the facade of the old building. He noted that the previously approved north building was 220 feet long. The buildings were separated and the building on the northeast is 68 feet wide and the northwest building is 87 feet wide, which is smaller than any other building on site. Separating the buildings allowed them to take advantage of the space between the structures to plant additional trees.

Mr. Shirley compared the previous landscaping to the current landscaping proposed. The open space in the project allows for keeping the large mature trees on top of the plaza for screening.

Mr. Shirley reviewed and compared the section drawings of the old building to the new building. He thought an important element was the facade height on the north facade. Previously, the north facades had a full six stories exposed. By removing the funicular lift and allowing the grade to run up, the entire basement level is hidden. The floor plates on the fourth and fifth levels were pulled back so the facades along the northeast building are only three stories tall, which is comparable to the homes within and surrounding this project.

Mr. Shirley provided a comparison of the floor plans to show how they had reduced the mass, scale and bulk of the building. He referred to the square footage chart and noted that both the common area and the sellable square foot had been significantly reduced. The sellable units were reduced by 12.83%. The internal common area was reduced by 60%. The below grade square footage resulted in a 30% reduction on the below grade area. The decreased size, scale and mass of the building, coupled with the shift and orientation and the planting of additional trees makes the project less visible from Main Street and more compatible with the neighbors.

Mr. Shirley provided a rendering of the new north building.

Mr. Clyde referred to an exhibit of the modeling of the view from Main Street. He pointed out a fairly significant change in the height of the roofline and the apparent bulk and mass of the building as seen from that location. This was accomplished by slightly rotating the building, but primarily because of greater stepping.

In response to a question from Commissioner Pettit regarding the trees, Mr. Clyde explained that 20 and 30 foot trees were planned in both scenarios. However, the revised scenario adds a few more trees because of the planting pod between the buildings. Mr. Clyde clarified that the trees are approximately 25-30 feet in height. Over time the trees would obviously be tall enough to cover the building.

Mr. Clyde pointed out that this process began in May of 2008 and over time many changes have been made to the site plan in response to direction by the Planning Commission. They finally reached an approval and that approval was appealed and Building 3 was remanded back to the Planning Commission for further review. Mr. Clyde remarked that in resolving the City Council's concern regarding Building 3, they believe they have produced a much better product and have accomplished all the goals and objectives of the remand. Mr. Clyde requested that the Planning Commission direct the Staff to prepare findings.

Chair Wintzer clarified that the items for discussion and comment this evening were the three items outlined in the Staff report and reviewed by Planner Cattan. The rest of the project was not remanded back and remains unchanged.

Chair Wintzer opened the public hearing.

Bob Dillon, an attorney with the law firm of Jones Waldo, stated that he was representing 29 individual landowners surrounding this project, as well as one of the HOA's in American Flag. Mr. Dillon remarked that the first notice anyone received for this public hearing was posted on the fence

outside the property. Mr. Dillon commented on the short time period for giving comments and apologized for giving the Planning Commission his letter on short notice. He had tried to react as quickly as possible after reading the Staff report and learning what he could about the project.

Mr. Dillon agreed with the limitation of only addressing the three items that the City Council remanded to the Planning Commission and that the rest of the approval by the Planning Commission action stays in place. Mr. Dillon stated that Building 3 was a much better design, but it was still not good enough. His clients believe the structure is still too large. Mr. Dillon remarked that when he and others attended earlier public hearings, they made strong appeals to make the applicant provide three-dimension graphics. Mr. Dillon noted that the model never materialized until after the City Council appeal and they are now dealing with the hand they were dealt. He thought the buildings were still massive and incompatible.

Mr. Dillon pointed out that during the appeal, City Council Member, Jim Hier, who was on the Planning Commission when the original project was approved in 2001, stated that for all the years he served on the Planning Commission, he only regretted two projects and the North Silver Lake project was one. Mr. Dillon noted that another City Council Member, the late Roger Harlan, stated that he had visited the site and was shocked at how inappropriate the project was for the site. Mr. Dillon stated that even though Building 3 is better, they still object to it.

Mr. Dillon commented on construction phasing and bonding and mitigation issues. He and his clients strongly believe that construction activity is part of a use that is defined in the Land Management Code, and that construction activities that are operated, maintained and conducted on the property must meet compatibility requirements of the Land Management Code. Mr. Dillon remarked that the developer has a tremendous benefit because he can come into neighborhoods that have already matured. When the MPD was originally approved 20 plus years ago, this property sat undeveloped when all the surrounding neighborhoods were developed. However, with that benefit comes a burden. The developer needs to conduct construction activities responsibly and the project must be phased. The City and the surrounding neighborhoods need assurance that construction would be appropriate and compatible with the surrounding neighborhoods. Mr. Dillon remarked that this was the reason why they appealed the project and why they asked for phasing and bonding. He noted that the City Council agreed, which is why it was part of the remand.

Mr. Dillon stated that the LMC and the MPD require construction phasing to complete this project appropriately to the neighborhood. Mr. Dillon noted that the developer phased the project but left a completion date open-ended for the fourth phase. In addition, time limits were not put on the first three phases. Mr. Dillon pointed out that the six acre parcels would be completely covered. The developer is using the legal fiction of the four-acre parcel as the open space. Mr. Dillon stated that the developer is building in a very exposed area and the Planning Commission must require that they make construction activity use compatible. He requested that the Planning Commission require start and finish time limits on each phase and require a fourth phase with a completion date for the entire project. The City cannot allow construction on this huge project to drag on for years. Mr. Dillon reiterated that the phasing plan must have time lines to assure the City and the adjoining neighbors that the project would be completed in a at timely manner. Mr. Dillon requested a three year construction period from start to finish.

Mr. Dillon stated that he and the people he represents definitely want bonds to insure that if the project is not completed on time, the CUP and their vested rights would be terminated. He felt the bond amount should be sufficient enough to restore the disturbed areas with something compatible to both the project and the surrounding neighborhoods. Mr. Dillon stated that he met with Ron Ivie on the bonding and phasing issue and he came away with a different take than Mr. Clyde. He shared his letter with Ron Ivie and Mr. Ivie acknowledged that they may be on the cutting edge in phasing and bonding this project.

Regarding the Wild Land Interface, Mr. Dillon stated that one concern is a retention facility. He remarked that there should not be any ground water runoff on this project. The City has already been affected and they were able to reduce the flood panning area in the lower areas of the pan, which is critical in terms of insurance and financing. Mr. Dillon was confident that there would not be any excess ground water allowed to run off this project because they are covering all of the six acres. He commented on the need for the developer to build a retention facility. He understands that this matter is typically addressed at the permit stage; however, he would like a condition of approval stating that the developer cannot build a retention facility that violates the compatibility standards of the LMC. Depending on the size of the retention facility, Mr. Dillon suggested that the open space may need to be re-calculated.

Mr. Dillon addressed the issue of construction traffic. He commented on a dangerous collision his wife had with a semi-truck on Royal Street. He has had the same experience without a collision twice with large semi-trucks on that hairpin and has witnessed other accidents. Mr. Dillon stated that Royal Street is not a construction road. The Mine Road is a State Road that was widened and straightened and has a runaway ramp. There is no reason to continue to require construction traffic down Royal Street. All construction vehicles should use the Mine Road and he would like to see that mandated in the construction mitigation plan.

Mr. Dillon did not think the Planning Commission was limited by Finding of Fact 28. He believes the City Council wanted the Commissioners to address phasing and bonding to insure that the project is built properly and on time. Mr. Dillon summarized his requests and asked the Planning Commission to place appropriate time limits on the project and to insure that the construction use is compatible with the standards in the LMC.

Tom Bennett, legal counsel to the developer, stated that he had not intended to speak until Mr. Dillon raised issues that he felt needed to be addressed. Mr. Bennett remarked that some of Mr. Dillon's comments skewed the truth and did not make sense. With respect to the comment Council Member Hier made during the City Council meeting, Mr. Dillon made it sound like Council Member Hier was sorry that he had help approve this project when he was on the Planning Commission. Mr. Bennett clarified that Mr. Hier was referring to a project that was approved for this property in 2001; not the project being proposed today. Regarding the City Council's intent when they asked the Planning Commission to review and address the issue of bonding for reparation of the site if construction is discontinued, Mr. Bennett thought the Planning Commission should look at the record from the City Council meeting rather than take Mr. Dillon's interpretation of what the City Council said. He believed Mr. Dillon's interpretation was improper and inaccurate.

Mr. Bennett commented on the phasing plan Mr. Dillon had requested. He stated that a phasing plan will be created through the normal course of the construction process if this project is approved. Mr. Bennett pointed out that a phasing plan cannot be determined at this stage of the process. The phasing plan will be determined by the economy and other conditions at the time the phasing plan is being considered. To impose a specific start date on a project or to require that a project of this magnitude be completed within three years goes beyond the scope of authority that the LMC gives to the Planning Commission. Secondly, he was unaware of any other development in Park City where such a condition was imposed as part of the CUP process. If the developer is obligated to construct this project in three years or lose the entitlements, and the project gets 2-1/2 years into the process but for some reason cannot be completed in six months, they would end up with a partially completed project. This is the scenario Mr. Dillon was trying to avoid by imposing the condition; however if the developer loses his entitlements, the project would never be finished. Mr. Bennett pointed out that to impose a condition of this manner would insure that the project would never be financed. To honor Mr. Dillon's request would be inconsistent with the LMC and unfeasible.

Mr. Bennett preferred to let Doug Clyde respond to the retention facility issue. Mr. Bennett stated that if for some reason it would be a retention pond, it would not impact the open space calculation. Mr. Bennett was certain that the developer would not object to using the Mine Road for construction traffic. Mr. Bennett believed the developer had been extremely responsible in responding to the comments of the City Council and the Planning Commission. He encouraged the Planning Commission to authorize the Staff to proceed with findings for action. Chair Wintzer closed the public hearing.

Regarding the ground water, Mr. Clyde stated that no detention pond has been planned. The engineers have looked at the project and it will all be done by infiltration pipes underground. The International Building Code requires that the engineered post-construction runoff is the same as the pre-construction runoff. That is a matter of law that cannot be varied. Mr. Clyde noted that construction traffic is an issue for the Building Department, but they would not object to using the Mine Road. Mr. Clyde commented on the phasing plan. He clarified that the plan presented was a construction mitigation plan and not a phasing plan. It was in response to the question of whether the construction activities of this project could be contained on site. Mr. Clyde stated that it was a conceptual program that was presented to Ron Ivie and Mr. Ivie conceptually thought the construction activities could be contained on site. Mr. Clyde remarked that the language from the remand shows that the discussion was very specific.

Commissioner Peek referred to page 147 of the Staff report, the north elevation of Building 3. He noted that no railings were drawn above level 3 and asked if there were decks on levels four and five. Mr. Shirley replied that there would be decks on the top levels. Commissioner Peek asked if there would be hot tubs on the decks. Mr. Shirley stated that there would be a spa in the building but they had not discussed hot tubs on the decks. Mr. Shirley understood the concern and stated that if someone wanted to put in a hot tub, there would need to be privacy screens. The hope is to discourage personal hot tubs by providing the health spa.

Commissioner Peek referred to the rendering of the project and tried to equate the floor plans to the elevations. He thought there appeared to be exterior doors where there were no decks. Mr. Shirley explained that in many cases where there is a flat roof, the space is used as a roof top garden where people can walk out to it. Because it is a roof, there is vegetation along the edge. Commissioner Peek clarified that if it is a raised area to provide fall protection, it would have more mask than what was drawn. It would be similar to downstairs with the wire. Commissioner Peek assumed that the pillars of snow shown on the rendering would be shoveled to eliminate pillars of snow on the roof. Mr. Shirley stated that because the railing would not go out to the edge, a band of snow would encompass in lieu of decks.

Commissioner Peek understood that Level 5 of Building 3A has a center deck that appears to be completely snow covered. He noted that Level 3 on the west side in the northwest corner has a door exiting out but there was no deck. He pointed out a similar situation on the west side of Building 3A, where a door was drawn on the exterior with no apparent deck. Commissioner Peek asked if the landscaping and the tree placement reflected in the rendering had been checked according to the approved Wildland Interface Plan.

Mr. Clyde stated that the landscaping was coordinated with the Wildland Interface Plan. He explained that the changes from the Wildland Interface Plan were nominal and could not be seen on the plan. Planner Cattan stated that the trees that were affected in the Wildland Plan were behind Buildings 13 and 14. Mr. Clyde pointed out the trees in question and noted that they were fairly small trees. Commissioner Peek clarified that the rendering showed the currently adjusted landscape plan. Mr. Clyde replied that it showed the adjusted and the proposed landscape. Commissioner Peek asked what year of landscape maturity was reflected in the rendering. Mr. Clyde replied that it was year one.

Commissioner Strachan was unclear what the City Council meant in Finding #28 when they wrote "disproportionate site exposure of the interior of the site". He understood everything about that condition up to that point.

Commissioner Pettit thought it was important for the Planning Commission to have the minutes from the City Council meeting so they could see for themselves how the discussion unfolded and how it led to the intent of the remand and the language written. Commissioner Strachan agreed. He had attended that meeting, but he could not recall the exact wording or why it was written. Commissioner Pettit was uncomfortable acting on Finding #28 without understanding the full concept of the discussion.

Planner Cattan stated that from the Staff perspective, the intent of the finding was that if the applicant builds the periphery buildings first, the center of the site would need to be brought back to standard with landscaping to mitigate construction impacts.

Director Eddington explained that part of that issue came about as a result of the existing hole on site. If the applicant builds the external units first, they would still need to resolve the hole that exists in the middle. He believed that was the reference for disproportionate site exposure.

Planner Cattan stated that a public improvement guarantee does not include bringing back soil or significant vegetation. The City Council required a phasing and bonding plan beyond a public improvement guarantee to make sure the site is returned to its pre-construction state.

Commissioner Strachan concurred with the importance of having the minutes of the City Council meeting provided in the next Staff report.

In terms of the general idea of the bond, Commissioner Strachan thought it was a fair requirement. He was unsure how much discretion the Planning Commission had in setting the bond amount. To his knowledge, it was not an action the Planning Commission has ever taken. Commissioner Strachan believed that Finding #28 from the Council directs the Planning Commission to take that action.

Commissioner Pettit recalled that the matter has come up in other contracts. One recent project was a historic stone wall that was adjacent to property in Old Town. There was concern about disturbing or destroying the wall and the Planning Commission had discussed bonding. Commissioner Pettit thought the Planning Commission should define what the bond should cover beyond the seeding required in the public improvement bond. She thought it would be helpful to provide specifics on the types of remediation the bond should cover and what they are trying to protect through the bonding process. Commissioner Pettit felt it was more appropriate for the Building Department to determine the bond amount.

Commissioner Peek suggested that it be similar to the preservation guarantee. He noted that the applicant is required to submit a preservation plan and there are certain triggers for capturing the bond. He suggested a phasing plan that establishes and defines a complete phase. When that phase is completed, the bonding gets released and a new phasing plan and a new bond is required. Planner Cattan stated that this was exactly how it was set up within the condition.

Assistant Attorney McLean clarified that the bond must relate to what it is mitigating. She concurred with the approach Commissioner Pettit had suggested.

Planner Cattan read the condition written in the Staff report, "A phasing and bonding plan beyond a public improvement guarantee must be approved by the Building Department in which phasing shall ensure site restoration with re-vegetation including the existing disturbance, to mitigate visual and construction impacts within each phase of construction." She explained that the Building Department would approve a phasing plan and each portion of the phasing plan would be bonded to ensure site restoration with re-vegetation.

The Commissioners discussed the level of re-vegetation that would be required. Mr. Clyde stated that Ron Ivie realizes that while the site is stable, the slopes are too steep to be a successful re-vegetation. Therefore, in addition to top soil, there would be some amount of re-contouring. Mr. Clyde stated that the development rights have not gone away on this site and planting trees may not be the best use of planting material. He assumed standard re-vegetation would be grasses and shrubs.

Planner Cattan remarked that the re-vegetation material would be dependent upon the order of phasing. She noted that they were also asked to include the Wildland Interface with the bonding. The Staff also suggests that the bond shall be placed prior to issuance of a grading or building permit to cover the cost of the landscape plan as approved by the Planning Commission.

Commissioner Pettit stated that until she has the opportunity to see the full set of City Council minutes and to hear from Ron Ivie on this issue, she was not prepared to make any decisions on the CUP issue.

Commissioner Strachan remarked that the bonding issue was his only concern at this point.

City Council Member, Alex Butwinski, stated that Planner Cattan had correctly interpreted the intention of the City Council. If the perimeter is built, the bond should be sufficient enough to restore the center portion of the site.

Commissioner Strachan reiterated his consistent opinion that the amount of excavation required for the site does not meet the criteria of the CUP. However, that issue has passed and the City Council has given direction for the project to move forward once the concerns of the North Building have been addressed. He disagreed with that assessment, but at this point the project is in the hands of the City Council. Commissioner Strachan felt the North Building was still too large, but he assumed it would pass the City Council's review.

Commissioner Hontz concurred with Commission Pettit regarding the requested information and the discussion points. In terms of phasing, Commissioner Hontz stated that in reading the packet she could not find where Buildings 1 and 2 and eight of the single family homes were ever built. Therefore, that staging was never accounted for. Commissioner Hontz needed to see the final plan to know where the entire project was going.

Mr. Clyde stated that the exhibit in the packet was prepared for the purpose of determining whether Ron Ivie thought the project could be contained on site. While phases were alluded to in the exhibit, they were only conceptual. Mr. Clyde stated that based on his discussion with Ron Ivie, if the project progresses through the final phases, once the parking lot is in and the major parts of the construction are completed, the balance of construction could occur within its own footprint. Mr. Clyde noted that this was typical in most developments with similar scale. A final phasing plan for this project has not yet been determined.

Commissioner Hontz referred to page 152 of the Staff report and noted that Buildings 1 and 2 and eight single family homes are quite large. She pointed out that five of those areas are used as staging just for Building 4. She felt that more thought needed to be given to see where staging could be accomplished on site for Buildings 1 and 2.

Commissioner Hontz referred to page 126 under open space and asked for clarification of the open space calculation. She noted that Finding of Fact #10, on page 129 specified a different number. Planner Cattan replied that currently the open space for the cottages is at 70.6%.

Commissioner Luskin stated that he was not on the Planning Commission when this application was originally approved. However, he was on the Planning Commission for the work sessions following the remand. He appreciated the effort from the applicant to make this a better project. Commissioner Luskin stated that comments were made during the public hearing that may be outside of their purview, but the comments resonated with him. One comment addressed compatibility in a broad sense and the length of construction. The question was whether there could be phasing and controls on the phasing to require time limits. Commissioner Luskin noted that the only response he heard to that question was that three years was unrealistic. He wanted to know what time frame would be realistic.

Commissioner Luskin agreed that Royal Street is not a suitable street for large construction trucks, and certainly not for the construction traffic generated by a project this large. He pointed out that the applicant's representatives this evening indicated that they would not object to using the Mine Road. Commissioner Luskin recognized that many of the public comments were not directly related to construction of the project or the impacts, but he felt those comments were important and should be considered.

Assistant City Attorney McLean, stated that the City Council was very specific that the Planning Commission only had jurisdiction to address the three items that were remanded back. She noted that their concerns could be voiced, but Ron Ivie is the one who determines construction mitigation. Ms. McLean recommended that Ron Ivie attend a meeting to address their concerns.

Commissioner Luskin reiterated that another issue is the time frame for construction. In his opinion, a ten or twenty year construction project is a compatibility impact. Commissioner Pettit believed the matter goes to the question of whether or not a time line can be put in place with respect to the CUP approval. She noted that often times the Planning Commission specifies that the developer must pull a building permit within one year of the approval or the CUP expires. Commissioner Peek further explained that a project cannot sit idle for more than six months or the CUP expires. Ms. McLean pointed out that in those cases the Building Department institutes a phasing plan and bonding to make sure that if construction stops after a year and a half, there would be money available to restore the site so it would not remain an eyesore.

Planner Cattan stated that another issue discussed with Ron Ivie was whether it would be reasonable to have a completion bond. Mr. Ivie made it clear that the City would never ask for a completion bond because it is too expensive and it would prohibit a project from ever re-starting.

Commissioner Peek clarified that they were talking about converting one form of dirt to landscaping in construction phasing, and not necessarily a framed building to a closed in building. Planner Cattan replied that this was correct. Ms. McLean stated that it would be inappropriate to require a completion bond because the conditions need to relate to mitigation. The mitigation is that the site cannot be an eyesore and must be prepared in a way that brings it back to an appropriate form. Commissioner Peek asked if it would be brought back to a form or carried forward to a form. Ms. McLean replied that either way would be appropriate. Commissioner Peek asked if it would be a continuation bond, but not a completion bond. Ms. McLean replied that the condition as written addresses that mitigation concern. There would be enough money to either demolish what exists

and to either bring the site back or forward. That is different from a completion bond, which requires the project to be completed per the plan. The condition needs to address what they are trying to achieve as the end goal.

Bob Dillon noted that everyone had their own recollection of the City Council discussion. In addition to the minutes, he had an audio recording of that meeting and the full discussion. Mr. Dillon remarked that when the findings came back a week later, he wrote a letter to the City Attorney questioning some of the items. He encouraged the Planning Commission to look at the minutes. He understood the phasing and bonding was a Building Department matter, but he always thought the City Council was mandating that the applicant identify the various phases of construction and what would be accomplished in each phase. Mr. Dillon was confused after hearing Mr. Clyde say that the exhibit was only a conceptual plan.

Chair Wintzer explained that Ron Ivie would issue a building permit, which would have a limits of disturbance. At that time, they would specify a bond to guarantee that the site that was disturbed would be brought back into some type of vegetation. Chair Wintzer stated that the Planning Commission could request that the bond also include enough money to complete the outside of the building. He did not think the Planning Commission had the purview to say when and how the building should be built. He believed the economy would dictate how the project is phased and that would be handled during the building permit.

Planner Cattan believed that having the minutes in hand and Ron Ivie at the meeting would help clarify many of the issues.

Mr. Clyde noted that the applicants have offered to meet with the neighbors at the time the mitigation plan occurs. He pointed out that the City has put limits on other projects that prohibit trucks from using Marsac. In addition, it is unclear what the conditions are going to be at the time they pull the mitigation plan. Relative to the overall time frame, Mr. Clyde stated that everyone in this project is more motivated to make sure that all the phases of the project are completed. It would not be good for marketing the completed units if there is a hole in the ground next door. Mr. Clyde remarked that he has worked on numerous projects substantially larger in scale and he has never seen a completion date apply to a project. It all depends on the market.

Planner Cattan asked for Planning Commission input on the three issues of the remand.

The height, scale, mass and bulk of Building 3 shall be further reduced to meet the compatibility standards.

She asked if the Commissioner felt the issue had been met or what they wanted to see addressed.

Commissioner Peek thought the scale, mass and bulk had been mitigated. Regarding the height, he read the City Council Finding #24, as written in the Staff report addressing the height and the scale of the facade. In looking at the elevations, he calculated a 70 foot facade. Commissioner Peek understood that stepping of the various levels created a change, but the number had only

changed slightly. The height was not mitigated and he did not believe it met the direction given by the City Council.

Commissioner Peek referred to page 147 of the packet and noted that Level 0 was 72 feet and the fascia line was at 142 feet, which calculated to 70 feet.

Commissioner Pettit agreed with Commissioner Peek and requested additional analysis. Commissioners Hontz and Luskin echoed Commissioners Peek and Pettit.

Commissioner Strachan thought the applicants had done everything they could to mitigate the impacts of a project that would have substantial impacts, and they had mitigated the impacts created by building to the MPD. He felt that no project that could be built with this MPD would be compatible. For that reason, Commissioner Strachan was unable to say this project met the compatibility standard.

Chair Wintzer thought the applicants had reduced the height and he felt they had done a good job stepping the building back and working with what was already approved.

Further specificity regarding a final landscape plan and bond with consideration for Wild Lane Interface regulations shall be reviewed and/or further conditioned.

Chair Wintzer suggested that they hold their comments until they hear from Ron Ivie at the next meeting. Chair Wintzer was satisfied that the applicants had gone through the process with Ron Ivie to show that it could be done.

Commissioner Pettit stated that the condition written in the Staff report satisfied her concerns with respect to the issue. Commissioners Strachan and Hontz concurred.

Construction phasing and additional bonding beyond public improvement guarantee shall be required.

The Commissioner felt their earlier comments was sufficient direction on this item.

Planner Cattan summarized that the Planning Commission would like the phasing plan to show development of all the buildings; Ron Ivie should attend a meeting to discuss the bond and phasing; clear boundary parameters would be set; the minutes of the City Council meeting would be provided to the Planning Commission. Commissioner Strachan asked if it was possible to provide the Commissioners with a DVD of the audio from the City Council meeting. Planner Cattan understood that there was interest for not using Royal Street for construction traffic and to require the use of the Mine Road, but there was not concurrence.

Commissioners Strachan, Pettit and Wintzer stated that they did not concur with using the Mine Road. Chair Wintzer felt it was an equal impact by running construction vehicles through Old Town. Commissioner Peek preferred to leave that decision to the Building Department.

Planner Cattan noted that the Planning Commission wanted further analysis by Staff regarding the height on Finding #24 with regards to the 70 foot calculation. Planner Cattan asked if the Staff should prepare findings for the next meeting, as requested by the applicant.

Commissioner Peek felt findings were premature, since two of the items were contingent on input from Ron Ivie. Commissioner Strachan suggested that the Staff draft findings for everything but those two issues. Chair Wintzer concurred.

Assistant City Attorney McLean, clarified that the applicant was asking for a ruling at the next meeting. She stated that Planner Cattan would prepare the findings for action and additional findings could be drafted based on input.

Commissioner Pettit felt it was important for everyone to understand that certain findings of fact would need to be made after the Commissioners hear from Ron Ivie.

Ms. McLean explained the process and noted that under State Code, the applicant has the ability to request a vote and the vote needs to occur within 45 days of a formal request. It is due process to keep an application from being continued indefinitely. Commissioner Peek asked if action by the Planning Commission was concurrence to continue, whether that would require a formal request for a continuance. Ms. McLean replied that the applicant has the ability to waive their request for a vote. She stated that if a formal request is submitted for action, and no action is taken within 45 days, the project is deemed approved.

Commissioner Pettit asked if the next meeting is in a month, if the Commissioners would have 45 days from that meeting to act on the request or if the 45 days time period starts with the day the request was made. Ms. McLean stated that she would need to verify State Code, but she believed it was 45 days from the date of the letter. However, since the applicant has verbally asked for a vote and there is no new information, the Planning Commission should honor that request.

Commissioner Peek pointed out that the next meeting on April 28th would be 48 days from the current request. Director Eddington agreed that they would need to have that first meeting in April that was previously canceled, unless the applicant would agree to wait until the April 28th meeting. Ms. McLean pointed out that the applicant had not submitted the formal letter required to trigger the 45 days.

Tom Bennett was not opposed to waiting until April 28th, but he felt it was time for a decision and did not want it delayed any further. He offered to wait a few days before submitting the request so the 45 days would run beyond the April 28th meeting.

MOTION: Commissioner Pettit moved to CONTINUE the CUP application for the North Silver Lake Lodges to April 28, 2010. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

Planning Commission Meeting
March 10, 2010
Page 23

Mr. Bennett clarified that the Staff report for the April 28th meeting would have findings based on comments this evening, with the exception of the issues that Ron Ivie would be addressing.

The Park City Planning Commission meeting adjourned at 8:15 p.m.

Approved by Planning Commission: _____





| PARKING TABLE | |
|-----------------------|-------------------|
| LEVEL 2 | OPEN STALLS 26 |
| | PRIVATE GARAGE 16 |
| LEVEL 1 | OPEN STALLS 22 |
| | PRIVATE GARAGE 16 |
| TOTAL OPEN STALLS | 48 |
| TOTAL PRIVATE GARAGES | 32 |
| TOTAL PARKING STALLS | 80 |

| AREA - LEVEL 2 | |
|--------------------|---------------|
| BUILDING 1 | 3240 SQ. FT. |
| PARKING 1 | 1440 SQ. FT. |
| BUILDING 3 | 4320 SQ. FT. |
| BUILDING 4 | 4320 SQ. FT. |
| TOTAL AREA LEVEL 2 | 14320 SQ. FT. |

SCHEMATIC PLAN
LEVEL 02
SD.2.2

PROJECT: NORTH SILVER LAKE LODGE
DATE: 02/11/10
DRAWN BY: J. L. HARRIS
CHECKED BY: J. L. HARRIS
SCALE: AS SHOWN

OWNER: REGENT PROPERTIES
11990 SAN VICENTE, SUITE 200
LOS ANGELES, CA 90049
310.806.9827

NORTH SILVER LAKE LODGE

NORTH SILVER LAKE SUBDIVISION, LOT 28, LAKELAND VALLEY, LAKELAND

COMMENTS:

1. This plan is a schematic plan and is not intended to be used for construction. It is intended to be used for informational purposes only. The owner is responsible for the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided.





SCHEMATIC PLAN
LEVEL 04
SD.2.4

PROJECT: NORTH SILVER LAKE LODGE
DATE: 08/11/09
SCALE: AS SHOWN

CLIENT: REGENT PROPERTIES
11990 SAN VICENTE, SUITE 200
LOS ANGELES, CA 90049
310.866.9827

NORTH SILVER LAKE LODGE

NORTH SILVER LAKE LODGE, LOT 21, SILVER VALLEY, SAN

COMPILED BY: [Name]

DATE: 08/11/09
SCALE: AS SHOWN





| AREA - LEVELS | |
|----------------------------------|--------------|
| BUILDING 1 | 8457 SQ. FT. |
| BUILDING 2 | 8457 SQ. FT. |
| BUILDING 3 | 7233 SQ. FT. |
| BUILDING 4 | 8457 SQ. FT. |
| TOTAL AREA LEVEL 5 32444 SQ. FT. | |

SCHEMATIC PLAN
LEVEL 05
SD2.5

PROJECT: 11990 SAN VICENTE, SUITE 200
11990 SAN VICENTE, SUITE 200
LOS ANGELES, CA 90049
DATE: 08/11/09
SCALE: 1/8\"/>

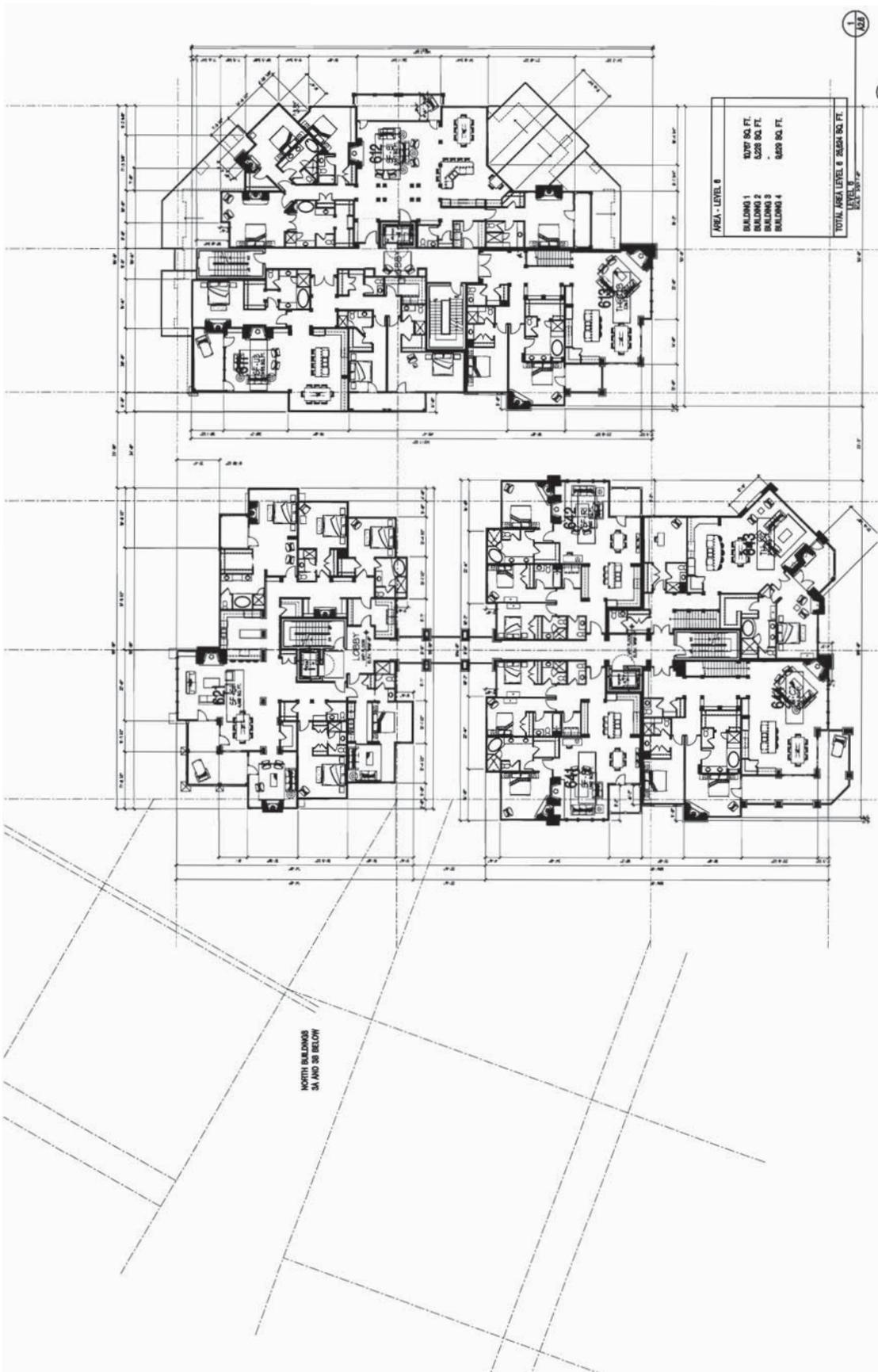
CLIENT: REGENT PROPERTIES
11990 SAN VICENTE, SUITE 200
LOS ANGELES, CA 90049
310.805.9827

NORTH SILVER LAKE LODGE

NORTH SILVER LAKE SUBDIVISION, LOT 18, DEER VALLEY, CALIF.

COMMENTS:
This drawing is intended for use in the preparation of a permit application for the proposed project. It is not to be used for any other purpose without the written consent of the architect. The architect shall not be responsible for any errors or omissions in this drawing. The architect shall not be responsible for any construction of the project. The architect shall not be responsible for any construction of the project. The architect shall not be responsible for any construction of the project.

ARCHITECT: [Firm Name]
1111 [Address]
[City, State, Zip]
[Phone Number]
[Website]



| | | |
|------------------------------------|--------------|--|
| AREA - LEVEL 6 | | |
| BUILDING 1 | 5077 SQ. FT. | |
| BUILDING 2 | 4228 SQ. FT. | |
| BUILDING 3 | 4228 SQ. FT. | |
| BUILDING 4 | 5453 SQ. FT. | |
| TOTAL AREA LEVEL 6 (ROUGH SQ. FT.) | 18986 | |



COMMENTS:
 1. This plan is for information only and is not to be used for construction purposes.
 2. The owner is responsible for obtaining all necessary permits and approvals.
 3. The contractor is responsible for verifying all dimensions and conditions on site.
 4. This plan is based on the information provided by the owner and is not to be used for any other purpose.
 5. The architect is not responsible for any errors or omissions in this plan.
 6. The architect's liability is limited to the scope of the contract.
 7. The architect's office is located at 11111 Wilshire Blvd., Suite 200, Los Angeles, CA 90025.
 8. The architect's phone number is 310.866.9827.
 9. The architect's fax number is 310.866.9827.
 10. The architect's website is www.rp.com.

NORTH SILVER LAKE LODGE

NORTH SILVER LAKE SUBDIVISION, LOT 28, DEER VALLEY, OAK

CLIENT:
 REGENT PROPERTIES
 11990 SAN VICENTE, SUITE 200
 LOS ANGELES, CA 90049
 310.866.9827

SCHEMATIC PLAN
 LEVEL 06
 SD2.6



BLDG. 3 NORTH ELEVATION
1/8" = 1'-0"



BLDG. 3 SOUTH ELEVATION
1/8" = 1'-0"



CONTRACT NO. 2010-001
PROJECT NO. 100000000
DATE: 04/11/10
SCALE: 1/8" = 1'-0"

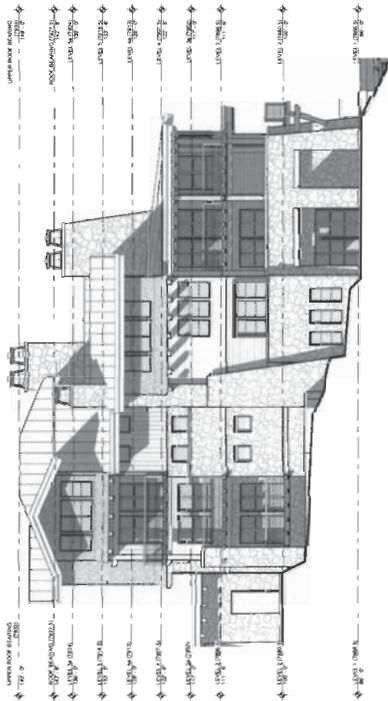
NORTH SILVER LAKE LODGE

BUILDING #3
NORTH
ELEVATION
SD3.01

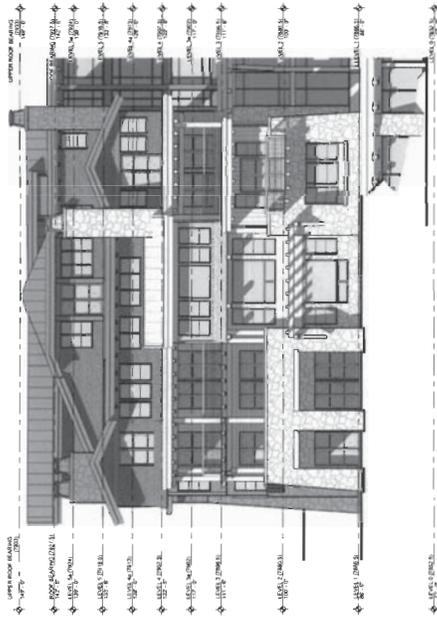
OWNER:
CITY OF SALT LAKE
DATE:
12/20/09
PROJECT NO.
100000000

CLIENT
REGENT PROPERTIES

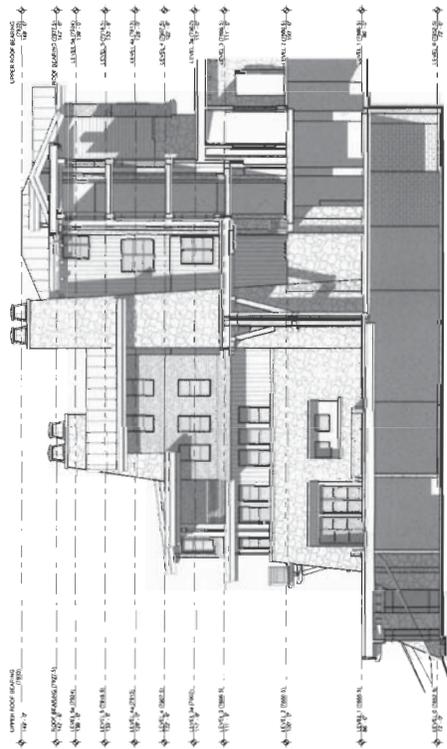
NORTH SILVER LAKE SUBDIVISION, LOT 28, DEER VALLEY, UTAH



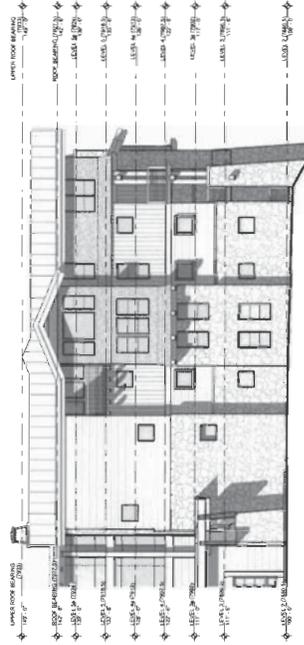
BUILDING #3A EAST ELEVATION
1/8" = 1'-0"



BUILDING #3A NORTH ELEVATION
1/8" = 1'-0"



BUILDING #3A WEST ELEVATION
1/8" = 1'-0"



BUILDING #3A SOUTH ELEVATION
1/8" = 1'-0"



jse architects
 1000 West 10th Street, Suite 100
 Boise, Idaho 83702
 Phone: (208) 333-3333
 Fax: (208) 333-3334
 www.jse-architects.com

CONSULTANTS:

REGENT PROPERTIES
 CLIENT:
NORTH SILVER LAKE LODGE
 NORTH SILVER LAKE SUBDIVISION, LOT 28, DEER VALEY, IDAHO

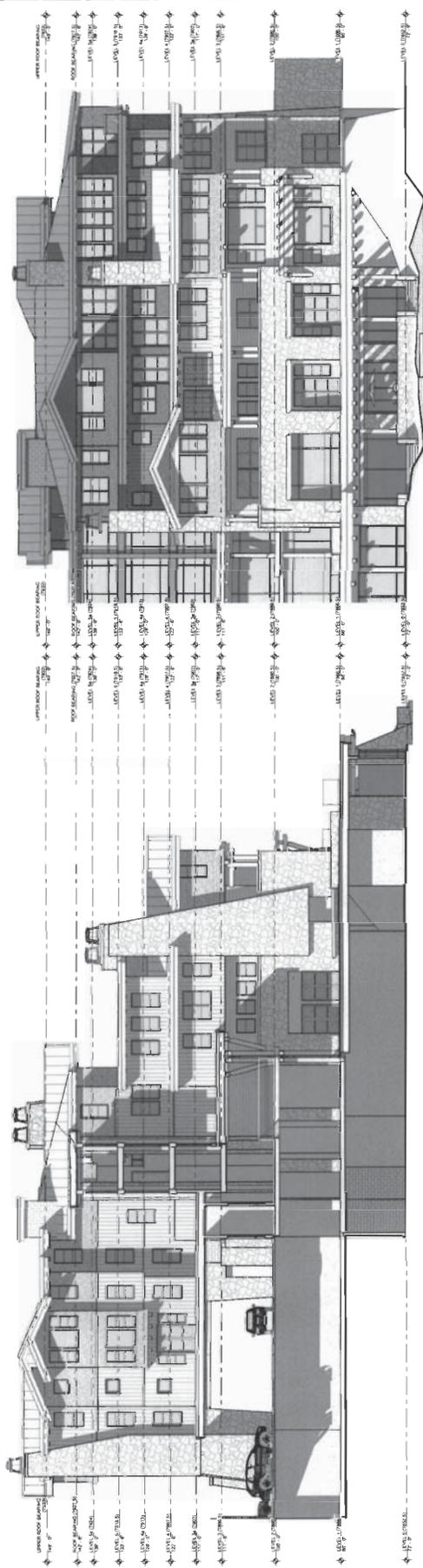
PROJECT NO:
0306

DATE:
12/28/2009

DRAWN BY:
CITY REVIEW

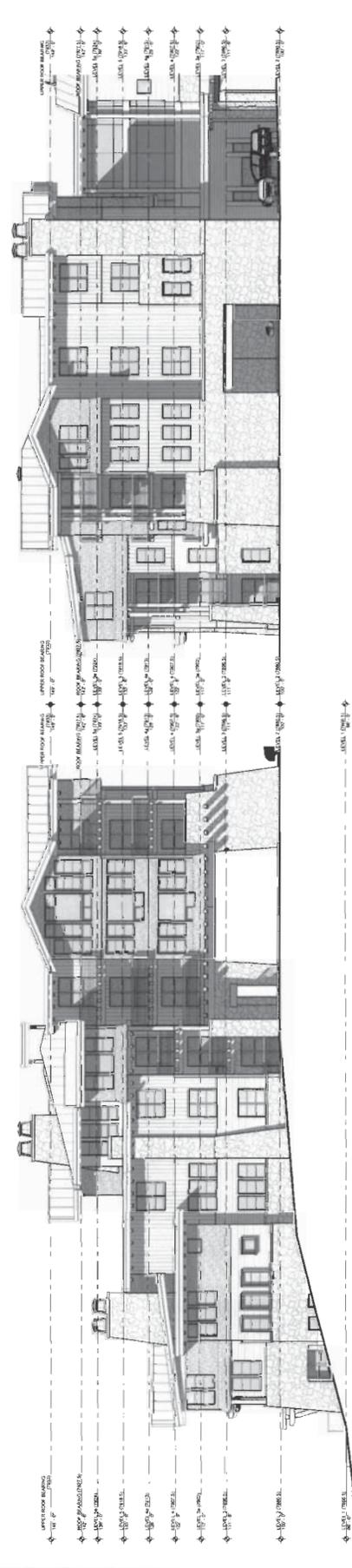
**BUILDING #3A
ELEVATIONS**

SD3.02
 Per Draw: 3/28/2010 10:55 AM



ALSO SEE WEST ELEVATION
10' x 10'

ALSO SEE EAST ELEVATION
10' x 10'



ALSO SEE SOUTH ELEVATION
10' x 10'

ALSO SEE WEST ELEVATION
10' x 10'



jsa architects
 1000 North Silver Lake Road
 Deer Valley, Utah 84015
 Phone: 435.335.1100
 Fax: 435.335.1101
 www.jsaarchitects.com

CONSULTANTS
 REGENT PROPERTIES

NORTH SILVER LAKE LODGE

CLIENT: REGENT PROPERTIES

BUILDING #38
 ELEVATIONS
 SD3.03

PROJECT NO: 0780
 DATE: 12/28/2009
 CITY REVIEW



PREVIOUS BUILDING 3



NEW BUILDING 3



DOUGLAS CLYDE
Mountain Resort Consulting Services, LLC

P.O. Box 561
5258 N. New Lane
Oakley, UT 84055

April 2, 2010

Katie Cattan
Park City Planning Department
445 Marsac Ave.
PO Box 1480
Park City, Utah 84060

Re: Redesign of building 3 of the North Silver Lake project

Dear Katie:

In response to the discussion with the Planning Commission at the last meeting we have prepared some further exhibits to illustrate how the project has been revised as a result of the partial remand by the City Council of the North Silver Lake CUP. The remand was limited to the issue of bulk, mass, height and scale of Building 3, with the addition of a couple of minor items which have already been addressed. The balance of the CUP, as approved by the Planning Commission, was upheld by the Council and therefore is not the subject of the remand. Our focus has been on addressing item 1 of the City Council's Order, which requires further consideration of a reduction in the height, bulk, scale and mass of the Building 3. In reviewing these issues, the overall façade length and the perceived height of the building were the principal items that were brought up by Council.

The Council's remand specifically found that there was no evidence that the Commission "erred on matters relating to... the Commission's standard of review as it related to vesting under the Deer Valley Master Plan and LMC, or the overall site plan's Compatibility" (see Conclusion of Law #3). As confirmed by the Council, the LMC and the Deer Valley MPD unequivocally establish the maximum height, and the method in which it is to be calculated, as vested rights. The remand was about compatibility. Paragraph 1 of the Council's Order states that "the height, scale, mass and bulk of Building 3 shall be further reduced to meet the Compatibility standard".

The "Compatibility standard" referred to is set out in Section 15-1-10(D), which requires that "the effects of any differences in Use or scale have been mitigated through careful planning". One of the concerns of the Council was that Building 3 presented a façade that was not compatible because it was over 220 feet long, and the vertical distance from the highest floor level of the building to the lowest floor level (which was situated down slope from the highest point, rather than directly below) was nearly 70 feet.

Mountain Resort Consulting Services, LLC
Douglas Clyde its Managing Member
Phone: 435-333-8001 - Fax: 435-783-5687 - email: dcllyde@allwest.net

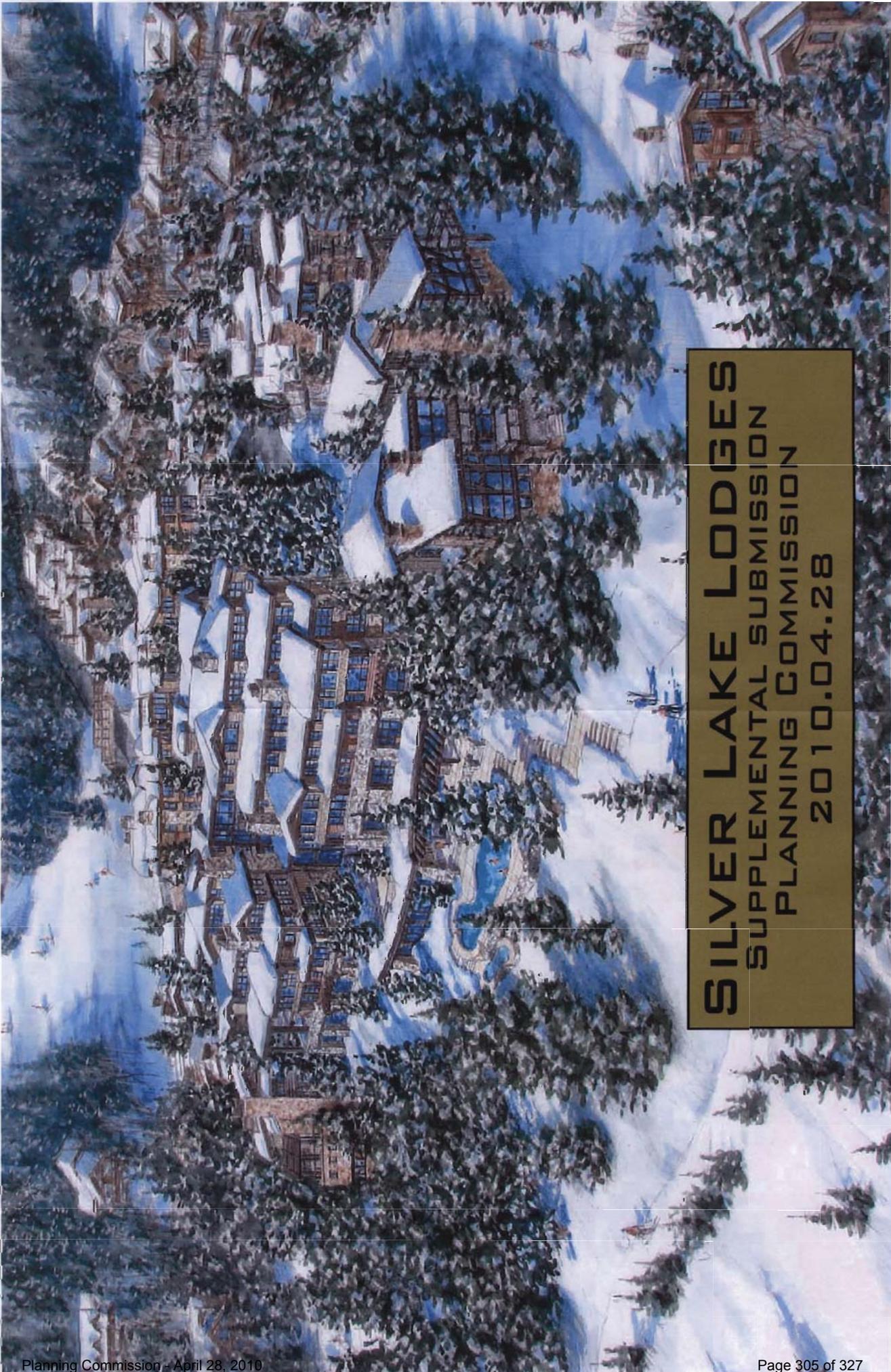
In redesigning Building 3 we have continued to calculate height vertically from natural grade as mandated by the LMC. But the Building has been dramatically changed to make that height more compatible with the neighborhood. The key modifications were to: (1) break the building into two buildings, so that the façade length in each building is decreased by more than 50% and is similar or smaller to the other buildings in the project; (2) the natural grade at the lowest level was retained in place to block the visibility of this level, rather than excavated out as in the prior plan, thus obscuring most of one floor level of the façade; and (3) substantially increasing the stepping back of the top two floors from the principal plane of the façade, thus eliminating or dramatically reducing the visual impact of these two floors. With these changes, the façade of Building 3 from most vantage points is reduced from five or six stories to three or four stories.

Following these changes, the bulk, mass and scale were re-examined from the Main Street view perspective. By significantly reducing the front façade height by increasing the stepping of the fourth and fifth stories, the height, bulk and mass of the building is dramatically reduced when viewed from Main. Dividing Building 3 into two smaller structures also allowed us to re-orient the buildings so that the landscaping better shielded the buildings from the Main Street view.

The impact of Building 3 was also analyzed from the adjacent ski trail and neighboring properties. The previous Building 3 presented a continuous 5 story façade over the bulk of its length. The revised Buildings 3A and 3B, when viewed from the ski trail, are perceived to be two buildings of significantly reduced façade length and a front façade of three to four stories over the majority of the length of the building. While the views of Buildings 3A and 3B are limited from adjacent properties, they are visible from the ski run. The impact of the increased stepping of the top two stories results in buildings that appear as three stories when viewed from the ski run, which is similar to or smaller than most of the single family homes that are proximate to the project (see attached examples of selected neighboring homes). We have attached drawings and visual analysis demonstrating the visual reduction in height, bulk and mass of the building as viewed from the adjacent ski run. In addition we have attached the drawing that compares the floor plates from the old to the new building in order to show how the building volume has also been reduced.

Sincerely,

A handwritten signature in black ink, appearing to be the initials 'DSC' or similar, written in a cursive style.



SILVER LAKE LODGES
SUPPLEMENTAL SUBMISSION
PLANNING COMMISSION
2010.04.28

PROJECT ANALYSIS

DETACHED HOMES

- 16 HOMES
- (2) UPHILL
- (14) DOWNHILL
- 32 GARAGES

CONDO HOMES

- 38 HOMES
- (11) TOWNHOMES
- (27) FLATS
- 86 PARKING STALLS

54 TOTAL HOMES

- 118 PARKING STALLS

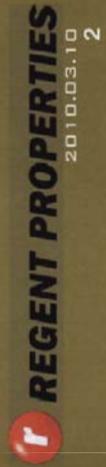
Two accessible units to be owned and maintained by the home owners association.

- ● ● Area of change



NORTH SILVER LAKE LODGE DEER VALLEY, UTAH

MASTER SITE PLAN



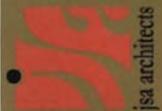


Previous Buildings Design



Current North Building Design

| | Previous Design
7/8/2009 | Current Design
4/28/2010 | Percent of
Change |
|--|-----------------------------|-----------------------------|----------------------|
| Common Area | | | |
| Above ground subtotal | 18,859 | 7,454 | -45.01% |
| Below ground subtotal | 21,338 | 14,650 | -60.48% |
| Sellable Area | | | |
| Total Above grade | 55,355 | 48,254 | -12.83% |
| Total Building | 74,214 | 55,708 | -24.94% |
| Total Building | 95,552 | 70,358 | -26.37% |
| Facade Height | | | |
| North | 62.0' | 43.5' | -29.84% |
| Facade height measured at tallest continuous facade with minimum 10' offset from next building plane | | | |



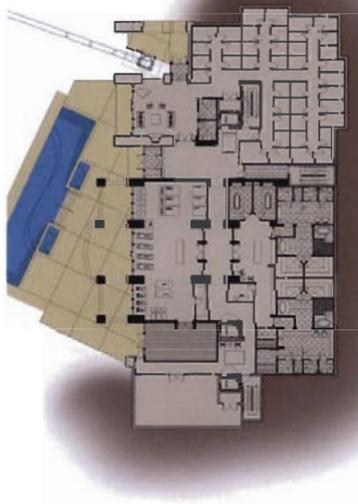
NORTH SILVER LAKE LODGE
DEER VALLEY, UTAH

NORTH BUILDING AREA COMPARISON



REGENT PROPERTIES
2010.03.10

Comparison of Basement Footprint



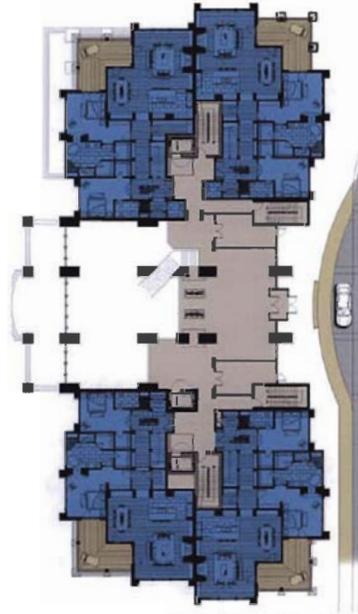
15,991 SQ. FT.

Comparison of 1st Floor Footprint



21,289 SQ. FT.

Comparison of 2nd Floor Footprint



16,473 SQ. FT.

Previous Buildings Design



12,197 SQ. FT.



15,145 SQ. FT.



11,686 SQ. FT.

Diagrams are of matching scale

Current North Building Design



NORTH SILVER LAKE LODGE
DEER VALLEY, UTAH

NORTH BUILDING AREA COMPARISON



REGENT PROPERTIES
2010.03.10

Comparison of 3th Floor Footprint



17,174 SQ. FT.

Comparison of 4th Floor Footprint



14,941 SQ. FT.

Comparison of 5th Floor Footprint



9,684 SQ. FT.

Previous Buildings Design



13,904 SQ. FT.



11,290 SQ. FT.



7,265 SQ. FT.

Diagrams are of matching scale

Current North Building Design

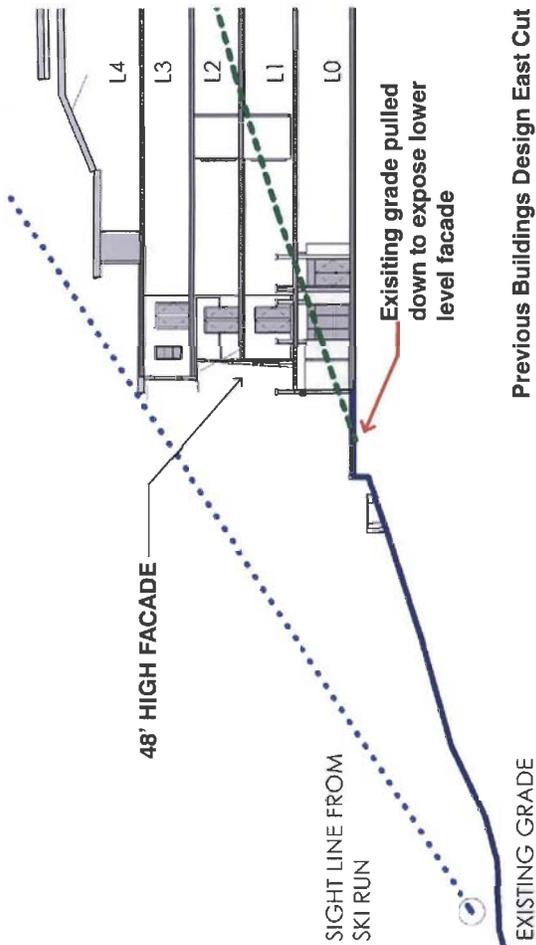


NORTH SILVER LAKE LODGE
DEER VALLEY, UTAH

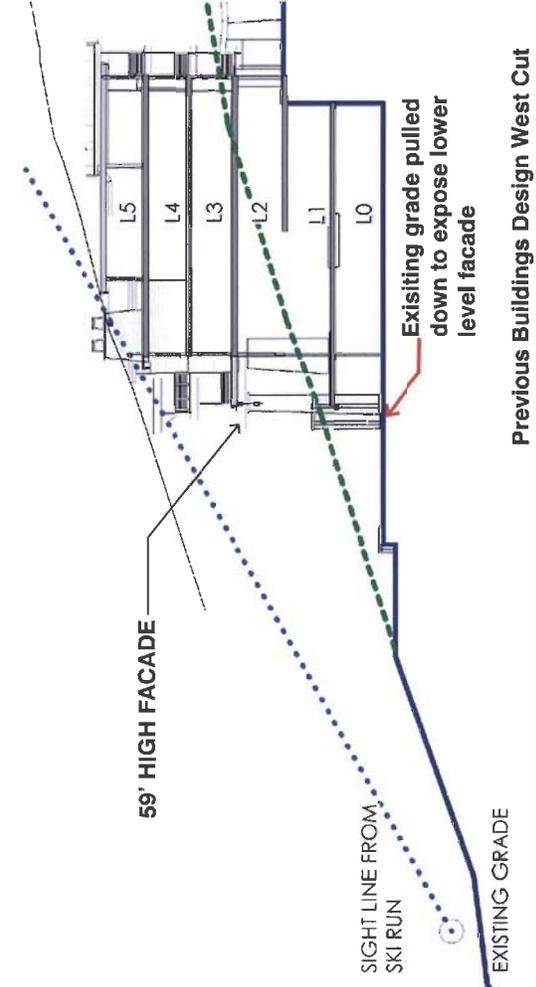
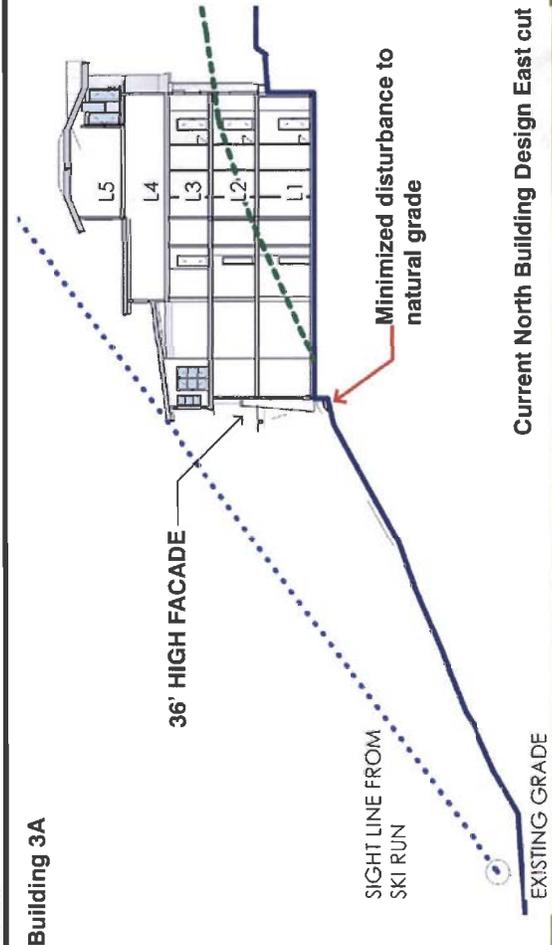
NORTH BUILDING AREA COMPARISON



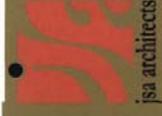
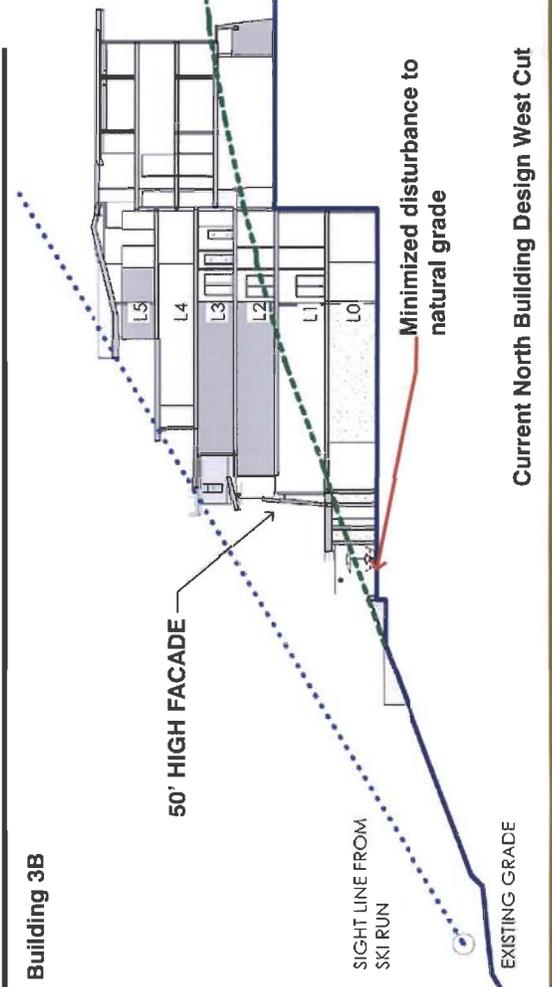
REGENT PROPERTIES
2010.03.10
5



Building 3A



Building 3B



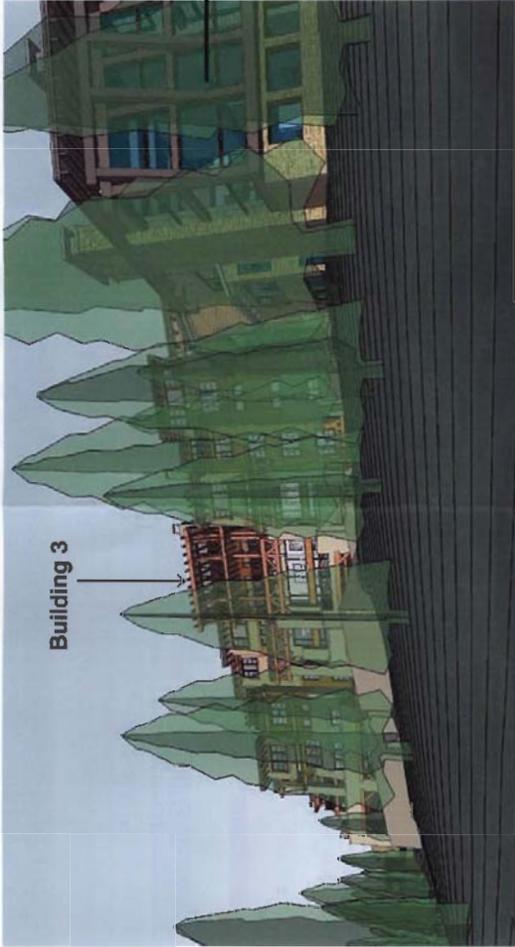
NORTH SILVER LAKE LODGE
DEER VALLEY, UTAH

NORTH BUILDING SECTION COMPARISON

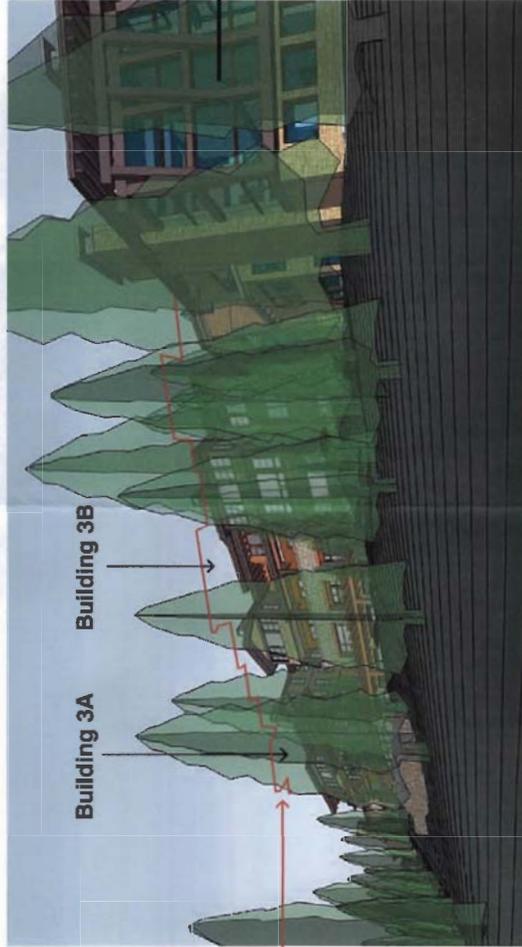


REGENT PROPERTIES
2010.03.10
6

This slide illustrates the view of the North Building from the ski run



Previous Buildings Design



Current North Building Design



NORTH SILVER LAKE LODGE
DEER VALLEY, UTAH

NORTH BUILDING VIEWS



REGENT PROPERTIES
2010.03.10
7

This slide illustrates the view of the North Building from the ski run



Previous Buildings Design



Current North Building Design



NORTH SILVER LAKE LODGE
DEER VALLEY, UTAH



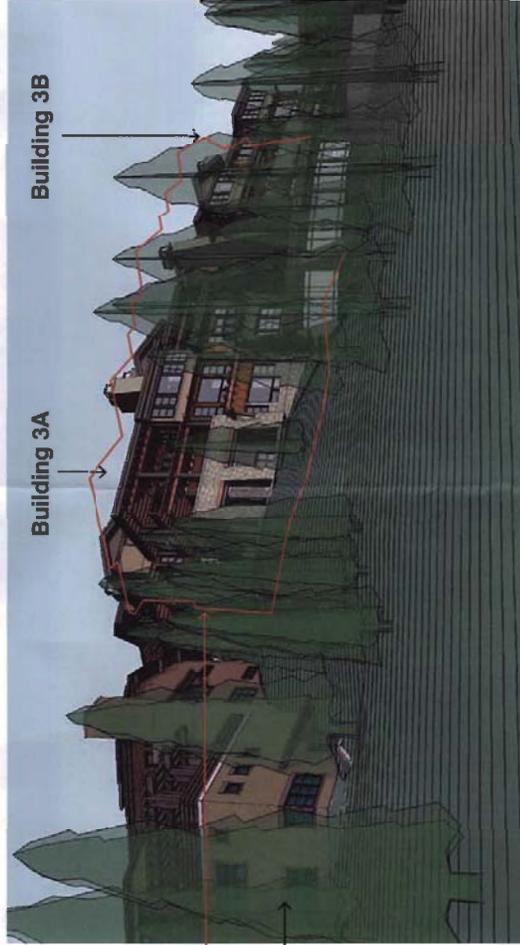
REGENT PROPERTIES
2010.03.10
8

NORTH BUILDING VIEWS

This slide illustrates the view of the North Building from the ski run



Previous Buildings Design



Current North Building Design



NORTH SILVER LAKE LODGE
DEER VALLEY, UTAH



REGENT PROPERTIES
2010.03.10 9

NORTH BUILDING VIEWS



Attorneys Est. 1875

TEL: 435-200-0085

FAX: 435-200-0084

1441 WEST UTE BOULEVARD

SUITE 330

PARK CITY, UT 84098

WWW.JONESWALDO.COM

AFFILIATED FIRM

LEAR & LEAR, LLP

April 5, 2010

City Council
 Planning Commission
 c/o Ms. Katie Cattan
 Planning Department
 Park City Municipal Corporation
 P.O. Box 1480
 Park City, UT 84060

Re: North Silver Lake Lodge Project (the "Project")

City Council Members and Planning Commissioners:

As you are aware, I represent a group of concerned homeowners in residential neighborhoods surrounding the Project, and this letter is sent on their behalf. More specifically, I represent as of the date of this letter owners of residential properties in the following subdivisions that are adjacent to or in close proximity to the Project: Evergreen Subdivision; Bellevue Subdivision, Belle Arbor Subdivision; Belle Terre Subdivision; Bellemont Subdivision; The Stag Lodge Condominiums; The Cottages Subdivision; The Woods at Deer Valley Condominiums; and American Flag Subdivision, including its Homeowner's Association with approximately 90 members.

It is the legal position of our clients that all construction activities on the Lot 2B, the 5.98 acre parcel identified in the Deer Valley MPD as the North Silver Lake parcel (the "Property"), are a use of the Property within the definition of the term Use in the PCMC Land Management Code (the "LMC"). As such, the construction phasing and mitigation plan for those construction activities related to the construction of the structures in the Project must comply with the compatibility standards in the LMC. In particular, compatibility with the surrounding residential neighborhoods, where residential homes have long been constructed and occupied, is required. In addition, the impact of such plans on the critical view corridors to the north must be mitigated.

It is for these reasons that we have insisted on a construction phasing and bonding requirement for the Project. The City Council supported this position when it remanded the CUP approval of the Project to the Planning Commission on November 19, 2010 to *inter alia* establish phasing and bonding as conditions of approval.

At a hearing on March 10, 2010, the Planning Commission postponed decisions until April 28, 2010 on two of the items that the City Council remanded to the Planning Commission. There was what we categorize as confusion on the part of the Planning Commissioners regarding exactly

what the Council decided on November 12, 2009, which decision was further discussed and modified at a follow-up hearing of the Council on November 19, 2009.

We have audited the audio tapes of both Council hearings, and we have determined that the decisions made on November 12 were materially changed on November 19. Specifically, at the conclusion of the November 12 hearing, the City Council remanded the CUP application to the Planning Commission with specific directions based on explicit findings and conclusions. City Staff prepared the findings, conclusions and order and presented them for approval by the Council at the November 19 hearing. To that point, the process had proceeded in accordance with the LMC and was consistent with the published notice of the meeting, which noted under "Old Business" that the Council would consider "approval of Findings of Fact, Conclusions of Law and Order Remanding the North Silver Lake Conditional Use Permit to the Planning Commission."

After some discussion among Council members, however, the process departed from the published notice and, in doing so, violated both city code and state law. In particular, legal counsel for the respondent, Tom Bennett, was given the opportunity to address the Council members and express the respondent's concerns about the proposed findings, conclusions and order. The Council acts in a quasi-judicial capacity with regard to the appeal and, as such, was not permitted to engage in what were, in effect, ex parte communications with the respondent. *See Utah Code Section 10-9A-701(3)(a)(i)*. Section 3-1-6 of the Park City Municipal Code expressly prohibits this kind of interaction. It reads:

No city officer or employee who has the power to act on a pending quasi-judicial matter shall ... accept any ex parte or other unilateral... communication that includes the interests of other parties in a quasi-judicial matter under consideration when such... communication is designed to influence the official decision or conduct.... The purpose of this provision is to guarantee that all interested parties to any quasi-judicial matter shall have equal opportunity to express and represent their interests.

The appellants had no "opportunity to express and represent their interests...." State and federal procedural due process guarantees are designed to ensure just that opportunity. And state law expressly requires the Council to "respect the due process rights of each of the participants..." to the appeal process. *Utah Code § 10-9a-706*. By accepting ex parte or unilateral input from the respondent in violation of the appellants' due process rights, the Council violated city and state codes and skewed the process in favor of the respondent.

Moreover, neither my clients nor this firm were notified of the November 19 agenda item for the Project. The audio tapes of the November 19 hearing reveal that no one, not the members of the

Council, the City Attorney, nor Mr. Bennett noted our absence or asked if we were notified of the Council's agenda to discuss their earlier decision relating to the Project. Given the lack of notice and opportunity to be heard regarding questions under discussion, we believe, and thereby assert, that the actions taken by the Council at the November 19 hearing were improper and of no legal force and effect. This would extend to all findings, conclusions and orders approved by the Council on November 19, and the subsequent actions taken by the Planning Commission on March 10, 2010 in response to those findings, conclusions and orders.

We believe that most of the problems with properly reviewing and approving the CUP application for the Project relate back to the interplay between the Deer Valley Resort Master Plan (the "MPD") and the Park City Municipal Corporation's Land Management Code (the "LMC") as they relate to §15-1-10 of the LMC. The MPD authorized 54 residential units at a height not to exceed 45 feet above grade, established square footage allowances for commercial and support commercial totaling 14,504 square feet, and then gave the developer the right to opt out of any unit equivalency requirements that would regulate the actual size of the residential units. It did not specify or distinguish different requirements depending upon whether the Project would be a condominium project or a mixed-use PUD project platted under the subdivision provisions of the LMC. If the Project were to be a subdivision as opposed to a condominium regime, then all of the common areas would be outdoors and regulated by the open space and set-back requirements for subdivisions and would automatically reduce the mass and scale of the buildings to be constructed. When a condominium regime is selected, then much of the common areas are brought under the roofs of the buildings, thereby increasing dramatically the mass and scale of all of the buildings in the Project. This problem is further magnified when the MPD permitted the developer to use the 4 acres in the adjacent Lot 2D as open space to be used in calculating the open space requirement under the LMC for the Project when all of the buildings are to be constructed on only the 6 acres in Lot 2B. This makes the proposed Project run foursquare into the compatibility requirements of the LMC because it is surrounded on all sides by mature residential subdivisions that have been substantially built out over the 20 years since the MPD was first approved.

The applicant has asserted that it's "vested rights" under the MPD trump the compatibility requirements of size, mass and scale of the LMC in that the Project has always been surrounded by approved residential neighborhoods as part of the MPD. While that argument may have some limited validity, it ignores the passage of time and the fact that the surrounding neighborhoods have been developed and built out with voluntary reductions in their approved density. Furthermore, under any proper evaluation of a project containing large multi-family residential and commercial buildings immediately adjacent to single family residential neighborhoods, proper transition between neighborhood buildings is paramount and essential to achieve compatibility. This is usually accomplished by a step back in the elevations of the buildings as they progress away from the single family neighborhoods. We have repeatedly requested at every

public hearing that the applicant be required to submit much more detailed plans and models that allow both the Planning staff and the Planning Commission to evaluate this transition. We have pointed out that we saw much more detailed three dimensional plans for a 10-unit affordable housing project in front of the Commission than we had for this \$300 to \$400 million Project. It was not until after the City Council hearings on November 12 and 19, 2010, that the applicant actually produced a model. The model was intended to show the step-back changes that were required by the City Council to reduce the mass and scale of Building 3; however, it glaringly demonstrated the incompatibility of the remaining three central buildings both to the surrounding neighborhoods and to the other buildings located within the Project itself.

Unfortunately, at the prodding of both the applicant and the City Attorney at both the November 12 and November 19 hearings, the Council permitted the remand to be limited to three specific issues, one of which was to limit the compatibility review of the Project buildings' mass and scale to Building 3 only. While our clients don't really believe that this was needed or appropriate, it has created major problems for the applicant in that the remaining conditions of approval of the CUP cannot be touched by the Planning Commission, particularly the October 10, 2010 deadline date for approval of the plans for the condominium project, which is also a CUP process under the LMC.

This gets us to our legal position that the compatibility requirements of the LMC on use include the use of the Project property during the construction period, and that use must be compatible with the mature surrounding neighborhoods. If this Project, or the earlier 2001 version, had been built out in the early 80s, this argument would not exist or be of much less force. However, the fact that the applicant may now get the benefit of building its Project amidst fully developed neighborhoods that have enhanced its finished value, it also gets the burden of making sure that the construction doesn't materially devalue those same neighborhoods by a prolonged construction period or a partially completed and abandoned project. The City has an absolute legal obligation under the LMC to ensure this does not happen. That is why we have insisted on an acceptable phasing plan with time limits that govern when they start and when they end, along with sufficient bonding to ensure that the building site can be remediated if those time limits are not met.

We do not believe that anyone thinks the applicant can finance and build this Project at this time given the state of the economy and the competing projects that have either been built out with a large inventory of unsold units or will come on stream with unsold finished product in the next year or two. This means that we are going to get extension requests that my clients will certainly and rightfully oppose, or, we will again get some kind of condominium project approval action that will have an incomplete design and some kind of preliminary start for a building permit for foundations.

We believe that the solution is clear. The City should require that the prior approval of the CUP application not remanded by the Council is withdrawn, and the applicant should be required to combine its approval of both the Project itself and its condominium declaration and plans in one action. There should be no convertible land, convertible space or additional land allowed. The City should make the applicant show what it intends and is required to build out by the submission of the detailed plans for all of the condominium's units and common areas and facilities in a proposed declaration and map of survey as required by Utah's Condominium Ownership Act. We note that both the City Council members and the Planning Commissioners have questioned the applicant numerous times about possible location, size and function of commercial space or support commercial space, and that no real answers were given as they haven't really designed their project. We also note that the applicant has gotten approval for two ADA residential units in the Project that aren't counted as part of the Project's allowed 54 units, and to make things worse, will only be considered common area and not support commercial that does count towards the authorized commercial space in the Project. These ADA units are clearly support commercial because they will be used in the rental program for the Project and are no different than back office space or simialr functions. Once and the City knows what it is actually approving under the LMC, including a consideration of the compatibility requirements of §15-1-10 as to any such approval, the City should require the applicant to phase the Project over a period of time to ensure the construction use will be compatible with the surrounding neighborhoods. Each phase should have a required start time and end time, with bonding that is sufficient to remediate the effects of any default for the time requirements.

My clients are not opposed to an extension of a time limit for the applicant to regroup and go through the process outlined above. If they need a year, give it to them. However, for a project of this magnitude, there should be joint work sessions for both the City Council and the Planning Commission on the initial submissions along with the right of my clients to give input at such sessions on an equal basis. Following any approval of the Project as set forth above, the applicant should be given a time limit to start construction with the required phasing and bonding. We believe that the construction start date for phase one of the Project should be long enough for the developer to presell units in the market place to a percentage of sales that will allow them to reasonably finance the construction of the Project from start to finish, and that the total time for completion of all phases should be determined by a reasonable construction time rather than sales in an uncertain marketplace. We believe that a reasonable time to presell the units should be two to three years, and that the total construction time once started should not exceed three years. Completion of the construction of the Project within three years from its start is an absolute necessity for it to be a compatible use with the surrounding neighborhoods and to mitigate the adverse construction impact on the critical view corridors to the north. Failure of the developer to start or complete a phase within the established time limits should result in the termination of the CUP, along with any vested development rights with regard to uncompleted portions of the Project.

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Each phase of the Project should be bonded to the City in an amount sufficient for the City to mitigate all effects of any uncompleted construction phase, including amounts sufficient to restore the surface of the Property where planned unfinished structures were to be located to a condition that is compatible with the surrounding neighborhoods and the finished structures within the Project itself. The bond amount should also include amounts sufficient to complete the landscaping plans for the Project, which landscaping plans must also be phased to mask ongoing construction activities that impact the surrounding neighborhoods and the critical view corridors to the north. The existing escrow amount for the pit should also be increased if additional funds are projected to be necessary to fill in the pit if the applicant cannot get an approval or start phase one construction as set forth above. The Planning Commission must ensure that the City and the Project's surrounding neighborhoods are not adversely impacted by endless years of construction activities or blighted by eyesores such as the uncompleted sites for the now existing downtown Gateway project and the current Cove project located in Park Meadows. There is precedent for such bonds, as they are now required by the City for construction activities in the historic Old Town district. The surrounding Deer Valley neighborhoods are no less important to the vitality of the City than its historic Old Town areas. The unique site characteristics of the Project, including the fact that it is surrounded on all sides by at least nine developed and built-out residential subdivisions, must mandate the construction phasing and bonding requirements set forth above.

Please do not hesitate to contact me if you have any questions relating to the above matter.

Sincerely,

Robert C. Dillon

cc:

Mayor Dana Williams
Mr. Tom Bakaly
Mark Harrington, Esq.
Polly Samuels McClean, Esq.
Mr. Ron Ivie
Tom Bennett, Esq.

From: [Katie Cattan](#)
To: [Patricia Abdullah](#)
Subject: NSL public comment
Date: Thursday, April 22, 2010 10:29:40 AM

From: DrLucky@aol.com [mailto:DrLucky@aol.com]
Sent: Mon 3/15/2010 8:27 AM
To: Katie Cattan
Subject: North Silver Lake Lodge Project

Ms. Cattan:

I have owned property in Upper Deer Valley since 1994. Since late 1995, I have had a home at 402 Centennial Circle [lot 66, American Flag], and visit almost monthly.

I have been disappointed in the amount of new building over the past 15 years, but realize that some new construction is inevitable.

I am appalled at the proposed plans for the North Silver Lake Project. These are not consistent with a residential neighborhood. The overall size and height of the project need to be reduced, or this will be an "eye sore" for the community.

David G. Dvorak, MD

From: [Katie Cattan](#)
To: [Patricia Abdullah](#)
Subject: NSL public comment
Date: Thursday, April 22, 2010 10:29:13 AM

From: Sako Fisher [mailto:sako@fishpond.com]
Sent: Tue 3/23/2010 11:23 PM
To: Katie Cattan
Subject: North Silver Lake Lodge

Dear Ms. Cattan,

I am writing to let you know that my family and I continue to be opposed to the mass and scale of the North Silver Lake Lodge project. I walk daily along Silver Lake Drive and between a long construction time and a development of this size and scope, the road and traffic will be unconscionable for a residential neighborhood.

I am sure you have walked that stretch of Silver Lake Drive and realize how it is truly a single family ome community. I can only encourage all of the planning commissioners to do the same.

Respectfully,

Sakurako and William Fisher
5920 Silver Lade Drive

From: [Katie Cattan](#)
To: [Patricia Abdullah](#)
Subject: NSL public Comment
Date: Thursday, April 22, 2010 10:28:42 AM

From: Lisa Wilson [mailto:lisa@winco.us]
Sent: Sun 4/18/2010 8:56 PM
To: Katie Cattan
Cc: Brad Wilson; Tom Boone; Dillon Bob; Eric Lee
Subject: NSL 15-6-8? revised

Katie,
Please forward the following questions on to Planning Commission for the upcoming North Silver Lake Lodge meeting.
Thanks,
Lisa

Dear Planning Commission,

If a developer has not complied with calculating unit square footage per the Unit Equivalent formula 15-6-8(A), may a developer benefit from other sections in 15-6-8, specifically: 15-6-8(C) Support Commercial, (D) Meeting Space, (F) Residential Accessory Uses, (G) Resort Accessory Uses etc?

Was 15-6-8 (A-G) in the Land Management Code when property owners, who may be affected by North Silver Lake Lodge, purchased real estate within the Deer Valley Master Plan?

If 15-6-8 was not included in the LMC in its entirety when when investors purchased property, may developers utilize 15-6-8 to increase square footage beyond the Residential Units and the Commercial square footage defined in the DV MPD?

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Title/Chapter/Section:

[Utah Code](#)

[Title 10](#) Utah Municipal Code

[Chapter 9a](#) Municipal Land Use, Development, and Management

Section 205 Notice of public hearings and public meetings on adoption or modification of land use ordinance.

10-9a-205. Notice of public hearings and public meetings on adoption or modification of

land use ordinance.

- (1) Each municipality shall give:
 - (a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use ordinance; and
 - (b) notice of each public meeting on the subject.
- (2) Each notice of a public hearing under Subsection (1)(a) shall be:
 - (a) mailed to each affected entity at least 10 calendar days before the public hearing;
 - (b) posted:
 - (i) in at least three public locations within the municipality; or
 - (ii) on the municipality's official website; and
 - (c) (i) (A) published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and
 - (B) published in accordance with Section **45-1-101**, at least 10 calendar days before the public hearing; or
 - (ii) mailed at least three days before the public hearing to:
 - (A) each property owner whose land is directly affected by the land use ordinance change; and
 - (B) each adjacent property owner within the parameters specified by municipal ordinance.
- (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:
 - (a) in at least three public locations within the municipality; or
 - (b) on the municipality's official website.

Thank you,
Lisa Wilson

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bennett@ballardspahr.com

April 20, 2010

Planning Commission
City Council
c/o Ms. Katie Cattan
Planning Department
Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060

Re: North Silver Lake Lodge

Dear Commissioners and Council Members:

This letter is written in response to the letter dated April 5, 2010 from Bob Dillon to the City Council and Planning Commission (the "Dillon Letter") regarding the CUP application for the development of a 54-unit condominium project (the "Project") on Lot 2B of the North Silver Lake Subdivision (the "Property"). I represent the CUP Applicant and owner of the Property, North Silver Lake Lodge, LLC ("NSLL"). The purpose for this letter is to clarify the record and provide additional information and analysis for the City in connection with its decision on the CUP for the Property.

Construction is not a "Use" Under the LMC.

The Dillon Letter claims that all construction activities that will occur in connection with the development of the Property are "Uses" as defined by the LMC, and therefore the construction phasing and mitigation plans for the Project must comply with the "compatibility standards" of the LMC. That is not the case.

The LMC defines "Use" as "the purpose for which land or Structures are occupied, maintained, arranged, designed, or intended" (LMC § 15-15-1.276). This definition alone ought to end the discussion. Construction is not the purpose for which this land is "occupied, maintained, arranged, designed, or intended". Construction is the means by which the property will be improved so that a Use may occur. The type of improvements, and the activities that will occur in and about those improvements, are the Use of the Property, as defined by the LMC. In this case the Use of the Property will be residential condominiums with supporting commercial uses.

It is important to consider how the Use of property fits into the regulatory structure of the LMC. The LMC establishes 23 different zoning districts. Under each district there is a list of the Allowed Uses and the Conditional Uses for the district. For example, the LMC lists 13 Allowed Uses for the Residential Development (RD) Zone, such as Single-Family Dwellings, Lockout Units and Nightly Rentals. The LMC also lists 30 different Conditional Uses for the RD Zone, such as Multi-Unit Dwellings, hotels and

office buildings (see LMC 15-2.13). In all of the lists of Uses in the 23 zoning districts, construction is not included on any of them. This is because construction is not a Use, as defined by the LMC.

To suggest that construction is a Use has consequences that go beyond those suggested by Mr. Dillon. The LMC includes the following provision in describing what can be done in each zoning district:

Any Use not listed above as an Allowed or Conditional Use is a prohibited Use. (See, for example, LMC § 15-2.13-2(C).)

If construction is a Use, then it is a prohibited Use everywhere in the City, because it is not an Allowed or Conditional Use in any zoning district. Such a conclusion is ridiculous on its face, and highlights why construction is not a Use under the LMC.

Because construction is not a Use, the details regarding the construction of the Project, such as phasing and construction mitigation, are not part of the CUP review process. LMC § 15-1-10(E) lists 15 potential impacts and issues that are to be reviewed by the Planning Department and Planning Commission in evaluating CUP applications. Construction phasing and mitigation are not included on that list. They are beyond the purview of the CUP process, and the imposition of a phasing plan with time limits that must be complied with in order to retain vested development rights, as requested by Mr. Dillon, is outside the authority of the Planning Commission granted by the LMC.

Due Process was Provided in November 19, 2009 City Council Meeting.

The Dillon Letter attempts to cast doubt on the validity of the Findings and Order adopted by the City Council at its November 19, 2009 meeting by arguing that there was *ex parte* communication between the Council and me because I was given the opportunity to request clarification of three items in the Findings and Order at that meeting. As acknowledged in the Dillon letter, the November 19 meeting was properly published, but neither Mr. Dillon nor his clients were in attendance. Because I was in attendance and was given the right to address the Council, Mr. Dillon characterizes that communication as *ex parte*.

It is difficult to understand how communication with the Council in a duly noticed public meeting can be characterized as *ex parte*. The Dillon Letter states that his clients “had no opportunity to express and represent their interests” to the Council. When a public meeting is duly noticed a person is not deprived of his or her due process rights when they choose not to attend the meeting. There was nothing improper about the way the November 19 meeting of the Council was noticed or conducted, and the Dillon Letter provides no examples or evidence to support his claim that “decisions made on November 12 were materially changed on November 19”. The assertion in the Dillon Letter that the actions taken in the November 19 Council meeting “were improper and of no legal force or effect” is untenable and simply wrong.

Compatibility.

The Dillon letter again raises the issue of compatibility of the Project, and seeks a reconsideration of the entire Project, with the claim that the massing model prepared following the City Council’s partial remand to address Building 3 provides new information. This effort ignores the fact that volumes of drawings, architectural renderings and computer-generated visual simulations were submitted to the Planning Commission and City Council in connection with their prior decisions. But, more importantly, it ignores the fact that, as the final arbiter of the Project’s compatibility, the City Council, concluded that, with the exception of the three issues raised in the City Council’s November 19, 2009 Order, the Project

is “consistent with the Deer Valley Master Planned Development, the Park City Land Management Code, particularly section 15-1-10, Conditional Use Permits, and the General Plan” (Conclusion of Law #1, adopted by City Council on November 19, 2009). Further, the City Council concluded that:

Neither Appellants nor the public provided evidence demonstrating that the Planning Commission erred on matters relating to open space calculation, the Commission’s standard of review as it related to vesting under the Deer Valley Master Plan and LMC, or *the overall site plan’s Compatibility*. (Conclusion of Law #3, adopted by City Council on November 19, 2009. Emphasis added.)

The Dillon letter attempts to convince the Planning Commission that it should re-examine issues that have been conclusively determined by the City Council. The only compatibility issue before the Planning Commission is whether the revised plan for Building 3 (breaking up the building into two separate buildings and reducing the size, mass and scale of the building) satisfies the compatibility considerations of the LMC.

Phasing and Construction Mitigation.

The Dillon Letter goes on to direct the City to “require that the prior approval of the CUP application not remanded by the Council [be] withdrawn” and that a brand new process be imposed for the North Silver Lake project wherein the City “combine its approval of both the Project itself and its condominium declaration and plans [further discussion with Mr. Dillon suggests that this was meant to “plats”, rather than “plans”] in one action”. (Dillon Letter page 5). The response to these proposals is clear: (i) the City Council has ruled on the CUP appeal and, other than the three items remanded to the Planning Commission, there is no additional action that the Planning Commission is authorized to undertake with respect to the Project; and (ii) the new process suggested by the Dillon Letter would violate the provisions of the LMC, state law and the practices and procedures implemented by the City over many years.

The City has a process in place for reviewing and approving construction mitigation plans. It will be implemented and enforced by the Building Department. As part of that process, the neighboring property owners will have an opportunity to provide input, and a reasonable plan will be adopted to mitigate the impact of the construction on surrounding property owners. The City has vast experience in formulating and supervising construction mitigation plans for projects and settings more challenging than the Property. No action is required by the Planning Commission on this issue, other than to direct the imposition by the Building Department of reasonable bonding requirements, in accordance with the Council’s remand Order, to assure adequate site restoration if some aspect of the Project is abandoned without being completed. NSLL has addressed this issue in meetings with Ron Ivie and Planning staff, and we are confident that the details of a site restoration bonding plan can be agreed upon.

We appreciate your consideration of these issues, and look forward to working with staff and the Planning Commission to complete the CUP approval process for the Project.

Very truly yours,



Thomas G. Bennett

TGB/hlm

Planning Commission
City Council
April 20, 2010
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cc: Mayor Dana Williams
Tom Bakaly
Tom Eddington
Mark Harrington
Polly Samuels McLean
Ron Ivie
Robert C. Dillon
Jeff Dinkin
Rich Lichtenstein
Doug Clyde