

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
APRIL 28, 2010

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

Planning Director, Thomas Eddington; Principle Planner, Brooks Robinson; Katie Cattan, Planner; Francisco Astorga, Planner; Jacque Mauer, Planner; Polly Samuels McLean, Assistant City Attorney, Ron Ivie, Chief Building Official

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REGULAR MEETING - 5:30 p.m.

I. ROLL CALL

Chair Wintzer called the meeting to order at 6:50 p.m. and noted that all Commissioners were present except for Commissioner Savage, who was excused. Commissioner Luskin was expected to arrive later in the meeting.

II. APPROVAL OF MINUTES - March 24, 2010

MOTION: Commissioner Pettit moved to APPROVE the minutes of the March 24, 2010 meeting. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously by those who attended the meeting. Commissioner Peek abstained since he had not attended. Commissioner Luskin was not present for the vote.

II. PUBLIC COMMUNICATIONS

There was no comment.

III. STAFF & COMMISSIONERS' COMMUNICATIONS/DISCLOSURES

Planner Cattan reported that North Silver Lake was originally planned to be the first item on the agenda this evening. When the agenda was published it was inadvertently listed as the last item. The Staff requested that the Planning Commission adjust the agenda and move North Silver Lake to the first item. Planner Cattan had announced the change on the radio and sent emails to the North Silver Lake applicants.

MOTION: Commissioner Peek made a motion to move North Silver Lake to the first item on the agenda. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously. Commissioner Luskin was not present for the vote.

Commissioner Pettit disclosed that she would be recusing herself from the 692 Main Street item, due to the fact that her firm is representing one of the applicants.

Chair Wintzer noted that Ron Ivie was leaving his position with the City. He recognized and appreciated the work Ron Ivie has done for the Planning Commission. Mr. Ivie has worked for the City for a long time and Prospector was one of many projects where his involvement greatly benefitted the City. Chair Wintzer stated that many of the historic structures in Old Town are still standing because of the fire codes Mr. Ivie implemented and he has raised the standards of construction to a higher level in Park City. Chair Wintzer thanked him for his service and acknowledged his efforts.

CONTINUATIONS AND PUBLIC HEARING

1. 1555 Iron Horse Loop Road - Master Planned Development
(Application PL-10-00899)

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Peek made a motion to CONTINUE 1555 Iron Horse Loop Road to a date uncertain. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously. Commissioner Luskin as not present for the vote.

2. Echo Spur on Rossi Hill - Plat Amendment
(Application PL-0900818)

Chair Wintzer opened the public hearing.

Pam Maupin stated that she lives on Rossi Hill, west of the Echo Spur development. She remarked that the neighbors were not noticed but she had read about this meeting in the Park Record. Ms. Maupin stated that the proposed plan in 2007 had lots planned into seven buildings with eight dwellings. The 2008 plan had seven lots with eleven dwellings. She pointed out that the current proposal is for nine lots and 13 dwellings, including the three lots that were mentioned in the replat discussion during work session. Ms. Maupin had read minutes from the previous meetings and noted that at each meeting, the Planning Commission continually said that the density was not consistent with the neighborhood. She believed that all her neighbors agree that the project is too dense and it would significantly increase the traffic on Rossi Hill Drive. Ms. Maupin commented on the newest subdivisions in that neighborhood. The developer of Silver Pointe gave 15% undisturbed open space. The Gateway, which is currently under construction, gave 51% undisturbed open space. Ms. Maupin did not hear open space discussed this evening and she hoped that would be considered in future discussions.

Regarding the noticing, Director Eddington clarified that the item was only intended to be for work session. It was accidentally noticed on the agenda and, therefore, it required a public hearing. Director Eddington stated that when this item is scheduled on the regular agenda, courtesy notices would be mailed to the neighbors.

MOTION: Commissioner Pettit moved to CONTINUE the Echo Spur on Rossi Hill to a date uncertain. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously. Commissioner Luskin was not present for the vote.

3. 1440 Empire Avenue - Conditional Use Permit
(PL-09-00725)

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Pettit moved to CONTINUE 1440 Empire Avenue Conditional Use Permit to May 12, 2010. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously. Commissioner Luskin was not present for the vote.

CONSENT AGENDA

1. 7660 Royal Street, Sterling Lodge - Amendment to Record of Survey
(Application #PL-08-00561)

Chair Wintzer opened the public hearing. There was no comment. Chair Wintzer closed the public hearing.

2. 1059 Park Avenue - Plat Amendment
(Application #PL-10-00918)

Chair Wintzer opened the public hearing. There was no comment. Chair Wintzer closed the public hearing.

3. 352 Main Street - Plat Amendment
(Application #PL-09-00750)

Chair Wintzer opened the public hearing. There was no comment. Chair Wintzer closed the public hearing.

4. 1895 Sidewinder Drive, Marriott - Plat Amendment
(Application #PL-10-00920)

Chair Wintzer opened the public hearing. There was no comment. Chair Wintzer closed the public hearing.

MOTION: Commissioner Pettit moved to forward a POSITIVE recommendation to the City Council on all the items on the Consent Agenda based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in each of the draft ordinance. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously. Commissioner Luskin was not present for the vote.

Findings of Fact - 7660 Royal Street East

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 Association voted 78.77% affirmative to approve the proposed change.

Conclusions of Law - 7660 Royal Street East

6. There is good cause or this Amendment to Record of Survey Plat.
7. The Amendment to Record of Survey Plat is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
8. Neither the public nor any person will be materially injured by the proposed Amendment to Record of Survey Plat.
9. 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 - 7660 Royal Street East

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 (of 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.

Findings of Fact - 1509 Park Avenue

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, Snyder's 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 th Analysis section are incorporated herein.

Conclusions of Law - 1509 Park Avenue

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 - 1509 Park Avenue

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.

Findings of Fact - 352 Main Street

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 access 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 - 352 Main Street

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 - 352 Main Street

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.

Findings of Fact - 1895 Sidewinder Drive

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 of 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 Marriot has underground parking.

Conclusions of Law - 1895 Sidewinder Drive

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 - 1985 Sidewinder Drive

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.

REGULAR AGENDA/PUBLIC HEARINGS

3. North Silver Lake - Conditional Use Permit
(Application #PL-08-00392)

Planner Katie Cattan reported that the Planning Commission previously approved this application in July 2009. The approval was appealed to the City Council and the Planning Commission is currently reviewing the remand order that came from the City Council in November.

Planner Cattan noted that the remand had three orders: 1) The height, scale, mass and bulk of Building 3 shall be further reduced to meet the compatibility standard; 2) Further specificity regarding the final landscape plan and bond in consideration for Wild Land Interface regulations shall be reviewed and/or further conditioned; 3) Construction phasing and additional bonding beyond public improvement guarantee is to be required.

Planner Cattan focused her presentation on items 2 and 3. She noted that during the last meeting the Planning Commission had requested copies of the recording and the minutes from the November City Council meeting. That material had been provided and she believed it was helpful in clarifying that the City Council wanted the Building Department to be in charge of construction phasing and additional bonding for the North Silver Lake Development. Planner Cattan noted that the Planning Commission had also requested more specifics on exactly what the applicant was being asked to improve.

Planner Cattan stated that the Staff had drafted conditions of approval #16, 17 and 18. Condition #16 addressed the Wild Land Interface regulations. Condition #17 requires a phasing and bonding plan to insure site restoration in conjunction with building phasing beyond a public improvement guarantee to be improved 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.

Planner Cattan reported that currently the site is a pit. She noted that the Chief Building Official, Ron Ivie, felt that if a building permit is not pulled within a year, the neighbors should not have look into that pit any longer. The actual pit itself should be capped with soil and re-vegetated with grass. In addition, trees should be planted at the entry way to cover the view into the pit.

Ron Ivie addressed the Planning Commission. He has been in Park City since 1980 and in those thirty years the City was forced to sue on three projects relative to public nuisance complaints for unfinished product. He noted that the City was awarded settlement on all three projects. Mr. Ivie stated that most people generally complete their projects in an acceptable time limit, but there are exceptions. He was not opposed to bonding or making appropriate conditions for site improvements and site stabilization, which is the traditional process. However, his question was whether or not the City should go beyond that process and require a completion guarantee. After hearing arguments on both sides, he believed it was a policy question that needed to be addressed by the Planning Commission and the City Council. Mr. Ivie personally felt that the City has been served well by prior policies.

NOTE: Due to problems with the recording equipment, the applicant's presentation was not recorded. The meeting was stopped until the problem was resolved.

John Shirley, the project architect, concurred with the Staff findings. Mr. Shirley presented slides showing minute changes that had been made since the last meeting.

Commissioner Luskin arrived at 7:35.

Chair Wintzer opened the public hearing.

Bob Dillon stated that he was an attorney representing 30 adjacent homeowners in the American Flag HOA who still object to Building 3. Mr. Dillon noted that the analysis section in the Staff report talks about Building 3 and he could not dispute that the current plan was better than what the applicants originally presented. However, from the standpoint of compatibility on mass, scale and size, it is still not compatible. Mr. Dillon recalled hearing something about a 29% height reduction, but he understood from the Staff report that the height was reduced from 79 to 72 feet. He noted that the side elevations were still showing 5 to 6 stories.

Mr. Dillon commented on the size of Building 3, which he had addressed in a letter he submitted in early April, explaining why this was such a difficult process. Part of the problem is that the applicants have expressed their intent for condominiums, but they have never presented a condominium plan. Mr. Dillon pointed out that every review session he has attended with both the Planning Commission and the City Council, there have always been questions but no answers. He believed the only way they could get an answer from the applicant was to require the condo plans and a map.

Mr. Dillon referred to construction phasing section in the Staff report and language stating that the staff, the Planning Commission, the City Council did not require a phasing plan for the proposed development. He believed that statement was absolutely wrong because the order from the City Council requires a phasing plan. Mr. Dillon expressed regrets that Ron Ivie was leaving because the community has benefitted from his expertise and administration of the City building codes. He noted that Ron Ivie made the comment that timing and phasing is critical. Mr. Dillon addressed the completion bond issue. He understood that bonding would go to mitigation in the event of a failure to complete. However, the critical part of this process is timing and phasing. Mr. Dillon commented on the idea that suddenly the City Council wants to

delegate issues to the Building Department. He had listened to the audio from the City Council meeting and he believes that the Council wanted the Planning Commission to establish conditions of approval for phasing and bonding. Mr. Dillon thought it was appropriate to seek advice from the Building Department on the timing of the phasing or the amount of the bonds. However, input should be given for approval by the Planning Commission pursuant to a phasing plan and bonding plan that is mandated as a condition of approval. Mr. Dillon objected to the Building Department managing the bonding.

Mr. Dillon commented on location and amount of off-street parking and objected to the recommendation for a 25% reduction in parking spaces. He noted that the reduction was being done on the basis of a mystical unit size and configuration. It is mystical because the applicant has not submitted a condominium plat and plans. It is unknown what they will bring forward for the CUP. Mr. Dillon noted that the previous condition of approval #12, which prohibited the use of lockouts, has disappeared from the current conditions of approval. He believed that prohibiting lockouts should be added back in as a condition.

Mr. Dillon objected to Condition #7 because there has been limited discussion regarding retention areas. He was disappointed that Ron Ivie had already left the meeting because he had wanted Mr. Ivie's opinion on whether the proposed water method on the site was a workable solution.

Mr. Dillon objected to the language in Criteria 14 of the Staff analysis that talks about expected ownership and management of the project. Without a condo plan, there is no way to know what the applicant will do. Mr. Dillon questioned why two ADA units were not included as part of the 54 units. Given that they are not included, he believes they are support commercial rather than common space, because they are used in support of commercial renting. He believes they should count towards the 14,525 square feet of support commercial. By not including the ADA units in the square footage allows the applicant to blow up the scale of Building 3. Again, there are no condo plans.

Chair Wintzer clarified that the Planning Commission would not see condo plans until there were construction drawings. The applicant cannot do construction drawings until the issues of the remand are resolved. Chair Wintzer explained that a plat has never been recorded before seeing construction drawings, and the Planning Commission has always approved projects with this level of sophistication of plans. He emphasized that there would not be a condominium plat prior to this approval.

Mr. Dillon objected to Conclusions of Law 1, 2 and 4. He understood why the dates were changed in the conditions of approval, but he questioned whether that could be done, since it gives the applicant an additional six or seven months to commence construction. Mr. Dillon stated that there is no real question of law that they can impose conditions of approval requiring phasing and bonding. The Planning Commission has broad authority to administer the mitigation of compatibility problems once they have been established. He noted that the City Council in its Conclusion of Law #2 stated that "The Planning Commission erred in applying Land Management Code 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 three 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 site and failing to mitigate visual and construction impacts by requiring a specific construction phasing plan.” Mr. Dillon pointed out that the last sentence was key to support his comments.

Mr. Dillon noted that earlier in the day he had submitted a short letter of response. He apologized for getting it in late, but he had not been able to read the Staff report until 5:30 that morning. He thought it was clear that as a matter of law, the City Council has told the Planning Commission that construction use is within the defined use of the Land Management Code. He pointed out that the uniqueness of this project is that the MPD and development have been delayed for 25 years. If this project had moved forward while the surrounding residential neighborhoods were being built, the compatibility of construction use would be non-existent. However, when everything builds out around the site and the developer has the benefit of building a project in the middle of these mature neighborhoods, at that point, construction use become a compatibility issue. Mr. Dillon stated that the Planning Commission cannot let construction use adversely impact these mature, built neighborhoods without mitigation. Mitigation is construction phasing and timing and bonding. It is the required mitigation and that is the reason why the City Council directed the Planning Commission to establish conditions of approval that address phasing and bonding requirements.

Mr. Dillon reiterated that the problem with developing phasing requirements is that the Planning Commission does not know what the applicant intends to build. He remarked that as a condition of the phasing, the Planning Commission can require that prior to any construction start, the applicant needs to submit condo plans for whatever phase is specified so they can understand what will be built.

Mr. Dillon clarified that the neighbors are not concerned with when construction begins. Their concern is knowing what would be built, how much would be built, and if there is a time limit for completion.

Mr. Dillon showed that the previous condo plat was convertible land sprinkled with a few units. In order to preserve their CUP, the applicant dug a hole and for years have pursued extensions to the CUP claiming that the project had started on time. He thought the Planning Commission should make the applicant show what they intend to build and that the Planning Commission should require that the project be phased with a timing start and completion from the date the permit is pulled. Mr. Dillon clarified that the neighbors want the project built. They have been looking at a pit for nine years and do not want to look at foundations for another nine years. Mr. Dillon suggested that the Planning Commission make building the foundations for Building 3 and six of the perimeter units as Phase I. The applicants should be required to present the condo plans and map. Once that is platted, the applicants can begin to sell the units.

Mr. Dillon pointed out that this is a hard market and timing is critical. The neighbors want this project to succeed if it is allowed to start. He explained that the intent for requesting these conditions is to allow the applicant to pre-sell so they can obtain financing.

Lisa Wilson stated that she is a Park City mom and she has lived on the slopes of Deer Valley

since 1993. She purchased a lot in Silver Lake in 1994. Ms. Wilson commented on the pit in the Spring. She drives by it everyday and there is fencing around it. Sometimes when she hikes by she sees deer that have somehow managed to jump the fence. The deer get stuck but they always find their way out. Ms. Wilson stated that when she drove by today the gate to the fence was flipped over and the green netting around the fence was flipped over. The sign announcing this public hearing has been on the ground for nearly two weeks. Ms. Wilson thought the pit needed to be covered because it is unsightly.

Ms. Wilson noted that she also owns a lot in Deer Crest. Due to the number of homes have stopped construction, at the last homeowners meeting the decision was made to change the CC&Rs to require bonding. Ms. Wilson believed the Planning Commission needed to consider more than just Building 3 when looking at the height. She noted that Building 3 is at the bottom, and the second and third tower are above that. She stated that from the bottom the building will terrace up the slope and it will look like one contiguous building. It will be very visible from Main Street.

Mr. Wilson stated that during the City Council meeting, Council Member Hier spoke about the mistakes that were made the last time. She has been attending Planning Commission meetings for a long time and everyone was left with the impression that a vested right existed for density under the 2001 CUP and it was approximately 460,000 square feet. They assumed there was nothing they could do about this project. Ms. Wilson noted that Council Member Hier made it very clear that this was not the case. The Harrison Horn CUP has expired and the vested density no longer applies. In looking at this project, a 25% reduction in one building has not made much of a difference in the size of the project.

Ms. Wilson stated that during the appeal process, there was 123,000 square feet of common area. She was unsure where that would be. Using the Treasure Hill website as an example, Ms. Wilson requested a summary of residential units by size and a summary of building area by use for this project so they can understand where the 123,000 square feet of common area is located. When she purchased her lot in 1994 it was bought based on entitlements. She understood there was a lot with potentially 54 units and 14,000 square feet of commercial. However, this project meets none of those parameters. To date, what is being proposed in their neighborhood is a hotel with a spa and a restaurant. Ms. Wilson stated that the area in the restaurant is commercial. She indicated a space identified as common area, but that space is where the public would go to eat. Ms. Wilson referred to language in the LMC that defines commercial space to emphasize the fact that money would be exchanged in all the "common space" areas as defined in this project. She noted that by definition, common area is for the use and enjoyment of the residents. She pointed out that the spa, restaurant and hotel lobby would be for the public and not just for residents.

Ms. Wilson wanted to see a project like the one she understood would be built when she purchased her property, which is 54 units, 60% open space and 14,000 square feet of commercial. Ms. Wilson pointed to a new area in the LMC called accessory uses, which allows buildings to become unlimited, and noted that areas such as lobbies no longer count towards the entitlement.

Ms. Wilson stated that per State Statute, notification must be given to the affected property

owners if the size of the structure is modified or the use is changed. Her property will be affected, but she was not notified that the changes to the MPD would increase the development in her area by 123,000 square feet.

Chair Wintzer requested that Ms. Wilson focus her comments on the three issues of the remand.

Ms. Wilson was concerned that the project has grown because of the accessory uses. She would like to see something that breaks down the square footage. She noted that Council Member Hier admitted that mistakes were made and the project became so large because it was approved without knowing the actual numbers. Ms. Wilson urged the Planning Commission not to make that same mistake again.

Chair Wintzer closed the public hearing.

Doug Clyde, representing the applicant, noted that many of the comments this evening were not germane to the appeal. He has been practicing the Land Management Code in Park City over twenty years and none of those definitions have changed. He has never worked on a project where accessory uses and common areas were treated different from the way they are treated in this project. Mr. Clyde noted that he has never seen a situation where the plat was tied to the CUP.

Mr. Clyde remarked that the ADA uses have been treated as common area in all the projects in Empire Pass, as well projects outside of Empire Pass. The City has adopted that practice as a uniform way to deal with ADA units. Regarding issues related to bonding and phasing, Mr. Clyde concurred with the Staff report and believes it represents what was instructed by the City Council.

Mr. Clyde showed the change they were talking about in terms of the 29% reduction in facade. He compared the first Building 3 with the current Building 3 to show the difference.

Tom Bennett, Counsel for the applicant addressed Ms. Wilson's concern that the project would balloon in size. He noted that Condition of Approval #15 specifically requires that the final condominium plat not exceed the square footage for all the various components that have been submitted. That condition should alleviate her concern.

Mr. Bennett addressed Mr. Dillon's concern that the project would not be completed and the neighbors would be left with an eyesore. Mr. Dillon offered a solution to require that buildings be completed within a specific time frame or for the Planning Commission to approve a phasing plan. Mr. Bennett stated that once construction is started, the International Building Code has provisions that cause the project to continue without interruption. He referred to Ron Ivie's comment earlier this evening that in the past 30 years there have been three instances where the City had to file an action because an incomplete building became a nuisance. Mr. Bennett recalled Mr. Ivie saying that the procedures that are currently in place with the Building Department to review construction, construction phasing and mitigation plans have worked well over the years. Mr. Bennett read Item #3 of the Order of the City Council, "Construction phasing

and additional bonding shall be addressed with respect to site restoration.” He believed that issue had been addressed in the Staff report and in the added conditions of approval with respect to bonding. Mr. Bennett clarified that addressing the bonding issue does not mean that the Planning Commission is the body to require it. That is the responsibility of the Building Department.

Mr. Clyde commented on the statement about hidden commercial uses in this project. He noted that the applicant has requested a specific number of square feet for a commercial use. Every commercial use requires a business license. Part of the business license process is for the Planning Department to verify whether or not the license application corresponds with the approval.

Planner Cattan reported that there was a letter from Bob Dillon on her email just prior to this meeting. She would email copies of his letter to the Commissioners.

Planner Cattan stated that the ADA units are consistent with how ADA units are platted throughout Empire Pass and throughout town. The purpose allows someone with ADA needs to have access to a common unit that cannot be rented separately.

Planner Cattan explained that she had two sets of plans on her desk. If the CUP is approved, they would be stamped as the approved set of plans. The plans outline all residential areas, commercial areas, and all of the common areas. Once the CUP is approved, the applicants cannot increase the density or unit size and they cannot increase the commercial space. Planner Cattan clarified that the applicants were not requesting a blind approval.

Commissioner Strachan remarked that the plans have not changed since the last meeting. His concerns relating to the amount of excavation still remain. Commissioner Strachan did not believe the comparison between the surrounding homes and this building was fair, since the existing homes are single family and this project is a multi-unit dwelling. The height comparison was fair but it did not support compatibility. Commissioner Strachan could not find compatibility because the MPD is not compatible with the surrounding neighborhoods. In his opinion, it would be difficult to build anything on that site in compliance with the MPD that would be compatible. Therefore, he could not support Conclusions of Law 1, 2, 3 and 4. Since the project has been recommended for approval by Staff and if the Planning Commission votes to approve, he suggested revising Condition #15 to specify a total square footage ceiling and require standard compliance with that ceiling. The applicant has presented a 70,350 square foot ceiling for the North Building 3A and that should be incorporated into Condition of Approval #15. He realized that as-built conditions might not reflect that square footage, but the Planning Commission should require substantial compliance.

Commissioner Peek believed the specific items in the Order from the City Council had been addressed in the re-design of Building 3, as well as in Conditions of Approval 2, 4, 5, 7, 14, 16, 17 and 18.

Commissioner Pettit noted that Mr. Dillon had referenced a condition in the original approval regarding lock out units. Planner Cattan also recalled that it was in the original conditions and

she was unsure why it was left out. She offered to locate it on her computer so the Planning Commission could re-adopt it with this approval. Commissioner Pettit stated that the issue had been raised and if it was in the original approval they needed to make sure it was not inadvertently left out.

Commissioner Pettit concurred with Commissioner Peek, given that the Planning Commission review was limited to three issues that were remanded back from the City Council. She agreed that based on the re-design of Building 3, the applicant has met the issues of concern regarding mitigation and compatibility. Commissioner Pettit also found that the other issues remanded back with respect to the final landscape plan and the Wild Land Interface regulations had been satisfactorily addressed. She also agreed that the added conditions of approval with respect to construction phasing met the intent of the City Council. Commissioner Pettit was inclined to vote in favor of the CUP.

Commissioner Hontz stated that considering the review constraints, she agreed with Commissioners Pettit and Peek. Commissioner Hontz stated that after reviewing her comments from March 10th, she was disappointed that the Planning Commission had not seen a new staging/phasing map that identified how this would occur on site with the buildout. She did not want time frames, but she felt this important piece of information would have met what she believed the Planning Commission was required to see as part of Condition #28 from the City Council. She thought it would have benefitted the applicant to think that through as well. Her disappointment aside, Commissioner Hontz was willing to make findings and vote in favor of this application.

Commissioner Luskin appreciated the efforts of the applicant to revised this project. While he has seen a lot of improvements, he echoed Commissioner Strachan's comments. Commissioner Luskin stated that he was still troubled by a previous issue that was not mentioned this evening, which was the use of Royal Street. He reiterated his previous concern that Royal Street is continuously terrorized by the use of big trucks. It is a common recreational street that has become extremely dangerous. He understood the difficulty of walking on Marsac with construction vehicles, but Marsac does not have the same type of recreational use. Commissioner Luskin requested that the Planning Commission further discuss the matter.

Commissioner Strachan clarified that his comments directly related to Building 3A.

Regarding the issue of Royal Street versus Marsac, Chair Wintzer felt it was a toss up because construction traffic coming off a mountain is dangerous anywhere. He understood Commissioner Luskin's concerns but it would be unfair to the residents to put a hundred percent of the traffic on Marsac.

Chair Wintzer appreciated the applicant's effort to improve Building 3 and the project. He thought the project was better than it was before it was remanded back from the City Council. He applauded the City Council for their decision. Chair Wintzer remarked that being the last one in the neighborhood is never easy and it is a difficult problem to solve. He sympathized with the neighbors, but this site was always anticipated to have this type of use. Chair Wintzer believed it was time to let the project move forward.

Commissioner Pettit stated that the Marsac residents already bear adverse impacts that are borne by that neighborhood. She felt that the building department had a better understanding to determine where the flow of construction vehicles should occur. Commissioner Pettit thought it was unfair for the Planning Commission to make that determination as a condition of approval.

Planner Cattan had drafted a condition of approval to address lock out units. "Lock out units have not been included within the current conditional use permit application. The addition of lock out units would be a substantial deviation from the current plan and must be approved by the Planning Commission." She clarified that she was unable to find the exact language but recollected that it was close to the wording drafted this evening.

Chair Wintzer clarified that lock outs would be allowed, but only with Planning Commission approval. Planner Cattan stated that the applicant would have to come back to the Planning Commission to request approval of lock out units.

Commissioner Strachan asked if a request for lockout units would open the CUP for re-review. Assistant City Attorney McLean replied that it would be an amendment to the CUP. Without an actual application, it was difficult to comment on the scope of review. Commissioner Strachan stated that if a lockout would change the use, it would be different from what the Planning Commission approved. Ms. McLean clarified out that the request would be to amend the use. Commissioner Strachan pointed out that the project would already be built. Ms. McLean replied that Planning Commission could deny the amendment if it did not meet the criteria.

Planner Cattan noted that the amendment would need to occur prior to building the units to create lock out units. Therefore, it would come back to the Planning Commission before it was built.

Commissioner Strachan pointed out that nothing in the Staff report prohibits lock out units. Ms. McLean stated that the condition of approval drafted by Planner Cattan states that lock out units cannot occur without coming back to the Planning Commission for an amendment to the CUP. If that occurred, the Planning Commission would evaluate it for the lock out units, but it would not re-open the entire project. The review would be limited to the scope of the lock out units and whether or not it met the criteria of the CUP.

Commissioner Pettit requested that Planner Cattan read the drafted condition again for the record. Planner Cattan read, "Lock out units have not been included within the current conditional use permit application. The addition of lock out units would be substantial deviation from the current plan and must be approved by the Planning Commission".

MOTION: Commissioner Pettit moved to APPROVE the North Silver Lake Lodges Conditional Use Permit in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended with respect to adding Condition of Approval #19 as read into the record. Commissioner Luskin seconded the motion.

Commissioner Peek referred to Condition of Approval #17 and corrected "sight" to "site".

Commissioner Pettit amended her motion to include the spelling change in Condition #17.

VOTE: The motion passed 4-1. Commissioner Strachan voted against the motion.

Mr. Clyde informed Commissioner Hontz that they had heard her request. The final site plan was produced, but it was inadvertently left out of the package. He noted that Ron Ivie had reviewed the final plan.

Findings of Fact - North Silver Lake CUP

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 of 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 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 - North Silver Lake - CUP

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 difference in use or scale have been mitigated through careful planning.

Conditions of Approval - North Silver Lake - CUP

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 the impacts of drainage. The post-development run-off must not exceed the pre-development run-off.
7. Fire Marshal 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(l) 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 site 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 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.
 19. Lock out units have not been included within the current conditional use permit application. The addition of lock out units would be substantial deviation from the current plan and must be approved by the Planning Commission.
2. 1150 Deer Valley Drive - Conditional Use Permit
(Application #PL-09-00858)

Planner Francisco Astorga reviewed the conditional use permit application for construction within the Frontage Protection Zone at 1150 Deer Valley Drive, Snow Country condos. The applicant wishes to build two parking spaces to their existing parking lot. Planner Astorga stated that this proposal resulted from an amendment to a record of survey that the Planning Commission heard in October 2009. At that time the Planning Commission agreed with the Staff recommendation of not supporting the plat amendment, because it would increase the degree of the existing non-compliance due to the lack of parking mandated by the LMC. During the October meeting, the Planning Commission recommended that the applicant consider other options to mitigate the non-compliance issue.

Planner Astorga reported that based on that direction, the applicant decided to build two new parking spaces. He presented a site plan of the plat and noted that the LMC prohibits construction in the 0-30 foot no-build zone. Any construction beyond 30 feet to the next 100 foot requires a conditional use permit. Planner Astorga remarked that the proposal to construct two parking spaces would decrease the level of non-compliance.

The Staff report contained the Staff analysis regarding the CUP criteria. The impacts were all mitigated as described by the criteria.

Planner Astorga noted that the next item on the agenda this evening would be the amendment

to the record of survey to convert the limited common area to private. The Staff recommended that the Planning Commission hold a public hearing and consider approving the conditional use permit based on the findings of fact, conclusions of law, and conditions of approval.

Commissioner Hontz understood that the two parking spaces were proposed within the bubbled red area on the site plan. Planner Astorga replied that this was correct. Commissioner Hontz thought parking already existed in that area. Planner Astorga replied that it was not a legal parking area. Security currently parks there illegally. Commissioner Hontz asked where the security personnel are supposed to park. Planner Astorga reviewed a 2009 aerial map to show issues that are currently out of compliance that would be addressed with this CUP application. Planner Astorga noted that a condition of approval with this CUP requires landscaping, which would bring the non-compliant gravel area into compliance. Commissioner Peek clarified that the condition of approval for landscaping was only for the gravel area and not the entire site. He pointed out that Condition of Approval #5 requires the applicant to submit a landscape plan for the entire site.

Chair Wintzer noted that the wording in the condition could be misinterpreted as landscaping for the entire project. He suggested that the language be revised to indicate the entire site on the east end of the parking lot.

Planner Astorga pointed out that the language was correct because the Staff wanted to see a landscape plan for the entire site. He explained that when the area was resurfaced, the work did not require a building permit.

Commissioner Pettit asked Planner Astorga to define what he meant by entire site. Planner Astorga reiterated that the Staff wanted to see the landscape plan for the entire site area, including the areas behind and between the buildings.

Chris Haynes, representing the applicant, reserved the right to respond to public comments.

Commissioner Pettit referred to a comment in the Staff report regarding a concern by one of the residents regarding snow storage. She asked if there was snow storage currently in the gravel area where the bobcat usually sits. Planner Astorga replied that as currently written, the LMC does not require the applicant to show the snow storage. The LMC only indicates that it must be 15% of the surface area. It can be part of the 20% landscaping requirement. Planner Astorga stated that he had done an analysis and found that there is approximately 24% of landscaping proposed. Therefore, they would meet the 15% required for snow storage. Those numbers were also verified with help from the City Engineer.

Chair Wintzer opened the public hearing.

Neal Krasnick, an owner at Snow Country, passed around handouts that he had prepared. Mr. Krasnick requested the opportunity to come back to the Planning Commission to discuss the information provided if they did not have time for that discussion this evening. Since he has the right to public input and he should be allowed to make his presentation. Mr. Krasnick believed

his material answered many of the questions the Commissioners had just asked.

Mr. Krasnick stated that the reasons for not paving the east end of the parking at 1150 Deer Valley was due to the lack of snow storage space. The HOA wants to use the area in front of the parking stalls for snow storage. Mr. Krasnick noted that the LMC requires 15% of the total area of the parking to be used for snow storage and it must be usable, readily accessible space. He noted that the owners are allowed to leave a vehicle parked in their private stall even if they are not living at the condo. The snow storage area in front of the parking stall is not usable and readily accessible. Mr. Krasnick stated that the HOA has no way to require the owners to move their car during a storm. He noted that this is a condominium project, not a shopping area or a bank, and vehicles are parked long term. It is erroneous to say there is snow storage in front of every car in that parking lot.

Mr. Krasnick noted that the LMC says the snow storage area should not be paved. He stated that the west side of the parking lot has large stones set in the ground as landscaping. That stone has been compacted down by plows and the bobcat over the years and it may not allow water to drain into the ground. He believes that snow is stored on landscaping so the water drains into the ground and does not create runoff. Mr. Krasnick noted that the Planners want a detailed landscaping plan because the exact ratio of paved to non-paved area is not clear. He disagreed that there was the needed 15% of snow storage surface. Issues regarding the fire plug, the main water shutoff, and water meter needs to be resolved.

Mr. Krasnick stated that LMC Section 15-3-3-36 requires that the landscape perimeter should be able to accommodate snow storage. He believed this section addressed the north side of the parking lot, and that would become apparent in the detailed landscaping plan, if it includes grading. He pointed out that an 8-1/2 foot wide area between the public sidewalk and Deer Valley Drive and the parking lot slopes down hill to the sidewalk. If they push snow onto that area, they would be pushing snow on to the sidewalk at Deer Valley Drive. He did not believe the City would allow that. Mr. Krasnick stated that if that area, the stone area on the west side, and the areas in front of the cars cannot be used for snow storage, there would be even less snow storage if the area on the east side is paved. That area has been historically grandfathered as snow storage.

Mr. Krasnick outlined additional non-compatibility issues with the parking lot as it currently exists. He noted that even though a building permit was not required for the flat work, they still had to adhere to the Land Management Code. The entire parking lot that was finished in 2006 did not have compatible lighting. The lights are flood lights on the buildings. There are no islands to break up the parking lot.

Chair Wintzer requested that Mr. Krasnick direct his comments to the two parking spaces at the end.

Mr. Krasnick reiterated that the two parking spaces proposed on the end would eliminate the snow storage. Most of the area is not accessible and usable and it is not allowed by the LMC. Mr. Krasnick noted that the owners wanted to sell the laundry room. They needed an approval from the HOA to take it out of the common area, but the homeowners voted it down. They now

want to make it into a rental, but they still want to sell it. The CC&Rs prohibit that. The owners cannot change the plat. If the Planning Commission allows them to take the laundry room off the site map and the plat, that would be in direct conflict with the Utah Condominium Act.

Chair Wintzer reiterated his request to focus comments on the two parking spaces.

Mr. Krasnick stated that if it is true that there is not enough snow storage, the owners would be taking away their snow storage area by adding parking stalls. The parking stalls are not needed. Mr. Krasnick believed the applicants had misrepresented themselves to Planner Astorga, the management company and the owners, as to how they intend to use those two parking stalls. He had provided a letter that was sent to the HOA indicating that they needed to park more maintenance vehicles. He noted that they have five guest stalls and four rental stalls that could be signed for maintenance parking. Mr. Krasnick believed that maintenance parking was a false reason and that the owners only want the ability to sell the laundry room.

Chair Wintzer closed the public hearing.

Commissioner Pettit was still concerned about the snow storage issue and preferred to see additional analysis. Planner Astorga offered to come back with additional analysis. He had done some quick math and determined that the applicants would need 3600 square feet of snow storage to meet the 15% requirements. He reviewed the site plan to show areas where snow storage might be appropriate to gain the 3600 square feet. He asked if the Planning Commission was comfortable amending the condition of approval to address that issue, or if they preferred to see the exact numbers at a future meeting.

Commissioner Pettit felt it was important to see the exact calculations before making a decision. The Planning Commission needs to be satisfied that it complies with the snow storage requirements and that the addition of the two parking spaces would not create additional issues or problems. Chair Wintzer agreed. Without a plan he did not believe the Planning Commission was ready to move forward.

Commissioner Hontz stated that over the past few years the landscaping that has been put in and the overall aesthetics of the parking area that would not have been allowed under the current Code, has improved greatly. She drives by this area often and it is very visible. Commissioner Hontz was greatly concerned that constructing two parking spaces would increase the pressures that already exist on this site from parking, snow storage, and the view shed. Commissioner Hontz stated that she would not approve dumping of snow to increase the berm on the front side between Deer Valley Drive and the throwing of snow back and forth from the parking lot to Deer Valley Drive. In looking at the site plan, she believed there were very few places in this developed area where they could place snow. They already see the impacts from this parking lot and the development flowing over into the Park and she would not want those pressures increased at all.

Chris Haynes, representing the applicant, stated that basically no matter what they do at Snow Country they will never make anyone happy. First of all, the City does not want them to add

spaces because Park City is trying to be environmentally friendly. However, even though they have five visitor spaces and four rental spaces, they do not have the required parking to make the laundry room a one-bedroom complex. Ms. Haynes stated that she cannot win regardless of what she does. She has met with Planner Astorga day after day trying to do exactly what she was advised to do. She also met with Ron Ivie and he told her what she had to do to be ADA compliant. Ms. Haynes pointed out that the two parking spaces are the beginning of their ADA plan. It was never intended for maintenance parking. If she cannot add parking spaces, she no longer has an ADA plan. Ms. Haynes stated that every time she tries to comply she is continually told no. She asked if she was hearing no again.

Chair Wintzer clarified that the Planning Commission was not saying no. They were only asking for a plan so they could see what she was proposing to do and where she planned to store the snow. Once they have that information, the Planning Commission would vote on whether to approve or deny.

Ms. Haynes stated that if the triangle is taken away, she would never be able to comply, even with a landscape plan.

Brandon Bertagnole stated that snow is trucked out and there is snow storage along the north side of the building. He noted that the parking lot went through the Planning Department. He has worked with Jeff Schoenbacher on the landscape plan and the plan has been submitted.

Ms. Haynes asked the Planning Commission to outline anything else they would like to see for the next meeting so everything can be addressed at one time.

Chair Wintzer stated that the Planning Commission had made their request to see the site plan to confirm that there is 15% snow storage. There would be no further discussion until that time. He clarified that the Planning Commission would continue this item to the next meeting.

Commissioner Pettit explained to Ms. Haynes that the Planning Commission needed the necessary information to make an informed decision.

Planner Astorga summarized that the Planning Commission was requesting the snow storage plan, which would indicate the exact amount of snow storage needed and where it would be accommodated. They also wanted to see the landscape plan to see what was being proposed around that area and how it ties in to the existing landscaping. They also wanted information regarding the discussion with Ron Ivie concerning the plan for ADA compliance and how the two parking spaces fit into that ADA plan. Commissioner Pettit felt it was important for the Planning Commission to understand the discussions with Ron Ivie and what agreements were reached. It is also important for the Planning Commission to review the landscape plan to make certain that whatever they might approve would not create future issues for the residents and for people in the adjacent parking lot who access the sidewalk along Deer Valley Drive.

Commissioner Peek asked if the soils issue would be addressed. Planner Astorga stated that the Staff only raised the issue to require the applicant to landscape around it. Currently it does not comply and needs to be capped or paved.

Mr. Bertagnole stated that it has been capped and Jeff Schoenbacher tested it.

Commissioner Pettit pointed out that Planner Astorga should draft a finding of fact that ties in with Condition of Approval #1 once he confirms that the capping work was done.

MOTION: Commissioner Pettit moved to CONTINUE the CUP application for construction in the Frontage Protection Zone at 1150 Deer Valley Drive to May 12, 2010. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

3. 1150 Deer Valley Drive - Amendment to Record of Survey
(Application #PL-10-00768)

Planner Astorga noted that this application was based on the CUP application for 1150 Deer Valley Drive. He asked if the Planning Commission had issues to address concerning the amendment to the record of survey converting the laundry limited common area to private.

Mr. Bertagnole remarked that the unit would still remain common space and would be used as a manager/maintenance unit for the purpose of the HOA. Planner Astorga pointed out that if that is the case, they would only be amending the plat to remove the word "laundry".

Assistant City Attorney McLean stated that in order to use the unit as an apartment, the parking would still be required. She recalled that it was indicated as private area on the plat that was submitted. Ms. McLean stated that if the applicant is saying it would be common area, they would need to meet with the Staff to discuss the requirements.

Ms. McLean suggested that the Planning Commission open the public hearing and continue this item to May 12th to allow the applicants time to provide additional information if necessary. She would attend the meeting with the applicants and Planner Astorga so she can address the change and understand exactly what would occur.

Mr. Bertagnole pointed out that there is a parking space currently designated for this unit.

Chair Wintzer opened the public hearing.

Neal Krasnick, an owner at 1150 Deer Valley Drive, read from the LMC and noted that the owners are not allowed to run a business on site. He stated that the Planning Commission was informed that this was built as a one-bedroom unit, but that is not true. When the CC&Rs were drafted, it was identified as a laundry room, which is why the plat shows it as a laundry room. It had electrical and waste water management for a laundry room. The owners have since removed that equipment and installed a new water heater and a furnace and windows. However, they have not upgraded to the 2010 Building Code requirements for electrical and plumbing. The owners were implying that they could transform the unit into a one bedroom condo by putting in a bed and furniture, but that is not true because the unit has not been updated. Mr. Krasnick provided the page from the CC&Rs that prohibits the change in use according to the Utah Condominium Act. If the Planning Commission votes to approve this

amendment and allows them to pull a building permit, they would be helping the owners violate the Utah Condominium plat. Mr. Krasnick stated that when he sat on the HOA Board, profits from the laundry room were used to pay water and electric bills for all the common areas.

Mr. Krasnick noted that the owners claimed the area was full of cockroaches and mold, but the pest control people have said that cockroaches were not the reason the laundry room was shut down. The owners just wanted to change the use. Mr. Krasnick stated that it is common area and he purchased that area when purchased his condominium. He did not believe it was right for the owners to take that space for something else. Mr. Krasnick stated that an on-site manager would not work. He believed the purpose of the manager would be taking care of business for those who want to do nightly rentals. They are not allowed to run a business from that site per the CC&Rs and the Utah Condominium Act.

Chair Wintzer closed the public hearing.

Ms. Haynes stated that at one time the laundry room was viable and making money, but people eventually put washers and dryers in their private storage area. Over time it was an amenity that was no longer used. Ms. Haynes disagreed with Mr. Krasnick's comments. She has spoken with the owners and they all agree that the laundry room is an unsafe liability.

Commissioner Pettit asked the Assistant City Attorney for the standard review for a request of this nature, since the Planning Commission does not enforce CC&Rs or mediate disputes between a homeowner and the HOA. Assistant City Attorney McLean stated that the review would be similar to any condo plat. Since this was an unusual issue, she preferred to consider the matter and provide better direction at the next meeting.

MOTION: Commissioner Pettit moved to CONTINUE the Snow Country Condominium Administrative Amendments to the Record of Survey to May 12, 2010. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

4. Lot B of Northside Village Subdivision II, Nakoma - Amendment to Record of Survey
(Application #PL-10-00898)

Planner Brooks Robinson reviewed the application for the First Amendment to the Amended and Restated record of survey plat for the Nakoma Condominiums. This project is in Empire Pass. The conditions of the original plat created what looked like a lot. One of the conditions stated that once the buildings were complete the applicant would come back to replat. This process tracks the number of actual units as well as the total square footage.

Planner Robinson noted that nine units were going through the process with this particular amended plat. There are a total of 18 units in the Nakoma project.

The Staff recommended that the Planning Commission forward a positive recommendation to the City Council for this condominium plat based on the findings of fact, conclusions of law and

conditions of approval in the draft ordinance.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Peek moved to forward a POSITIVE recommendation for the condominium plat for the Nakoma Condominiums First Amendment to the Amended and Re-stated Nakoma Condominiums plat, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - Nakoma Condominiums

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 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 to the other un-built units. Unites 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 6,000 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 to 18. As a duplex, footprint increases from 5,000 square feet to 6,000 square feet.
 - Reduce minimum unit size from 4,300 to 4,000 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 7,500 sf).
 - 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 - Nakoma Condominiums

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

Conditions of Approval - Nakoma Condominiums

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.
5. 692 Main Street, Town Lift Project, Phase 1 - Pre Master Planned Development
(Application #PL-10-00928)

Due to a conflict, Commissioner Pettit recused herself and left the room.

Planner Robinson reported that the application for 692 Main Street was part of the Marriott Summit Watch Town Lift master planned development. The building has been used by the Marriott Corporation as a sales gallery for the Summit Watch project. The building has subsequently been for sale. The contract purchaser was represented this evening by Kevin Horn, the architect and Mr. David Luber with LCC properties.

Planner Robinson reported that the original Town Lift concept included McIntosh Mill, the Sweeney Brothers and what became the Caledonia Hotel and the Town Lift as part of the Sweeney project and Treasure Hill. Through the early discussions, Main Street did not extend past Heber Avenue and there were discussions on elements that might apply to one side of Main Street but not required on the other. Planner Robinson stated that the City Council adopted a concept plan that bifurcated the agreement between the McIntosh Mill Partnership and the Sweeney Brothers and their partnership. Therefore, each party acted independently to comply with the 1991 concept plan.

Planner Robinson noted that in April 1992 the Planning Commission approved a small scale MPD, which became the Town Lift Phase I and included Buildings A1-A3. Building A-1 was 692 Main Street. Buildings A-2 and A-3 became part of the Marriott Summit Watch Project. In 1994 a building permit had been issued and the project at 692 Main was under construction. An amended concept plan was proposed and approved, at which time Marriott took over the

project. Building A-1 was constructed and what was reflected in the 1994 Concept plan was a 7200 square foot commercial building. The actual building is slightly less.

Planner Robinson stated that throughout that project, there were requirements for a Town Lift Design Review task force to review all the buildings in the project. The Task Force was comprised of members from the Historic District Commission, members of the Planning Commission and one City Council member. The Task Force was reconstituted with the Town Lift Bridge several years later.

Planner Robinson presented plans of the existing building and explained the proposed changes for a minor addition. The applicant was requesting to modify the building by adding to the 2nd story balcony and enclosing the space underneath. The modification would add 549 square feet to the building for a total of 7,105 net leasable square feet. The footprint of the building would remain the same except for the minor addition and enclosure under the deck facing Main Street.

Planner Robinson stated that the question was whether to reconstitute the Design Review Task Force in some manner, and whether that would be under the current process. Currently, any historic design review goes through the Staff Design Review Team and any appeal of that decision would go to the Historic Preservation Board. Another option would be to reconstitute the Task Force with members from the HPB, the Planning Commission and the City Council.

Planner Robinson stated that in addition to the minor addition, the applicant was proposing a major addition and a remodel which would include adding additional floors to the building, keeping under the height requirement of the LMC and the MPD. The use would be a mixed use of residential and commercial, which was contemplated in the earlier concept plan. Planner Robinson asked if the Planning Commission would want to recommend a Design Review Task Force for this phase, and in what manner.

Planner Robinson reviewed three questions on Page 195 of the Staff report for the Planning Commission to consider. The first was whether the Task Force should be comprised of the HPB. He amended that to replace HPB with the current Staff Design Team. The second question asked if the composition of the Task Force should include other members. The third question was whether an amendment to the 1991 Concept Plan be should be referred to the City Council to remove the requirement that Design Review go before the Historic Board.

Planner Robinson clarified that the application was a pre-master planned development and the Staff requested general consensus from the Planning Commission as to compliance with the General Plan.

David Luber, representing the applicant, stated that for the last several months they have worked diligently with the Staff and the Legal Department to research the history of the project back to 1992, when it was first developed by McIntosh Mill. What they learned was that the original density and configuration of buildings goes back to the 1992 MPD. Building A-1 has not had much use over the past year. They are looking at this as a reclamation project and would like to do something productive for the tax base and the user base.

Mr. Luber clarified that they do not intend to change the footprint of the existing building. The original MPD from 1992 was a mixed use of commercial and residential. In 1994 the Marriott took over this project and changed the use to a commercial sales office. An amendment was approved in 1994 and the building was turned into approximately 7200 square feet of net leasable space.

Mr. Luber stated that the applicant would like to return the building back to its original intended purpose of commercial and residential use. He pointed out that their proposal would not increase the density, they are using the existing footprint, the setbacks would remain the same, and there would be no changes to the open space. There would be no on-street parking issues because the users of the property are confined on site.

Mr. Luber requested feedback from the Planning Commission in terms of how complex or easy the MPD process would be, based on an application for an amendment to the 1994 plan to allow reconfiguration.

Mr. Luber stated that under the original 1992 and 1994 plans, design review of this project was done by the Design Review Task Force. At that time there was not a functioning Staff and functioning Historic Design Review process. Mr. Luber asked the Planning Commission whether the design review could be handled in a process with the City Staff and the existing HPB, rather than reconstituting the Task Force.

Mr. Luber requested direction from the Planning Commission regarding the MPD process. Kevin Horn, the project architect, reviewed the proposed modifications. Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Commissioner Peek asked if there was a way to enhance the pedestrian plaza on 7th Street and generate pedestrian traffic on that side of the building to draw people into that plaza. He noted that the plaza is currently under utilized. Mr. Luber replied that the building has been significantly under utilized. It is intended to be as significant as the Ski Lodge Club and the members entrance would draw foot traffic to that area. Mr. Luber noted that the applicants have discussed ways to better utilize that area.

Chair Wintzer asked if this would be a private club or open to the public. Mr. Luber stated that the intent is to have a members private ski club/public restaurant and lounge. Mr. Luber remarked that the intent is to provide something that is not available on the hill at Park City Mountain Resort.

Commissioner Peek asked if there would be a sales component to the use similar to the Talisker Restaurant. Mr. Luber replied that there would be a modest sales element.

Commissioner Strachan recalled an ordinance prohibiting first floor members dining clubs.

Chair Wintzer clarified that his questions were based on that ordinance, but he was unsure where the ordinance stops. Planner Robinson explained that it is commonly called a vertical zoning ordinance and it would include this building. The ordinance prohibits office space, non-retail space, restaurant space such as what is being proposed, or a club grille.

Mr. Luber remarked that they were trying to multi-task and find the best uses for the building.

Commissioner Strachan liked the concept, particularly the idea of having a store on Main Street. That type of store is no where to be found and it is totally essential. Mr. Luber clarified that the market would be open to the public.

The Commissioners discussed the purpose of the Design Review Task Force. Chair Wintzer explained that the Task Force was set up because of the controversy of the project, not because the Staff was unable to handle the job. It was a way to ensure the public that they would have the ability to provide input. Assistant City Attorney McLean thought the Staff report clearly laid out the options for the Planning Commission to consider. She noted that the 1991 Concept Plan specifically designated the Historic District Commission as the design task force. All the documents subsequent to that were all the buildings plans to be reviewed by that task force.

Commissioner Strachan clarified that the HDC is now the HPB. Ms. McLean replied that this was correct.

Chair Wintzer asked if the Planning Commission had the ability to circumvent the requirements of the 1991 Concept Plan. Ms. McLean explained that the Planning Commission could either re-affirm the HPB as the Task Force, or they could refer this to the City Council to and recommend that the Council amend the 1991 Concept Plan so the review could just go to the Staff and no longer need to go to the HPB. Another option would be to recommend that the City Council reconvene the Task Force but include other members with the HPB.

Commissioner Strachan felt the question was whether the Planning Commission should solve the problem now so the Task Force would not need to be reconvened each time there is an issue. The Planning Commission could recommend that the City Council remove the requirement for a Task Force and allow the applicants to go through the Staff Design Review Team.

Commissioner Peek remarked that remodels of existing buildings should not rise to the standards of a Design Review Task Force. He believed it should go to the City Council for policy direction on whether the Design Review Task Force is still enforced on all applications.

Commissioner Strachan agreed. Commissioner Hontz was comfortable with reviewing the MPD and eliminating the task force.

Assistant City Attorney McLean remarked that just for the minor remodel, the Staff interpreted that as only needing approval by either the task force or another type of design review. That would not be part of the MPD. The major addition of adding stories would be part of the MPD

because it would substantially change the building. The Planning Commission has the purview to determine that filling in the balcony is also a substantial change and it should also be part of the MPD. The Staff opinion was that it was minor enough not to require opening the MPD.

Commissioner Strachan thought that was reasonable. Commissioner Peek noted that the minor addition falls under the HDDR and would still be reviewed by Staff.

Mr. Luber was unclear on what the Planning Commission would recommend to the City Council. Assistant City Attorney McLean stated that the Planning Commission would recommend to the City Council that the 1991 Concept Plan be amended. Therefore, instead of this being referred to the HPB, it would be referred to Staff for design review and the task force need not be convened. Because the 1991 Concept Plan was passed by the City Council, they would need to make that determination.

Ms. McLean clarified that the applicant would need to wait until the City Council makes their determination before moving forward with review of the minor addition. The proposal for additional stories would require an MPD.

Mr. Luber asked for a general nos from the Planning Commission as to whether they would look favorably on their proposal if it comes back as an MPD application. Commissioner Peek felt it was headed in the right direction. The Commissioners concurred. Planner Robinson noted that typically in pre-MPD meetings they look for general compliance with the General Plan.

MOTION: Commissioner Strachan made a motion to forward a POSITIVE recommendation to the City Council that the 1991 Concept Plan be amended to remove the requirement that the design review go before the Historic Board, as outlined on Page 195 of the Staff report. Commissioner Hontz seconded the motion.

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

The Park City Planning Commission meeting adjourned at 10:15 p.m.

Approved by Planning Commission_____