

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

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

Planning Director, Thomas Eddington; Katie Cattan, Planner

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REGULAR MEETING - 5:30 p.m.

I. ROLL CALL

Chair Wintzer called the meeting to order at 5:30 p.m. and noted that all Commissioners were present.

II. ADOPTION OF MINUTES

January 13, 2010

Commissioner Pettit noted that she was not listed as present in the work session notes, but she her comments were reflected in the text. She thought she may have arrived late, which could explain why her name was not listed on the roll.

MOTION: Commissioner Pettit moved to APPROVE the minutes of January 13, 2010 as amended. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

January 20, 2010

Commissioner Hontz noted that her name was spelled incorrectly under Commissioners in Attendance and she corrected the minutes to add an "e" at the end of her first name.

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

VOTE: The motion passed unanimously by those who were present at that meeting. Commissioner Strachan abstained since he had not attended.

February 10, 2010

Commissioner Peek referred to page 66 of the Staff report, page 14 of the minutes, first paragraph. He added closed quotation marks after the first MPD and clarified that the remainder of the

paragraph were his comments and not a direct quote from the Staff report. The end quote after the word boundary was also deleted.

Chair Wintzer referred to page 66, second to the last paragraph, and corrected 50,000 square feet to read 500,000 square feet.

MOTION: Commissioner Peek moved to APPROVE the minutes and the work session notes of February 10, 2010 as amended. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously by those who had attended that meeting. Commissioner Pettit abstained since she had not attended.

February 24, 2010

Commissioner Pettit noted that her name was misspelled in the work session notes and changed the "e" at the end of her first name to an "a".

MOTION: Commissioner Strachan moved to APPROVE the minutes of February 24, 2010 as amended. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

III. PUBLIC COMMUNICATIONS

There was no comment.

IV STAFF/COMMISSIONER'S COMMUNICATIONS & DISCLOSURES

Director Eddington reported that the work session item scheduled this evening had been postponed to March 14th.

Director Eddington noted that the LMC amendments and General Plan discussion was scheduled for the March 24th meeting. He asked if the Planning Commission was willing to cancel the April 14th Planning Commission meeting and make the April 28th meeting a regular meeting. There were very few applications for the April 14th meeting and those could be carried over to April 28th. Canceling the first meeting in April would give the Planning Commission the opportunity to schedule time to meet with the Staff member they were assigned to work with at the last meeting on specific General Plan elements.

The Planning Commission had no objections to canceling the April 14th meeting.

Planner Cattan noted that Treasure Hill was scheduled for April 14th, but that item would be continued. She would work with legal to make sure it is continued correctly.

Commissioner Pettit supported the concept of having the Commissioners meet with their individual Planner on the topics that were selected at the last meeting. Director Eddington recommended that

the Commissioners and Planners contact each other in early April to schedule mutually convenient times.

Director Eddington clarified that April 28th would be the only Planning Commission meeting in April and it would be a regular application meeting.

Planner Cattan reported that the Treasure Hill model was displayed in the Planning Department and was available to be viewed Monday through Thursday from 8:00 a.m. to 10:00 p.m. Anyone interested in scheduling a time should contact her through email. The model will be in the Planning Department through March 25th.

Chair Wintzer asked if the book of visuals could also be available in the Planning Department so people could look at the model and the visuals in the book at the same time.

Commissioner Pettit stated that when she saw the model in Craig Elliott's office, there was some discussion about the visual presentation that showed other renderings. She asked if those visuals would also be available. Planner Cattan replied that those visuals would be on the laptop for people to see.

Commissioner Peek stated that he would be out of town and unable to attend the March 24th meeting.

REGULAR AGENDA/PUBLIC HEARINGS/POSSIBLE ACTION

1. 1053 Iron Horse Drive - Consideration for an aluminum siding product exception per LMC Section 15-5-5(B)(10)

Planner Cattan reported that the LMC allows an exception for the Planning Commission to approve aluminum siding.

Joe Milano, representing the applicant, presented a proposal for using an aluminum siding product on the public works and bus facility at 1053 Iron Horse Drive. Mr. Milano noted that this request was a continuation of the CUP approval for the Iron Horse project. When the Planning Commission approved the CUP, a condition of approval was added stating that, "The materials on the northeast corner addition to the existing Public Works Building must differ from the adjoining stucco facade." He noted that the adjoining maintenance facility is stucco a building and the administration building on the end is brick.

After working with the architectural team, a suggestion was made to use an aluminum thick panel. Mr. Milano noted that the proposed product is different from typical aluminum siding. He reported on everything he knew about the product to help the Planning Commission make a decision on whether or not it was appropriate.

Mr. Milano noted that the product has been used on hundreds of building around the Country. It was used on the wine store in Salt Lake City on 3rd West and 13th South. Mr. Milano provided a sample of the materials for the Commissioners to handle to help them understand the material

being proposed. He noted that the material is an industrial product. It withstands the weather and it is three times thicker than the minimum required by Code. The baked on enamel paint finish is guaranteed for 20 years. The aluminum material itself will not rust. The proposed color is Sierra tan. Mr. Milano stated that as a designer, he felt the material was appropriate for the Public Works Building because of its durability and recycle ability. At the end of the life cycle of the building, all the panels could be completely recycled.

Commissioner Pettit asked if the size of the panel was close to the sample that was passed around. Mr. Milano replied that most of the panels are smaller. He believed the panel used would be approximately 5' x 16 or 18 feet high. Vertical panels would be used in some places to provide a visual change in the look of the panel itself.

Commissioner Peek assumed that all the components of installation were from the manufacturer. He asked if there was an installed life of the system. Mr. Milano replied that the subcontractor is Southland and they have done hundreds of projects around the Country. He was unsure of the exact warranty. Commissioner Peek asked if there were issues of reaction with various components such as clips and screws. Mr. Milano replied that all the components are aluminum. He explained that the building would be wrapped in plywood and a waterproofing membrane, and everything on the exterior would be aluminum. Commissioner Peek clarified that the entire system was supplied by the manufacturer. Mr. Milano answered yes.

Commissioner Peek asked if there was a life span on the coating. Mr. Milano replied that 20 years was the life of the coating. Commissioner Peek commented on the number of steel or aluminum roofing products that are losing their finish. Mr. Milano reiterated that the manufacturer guarantees that the material will look the same for 20 years. Commissioner Peek asked if there were installed examples of this product that were 20 years old. Mr. Milano replied that some examples are more than 20 years old.

Chair Wintzer stated that he would have assumed the material was metal if it had not been identified as an aluminum panel. He believed it was similar to metal systems on nearby structures. Chair Wintzer stated that he has been the wine store in Salt Lake and he was surprised to find out that it was not metal siding. He believes the material is appropriate for the area and appropriate for the Public Works Building. He liked the fact that the material requires no maintenance.

Commissioner Pettit liked that the material was recyclable. She felt it was an appropriate material for this use.

Commissioner Peek thought the Code referred to older, out dated aluminum. He asked if the "shall" aspect in the Code regarding insulation could be modified. Planner Cattan stated that the Planning Commission could make a finding that the shell is insulated and, therefore, the intent of the insulation has been met.

Commissioner Peek asked if there are instances of condensation and whether there were weep holes. Mr. Milano stated that the system allows moisture behind it and it allows moisture to come down the waterproofing membrane behind the panel. He noted that there are holes along the foundation to weep out any moisture that may get in.

Assistant City Attorney, Polly Samuels McLean, believed the insulation met the intent of the Code, and she thought the Staff could draft a finding to support that. Ms. McLean suggested that the Planning Commission could look at changing the LMC to better meet the intent.

Commissioner Peek asked if the lower panels could be replaced if they were every punched through by a blade. Mr. Milano replied that the panels could be individually replaced.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Pettit moved to grant the use of aluminum siding at the 1052 Iron Horse Drive project in accordance with the finding that the application of the siding at this site will meet the intent of Section 15-5-5(B)(10). Commissioner Strachan seconded the motion.

Commissioner Peek clarified that the finding should read, "The application of the aluminum siding at installation at the gauge proposed, meets the intent of Section 15-5-5(b)(10)."

Planner Cattan stated that she would write an action letter and make that finding.

VOTE: The motion passed unanimously.

2. 2060 Snow Creek Drive - Snow Creek Cottages - Subdivision
(Application #PL-10-00894)

Planner Cattan reviewed the application for a plat amendment at 2060 Snow Creek Drive, to divide Lot 9B into two lots of record. One lot would be the Police station and the second lot would be for the Snow Creek Cottages. If the plat amendment is approved, the Planning Commission would be asked to approve a condominium plat as the next item.

The Staff recommended that the Planning Commission review the application, conduct a public hearing and consider forwarding a positive recommendation to the City Council for the plat amendment, in accordance with the findings of fact, conclusions of law, and conditions of approval.

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 for the Snow Creek Crossing Lot No. 9B Subdivision, according to the Findings of Fact,

Conclusions of Law, and Conditions of Approval outlined in the attached ordinance. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 2060 Snow Creek Drive - Subdivision

1. The property is located at 2060 Park Avenue.
2. The lot area of Lot 9b of the Snow Creek Crossing Lot No. 9 is 7.84 acres in area.
3. The plat amendment creates two lots of record from Lot 9B of the Snow Creek Crossing Lot No. 9.
4. The plat amendment creates Lot 9B-1 (Police Station) which will be 5.43 acres and Lot 9b-2 (Snow Creek Cottages), which will be 2.38 acres.
5. The Park City Police station exists on Lot 9b-1.
6. The Snow Creek Cottages are being built on Lot 9B-2.
7. The zone is Residential Development Medium Density (RDM).
8. The two proposed lots and the existing buildings on the lots comply with the lot and site requirements for development in the RMD zone as explained within the analysis section of this report.
9. The neighborhood is characterized multi-family condominium, public facilities, a bike trail, and commercial.
10. All findings within the Analysis section are incorporated herein.

Conclusions of Law - 2060 Snow Creek Drive - Subdivision

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 - 2060 Snow Creek Drive - Subdivision

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. 2060 Snow Creek Drive, Snow Creek Cottages - Condominium Plat
(Application #PL-10-00919)

Planner Cattan reviewed the application for the condominium plat for the Snow Creek Cottages. The Snow Creek Cottages are currently owned by the City. Creating a condominium plat would allow the City to sell the detached single family homes separately. A Home Owners Association would be created to manage the tasks outlined within the Codes, Covenants and Restrictions (CC&Rs) documents.

The Staff recommended that the Planning Commission review the condominium plat, conduct a public hearing and considering forwarding a positive recommendation to the City Council, based on the findings of fact, conclusions of law, and conditions of approval contained in the Staff report.

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 for the condominium plat for the Snow Creek Cottages condominiums, in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval outlined in the attached ordinance. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 2060 Snow Creek Drive - Condominium Plat

1. The property is located at 2060 Park Avenue.
2. The Condominium Plat for the Snow Creek Cottages Condominiums is located on the proposed Lot 9b-2 of the Snow Creek Crossing Lot No. 9B Subdivision.
3. Lot No. 9b-2 is 2.3803 acres.
4. The Condominium Plat for the Snow Creek Cottages Condominiums contains thirteen (13) detached single family homes.

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.

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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: _____