

**PLANNING COMMISSION REPORT**

DATE: July 11, 2001
DEPARTMENT: Planning Department
AUTHOR: Patrick Putt
TITLE: Flagstaff Mountain Resort; Review of Utility Master Plan, Construction and Development Phasing Plan, and Construction Mitigation Plan
TYPE OF ACTION: Administrative

Wednesday evening the Planning Commission will review the Flagstaff Mountain Partners' technical studies for utilities, phasing, and construction mitigation. The 1999 Flagstaff Mountain Annexation Resolution 99-30 grants the applicant the equivalent of a Large-Scale Master Planned Development (MPD). The Large-Scale MPD sets forth maximum densities, locations of densities, and developer-offered amenities. Site-specific review of the project is subject to the normal Land Management Code master plan procedures. Pursuant to the annexation resolution, the applicant has the responsibility of submitting 14 technical reports/specific plans addressing project-related issues prior to, or concurrent with, the Small-Scale MPD process.

At the June 13, 2001 Planning Commission meeting, the Commission concluded that it will review the 14 studies in order to fully complete the Large-Scale MPD and provide guidance for the review of the Small-Scale MPD. The Commission also determined that a review of the studies is necessary prior to making any finding that the proposed Small-Scale MPD is consistent with the General Plan and annexation resolution as required by the Land Management Code's MPD pre-application process. The Commission also stated that there may be specific aspects of the yet to be filed small-scale master plan development that may be preliminarily reviewed as part of the comment process on the 14 studies.

On June 27, 2001, the Commission reviewed the trails, open space, and wildlife management plans. The Planning Commission provided staff and the applicants with comments. The Commission directed staff to work with the applicant to make the necessary edits and changes. Staff was further instructed to not bring the revised reports back the Commission until the date at which all the studies are formally accepted. In lieu of resubmitting the revised drafts, the Commission requested that staff provide it with an executive summary of the changes.

Analysis

The Planning Department has reviewed the reports and provides the following preliminary response to the draft studies. In addition, Staff has outlined additional issues for Planning Commission discussion.

As with the previously-reviewed studies, staff used the following framework for the review of the documents:

1. Is the report complete, or are certain topic of discussion or issues unaddressed?
2. Is the study consistent with the provisions and intent of the annexation resolution?
3. Does the study impact the density, development location, or project design as set forth in the annexation resolution.

The Planning Department recommends that the Commission allow time for public comment at the end of its work session discussion.

Utilities Master Plan

The purpose for the Utilities Master Plan is to present a general overview of the proposed locations and impacts of the water, sewer, electric power, natural gas, and cable service to the project area. The Planning Department finds the plan to be generally complete. The plan is understandably general given the fact that no specific development has been approved. This plan will need to be flexible in its recommendations so that it is consistent with the City's final project approval. Any project changes resulting from the review process may necessitate a revision to the plan document to insure consistency. Staff has not identified any elements of the plan that directly conflict with the Development Agreement or impact density, location of the density, or design as set forth in the Large-Scale MPD. Additional clarification and direction on discussion issues listed below will need to be incorporated into the final draft.

Staff Comments & Issues For Discussion:

1. Staff finds that a copy of the study should be submitted to the utility providers for comment prior to City's final action on the document. The formal response from the utility providers can be attached to the final master plan report.
2. Any required funding for utility improvements and/or proportional cost sharing should be determined at the time the utility plan(s) are approved by City Engineer.
3. Wherever feasible, utilities should be located within street rights-of-way and/or areas of previous disturbance. Final utility locations will be reviewed and approved by the City Engineer. Vegetation disturbance resulting from utility installation will require revegetation plans and financial securities.

4. A contradiction exists in the current draft of the utility plan and associated utility map. Staff has confirmed with the applicant that no sewer line is proposed to be installed down the face of Prospect Ridge. Any sewer installation in the Prospect Ridge area will generally be within existing roads and/or disturbed areas. The Commission will be notified as to any change in this plan as part of the small-scale MPD review.

5. A new UP&L substation is proposed on the Wasatch County side of the project. At this time, any transmission line upgrades are contemplated to occur within the existing transmission line alignment. Any new transmission line alignment should be reviewed as part of the small-scale MPD.

Construction and Development Phasing

The purpose of the construction and development phasing plan is to provide an overview of the timing of the project's construction including residential and commercial units, roads, on-site and off-site improvements, and amenities. The Planning Department finds the plan to be generally complete. As with the utility master plan, this information is a "best guess" and subject to a specific small-scale MPD approval. Any project changes resulting from the review process may necessitate a revision to the plan document to insure consistency. Staff has not identified any elements of the plan that directly conflict with the Development Agreement or impact density, location of the density, or design as set forth in the Large-Scale MPD. Additional clarification and direction on discussion issues listed below will need to be incorporated into the final draft.

Staff Comments & Issues For Discussion:

1. Although the report specifies that the applicant intends to proceed with a variety of product types in each phase of development, Staff finds that the initial emphasis should be on the Pod A Mountain Village. Staff concurs that each building campaign will include a mix a development in various pods; however, Pod A is critical inasmuch as it contains the critical bed base and amenities that are of the greatest community benefit.

2. A matrix for the development phasing which provides an easy-to-understand link to road, utility, affordable housing, and amenity timing should be provided as a document exhibit.

Construction Mitigation Plan:

The purpose for the construction mitigation plan is to identify and mitigate the impacts and problems associated with the construction of the project area. The Planning Department finds the plan to be generally complete. As with the other two plans, this information is a "best guess" and subject to a specific small-scale MPD approval and project phasing. The City has managed a successful CMP program for large construction projects for over four years. Staff is confident that the a viable CMP can be developed for each phase of construction; however the specific nature of the required CMP can only be determined at the point of a small-scale MPD approval. Staff has not identified any elements of the plan that directly conflict with the Development Agreement or impact density, location of the density, or design as set forth in the Large-Scale MPD. The plan addresses the important areas of concern including

traffic, traffic circulation, delivery routes, contractor parking, hours of operation, staging, noise abatement, etc. It will be necessary for this “more-general” plan to be revised in greater detail at the conclusion of the small-scale MPD process.

Staff Comments & Issues For Discussion:

1. Rock crushing and aggregate storage will be a fact of life during the construction of the project. Staff finds that the discussion relating to this activity should take place as part of the review of this study. Typically, rock crushing and aggregate yards are industrial uses. An off-site facility has associated traffic impacts. There are merits to discussing a temporary on-site facility as part of the CMP provided all associated impacts can be addressed.

**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
JULY 11, 2001**

Present: Chair Jim Hier, Bruce Erickson, Chris Larson, Bob Powers, Andrew Volkman, Patrick Putt

WORK SESSION ITEMS

557 Swede Alley, Municipal Trash Compactor Building on Swede Alley

Planning and Zoning Administrator Patrick Putt presented an overview of the project and explained that essential municipal services and facilities in the HCB Zone require a Conditional Use Permit. The City proposes construction of a 700-square-foot structure across the street from the transit center, with a public hearing and possible action scheduled for July 25. He reviewed the site plan showing the location of the proposed building and surrounding properties. The structure will be one story high. The main ridge is 15 feet, and the top of the cupola rises to 18 feet. Two garage doors face Swede Alley and act as primary service access for the compactors. The building will contain a compactor that will accommodate approximately 110 to 120 cubic yards of garbage which will offset the current dumpster situation. The compactor was discussed as part of the transit center CUP approval because it displaces several dumpsters previously located where the transit center building is. The compactor site was identified on the approved drawings, but during the conditional use approval, it was determined that this matter should come back to the Planning Commission for site specific approval of the building. This has been to the City Council as a work session item, and the City Council directed the Staff to commence processing the CUP. Administrator Putt requested initial comments from the Planning Commission regarding Land Management Code compliance. He explained that the request is consistent with the waste management plan developed by the City several years ago and with the Main Street enhancement plan. In general, the Staff supports the project and believes the design is consistent with the Historic District Design Guidelines and meets the minimum LMC requirements for building height and placement. The project has been reviewed for utilities and accessibility. It has also been reviewed by the County's refuse contractor, and they are satisfied with the size and function of the building.

Commissioner Larson commented that the building looked great and asked if there is a maintenance plan. Administrator Putt replied that maintenance is key to how well the building functions, and there are models of similar buildings in Colorado communities. Regular maintenance is important and will be a Public Works Department responsibility. He offered to include specific details and a memo or letter from Public Works addressing this matter in the next staff report.

Flagstaff Mountain Resort Special Studies Review: Construction and development phasing; utilities; construction mitigation plan

Administrator Putt explained the parameters used to evaluate these and the other studies that will be reviewed in coming weeks. Three primary tests were developed: Whether the report is complete or if topics have been left unaddressed, whether the study is consistent with the provisions and intent of the annexation resolution, and whether the studies impact the density, development location, and project design set forth in the annexation resolution. The three reports to be reviewed this evening, the utilities master plan, construction and

development plan, and the construction mitigation plan, are general and provide an overview of each topic as it relates to the development of the site. Because a specific project has not yet been approved, the plans need to be general and flexible to respond to the amount, type, and location of density that will be approved in the small scale MPD review process.

Doug Clyde, representing the applicant, explained that the goals of the construction mitigation plan are to identify phasing and construction of off-site and on-site infrastructure, extension of services and project amenities in the development, and phasing of the proposed residential and commercial project. He presented the construction phasing plan that started in 2000. Work that has already occurred includes water from Bald Eagle to the day lodge. Water and gas lines were run last year to Pod B2 where the day lodge exists. The runaway truck ramp on the mine road was done this year, and projects yet to be started this year are sewer and water construction up Daly Canyon. Mr. Clyde indicated the relocation of mountain bike trails associated with routing around the impacts of sewer and water construction. In 2002 and 2003, the Mine Road improvements from the lower gate to the project entry will be completed and include the passing lane and minor improvements to the road grade. In 2002 there will be new water service to the Woodside Tank to allow for proper service to the overall project. Mr. Clyde noted that these are all off-site construction activities. On-site construction activities are the Guardsman project entry to the village day lodge, road realignment and reconstruction, and reconnection of the realigned Guardsman Road to the existing road. Also included in the plan are locations for construction staging in the Daly West Mine Dump and position of future water tanks. In 2002 they will install tank 1 above the new day lodge. They are pioneering roads and utilities into Parcel B1 and A in the village area. In 2003 they will install tank 2 to provide water service for Parcel D. Roads will be pioneered and utilities extended from the day lodge into Parcel B1 and the corner of Parcel A. In 2003 they will start infrastructure to Pod D and the Marsac reconstruction from Hillside down to the roundabout. They will also begin to go vertical with the Alpine Club. In 2004 they will put in the lift for Pod A. utilities will be extended to Pod D, and Guardsman Road will be realigned to provide access to Pod D.

Mr. Clyde discussed the goals and objectives of the utilities plan the purpose of which is to provide adequate utilities for all the functions. The Staff has requested that each supplier provide a letter indicating that the utility provider has reviewed and provided comments on the utility plan.

Mr. Clyde commented on the construction mitigation plan and stated that they are adhering to the standards of PCMC's construction mitigation measures. Additionally, there will be a storm water pollution prevention plan prepared for the project and targeted at keeping storm water up to Federal, State, and local standards. The plan will concentrate on limited areas of disturbance, retention of sediment on site, and preventing construction litter and chemicals from entering the storm water system. The impacts and mitigation measures are standard and comply with PCMC construction mitigation practices. The development agreement addresses providing construction parking and staging of materials on site. Using existing disturbed areas such as Daly West and Ontario, there are opportunities to provide construction material staging on site. They will take advantage of existing opportunities to provide gravel from Daly West for construction purposes which will eliminate a number of off-site truck trips. Temporary utilities will be provided as well as health and safety waste

management and recycling as specified in the development agreement. Mr. Clyde remarked that grading and excavation impacts will be most significant and will require the greatest efforts for the City and Flagstaff, including dust, storm water management, noise, etc. He noted that no dogs will be allowed on the construction site.

Chair Hier noted that the plans show one of the access roads up Empire Canyon as containing sewer and water and asked what servicing would be done on those roads. Mr. Clyde replied that he was surprised that the road was shown in the documents because it had been abandoned. And they intend to stay with the emergency access roads as proposed in the original agreement. The road will still house sewer and water but will be a gravel road with clean gravel.

Chair Hier reiterated a previous recommendation that the construction traffic leaving the site go down Royal Street to better distribute the traffic on Marsac and decrease the impacts. He also noted that the grade is not as steep on Royal Street.

Commissioner Larson agreed with Chair Hier and strongly favored construction traffic coming down Royal Street to distribute the impacts. He believed that should be included in the construction mitigation plan. He commented on the utility master plan and the Staff's recommendation to stick with already disturbed areas and stay off Prospect Ridge. His concern with the utility master plan was that utilities and roads would be run to the County line, and he believed the development agreement should be researched to determine what is specified for providing utilities or infrastructure to the County line for the Bonanza Flats development. Mr. Clyde stated that the development agreement is clear that those utilities are provided to the other counties. Commissioner Larson expressed concern that a de facto approval might be provided with these drawings.

Commissioner Larson asked for a clearer definition of secondary road access and the minimum requirements. Mr. Clyde replied that the minimum requirement for secondary access is whatever Ron Ivie tells them it is. There are two types of secondary access which are a function of the seasons. Winter secondary access has its own set of considerations, and summer secondary access is for emergency access.

Commissioner Larson commented on the phasing breakdown for Pods A, B1, B2, and D. He felt a more precise breakdown was needed of what that means and a clearer description of the mix and where it would occur. He wanted to see a more specific trigger for when Pod B would happen and hoped to see B1 and B2 completed before starting Pod D.

Commissioner Volkman clarified that the traffic coming down Royal Street would be construction trucks only, not construction personnel. Chair Hier stated that his intent would be for vehicles with three axles or greater.

Commissioner Powers commented on the steep turns coming down Royal Street and expressed concern that this might lead to brake failure. He asked if it would be better to have the construction vehicles go up Royal Street and down Marsac. Chair Hier felt that would cause more traffic and congestion at the roundabout.

Commissioner Powers asked if aggregate and rock crushing on site was being considered. Mr. Clyde replied that they will use the Daly overburden material for road base and backfill material.

Commissioner Larson expressed concern about noise and other environmental impacts related to batch plant and rock crushing operations. He wanted to better understand the noise impacts and suggested other locations he felt might be better.

Mr. Clyde commented on a note in the Staff report recommending that construction should begin in Pod A. He noted that, as currently phased, construction would start in Pod A and a portion of B1. The development agreement states that construction should begin in the village, which is all pods in the lower area. It is their intent to bring all unit types on at the same time to achieve the best product mix possible. Chair Hier suggested that they elaborate more and spell out what type of units are planned for each area and in what quantities.

Chair Hier opened the public hearing.

Bob Wells, representing Deer Valley, commented on the regulation of traffic and use of Marsac and the mine road versus Royal Street. He stated that he had no argument with the sharing of impact concept, but it raises a number of questions that need to be addressed. It would, in effect, create a detour which it appears would extend beyond construction vehicles. Anything with more than two axles would extend to service delivery traffic. He believes there would be a lot of feedback from the Silver Lake area businesses. It would also create economic impacts due to trip time, and sooner or later someone will get charged. He noted that Marsac and the Mine Road are still State highways, and he was unsure whether traffic could be regulated on a State highway.

Stan Castleton mistakenly commented on the Rosewood Hotel project at this time. His comments are included under the public hearing portion of the regular meeting for the Rosewood Hotel at Deer Crest.

Dana Williams expressed concern about going up Empire Canyon with the infrastructure, particularly based on the EPA reports regarding storm runoff. He was concerned about the amount of water coming down and the metals it would contain. In terms of phasing, he commented that the first phase, which is the roundabout, has already been completed, and he would like to see each phase finished before another phase is started.

Chair Hier closed the public hearing.

Commissioner Erickson stated that he understood concerns about the details in the small scale master plan, and he would like to see the phasing plan modified to establish parameters under which the small scale MPD would be approved. He suggested following the guidelines outlined by Commissioner Larson. The first step would be that a specific portion of Pod A and B1 should be constructed early, and a significant portion of Pod B should be constructed before any development is contemplated in Pod D. Development should follow the

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utility infrastructure expansions rather than moving from a part of Parcel B1 all the way up to B2. He wanted to see the phasing plan modified to establish criteria for small-scale development.

Administrator Putt stated that the Staff will work on revisions based on input this evening and provide the Planning Commission with an executive summary of changes.

**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
OCTOBER 10, 2001**

Present: Chair Jim Hier, Bruce Erickson, Chris Larson, Michael O'Hara,
Bob Powers, Andrew Volkman, Diane Zimney, Patrick Putt, Kirsten
Whetstone

WORK SESSION ITEMS

Park City Mountain Resort/Four Seasons Roundabout Discussion

Due to a conflict of interest, Commissioner Erickson abstained from discussing this item.

Chuck Corwin, representing the applicant, stated that, per direction at the last meeting, they analyzed four schemes for the Empire/15th Street/Silver King intersection in worst case scenario so the Planning Commission could see why they chose the roundabout scheme.

Steve Meyer, transportation manager for Sear Brown, presented background and noted that the traffic volumes anticipated for the future were taken from peak days and peak hours of 3:30 p.m. to 4:30 p.m. and include buildout of the area. It was analyzed for Presidents Day weekend, the busiest days of the year. Mr. Meyer stated that 53% was used for this analysis (i.e., 53% of skiers leave in the one-hour time span), and with this development, it could be spread out further, so the peak hour number could drop.

Commissioner Powers asked about the number of parking spaces in the garage. It was explained that there are 1,200 surface parking spaces and 476 stalls under the existing structure. Without Parcel B there are roughly 1,500 spaces, with 500 reserved for the Four Seasons. With Parcel B, there will be 2,000 spaces. Surface Lot B will have approximately 450 spaces, and that remains until Parcel B is developed. Mr. Meyer explained that the objective is to meet the capacity, provide for a safe circulation pattern to the intersection, and try to minimize overall width and impact of the intersection. They tried to evaluate each scheme with the same set of criteria.

Mr. Corwin explained the diagram for the two-way stop showing how traffic flows and where the stop would be. The diagram showed the number of cars that back up and the numbers that would go back through the parking garage ramp creating issues with parking garage efficiency. The average wait would be 633 seconds. From a safety standpoint, there is a potential for 90-degree-angle accidents because of left- and right-hand turns. Mr. Meyer explained that this type of delay would increase the potential for accidents because patience runs thin. Hotel access is across traffic exiting the skier parking garage.

Mr. Corwin explained that the four-way stop scheme uses the same basic intersection configuration. The four-way stop reduces impacts on access

out of the parking garage but creates greater impacts to Empire Avenue.

Mr. Meyer noted that the difference between a two-way stop and a four-way stop is the allocation of right-of-way and the idea of taking turns. He explained the safety hazards of the intersection and the potential for accidents given multi-lane four-way configuration.

None of the Commissioners favored the four-way stop.

Mr. Corwin noted that the traffic signal configuration is similar in terms of lanes and access to the hotel. The back-up changes on Empire but comes back into the skier parking garage. In this case, the parking situation coming out of the hotel would be worse than the two-way stop. Access from Empire to Park would be better than the four-way stop but would still have a certain degree of length. Getting into the hotel would become a difficult situation because of having to make a left-hand turn into the driveway.

Mr. Meyer explained that the delay is caused by the allocation of right-of-way and the loss of time due to the light. He was also concerned about the liability issues for the City. The question is whether they meet the standard warrants for a traffic signal, noting that an unwarranted signal would create potential hazards. He believed they would meet the national standards during a two-hour peak each day, but the rest of the time a light would be unwarranted. He explained the potential hazards related to an unwarranted traffic signal.

City Engineer Eric DeHaan commented on the negative aspects of having to stop for a red light during non-peak hours, particularly at 2:00 or 3:00 a.m., and explained why he leaned more toward the roundabout alternative.

Commissioner Larson felt that a four-way stop would be safest for pedestrian access.

Mr. Meyer discussed how the roundabout was modified based on comments from the last meeting. The Commissioners discussed problems they could see with the roundabout as proposed. Planner Whetstone noted that this roundabout has different interests and volumes than the roundabout at Deer Valley and Marsac. It was suggested that someone be available to direct traffic at peak hours on peak days. Many times the police must direct traffic through the roundabout on Marsac, and this should be considered as a possibility for the hotel roundabout.

Commissioner O'Hara commented on the MPD process a few years ago and how they looked at safety, traffic flow all the way down and around Parcel B, the problems with paid parking, and how to keep people from parking on the street. A big issue was how to encourage people to start using buses. They need to make it easy for buses to move through the roundabout quickly so people sitting in cars will think about taking the bus next time. He wanted to know what would happen if the roundabout were shut

down due to an accident. Mr. Meyer replied that most accidents in the roundabout are fender benders. The severity is lower because speeds are lower versus someone running a yellow light. If there is a crash in one segment of the roundabout, the other legs can still work to keep traffic moving.

After further discussion, it was noted that the roundabout at the hotel would be smaller than the roundabout at Marsac and Deer Valley Drive. The pavement width is the same, but the center island would be smaller.

Commissioner Powers questioned the need for two skier drop-offs. Mr. Corwin explained that they have been working with the Staff on a number of issues, one of which is the multiple backing up of parking in the area where the buses come in, the shuttle vans drop off, and people drop off their families. This created a traffic back-up for the City bus, and the bus system could not work efficiently. The Transportation Department requested that they provide another alternative for traffic relief. Planner Whetstone stated that the transportation people specifically requested a second drop-off location for safety reasons. The second drop-off is already part of the approved master plan and is not a new concept.

Commissioner Larson suggested a one-year review to see how it will all work and agreed with the idea of having someone direct traffic on peak days.

Commissioner O'Hara was more comfortable with the idea of an ongoing yearly review.

The Commissioners discussed pedestrian circulation and signage. Planner Whetstone stated that a building sign package must be submitted and reviewed by the Planning Staff prior to issuance of any sign permits for the Four Seasons. Commissioner Larson requested that the Planning Commission review the sign package and stated that he wanted to see every directional sign they propose. Directional signs for the roundabout will be very important. Planner Whetstone remarked that all directional signs and public necessity signs will come before the Planning Commission for approval before issuing a certificate of occupancy on this project. That is a function of the master plan because it involves the Park City Mountain Resort.

Commissioner O'Hara expressed concern about existing merchants and felt it was wise to consider a committee of merchants to review and sign off on this proposal. He stated that, unless the merchants are satisfied, he would not feel comfortable approving it.

Bruce Erickson, representing the applicant, stated that Trent Davis attended the work session this evening representing the interests of the merchants. They have three issues, and one is how they can manage having everyone look at the plan. Park City Mountain Resort is in the process of trying to create an overall redevelopment plan for the area which will combine input from all who have commented. They will have a conceptual plan showing all the things they hope to accomplish. As part of that conceptual plan, there will be a list of responsibilities divided between Four Seasons, the Resort and Four Seasons, and the Resort in the interest of the property owners. What they have is an organization plan of all those things combined into one set of drawings which will be part of the revisions to the MPD. They have agreed with David Zatz on a construction mitigation agreement to address how they build, what they will do, and how they will notify him. Mr. Erickson stated that there are issues between the Resort and adjacent property owners that are long standing, and they see those as part of this MPD. There are also issues that are part of the Four Seasons approval such as a master sign plan and public information sign plan that will be the Four Seasons' responsibility because of the roundabout change. Commissioner O'Hara stated that he was comfortable with that direction.

Mr. Erickson explained that the additional skier services are designed to accommodate an increase in capacity to the ski area, so they will not be splitting the existing size of the pie.

Planner Whetstone asked if the conceptual plan will be available for the October 24 meeting. Mr. Erickson replied that he and Mr. Davis have agreed to hold a coordination meeting before the next Planning Commission meeting.

Flagstaff Mountain Resort: Completion of public pre-application meeting, Review of final drafts of technical reports

Planning and Zoning Administrator Patrick Putt reported that the Planning Commission has spent several months reviewing technical studies for Flagstaff Mountain Resort as required by the annexation resolution. The last one was presented on September 24. At the beginning of the process, the Planning Commission instructed the Staff to return with the substantive changes to those documents and they have been prepared in a summary report and distributed to the Commissioners. Administrator Putt noted that these changes will be incorporated into the full studies. He stated that he has worked with the applicants for action on October 24 to allow the Planning Commission and the public time to read through the changes. On October 24, two actions will occur, accepting the studies with findings of fact and conclusions of law and formally closing the public pre-application process. Administrator Putt explained that a construction mitigation plan was not spelled out specifically as a technical report or study. The Staff

will address that as part of the small scale MPD, but in light of a recent accident on the Mine Road, they share the Planning Commission's concerns.

He noted that City Engineer Eric DeHaan has met with Liz Josephson and Doug Clyde to discuss this, and the Staff would like to work with them on a more specific plan.

Chair Hier stated that he thought he was clear on his thoughts about construction mitigation. Exhibit 15 is the construction mitigation plan presented as part of the overall construction mitigation plan for the entire project. Recognizing that each of the individual small plans will require a construction mitigation plan, he was under the impression that they would fall within the guidelines of the one presented two months ago, part of which included mitigating traffic coming down the Mine Road by routing truck traffic down Royal Street. He remembered being clear in stating that more than once.

Mr. Clyde referred to the edits under Transit and Parking and assured Chair Hier that his comments were not ignored. They were acknowledged in transit rather than construction. Chair Hier requested that his comments be addressed in the construction mitigation plan, because that is where the traffic will exist. Once the development is complete, he believed traffic would flow normally. An easy solution would be to require any vehicle with more than three axles to go down Royal Street. He wanted this or something similar to be included as a criterion in the overall construction mitigation plan.

Commissioner Larson agreed that anything over two axles should go down Royal Street and that it should be provided as clear direction.

Administrator Putt asked the Commissioners if they wanted to see the construction mitigation plan brought back before taking action on the studies. He was attempting to separate the individual processes, and the construction mitigation plan is an additional study that was not called out in the annexation resolution. After hearing the Commissioners' comments, he understood that they would not hold up acceptance of the resolution required plans because of the construction mitigation plan.

Chair Hier asked how they could address the infrastructure and traffic if they wait until there is a small scale project. Mr. Clyde explained that this is road construction under a UDOT permit. All of those projects will return with a small scale MPD or a CUP, and with that will come a construction mitigation plan as a requirement of those approvals.

Administrator Putt suggested moving forward with action on the plans that are required under the annexation resolution and working with the applicant and other City Staff to return with a more specific construction management plan concurrent with the small scale MPD review.

Chair Hier reiterated that he would soon like to see construction traffic going down Royal Street if it has anything to do with development activities that are not on State Highway 224.

Commissioner Erickson recommended following Administrator Putt's suggestion and approving the transit plan. Language can be included before October 24 stating that all vehicles with three or more axles must use Royal Street. This would allow them to make their recommendation for Royal Street, and that position can be reinforced with the construction management plan.

Commissioner Larson did not feel that edit would provide enough information for the Planning Commission to take action. He believed the changes they made needed to be more concrete.

Administrator Putt offered to provide full drafts of the revised studies by the first of next week so the Planning Commission will have time to review them before the next meeting.

Mr. Clyde noted that the studies were prepared in support of a large scale MPD, so they do not respond to a lot of detail. They attempted to identify the fact that these studies are conceptual, but they do have goals and objectives. As they come through the process and get to individual CUP's and more refined plans, they will look to the goals and objectives to see if they are met. He asked that the Planning Commission not look for specifics that cannot be generated at this time.

Review of Regular Agenda

1000 Park Avenue, Towne Pointe - Plat Amendment

Commissioner O'Hara commented on a rumor that this project is three months behind schedule and asked the applicants to address this issue in the regular meeting this evening. If this is true, he would like to know why they are behind and what they plan to do for the Olympics.

MOTION: Commissioner O'Hara move to CONTINUE this item to November 14, 2001. Commissioner Volkman seconded the motion.

VOTE: The motion passed unanimously.

4. Flagstaff Mountain Resort: Completion of public pre-application meeting process; and review and possible acceptance of technical studies pursuant to 1999 Annexation Resolution

Due to a conflict of interest, Commissioner Zimney abstained from discussing and voting on this item.

Planning and Zoning Administrator Patrick Putt explained that a public hearing will be held this evening on two items, and the Staff requests that the Planning Commission take action on findings of fact and conclusions of law completing the public pre-application meeting process for the Flagstaff Mountain Resort and findings of fact and conclusions of law formally accepting the final drafts for the technical reports as required by the annexation resolution adopted by the City Council on June 24, 1999.

He reported that the Planning Commission has reviewed the reports, and the revised drafts of the reports have been provided. At the work session this evening the Planning Commissioners discussed additional modifications to the language, specifically in the affordable housing/employee housing report, the open space management plan, the trails master plan, and the construction and development phasing plan. The work session ended with a discussion regarding timing for the commencement of construction and infrastructure in Pod D. Administrator Putt suggested that the Planning Commission conduct a public hearing and continue discussion.

Chair Hier re-opened the public hearing.

There was no comment.

Chair Hier closed the public hearing.

Doug Clyde, representing the applicant, stated that the ability of Flagstaff to deliver Pod D units to market greatly affects their ability to build the additional \$10 million of infrastructure they are committed to in Pod A. They are committed to writing a large check a year before they are allowed to go vertical in Pod D in an effort to prove their sincerity to delivering a marketable product in Pod A. He believed this was a fundamental issue, and he did not see how the City would be hurt. He believed they have gone beyond the commitment in the development agreement.

Chair Hier asked Mr. Clyde if he had come to a conclusion regarding a re-definition or expansion of the infrastructure for Pod A and whether they want to limit it to a spa and fitness facility or also include more of facilities. Mr. Clyde replied that it is somewhat abstract at this point because it has to do with usage. The Club facility was intended to support 700 or more unit equivalents. The amount of usage depends on the balance of how much is built and how much can be sold in terms of sponsorship.

Commissioner Larson stated that the initial phase includes the first phase of the club facility and the pulse gondola. The second phase includes the infrastructure to Pod D. The construction phasing schedule has the infrastructure to Pod D going in before the pulse lift and the Alpine Club. He asked Mr. Clyde to explain the phasing issue. Mr. Clyde replied that the confusion was created in part by Commissioner Larson's insertion at the work session. In the original language, they did not use the term "initial phasing" when talking about a phasing commitment. Assuming the change were made, Commissioner Larson asked how they would resolve the construction phasing schedule. Mr. Clyde replied that they may have problems due to the name Commissioner Larson attached to the phasing. The intent of putting together a bulleted list was to make sure that ambiguities did not occur because of verbiage. At first, the intent about an initial phase did not present any problems, but in thinking about it further, he realized that it would create some problems. Providing guarantees that the initial phase be completed before Lot D goes vertical is not a problem, but separating the two so that the applicant has no ability to provide bankable commitments on Pod D prior to those things being completed is a big deal. Commissioner Larson stated that he understood from Mr. Clyde that the product mix for Pods A, B1, and B2 was insufficient to insure that Pod A would be successful. Mr. Clyde explained that if Parcel D cannot be brought on at a date certain, the product mix would not be sufficient to provide enough cash to build the things the Planning Commission wants to see built. He commented that the development agreement was very specific about their ability to do that, and it is a key and substantive part of the negotiations. He believed accommodating Commissioner Larson's position was beyond their contract. Commissioner Larson suggested that the Planning Commission take the time to verify that, if the phasing proposed does not agree with the development agreement, it should be pursued.

Commissioner Volkman asked if there are other guarantees that would provide assurance that development in Pod A would be completed concurrently with the infrastructure. Mr. Clyde felt that the commitment not to go vertical could run with the land. If the commitment in Pod A is not met in order

to go vertical in Pod D, they would be history. Commissioner Volkman did not think that was enough of a guarantee under the most pessimistic viewpoint.

Commissioner Erickson agreed that the phasing plan needed more research and discussion. He proposed that the Planning Commission approve the studies and accept the master plan except for the final language of the phasing plan, which would provide an opportunity to review the following technical points. The applicant maintains that the development agreement establishes the phasing by contract. The Planning Commission proposed that allowing development of Phase B1 and B2 earlier than Phase A would constitute a change to the development agreement and subsequently allow for additional guarantees in Parcel A. Commissioner Erickson asked for additional definition of what Phase A improvements will be before allowing the applicant to move on to Phase D. He stated that he was undecided about allowing infrastructure into D. He believed the position of the City is that they should not place the developer in a position of potential failure, nor should they place the municipality at the point of accepting all the single-family homes in the area of development where it was least acceptable to the City in Parcel A, especially since this was the attractiveness of the project. He believed they could continue to discuss the small scale development plans while resolving the phasing issue. He believed this element must be approved concurrent with or prior to approval of the first small scale master plan.

Mr. Clyde found this acceptable and clarified that the phasing discussed in the development agreement refers to the Village and to Pod D and does not refer to phasing within A, B1, and B2.

MOTION: Commissioner Erickson moved that the Planning Commission ACCEPT 13 of the 14 studies submitted by the Flagstaff Mountain Partners in accordance with the findings of fact and conclusions of law outlined in the staff report with the Phasing Plan to be proved prior to or concurrent with approval of the master development plan. Modifications to the phasing plan should be relative to the timing of infrastructure and civil improvements to Parcel D and modifications to the development agreement with respect to phasing, and with the condition of approval that the other studies be modified in accordance with Commissioner Larson's recommendations for employee housing, POS zoning of Pod Z, and mixed use of trails. Commissioner O'Hara seconded the motion.

VOTE: The motion passed unanimously. Commissioner Zimney abstained from the vote.

MOTION: Commissioner Erickson moved to CLOSE the public pre-application process with the findings of fact and conclusions of law as identified in the staff report. Commissioner O'Hara seconded the motion.

VOTE: The motion passed unanimously. Commissioner Zimney abstained from the vote.

Findings of Fact - Flagstaff Mountain Resort - 14 studies

1. Council adopted Ordinance 99-30 on June 24, 1999, which annexed the Flagstaff Mountain project, also known as the Flagstaff Mountain Resort, into Park City.
2. Ordinance 99-30, Section II, 2.1: Large Scale MPD - Flagstaff Mountain specified that the developer is granted an equivalent of a Large Scale Master Planned Development.
3. Ordinance 99-30, Section II, 2.1: Large Scale MPD - Flagstaff Mountain requires the developer to submit the following studies prior to or concurrent with Small-Scale process for City approval:
 - a. Mine/Soil Hazard Mitigation Plan
 - b. Detailed Design Guidelines
 - c. Specific Transit Plan
 - d. Parking Management Plan
 - e. Detailed Open Space Plan
 - f. Historic Preservation Plan
 - g. Emergency Response Plan
 - h. Trails Master Plan
 - i. Private Road Access Limitation Procedures
 - j. Construction Phasing
 - k. General Infrastructure and Public Improvements Design
 - l. Utilities Master Plan
 - m. Wildlife Management Plan
 - n. Affordable Housing Plan
4. The Planning Commission held public meetings between June 13 and September 24, 2001, to review the studies. The Planning Commission provided for public input on the studies at each meeting.

Conclusions of Law - Flagstaff Mountain Resort - 14 Studies

1. The Planning Commission finds the studies required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD - Flagstaff Mountain to be complete.

2. The Planning Commission finds the studies required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD Flagstaff Mountain to be consistent with the provisions and intent of the Annexation Resolution adopted by Council on June 24, 1999.
3. The studies required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD - Flagstaff Mountain do not change or adversely affect the density, development locations, or project design as set forth in the Annexation Resolution adopted by Council on June 24, 1999.

Findings of Fact - Flagstaff Public Pre-application Process

1. Council adopted Ordinance 99-30 on June 24, 1999, which annexed the Flagstaff Mountain project, also known as the Flagstaff Mountain Resort, into Park City.
2. The Flagstaff Mountain Resort Project consists of approximately 1,655 acres with development limited to approximately 147 acres in four (4) specific areas.
3. The pending Land Management Code, Section 15-6-4(B): Pre-Application Public Meeting and Determination of Compliance, requires the Planning Commission to hold a public meeting to give the Planning Commission and public an opportunity to give preliminary input on a master planned development prior to formal master planned development application being submitted to the City.
4. The Planning Commission opened the public pre-application meeting on June 13, 2001. The public pre-application meeting was held open during the Planning Commission's review of the 14 studies/technical reports required by Ordinance 99-30.
5. Public comment was taken between June 13 and September 24, 2001.
6. The Park City General Plan establishes community policies and objectives for the Flagstaff Mountain Resort area, including environmental and open space objectives, community design, recreation and amenities, and transportation.

Conclusions of Law - Flagstaff Public Pre-application Process

1. The proposed master planned development concept is consistent with the Park City General Plan.

2. The proposed master planned development concept is consistent with the development agreement for the Flagstaff Mountain Annexation, Ordinance 99-30.

5. **1310 Lowell Avenue, Park City Mountain Resort - Master Planned Development amendment & Four Seasons Conditional Use Permit**

Due to a conflict of interest, Commissioner Erickson abstained from discussing this item.

Planner Kirsten Whetstone reviewed the application for an amended master plan for the Park City Mountain Resort and a Conditional Use Permit for a hotel and condominiums on Parcels B, C, D, & E. The project is located at 1310 Lowell Avenue and encompasses all the existing surface parking at the Resort. The parcel is zoned Resort Commercial (RC). The Staff recommended that the Planning Commission review the CUP analysis in the staff report, conduct a public hearing, and provide direction on finalizing findings of fact, conclusions of law, and conditions of approval. Planner Whetstone requested continued discussion on the master plan which contains some exhibits that need to have amendments made to them, particularly parking and traffic. She asked that discussion this evening focus on construction mitigation, noting that the Staff still needs to look at the utility plan in detail and that City Engineer Eric DeHaan will help them understand some of the impacts and mitigation. This will be tied into the construction mitigation plan which the applicants must provide prior to obtaining a building permit. She discussed changes in the traffic plan, including removal of all parking in the lower lots for Parcels C, D, and E. If new parking is not completed by the next ski season, it will create a problem which requires a revision to the traffic and parking management plan. She believed they would want to maintain the general conclusions of this plan which include annual review, encouraging employees to use public transportation, and traffic attendants at certain locations. She also requested discussion of the architectural design. She suggested that a condition be added to the CUP stating that Staff will be able to request additional information and presentation of materials in order to determine that the architecture is consistent with the Park City Mountain Resort study and the plans reviewed by the Planning Commission. Another item for focus is coordinating this new proposal with the existing resort.

Chuck Corwin, representing the applicant, stated that they are working with their contractor on a construction mitigation plan and will incorporate Mr. DeHaan's comments from work session into it. He hoped to submit a draft for the Staff to review before the next Planning Commission meeting. With regard to the architectural elements, he stated that he would have

no problem bringing in samples of materials to show their adherence to an approval. He reviewed additional information on materials and colored elevations.

John Hill, project architect, explained that the materials provided to the Commissioners contain four drawings with a written description. The idea is to create a unique look and architectural theme that respects and reinforces the character of Park City while establishing the project as a premier, world-class destination. They tried to tie the project design to the commercial and public buildings in Park City that reflect a sense of permanence and strength by utilizing the same proportions, colors, and materials. He reviewed the primary materials and indicated a number of local buildings within a two-block area that are examples of what they are trying to achieve.

Vern Greco, representing Park City Mountain Resort, discussed coordination of the existing base area with the proposed development. He noted that a Master Resort Association is in place as part of the existing development agreement, but there are currently only two members of the Association, Park City Mountain Resort and the Marriott. It was contemplated that the owners/developers of Parcels B, C, D, and E would also join the Master Resort Association. The issue from adjacent property owners is the potential for their inclusion into the Association, and the Resort is open to that concept and would support it. He discussed redevelopment of the existing base area and noted that there have been numerous discussions about enhancing the base and integration with the proposed development. He discussed some possibilities that have evolved from discussions with the merchants. Pedestrian flow has been discussed many times, and the Resort supports that issue. There will be a genuine effort to have no blockage from the Four Seasons Resort development and the drop-off area at the southernmost end of the project. He commented that signage is a big issue, and discussion needs to occur between the developers of the Four Seasons and all other stakeholders in the area. He believed signage should go beyond conventional boundaries and start right after turning off of Park Avenue into the new entry corridor. He discussed the merchants' desire to expand retail so the existing retail area will remain vibrant and competitive with the new development. The Resort supports this request, and that retail expansion could happen in a number of ways which he discussed. He stated that the Resort is committed to looking at all three corridors into the existing base area and explained possible improvements that could be made to each corridor. Parking spaces in the plan presented meet the conditions of the existing and approved development agreement. He commented that the number of parking spaces in the proposed

development dedicated to skier parking meets the Resort's needs for expansion and buildout of the mountain.

Chair Hier re-opened the public hearing.

Harvey Lapointe, a resident at 537 Deer Valley Drive, did not object to the proposal but wanted to comment on roundabouts and why they do not work.

He stated that he has lived on Deer Valley Drive for nine years, and last year was his first year with the roundabout. Before the roundabout, he could not remember having a traffic jam in front of his house in the winter.

He noted that, even though the police get involved in directing traffic through the roundabout, people still stop. On December 27, He and his family and guests took a City bus from Snow Park lodge to his house which is one mile away. Traffic was so backed up that it took the bus driver 17 minutes to get from Snow Park Lodge to the front of his house. He stated that he drives through the roundabout several times a day and sees the things that happen and that people will stop regardless. He predicted that the roundabout for this project would not work any better than the one on Deer Valley Drive and that there would be worse traffic jams than there are today. He stated that he grew up in the east where roundabouts were called rotaries, and they are all gone now. He assumed they were gone because they did not work.

Bill Coleman stated that he believed the roundabout was a good solution for this project, and he believed the existing roundabout would eventually work. After listening to comments from previous meetings and having traveled around the world watching how roundabouts work, he believed the diameter and number of exits was very important. He commented that the Deer Valley roundabout needs some management and reconfiguration to enhance it. Mr. Coleman encouraged flexibility in the project plan. He stated that he has been involved with this parcel for a long time but is not involved with the developers in any way. All the plans since 1970 had the disadvantage of parcels being developed independently. The issues of marketing one project against another became cumbersome in efforts to plan and market the project. This plan, with a common developer, provides an opportunity that the City may not see again and is one that raises the standards higher for the community.

Chair Hier continued the public hearing.

Chair Hier believed another meeting might be needed to provide direction for conditions. He liked the idea of bringing the grade level up to the north end of the existing buildings and felt that should be strongly considered. Regarding pedestrian access and drop-off, he requested more

definition of how it would look and what type of entry would be provided to the south.

Commissioner O'Hara disclosed that he had a conversation with Bruce Erickson regarding the progress being made with existing business owners. Commissioner O'Hara referred to the roundabout and stated that, a problem with traffic studies is they tend to focus on the worst hour of the worst day of the year. He believed they should focus on how the intersection will work on a daily basis, because nothing can help the worst day of the year. He believed the traffic circle should function in a particular way, and there should be a default setting to direct people to the Resort Center.

He believed once people were more familiar with the layout, they would see the other options of parking in the lower lot, Lot B, or at the existing resort parking structure. He tended to share Mr. Lapointe's viewpoint on the roundabout.

Commissioner Zimney agreed with Commissioner O'Hara's suggestion regarding a default. She stated that signage is important and one of the major issues, not only for the roundabout but for the Resort. She was pleased that the Resort would have a face lift in an effort to bring viability. She believed they should try the roundabout first, and if it does not work, they could look at a different solution.

Commissioner Powers was unsure how reducing the radius of the roundabout would help 18-wheelers. Chair Hier suggested that the applicants present a diagram of a long truck to demonstrate how it will work.

Commissioner Volkman stated that he liked the plan, but before he could develop recommendations for approval, he would need to see a pedestrian circulation plan. He noted that this is a huge project that will make a tremendous difference to Park City and the Resort, and a major issue is how to incorporate the old Resort with the Four Seasons. Pedestrian circulation is a critical component of that. He believed the construction mitigation plan should include a back-up plan to address Mr. DeHaan's concerns, and he wanted to see that construction mitigation plan before approving the CUP. Regarding architectural details, he requested more elevations that what has been presented. He asked about the specificity of an employee housing plan. Planner Whetstone stated that the applicant is still working on a plan for the Munchkin site, and the Staff would like to review it before bringing it to the Planning Commission. She noted that those units need to come on line before a certificate of occupancy can be issued, which will be addressed through a condition of approval.

Commissioner Volkman stated that he was pleased with what had been shown

but felt it was premature to finalize findings and conditions because there is a lot of detail they still need to see.

Commissioner Larson believed they should address issues from the previous MPD, such as phasing, parking requirements, and architectural design guidelines. He also believed they should identify the parties to the Master Association Agreement to be sure all the right people are involved. Regarding the CUP, he wanted to review the employee housing, employee parking, and a volumetrics, including the architectural guidelines and elevations in detail. He also wanted to see a Munchkin Lane site plan. He reiterated Commissioner Volkman's request for a construction mitigation plan, traffic parking mitigation plan, and pedestrian circulation plan. He preferred to discuss as much as possible now rather than wait until later, and the CUP process is when these things should be addressed.

Chair Hier wanted to see answers and alternatives to all the items addressed by City Engineer Eric DeHaan during the work session. He stressed the importance of an employee housing plan and how the applicant plans to provide parking and transportation for employees.

Planner Whetstone noted that phasing is critical, because it is different from what was approved with the PCMR MPD. Commissioner Larson commented that there are two components to phasing, the overall phasing and the construction mitigation plan which will include a phasing document.

5. Sunny Slopes Drive, Gleneagles Subdivision - Conditional Use Permit for an entry gate

Planner Brooks Robinson reported that on September 12 a public hearing was held on a CUP for a gate on Sunny Slopes Drive on the north end of the Gleneagles Subdivision. The Planning Commission directed Staff to prepare findings of fact and conclusions of law for denial of the CUP, which the Staff has done, and he asked that the Planning Commission review the findings and conclusions to see that they accurately reflect their decision. He noted one correction and asked that Conclusion of Law 4 be stricken as it is actually Finding of Fact 6.

Jim Roberts, representing the applicant, asked to speak on this matter given the procedural stage of stayed litigation and an appeal to the City Council upon ratification of these findings and conclusions. He stated that they object and that they are satisfied that the Planning Commission has made up its own policy that gates are not permitted in Park City. He questioned why gates were authorized in The Knolls and at Iron Horse.

General Commercial Zone to ascertain whether or not that open space requirement should remain or should be modified as the Planning Commission elects to decide.

IV. OLD BUSINESS

4. Flagstaff Mountain Resort - Construction & Development Phasing Study

Due to a conflict of interest, Commissioner Zimney abstained from discussing and voting on this matter.

For the benefit of the public, Administrator Putt recommended that the Planning Commission review the points made during work session. They had concluded that there would be no vertical construction in Pod D until the following items had been completed.

1. Approval of the mountain village master plan MPD and all related CUP applications. That could include the Alpine Club Phase I, pulse gondola, transit hub, village ski runs, and related landscaping.
2. An approval of the Pod D MPD and subdivision plat.
3. Substantial completion and bonding for completion by Christmas of 2004 for the Alpine Club Phase I, including a minimum of a restaurant, bar, convenience store, landscaping, ski runs, and pedestrian connections, related Alpine Club multi-family units as approved in the conditional use permit, and concierge services operated by a management company. It was understood that Phase I of the Alpine Club would be a minimum of 10,000 square feet.
4. The issuance of a building permit and bonding for completion by Christmas of 2004 for the mountain village transit hub.
5. The issuance of a building permit and bonding for the completion by Christmas of 2004 for the pulse gondola.
6. The commencement of construction of at least one of the multi-family buildings within the mountain village in addition to the Alpine Club.

Administrator Putt recommended that this language be included as a condition of approval should the Planning Commission take action this evening to accept the study. The staff report contains findings of fact and conclusions of law for action.

Doug Clyde, representing the applicant, clarified that when they were discussing the multi-family and units above the Alpine Club during work session, they said the Alpine Club units would be

included but, it was building permit for one additional multi-family unit and not commencement of construction.

Chair Hier called for public input on the last study element of the Flagstaff Development, the construction and mitigation plan.

There was no comment.

Chair Hier closed the public comment.

MOTION: Commissioner Erickson moved to accept the Construction and Development Phasing Plan for the Flagstaff Mountain Resort in accordance with the Findings of Fact and Conclusions of Law as identified in the staff report, with the condition of approvals as related by Administrator Putt which are the six major items for completion or bonding for completion with an additional condition that the Staff review and approve the final language. Commissioner O'Hara seconded the motion.

VOTE: The motion passed unanimously. Commissioner Zimney abstained from the vote.

Findings of Fact - Flagstaff Construction and Development Phasing Plan

1. Council adopted Ordinance 99-30 on June 24, 1999, which annexed the Flagstaff Mountain Project, also known as the Flagstaff Mountain Resort, into Park City.
2. Ordinance 99-30, Section II, 2.1: Large Scale MPD - Flagstaff Mountain specified that the developer is granted an equivalent of a Large Master Planned Development.
3. Ordinance 99-30, Section II, 2.1: Large Scale MPD-Flagstaff Mountain requires the developer to submit the following studies, prior to or concurrent with Small-Scale MPD process for City approval.
 - Mine/Soil Hazard Mitigation Plan
 - Detailed Design Guidelines
 - Specific Transit Plan
 - Parking Management Plan
 - Detailed Open Space Plan
 - Historic Preservation Plan
 - Emergency Response Plan
 - Trails Master Plan
 - Private Road Access Limitation Procedures
 - Construction Phasing
 - General Infrastructure and Public Improvements Design
 - Utilities Master Plan

- Wildlife Management Plan
 - Affordable Housing Plan
4. On October 24, 2001 the Planning Commission accepted the following studies:
 - Mine/Soil Hazard Mitigation Plan
 - Detailed Design Guidelines
 - Specific Transit Plan
 - Parking Management Plan
 - Detailed Open Space Plan
 - Historic Preservation Plan
 - Emergency Response Plan
 - Trails Master Plan
 - Private Road Access Limitation Procedures
 - Utilities Master Plan
 - Wildlife Management Plan
 - Affordable Housing Plan
 5. The Planning Commission held public meetings between June 13 and September 24, 2001, to review the studies. The Planning Commission provided for public input on the studies at each meeting.
 6. The Planning Commission held public meetings on the Construction and Development Phasing Plan on November 14, 2001, November 28, 2001, and December 12, 2001. The Planning Commission provided for public input on the study at each meeting.

Conclusions of Law - Flagstaff Construction and Development Phasing Plan

1. The Planning Commission finds the Construction and Development Phasing Study required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD - Flagstaff Mountain to be complete.
2. The Planning Commission finds the Construction and Development Phasing Study required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD-Flagstaff Mountain to be consistent with the provisions and intent of the Annexation Resolution adopted by the Council on June 24, 1999.
3. The Planning Commission finds that the Construction and Development Phasing Study required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD-Flagstaff Mountain does not change or adversely affect the density, development locations, or project design as set forth in the Annexation Resolution adopted by Council on June 24, 1999.

Conditions of Approval - Flagstaff Construction and Development Phasing Plan

1. Approval of the mountain village master plan MPD and all related CUP applications. That could include the Alpine Club Phase I, pulse gondola, transit hub, village ski runs, and related landscaping.
2. An approval of the Pod D MPD and subdivision plat.
3. Substantial completion and bonding for completion by Christmas of 2004 for the Alpine Club Phase I, including a minimum of a restaurant, bar, convenience store, landscaping, ski runs, and pedestrian connections, related Alpine Club multi-family units as approved in the conditional use permit, and concierge services operated by a management company. It was understood that Phase I of the Alpine Club would be a minimum of 10,000 square feet.
4. The issuance of a building permit and bonding for completion by Christmas of 2004 for the mountain village transit hub.
5. The issuance of a building permit and bonding for the completion by Christmas of 2004 for the pulse gondola.
6. The commencement of construction of at least one of the multi-family buildings within the mountain village in addition to the Alpine Club.
7. The Staff shall review and approve the final language.

The applicants provided a media presentation.

Mr. Clyde remarked that a few weeks ago they submitted the Village Master Plan MPD application and will review that this evening. The objective is to reach a comfort level with the Planning Commission about the direction they are going so they can continue to make design progress during the hiatus in January and February.

Mr. Clyde presented computer graphics of Flagstaff Village and outlined the objectives of the Village Master Plan, which are to establish the permitted land uses, such as multi-family/single-family residences and development, and PUD's for each of the development parcels. What they hope to achieve is something between the Deer Valley Special Exception Permits and the approval at the base of Park City Mountain Resort. They are looking for approval of the multi-family parcels and quantity and size of the single-family subdivisions and PUD's that were approved in the Large Scale Master Plan, which are all subject to future platting and conditional uses. They hope to establish maximum heights for the improvements to be constructed in each development pod. The architectural character of the resort will expand upon the design guidelines that have already been

approved. Also included will be road and utility corridors for the resort and preliminary approval of the preliminary plat for Phase I of the Village and final plat approval.

Mr. Clyde commented that the resort wants to create a community and lifestyle focusing on a distinct and secure sense of place and offer a total resort experience. They want to respect the heritage of the area and provide ease of transportation, more access to trails and trailheads, and other project amenities, all of which focus around the discussions which have occurred over the past few weeks about the first phase project amenities. The Mountain Village is required to have 65% of the density within a five-minute walk of the transportation hub, and they will meet or exceed those objectives.

Mr. Clyde stated that the focal point of the project will be the amenities, and specifically the Club facility will be the focal point of the first phase. Additional amenities will eventually include a Beano style cabin somewhere on the site, and the Ontario Mine site will be redeveloped. The Judge Mine office building will be restored and reused and offer central check-in. Mr. Clyde presented an overview of the site showing the Deer Valley ski runs and building footprints in the Village. He reviewed the Village pods and showed an example of how the ski to/ski from access will work through the site. He presented internal and outside views of the buildings.

Jack Thomas explained the volumetrics and footprints of possible building plans and noted that each site has gone through a schematic design process to assure that it can work. He did a fly-around of the buildings and explained the design and architecture proposed for each. He remarked that the MPD must be in compliance with the Large Scale MPD pods as identified in the annexation agreement and consistent with all the studies they have presented. They will bring to the Planning Commission an analysis of solar exposure, explanations of why they believe the site works, why the mass is appropriate, how the circulation works, and the concept for the overall core of the village. He requested input from the Planning Commission regarding the village master plan and direction as to what they should look at as they move forward.

Commissioner Larson stated that he would look at height in the first phase and would want to determine that they are not increasing density by looking for a height exception and that there is a net public benefit. No one wanted a flat, square building, but he would be sensitive to height from the perspective of this project and the community. He expressed concern about vegetation in Pod A and Buildings C, D, E, and F and stated that he would look for preservation of existing vegetation. He had heard assertions that it would be leveled for parking garages, but given the type of vegetation, he believed it was important to preserve as much as possible. He referred to the slope map for B1 and felt there may be steep slope concerns. He would look for a detailed slope analysis of B1 and the perimeter of A. They will probably look at cross sections on the steeper ones and possibly reducing heights.

Mr. Clyde commented on slopes in the project and explained that the development pods were located primarily respecting that. The project is not subject to Sensitive Lands, and determinations were

made during the development agreement regarding burdens of proof on open space relative to the number of units.

Commissioner O'Hara stated that the Planning Commission would not want to see the tallest buildings with the flattest surface next to the steepest slope. He noted that a great deal of what they approve is based on how the project appears. In that respect, he would appreciate renderings that are aerial views, five stories up looking out across an area, showing what it will look like to pedestrians.

Commissioner Larson stated that he was comfortable looking at elevations. His slope concerns were very specific. While Sensitive Lands does not apply explicitly, the site planning characteristics do.

Mr. Clyde clarified that his comments were not intended to imply that they would not do good site planning. He believed some things in Sensitive Lands would prevent them from making the best decisions if they are applied.

Chair Hier felt there had been enough meetings that they all have an understanding of what the Planning Commission will be looking for, whether or not Sensitive Lands Ordinance directly applies. They will be influenced by the same principles that went into the general aspect of that as they look at all the projects and how they look from roadways and various viewpoints in town, as well as from where they are in the pedestrian areas. He did not believe the Planning Commission could provide any further or clearer direction.

Mr. Clyde commented that the next step is to get into the cross sections of the buildings and what they like and do not like. He asked if it would be possible for the Planning Commission to meet one more time in January. Chair Hier suggested that as documents are developed, they be sent to each Commissioner who could call a subcommittee meeting with no more than three Commissioners to discuss the documents and provide direction to keep the work moving forward. Commissioner Larson also preferred the subcommittee approach. Commissioner O'Hara stated that he did not have any interest in a special meeting. If they chose to meet, it should be a public meeting made available to other projects and applicants. The other Commissioners concurred.

2. Chatham Crossing Affordable Housing Master Planned Development pre-application meeting - Adoption of findings regarding General Plan compliance

Administrator Putt reported that the objective is to review a public pre-application for the Chatham Crossing Affordable Housing Master Planned Development. Public pre-application meetings are required under the pending MPD Chapter of the Land Management Code. The purpose of the pre-application meeting is to give the applicant an opportunity to present preliminary concepts for a proposed development and allow the public and Planning Commission a chance to comment on any concerns or potential concerns before an application is filed.

Planning Commission Staff Report

Author: Brooks T. Robinson
Subject: Adoption of Revised and Updated
Technical Reports 1, 7, 15
Date: February 25, 2004
Type of Item: Administrative



**PLANNING
DEPARTMENT**

Summary Recommendations:

Staff recommends the Planning Commission open the public hearing and take any public comment, review the changes made to the Technical Reports and make final modifications as necessary and adopt the findings of fact and conclusions of law as proposed or amended accepting the studies.

A. Topic

| | |
|---------------------------|---|
| Applicant | United Park City Mines Company |
| Location | Flagstaff Annexation Area |
| Zoning | Residential Development (RD and Recreation Open Space (ROS)) as part of the Flagstaff Master Planned Development (MPD) |
| Adjacent Land Uses | Deer Valley Resort, other potential development parcels of Flagstaff Annexation Area. |

B. Background

On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the 1,655 acre Flagstaff Mountain area. Resolution 20-99 granted the equivalent of a "large-scale" master planned development (MPD) and set forth the types and locations of land use; maximum densities; timing of development; development approval process; as well as development conditions and amenities for each parcel.

In December of 2001, the Planning Commission approved and adopted fourteen Technical Reports as required by Ordinance 99-30, Section II, 2.1: Large Scale MPD–Flagstaff Mountain that required the developer to submit the following studies, prior to or concurrent with Small-Scale MPD process for City approval:

1. Mine/Soil Hazard Mitigation Plan
2. Detailed Design Guidelines
3. Specific Transit Plan
4. Parking Management Plan
5. Detailed Open Space Plan
6. Historic Preservation Plan

7. Emergency Response Plan
8. Trails Master Plan
9. Private Road Access Limitation Procedures
10. Construction Phasing
11. General Infrastructure and Public Improvements Design
12. Utilities Master Plan
13. Wildlife Management Plan
14. Affordable Housing Plan

In addition, a fifteenth report, Construction Mitigation was also approved and adopted.

As the development began to take shape, three reports became substantially out of date and needed to be updated. The three reports are: #1, the Mine/Soil Hazard Mitigation Plan, #7, the Emergency Response Plan, and #15 the Construction Mitigation Plan.

C. Analysis

There was general re-organization of the three reports and the elimination of redundant or out of date language. A summary of the major issues is outlined below.

The Mine Soil and Physical Mine Hazard Plan was updated to include the work being carried out under the United States Environmental Protection Agency Consent Agreement to remediate the hazardous levels of heavy metals located within the Annexation Area. A Soils Repository has been sited in the Daly West area of Empire Canyon. This site concerns the City in that it would be permanently located within the City Limits and, more importantly within the headwaters of a City water source. The City has proposed a second, preferred site at Richardson's Flat, if agreeable to the EPA.

The Emergency Response Plan (#7) has been updated to provide for a Police substation within the Pod A Village, specifically the Empire Club building, and a dedicated fire station site between Pod B-2 (Empire Canyon Lodge area) and Pod D (the single family, Red Cloud subdivision).

The Construction Mitigation Plan (#15) was needed additional clarification on several items. The major deletions were the batch plant and rock-processing operations at the Daly West site. An addition was the requirement for site-specific CMPs to be submitted with each Conditional Use Permit so that the impacts of each project are known and part of a public hearing process. Of importance with each CMP will be the location and disposition of excess excavated soil. The City is concerned with the possibility of multiple truck trips over public roads to temporary and then permanent soils repositories. In addition, the applicant is proposing to use the Ontario Mine bench for soils processing with excess material being moved around the Prospect Ridge drift road for deposit at the Judge landslide.

The other issue of concern is the requirement (on page 11) that downhill truck traffic use Royal Street. Staff requests that the Commission discuss this issue. As the

Mine Road is currently a State Highway, Park City has limited enforcement capability. The CMP envisions a checkpoint near the old stables building and for the developer to have some enforcement. Staff would prefer some flexibility to look at each site-specific CMP for traffic. Royal Street, of course, is a City street and the amount of heavy truck traffic will cause the City to undergo costly repairs at a date earlier than anticipated. Routing heavy truck traffic (for instance, the remediated mine soils trucks going to Richardson's Flat) down State Route 224 would shift the burden of repairs to the State. In addition, the runaway truck ramp is located on SR 224 and there is none on Royal Street. SR 224 is also shorter by a significant distance and would reduce the cost of trucking the remediated mine soils to Richardson's.

Department Review

This project has gone through an interdepartmental review. Outstanding issues are discussed above.

Notice

Legal notice was also put in the Park Record. No public input has been received by the time of this report.

ALTERNATIVES

- A. The Planning Commission may adopt the three updated and revised Technical Reports, or
- B. The Planning Commission may deny the three updated and revised Technical Reports, and direct staff to prepare findings supporting this action, or
- C. The Planning Commission may continue the discussion to a later date.

RECOMMENDATION

Staff recommends the Planning Commission open the public hearing and take any public comment, review the changes made to the Technical Reports and make final modifications as necessary and adopt the findings of fact and conclusions of law as proposed or amended accepting the studies based on the following:

Findings of Fact:

1. Council adopted Ordinance 99-30 on June 24, 1999 that annexed the Flagstaff Mountain project, also known as the Flagstaff Mountain Resort, into Park City.
2. Ordinance 99-30, Section II, 2.1: Large Scale MPD—Flagstaff Mountain specified that the developer is granted an equivalent of a Large Master Planned Development.
3. Ordinance 99-30, Section II, 2.1: Large Scale MPD—Flagstaff Mountain requires the developer to submit the following studies, prior to or concurrent with Small-Scale MPD process for City approval:

1. Mine/Soil Hazard Mitigation Plan
 2. Detailed Design Guidelines
 3. Specific Transit Plan
 4. Parking Management Plan
 5. Detailed Open Space Plan
 6. Historic Preservation Plan
 7. Emergency Response Plan
 8. Trails Master Plan
 9. Private Road Access Limitation Procedures
 10. Construction Phasing
 11. General Infrastructure and Public Improvements Design
 12. Utilities Master Plan
 13. Wildlife Management Plan
 14. Affordable Housing Plan
 15. Construction Mitigation Plan
4. The Planning Commission held a public hearing on February 25, 2004, to review the studies. The Planning Commission provided for public input on the studies at this meeting.

Conclusions of Law:

1. The Planning Commission finds that the revised and updated Technical Reports 1, 7, and 15 required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD–Flagstaff Mountain to be complete.
2. The Planning Commission finds that the revised and updated Technical Reports 1, 7, and 15 required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD–Flagstaff Mountain to be consistent with the provisions and intent of the Annexation Resolution adopted by Council on June 24, 1999.
3. The revised and updated Technical Reports 1, 7, and 15 required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD–Flagstaff Mountain do not change or adversely affect the density, development locations, or project design as set forth in the Annexation Resolution adopted by Council on June 24, 1999.

Condition of Approval

1. Each site-specific Construction Mitigation Plan (CMP) must be submitted with the Conditional Use Permit.
2. Downhill truck traffic will be addressed with each site-specific CMP.

EXHIBITS

The Revised and Updated Technical Reports are provided to the Commissioners in a binder. Copies for review are available at the Planning Department.

a fire protection plan that will mitigate the issue. Planner Whetstone replied that the concern came from the City Engineer and Ron Ivie. Mr. Ivie is comfortable with one house but wants to see a fire protection plan. City Engineer Eric DeHaan explained that the concern relates to Mountain Top Lane more than to the Mountain Top Drive cul-de-sac. Mountain Top Lane is a five headed cul-de-sac coming off of Meadows Drive down the hill. He and the Fire Marshall have been concerned for some time about the fire risk on Quarry Mountain, specifically the steep slopes, vegetation cover, and access. They do not want to put an undue burden on the annexation, but the issue is how to get fire fighting equipment to the steep slopes of Upper Quarry Mountain. Because the cul-de-sac is a dead end for half a mile from Meadows Drive up, they want to know if there is a potential for additional road access to provide two ways in and out. They are raising the issue at this time but do not have a good answer yet. Commissioner O'Hara asked if the City would respond to fires on this property whether or not it is annexed. Mr. DeHaan replied that the Park City Fire District would respond. Mr. Graham commented that there will be a fire hydrant at the end of the cul-de-sac, and the Fire Marshall has indicated that it would be a benefit to have a reliable water source for fire fighting on the ridge line of Mountain Top.

Commissioner Erickson commented on the access road through the radio towers and asked if that is an easement across the Hoffman property. Mr. Graham replied that it is an easement to Summit County. Commissioner Erickson disclosed that he designed the road. He suggested that it would be nice to extend the trail network onto the road. If there is not an easement for the existing two trails coming out of Sandstone Cove, those trail easements are needed as part of the annexation.

Flagstaff Mountain Resort/Empire Pass at Deer Valley
Construction Mitigation
Emergency Response
Mine Soils and Physical Hazards Mitigation

Planning Director Patrick Putt reported that there will be a public hearing and possible action this evening to accept a number of revisions to the Flagstaff Mountain Resort, now known as Empire Pass. In December 2001 the Planning Commission adopted the 14 technical reports. Based on modifications to the project and a new property owner, it was necessary to amend three of the reports. Director Putt stated that, after a few revisions, the Staff will recommend that the Planning Commission formally adopt the reports.

Director Putt discussed the Mine Soil Hazards Plan and explained that the main issue is where the repository for the contaminated soil would be located. The original plan identified a repository site near the Daly West mine hoist. The Community Development Staff was concerned with whether it was a good idea to put everything at the head water of the City's water source. Discussions were held with the property owner about possibly

transporting some of the material to Richardson=s Flat. The technical report allows for that flexibility, which will become a firm plan when a construction mitigation plan is approved. The City is also interested in taking material dredged from the pond at the City Golf Course to the repository site if necessary and appropriate. The material, water, and sediment associated with those ponds originate on United Park Mines property. Ron Ivie and Jeff Schoenbacher have drafted language that reads, "United Park City Mines Company and Park City Municipal Corporation have agreed that soils generated within the City Limits that are contaminated or suspect to being contaminated with mine tailings will be disposed of at no cost within the designated repository. This agreement is based on the November 11, 2003, letter from City Manager Tom Bakaley to United Park=s Tim Tattison. Park City Municipal Corporation anticipates that these soils are being generated from remediation, construction, utility trenching, and pond sediment removal as stipulated in the correspondence. Park City Municipal will comply with any administrative requirements required by UPCM, UDEQ, USEPA, or Summit County in order to use those repositories." This language will be inserted in Appendix 2 on Page 8.

Director Putt addressed the Emergency Response Plan and noted that the primary issue is negotiating a police station in Pod A within the Alpine Club or the Empire Club, which the applicants and property owner have agreed to. Another issue is a dedicated fire station site in an area above B2 below the Red Cloud or Pod D area in general proximity of the well, pump house, and snowmobile storage parking lot area. The Staff has reviewed the site, and Ron Ivie and the Fire District is satisfied with that location and the Staff will recommend that the Planning Commission accept this plan.

Director Putt addressed the Construction Mitigation Plan and noted that this report is important because it impacts everyone in Park City as the project builds out over the next several years, and it now needs clarification. One deletion was the requirement for a batch plant in the rock processing activity at Daly West. The currently-adopted report is not clear what would trigger that requirement and who would make the final determination, and the Staff recommended that requirement be eliminated from the plan. That does not mean there will not be a batch plant or rock processing facility at Daly West, but the decision will be made as part of the construction mitigation plan. Director Putt explained that these document revisions establish a requirement for the CMP to be reviewed at the time of the CUP process. The last two points address the issue of truck routing and truck hauling. He referred to page 11 of the CMP and noted that the language referring to construction impacts and mitigation measures places emphasis on directing truck traffic down Royal Street. When a large number of truck trips are generated to and from the site, Royal Street is a longer distance into town than Marsac Avenue. Director Putt commented on other negative aspects of using Royal Street, including the lack of a truck escape ramp. Since Royal Street is a City street, if the road were impacted or damaged as a result of truck traffic, the City would bear the cost of repair. The Mine Road is a State Highway, is a

shorter distance, and has a truck escape lane. The Planning, Building, and Engineering Department would like to discuss the possibility of amending the language in the technical report to allow for using the Mine Road if appropriate. The Staff would like to tailor fit the routing solution based on the nature, size, and magnitude of the CUP being reviewed and the actual project. They believe it makes sense to use Marsac Avenue for truck routing. If they do decide to use Marsac, it will become part of the plan, and there will be opportunity for public input. Utilizing Marsac Avenue will allow the ability to tailor the CMP to regulate the hours, days, and seasons truck traffic will occur.

Director Putt commented that the last issue relates to a minor change in what will happen to excavated material associated with constructing some of the projects. The emphasis will be on taking material generated from the excavation and using it on site to the greatest degree possible for back fill. The question is what to do with waste material that will not go back into the hole. The Staff recommends revising the language on page 13 of the CMP plan to read, "The bulk of this processing will occur pursuant to a City approved construction mitigation plan which reduces the overall number of haul trips necessary to transport the excavated waste material to its final approved location and minimize impacts on existing neighborhoods and future residents within the project area. Final locations for the waste materials storage shall be designated in areas which eliminate or substantially reduce haul trips down Marsac Avenue below Pod A." The intent of this revision is to avoid multiple truck trips up and down Marsac Avenue that could impact existing neighborhoods and residents within the project area in years to come. Director Putt noted that some of the material may end up in proximity to the slide in Empire Canyon, and some may be temporarily stored on the Ontario Bench. The purpose is to be sure the language in the technical reports states the problem and puts benchmarks on the expectation for mitigation as part of the CMP.

The Staff recommended that the Planning Commission accept the three technical reports as amended to allow the project and specific areas to move forward on the agenda this evening. The applicant also has a record of survey plat for additional units at the Ironwood project, and accepting these reports will allow that item to move forward as well as the first 12 units at East/West Pod A.

Commissioner O'Hara reiterated his previous disclosure that his firm is doing work for United Park City Mines on a property not associated with Flagstaff, which does not affect his ability to work on this matter.

Commissioner Powers asked if taking sediment from the ponds at the Golf Course would set a precedent for other people to put their sediment in this area. Director Putt replied that the final agreement as to where those materials go will be the result of an agreement between the property owner and the City. This would be written in a restrictive manner

and, and would not allow an additional third party to use those facilities for similar activities.

Commissioner Larson stated that he could not find new language stating that the CMP will be approved at the time of CUP. Director Putt replied that the language is found under Section 4 at the top of Page 9. Commissioner Larson believed the CMP should tie into the wildlife plan in terms of substantial noise and traffic. He commented on routing down Royal Street and felt that issue tied in with the first study of mine waste. One number he heard was the potential for 600 truck trips, and he believed that would result in a lot of brake noise down the Mine Road. Currently, Old Town bears all the impacts of the Flagstaff Construction, and the impacts are substantial. He has argued in the past for an equitable distribution of impacts, and he felt strongly that the rest of the community should take its share of the impacts. He understood the desire for flexibility but wanted to know the criteria to support that flexibility. He was especially concerned with the truck traffic generated by the remediation from Daly West.

Doug Clyde, representing the applicant, stated that the wildlife report did take into account the sensitive areas from a construction and an operations point of view. Commissioner Larson explained that his suggestion was for language tying the construction plan and wildlife plan together. Director Putt suggested adding a third sentence under construction phasing which could read, "The construction mitigation plan shall comply with this and all the technical reports adopted or subsequently amended."

Vice-Chair Barth felt they were dealing with global issues and asked if they would be able to address those issues when looking at piecemeal CUP approvals. Director Putt was confident that they could. He was also confident that the construction staging, truck routing, and associated impacts are as important in the short term as the projects themselves, and they warrant that level of review. Vice-Chair Barth clarified that the Planning Commission will see set criteria for each CUP so nothing will slip by.

Director Putt requested that the Planning Commission allow Bob Wells to speak to them. Mr. Wells commented on the truck routing and stated that the recommendation from Director Putt adds flexibility to deal with the details versus a document that would set rules for a 500-unit project that will go on for 10 years. The ability to address the truck traffic issue with an individual CMP approach will enable them to get a handle on what will happen on a particular project or in a particular year and leave the options open. Mr. Wells understood the suggestion for sharing the impacts but did not believe it should be an overall rule.

Commissioner Erickson stated that flexibility is good, but he would not want a CUP to be tied up over an external issue such as a CMP. He suggested that the Planning

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February 26, 2004
Page 7

Commission work to adopt a policy on the distribution of truck trips so there will be a set of criteria they can use to make findings under the CUP that they are applying the standards consistently. Commissioner Larson agreed that establishing criteria would be a good approach, because blanket flexibility results in disagreements.

9. Maximum height of the buildings will be 28 feet, plus 5 feet for a pitched roof. Setbacks are 20 feet in the front yards, 25 feet in the rear yards, and 12 feet in the side yards.
10. Emergency secondary access is provided through Empire Canyon and as otherwise specified in the Emergency Response Plan Technical Report approved 12-12-01.
11. The Planning Commission adopted a revised and updated Construction Mitigation Plan Technical Report on February 25, 2004.

Conclusions of Law - 8789 Marsac Avenue

1. There is good cause for this Record of Survey.
2. The 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 Record of Survey.
4. Approval of the 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 - 8789 Marsac Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the 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 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 Ironwood at Northside Village January 22, 2003, Conditional Use Permit shall continue to apply.
4. The final plat shall indicate the building area relative to the reclaimed mine shaft consistent with previous plat.
5. A Construction Mitigation Plan in conformance with the Flagstaff CMP Technical Report is required prior to issuance of any Building Permits.
7. Flagstaff Mountain Resort/Empire Pass at Deer Valley (Acceptance of revisions to technical reports)
Construction Mitigation
Emergency Response
Mine Soils and Physical Hazards Mitigation

Due to a conflict of Interest, Commissioner Zimney recused herself from discussing and voting on this item.

The Planning Commission discussed this item during work session.

Director Putt explained that a public hearing will be held this evening ,and the Planning Commission may take action on amendments to three technical reports for the Flagstaff Mountain Development now known as Empire Pass. He provided a brief explanation for those who did not attend the work session.

Mine Soils and Physical Hazards Plan

Director Putt explained that the primary changes to this document deal with location of the potential mine waste depositories, one being the Daly West Mine Site and the other at Richardson's Flat. This would allow flexibility to work with the applicant and federal and state environmental agencies to select the most appropriate site for the mine soil waste materials to be stored. The Staff requested additional language in Addendum 2 to the report which will allow the City, if necessary, to take some of the pond sediment from the City Golf Course pond to one of the potential sites.

Emergency Response Plan

Director Putt explained that the revisions provide clarification and commitments rather than actual changes. The property owner has agreed to provide a police substation in the Pod A Village, specifically in the Empire or Alpine Club. In addition, the property owner will dedicate a fire station site between Pod B2 and Pod D, now known as the Red Cloud Subdivision. This area is in proximity to the existing water tank and snowmobile parking area. These revised locations have been reviewed and accepted by the Fire Marshall, Police Chief, and Chief Building Official.

Construction Mitigation Plan

Planning Director Putt noted that these changes resulted in deletions and clarifications. The major deletion has to do with the requirement for a batch plant and rock processing operation at the Daly West site. Language in the original report was somewhat vague as to when that would be required and what would constitute reasonable financial hardship, and the Staff recommended deleting that language. However, that does not preclude the possibility that such activities will occur in the area. Instead, that will be the subject of a specific construction mitigation plan. The Staff will recommend that CMP's be submitted at the time a conditional use application is submitted, which will allow the public an opportunity to review the impacts associated with the construction of the individual projects. The Staff believes this will also allow better community education and an opportunity to achieve the best possible CMP.

Director Putt explained that the last two issues relate to truck routing. The plan specifies the intent to route truck/service delivery traffic down Royal Street, and they would like to have the flexibility to include Marsac Avenue per an approved CMP. Director Putt recommended language that better clarifies where and how waste soil material from the job

site would be disposed. Referring to Page 13 of the report, he suggested that the sentence read, "The bulk of this processing will occur pursuant to a City-approved construction mitigation plan which will reduce the overall number of haul trips necessary to transport the excavation waste material to its final approved location and minimize impacts on existing neighborhoods and future residents within the project area. Final locations for waste materials storage shall be designated in areas which eliminate or substantially reduces haul trips down Marsac Avenue below Pod A." The Staff recommended that the Planning Commission conduct a public hearing, continue their discussion, and accept the reports as amended and modified.

Vice-Chair Barth clarified that the analysis will happen on each CUP application.

Vice-Chair Barth opened the public hearing.

There was no comment.

Vice-Chair Barth closed the public hearing.

Commissioner Erickson stated that he was prepared to accept the reports this evening subject to the revisions suggested by Director Putt with two minor additions. He suggested that the Planning Commission accept the reports and have the final CMP be reviewed and accepted by Staff. Commissioner Larson asked if they could make a motion to accept the report tonight and ratify the modification made by the Staff at a later date. Commissioner Erickson suggested two additional modifications: A condition of approval of acceptance of the construction mitigation plan that a construction mitigation plan will part of the approval of the Conditional Use Permit. He felt it might be more reasonable to assume it at the MPD stage where it is a slightly larger project and more conceptual in nature. Director Putt recommended that it be done at the CUP stage because that is the most specific level of review. Commissioner Erickson agreed. Commissioner Erickson suggested that the Planning Commission accept the construction mitigation plan but that a committee be established to set the parameters under which the traffic will be distributed in accordance with the CMP. He believed the Planning Commission could accept the reports this evening and ratify the construction management plan if that is what the Commissioners want. Commissioner Larson preferred to have them come back for review and ratification.

Doug Clyde, representing the applicant, had an issue with clarification since some of the language is new. If the process would allow the applicant to discuss the clarifications with Director Putt between now and the next meeting, he would be comfortable with moving forward this evening.

Assistant City Attorney Tim Twardowski expressed concern with accepting the documents first and then letting the applicant discuss clarifications with the Planning Director, because

it puts the Staff in a position of reading the Commissioners' minds in terms of what they want. Until ratification occurs, there is no binding effect, and he preferred that they continue the item, let the Staff and applicant work on the language, and return to the Planning Commission to adopt findings. Commissioner Erickson asked if the Planning Commission could accept the first two documents without the construction mitigation plan. Mr. Twardowski replied that they could.

Director Putt believed the biggest concern was establishing rational and reasonable criteria for dealing with truck routing. An alternative would be to adopt the reports as discussed this evening and when the first CUP with a CMP is reviewed, the Staff can work on the criteria in a way that would set the benchmark for the criteria for all future plans.

Mr. Clyde commented that he received the new language recommended for the mine soils report today, and there is some ambiguity as to whether the language expands on what they agreed to in the letter. Director Putt stated that he felt strongly about the paragraph he included regarding sediment in the ponds and explained that it provides the opportunity to dredge the ponds and put the sediment in the depository. Mr. Clyde stated that he did not disagree with that. His concern is that the paragraph is not clear in defining that only soils from Park City Municipal Corporation will be accepted. Another issue is that the letter did not refer to "at no cost." He was willing to accept the materials, but if the materials did not originate from United Park City Mines property, it would be unfair to expect the applicant to offer a dump at no cost. Director Putt explained that, since most of the sediment in the pond generates from the applicant's property, the City is not interested in paying to take the materials to that site. If that is a point of contention, Director Putt recommended tabling the reports for further discussion. Mr. Clyde stated that the applicant does not want to operate a dump free of charge for materials that UPCM did not generate. Director Putt suggested language stating that, "United Park City Mines and Park City Municipal Corporation have agreed that soils generated from City property within the City limits that are contaminated." Mr. Clyde felt they should specify that it is only for materials generated by United Park City Mines. Materials generated by others would be removed at cost. Commissioner Larson asked if this would cause an argument each time about where the contamination came from. Mr. Clyde explained that the EPA makes that decision.

Vice-Chair Barth suggested waiting until the issues are resolved before accepting the reports.

Commissioner O'Hara stated that with his understanding of the State rules, he was unclear how they could remove materials off-site and put them on-site without doing a fill. Mr. Clyde stated that the EPA controls where the material goes. They can make the request, but the EPA determines if it fits the rules.

After further discussion, Director Putt recommended that the Planning Commission approve the amended documents with additional language as recommended by the Staff. In the event that the Planning Commission does not elect to accept the reports and tables them to another meeting, they would be unable to take action on the three East/West plats which follow on the agenda.

Commissioner Erickson clarified that the objective is to be sure the document is written as clearly as possible with all the corrections in place and clearly defined between all parties. If the documents are adopted as revised this evening with the changes recommended by Staff, he wanted to be sure the documents are written clearly and concisely. He was willing to make a motion to accept all three documents and direct the Staff to make sure the changes are implemented according to the discussion this evening.

Mr. Twardowski felt that Mr. Clyde's comments address a more substantive issue related to the technical documents. If accepted as is, the Staff has one interpretation, and the applicant has requested a different interpretation. At this point the Staff is not comfortable moving forward to make the change requested by the applicant without further discussion with the City experts in this area. Commissioner O'Hara agreed.

Commissioner Erickson did not understand why the Planning Commission could not accept the documents with one condition of approval to the waste disposal plan that the Staff and applicant resolve the issues and apprise the Planning Commission of the resolution at the next meeting regarding the cost. Commissioner Larson noted that truck traffic and the cost of waste removal also need to be resolved. Commissioner Erickson stated that he did not propose to include truck traffic criteria as part of the mitigation plan. He believed those criteria should be a policy established by the Planning Commission for allocation of truck traffic as identified in the CMP. That is a Planning Commission policy, and the criteria do not have to be established and written into this document. Commissioner Larson stated that he would prefer to have the criteria established and written into the plan. Commissioner Erickson stated that it was his intention to create the criteria for allocation of traffic in this project as a Planning Commission policy action which it may become part of the General Plan transportation section. Commissioner Larson suggested adding a condition stating that, "Prior to the next conditional use permit approval, the Planning Commission will establish a policy for distribution of current traffic." Commissioner Erickson asked why they could not do the same thing and make a condition of approval stating that prior to the next CUP approval, this language will be revised with respect to the mine and the lake.

Mr. Twardowski felt this was an acceptable approach and explained that the documents cannot be implemented until clarification is provided. Commissioner Larson was comfortable with this approach.

MOTION: Commissioner Erickson moved to accept the Emergency Response Plan, Construction Management Plan, and Mine Soils and Physical Hazards Mitigation Plan as presented to the Planning Commission this evening with the revisions by the Staff to truck traffic in the Construction Mitigation Plan on Pages 11 and 13 of the applicable document, with the findings of fact, conclusions of law, and conditions of approval outlined in the Staff report, with the following two new conditions of approval:

Condition 3 - No additional conditional use permit shall be approved until such time as Construction Mitigation Plan truck routing criteria is approved by the Planning Commission.

Condition 4 - Before issuance of the next conditional use permit, the Staff and the applicant will agree on the disposition of materials from the City owned golf course pond to the site.

Commissioner Powers seconded the motion.

VOTE: The motion passed unanimously, with Commissioner Zimney abstaining from the vote.

Commissioner Erickson asked when they could expect the first CUP application. Mr. Clyde replied that some CUP not under their control could come in anytime. The next CUP is Building 2, which the Planning Commission has already been reviewing. Commissioner Erickson believed the issue of the pond material disposition could be resolved fairly quickly and, therefore, the Mine Soils Hazard plan would be accepted in its entirety. He felt the Commissioners could move with some speed on the truck routing issue.

Findings of Fact - Flagstaff Technical Reports

1. Council adopted Ordinance 99-30 on June 24, 1999, that annexed the Flagstaff Mountain project, also known as the Flagstaff Mountain Resort, into Park City.
2. Ordinance 99-30, Section II, 2.1: Large Scale MPD - Flagstaff Mountain specified that the developer is granted an equivalent of a Large Master Planned Development.
3. Ordinance 99-30, Section II 2.1: Large Scale MPD - Flagstaff Mountain requires the developer to submit the following studies prior to or concurrent with Small-Scale MPD process for City approval.
 1. Mine/soil Hazard Mitigation Plan
 1. Detailed Design Guidelines
 2. Specific Transit Plan
 3. Parking Management Plan
 4. Detailed Open Space Plan
 5. Historic Preservation Plan
 6. Emergency Response Plan
 7. Trails Master Plan
 8. Private Road Access Limitation Procedures

9. Construction Phasing
 10. General Infrastructure and Public Improvements Design
 11. Utilities Master Plan
 12. Wildlife Management Plan
 13. Affordable Housing Plan
 14. Construction Mitigation Plan
4. The Planning Commission held a public hearing on February 25, 2004, to review the studies. The Planning Commission provided for public input on the studies at this meeting.

Conclusions of Law - Flagstaff Technical Reports

1. The Planning Commission finds that the revised and updated Technical Reports 1, 7, and 15 required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD - Flagstaff Mountain to be complete.
2. The Planning Commission finds that the revised and updated Technical Reports 1, 7, and 15 required pursuant to Ordinance 99-30, Section II, 2.1: Large Scale MPD-Flagstaff Mountain to be consistent with the provisions and intent of the Annexation Resolution adopted by Council on June 24, 1999.
3. The revised and updated Technical Reports 1, 7, and 15 required pursuant to Ordinance 99.30, Section II, 2.1: Large Scale MPD-Flagstaff Mountain do not change or adversely affect the density, development locations, or project design as set forth in the Annexation Resolution adopted by Council on June 24, 1999.

Conditions of Approval - Flagstaff Technical Reports

1. Each site-specific Construction Mitigation Plan (CMP) must be submitted with the Conditional Use Permit.
 2. Downhill truck traffic will be addressed with each site specific CMP.
 3. No additional conditional use permit shall be approved until such time as Construction Mitigation Plan truck routing criteria is approved by the Planning Commission.
 4. Before issuance of the next conditional use permit, the Staff and the applicant will agree on the disposition of materials from the City owned golf course pond to the site.
8. Flagstaff Mountain Resort - Phase 1A - Condominium plat

Due to a conflict of interest, Commissioner Zimney recused herself from discussing and voting on this item.

Director Putt reported that a public hearing is scheduled this evening on three plats for projects within the Village at Empire Pass and Pod A. This addresses the first 12 units to be constructed as part of Phase 1A of Pod A. These include the Larkspur Townhomes,

Planning Commission Staff Report



Author: Brooks T. Robinson
Subject: Amended Construction and Development Phasing Plan
Date: April 13, 2005
Type of Item: Administrative

**PLANNING
DEPARTMENT**

Summary Recommendations:

The Planning Department recommends the Planning Commission hold a public hearing, consider any input, and adopt the Amended Construction and Development Phasing Plan.

Description:

**Applicant
Location**

**United Park City Mines Company
Empire Pass Development Area**

On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the 1,655 acre Flagstaff Mountain area. Resolution 20-99 granted the equivalent of a “large-scale” master planned development (MPD) and set forth the types and locations of land use, maximum densities, timing of development, development approval process, as well as development conditions and amenities for each parcel.

Ordinance 99-30 also required that the applicant submit 14 specific technical reports for review and approval by the City. The Planning Commission approved and adopted the revised Construction and Development Phasing Plan (Exhibit 10 of the Technical Reports) in December, 2001.

The Phasing Plan has been updated to reflect the current programming and size of the Empire Club, reflects the current construction activity, and provides for Pod D (Red Cloud) vertical construction with the construction of two multi-family buildings (instead of the Alpine Club residential and one other). The Phasing Plan remains consistent with the Development Agreement.

The Planning Commission reviewed the proposed changes at their work Session of March 23, 2005, and had no further changes to the Phasing Plan.

Recommendation

The Planning Department recommends the Planning Commission hold a public hearing, consider any input, and adopt the Amended Construction and Development Phasing Plan.

Exhibits

Exhibit A –Construction and Development Phasing Plan (under separate cover)

form of a matrix showing areas of compliance and areas that need more work. The site plan that continues to evolve will be used as the forum for review against the General Plan elements. The Planning Commission will be able to review the matrix and easily see how this project measures up and where the site plan is headed.

4. Empire Pass - Adoption of Phasing Plan Amendments

Planner Brooks Robinson recalled that at the last Planning Commission meeting, copies of the amended construction and development phasing plan for Empire Pass were provided. The plan was required as one of the technical reports in the development agreement. The main issues related to the plan included updating the timing and dates from the previous plan and the requirement for two multi-family buildings instead of the Alpine Club residential plus one other. The Alpine Club is now called the Empire Club, and it is proposed that it be completed in two phases. The Alpine Club size requirement has been changed from 10,000 square feet to approximately 8,900 square feet. The Staff recommended that the Planning Commission conduct a public hearing and adopt the amended construction and development phasing plan.

Doug Clyde, representing the applicant, reported on a change to the exhibit addressing off-site roads and offered to provide copies of the exhibit when he receives them from Alliance Engineering. The new exhibit reflects the changes that occurred as a result of amendments to the emergency access plan.

Chair Barth opened the public hearing.

There was no comment.

Chair Barth closed the public hearing.

MOTION: Commissioner Erickson moved to ADOPT the amended Construction and Development Phasing Plan as indicated in the staff report subject to receipt of Exhibit D, Off-Site Roads Improvements Plan. Commissioner Volkman seconded the motion.

VOTE: The motion passed unanimously.

5. The Village at Empire Pass, Empire Club - Conditional Use Permit

Planner Robinson recalled that the Planning Commission has reviewed this request a number of times and explained that the current plans are different from the original submittal reviewed at the last public hearing. The height and setback requirements in the LMC and development agreement apply. The building complies with the amended phasing plan in that it is approximately 8,900 square feet. A transit center will also be constructed, with a key component of the Pod A Village being to provide ride-on service for the Village and its members. The Staff has prepared an analysis of the CUP requirements and findings of fact, conclusions of law, and conditions of approval.

Chair Barth opened the public hearing.

There was no comment.

Chair Barth closed the public hearing.

MOTION: Commissioner Erickson moved to APPROVE the Empire Club Conditional Use Permit in accordance with the findings of fact, conclusions of law, and conditions of approval outlined in the staff report. Commissioner Powers seconded the motion.

Planning Commission Staff Report

Subject: Mine Soil Hazard Mitigation Plan
for the Flagstaff Mountain Resort.
Author: Jeff Schoenbacher
Date: March 12th 2008
Type of Item: Administrative



Summary Recommendations

Staff recommends the Planning Commission review the staff report, hold a public hearing and consider requiring the applicant to amend the Mine Soil Hazard Mitigation Plan for the Flagstaff Mountain Resort.

Topic

Applicant: United Park City Mines
Location: Empire Canyon and Newly Annexed Land
Reason: Amendment to the Mine Soil Hazard Mitigation Plan

Background

On February 13th 2008 the City received a revised Mine Soil Hazard Mitigation Plan (MSHMP) for the Flagstaff Mountain Resort. The purpose of this staff report is to summarize United Park City Mine's (UPCM) most recent submittal for the Flagstaff Mountain Resort and check for consistency within the original Development Agreement executed May 17, 1994 that states the following:

"Additionally, developer shall reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review"(Section 2.2.1.6).

The intent of the Mine Soil Hazard Mitigation Plan (MSHMP) is to define the remediation and reclamation of mining impacts within the Empire Canyon, which includes the Flagstaff Project. The outcome of the staff review of the MSHMP is a request to amend the plan outlining dates certain for the completion of mine hazard inventory, reclamation plan, inclusion of the Montage Site Management Plan, Memorandum of Understanding (Richardson Flats to accept soils from the Soils Ordinance Boundary), and an assessment of Empire Creek.

Analysis

There are two types of environmental regulatory land classification within the Flagstaff annexed parcel; the first are areas recognized as "developable", with the second being land classified as the Empire Canyon CERCLIS site, EPA ID#

0002005981. The “developable” parcels reside within the boundaries of the Empire Canyon CERCLIS site; however the United States Environmental Protection Agency (USEPA) and Utah Department of Environmental Quality (UDEQ) have excluded these areas from the stigma of CERCLA authority. In January 2002, USEPA and UPCM outlined and identified clean up standards for the developable areas of Flagstaff. The result is an agreement that all residential developable areas would be mitigated to a standard of <500-ppm lead and <100-ppm arsenic. Regarding the acreage known as the Empire Canyon CERCLIS site, UPCM entered into an Administrative Order on Consent (AOC) in May of 2002. An AOC is a legal agreement signed by USEPA and an individual, business, or other entity through which the party agrees to implement the required corrective or cleanup actions. This agreement can be enforced in court and describes the actions to be taken, which are subject to a public comment period. The first AOC resulted in UPCM doing several studies to determine the extent and nature of the contamination as well as doing an Engineering Evaluation/Cost Analysis (EE/CA). Empire Canyon is a significant contributor to the impairment of the Silver Creek Watershed. As stated in USEPA’s report titled “Data Interpretation Report for the Upper Silver Creek Watershed Surface Water Monitoring 2000 dated February 13th 2001 page 31:

Surface water emanating from Empire Canyon has by far the highest concentrations of metals found in the watershed. Zinc levels were up to 17 times higher than the aquatic life standard....

Storm events also have the potential to move large volumes of highly contaminated water or sediment in a very short time. These points, coupled with the fact that Empire Canyon is at the “top” of the watershed, suggest that it is a critical point source in the contamination of Silver Creek and should be addressed further.

The Mine Soil Hazard Mitigation Plan was required by Park City to allay long-term environmental regulatory liability and clarify the expectations related to remediation and reclamation of United Park City Mines. The following eight issues are discussed with specific recommendations from staff.

1. Remediation

The new plan specifies that there remain three Parcels identified as D3, P6, and D10 that have not been remediated in accordance with the development agreement.

- Based on the revised plan P6 will be remediated with the commencement of the approval process and prior to any building permits issued for the B2 East Parcel.

- Parcel D3 located above the Ontario Mine below POD A will be remediated during the summer of 2008.
- Parcel D10 located adjacent to the Day Lodge similar to P6 will be remediated with the commencement of the approval process and prior to any building permits issued for the B2 East Parcel.

Recommendations:

Once these parcels have been mitigated, the Building Department recommends that UPCM submit closure reports that verify the remediation is completed along with confirmation sampling results. Lastly, it is strongly recommended that USEPA “comfort letters” for all three parcels be submitted to the Building Department for the record. This coincides with the January 2004 submittal that states *“United Park will also work with the EPA to obtain comfort letters for these remaining parcels.”* Lastly, firm dates should be established for all parcels.

2. Empire Creek

Empire Creek is considered mapped “waters of the state of Utah”¹, which starts approximately 2,200’ up gradient from the Montage Resort Building footprint. In Mr. Smith’s memo dated January 24th 2008 he mentions that Empire Creek has been remediated and “materials were physically excavated and removed, and a new stream channel was constructed using clay-rich materials, rip-rap and topsoil.”² However, the Building Department has witnessed the improvements in Empire Creek failing on two separate occasions resulting in excessive erosion and flooding due to poor engineering design and controls. The City understands that the Athens Group brought in another consultant that examined the Empire Canyon drainage “improvements” and also expressed concern with the completed work. Consequently, Ron Ivie and Eric Dehaan were told that they were in the process of drafting a separate proposal for Empire Creek.

Recommendations:

Since the long term integrity of Empire Creek is extremely important to Park City. Staff recommends that the Athens Group evaluation be submitted to the Building Department and that a third party evaluator be retained to examine the drainage and provide recommendations based on the actual hydrologic conditions that occur in Empire Creek during spring run-off.

¹ Utah Water Quality Act 19-5-102 (18) "Waters of the state": (a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state; and (b) does not include bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, a public health hazard, or a menace to fish or wildlife.

² January 24th 2008 D. Smith Memo Page 2 – 5th Paragraph

3. Mine Hazard Inventory and Reclamation Plan

As stated in the original Development Agreement executed May 17, 1994:

“Additionally, developer shall reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review”(Section 2.2.1.6).

During the development of the Flagstaff Development project it was assumed that all reclamation was being conducted in accordance with Utah’s Division of Oil, Gas, and Mining. The City made that conclusion based on the following statements made by UPCM representatives such as Kevin Murray, UPCM legal counsel, December 2nd 2003;

“United Park strongly disagrees with the City’s suggestion that United Park “has yet to fully accomplish” mine reclamation requirements “in accordance with state and federal regulatory agency review” as stated in the original Development Agreement. All applicable mine reclamation requirements imposed upon United Park by state or federal law have been fully satisfied.”

“United Park’s obligation under the Development Agreement is to reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory requirements.”

Stated in United Park City Mines Company SEC Annual Report (1998-2003);

“The maintenance activities on a number of these shafts and adits are undertaken to provide that all types of equipment are in adequate condition, that underground transportation and ventilation systems are adequate and that the Company is in compliance with its governmental permits and regulations.”

Mr. Smith states that “United Park’s mining activities ceased years before the enactment of the Utah Mined Land Reclamation Act of 1975, United Park has never been subject to the Act nor could it obtain a permit under the Act.”³

However, based on the statements made in the SEC reports and UPCM representatives the mine was considered a mining company well after the Act, but failed to obtain the necessary permits that would include a reclamation plan by Division of Oil, Gas, and Mining (DOGM). As stated in the SEC Annual Reports (1998-2003 General second paragraph):

*“United Park acquired mining properties in the Park City area upon its formation in 1953. Prior to **1982**, United Park’s principal business was the mining of lead, zinc, silver, gold, and copper ore from these properties or the leasing of these properties to other mine operators. United Park now conducts no active mining operations and has no agreement to sell or lease its mining properties. The*

³ David Smith Memo to Brooks Robinson June 25th 2007 Subject: Mine Soil Hazard Mitigation Plan

mining properties are maintained on a stand-by basis. The company also performs mine and tunnel maintenance for other entities on a contract basis.”

And as recently as January 2004, the update to the Mine Soil and Physical Mine Hazard Mitigation Plan, written by Kerry Gee, the following is stated:

“Mining activity essentially ceased in the early 1980’s at the Ontario Mine.”⁴

Lastly, as documented in the DOGM historical file, United Park City Mines Company had an enforcement file to force the mine to obtain a permit as early as June 16th 1992, thereby requiring a permit and reclamation⁵. DOGM staff felt strongly that a permit was required; however the Division did not act upon the Notices of Intentions in a timely manner. As a result, the DOGM retains the current position that the mines in Empire Canyon are not mines subject to their jurisdiction⁶.

Nonetheless, the above statements directly contradict Mr. Smith’s statements in regards to the applicability of a Mine Operating Permit, thereby requiring a Mine Reclamation Plan. The USEPA’s Order on Consent, Consent Order, Work Plan and Action Memorandum does not address mine reclamation and closure of mine hazards. It does not; nor did USEPA intend to address these issues within these documents. Mr. Kevin Murray, legal counsel for United Park City Mines eloquently described it best in the following statement:

“It is important for the City to understand that mine “reclamation” is not synonymous with environmental remediation. Reclamation normally refers to remedying physical hazards and impacts of past mining and is normally subject to bonding requirements, while environmental remediation contemplates remedying unacceptable contaminant levels in soil and water.”⁷

USEPA is not overseeing the reclamation and has never addressed this issue as requested in formal comments⁸.

Recommendations:

As a result, PCMC is recommending an amendment to the Plan to require a Reclamation Plan for mine impacts residing within the City limits (this coincides with the obligations within the development agreement). The Plan should identify all private entities that are providing the oversight in regards to the reclamation and closure of mine hazards. The reclamation plan is expected to be a

⁴ History – Page 3 Paragraph 6

⁵ D. Wayne Hedberg, Permit Supervisor Memo – Proposed Inspection Meeting, United Park City Mines Company, Ontario Mine, M/043/003, Summit County, Utah

⁶ Letter to Mark Harrington from Mary Ann Wright Associate Director of DOGM March 14th 2007.

⁷ LeBoeuf, Lamb, Greene & Macrae – Kevin R. Murray December 2nd 2003, Comments on Flagstaff Development Environmental Report

⁸ See USEPA Region 8 letter to Kathy Hernandez dated April 20th 2007

comprehensive document that defines reclamation standards, re-vegetation, and post closure monitoring. Using DOGM standards as a guideline, at a minimum the amendment should include the following:

- Inventory of all mine hazards.
- Mine Reclamation Plans with specific closure dates.
- Applicable reclamation standards.
- Re-vegetation standards.
- Post Closure Monitoring.

4. PCB Transformer Inventory

USEPA regulates the use, storage and disposal of PCB Transformers and PCB-Contaminated Transformers containing between 50 and 499 ppm PCBs within 40 CFR Part 761 under the Toxic Substances Control Act (TSCA).

Mr. Smith states; *“None of the transformers related to the historical mining operations are known to contain PCB’s. It is United Park’s understanding that any remaining transformers containing PCB’s were removed by Noranda in the early 1980’s. PCMR is obligated to operate the Resort in compliance with applicable laws and regulations.”*⁹

In the most recent Mine Soil Hazard Mitigation Plan the following inventory of transformers was provided:

- Daly West Mine 3
- Ontario #3 6
- Thaynes Borehole 3
- Thaynes Shaft 3

The most recent plan reiterates that Noranda Mining Company retrofilled the transformers in the 1980’s, thereby removing the PCB’s. However, no analytical was provided verifying that statement. As a result, UPCM is proposing to sample all transformers and any impacted soils by August 1st 2008.

Recommendations:

Depending on the concentrations discovered from the sampling the Building Department requests the analytical results be submitted to the Fire Marshall and a management plan that fully complies with Toxic Substance Control Act within 40 CFR 761. Until then the Building Department believes the following is applicable since these units did contain PCB’s and would potentially be considered PCB contaminated.

⁹ January 24th 2008 D. Smith Memo Page 3 – 1st Paragraph

As stated under 40 CFR 761.2 (a)(3)(4) "PCB concentration assumptions for use.":

- (3) Any person must assume that a transformer manufactured prior to July 2, 1979, that contains 1.36 kg (3 pounds) or more of fluid other than mineral oil and whose PCB concentration **is not established**, is a PCB Transformer (i.e. 500 ppm). If the date of manufacture and the type of dielectric fluid are unknown, any person must assume the transformer to be a PCB Transformer.
- (4) Any person must assume that a capacitor manufactured prior to July 2, 1979, whose PCB concentration is not established contains ≥ 500 ppm PCBs. Any person may assume that a capacitor manufactured after July 2, 1979, is non-PCB (i.e., < 50 ppm PCBs). If the date of manufacture is unknown, any person must assume the capacitor contains ≥ 500 ppm PCBs. Any person may assume that a capacitor marked at the time of manufacture with the statement "No PCBs" in accordance with §761.40(g) is non-PCB.

Lastly, the Building Department is aware of other historic mine transformer units such as the Silver King Mine that are now in the city limits that are not labeled or classified in accordance with TSCA. Under Chapter 27 Fire Code Hazardous Material Management Plan the Fire Marshal will request an inventory of these units and associated PCB concentrations and TSCA classification. It is recommended that these units be identified within the reclamation plan with associated PCB concentrations, management plan, USEPA Registration, and dates certain for disposal.

5. Montage Resort (MR) Post Closure Site Control Plan

On July 30th 2003 PCMC submitted a letter¹⁰ to Jim Christiansen asking him that there be a definitive owner to any tailings areas that remain in place that will require long term maintenance and stewardship. On August 20th 2003 Mr. Christiansen replied with the following:

"A post-removal site control plan is required under the AOC. The AOC will bind UPCM and future owners to ongoing maintenance."¹¹

Additionally as stated by Kerry Gee in the January 2004 submittal Mitigation Plan:

"The Post Removal Site Control Plan prepared for the Non Time Critical Removal Action will be implemented for the site."

¹⁰ Tom Bakaly to Jim Christiansen dated July 30th 2003

¹¹ Jim Christiansen to Tom Bakaly dated August 20th 2003

The Montage Resort leases the land and Talisker owns the property therefore as “owners”, and consistent with the AOC and previous statements by the project manager, the owners are required to develop the site management plan.

Recommendations:

Due to the recognition that the MR will be backfilled with regulated mine tailings from the Daley West Mine Dump. Talisker will be responsible for the Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan.

This will allow PCMC to clearly understand who is going to be responsible for the management of the environmental engineering controls and any emergency response issues that may require the generation of mine tailings (i.e. utility work ect.). By doing so the City will not inherit any more environmental liability related to mine tailings, without a clear understanding of who owns the site and who is responsible for the management and disposal of generated tailings.

6. Memorandum of Understanding – Richardson Flats

The May 10th 2005 Memorandum of Understanding between PCMC and Talisker recognizing the use of Richardson Flats for those entities within the Soils Ordinance Boundary is absent from the plan as an addendum.

Recommendations:

Amend the Mine Soil Hazard Mitigation Plan to include this agreement between Talisker and PCMC – signed by Tom Bakaly and Jim Tadeson. The importance of this document allows residential and other property owners impacted with mine tailings to utilize the repository at Richardson Flats.

7. Deed Restrictions

As agreed upon, the deed restriction language that recognizes the Post Closure Site Control Plan and the existence of mine tailings underlying the MR needs to be an addendum to the plan.

Recommendation:

The recorded deed restriction language should be included into the Mine Hazard Mitigation Plan as addendum.

8. Access Issues

In accordance with Fire Plan Contingency a second access plan to the development is requested by the Fire Marshall (Ron Ivie).

Recommendation:

Submit the Access Plan to the Fire Marshall by July 1st, 2008.

Notice

Legal Notice was published in the Public Record.

Public Input

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

Alternatives

- The Planning Commission may request an amendment to the Mine Soil Hazard Mitigation Plan as outlined in Attachment A.
- Park City may request an amendment to the Mine Soils Hazard Mitigation Plan as outlined in Attachment A with direction to staff on necessary revisions.
- Park City may continue the discussion.
- Planning Commission may direct staff not to alter the current Mine Soils Hazard Mitigation Plan.

Significant Impacts

The City will inherit additional long-term regulatory liability if the recommendations are not followed. There are significant fiscal and environmental impacts involved with the mitigation plan.

Consequences of not taking the Suggested Recommendation

UPCM impacts and responsibilities become Park City's impacts and responsibilities that the taxpayers pay for.

Recommendation

Hold UPCM to their obligations under the Development Agreement. To ensure the environmental impacts and mine hazards within the new phases of development are adequately mitigated to protect the health, safety, and welfare of the community.

Attachment A Summary of Recommendations

#1 Remediation:

Once these parcels have been mitigated, the Building Department recommends that UPCM submit closure reports that verify the remediation is completed along with confirmation sampling results. Lastly, it is strongly recommended that USEPA “comfort letters” for all three parcels be submitted to the Building Department for the record. This coincides with the January 2004 submittal that states *“United Park will also work with the EPA to obtain comfort letters for these remaining parcels.”* Lastly, firm dates should be established for all parcels.

#2 Empire Creek:

Since the long term integrity of Empire Creek is extremely important to Park City. Staff recommends that the Athens Group evaluation be submitted to the Building Department and that a third party evaluator is retained to examine the drainage and provide recommendations based on the actual hydrologic conditions that occur in Empire Creek during spring run-off.

#3 Mine Hazards and Reclamation:

Staff recommends an amendment to the Plan to require a Reclamation Plan for all mine impacts residing within the City limits (this coincides with the obligations within the development agreement). The Plan should identify all private entities that are providing the oversight in regards to the reclamation and closure of mine hazards. The reclamation plan is expected to be a comprehensive document that defines reclamation standards, re-vegetation, and post closure monitoring. Using DOGM standards as a guideline at a minimum the amendment should include the following:

- Inventory of all mine hazards.
- Mine Reclamation Plans with specific closure dates.
- Applicable reclamation standards.
- Re-vegetation standards.
- Re-vegetation success standards.
- Post Closure Monitoring.

#4 PCB Transformers:

Depending on the concentrations the Building Department requests the analytical be submitted to the Fire Marshall and a management plan that fully complies with Toxic Substance Control Act within 40 CFR 761. Until then the Building Department believes the following is applicable since these units did contain PCB’s and would potentially be considered PCB contaminated.

As stated under 40 CFR 761.2 (a)(3)(4) "PCB concentration assumptions for use.":

- (3) Any person must assume that a transformer manufactured prior to July 2, 1979, that contains 1.36 kg (3 pounds) or more of fluid other than mineral oil and whose PCB concentration **is not established**, is a PCB Transformer (i.e.500 ppm). If the date of manufacture and the type of dielectric fluid are unknown, any person must assume the transformer to be a PCB Transformer.
- (4) Any person must assume that a capacitor manufactured prior to July 2, 1979, whose PCB concentration is not established contains ≥ 500 ppm PCBs. Any person may assume that a capacitor manufactured after July 2, 1979, is non-PCB (i.e., < 50 ppm PCBs). If the date of manufacture is unknown, any person must assume the capacitor contains ≥ 500 ppm PCBs. Any person may assume that a capacitor marked at the time of manufacture with the statement "No PCBs" in accordance with §761.40(g) is non-PCB.

Lastly, the Building Department is aware of other historic mine transformer units such as the Silver King Mine that are now in the city limits that are not labeled or classified in accordance with TSCA. Under Chapter 27 Fire Code Hazardous Material Management Plan the Fire Marshal will request an inventory of these units and associated PCB concentrations and TSCA classification. It is recommended that these units be identified within the reclamation plan with associated PCB concentrations, management plan, USEPA Registration, and dates certain for disposal.

#5 Montage Site Management Plan:

Due to the recognition that the MR will be backfilled with regulated mine tailings from the Daley West Mine Dump. Talisker will be responsible for the Post Closure Site Control Plan for the MR and it will need to be completed and included as an appendix to the Mine Soil Hazard Mitigation Plan. This will allow PCMC to clearly understand who is going to be responsible for the management of the environmental engineering controls and any emergency response issues. By doing so the City will not inherit any more environmental liability related to mine tailings without a clear understanding of who owns the site and who is responsible for the management of generated tailings.

#6 Memorandum of Understanding:

Amend the Mine Soil Hazard Mitigation Plan to include this agreement between Talisker and PCMC – signed by Tom Bakaly and Jim Tadeson. The importance of this document allows residential and other property owners impacted with mine tailings to utilize the repository.

#7 Deed Restrictions:

The recorded deed restriction language should be included into the Mine Hazard Mitigation Plan as addendum.

#8 Access Plan:

Submit the Access Plan to the Fire Marshall by July 1st, 2008.

Chair O'Hara opened the public hearing on the above two items.

There was no comment.

Chair O'Hara continued the public hearing.

MOTION: Commissioner Thomas moved to CONTINUE 605 Woodside Avenue and 154 McHenry Avenue to March 26, 2008. Commissioner Murphy seconded the motion.

VOTE: The motion passed unanimously.

3. Technical reports pertaining to mines soils hazard mitigation and access and specific environment issues at Empire Pass - Amendment

Due to a conflict of interest, Commissioner Thomas was recused from this item.

Chief Building Official, Ron Ivie, requested that the Planning Commission conduct a public hearing and consider taking action. Mr. Ivie recalled that Empire Pass had a number of technical reports and some of those have come back to the Planning Commission for an update. He noted that these updates are more for clarification rather than revision and to establish a process. He stated that the primary purpose this evening is to try to finalize dates for the inventory of mine hazards and for when they will obtain the actual plans for mitigation.

Mr. Ivie noted that the applicants were in general agreement with minor exceptions. He would like the Planning Commission to focus their discussion this evening on the process and not the technical merit of each report. Once the process is in place and they receive the documents, they can discuss the areas of disagreement at that point. At this point he could not foresee any difficulties in reaching agreement.

Dave Smith, representing United Park City Mines, agreed with Mr. Ivie and believed the bulk of the recommendations are good. Most of the information is already out there and it is only a matter of compiling that information and adding to it. Mr. Smith felt they could get through the process easily with Ron Ivie and Jeff Schoenbacher.

Chair O'Hara understood that the Planning Commission was being asked to request an amendment to the Mines Soil Hazard Mitigation Plan. He asked for clarification on their authorization to do that.

Mr. Ivie explained that this is a modification of a Planning Commission approved technical report. Chair O'Hara wanted to know the process for requesting an applicant to change what the Planning Commission has already approved.

Assistant City Attorney McLean stated that the authorization comes from other issues that need to be addressed. Chair O'Hara asked if it would be appropriate to modify any of the other technical reports because conditions have changed. Doug Clyde, representing the applicant, stated that this is done every time they encounter a situation where they thought the project was out of compliance with the technical report.

Mr. Ivie pointed out that the Planning Commission recently dealt with the housing element. He anticipated bringing back the mitigation technical report in the near future if some of the mitigation aspects could not be achieved.

Commissioner Pettit could not find in the Staff report any reference to the timing for the information being requested on Empire Creek, with respect to drainage issues. In light of this snow year and potential spring run off issues, she encouraged the City to obtain that information sooner rather than later. Mr. Ivie stated that the intention was make a third party observation requirement for Empire Creek for this year. Some of that work has been done and the question is whether it will survive. The recommendation is to have a 3rd party technical observer to look at how it performs relative to the stability of that stream improvement during this Spring runoff.

Commissioner Wintzer asked about the procedure for following through on all these reports. Mr. Ivie replied that it works exactly the way the Planning Commission approved them. Unfortunately, some were never given control dates and that is what they are trying to rectify. He would like to have an interval check up procedure for long term projects to address issues that arise when things like markets and projects change. There needs to be a method where they can accommodate change but still protect the environment and the intent of the report.

Commissioner Murphy referred to Item 8 in the Staff report regarding access issues. He thought the fire access was previously determined with the MPD. Mr. Ivie replied that this was correct. However it is one of the things that needs to be modified because of the Montage project. The fire access will need to be realigned and they have already studied a number of options. He expected to come back to the Planning Commission by July 2008 with an approved road realignment and how it terminates.

Chair O'Hara opened the public hearing.

There was no comment.

Chair O'Hara closed the public hearing.

Chair O'Hara asked Mr. Ivie if the confirmed dates he is requesting have to coordinate with the EPA. Mr. Ivie stated that the Staff report language was crafted to leave the EPA process separate. He recognized that there would be some need for coordination. He hoped to have the mine hazard inventory by early summer. Once they have that inventory, it should not take too much longer to put together a mitigation plan. After that they can set a final date. He preferred that the Planning Commission set a time that is no later than next year for completion of the mitigation.

Chair O'Hara referred to Item 6 in the Staff report regarding Richardson Flats and the ability for people to use Richardson Flats as a repository for contaminated or impacted soils. He felt they should be mindful of the capacity of Richardson Flats and be careful not to open the gates to anyone who wants to put their impacted soil out there.

Mr. Ivie replied that Richardson Flats is one that needs to be most closely monitored with USEPA for two reasons. They have a consent agreement to close and there are legal aspects which the

City does not want to cross. The second reason is the capacity question. Mr. Ivie believed everyone agrees that the first thing they need is a capacity analysis and they will clearly have to work with USEPA. He and Jeff Schoenbacher have taken the position that the MOU has been in operation. Mr. Ivie pointed out that the MOU is not part of the actual technical report. It was done as an agreement between the City and Talisker. So far it has worked just fine. Mr. Ivie encouraged the Planning Commission to support the concept of a single location, similar to what they did on the soil hauls. He was not prepared to say whether or not it can work, but it is something that the City needs to continue to work on with Talisker and the EPA. Mr. Ivie remarked that he and Mr. Schoenbacher strongly believe that if it can work, Richardson Flats is the best place.

Chair O'Hara wanted to make sure that it was clear that Richardson Flats is not open to the public for depositing impacted soils.

Mr. Clyde clarified that there were no dates in the last iteration of the report because at the time they were not far enough along with the EPA to set any dates. They are now comfortable with setting dates.

Planner Robinson noted that this item was scheduled for action and the motion could be to direct the Staff and United Park City Mines/Talisker to move forward in amending the technical reports as outlined in the Staff Report.

MOTION: Commissioner Wintzer made a motion to direct the Staff and United Park City Mines/Talisker to move forward in amending the technical report as outlined in the Staff report. Commissioner Peek seconded the motion.

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

4. 2060 Park Avenue, Snow Creek - Pre Master Planned Development

Planner Kirsten Whetstone reviewed the pre-master planned development application. The first step in the pre-application process is for the Planning Commission to review a conceptual plan as a pre-application master planned development for compliance with the General Plan. This item was noticed for a public hearing this evening.

Planner Whetstone noted that Park City Municipal Corporation is the applicant as the property owner. The property is located at 2060 Park Avenue due east of the Park City Police Facility and the Park City Post Office. The property is in the RDM zone, which allows five to eight units per acre. This is also in a portion of the sensitive lands overlay. Per the SLO, the site is showing a 50 foot setback from the wetlands and streams in the area.

Planner Whetstone reported that the proposed parcel is part of the 1993 Snow Creek Master Planned Development, a mixed use development which included the Dan's Shopping Center and additional housing parcels. It was part of an 8 acre parcel that was subdivided as a Lot B Snow Creek Crossing Subdivision. The original parcel included the parcels of the current Post Office and Police Facility. There is approximately 6 acres left of the housing parcel that was approved under the Snow Creek MPD.

Planning Commission Staff Report

Subject: Mine Soil Hazard Mitigation Plan
for the Empire Pass Development.
Author: Jeff Schoenbacher
Date: June 18th 2008
Type of Item: Administrative



Summary Recommendations

Staff recommends the Planning Commission review the staff report, hold a public hearing and consider requiring the applicant to amend the Mine Soil Hazard Mitigation Plan for the Empire Pass Development.

Topic

Applicant: United Park City Mines
Location: Empire Canyon and Newly Annexed Land
Reason: Amendment to the Mine Soil Hazard Mitigation Plan

Background

In June 2008 the City received a revised Mine Soil Hazard Mitigation Plan (MSHMP) for the Empire Pass Development (Dated April 30th 2008). The purpose of this staff report is to summarize United Park City Mine's (UPCM) most recent submittal dated April 30th 2008 for Empire Pass and check for consistency within the original Development Agreement that states the following:

"Additionally, developer shall reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review"(Section 2.2.1.6).

The intent of the Mine Soil Hazard Mitigation Plan (MSHMP) is to define the remediation and reclamation of mining impacts within Empire Canyon. The outcome of the staff review of the MSHMP is a reiteration of the March 12th 2008 staff report that recommended to amend the plan outlining dates certain for the completion of mine hazard inventory, reclamation plan, inclusion of the Montage Site Management Plan, Memorandum of Understanding (Richardson Flats to accept soils from the Soils Ordinance Boundary), and an assessment of Empire Creek.

Analysis

There are two types of environmental regulatory land classification within the Empire Pass annexed parcel; the first are areas recognized as “developable”, with the second being land classified as the Empire Canyon site EPA ID# 0002005981. The “developable” parcels reside within the boundaries of the Empire Canyon CERCLIS¹ site; however the United States Environmental Protection Agency (USEPA) and Utah Department of Environmental Quality (UDEQ) have excluded these areas from the stigma of CERCLA² authority. In January 2002, USEPA and UPCM outlined and identified clean up standards for the developable areas. The result is an agreement that all residential developable areas would be mitigated to a standard of <500-ppm lead and <100-ppm arsenic. Regarding the acreage known as the Empire Canyon CERCLIS site, UPCM entered into an Administrative Order on Consent (AOC) in May of 2002. An AOC is a legal agreement signed by USEPA and an individual, business, or other entity through which the party agrees to implement the required corrective or cleanup actions. This agreement can be enforced in court and describes the actions to be taken, which are subject to a public comment period. The first AOC resulted in UPCM doing several studies to determine the extent and nature of the contamination as well as doing an Engineering Evaluation/Cost Analysis (EE/CA). Empire Canyon is a significant contributor to the impairment of the Silver Creek Watershed. As stated in USEPA’s report titled “Data Interpretation Report for the Upper Silver Creek Watershed Surface Water Monitoring 2000 dated February 13th 2001 page 31:

Surface water emanating from Empire Canyon has by far the highest concentrations of metals found in the watershed. Zinc levels were up to 17 times higher than the aquatic life standard....

Storm events also have the potential to move large volumes of highly contaminated water or sediment in a very short time. These points, coupled with the fact that Empire Canyon is at the “top” of the watershed, suggest that it is a critical point source in the contamination of Silver Creek and should be addressed further.

The Mine Soil Hazard Mitigation Plan was required by Park City to allay long-term environmental regulatory liability and clarify the expectations related to remediation and reclamation of United Park City Mines. The following are the recommendations to the Planning Commission based on the most recent submittal dated April 30th 2008:

¹ Comprehensive Environmental Response, Compensation, and Liability Information System

² Comprehensive Environmental Response, Compensation, and Liability Act

1. PART A – Outstanding Parcel Remediation

As stated in the previous plan, there remain three Parcels identified as D3, P6, and D10 that have not been remediated in accordance with the development agreement.

- Based on the revised report, **Parcel D3** located above the Ontario Mine below POD A will be remediated by August 2008. Upon completion a closure report will be submitted to the City. The report states that since this is a non-residential parcel, comfort letters will not be requested from USEPA. Nonetheless, the City will require an official USEPA correspondence that verifies that the remediation is complete.
- The revised plan states that **Parcel P6** will be remediated with the commencement of the approval process and prior to any building permits issued for the B2 East Parcel. This parcel is located adjacent to the Mazeppah Shaft, which is approximately 400 feet deep. The report goes on to state that the shaft is also partially contaminated. There is not a date given to remediate either P6 or the Mazeppah Shaft. Yet based on Park City's GIS overlay it appears that these areas are within the area classified as "developable"³. As stated in the previous technical report, the City request that firm dates be established for P6. Regarding the Mazeppah Shaft, firm dates will also be required along with a closure protocol complying with DOGM standards. Lastly, the City will require that a Professional Engineer (PE) certify closure of this unit. The reclamation will be addressed later in this report; however, the City will request that GPS coordinates for the Mazeppah Shaft as well as other mine hazards.
- Regarding **Parcel D10** located adjacent to the Day Lodge similar to P6 the plan states the parcel will be remediated with the commencement of the approval process and prior to any building permits issued for the B2 East Parcel. The report goes on to state that a closure report will be sent to the City along with comfort letters for this parcel. There is not a date given to remediate D10, the Temporary Building Permit was issued on August 22nd 2003 and expires October 28th 2008⁴. The permit was issued based on the understanding that this parcel would be remediated within a five year time frame. As a result, the City will require that firm dates be established for remediation before the expiration date of the temporary permit (October 28th 2008).

³ Parcel P6 a portion resides within the "developable area".

⁴ Permit Number B03-08748

Recommendations:

Parcel D3

Remediation is expected to be completed by August 2008 and a closure report submitted to the Building Department. The City will require an official USEPA correspondence that verifies that the remediation is complete.

Parcel P6

There is not a date given to remediate either P6 or the Mazeppah Shaft yet based on Park City's GIS overlay it appears that these areas are within the area classified as "developable"⁵. As stated in previous, comments the City request that firm dates be established for P6. Regarding the Mazeppah Shaft, firm dates will also be required along with closure complying with DOGM standards. Lastly, the City will require that a Professional Engineer (PE) certify closure of this unit. Finally, the City requests GPS coordinates for the Mazeppah Shaft.

Parcel D10

There is not a date given to remediate D10, the Temporary Building Permit was issued on August 22nd 2003 and expires October 28th 2008⁶. The permit was issued based on the understanding that this parcel would be remediated within a five year time frame. As a result, the City will request that firm dates be established for remediation before the expiration date of the temporary permit (October 28th 2008). The City will also request that the closure report is submitted to the Building Department along with the USEPA comfort letter.

2. Park B – Empire Creek

Empire Creek is considered mapped "waters of the state of Utah"⁷, which starts approximately 2,200' up gradient from the Montage Resort Building footprint. The revised plan states that UPCM has contracted with Golder Associates to do an evaluation of Empire Creek. The evaluation is proposed to be completed by the **summer of 2008**.

⁵ Parcel P6 a portion resides within the "developable area".

⁶ Permit Number B03-08748

⁷ Utah Water Quality Act 19-5-102 (18) "Waters of the state": (a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state; and (b) does not include bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, a public health hazard, or a menace to fish or wildlife.

Recommendations:

Since the long term integrity of Empire Creek is extremely important to Park City, staff recommends that the evaluation be conducted with DOGM oversight. In addition, the evaluation should include the installation of additional detention basins for retaining sediment and other pollutants generated from the Montage development. Lastly, staff recommends the installation of gabion armoring within the areas of Empire Creek that have historically failed due to extreme precipitation events. These requirements coincide with the City's Storm Water Management Plan responsibilities that are intended to comply with the Federal Clean Water Act Phase II Rule that has been adopted within the Utah Water Quality Act, Title 19, Chapter 5, Utah Code. Lastly, staff recommends that a copy of the USEPA Closure Report related to Empire Creek be submitted to the Building Department for historical reference.

3. Part C - Mine Hazard Inventory and Reclamation Plan

As stated in the original Development Agreement:

“Additionally, developer shall reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review”(Section 2.2.1.6).

During the development of the Empire Pass Development it was assumed that all reclamation was being conducted in accordance with Utah's Division of Oil, Gas, and Mining. The City made that conclusion based on the following statements made by UPCM representatives such as Kevin Murray, UPCM legal counsel, December 2nd 2003;

“United Park strongly disagrees with the City's suggestion that United Park “has yet to fully accomplish” mine reclamation requirements “in accordance with state and federal regulatory agency review” as stated in the original Development Agreement. All applicable mine reclamation requirements imposed upon United Park by state or federal law have been fully satisfied.”

“United Park's obligation under the Development Agreement is to reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory requirements.”

Stated in United Park City Mines Company SEC Annual Report (1998-2003);

“The maintenance activities on a number of these shafts and adits are undertaken to provide that all types of equipment are in adequate condition, that underground transportation and ventilation systems are adequate and that the Company is in compliance with its governmental permits and regulations.”

The SEC Annual Reports go on to state (1998-2003 General second paragraph):

“United Park acquired mining properties in the Park City area upon its formation in 1953. Prior to 1982, United Park’s principal business was the mining of lead, zinc, silver, gold, and copper ore from these properties or the leasing of these properties to other mine operators. United Park now conducts no active mining operations and has no agreement to sell or lease its mining properties. The mining properties are maintained on a stand-by basis. The company also performs mine and tunnel maintenance for other entities on a contract basis.”

Lastly, as documented in the DOGM historical file, United Park City Mines Company had an enforcement file to force the mine to obtain a permit as early as June 16th 1992, thereby requiring a permit and reclamation⁸. DOGM staff felt strongly that a permit was required; however the Division did not act upon the Notices of Intentions in a timely manner. As a result, the DOGM retains the current position that the mines in Empire Canyon are not mines subject to their jurisdiction⁹.

Nonetheless, the City recognizes that mine “reclamation” is not synonymous with environmental remediation. Reclamation normally refers to remedying physical hazards and impacts of past mining and is normally subject to bonding requirements, while environmental remediation contemplates remedying unacceptable contaminant levels in soil and water.

As stated in the previous report, USEPA is not overseeing the reclamation and has never addressed this issue as requested in formal comments¹⁰.

Recommendations:

On March 14th 2007 Mark Harrington (City Attorney) received a correspondence from Mary Ann Wright (DOGM Associate Director, Mining) stating that her agency would be willing to oversee UPCM mine reclamation and the closure of mine hazards.

As a result, staff recommends that UPCM enter into a Memorandum of Understanding with DOGM to oversee the reclamation and closure of mine hazards. The most recent submittal does not constitute a Reclamation Plan for mine impacts or closure of hazards residing within the City limits (a requirement within the development agreement). DOGM is the state agency with this type of oversight expertise to watch over all reclamation and closure of mine hazards relieving the City from liability of having to oversee UPCM reclamation requirements. As stated in the previous report, PCMC will expect the reclamation and closure to comply with DOGM standards. The closure of all mine hazards

⁸ D. Wayne Hedberg, Permit Supervisor Memo – Proposed Inspection Meeting, United Park City Mines Company, Ontario Mine, M/043/003, Summit County, Utah

⁹ Letter to Mark Harrington from Mary Ann Wright Associate Director of DOGM March 14th 2007.

¹⁰ See USEPA Region 8 letter to Kathy Hernandez dated April 20th 2007

should be certified by a Professional Engineer that is identified within the reclamation plan. Lastly, staff recommends that UPCM procure GPS coordinates for all mine hazards and impacts so that this information can be integrated into the City's GIS System.

4. Part D - PCB Transformer Inventory (Absent from the submitted Plan)

USEPA regulates the use, storage and disposal of PCB Transformers and PCB-Contaminated Transformers containing between 50 and 499 ppm PCBs within 40 CFR Part 761 under the Toxic Substances Control Act (TSCA).

In the February 2008 Mine Soil Hazard Mitigation Plan the following inventory of transformers was provided:

- Daly West Mine 3
- Ontario Mine 6
- Thaynes Borehole 3
- Thaynes Shaft 3
- Silver King Number not identified.

In the most recent plan UPCM believes that a leasee (Noranda) mitigated the PCB transformers while leasing UPCM land. However, no verification has been provided that anything has been done with the transformers in question. As a result, UPCM is proposing to sample all transformers and any impacted soils by August 1st 2008.

Recommendations:

The Building Department recommends that the analytical results and TR location/identification be submitted to the Fire Marshall along with a management plan that fully complies with Toxic Substance Control Act within 40 CFR 761 that includes USEPA registration and disposal. Until then the Building Department with consider the following as applicable since these units did contain PCB's at one time and therefore would be considered PCB contaminated.

As stated under 40 CFR 761.2 (a)(3)(4) "PCB concentration assumptions for use.":

- (3) Any person must assume that a transformer manufactured prior to July 2, 1979, that contains 1.36 kg (3 pounds) or more of fluid other than mineral oil and whose PCB concentration **is not established**, is a PCB Transformer (i.e. 500 ppm). If the date of manufacture and the type of dielectric fluid are unknown, any person must assume the transformer to be a PCB Transformer.

- (4) Any person must assume that a capacitor manufactured prior to July 2, 1979, whose PCB concentration is not established contains ≥ 500 ppm PCBs. Any person may assume that a capacitor manufactured after July 2, 1979, is non-PCB (i.e., < 50 ppm PCBs). If the date of manufacture is unknown, any person must assume the capacitor contains ≥ 500 ppm PCBs. Any person may assume that a capacitor marked at the time of manufacture with the statement "No PCBs" in accordance with §761.40(g) is non-PCB.

5. Part E - Montage Resort (MR) Post Closure Site Control Plan

On July 30th 2003 PCMC submitted a letter¹¹ to Jim Christiansen (USEPA Remedial Project Manager) asking him that there be a definitive owner to any tailings areas that remain in place that will require long term maintenance and stewardship. On August 20th 2003 Mr. Christiansen replied with the following:

*"A post-removal site control plan is required under the AOC. The AOC will bind UPCM and future owners to ongoing maintenance."*¹²

Additionally as stated by Kerry Gee in the January 2004 submittal Mitigation Plan:

"The Post Removal Site Control Plan prepared for the Non Time Critical Removal Action will be implemented for the site."

However, in the most recent June 2008 submittal the plan states the following:

"Property control and responsibilities for the Montage site has been formally transferred the Montage, which requires that they conduct any and all post removal action site control measures..."

Recommendations:

PCMC is not against the Montage accepting the compliance responsibilities for the Post Closure Site Control Plan. However, due to the recognition that the MR will be backfilled with regulated mine tailings from the Daly West Mine Dump. Talisker as "owners" will be responsible for the implementation and compliance of Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan.

Furthermore, the site is within the clean-up boundaries identified as Empire Canyon CERCLA site under EPA ID No. 0002005981 with an applicable Administrative Order on Consent dated December 12th 2003¹³. Therefore, until USEPA has issued a No Further Action Decision for Empire Canyon, the City

¹¹ Tom Bakaly to Jim Christiansen dated July 30th 2003

¹² Jim Christiansen to Tom Bakaly dated August 20th 2003

¹³ CERCLA 08-2004-003

considers the Montage site as part of the overall Empire Canyon site clean-up owned by Talisker. The City recognizes that under CERCLA, mandated liability is directed to the owners of contaminated sites, which includes the management and disposal of contaminated material.

Therefore, the City will maintain that Talisker as the “owner” is responsible for the management of the environmental engineering controls and any emergency response issues that may require the generation of mine tailings (i.e. utility work ect.) at the MR. By doing so, the City will not inherit any more environmental liability related to mine tailings, without a clear understanding of who owns the site and who is responsible for the management and disposal of generated tailings.

The Montage Resort leases the land and Talisker owns the property, therefore as “owners” and consistent with the AOC and previous statements by the project manager, the owners are required to develop the site management plan. It is staff’s recommendation that prior agreements be honored consistent with CERCLA liability and the ownership/management of contaminated sites.

6. Part F - Memorandum of Understanding – Richardson Flats

The May 10th 2005 Memorandum of Understanding between PCMC and Talisker recognizing the use of Richardson Flats for those entities within the Soils Ordinance Boundary is absent from the plan as an addendum. The June plan states that UPCM is required to have prior approval from USEPA before any mining waste or impacted soils are accepted into the Richardson Flats repository. The City accepts this condition and has been sending these letters to Kerry Gee upon citizens or contractors needing access to Richardson Flats repository.

Recommendations:

Amend the Mine Soil Hazard Mitigation Plan to include this agreement between Talisker and PCMC – signed by Tom Bakaly and Jim Tadeson. The importance of this document allows residential and other property owners impacted with mine tailings to utilize the repository at Richardson Flats. Furthermore, in looking towards the future, related to the remediation of properties within the expanded soils ordinance area. Staff recommends that UPCM reserve 1.5 million cyds of capacity within Richardson Flats. As cooperative stakeholders in the Upper Silver Creek Watershed, the City believes that UPCM and the City should work together to remediate the Upper Silver Creek Watershed. This coincides with USEPA’s Record of Decision for Richardson Flats¹⁴:

“There are several reasons why the Richardson Flat Site is an appropriate location for the placement and consolidation of mine wastes from cleanups conducted at other locations in the Watershed. First, the nature of the mine wastes found throughout the watershed is similar. Second, the volume of waste

¹⁴ Dated and Finalized June 28th 2005

from other locations is extremely small relative to the volume of wastes already present in the impoundment. The impacts from such a small contribution would be negligible. Lastly, the RI has shown that the mine tailings at the Site are well contained and present no unacceptable risks to human health. The selected remedy will ensure conditions remain this way and that all other Site risks are addressed. These factors make the Site an acceptable long term repository, and, in conjunction with these factors an off-site rule determination was made and agreed upon in date.”

7. PART G - Deed Restrictions

The June 2008 states that the deed restriction was an outfall of the placement of a repository for regulated materials. The deed restriction for historic mine impacted property is **not** a new requirement for Park City. Since the development of Prospector, deed restrictions have been required that recognize the underlying regulated mine tailings. The importance of deed restrictions is that it notifies, into perpetuity, any potential purchasers or anyone intending to disturb the site of the presence of mine waste and associated mandated controls. Furthermore, the deed restriction language recognizes the employment of the Post Closure Site Control Plan and the existence of mine tailings underlying the MR.

Furthermore, within the USEPA approved Construction Work Plan for the Montage Hotel dated September 6th 2006 under Section 7.4 titled Institutional Controls¹⁵ the following is stated:

The existence of mine waste remaining below hotel infrastructure will be noted in a recorded deed restriction as required by Park City...

Recommendation:

Staff recommends recorded deed restriction language is included into the Mine Hazard Mitigation Plan as addendum. As a template, the recommendations outlined by PCMC legal council, Connie King's¹⁶ memo dated August 26th 2003 should be used as a resource.

8. Access Issues

This issue seems to be addressed in the most recent submittal.

Notice

Legal Notice was published in the Public Record.

¹⁵ Page 30

¹⁶ Merrill, Anderson, King & Harris – Subject List of Components in a Deed Restriction

Public Input

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

Alternatives

- The Planning Commission may request an amendment to the Mine Soil Hazard Mitigation Plan as outlined in Attachment A.
- Park City may request an amendment to the Mine Soils Hazard Mitigation Plan as outlined in Attachment A with direction to staff on necessary revisions.
- Park City may continue the discussion.
- Planning Commission may direct staff not to alter the current Mine Soils Hazard Mitigation Plan.

Significant Impacts

The City will inherit additional long-term regulatory liability if the recommendations are not followed. There are significant fiscal and environmental impacts involved with the mitigation plan.

Consequences of not taking the Suggested Recommendation

PCMC inherits significant liability related to UPCM's mining activity and impacts.

Recommendation

Hold UPCM to their obligations under the Development Agreement. To ensure the environmental impacts and mine hazards within the new phases of development are adequately mitigated to protect the health, safety, and welfare of the community.

Attachment A Summary of Recommendations

Part A Remediation:

Parcel D3

Remediation is expected to be completed by August 2008 and a closure report submitted to the Building Department. The City recommends UPCM provide the Building Department with an official USEPA correspondence that verifies that the remediation is complete.

Parcel P6

There is not a date given to remediate either P6 or the Mazeppah Shaft yet based on Park City's GIS overlay it appears that these areas are within the area classified as "developable"¹⁷. As stated in previous, comments the City request that firm dates be established for P6. Regarding the Mazeppah Shaft, firm dates will also be required along with closure complying with DOGM standards. Lastly, the City will require that a Professional Engineer (PE) certify closure of this unit. Lastly, the City requests that GPS coordinates be procured for the Mazeppah Shaft.

Parcel D10

There is not a date given to remediate D10, the Temporary Building Permit was issued on August 22nd 2003 and expires October 28th 2008¹⁸. The permit was issued based on the understanding that this parcel would be remediated within a five year time frame. As a result, the City will request that firm dates be established for remediation before the expiration date of the temporary permit (October 28th 2008). The City will also request that the closure report is submitted to the Building Department along with the USEPA comfort letter. Once these parcels have been mitigated, the Building Department recommends that UPCM submit closure reports that verify the remediation is completed along with confirmation sampling results. Lastly, it is strongly recommended that USEPA "comfort letters" for all three parcels be submitted to the Building Department for the record. This coincides with the January 2004 submittal that states "*United Park will also work with the EPA to obtain comfort letters for these remaining parcels.*" Lastly, firm dates should be established for all parcels.

Part B Empire Creek:

Since the long term integrity of Empire Creek is extremely important to Park City, staff recommends that the evaluation be conducted with DOGM oversight. In

¹⁷ Parcel P6 a portion resides within the "developable area".

¹⁸ Permit Number B03-08748

addition, the evaluation should include the installation of additional detention basins for retaining sediment and other pollutants generated from the Montage development. Lastly, staff recommends the installation of gabion armoring within the areas of Empire Creek that have historically failed due to extreme precipitation events. These requirements coincide with the City's Storm Water Management Plan responsibilities that are intended to comply with the Federal Clean Water Act Phase II Rule that has been adopted within the Utah Water Quality Act, Title 19, Chapter 5, Utah Code. Lastly, staff recommends that a copy of the USEPA Closure Report be submitted to the Building Department for historical reference.

Part C Mine Hazards and Reclamation:

On March 14th 2007 Mark Harrington (City Attorney) received a correspondence from Mary Ann Wright (DOGM Associate Director, Mining) stating that her agency would be willing to oversee UPCM mine reclamation and the closure of mine hazards.

As a result, staff recommends that UPCM enter into a Memorandum of Understanding with DOGM to oversee the reclamation and closure of mine hazards. The most recent submittal does not constitute a Reclamation Plan for mine impacts or closure of hazards residing within the City limits (a requirement within the development agreement). DOGM is the state agency with this type of oversight expertise to oversee mine reclamation and closure of mine hazards relieving the City of inheriting this liability. As stated in the previous plan, PCMC will expect the reclamation and closure to coincide with DOGM standards. The closure of all mine hazards should be certified by a Professional Engineer that is identified within the reclamation plan. Lastly, staff recommends that UPCM procure GPS coordinates for all mine hazards and impacts so that this information can be integrated into the City's GIS System. Staff recommends an amendment to the Plan that includes an approved Reclamation Plan for all mine impacts residing within the City limits (this coincides with the obligations within the development agreement).

Part D PCB Transformers:

The Building Department recommends that the analytical results be submitted to the Fire Marshall and a management plan that fully complies with Toxic Substance Control Act within 40 CFR 761 that includes USEPA registration and disposal. Until then the Building Department believes the following is applicable since these units did contain PCB's and would potentially be considered PCB contaminated.

As stated under 40 CFR 761.2 (a)(3)(4) "PCB concentration assumptions for use.":

- (3) Any person must assume that a transformer manufactured prior to July 2, 1979, that contains 1.36 kg (3 pounds) or more of fluid other than mineral oil and whose PCB concentration **is not established**, is a PCB Transformer (i.e. 500 ppm). If the date of manufacture and the type of dielectric fluid are unknown, any person must assume the transformer to be a PCB Transformer.
- (4) Any person must assume that a capacitor manufactured prior to July 2, 1979, whose PCB concentration is not established contains ≥ 500 ppm PCBs. Any person may assume that a capacitor manufactured after July 2, 1979, is non-PCB (i.e., < 50 ppm PCBs). If the date of manufacture is unknown, any person must assume the capacitor contains ≥ 500 ppm PCBs. Any person may assume that a capacitor marked at the time of manufacture with the statement "No PCBs" in accordance with §761.40(g) is non-PCB.

It is recommended that these units be identified within the reclamation plan with associated PCB concentrations, management plan, USEPA Registration, and dates certain for disposal.

Part E Montage Site Management Plan:

PCMC is not against the Montage accepting the compliance responsibilities for the Post Closure Site Control Plan. However, due to the recognition that the MR will be backfilled with regulated mine tailings from the Daly West Mine Dump. Talisker as "owners" will be responsible for the implementation of Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan.

Furthermore, the site is within the clean-up boundaries identified as Empire Canyon CERCLA site under EPA ID No. 0002005981 with an applicable Administrative Order on Consent dated December 12th 2003¹⁹. Therefore, until USEPA has issued a No Further Action Decision for Empire Canyon, the City considers the Montage site as part of the overall Empire Canyon site clean-up owned by Talisker. It is the City understanding that under CERCLA, mandated liability is against the owners of contaminated sites.

Therefore, the City will require Talisker as the "owner" is responsible for the management of the environmental engineering controls and any emergency response issues that may require the generation of mine tailings (i.e. utility work ect.). By doing so, the City will not inherit any more environmental liability related to mine tailings, without a clear understanding of who owns the site and who is responsible for the management and disposal of generated tailings.

¹⁹ CERCLA 08-2004-003

The Montage Resort leases the land and Talisker owns the property, therefore as “owners” and consistent with the AOC and previous statements by the project manager, the owners are required to develop the site management plan. It is staff’s recommendation that prior agreements be honored consistent with CERCLA liability and the ownership/management of contaminated sites.

Part F Memorandum of Understanding:

Amend the Mine Soil Hazard Mitigation Plan to include this agreement between Talisker and PCMC – signed by Tom Bakaly and Jim Tadeson. The importance of this document allows residential and other property owners impacted with mine tailings to utilize the repository at Richardson Flats. Furthermore, in looking towards the future, related to the remediation of properties within the expanded soils ordinance area. Staff recommends that UPCM reserve 1.5 million cyds of capacity within Richardson Flats. As cooperative stakeholders in the Upper Silver Creek Watershed, the City believes that UPCM and the City should work together to remediate the Upper Silver Creek Watershed.

Part G Deed Restrictions:

Consistent with the Montage Work Plan, staff recommends recorded deed restriction language is included into the Mine Hazard Mitigation Plan as addendum. As a template, the recommendations outlined in Connie King’s²⁰ memo dated August 26th 2003 can be used by Talisker as a resource.

²⁰ Merrill, Anderson, King & Harris – Subject List of Components in a Deed Restriction

Commissioner Russack encouraged the applicant to continue working on a way to break up the rear facade. He understood the reason for the height exception but after visiting the site and looking at the streetscape, he believes the front facade of the house will dwarf the adjacent homes. Commissioner Russack suggested stepping the front facade a little more.

Commissioner Wintzer agreed with all comments. In response to a comment from Mr. King about the sewer line restricting the ability to move the building back and forth, Commissioner Wintzer stated that he could always make the building smaller to achieve some articulation. Commissioner Wintzer was not comfortable approving the design as drawn on the hopes of maybe getting the decks. He was unsure if the decks would do enough to articulate the entire back of the building. Commissioner Wintzer agreed with Commissioner Murphy that without a floor plan it is hard to see whether the height exception would increase the square footage. Commissioner Wintzer wanted to see the back elevation with the whole roof structure and not just the bottom half.

Chair Thomas agreed with all comments. He agreed that the rear elevation needs more work. He thought resolution of the sewer easement needs to be in hand before moving forward. Chair Thomas felt it would be helpful to see a model for more visual input and to get a better understanding of the scale.

MOTION: Commissioner Murphy moved to CONTINUE this item to August 13, 2008. Commissioner Wintzer seconded the motion.

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

2. Empire Pass - Amended Mine Soil Hazard Mitigation Plan

Chair Thomas recused himself from this item. Vice-Chair Russack assumed the chair.

Chief Building Official, requested that the Planning Commission conduct a public hearing and continue this item to the next Planning Commission meeting. This would allow the applicant time to work with the City to clean up a few items.

Commissioner Wintzer felt the Staff report was confusing and he asked if it was possible to prepare a chart showing what the City and the applicant want in a way that is easy to read.

Mr. Ivie stated that the submittal with all the documentation is very thick and it is available in the Planning Department. Commissioner Wintzer clarified that he was looking for something that could be condensed to one or two pages. David Smith, representing United Park City Mines, offered to provide a condensed version before the next meeting.

Commissioner Strachan asked for clarification of the issue this evening. Mr. Ivie stated that the issue is multi-faceted. In terms of the technical reports, the City is trying to get date certain times for receiving the documents on the inventory of mine hazards. The process is to further define the technical reports so the City and the applicant is clear on each of the various hazard areas. Mr. Ivie stated that the intent is to be specific on when they can expect the preliminary report on each of

these inventory mine sites and by what standards. Mr. Ivie anticipated discussion on some of the issues.

Commissioner Strachan asked if the goal is to enter into a Memorandum of Understanding as to the reclamation. Mr. Ivie replied that the goal is to be able to enforce the Memorandum of Understanding.

Jeff Schoenbacher, the City Environmental Specialist, stated that the intent is to have a firm understanding of the long terms impacts in regards to mine hazards and reclamation. In addition, the intent is to have a firm understanding of the City's expectation and how mine tailings should be managed long term.

Commissioner Murphy asked if there is a particular point in which the City and United Park differ. Mr. Ivie preferred to wait until the next meeting to respond. There are some issues that could be further discussed and possibly resolved. Mr. Ivie wanted to come back with more a definite answer rather than speculate this evening.

Vice-Chair Russack opened the public hearing.

Mark Fischer stated that he owns a lot of property in the Park Bonanza area. He was told that 12 to 24 inches of soil would have to be trucked from the site and he is concerned that if the Richardson Flats repository is closed it would add millions of dollars to the redevelopment cost. Mr. Fisher agrees that it is a complicated issue but he felt it was important to attend this evening to make sure he understood the aspects of this decision. Mr. Fisher stated that it is important that the Memorandum of Understanding between Park City and United Park City Mines is amended to require that United Park City Mines keeps Richardson Flats open to accept soils in the soils ordinance boundary indefinitely. This will allow the continued development and re-development of Park City without a significant amount of contaminated soil throughout Park City. If it has to be trucked to Tooele, the cost would preclude development and re-development of properties.

Bob Brown, a builder and developer in Park City, stated that it would be cost prohibited to develop property in Park City if Richardson Flats is closed. Tailings are spread out throughout the City and it is necessary to have the ability to have access and to continue to dump on Richardson Flats.

Vice-Chair Russack continued the public hearing.

MOTION: Commission Murphy moved to CONTINUE this item to July 23, 2008. Commissioner Wintzer seconded the motion.

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

3. 8777 and 8789 Marsac Avenue, Flagstaff Mountain Resort Phase II, Northside Village Subdivision II - Amendment to MPD

Commissioner Thomas was recused from this item.

Planning Commission Staff Report

Subject: Mine Soil Hazard Mitigation Plan
for the Empire Pass Development
Author: Jeff Schoenbacher
Date: July 23, 2008
Type of Item: Administrative



Summary Recommendations

Staff recommends the Planning Commission review the supplemental summary, hold a public hearing and consider requiring the applicant to amend the Mine Soil Hazard Mitigation Plan for the Empire Pass Development as detailed in the July 9th staff report

Topic

Applicant: United Park City Mines
Location: Empire Canyon and Newly Annexed Land
Reason: Amendment to the Mine Soil Hazard Mitigation Plan

Background

In June 2008 the City received a revised Mine Soil Hazard Mitigation Plan (MSHMP) for the Empire Pass Development (Dated April 30th 2008). A staff report was provided on July 9 to summarize United Park City Mine's (UPCM) most recent submittal dated April 30th 2008 for Empire Pass. The Planning Commission requested additional summarization.

SUMMARY OF JUNE 18TH 2008 STAFF REPORT

AUTHOR: Jeff Schoenbacher

TITLE: Mine Soil Hazard Mitigation Plan for the Empire Pass Development

| TOPIC | SPECIFICS | ISSUE | UPCM POSITION | STAFF RECOMENDATION |
|---------------------------------------|----------------|--|--|--|
| Outstanding Parcel Remediation | Parcel D3 | Non-Remediated per USEPA Standards. | Remediated by August 2008. | <ul style="list-style-type: none"> • Parcel has not been remediated in accordance with development agreement. • Submit official correspondence from USEPA to the Building Department recognizing the parcel has been remediated. |
| | Parcel P6 | Non-Remediated per USEPA Standards. | Will be remediated with the commencement of the approval process and prior to any building permits issued. | <ul style="list-style-type: none"> • Parcel has not been remediated in accordance with development agreement. • P6 is partially in developable area. • Firm dates must be established for remediation the remediation of P6 and adhered to. |
| | Parcel D10 | Non-Remediated per USEPA Standards. | Will be remediated with the commencement of the approval process and prior to any building permits issued. | <ul style="list-style-type: none"> • Parcel has not been remediated in accordance with development agreement. • Firm dates must be established for the remediation of D10 and adhered to before the expiration of the Temporary Building Permit expiration date (10/28/08)¹. |
| | Mazeppah Shaft | Mine Hazard not closed and Non-Remediated per USEPA Standards. | Will be remediated with the commencement of the approval process and prior to any building permits issued. | <ul style="list-style-type: none"> • Has not been remediated in accordance with development agreement. • Firm dates established for closure and remediation. • Closure protocol complying with Utah Department of Oil, Gas, and Mining (DOG M) standards. • Procurement of GPS coordinates of shaft footprint for integration into the GIS System. • Professional Engineer certifies closure in accordance with a reclamation plan. |

¹ Permit Number B03-08748

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|---|--|---|---|---|
| <p>Empire Creek</p> | <p>Waters of the State of Utah²</p> | <ul style="list-style-type: none"> • Non-Compliant with PCMC Storm Water Management Plan efforts. • Reclamation of stream has failed during high precipitation events. • Long term integrity of Empire Creek is important. | <p>UPCM has contracted Golder Associates to do an evaluation of the improvements of Empire Creek.</p> | <ul style="list-style-type: none"> • Evaluation of Empire Creek is conducted with DOGM oversight and recommendations. • Installation of additional detention basins for retaining sediment and other pollutants generated from the Montage Resort. • Rock gabion armoring within Empire Creek that have historically failed due to high precipitation events. • Copy of USEPA Closure Report submitted to the City for historical reference. |
| <p>Mine Hazard Inventory and Reclamation</p> | <p>Mine Hazards have not been reclaimed and closed in accordance with the development agreement³.</p> | <p>The City does not have the resources or the time to oversee UPCM reclamation and closure.</p> | <p>“United Park has never been subject to the Act nor could it obtain a permit under the Act.”⁴</p> | <ul style="list-style-type: none"> • UPCM enter into a Memorandum of Understanding with Utah Department of Oil, Gas, and Mining (UDOGM) to oversee reclamation and closure of mine hazards. • Most recent submittal does not constitute and reclamation plan. • UDOGM is the state agency that has this expertise to provide oversight and has offered the City assistance in this effort, thereby relieving the City from this liability. • PCMC will expect the reclamation and closure to comply with UDOGM standards. • Closure of all mine hazards to be certified by a Professional Engineer (PE). • Procurement of GPS coordinates of all mine hazards and impacts in order to integrate this data into the City’s GIS System. |
| <p>PCB Transformer Inventory and Management Plan</p> | <p>The City recognizes that many of the mine operations had/have PCB transformer units.</p> | <p>PCBs or PCB Contaminated Equipment are regulated under 40 CFR 761. PCBs are a known health and environmental risk due to toxicity.</p> | <p>In the most recent plan UPCM believes that a leasee (Noranda) mitigated the PCB transformers while leasing UPCM land. However, no verification has been provided that anything has been done with the transformers</p> | <ul style="list-style-type: none"> • Provide an inventory of all transformers and associated PCB concentrations to the Fire Marshall. • The units will be considered PCB contaminated under the “PCB concentration assumption rule. • In the event PCB are discovered a management plan will be required for all regulated units that complies with 40 CFR 761. |

² Utah Water Quality Act 19-5-102 (18) "Waters of the state": (a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state; and (b) does not include bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, a public health hazard, or a menace to fish or wildlife.

³ “Additionally, developer shall reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review”(Section 2.2.1.6).

⁴ David Smith Memo to Brooks Robinson June 25th 2007 Subject: Mine Soil Hazard Mitigation Plan

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|--|---|--|---|---|
| | | | in question. UPCM proposes to sample the transformers and soils by August 1 st 2008. A management/disposal plan will be developed after the results are obtained. | |
| Montage Resort (MR) Post Closure Site Control Plan. | <i>“A post-removal site control plan is required under the AOC. The AOC will bind UPCM and future owners to ongoing maintenance.”⁵</i> | The City recognizes that under CERCLA, mandated liability is directed to the owners of contaminated sites, which includes the management and disposal of contaminated material. Talisker as “owners” is responsible for the implementation and compliance of Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan. | Property control and responsibilities for the Montage site has been formally transferred the Montage, which requires that they conduct any and all post removal action site control measures. | <ul style="list-style-type: none"> • The City maintains that Talisker as the “owner” is responsible for the management of the environmental engineering controls and any emergency response issues that may require the generation of mine tailings (i.e. utility work ect.) at the MR. By doing so, the City will not inherit any more environmental liability related to mine tailings, without a clear understanding of who owns the site and who is responsible for the management and disposal of generated tailings. • Due to the recognition that the MR will be backfilled with regulated mine tailings from the Daley West Mine Dump. Talisker will be responsible for the Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan. |
| Memorandum of Understanding – Richardson Flats | The May 10 th 2005 MOU between PCMC and Talisker recognizing the use of Richardson Flats for those entities within the Soils Ordinance Boundary is | The importance of this document allows residential and other property owners impacted with mine tailings to utilize the repository at Richardson Flats. | UPCM has not included the MOU in the plan. | <ul style="list-style-type: none"> • Amend the Mine Soil Hazard Mitigation Plan to include this agreement between Talisker and PCMC – signed by Tom Bakaly and Jim Tadeson. • Staff recommends that UPCM reserve 1.5 million cyds of capacity within Richardson Flats consistent with USEPA Record of Decision⁶. • Park and Ride Parking lot and fields is also a component of the development agreement. |

⁵ Jim Christiansen to Tom Bakaly dated August 20th 2003

⁶ *“There are several reasons why the Richardson Flat Site is an appropriate location for the placement and consolidation of mine wastes from cleanups conducted at other locations in the Watershed. First, the nature of the mine wastes found throughout the watershed is similar. Second, the volume of waste from other locations is extremely small relative to the volume of wastes already present in the impoundment. The impacts from such a small contribution would be negligible. Lastly, the RI has shown that the mine tailings at the Site are well contained and present no unacceptable risks to human health. The selected remedy will ensure conditions remain this way and that all other Site risks are addressed. These factors make the Site an acceptable long term repository, and, in conjunction with these factors an off-site rule determination was made and agreed upon in date.”*

| | | | | |
|--------------------------|--|---|---|--|
| | absent from the plan as an addendum. | | | |
| DEED RESTRICTIONS | The importance of deed restrictions is that it notifies, into perpetuity, any potential purchasers or anyone intending to disturb the site of the presence of mine waste and associated mandated controls. | Deed Restriction language absent from the plan. | UPCM does not have the authority or the right to place any deed restrictions relating to the Montage Resort property and is not responsible for the post removal action site control measures for the hotel property. | <ul style="list-style-type: none"> Consistent with the USEPA approved Construction Work Plan for the Montage Hotel dated September 6th 2006 under Section 7.4 titled Institutional Controls⁷ the following is stated: <p><i>The existence of mine waste remaining below hotel infrastructure will be noted in a recorded deed restriction as required by Park City...</i></p> Staff recommends recorded deed restriction language is included into the Mine Hazard Mitigation Plan as addendum. The recommendations outlined by PCMC legal council, Connie King's⁸ memo dated August 26th 2003 should be used as a template. UPCM owns the land where the Montage Resort will reside and as "owners" have the right to implement deed restrictions for this parcel. |

⁷ Page 30

⁸ Merrill, Anderson, King & Harris – Subject List of Components in a Deed Restriction

Planning Commission Staff Report

Subject: Mine Soil Hazard Mitigation Plan
for the Empire Pass Development.
Author: Jeff Schoenbacher
Date: June 18th 2008
Type of Item: Administrative



Summary Recommendations

Staff recommends the Planning Commission review the staff report, hold a public hearing and consider requiring the applicant to amend the Mine Soil Hazard Mitigation Plan for the Empire Pass Development.

Topic

Applicant: United Park City Mines
Location: Empire Canyon and Newly Annexed Land
Reason: Amendment to the Mine Soil Hazard Mitigation Plan

Background

In June 2008 the City received a revised Mine Soil Hazard Mitigation Plan (MSHMP) for the Empire Pass Development (Dated April 30th 2008). The purpose of this staff report is to summarize United Park City Mine's (UPCM) most recent submittal dated April 30th 2008 for Empire Pass and check for consistency within the original Development Agreement that states the following:

"Additionally, developer shall reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review"(Section 2.2.1.6).

The intent of the Mine Soil Hazard Mitigation Plan (MSHMP) is to define the remediation and reclamation of mining impacts within Empire Canyon. The outcome of the staff review of the MSHMP is a reiteration of the March 12th 2008 staff report that recommended to amend the plan outlining dates certain for the completion of mine hazard inventory, reclamation plan, inclusion of the Montage Site Management Plan, Memorandum of Understanding (Richardson Flats to accept soils from the Soils Ordinance Boundary), and an assessment of Empire Creek.

Analysis

There are two types of environmental regulatory land classification within the Empire Pass annexed parcel; the first are areas recognized as “developable”, with the second being land classified as the Empire Canyon site EPA ID# 0002005981. The “developable” parcels reside within the boundaries of the Empire Canyon CERCLIS¹ site; however the United States Environmental Protection Agency (USEPA) and Utah Department of Environmental Quality (UDEQ) have excluded these areas from the stigma of CERCLA² authority. In January 2002, USEPA and UPCM outlined and identified clean up standards for the developable areas. The result is an agreement that all residential developable areas would be mitigated to a standard of <500-ppm lead and <100-ppm arsenic. Regarding the acreage known as the Empire Canyon CERCLIS site, UPCM entered into an Administrative Order on Consent (AOC) in May of 2002. An AOC is a legal agreement signed by USEPA and an individual, business, or other entity through which the party agrees to implement the required corrective or cleanup actions. This agreement can be enforced in court and describes the actions to be taken, which are subject to a public comment period. The first AOC resulted in UPCM doing several studies to determine the extent and nature of the contamination as well as doing an Engineering Evaluation/Cost Analysis (EE/CA). Empire Canyon is a significant contributor to the impairment of the Silver Creek Watershed. As stated in USEPA’s report titled “Data Interpretation Report for the Upper Silver Creek Watershed Surface Water Monitoring 2000 dated February 13th 2001 page 31:

Surface water emanating from Empire Canyon has by far the highest concentrations of metals found in the watershed. Zinc levels were up to 17 times higher than the aquatic life standard....

Storm events also have the potential to move large volumes of highly contaminated water or sediment in a very short time. These points, coupled with the fact that Empire Canyon is at the “top” of the watershed, suggest that it is a critical point source in the contamination of Silver Creek and should be addressed further.

The Mine Soil Hazard Mitigation Plan was required by Park City to allay long-term environmental regulatory liability and clarify the expectations related to remediation and reclamation of United Park City Mines. The following are the recommendations to the Planning Commission based on the most recent submittal dated April 30th 2008:

¹ Comprehensive Environmental Response, Compensation, and Liability Information System

² Comprehensive Environmental Response, Compensation, and Liability Act

1. PART A – Outstanding Parcel Remediation

As stated in the previous plan, there remain three Parcels identified as D3, P6, and D10 that have not been remediated in accordance with the development agreement.

- Based on the revised report, **Parcel D3** located above the Ontario Mine below POD A will be remediated by August 2008. Upon completion a closure report will be submitted to the City. The report states that since this is a non-residential parcel, comfort letters will not be requested from USEPA. Nonetheless, the City will require an official USEPA correspondence that verifies that the remediation is complete.
- The revised plan states that **Parcel P6** will be remediated with the commencement of the approval process and prior to any building permits issued for the B2 East Parcel. This parcel is located adjacent to the Mazeppah Shaft, which is approximately 400 feet deep. The report goes on to state that the shaft is also partially contaminated. There is not a date given to remediate either P6 or the Mazeppah Shaft. Yet based on Park City's GIS overlay it appears that these areas are within the area classified as "developable"³. As stated in the previous technical report, the City request that firm dates be established for P6. Regarding the Mazeppah Shaft, firm dates will also be required along with a closure protocol complying with DOGM standards. Lastly, the City will require that a Professional Engineer (PE) certify closure of this unit. The reclamation will be addressed later in this report; however, the City will request that GPS coordinates for the Mazeppah Shaft as well as other mine hazards.
- Regarding **Parcel D10** located adjacent to the Day Lodge similar to P6 the plan states the parcel will be remediated with the commencement of the approval process and prior to any building permits issued for the B2 East Parcel. The report goes on to state that a closure report will be sent to the City along with comfort letters for this parcel. There is not a date given to remediate D10, the Temporary Building Permit was issued on August 22nd 2003 and expires October 28th 2008⁴. The permit was issued based on the understanding that this parcel would be remediated within a five year time frame. As a result, the City will require that firm dates be established for remediation before the expiration date of the temporary permit (October 28th 2008).

³ Parcel P6 a portion resides within the "developable area".

⁴ Permit Number B03-08748

Recommendations:

Parcel D3

Remediation is expected to be completed by August 2008 and a closure report submitted to the Building Department. The City will require an official USEPA correspondence that verifies that the remediation is complete.

Parcel P6

There is not a date given to remediate either P6 or the Mazeppah Shaft yet based on Park City's GIS overlay it appears that these areas are within the area classified as "developable"⁵. As stated in previous, comments the City request that firm dates be established for P6. Regarding the Mazeppah Shaft, firm dates will also be required along with closure complying with DOGM standards. Lastly, the City will require that a Professional Engineer (PE) certify closure of this unit. Finally, the City requests GPS coordinates for the Mazeppah Shaft.

Parcel D10

There is not a date given to remediate D10, the Temporary Building Permit was issued on August 22nd 2003 and expires October 28th 2008⁶. The permit was issued based on the understanding that this parcel would be remediated within a five year time frame. As a result, the City will request that firm dates be established for remediation before the expiration date of the temporary permit (October 28th 2008). The City will also request that the closure report is submitted to the Building Department along with the USEPA comfort letter.

2. Park B – Empire Creek

Empire Creek is considered mapped "waters of the state of Utah"⁷, which starts approximately 2,200' up gradient from the Montage Resort Building footprint. The revised plan states that UPCM has contracted with Golder Associates to do an evaluation of Empire Creek. The evaluation is proposed to be completed by the **summer of 2008**.

⁵ Parcel P6 a portion resides within the "developable area".

⁶ Permit Number B03-08748

⁷ Utah Water Quality Act 19-5-102 (18) "Waters of the state": (a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state; and (b) does not include bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, a public health hazard, or a menace to fish or wildlife.

Recommendations:

Since the long term integrity of Empire Creek is extremely important to Park City, staff recommends that the evaluation be conducted with DOGM oversight. In addition, the evaluation should include the installation of additional detention basins for retaining sediment and other pollutants generated from the Montage development. Lastly, staff recommends the installation of gabion armoring within the areas of Empire Creek that have historically failed due to extreme precipitation events. These requirements coincide with the City's Storm Water Management Plan responsibilities that are intended to comply with the Federal Clean Water Act Phase II Rule that has been adopted within the Utah Water Quality Act, Title 19, Chapter 5, Utah Code. Lastly, staff recommends that a copy of the USEPA Closure Report related to Empire Creek be submitted to the Building Department for historical reference.

3. Part C - Mine Hazard Inventory and Reclamation Plan

As stated in the original Development Agreement:

"Additionally, developer shall reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review"(Section 2.2.1.6).

During the development of the Empire Pass Development it was assumed that all reclamation was being conducted in accordance with Utah's Division of Oil, Gas, and Mining. The City made that conclusion based on the following statements made by UPCM representatives such as Kevin Murray, UPCM legal counsel, December 2nd 2003;

"United Park strongly disagrees with the City's suggestion that United Park "has yet to fully accomplish" mine reclamation requirements "in accordance with state and federal regulatory agency review" as stated in the original Development Agreement. All applicable mine reclamation requirements imposed upon United Park by state or federal law have been fully satisfied."

"United Park's obligation under the Development Agreement is to reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory requirements."

Stated in United Park City Mines Company SEC Annual Report (1998-2003);

"The maintenance activities on a number of these shafts and adits are undertaken to provide that all types of equipment are in adequate condition, that underground transportation and ventilation systems are adequate and that the Company is in compliance with its governmental permits and regulations."

The SEC Annual Reports go on to state (1998-2003 General second paragraph):

“United Park acquired mining properties in the Park City area upon its formation in 1953. Prior to 1982, United Park’s principal business was the mining of lead, zinc, silver, gold, and copper ore from these properties or the leasing of these properties to other mine operators. United Park now conducts no active mining operations and has no agreement to sell or lease its mining properties. The mining properties are maintained on a stand-by basis. The company also performs mine and tunnel maintenance for other entities on a contract basis.”

Lastly, as documented in the DOGM historical file, United Park City Mines Company had an enforcement file to force the mine to obtain a permit as early as June 16th 1992, thereby requiring a permit and reclamation⁸. DOGM staff felt strongly that a permit was required; however the Division did not act upon the Notices of Intentions in a timely manner. As a result, the DOGM retains the current position that the mines in Empire Canyon are not mines subject to their jurisdiction⁹.

Nonetheless, the City recognizes that mine “reclamation” is not synonymous with environmental remediation. Reclamation normally refers to remedying physical hazards and impacts of past mining and is normally subject to bonding requirements, while environmental remediation contemplates remedying unacceptable contaminant levels in soil and water.

As stated in the previous report, USEPA is not overseeing the reclamation and has never addressed this issue as requested in formal comments¹⁰.

Recommendations:

On March 14th 2007 Mark Harrington (City Attorney) received a correspondence from Mary Ann Wright (DOGM Associate Director, Mining) stating that her agency would be willing to oversee UPCM mine reclamation and the closure of mine hazards.

As a result, staff recommends that UPCM enter into a Memorandum of Understanding with DOGM to oversee the reclamation and closure of mine hazards. The most recent submittal does not constitute a Reclamation Plan for mine impacts or closure of hazards residing within the City limits (a requirement within the development agreement). DOGM is the state agency with this type of oversight expertise to watch over all reclamation and closure of mine hazards relieving the City from liability of having to oversee UPCM reclamation requirements. As stated in the previous report, PCMC will expect the reclamation and closure to comply with DOGM standards. The closure of all mine hazards

⁸ D. Wayne Hedberg, Permit Supervisor Memo – Proposed Inspection Meeting, United Park City Mines Company, Ontario Mine, M/043/003, Summit County, Utah

⁹ Letter to Mark Harrington from Mary Ann Wright Associate Director of DOGM March 14th 2007.

¹⁰ See USEPA Region 8 letter to Kathy Hernandez dated April 20th 2007

should be certified by a Professional Engineer that is identified within the reclamation plan. Lastly, staff recommends that UPCM procure GPS coordinates for all mine hazards and impacts so that this information can be integrated into the City's GIS System.

4. Part D - PCB Transformer Inventory (Absent from the submitted Plan)

USEPA regulates the use, storage and disposal of PCB Transformers and PCB-Contaminated Transformers containing between 50 and 499 ppm PCBs within 40 CFR Part 761 under the Toxic Substances Control Act (TSCA).

In the February 2008 Mine Soil Hazard Mitigation Plan the following inventory of transformers was provided:

- Daly West Mine 3
- Ontario Mine 6
- Thaynes Borehole 3
- Thaynes Shaft 3
- Silver King Number not identified.

In the most recent plan UPCM believes that a leasee (Noranda) mitigated the PCB transformers while leasing UPCM land. However, no verification has been provided that anything has been done with the transformers in question. As a result, UPCM is proposing to sample all transformers and any impacted soils by August 1st 2008.

Recommendations:

The Building Department recommends that the analytical results and TR location/identification be submitted to the Fire Marshall along with a management plan that fully complies with Toxic Substance Control Act within 40 CFR 761 that includes USEPA registration and disposal. Until then the Building Department with consider the following as applicable since these units did contain PCB's at one time and therefore would be considered PCB contaminated.

As stated under 40 CFR 761.2 (a)(3)(4) "PCB concentration assumptions for use.":

- (3) Any person must assume that a transformer manufactured prior to July 2, 1979, that contains 1.36 kg (3 pounds) or more of fluid other than mineral oil and whose PCB concentration **is not established**, is a PCB Transformer (i.e. 500 ppm). If the date of manufacture and the type of dielectric fluid are unknown, any person must assume the transformer to be a PCB Transformer.

- (4) Any person must assume that a capacitor manufactured prior to July 2, 1979, whose PCB concentration is not established contains ≥ 500 ppm PCBs. Any person may assume that a capacitor manufactured after July 2, 1979, is non-PCB (i.e., < 50 ppm PCBs). If the date of manufacture is unknown, any person must assume the capacitor contains ≥ 500 ppm PCBs. Any person may assume that a capacitor marked at the time of manufacture with the statement "No PCBs" in accordance with §761.40(g) is non-PCB.

5. Part E - Montage Resort (MR) Post Closure Site Control Plan

On July 30th 2003 PCMC submitted a letter¹¹ to Jim Christiansen (USEPA Remedial Project Manager) asking him that there be a definitive owner to any tailings areas that remain in place that will require long term maintenance and stewardship. On August 20th 2003 Mr. Christiansen replied with the following:

"A post-removal site control plan is required under the AOC. The AOC will bind UPCM and future owners to ongoing maintenance."¹²

Additionally as stated by Kerry Gee in the January 2004 submittal Mitigation Plan:

"The Post Removal Site Control Plan prepared for the Non Time Critical Removal Action will be implemented for the site."

However, in the most recent June 2008 submittal the plan states the following:

"Property control and responsibilities for the Montage site has been formally transferred the Montage, which requires that they conduct any and all post removal action site control measures..."

Recommendations:

PCMC is not against the Montage accepting the compliance responsibilities for the Post Closure Site Control Plan. However, due to the recognition that the MR will be backfilled with regulated mine tailings from the Daly West Mine Dump. Talisker as "owners" will be responsible for the implementation and compliance of Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan.

Furthermore, the site is within the clean-up boundaries identified as Empire Canyon CERCLA site under EPA ID No. 0002005981 with an applicable Administrative Order on Consent dated December 12th 2003¹³. Therefore, until USEPA has issued a No Further Action Decision for Empire Canyon, the City

¹¹ Tom Bakaly to Jim Christiansen dated July 30th 2003

¹² Jim Christiansen to Tom Bakaly dated August 20th 2003

¹³ CERCLA 08-2004-003

considers the Montage site as part of the overall Empire Canyon site clean-up owned by Talisker. The City recognizes that under CERCLA, mandated liability is directed to the owners of contaminated sites, which includes the management and disposal of contaminated material.

Therefore, the City will maintain that Talisker as the “owner” is responsible for the management of the environmental engineering controls and any emergency response issues that may require the generation of mine tailings (i.e. utility work ect.) at the MR. By doing so, the City will not inherit any more environmental liability related to mine tailings, without a clear understanding of who owns the site and who is responsible for the management and disposal of generated tailings.

The Montage Resort leases the land and Talisker owns the property, therefore as “owners” and consistent with the AOC and previous statements by the project manager, the owners are required to develop the site management plan. It is staff’s recommendation that prior agreements be honored consistent with CERCLA liability and the ownership/management of contaminated sites.

6. Part F - Memorandum of Understanding – Richardson Flats

The May 10th 2005 Memorandum of Understanding between PCMC and Talisker recognizing the use of Richardson Flats for those entities within the Soils Ordinance Boundary is absent from the plan as an addendum. The June plan states that UPCM is required to have prior approval from USEPA before any mining waste or impacted soils are accepted into the Richardson Flats repository. The City accepts this condition and has been sending these letters to Kerry Gee upon citizens or contractors needing access to Richardson Flats repository.

Recommendations:

Amend the Mine Soil Hazard Mitigation Plan to include this agreement between Talisker and PCMC – signed by Tom Bakaly and Jim Tadeson. The importance of this document allows residential and other property owners impacted with mine tailings to utilize the repository at Richardson Flats. Furthermore, in looking towards the future, related to the remediation of properties within the expanded soils ordinance area. Staff recommends that UPCM reserve 1.5 million cyds of capacity within Richardson Flats. As cooperative stakeholders in the Upper Silver Creek Watershed, the City believes that UPCM and the City should work together to remediate the Upper Silver Creek Watershed. This coincides with USEPA’s Record of Decision for Richardson Flats¹⁴:

“There are several reasons why the Richardson Flat Site is an appropriate location for the placement and consolidation of mine wastes from cleanups conducted at other locations in the Watershed. First, the nature of the mine wastes found throughout the watershed is similar. Second, the volume of waste

¹⁴ Dated and Finalized June 28th 2005

from other locations is extremely small relative to the volume of wastes already present in the impoundment. The impacts from such a small contribution would be negligible. Lastly, the RI has shown that the mine tailings at the Site are well contained and present no unacceptable risks to human health. The selected remedy will ensure conditions remain this way and that all other Site risks are addressed. These factors make the Site an acceptable long term repository, and, in conjunction with these factors an off-site rule determination was made and agreed upon in date.”

7. PART G - Deed Restrictions

The June 2008 states that the deed restriction was an outfall of the placement of a repository for regulated materials. The deed restriction for historic mine impacted property is **not** a new requirement for Park City. Since the development of Prospector, deed restrictions have been required that recognize the underlying regulated mine tailings. The importance of deed restrictions is that it notifies, into perpetuity, any potential purchasers or anyone intending to disturb the site of the presence of mine waste and associated mandated controls. Furthermore, the deed restriction language recognizes the employment of the Post Closure Site Control Plan and the existence of mine tailings underlying the MR.

Furthermore, within the USEPA approved Construction Work Plan for the Montage Hotel dated September 6th 2006 under Section 7.4 titled Institutional Controls¹⁵ the following is stated:

The existence of mine waste remaining below hotel infrastructure will be noted in a recorded deed restriction as required by Park City...

Recommendation:

Staff recommends recorded deed restriction language is included into the Mine Hazard Mitigation Plan as addendum. As a template, the recommendations outlined by PCMC legal council, Connie King's¹⁶ memo dated August 26th 2003 should be used as a resource.

8. Access Issues

This issue seems to be addressed in the most recent submittal.

Notice

Legal Notice was published in the Public Record.

¹⁵ Page 30

¹⁶ Merrill, Anderson, King & Harris – Subject List of Components in a Deed Restriction

Public Input

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

Alternatives

- The Planning Commission may request an amendment to the Mine Soil Hazard Mitigation Plan as outlined in Attachment A.
- Park City may request an amendment to the Mine Soils Hazard Mitigation Plan as outlined in Attachment A with direction to staff on necessary revisions.
- Park City may continue the discussion.
- Planning Commission may direct staff not to alter the current Mine Soils Hazard Mitigation Plan.

Significant Impacts

The City will inherit additional long-term regulatory liability if the recommendations are not followed. There are significant fiscal and environmental impacts involved with the mitigation plan.

Consequences of not taking the Suggested Recommendation

PCMC inherits significant liability related to UPCM's mining activity and impacts.

Recommendation

Hold UPCM to their obligations under the Development Agreement. To ensure the environmental impacts and mine hazards within the new phases of development are adequately mitigated to protect the health, safety, and welfare of the community.

Attachment A Summary of Recommendations

Part A Remediation:

Parcel D3

Remediation is expected to be completed by August 2008 and a closure report submitted to the Building Department. The City recommends UPCM provide the Building Department with an official USEPA correspondence that verifies that the remediation is complete.

Parcel P6

There is not a date given to remediate either P6 or the Mazeppah Shaft yet based on Park City's GIS overlay it appears that these areas are within the area classified as "developable"¹⁷. As stated in previous, comments the City request that firm dates be established for P6. Regarding the Mazeppah Shaft, firm dates will also be required along with closure complying with DOGM standards. Lastly, the City will require that a Professional Engineer (PE) certify closure of this unit. Lastly, the City requests that GPS coordinates be procured for the Mazeppah Shaft.

Parcel D10

There is not a date given to remediate D10, the Temporary Building Permit was issued on August 22nd 2003 and expires October 28th 2008¹⁸. The permit was issued based on the understanding that this parcel would be remediated within a five year time frame. As a result, the City will request that firm dates be established for remediation before the expiration date of the temporary permit (October 28th 2008). The City will also request that the closure report is submitted to the Building Department along with the USEPA comfort letter. Once these parcels have been mitigated, the Building Department recommends that UPCM submit closure reports that verify the remediation is completed along with confirmation sampling results. Lastly, it is strongly recommended that USEPA "comfort letters" for all three parcels be submitted to the Building Department for the record. This coincides with the January 2004 submittal that states "*United Park will also work with the EPA to obtain comfort letters for these remaining parcels.*" Lastly, firm dates should be established for all parcels.

Part B Empire Creek:

Since the long term integrity of Empire Creek is extremely important to Park City, staff recommends that the evaluation be conducted with DOGM oversight. In

¹⁷ Parcel P6 a portion resides within the "developable area".

¹⁸ Permit Number B03-08748

addition, the evaluation should include the installation of additional detention basins for retaining sediment and other pollutants generated from the Montage development. Lastly, staff recommends the installation of gabion armoring within the areas of Empire Creek that have historically failed due to extreme precipitation events. These requirements coincide with the City's Storm Water Management Plan responsibilities that are intended to comply with the Federal Clean Water Act Phase II Rule that has been adopted within the Utah Water Quality Act, Title 19, Chapter 5, Utah Code. Lastly, staff recommends that a copy of the USEPA Closure Report be submitted to the Building Department for historical reference.

Part C **Mine Hazards and Reclamation:**

On March 14th 2007 Mark Harrington (City Attorney) received a correspondence from Mary Ann Wright (DOGM Associate Director, Mining) stating that her agency would be willing to oversee UPCM mine reclamation and the closure of mine hazards.

As a result, staff recommends that UPCM enter into a Memorandum of Understanding with DOGM to oversee the reclamation and closure of mine hazards. The most recent submittal does not constitute a Reclamation Plan for mine impacts or closure of hazards residing within the City limits (a requirement within the development agreement). DOGM is the state agency with this type of oversight expertise to oversee mine reclamation and closure of mine hazards relieving the City of inheriting this liability. As stated in the previous plan, PCMC will expect the reclamation and closure to coincide with DOGM standards. The closure of all mine hazards should be certified by a Professional Engineer that is identified within the reclamation plan. Lastly, staff recommends that UPCM procure GPS coordinates for all mine hazards and impacts so that this information can be integrated into the City's GIS System. Staff recommends an amendment to the Plan that includes an approved Reclamation Plan for all mine impacts residing within the City limits (this coincides with the obligations within the development agreement).

Part D **PCB Transformers:**

The Building Department recommends that the analytical results be submitted to the Fire Marshall and a management plan that fully complies with Toxic Substance Control Act within 40 CFR 761 that includes USEPA registration and disposal. Until then the Building Department believes the following is applicable since these units did contain PCB's and would potentially be considered PCB contaminated.

As stated under 40 CFR 761.2 (a)(3)(4) "PCB concentration assumptions for use.":

- (3) Any person must assume that a transformer manufactured prior to July 2, 1979, that contains 1.36 kg (3 pounds) or more of fluid other than mineral oil and whose PCB concentration **is not established**, is a PCB Transformer (i.e. 500 ppm). If the date of manufacture and the type of dielectric fluid are unknown, any person must assume the transformer to be a PCB Transformer.
- (4) Any person must assume that a capacitor manufactured prior to July 2, 1979, whose PCB concentration is not established contains ≥ 500 ppm PCBs. Any person may assume that a capacitor manufactured after July 2, 1979, is non-PCB (i.e., < 50 ppm PCBs). If the date of manufacture is unknown, any person must assume the capacitor contains ≥ 500 ppm PCBs. Any person may assume that a capacitor marked at the time of manufacture with the statement "No PCBs" in accordance with §761.40(g) is non-PCB.

It is recommended that these units be identified within the reclamation plan with associated PCB concentrations, management plan, USEPA Registration, and dates certain for disposal.

Part E Montage Site Management Plan:

PCMC is not against the Montage accepting the compliance responsibilities for the Post Closure Site Control Plan. However, due to the recognition that the MR will be backfilled with regulated mine tailings from the Daly West Mine Dump. Talisker as "owners" will be responsible for the implementation of Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan.

Furthermore, the site is within the clean-up boundaries identified as Empire Canyon CERCLA site under EPA ID No. 0002005981 with an applicable Administrative Order on Consent dated December 12th 2003¹⁹. Therefore, until USEPA has issued a No Further Action Decision for Empire Canyon, the City considers the Montage site as part of the overall Empire Canyon site clean-up owned by Talisker. It is the City understanding that under CERCLA, mandated liability is against the owners of contaminated sites.

Therefore, the City will require Talisker as the "owner" is responsible for the management of the environmental engineering controls and any emergency response issues that may require the generation of mine tailings (i.e. utility work ect.). By doing so, the City will not inherit any more environmental liability related to mine tailings, without a clear understanding of who owns the site and who is responsible for the management and disposal of generated tailings.

¹⁹ CERCLA 08-2004-003

The Montage Resort leases the land and Talisker owns the property, therefore as “owners” and consistent with the AOC and previous statements by the project manager, the owners are required to develop the site management plan. It is staff’s recommendation that prior agreements be honored consistent with CERCLA liability and the ownership/management of contaminated sites.

Part F Memorandum of Understanding:

Amend the Mine Soil Hazard Mitigation Plan to include this agreement between Talisker and PCMC – signed by Tom Bakaly and Jim Tadeson. The importance of this document allows residential and other property owners impacted with mine tailings to utilize the repository at Richardson Flats. Furthermore, in looking towards the future, related to the remediation of properties within the expanded soils ordinance area. Staff recommends that UPCM reserve 1.5 million cyds of capacity within Richardson Flats. As cooperative stakeholders in the Upper Silver Creek Watershed, the City believes that UPCM and the City should work together to remediate the Upper Silver Creek Watershed.

Part G Deed Restrictions:

Consistent with the Montage Work Plan, staff recommends recorded deed restriction language is included into the Mine Hazard Mitigation Plan as addendum. As a template, the recommendations outlined in Connie King’s²⁰ memo dated August 26th 2003 can be used by Talisker as a resource.

²⁰ Merrill, Anderson, King & Harris – Subject List of Components in a Deed Restriction

REGULAR AGENDA/PUBLIC HEARINGS

1. Empire Pass - amended Mine Soil Hazard Mitigation Plan

Chair Thomas recused himself. Chair Pro Tem Pettit assumed the chair.

Chair Pro Tem Pettit reported that an email was sent to all the Commissioners this afternoon with an attached document. She was unsure if everyone had a chance to review that document and asked the Chief Building Official, Ron Ivie, to describe where the City had reached consensus with the Talisker representative on the various recommendations outlined in Attachment A in the Staff report.

Ron Ivie noted that this item was continued from the last meeting and asked if there would be further public input this evening. Chair Pro Tem Pettit stated that she would open the public hearing following his explanation.

Mr. Ivie remarked that in response to a request by the Planning Commission, the Mine Soil Hazard Mitigation Plan was condensed into a smaller version. He and David Smith, the Talisker representative, met yesterday and came to consensus on everything except four items. The primary issues were two sites that have been scheduled for date certain remediation. The request was to delineate that at the time of the building permit. These are highly vegetated sites in the approximate area of the lodge and it did not make a lot of sense to leave them until the last process in the development. Mr. Ivie recalled that those two sites were on parcels six and ten. He believed there was agreement that they would have a double trigger as far as environmental cleanup at the time of permitting.

Commissioner Pettit clarified that Mr. Ivie's comments related to Attachment A, Summary of Recommendations, referencing Part A, remediation; Parcel 6 and Parcel 10. She asked if he was suggesting revisions to the language under those recommendations.

Mr. Ivie replied that the trigger date on the environmental cleanup on those two parcels would be at the time of building permit. He did not want to mix the two documents because the language is different from the original document.

Mr. Ivie stated that the last two issues relate to dealing with the Richardson Flats issue and the deed restriction. He understood that this appears in their closing documents to notify and report the record of decision on the Montage side. His concern was that anyone who purchased property up there should have better notice that they would have an ongoing management situation in terms of the environmental package. This was his reason for recommending a deed restriction. He was happy with Talisker's agreement to include that in the closing documents as notice.

Mr. Ivie stated that another issue is the concern over closing Richardson Flats. He suggested a language change to recommend that Richardson Flats remain open as long as possible to receive mine tailings from the rest of the community, especially as an MOU, is an important decision. Mr. Ivie noted that it is a significant economic issue and the City recognizes that it is Montage's decision; however the City takes the position that Montage should keep it as a repository.

Secondly, he requested support from the Planning Commission to endorse the concept so the City can negotiate with the EPA if necessary. Mr. Ivie reported that he and David Smith agreed yesterday that if they could amend the plan to include the recommended language, that would be satisfactory to compensate with EPA.

Mr. Ivie referred to specific paragraphs in Attachment A and explained the reasons for his recommendation. The City believes that Talisker should be held to all three conditions and he thinks the City has an agreement to support that position.

Jeff Schoenbacher, the City environmental specialist, felt it was important to note that the plan includes the May 10th 2005 Memorandum of Understanding between Park City and Talisker that the repository would be available to people who need to remove mine waste or contaminated soils.

Mr. Ivie commented on why he and Mr Schoenbacher feel strongly that the conditions of the Memorandum of Understanding should be upheld.

Chair Pro Tem Pettit asked David Smith for clarification on the process to get these recommendations incorporated into the agreement with USEPA. Mr. Smith provided a brief background and stated that Talisker has been highly supported of the whole operation at Richardson Flat. Mr. Smith explained that there is a closure obligation for that site that is driven by EPA. At some point EPA will say that the site has reached capacity. The EPA has reserved a blanket approval to override everything that goes there. Mr. Smith stated that when they receive a request for City material, that person needs to get a letter from Ron Ivie that he generates to Talisker requesting that they take the material. This process was set for them by the EPA.

Chair Pro Tem Pettit asked if the process was in line with the MOU as it was described. Mr. Schoenbacher answered yes, which is why they wanted the MOU incorporated into the plan as a working document. Mr. Ivie noted that the prior documents did not have these triggers to help accomplish what want.

Commissioner Murphy thanked Ron Ivie and Talisker for taking the necessary time to take care of these matters. He appreciated everything that was being done to clear the mine hazards that have been part of the community for 150 years.

Mr. Ivie commented on the need to update but he felt they had resolved the major conflicts. He and Jeff are very committed to do what they can with the EPA.

Commissioner Strachan commented on the terms of the MOU and asked how they could be assured that they can dump 1.5 millions cyds of capacity. Mr. Ivie stated that they do not have any assurance. He wanted the Planning Commission to understand that this was the target the City wanted to work towards. There is still disagreement but he was unsure where the disagreement was. Because the studies do not define capacity, they cannot discuss it.

Chair Pro Tem Pettit opened the public hearing.

Mark Fischer stated that he was on a fact finding mission and was attempting to be part of the solution and not the problem. Mr. Fischer calculated that it would be 60 times more expensive to take the hazard material to Tooele instead of Richardson Flats. He found that amount astonishing. He is a land owner in the NOMA District and one of his biggest challenges in regards to this issue would be what is now the Yard. He hired a company called Resource Management Corporation to do a study for him to determine if he needs to scrape that facility as soon as possible. Currently he is using the facility for non-profit events such as Sundance. Mr. Fischer felt the City and the community needs to figure out the solution together. He asked if it was possible to reserve space at Richardson Flats so they can go through the development process and use the land to remediate the Yard and other buildings in Bonanza. He wondered if he could keep them in service while they go through the redevelopment occurs over the next five to ten years or if he needs to switch gears and start scraping all his property next summer. Mr. Fischer remarked that the issue is not individual to him as a landowner. He felt it was important to have a thoughtful, well-planned way of winding this down. He is friends with Talisker and likes them but this came as quite a shock to him. Mr. Fischer intends to do his study and quantify how much soil he will have to remove on all those properties, and then he will come back to the Planning Commission with a comparison of the cost between Richardson Flats versus Tooele. Mr. Fischer asked the City and the Planning Commission to try to help citizens move the materials in an orderly fashion so they can continue to use the building for a public benefit.

Mike Sweeney stated that he is a developer but he did not have a lot of material to move and he did not have to worry about cleaning up Richardson Flats. His concern was from a philosophical standpoint, which is, if you are going to have redevelopment in Park City it will take years to accommodate that redevelopment. Mr. Sweeney stated that there are properties within the City where they are going to have to do something with the material that is below ground. In looking at these developments, his philosophy is to build more underground parking and have less visible asphalt. He believes they need some way to move that material economical or they will not see green development. He was sure they could come up with a solution that will work for everyone.

Chair Pro Tem Pettit asked how the Planning Commission should proceed. Ron Ivie stated that he would like the Planning Commission to adopt his recommendations. Chair Pro Tem Pettit clarified that the changes mentioned this evening would make their way into the document. She noted that those changes were not currently reflected in Attachment A.

Chair Pro Tem Pettit closed the public hearing.

Commissioner Strachan preferred to see the changes included and the plan amended in writing prior to approval.

Planner Robinson replied that the Staff could bring this back at the next meeting and the Planning Commission could adopt the amended plan at one time.

MOTION: Commissioner Murphy moved to CONTINUE this item to August 13th and to bring it back on a Consent Agenda. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

2. 1775 Prospector Avenue, Parking Lot G, Prospector Square - Plat Amendment

Assistant City Attorney, Polly Samuels McLean stated that she learned a week ago that some of the land that is contemplated in this proposal is owned by a different owner. She was awaiting written notification from that owner consenting to this plat amendment. She had not received that letter and her legal recommendation was that the Planning Commission not hear this item this evening. Ms. McLean recommended that this item be continued to a date uncertain. At that time this application would be re-noticed for public hearing.

Planner Francisco Astorga stated that he had received an amended noticing list of all property owners within 300 feet and that list did include the Sun Creek Homeowners.

Commissioner Peek asked if the property owner was objecting. Ms. McLean understood from the applicant that the property owner was in agreement to do the plat amendment but she had not received proof of that fact.

Don Bloxom, representing the applicant, stated that he was aware this would be continued but he thought the Sun Creek Homeowners should be allowed to speak this evening.

Chair Thomas stated that under the circumstances, they were required to continue this item without further comment.

MOTION: Commissioner Pettit moved to CONTINUE 1775 Prospector Avenue Parking Lot G plat amendment to a date uncertain. Commissioner Murphy seconded the motion.

VOTE: The motion passed unanimously.

3. 408 & 412 Deer Valley Loop Road - Plat Amendment

Planner Astorga distributed copies of a summary of the cultural inventory on the property.

Planner Astorga noted that the Planning Commission reviewed this application and held a public hearing on July 9, at which time they continued this item to wait for a cultural inventory and for the applicant to identify a specific access easement location on the plat.

Planner Astorga reviewed a site plan showing where the applicant had identified the access easement.

Jim Darling, representing the applicant, reviewed the cultural inventory and noted that there were four major findings. There are two known mine holes but they are not assumed to be elaborate excavations. There is also a rock wall retaining structure on the site that did not appear to be related to the building foundation. He understood that it was most likely associated with the shafts that are on site. The last feature was a trail way that runs through the property. Any structure nearby appears to be related to that trail and is a newer age. Mr. Darling stated that the inventory identifies items that were easily identified without going under excavation or removing the tree

Planning Commission Staff Report

Subject: Mine Soil Hazard Mitigation Plan
for the Empire Pass Development
Author: Jeff Schoenbacher
Date: August 13, 2008
Type of Item: Administrative



Summary Recommendations

Staff recommends the Planning Commission review the supplemental summary, hold a public hearing and consider requiring the applicant to amend the Mine Soil Hazard Mitigation Plan for the Empire Pass Development as detailed in the July 9th staff report

Topic

Applicant: United Park City Mines
Location: Empire Canyon and Newly Annexed Land
Reason: Amendment to the Mine Soil Hazard Mitigation Plan

Background

In June 2008 the City received a revised Mine Soil Hazard Mitigation Plan (MSHMP) for the Empire Pass Development (Dated April 30th 2008). A staff report was provided on July 9 to summarize United Park City Mine's (UPCM) most recent submittal dated April 30th 2008 for Empire Pass. The Planning Commission requested additional summarization.

SUMMARY OF JUNE 18TH 2008 STAFF REPORT

AUTHOR: Jeff Schoenbacher

TITLE: Mine Soil Hazard Mitigation Plan for the Empire Pass Development

| TOPIC | SPECIFICS | ISSUE | UPCM POSITION | STAFF RECOMENDATION |
|---------------------------------------|----------------|--|--|--|
| Outstanding Parcel Remediation | Parcel D3 | Non-Remediated per USEPA Standards. | Remediated by August 2008. | <ul style="list-style-type: none"> • Parcel has not been remediated in accordance with development agreement. • Submit official correspondence from USEPA to the Building Department recognizing the parcel has been remediated. |
| | Parcel P6 | Non-Remediated per USEPA Standards. | Will be remediated with the commencement of the approval process and prior to any building permits issued. | <ul style="list-style-type: none"> • Parcel has not been remediated in accordance with development agreement. • P6 is partially in developable area. • Clean-up will occur during permit activity. |
| | Parcel D10 | Non-Remediated per USEPA Standards. | Will be remediated with the commencement of the approval process and prior to any building permits issued. | <ul style="list-style-type: none"> • Parcel has not been remediated in accordance with development agreement. • Clean-up will occur during permit activity. |
| | Mazeppah Shaft | Mine Hazard not closed and Non-Remediated per USEPA Standards. | Will be remediated with the commencement of the approval process and prior to any building permits issued. | <ul style="list-style-type: none"> • Has not been remediated in accordance with development agreement. • Firm dates established for closure and remediation. • Closure protocol complying with Utah Department of Oil, Gas, and Mining (DOG M) standards. • Procurement of GPS coordinates of shaft footprint for integration into the GIS System. • Professional Engineer certifies closure in accordance with a reclamation plan. |

| | | | | |
|---|--|---|---|---|
| <p>Empire Creek</p> | <p>Waters of the State of Utah¹</p> | <ul style="list-style-type: none"> • Non-Compliant with PCMC Storm Water Management Plan efforts. • Reclamation of stream has failed during high precipitation events. • Long term integrity of Empire Creek is important. | <p>UPCM has contracted Golder Associates to do an evaluation of the improvements of Empire Creek.</p> | <ul style="list-style-type: none"> • Evaluation of Empire Creek is conducted with DOGM oversight and recommendations. • Installation of additional detention basins for retaining sediment and other pollutants generated from the Montage Resort. • Rock gabion armoring within Empire Creek that have historically failed due to high precipitation events. • Copy of USEPA Closure Report submitted to the City for historical reference. |
| <p>Mine Hazard Inventory and Reclamation</p> | <p>Mine Hazards have not been reclaimed and closed in accordance with the development agreement².</p> | <p>The City does not have the resources or the time to oversee UPCM reclamation and closure.</p> | <p>“United Park has never been subject to the Act nor could it obtain a permit under the Act.”³</p> | <ul style="list-style-type: none"> • UPCM enter into a Memorandum of Understanding with Utah Department of Oil, Gas, and Mining (UDOGM) to oversee reclamation and closure of mine hazards. • Most recent submittal does not constitute and reclamation plan. • UDOGM is the state agency that has this expertise to provide oversight and has offered the City assistance in this effort, thereby relieving the City from this liability. • PCMC will expect the reclamation and closure to comply with UDOGM standards. • Closure of all mine hazards to be certified by a Professional Engineer (PE). • Procurement of GPS coordinates of all mine hazards and impacts in order to integrate this data into the City’s GIS System. |
| <p>PCB Transformer Inventory and Management Plan</p> | <p>The City recognizes that many of the mine operations had/have PCB transformer units.</p> | <p>PCBs or PCB Contaminated Equipment are regulated under 40 CFR 761. PCBs are a known health and environmental risk due to toxicity.</p> | <p>In the most recent plan UPCM believes that a leasee (Noranda) mitigated the PCB transformers while leasing UPCM land. However, no verification has been provided that anything has been done with the transformers</p> | <ul style="list-style-type: none"> • Provide an inventory of all transformers and associated PCB concentrations to the Fire Marshall. • The units will be considered PCB contaminated under the “PCB concentration assumption rule. • In the event PCB are discovered a management plan will be required for all regulated units that complies with 40 CFR 761. |

¹ Utah Water Quality Act 19-5-102 (18) "Waters of the state": (a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state; and (b) does not include bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, a public health hazard, or a menace to fish or wildlife.

² “Additionally, developer shall reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review”(Section 2.2.1.6).

³ David Smith Memo to Brooks Robinson June 25th 2007 Subject: Mine Soil Hazard Mitigation Plan

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| | | | in question. UPCM proposes to sample the transformers and soils by August 1 st 2008. A management/disposal plan will be developed after the results are obtained. | |
| Montage Resort (MR) Post Closure Site Control Plan. | <i>“A post-removal site control plan is required under the AOC. The AOC will bind UPCM and future owners to ongoing maintenance.”⁴</i> | The City recognizes that under CERCLA, mandated liability is directed to the owners of contaminated sites, which includes the management and disposal of contaminated material. Talisker as “owners” is responsible for the implementation and compliance of Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan. | Property control and responsibilities for the Montage site has been formally transferred the Montage, which requires that they conduct any and all post removal action site control measures. | <ul style="list-style-type: none"> • The City maintains that Talisker as the “owner” is responsible for the management of the environmental engineering controls and any emergency response issues that may require the generation of mine tailings (i.e. utility work ect.) at the MR. By doing so, the City will not inherit any more environmental liability related to mine tailings, without a clear understanding of who owns the site and who is responsible for the management and disposal of generated tailings. • Due to the recognition that the MR will be backfilled with regulated mine tailings from the Daley West Mine Dump. Talisker will be responsible for the Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan. |
| Memorandum of Understanding – Richardson Flats | The May 10 th 2005 MOU between PCMC and Talisker recognizing the use of Richardson Flats for those entities within the Soils Ordinance Boundary is | The importance of this document allows residential and other property owners impacted with mine tailings to utilize the repository at Richardson Flats. | UPCM has not included the MOU in the plan. | <ul style="list-style-type: none"> • Amend the Mine Soil Hazard Mitigation Plan to include this agreement between Talisker and PCMC – signed by Tom Bakaly and Jim Tadeson. • Staff recommends that UPCM reserve 1.5 million cyds of capacity within Richardson Flats consistent with USEPA Record of Decision⁵. • Park and Ride Parking lot and fields is also a component of the development agreement. |

⁴ Jim Christiansen to Tom Bakaly dated August 20th 2003

⁵ *“There are several reasons why the Richardson Flat Site is an appropriate location for the placement and consolidation of mine wastes from cleanups conducted at other locations in the Watershed. First, the nature of the mine wastes found throughout the watershed is similar. Second, the volume of waste from other locations is extremely small relative to the volume of wastes already present in the impoundment. The impacts from such a small contribution would be negligible. Lastly, the RI has shown that the mine tailings at the Site are well contained and present no unacceptable risks to human health. The selected remedy will ensure conditions remain this way and that all other Site risks are addressed. These factors make the Site an acceptable long term repository, and, in conjunction with these factors an off-site rule determination was made and agreed upon in date.”*

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| | absent from the plan as an addendum. | | | |
| DEED RESTRICTIONS | The importance of deed restrictions is that it notifies, into perpetuity, any potential purchasers or anyone intending to disturb the site of the presence of mine waste and associated mandated controls. | Deed Restriction language absent from the plan. | UPCM does not have the authority or the right to place any deed restrictions relating to the Montage Resort property and is not responsible for the post removal action site control measures for the hotel property. | <ul style="list-style-type: none"> Consistent with the USEPA approved Construction Work Plan for the Montage Hotel dated September 6th 2006 under Section 7.4 titled Institutional Controls⁶ the following is stated: <p><i>The existence of mine waste remaining below hotel infrastructure will be noted in a recorded deed restriction as required by Park City...</i></p> <ul style="list-style-type: none"> Staff recommends recorded deed restriction language is included into the Mine Hazard Mitigation Plan as addendum. The recommendations outlined by PCMC legal council, Connie King's⁷ memo dated August 26th 2003 should be used as a template. UPCM owns the land where the Montage Resort will reside and as "owners" have the right to implement deed restrictions for this parcel. |

⁶ Page 30

⁷ Merrill, Anderson, King & Harris – Subject List of Components in a Deed Restriction

Mine Soil Hazard Mitigation Plan
 Revised Table 1
 (Amending and Supplementing the April 30, 2008
 Update & Addendum to the February 2008 Update)

| | <u>Issue</u> | |
|----------|---|--|
| A | <p>Remediation Parcel D-3</p> <p>Parcel P-6 and Mezeppah Shaft</p> <p>Parcel D-10</p> | <ul style="list-style-type: none"> • Remediation completed by 8/31/08; Closure Report to Building Department by 9/15/08; Remediation Completion Certification filed with USEPA by 9/30/08. • Remediation and closure will occur when Site is developed. • Closure will meet DOGM standards. • Closure Certification by Professional Engineer. • United Park to provide GPS coordinates. • United Park to apply for USEPA Comfort Letter – <i>(Caveat: United Park will apply for Comfort Letter upon completion, but cannot compel USEPA to issue the Comfort Letter.)</i> • Remediation and closure will occur when Site is developed. • United Park will provide Closure Report. • United Park will provide confirmation of sampling results. • United Park will apply for USEPA Comfort Letter – <i>(Caveat: United Park will apply for Comfort Letter upon completion, but cannot compel USEPA to issue the Comfort Letter.)</i> |

Mine Soil Hazard Mitigation Plan
Revised Table 1
(Amending and Supplementing the April 30, 2008
Update & Addendum to the February 2008 Update)

| | | |
|----------|--|--|
| B | Empire Creek | <ul style="list-style-type: none"> • Third party evaluation completed by Golder Associates 6/30/08; Report and Recommendations submitted to City and United Park by 9/30/08. • Golder Report will evaluate need for additional detention basins. • Golder Report will evaluate need for installation of gabion armoring. • United Park will submit copy of USEPA Closure Report. |
| C | Mine Hazard Inventory / Reclamation | <ul style="list-style-type: none"> • All mine hazards in the Developable Area have been inventoried, reclaimed and closed (except the Mezeppah). • All reclamation and closure expected to comply with DOGM standards. • Closure of all mine hazards to be certified by Professional Engineer. • United Park will provide GPS coordinates for mine hazards. |
| D | PCB Transformers | <ul style="list-style-type: none"> • United Park will submit a transformer inventory and analytical results to the City Fire Marshall. • If PCBs are discovered, United Park will prepare a management plan for all regulated units that complies with 40 CFR 761. |
| E | Montage Post Closure Site Control Plan | <ul style="list-style-type: none"> • The Montage Post Closure Site Control Plan will be completed by Montage and included as addendum to the Mitigation Plan. |

Mine Soil Hazard Mitigation Plan

Revised Table 1

(Amending and Supplementing the April 30, 2008 Update & Addendum to the February 2008 Update)

| | | |
|----------|--|--|
| E | Montage Post Closure Site Control Plan (Cont.) | <ul style="list-style-type: none">Per USEPA contracts and formal requirements, Montage has sole responsibility for site control measures under the USEPA's Lessee Agreement with Montage, the USEPA-approved Montage Work Plan and Site Control Plan, and the USEPA's Revised Action Memorandum and Administrative Order on Consent. |
| F | Richardson Flat MOU | <ul style="list-style-type: none">MOU and site capacity are both subject to USEPA who approves all deposits at Richardson and determines limits. The City recommends that 1.5 million cubic yards of additional capacity be reserved at Richardson Flat. |
| G | Deed Restrictions | <ul style="list-style-type: none">Montage will provide written environmental disclosures as part of the purchase contract documentation provided to all purchasers of units at the Montage. |

Planning Commission Staff Report

Subject: Mine Soil Hazard Mitigation Plan
for the Empire Pass Development.
Author: Jeff Schoenbacher
Date: June 18th 2008
Type of Item: Administrative



Summary Recommendations

Staff recommends the Planning Commission review the staff report, hold a public hearing and consider requiring the applicant to amend the Mine Soil Hazard Mitigation Plan for the Empire Pass Development.

Topic

Applicant: United Park City Mines
Location: Empire Canyon and Newly Annexed Land
Reason: Amendment to the Mine Soil Hazard Mitigation Plan

Background

In June 2008 the City received a revised Mine Soil Hazard Mitigation Plan (MSHMP) for the Empire Pass Development (Dated April 30th 2008). The purpose of this staff report is to summarize United Park City Mine's (UPCM) most recent submittal dated April 30th 2008 for Empire Pass and check for consistency within the original Development Agreement that states the following:

"Additionally, developer shall reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review"(Section 2.2.1.6).

The intent of the Mine Soil Hazard Mitigation Plan (MSHMP) is to define the remediation and reclamation of mining impacts within Empire Canyon. The outcome of the staff review of the MSHMP is a reiteration of the March 12th 2008 staff report that recommended to amend the plan outlining dates certain for the completion of mine hazard inventory, reclamation plan, inclusion of the Montage Site Management Plan, Memorandum of Understanding (Richardson Flats to accept soils from the Soils Ordinance Boundary), and an assessment of Empire Creek.

Analysis

There are two types of environmental regulatory land classification within the Empire Pass annexed parcel; the first are areas recognized as “developable”, with the second being land classified as the Empire Canyon site EPA ID# 0002005981. The “developable” parcels reside within the boundaries of the Empire Canyon CERCLIS¹ site; however the United States Environmental Protection Agency (USEPA) and Utah Department of Environmental Quality (UDEQ) have excluded these areas from the stigma of CERCLA² authority. In January 2002, USEPA and UPCM outlined and identified clean up standards for the developable areas. The result is an agreement that all residential developable areas would be mitigated to a standard of <500-ppm lead and <100-ppm arsenic. Regarding the acreage known as the Empire Canyon CERCLIS site, UPCM entered into an Administrative Order on Consent (AOC) in May of 2002. An AOC is a legal agreement signed by USEPA and an individual, business, or other entity through which the party agrees to implement the required corrective or cleanup actions. This agreement can be enforced in court and describes the actions to be taken, which are subject to a public comment period. The first AOC resulted in UPCM doing several studies to determine the extent and nature of the contamination as well as doing an Engineering Evaluation/Cost Analysis (EE/CA). Empire Canyon is a significant contributor to the impairment of the Silver Creek Watershed. As stated in USEPA’s report titled “Data Interpretation Report for the Upper Silver Creek Watershed Surface Water Monitoring 2000 dated February 13th 2001 page 31:

Surface water emanating from Empire Canyon has by far the highest concentrations of metals found in the watershed. Zinc levels were up to 17 times higher than the aquatic life standard....

Storm events also have the potential to move large volumes of highly contaminated water or sediment in a very short time. These points, coupled with the fact that Empire Canyon is at the “top” of the watershed, suggest that it is a critical point source in the contamination of Silver Creek and should be addressed further.

The Mine Soil Hazard Mitigation Plan was required by Park City to allay long-term environmental regulatory liability and clarify the expectations related to remediation and reclamation of United Park City Mines. The following are the recommendations to the Planning Commission based on the most recent submittal dated April 30th 2008:

¹ Comprehensive Environmental Response, Compensation, and Liability Information System

² Comprehensive Environmental Response, Compensation, and Liability Act

1. PART A – Outstanding Parcel Remediation

As stated in the previous plan, there remain three Parcels identified as D3, P6, and D10 that have not been remediated in accordance with the development agreement.

- Based on the revised report, **Parcel D3** located above the Ontario Mine below POD A will be remediated by August 2008. Upon completion a closure report will be submitted to the City. The report states that since this is a non-residential parcel, comfort letters will not be requested from USEPA. Nonetheless, the City will require an official USEPA correspondence that verifies that the remediation is complete.
- The revised plan states that **Parcel P6** will be remediated with the commencement of the approval process and prior to any building permits issued for the B2 East Parcel. This parcel is located adjacent to the Mazeppah Shaft, which is approximately 400 feet deep. The report goes on to state that the shaft is also partially contaminated. There is not a date given to remediate either P6 or the Mazeppah Shaft. Yet based on Park City's GIS overlay it appears that these areas are within the area classified as "developable"³. As stated in the previous technical report, the City request that firm dates be established for P6. Regarding the Mazeppah Shaft, firm dates will also be required along with a closure protocol complying with DOGM standards. Lastly, the City will require that a Professional Engineer (PE) certify closure of this unit. The reclamation will be addressed later in this report; however, the City will request that GPS coordinates for the Mazeppah Shaft as well as other mine hazards.
- Regarding **Parcel D10** located adjacent to the Day Lodge similar to P6 the plan states the parcel will be remediated with the commencement of the approval process and prior to any building permits issued for the B2 East Parcel. The report goes on to state that a closure report will be sent to the City along with comfort letters for this parcel. There is not a date given to remediate D10, the Temporary Building Permit was issued on August 22nd 2003 and expires October 28th 2008⁴. The permit was issued based on the understanding that this parcel would be remediated within a five year time frame. As a result, the City will require that firm dates be established for remediation before the expiration date of the temporary permit (October 28th 2008).

³ Parcel P6 a portion resides within the "developable area".

⁴ Permit Number B03-08748

Recommendations:

Parcel D3

Remediation is expected to be completed by August 2008 and a closure report submitted to the Building Department. The City will require an official USEPA correspondence that verifies that the remediation is complete.

Parcel P6

There is not a date given to remediate either P6 or the Mazeppah Shaft yet based on Park City's GIS overlay it appears that these areas are within the area classified as "developable"⁵. As stated in previous, comments the City request that firm dates be established for P6. Regarding the Mazeppah Shaft, firm dates will also be required along with closure complying with DOGM standards. Lastly, the City will require that a Professional Engineer (PE) certify closure of this unit. Finally, the City requests GPS coordinates for the Mazeppah Shaft.

Parcel D10

There is not a date given to remediate D10, the Temporary Building Permit was issued on August 22nd 2003 and expires October 28th 2008⁶. The permit was issued based on the understanding that this parcel would be remediated within a five year time frame. As a result, the City will request that firm dates be established for remediation before the expiration date of the temporary permit (October 28th 2008). The City will also request that the closure report is submitted to the Building Department along with the USEPA comfort letter.

2. Park B – Empire Creek

Empire Creek is considered mapped "waters of the state of Utah"⁷, which starts approximately 2,200' up gradient from the Montage Resort Building footprint. The revised plan states that UPCM has contracted with Golder Associates to do an evaluation of Empire Creek. The evaluation is proposed to be completed by the **summer of 2008**.

⁵ Parcel P6 a portion resides within the "developable area".

⁶ Permit Number B03-08748

⁷ Utah Water Quality Act 19-5-102 (18) "Waters of the state": (a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state; and (b) does not include bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, a public health hazard, or a menace to fish or wildlife.

Recommendations:

Since the long term integrity of Empire Creek is extremely important to Park City, staff recommends that the evaluation be conducted with DOGM oversight. In addition, the evaluation should include the installation of additional detention basins for retaining sediment and other pollutants generated from the Montage development. Lastly, staff recommends the installation of gabion armoring within the areas of Empire Creek that have historically failed due to extreme precipitation events. These requirements coincide with the City's Storm Water Management Plan responsibilities that are intended to comply with the Federal Clean Water Act Phase II Rule that has been adopted within the Utah Water Quality Act, Title 19, Chapter 5, Utah Code. Lastly, staff recommends that a copy of the USEPA Closure Report related to Empire Creek be submitted to the Building Department for historical reference.

3. Part C - Mine Hazard Inventory and Reclamation Plan

As stated in the original Development Agreement:

"Additionally, developer shall reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory agency review"(Section 2.2.1.6).

During the development of the Empire Pass Development it was assumed that all reclamation was being conducted in accordance with Utah's Division of Oil, Gas, and Mining. The City made that conclusion based on the following statements made by UPCM representatives such as Kevin Murray, UPCM legal counsel, December 2nd 2003;

"United Park strongly disagrees with the City's suggestion that United Park "has yet to fully accomplish" mine reclamation requirements "in accordance with state and federal regulatory agency review" as stated in the original Development Agreement. All applicable mine reclamation requirements imposed upon United Park by state or federal law have been fully satisfied."

"United Park's obligation under the Development Agreement is to reclaim all mining and mining overburden sites within Flagstaff Mountain, in accordance with state and federal regulatory requirements."

Stated in United Park City Mines Company SEC Annual Report (1998-2003);

"The maintenance activities on a number of these shafts and adits are undertaken to provide that all types of equipment are in adequate condition, that underground transportation and ventilation systems are adequate and that the Company is in compliance with its governmental permits and regulations."

The SEC Annual Reports go on to state (1998-2003 General second paragraph):

“United Park acquired mining properties in the Park City area upon its formation in 1953. Prior to 1982, United Park’s principal business was the mining of lead, zinc, silver, gold, and copper ore from these properties or the leasing of these properties to other mine operators. United Park now conducts no active mining operations and has no agreement to sell or lease its mining properties. The mining properties are maintained on a stand-by basis. The company also performs mine and tunnel maintenance for other entities on a contract basis.”

Lastly, as documented in the DOGM historical file, United Park City Mines Company had an enforcement file to force the mine to obtain a permit as early as June 16th 1992, thereby requiring a permit and reclamation⁸. DOGM staff felt strongly that a permit was required; however the Division did not act upon the Notices of Intentions in a timely manner. As a result, the DOGM retains the current position that the mines in Empire Canyon are not mines subject to their jurisdiction⁹.

Nonetheless, the City recognizes that mine “reclamation” is not synonymous with environmental remediation. Reclamation normally refers to remedying physical hazards and impacts of past mining and is normally subject to bonding requirements, while environmental remediation contemplates remedying unacceptable contaminant levels in soil and water.

As stated in the previous report, USEPA is not overseeing the reclamation and has never addressed this issue as requested in formal comments¹⁰.

Recommendations:

On March 14th 2007 Mark Harrington (City Attorney) received a correspondence from Mary Ann Wright (DOGM Associate Director, Mining) stating that her agency would be willing to oversee UPCM mine reclamation and the closure of mine hazards.

As a result, staff recommends that UPCM enter into a Memorandum of Understanding with DOGM to oversee the reclamation and closure of mine hazards. The most recent submittal does not constitute a Reclamation Plan for mine impacts or closure of hazards residing within the City limits (a requirement within the development agreement). DOGM is the state agency with this type of oversight expertise to watch over all reclamation and closure of mine hazards relieving the City from liability of having to oversee UPCM reclamation requirements. As stated in the previous report, PCMC will expect the reclamation and closure to comply with DOGM standards. The closure of all mine hazards

⁸ D. Wayne Hedberg, Permit Supervisor Memo – Proposed Inspection Meeting, United Park City Mines Company, Ontario Mine, M/043/003, Summit County, Utah

⁹ Letter to Mark Harrington from Mary Ann Wright Associate Director of DOGM March 14th 2007.

¹⁰ See USEPA Region 8 letter to Kathy Hernandez dated April 20th 2007

should be certified by a Professional Engineer that is identified within the reclamation plan. Lastly, staff recommends that UPCM procure GPS coordinates for all mine hazards and impacts so that this information can be integrated into the City's GIS System.

4. Part D - PCB Transformer Inventory (Absent from the submitted Plan)

USEPA regulates the use, storage and disposal of PCB Transformers and PCB-Contaminated Transformers containing between 50 and 499 ppm PCBs within 40 CFR Part 761 under the Toxic Substances Control Act (TSCA).

In the February 2008 Mine Soil Hazard Mitigation Plan the following inventory of transformers was provided:

- Daly West Mine 3
- Ontario Mine 6
- Thaynes Borehole 3
- Thaynes Shaft 3
- Silver King Number not identified.

In the most recent plan UPCM believes that a leasee (Noranda) mitigated the PCB transformers while leasing UPCM land. However, no verification has been provided that anything has been done with the transformers in question. As a result, UPCM is proposing to sample all transformers and any impacted soils by August 1st 2008.

Recommendations:

The Building Department recommends that the analytical results and TR location/identification be submitted to the Fire Marshall along with a management plan that fully complies with Toxic Substance Control Act within 40 CFR 761 that includes USEPA registration and disposal. Until then the Building Department with consider the following as applicable since these units did contain PCB's at one time and therefore would be considered PCB contaminated.

As stated under 40 CFR 761.2 (a)(3)(4) "PCB concentration assumptions for use.":

- (3) Any person must assume that a transformer manufactured prior to July 2, 1979, that contains 1.36 kg (3 pounds) or more of fluid other than mineral oil and whose PCB concentration **is not established**, is a PCB Transformer (i.e. 500 ppm). If the date of manufacture and the type of dielectric fluid are unknown, any person must assume the transformer to be a PCB Transformer.

- (4) Any person must assume that a capacitor manufactured prior to July 2, 1979, whose PCB concentration is not established contains ≥ 500 ppm PCBs. Any person may assume that a capacitor manufactured after July 2, 1979, is non-PCB (i.e., < 50 ppm PCBs). If the date of manufacture is unknown, any person must assume the capacitor contains ≥ 500 ppm PCBs. Any person may assume that a capacitor marked at the time of manufacture with the statement "No PCBs" in accordance with §761.40(g) is non-PCB.

5. Part E - Montage Resort (MR) Post Closure Site Control Plan

On July 30th 2003 PCMC submitted a letter¹¹ to Jim Christiansen (USEPA Remedial Project Manager) asking him that there be a definitive owner to any tailings areas that remain in place that will require long term maintenance and stewardship. On August 20th 2003 Mr. Christiansen replied with the following:

*"A post-removal site control plan is required under the AOC. The AOC will bind UPCM and future owners to ongoing maintenance."*¹²

Additionally as stated by Kerry Gee in the January 2004 submittal Mitigation Plan:

"The Post Removal Site Control Plan prepared for the Non Time Critical Removal Action will be implemented for the site."

However, in the most recent June 2008 submittal the plan states the following:

"Property control and responsibilities for the Montage site has been formally transferred the Montage, which requires that they conduct any and all post removal action site control measures..."

Recommendations:

PCMC is not against the Montage accepting the compliance responsibilities for the Post Closure Site Control Plan. However, due to the recognition that the MR will be backfilled with regulated mine tailings from the Daly West Mine Dump. Talisker as "owners" will be responsible for the implementation and compliance of Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan.

Furthermore, the site is within the clean-up boundaries identified as Empire Canyon CERCLA site under EPA ID No. 0002005981 with an applicable Administrative Order on Consent dated December 12th 2003¹³. Therefore, until USEPA has issued a No Further Action Decision for Empire Canyon, the City

¹¹ Tom Bakaly to Jim Christiansen dated July 30th 2003

¹² Jim Christiansen to Tom Bakaly dated August 20th 2003

¹³ CERCLA 08-2004-003

considers the Montage site as part of the overall Empire Canyon site clean-up owned by Talisker. The City recognizes that under CERCLA, mandated liability is directed to the owners of contaminated sites, which includes the management and disposal of contaminated material.

Therefore, the City will maintain that Talisker as the “owner” is responsible for the management of the environmental engineering controls and any emergency response issues that may require the generation of mine tailings (i.e. utility work ect.) at the MR. By doing so, the City will not inherit any more environmental liability related to mine tailings, without a clear understanding of who owns the site and who is responsible for the management and disposal of generated tailings.

The Montage Resort leases the land and Talisker owns the property, therefore as “owners” and consistent with the AOC and previous statements by the project manager, the owners are required to develop the site management plan. It is staff’s recommendation that prior agreements be honored consistent with CERCLA liability and the ownership/management of contaminated sites.

6. Part F - Memorandum of Understanding – Richardson Flats

The May 10th 2005 Memorandum of Understanding between PCMC and Talisker recognizing the use of Richardson Flats for those entities within the Soils Ordinance Boundary is absent from the plan as an addendum. The June plan states that UPCM is required to have prior approval from USEPA before any mining waste or impacted soils are accepted into the Richardson Flats repository. The City accepts this condition and has been sending these letters to Kerry Gee upon citizens or contractors needing access to Richardson Flats repository.

Recommendations:

Amend the Mine Soil Hazard Mitigation Plan to include this agreement between Talisker and PCMC – signed by Tom Bakaly and Jim Tadeson. The importance of this document allows residential and other property owners impacted with mine tailings to utilize the repository at Richardson Flats. Furthermore, in looking towards the future, related to the remediation of properties within the expanded soils ordinance area. Staff recommends that UPCM reserve 1.5 million cyds of capacity within Richardson Flats. As cooperative stakeholders in the Upper Silver Creek Watershed, the City believes that UPCM and the City should work together to remediate the Upper Silver Creek Watershed. This coincides with USEPA’s Record of Decision for Richardson Flats¹⁴:

“There are several reasons why the Richardson Flat Site is an appropriate location for the placement and consolidation of mine wastes from cleanups conducted at other locations in the Watershed. First, the nature of the mine wastes found throughout the watershed is similar. Second, the volume of waste

¹⁴ Dated and Finalized June 28th 2005

from other locations is extremely small relative to the volume of wastes already present in the impoundment. The impacts from such a small contribution would be negligible. Lastly, the RI has shown that the mine tailings at the Site are well contained and present no unacceptable risks to human health. The selected remedy will ensure conditions remain this way and that all other Site risks are addressed. These factors make the Site an acceptable long term repository, and, in conjunction with these factors an off-site rule determination was made and agreed upon in date.”

7. PART G - Deed Restrictions

The June 2008 states that the deed restriction was an outfall of the placement of a repository for regulated materials. The deed restriction for historic mine impacted property is **not** a new requirement for Park City. Since the development of Prospector, deed restrictions have been required that recognize the underlying regulated mine tailings. The importance of deed restrictions is that it notifies, into perpetuity, any potential purchasers or anyone intending to disturb the site of the presence of mine waste and associated mandated controls. Furthermore, the deed restriction language recognizes the employment of the Post Closure Site Control Plan and the existence of mine tailings underlying the MR.

Furthermore, within the USEPA approved Construction Work Plan for the Montage Hotel dated September 6th 2006 under Section 7.4 titled Institutional Controls¹⁵ the following is stated:

The existence of mine waste remaining below hotel infrastructure will be noted in a recorded deed restriction as required by Park City...

Recommendation:

Staff recommends recorded deed restriction language is included into the Mine Hazard Mitigation Plan as addendum. As a template, the recommendations outlined by PCMC legal council, Connie King's¹⁶ memo dated August 26th 2003 should be used as a resource.

8. Access Issues

This issue seems to be addressed in the most recent submittal.

Notice

Legal Notice was published in the Public Record.

¹⁵ Page 30

¹⁶ Merrill, Anderson, King & Harris – Subject List of Components in a Deed Restriction

Public Input

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

Alternatives

- The Planning Commission may request an amendment to the Mine Soil Hazard Mitigation Plan as outlined in Attachment A.
- Park City may request an amendment to the Mine Soils Hazard Mitigation Plan as outlined in Attachment A with direction to staff on necessary revisions.
- Park City may continue the discussion.
- Planning Commission may direct staff not to alter the current Mine Soils Hazard Mitigation Plan.

Significant Impacts

The City will inherit additional long-term regulatory liability if the recommendations are not followed. There are significant fiscal and environmental impacts involved with the mitigation plan.

Consequences of not taking the Suggested Recommendation

PCMC inherits significant liability related to UPCM's mining activity and impacts.

Recommendation

Hold UPCM to their obligations under the Development Agreement. To ensure the environmental impacts and mine hazards within the new phases of development are adequately mitigated to protect the health, safety, and welfare of the community.

Attachment A Summary of Recommendations

Part A Remediation:

Parcel D3

Remediation is expected to be completed by August 2008 and a closure report submitted to the Building Department. The City recommends UPCM provide the Building Department with an official USEPA correspondence that verifies that the remediation is complete.

Parcel P6

There is not a date given to remediate either P6 or the Mazeppah Shaft yet based on Park City's GIS overlay it appears that these areas are within the area classified as "developable"¹⁷. As stated in previous, comments the City request that firm dates be established for P6. Regarding the Mazeppah Shaft, firm dates will also be required along with closure complying with DOGM standards. Lastly, the City will require that a Professional Engineer (PE) certify closure of this unit. Lastly, the City requests that GPS coordinates be procured for the Mazeppah Shaft.

Parcel D10

There is not a date given to remediate D10, the Temporary Building Permit was issued on August 22nd 2003 and expires October 28th 2008¹⁸. The permit was issued based on the understanding that this parcel would be remediated within a five year time frame. As a result, the City will request that firm dates be established for remediation before the expiration date of the temporary permit (October 28th 2008). The City will also request that the closure report is submitted to the Building Department along with the USEPA comfort letter. Once these parcels have been mitigated, the Building Department recommends that UPCM submit closure reports that verify the remediation is completed along with confirmation sampling results. Lastly, it is strongly recommended that USEPA "comfort letters" for all three parcels be submitted to the Building Department for the record. This coincides with the January 2004 submittal that states "*United Park will also work with the EPA to obtain comfort letters for these remaining parcels.*" Lastly, firm dates should be established for all parcels.

Part B Empire Creek:

Since the long term integrity of Empire Creek is extremely important to Park City, staff recommends that the evaluation be conducted with DOGM oversight. In

¹⁷ Parcel P6 a portion resides within the "developable area".

¹⁸ Permit Number B03-08748

addition, the evaluation should include the installation of additional detention basins for retaining sediment and other pollutants generated from the Montage development. Lastly, staff recommends the installation of gabion armoring within the areas of Empire Creek that have historically failed due to extreme precipitation events. These requirements coincide with the City's Storm Water Management Plan responsibilities that are intended to comply with the Federal Clean Water Act Phase II Rule that has been adopted within the Utah Water Quality Act, Title 19, Chapter 5, Utah Code. Lastly, staff recommends that a copy of the USEPA Closure Report be submitted to the Building Department for historical reference.

Part C Mine Hazards and Reclamation:

On March 14th 2007 Mark Harrington (City Attorney) received a correspondence from Mary Ann Wright (DOGM Associate Director, Mining) stating that her agency would be willing to oversee UPCM mine reclamation and the closure of mine hazards.

As a result, staff recommends that UPCM enter into a Memorandum of Understanding with DOGM to oversee the reclamation and closure of mine hazards. The most recent submittal does not constitute a Reclamation Plan for mine impacts or closure of hazards residing within the City limits (a requirement within the development agreement). DOGM is the state agency with this type of oversight expertise to oversee mine reclamation and closure of mine hazards relieving the City of inheriting this liability. As stated in the previous plan, PCMC will expect the reclamation and closure to coincide with DOGM standards. The closure of all mine hazards should be certified by a Professional Engineer that is identified within the reclamation plan. Lastly, staff recommends that UPCM procure GPS coordinates for all mine hazards and impacts so that this information can be integrated into the City's GIS System. Staff recommends an amendment to the Plan that includes an approved Reclamation Plan for all mine impacts residing within the City limits (this coincides with the obligations within the development agreement).

Part D PCB Transformers:

The Building Department recommends that the analytical results be submitted to the Fire Marshall and a management plan that fully complies with Toxic Substance Control Act within 40 CFR 761 that includes USEPA registration and disposal. Until then the Building Department believes the following is applicable since these units did contain PCB's and would potentially be considered PCB contaminated.

As stated under 40 CFR 761.2 (a)(3)(4) "PCB concentration assumptions for use.":

- (3) Any person must assume that a transformer manufactured prior to July 2, 1979, that contains 1.36 kg (3 pounds) or more of fluid other than mineral oil and whose PCB concentration **is not established**, is a PCB Transformer (i.e. 500 ppm). If the date of manufacture and the type of dielectric fluid are unknown, any person must assume the transformer to be a PCB Transformer.
- (4) Any person must assume that a capacitor manufactured prior to July 2, 1979, whose PCB concentration is not established contains ≥ 500 ppm PCBs. Any person may assume that a capacitor manufactured after July 2, 1979, is non-PCB (i.e., < 50 ppm PCBs). If the date of manufacture is unknown, any person must assume the capacitor contains ≥ 500 ppm PCBs. Any person may assume that a capacitor marked at the time of manufacture with the statement "No PCBs" in accordance with §761.40(g) is non-PCB.

It is recommended that these units be identified within the reclamation plan with associated PCB concentrations, management plan, USEPA Registration, and dates certain for disposal.

Part E Montage Site Management Plan:

PCMC is not against the Montage accepting the compliance responsibilities for the Post Closure Site Control Plan. However, due to the recognition that the MR will be backfilled with regulated mine tailings from the Daly West Mine Dump. Talisker as "owners" will be responsible for the implementation of Post Closure Site Control Plan for the MR and it will need to be completed and included as an addendum to the Mine Soil Hazard Mitigation Plan.

Furthermore, the site is within the clean-up boundaries identified as Empire Canyon CERCLA site under EPA ID No. 0002005981 with an applicable Administrative Order on Consent dated December 12th 2003¹⁹. Therefore, until USEPA has issued a No Further Action Decision for Empire Canyon, the City considers the Montage site as part of the overall Empire Canyon site clean-up owned by Talisker. It is the City understanding that under CERCLA, mandated liability is against the owners of contaminated sites.

Therefore, the City will require Talisker as the "owner" is responsible for the management of the environmental engineering controls and any emergency response issues that may require the generation of mine tailings (i.e. utility work ect.). By doing so, the City will not inherit any more environmental liability related to mine tailings, without a clear understanding of who owns the site and who is responsible for the management and disposal of generated tailings.

¹⁹ CERCLA 08-2004-003

The Montage Resort leases the land and Talisker owns the property, therefore as “owners” and consistent with the AOC and previous statements by the project manager, the owners are required to develop the site management plan. It is staff’s recommendation that prior agreements be honored consistent with CERCLA liability and the ownership/management of contaminated sites.

Part F Memorandum of Understanding:

Amend the Mine Soil Hazard Mitigation Plan to include this agreement between Talisker and PCMC – signed by Tom Bakaly and Jim Tadeson. The importance of this document allows residential and other property owners impacted with mine tailings to utilize the repository at Richardson Flats. Furthermore, in looking towards the future, related to the remediation of properties within the expanded soils ordinance area. Staff recommends that UPCM reserve 1.5 million cyds of capacity within Richardson Flats. As cooperative stakeholders in the Upper Silver Creek Watershed, the City believes that UPCM and the City should work together to remediate the Upper Silver Creek Watershed.

Part G Deed Restrictions:

Consistent with the Montage Work Plan, staff recommends recorded deed restriction language is included into the Mine Hazard Mitigation Plan as addendum. As a template, the recommendations outlined in Connie King’s²⁰ memo dated August 26th 2003 can be used by Talisker as a resource.

²⁰ Merrill, Anderson, King & Harris – Subject List of Components in a Deed Restriction

REGULAR AGENDA

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
AUGUST 13, 2008

COMMISSIONERS IN ATTENDANCE:

Vice-Chair Evan Russack, Rory Murphy, Dick Peek, Julia Pettit, Adam Strachan, Charlie Wintzer

EX OFFICIO:

Brooks Robinson, Principal Planner; Katie Cattan, Planner; Kirsten Whetstone, Planner; Polly Samuels McLean, Assistant City Attorney, Gary Hill

=====

REGULAR MEETING - 6:30 p.m.

I. ROLL CALL

Vice-Chair Russack called the meeting to order at 6:35 p.m. and noted that all Commissioners were present except Commissioner Thomas who was excused.

II ADOPTION OF MINUTES OF JULY 23, 2008

MOTION: Commissioner Murphy moved to APPROVE the minutes of the July 23, 2008 regular meeting. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously. Commissioners Russack and Wintzer abstained.

III. PUBLIC COMMUNICATIONS

There was no comment.

IV. STAFF & COMMISSIONERS' COMMUNICATIONS

Principle Planner Brooks Robinson introduced the new Planning Director, Tom Eddington.

Planner Robinson reported that the Steep Slope CUP for 637 was initially continued to this meeting from July 9, 2008. In the interim the Staff determined that the project did not qualify under the steep slope CUP criteria and that application was withdrawn.

Commissioner Peek disclosed that he would recuse himself from 429 Woodside Avenue.

V. CONSENT AGENDA

1. 429 Woodside Avenue- Steep Slope Conditional Use Permit
2. Empire Pass - Amended Mine Soil Hazard Mitigation Plan

MOTION: Commissioner Pettit moved to REMOVE 429 Woodside Avenue from the Consent Agenda for discussion and clarification on some of the criteria. Commissioner Murphy seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Wintzer moved to APPROVE the one remaining item on the Consent Agenda. Commissioner Murphy seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA/PUBLIC HEARINGS

1. 429 Woodside Avenue - Steep Slope CUP

Due to a conflict, Commissioner Peek recused himself from this item.

Planner Katie Cattan reviewed the application for 429 Woodside Avenue Steep Slope CUP. She noted that because the proposed home is larger than 1,000 square feet and will be built upon a slope greater than 30% a conditional use permit is required. Planner Cattan stated that the Staff received this application for a steep slope CUP on March 12, 2007. The current application has been reviewed by Staff and complies with the Historic District Design Guidelines. Planner Cattan noted that many modifications were made during the design review process.

The Planning Commission reviewed this application during a previous work session, at which time they requested that the applicant come back with additional side elevations and drawings. After working with Staff, the applicant chose to go in a different direction and the original design was modified. Planner Cattan explained that the modified design separates the historic home from the new addition with a small connection in-between.

Planner Cattan reported that the applicant was requesting a height exception for the center ridge off the new addition in the back to help break up the massing of the building.

The Staff had reviewed the application and found that it meets the requirements for the Land Management Code for the HR-1 District, with the exception of a small portion that is over the height limit. Planner Cattan noted that the criteria review was included in the Staff report, including the criteria for the height exception.

The Staff recommended that the Planning Commission review the proposed steep slope conditional use permit and consider approving the application based on the findings of fact, conclusions of law and conditions of approval, including the height exception.

Commissioner Pettit requested additional information on the reconstruction since the Planning Commission has not previously seen this aspect. From the Staff report, she thought it was difficult to know what the original home looked like and what aspects of the existing home are not reinstated as part of the reconstruction.



Planning Commission Staff Report

Building Department

Subject: Flagstaff Construction Mitigation Plan Amendments
Author: Michelle Downard
Date: September 10, 2008
Type of Item: Administrative

Summary Recommendations

Staff recommends the Planning Commission consider the Flagstaff Mountain Resort (Empire Pass) Construction Mitigation Plan amendments on the consent agenda. Staff has provided findings of fact, conclusions of law and conditions of approval for the Planning Commission's consideration.

Description

Applicant: United Park City Mines Company
Location: Flagstaff Mountain Resort, now Empire Pass
Zoning: Residential Development (RD) and Estate (E) in the Flagstaff Master Planned Development (MPD), and Recreation Open Space outside of development areas.
Adjacent Land Uses: Ski terrain for Deer Valley and PCMR, development areas of Empire Pass.
Reason for Review: Amendments to the Master Plan Development Construction Mitigation Plan require Planning Commission review and approval

Background

June 24, 1999: City Council adopted Ordinance 99-30 approving the annexation and development agreement for the 1,655 acre Flagstaff Mountain area. Ordinance 99-30 granted the equivalent of a "large-scale" master planned development (MPD) and set forth the types and locations of land use; maximum densities; timing of development; development approval process; as well as amenities for each parcel and development conditions.

Ordinance 99-30 also required that the applicant submit 14 specific technical reports for review and approval by the City. The 14 studies, along with the Land Management Code and Development Agreement (99-30) form the standards under which the subject MPD and preliminary/final plat will be reviewed. Technical Report #15 was the Construction Mitigation Plan for the Flagstaff Mountain Development.

August 7, 2008: The City received a completed application for the Flagstaff Construction Mitigation Plan Amendments. The applicant wishes to make 4 changes to the plan as outlined below:

Page 1: The acres and density included within the development area are being amended to be consistent with the actual approvals of the development.

The Amended and Restated Development Agreement (DA) for Flagstaff Mountain, recorded March 2, 2007, allows for 785 Unit Equivalents in no more than 550 dwelling units” (section 2.2.1.3 of the DA). Footnote 6 on page 9 of the DA further states that: “Hotel rooms of 500 square feet or less constitute ¼ unit equivalents. In the case of the Montage, the 192 Montage hotel rooms shall count as Unit Equivalents at a rate of 1 Unit Equivalent per 2,000 square feet of hotel rooms, but such hotel rooms shall not have kitchens and shall not count as dwelling units.”

The increase in density allowed for the development of the Montage Resort and Spa in exchange for the annexation of approximately 2,800 acres of land owned by United Park City Mines Company and primarily leased to Park City Mountain Resort. This annexation area transferred all development rights to the Montage and was further restricted by easement. In addition, a park and ride lot is to be constructed by the developer at the Quinn’s Junction Area and additional affordable/employee housing above that required by the City are considered community benefits.

Page 7: Propose water tank #2 for the project was increased in capacity from 500,000 gallons to 1,000,000 gallons in anticipation of the density of the development and provides emergency fire needs.

Page 11: Eliminate the requirement for a checkpoint station on the public highway as this requirement posed conflicts with Utah Department of Transportation (UDOT). (UDOT was not in favor of allowing a private party to regulate traffic down a state highway.)

Provide the Chief Building Official and Chief of Police the ability to approve large construction vehicle traffic to exit Flagstaff Mountain via Marsac Avenue/Ontario Canyon due to weather concerns or the size of the vehicle, which is now prohibited.

Page 13: Excavated material may be disposed of within the Flagstaff Mountain Development or at Bonanza Flats (a currently utilized fill site within Wasatch County). This would ensure that if excavated material can not be accommodated on the site, it can be disposed of at this location while not creating any additional traffic within Park City. (The site can be accessed from Hwy 224 over the top of Flagstaff Mountain.)

Analysis

The amendments are not in conflict with the Park City Municipal Code.

Staff finds good cause for this amendment as the amendments will more accurately reflect the current practices of the Flagstaff Construction Mitigation. It will not create significant impacts or effect the current operations of the development. These changes will further mitigate the impacts of the construction by providing staff with the ability to consider individual situations and have more ability to address concerns.

Department Review

This project has gone through an interdepartmental review by the Planning, Police and Engineering Departments. No further issues were brought up at that time.

Notice

Notice of the hearing was published in the Park Record, posted on site and in three established locations. There was no courtesy mailing as no specific properties are affected.

Public Input

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

Alternatives

- The Planning Commission may approve the recommendations for the Flagstaff Mountain Resort amendments to the Construction Mitigation Plan; or
- The Planning Commission may deny the amendments for the Flagstaff Mountain Resort Development Construction Mitigation Plan ; or
- The Planning Commission may continue the discussion on the Flagstaff Mountain Resort Development Construction Mitigation Plan.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The current Construction Mitigation Plan would remain in place and would be inconsistent with the current practices and limit the abilities of the Chief Building Official and Chief of Police.

Recommendation

Staff recommends the Planning Commission hold a public hearing for the Flagstaff Mountain Resort (Empire Pass) Construction Mitigation Plan amendments. Staff has provided findings of fact, conclusions of law and conditions of approval for the Planning Commission's consideration.

Findings of Fact:

1. The property is located in the Flagstaff Mountain Resort.
2. The zoning is Residential Development (RD) and Estate (E) in the Flagstaff Master Planned Development (MPD), and Recreation Open Space outside of development areas.
3. On page 1, the acres and density included within the development area are being amended to be consistent with the actual approvals of the development and will read as follows:

“The proposed area of development will be restricted to a) the “Mountain Village” consisting of three development pods (“A”, “B-1” and “B-2”) limited to a) a maximum of 874 acres and b) the “Northside Neighborhood” (Development Pod “D”) limited to a maximum of 63 acres.

The maximum density allowed within the Mountain Village includes 7805 Unit Equivalents configured in no more than ~~550470 dwelling residential units~~ and ~~192 hotel rooms.~~”

4. On page 7, the proposed water tank #2 for the project was increased in capacity from 500,000 gallons to 1,000,000 gallons in anticipation of the density of the development and provides emergency fire needs.
5. On page 11, the amendment eliminates the requirement for a checkpoint station on the public highway as this requirement posed conflicts with Utah Department of Transportation, (as UDOT was apposed to allowing a private party to regulate access on a public highway). In addition, the amendment provides the Chief Building Official and Chief of Police the ability to approve large construction vehicle traffic to exit Flagstaff Mountain via Marsac Avenue/Ontario Canyon due to weather concerns or the size of the vehicle, which is now prohibited.
6. On page 13, excavated material may be disposed of within the Flagstaff Mountain Development or at Bonanza Flats, (a currently utilized fill site within Wasatch County).

Conclusions of Law:

1. There is good cause for this amendment as the amendments will more accurately reflect the current practices of the Flagstaff Construction Mitigation. It will not create significant impacts or effect the current operations of the development.
2. The amendment is consistent with the Park City Land Management Code and the Flagstaff Development Agreement, as amended.
3. Neither the public nor any person will be materially injured by the proposed Construction Mitigation Plan amendments.
4. Approval of the amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. All conditions of approval of the Flagstaff Mountain Resort Development shall continue to apply.

Future Process

The approval of this application by the Planning Commission constitutes Final Action that may be appealed following the procedures found in LMC 1-18.

EXHIBITS:

Exhibit A- Proposed Draft of Construction Mitigation Plan

**CONSTRUCTION MITIGATION PLAN
FOR
FLAGSTAFF MOUNTAIN RESORT
PARK CITY, SUMMIT COUNTY, UTAH
also known as
EMPIRE PASS**

EXHIBIT 15

**Prepared by:
United Park City Mines Company**

**May 2001
(Revised and Approved December 2001)
Revised February 2004
Further revised June 2008**

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Exhibits

Exhibit A – Off-site Road Improvement Plan

Exhibit B1-B2 – Emergency Access Plan (revised 1/2004)

Exhibit C – Road Cross Sections (revised 1/2004)

~~Exhibit D – Construction Entry/Exit Checkpoint~~

Exhibit E – Ontario #3 Mine Building Complex Staging Area

~~Exhibit F – Daly West Construction Staging Area (to be revised based on Mine Soils mitigation plan)~~

I. INTRODUCTION, GOALS & OBJECTIVES

This study is one of several reports that have been prepared to support the Flagstaff Mountain Resort's Large Scale Master Plan Development (LSMPD) application. As LSMPDs are programmatic in nature and subject to refinement at subsequent Master Planned Development (MPD) or Conditional Use Permit (CUP) stages, correspondingly, the contents of this report should be viewed as conceptual in nature and subject to change as specific plans are developed. Details developed at the MPD or CUP stage will not require a modification of this plan provided that they comply with the Goals and Objectives of this Plan.

General Description of the Property

Flagstaff Mountain Resort (the "Resort") is an assemblage of mining claims totaling approximately 1,655 acres of land (the "Annexation Area" located at the southwestern corner of Summit County, Utah. The Annexation Area is bordered by Deer Valley Resort to the east and State Highway 224 (Marsac Avenue) to the northeast. The southern boundary coincides with the Summit County/Wasatch County line. The Park City Mountain Resort borders the Annexation Area to the west and northwest. The Resort was annexed into the corporate limits of Park City, Utah on June 24, 1999 (refer to Exhibit "A" attached).

The proposed areas of development will be restricted to a) the "Mountain Village" consisting of three Development Pods ("A", "B-1" and "B-2") limited to: a) maximum of 874 acres and b) the "Northside Neighborhood" (Development Pod "D") limited to a maximum of 63 acres.

The maximum density allowed within the Mountain Village includes 7805 Unit Equivalents configured in no more than ~~550470 dwelling residential~~ units and 192 hotel rooms. The residential units may be multi-family units, hotel room units or PUD units. In addition, the Mountain Village may also contain a maximum of: i) 16 single-family home sites; and, ii) 75,000 sf of resort support commercial uses.

The Northside Neighborhood (aka Red Cloud) may contain a maximum of 38 single-family home sites of which 30 are currently entitled and 8 are subject to further requirements under the Development Agreement.

In addition to the Deer Valley Resort "Empire" Day Lodge near the Daly West waste rock pile, uses for the Resort are intended to include hotel lodging

facilities, resort support commercial, multi-family residential units, PUD-style residential units and single-family home sites. Recreational uses will remain similar to the current uses described above, with the exception of commercial snowmobiling, which will be discontinued.

Construction and Potential Construction Impacts

Development of the Resort will include two (2) basic types of construction, infrastructure which includes roads, utilities, etc. and the actual residential and commercial buildings themselves. This Construction Mitigation Plan primarily addresses the infrastructure development of the Resort, although the guidelines set forth herein will be incorporated into the individual construction mitigation plans that will be required for each of the building development projects.

The proposed infrastructure development includes construction of: i) roadways, with the associated bridges and tunnels; ii) storm water drainage facilities; and, iii) utility systems including sanitary sewer, water storage & pumping, water distribution, natural gas, electric power transmission and telecommunication systems along with trail systems, ski lifts and other Resort improvements.

As stated above, each individual building project will be required to submit a site-specific construction mitigation plan prior to commencement of construction. These individual building construction mitigation plans will supplement and be consistent with this Plan. Section VI, "Construction Mitigation Plan Management" addresses this supplemental process to ensure compliance and implementation of these Plans.

Construction Mitigation Planning Goals and Objectives

The primary goal and objective of this Construction Mitigation Plan is to identify and mitigate the impacts of infrastructure construction associated with the Resort, adhering to the standard Park City Municipal Corporation ("Park City") required construction impact mitigation measures along with additional site-specific mitigation measures required by the Development Agreement.

In addition, a complete Storm Water Pollution Prevention Plan ("SWPPP") will be prepared and implemented separately for the Resort in strict accordance with local, State and Federal guidelines. The primary goals of the SWPPP will be: i) to limit the areas of disturbance of the existing vegetation to only those areas required to install the proposed improvements; ii) to retain sediment on site to the extent practicable through the selection, installation and maintenance of storm water control measures in accordance with good engineering practices; and, iii) to prevent construction litter, debris and chemicals from becoming a pollutant source of storm water discharges. The SWPPP will also be designed to

protect Park City's water sources and their designated water source protection areas.

For purposes of this Construction Mitigation Plan, and inasmuch as most of the issues and concerns addressed are identical, portions of the SWPPP will be incorporated into the individual sections of the Plan as they apply.

II. EXISTING CONDITIONS

Existing Access

Access to the approximately 1,655-acre Annexation Area is via either Guardsman Pass Road or Daly Avenue. Guardsman Pass Road through the site is a narrow and steep minimally maintained road with a surface of either deteriorating asphalt or gravel. Guardsman Pass Road is not maintained or plowed in the winter and is closed to vehicles after the first significant snowfall of the season at a gate located approximately one-quarter mile south of the Guardsman Connection. Daly Avenue provides gated access to the mouth of Empire Canyon below Development Pod A.

Existing Uses

The Annexation Area has historically been a popular recreational site used by area residents and visitors alike. Winter uses include both lift-served resort skiing as well as backcountry skiing, snowshoeing and snowmobiling. Summer uses include mountain biking, hiking and equestrian uses.

Within the Annexation Area portion of Deer Valley Resort, there are six existing ski lifts and approximately 36 ski runs, many of which have been cut through forest stands, graded, and revegetated. Four additional lifts are currently planned for the Annexation Area. One of these will serve the ski in/ski out needs of Development Pod A, one will access existing terrain between the Red Cloud and Northside Lifts (Ski Pod D) and the other two will access new intermediate and advanced ski terrain in Empire Canyon (future Ski Pods X and Z).

A snowmobile concession, located just east of the Guardsman Connection at the horse stable has been discontinued.

Numerous trails currently exist within the Annexation Area, which include improved roadways, jeep trails, single-track trails, and undeveloped game trails. Many of the undeveloped trails are used on a limited basis by local hikers and equestrians. Other trails receive more frequent use and are recognized as serving a broader spectrum of the public. The "Trails Master Plan for Flagstaff Mountain Resort" provides a detailed description of the existing trail system.

Mining Operations

Although active mining operations ceased in 1982, more than a century of intensive mining activities within the Annexation Area have left a number of mining-related features ranging from bits of debris and subtle landscape alterations to massive mine waste rock overburden sites and standing structures. As mentioned above, the Historic Preservation Plan provides specific information regarding the current status of mining related structures and features within the Annexation Area.

Existing Utilities

Utilities as outlined in the Utility Master Plan have been installed in Marsac Avenue. Water, Electrical and telephone are connected to the service providers. The second sewer outfall down Marsac Avenue is partially complete and will be finished in the summer of 2004.

Existing Emergency Services

Existing and proposed Emergency Services are detailed in the Emergency Response Plan for the project.

III. SCOPE OF INFRASTRUCTURE CONSTRUCTION WORK

Improvements to Marsac Avenue and Mine Road section of State Route 224

As required by the Development Agreement, the Resort will make certain improvements to Marsac Avenue beginning at the Deer Valley Drive "Roundabout," continuing south on Marsac Avenue and the Mine Road to the Guardsman Connection. Included as part of these improvements will be the construction of a runaway truck ramp which was completed in 2001. The balance of the improvements to this section of road include rebuilding the travel surface, adding curb and gutter, and the addition of a short uphill passing lane which is scheduled to be completed by the end of 2004.

Realigned Guardsman Pass Road

Guardsman Pass Road from the Guardsman Connection through Development Pods A and B-1 to Development Pod B-2 has been realigned and accepted by the State.

Private Road

A private road, constructed to the same cross-section described above for the re-aligned portion of Guardsman Pass Road, will be built to serve Development Pod D and the proposed Bonanza Mountain Resort located in Wasatch County on a year-round basis (refer to Exhibit "G" attached). Access to this private road will be limited to the residents of Flagstaff Mountain Resort and Bonanza Mountain Resort along with their respective visitors, guests, employees and service personnel (refer to the Private Road Access Limitation Procedures for Flagstaff Mountain Resort). A private street may be dedicated to the City with City Council approval. An emergency secondary access road will be built from Pod D to Pod A.

Development Pod Infrastructure

Roads within the Development Pods will be constructed to cross-sections similar to those described for the re-aligned Guardsman Pass Road (refer to Exhibit "B" attached). These roads will include all of the required utilities, which, for the most part, will be installed within the road platform. Parking will not be allowed on either side of these roads.

Bridges and tunnels will be constructed to provide grade separation of vehicles and recreational users (hikers, bikers & skiers). These structures will be designed to incorporate so-called "dry crossings" to provide access during construction as well as emergency vehicular access around these structures in the event of a structural failure.

Utilities

Water:

The Flagstaff Mountain Resort Conceptual Water Master Plan provides for the storage and distribution of water for both domestic and fire fighting uses. Water will be provided to the Resort by the Park City Municipal Corporation in accordance with i) an *AGREEMENT FOR A JOINT WELL DEVELOPMENT PROGRAM*, dated January 14, 2000 and ii) a *MEMORANDUM OF UNDERSTANDING BETWEEN PARK CITY MUNICIPAL CORPORATION AND UNITED PARK CITY MINES COMPANY CLARIFYING AND IMPLEMENTING THE WATER SERVICE AND WATER SOURCE DEVELOPMENT PROVISIONS OF THE DEVELOPMENT AGREEMENT* dated June 24, 1999, dated January 14, 2000, and iii) numerous other water agreements between the parties, and iv) any future agreements.

Water will be delivered to the 1,000,000 gallon storage tank (Water Tank #1) that UPK constructed on the east side of Guardsman Road, just above the Empire Day Lodge. The primary source of water for Tank #1 is planned to be the Spiro Water Treatment Plant via the 13th Street Pump Station and the Woodside Tank. After necessary upgrades to the existing system are completed, water will be pumped from the Woodside Tank up Empire Canyon to the Pod B-2 Tank via a 10" ductile iron water line.

The secondary source that presently supplies Tank #1 is the existing Bald Eagle Tank at the Deer Valley Resort. Water gravity flows to Tank #1 from the Bald Eagle Tank through the water line that feeds the Empire Day Lodge at Pod B-2 via a 10" ductile iron water line that runs along the Banner Ski Trail and across the Northside Ski Runs. Tank #1 is located at an operating elevation of approximately 8,450 feet above sea level and provides approximately 540,000 gallons of fire storage for Pods A, B-1 and B-2. This storage capacity has been calculated to provide the necessary 3,000 gallons per minute for the three-hour duration in accordance with the requirements of the Park City Building Department.

Tank #1 will provide water via a pump station and a 10" ductile iron water line to a second tank (Tank #2) of ~~1,000,000~~ approximately 500,000 gallons to be located along the ridgeline in the area above red Cloud. Tank #2 will be located at an operating elevation of approximately 9,150 feet above sea level and will provide approximately 300,000 gallons of fire storage for red Cloud and for UPK's property in the Bonanza Flats area of Wasatch County. This storage capacity has been calculated to provide 2,500 gallons per minute for the two-hour duration. The fire flow assumptions for this tank have been reduced since the buildings served will be much smaller than those programmed for Pods A, B-1 and B-2. Water will be distributed from these tanks via a series of water mains, with fire hydrants installed along the roads and throughout the development Pods as required by Park City and the District. In addition to the required fire hydrants, fire department connections and standpipe systems, fire hose storage cabinets and their appurtenances will be provided in strategic locations throughout Empire Pass to ensure appropriate resources are available in the event of a fire.

Sewer:

Flagstaff Mountain Resort will enter into the necessary Line Extension Agreements with the Snyderville Basin Water Reclamation District in order to secure adequate sanitary sewer service for the Resort.

Flagstaff Mountain Resort will construct a wastewater collection system throughout the Resort area.

Beginning at Development Pod D at the top of Flagstaff Mountain, wastewater will be collected and transported downhill via two separate sewers. The first will follow the alignment of the proposed private road that connects Development Pods D and B-2 and will collect wastewater from those single-family lots located on the west side of Flagstaff Mountain. This sewer will then collect wastewater from Development Pods B-2 and B-1 and convey it to the sewer line constructed in Empire Canyon during 2001. This is the sewer line that extends from the Empire Day Lodge to upper Daly Avenue.

The second sewer will collect wastewater from the balance of the single-family lots within Development Pod D and convey it along the Northside ski runs to Development Pod A.

A system of sewers within Development Pod A will collect the wastewater conveyed from Development Pod D, along with the wastewater generated in Development Pod A and convey it to Prospect Ridge.

From Prospect Ridge, a sewer will convey the wastewater down to one of two connections to the existing sanitary sewer system.

One is the existing sewer that was extended up Marsac Avenue by the City to a point just above the new Deer Valley Drive "roundabout" in Ontario Canyon. This line has the capacity to accept all of the wastewater generated by the Resort and will be the primary receiver of the Resort's wastewater.

The other outfall is the connection that will be made to the existing sewer at the top of Daly Avenue in Empire Canyon. The capacity of this line is restricted due to existing conditions within Main Street, so this line can only accommodate a portion of the overall requirements of the Resort.

Electric Power:

The source of electric power for the Resort will be the existing Judge Tunnel switch and the recently realigned Olmsted line. Power will be distributed from this point throughout the Resort via an underground distribution system located within either the proposed street rights-of-way or utility easements.

Telecommunications:

Allwest Communications will provide fiber optic lines for internet, cable and phone.

Natural Gas:

Questar Natural Gas Company has extended a transmission line to a regulator station in the pod B1 area. Distribution line have been installed in the realign Marsac Ave

For additional information relating to the proposed construction associated with the development of Flagstaff Mountain Resort, please refer to the following Resort master plan documents:

- The Construction and Development Phasing Plan
- The Utilities Master Plan
- The Drainage Master Plan
- The Private Road Access Limitation Procedures
- The Emergency Response Plan

IV. CONSTRUCTION IMPACTS AND MITIGATION MEASURES

Construction Phasing

Detailed anticipated timeline of construction activities are described in the "Construction and Development Phasing Plan for Flagstaff Mountain Resort". A Construction Mitigation Plan is required at the time of Conditional Use Permit application.

Traffic Impacts

The primary impacts to traffic on the roadways adjacent to the Annexation Area relate to construction personnel commutes and deliveries of construction materials and supplies.

As stated above, the primary access to the Annexation Area will be via Marsac Avenue and the Mine Road. The vast majority of construction personnel and material handling traffic to and from the Annexation Area will travel along this route. To a much lesser extent, there will be some minimal construction related traffic along Main Street and Daly Avenue associated with the limited construction activity located in the lower portions of Empire Canyon.

Roadways potentially impacted by construction traffic will include the following:

- SR 224 from Kimball Junction to Deer Valley Drive
- SR 248 from Quinn's Junction at Highway 40 to SR 224 (Park Avenue)
- Bonanza Drive
- Park Avenue to Deer Valley Drive
- Deer Valley Drive to Marsac Avenue
- Marsac Avenue from the roundabout to Hillside Avenue
- The Mine Road from Hillside Avenue to the Guardsman Connection
- Daly Avenue and Main Street

Potential construction traffic impacts include:

- Increased traffic associated with construction personnel arriving and leaving the Annexation Area
- Deliveries of construction materials, primarily loaded trucks moving slowly uphill
- Temporary traffic restrictions associated with the required improvement of Marsac Avenue and the Mine Road

A variety of traffic related mitigation methods will be implemented to minimize the above referenced traffic impacts.

Since the majority of the construction activities will take place during the late spring, summer and early fall construction season, and during long periods of daylight, the majority of the construction personnel will be arriving and departing the Annexation Area at traditionally non-peak time periods. This will help to mitigate traffic congestion during the normal morning and afternoon peak travel times. Although there is no formal system proposed, construction personnel will be strongly encouraged to car pool to and from the Annexation Area to reduce traffic impacts.

The Resort will develop and implement a detailed program to mitigate traffic impacts related to the delivery of materials and supplies to the Resort and the haul-off of excess and waste materials from the Annexation Area.

This program will include, but not be limited to, the following components:

Delivery Schedules

In general deliveries will be restricted to follow the schedule setout in this section which is designed to minimize conflicts with tourist and holiday traffic. Deliveries that cannot accommodate this schedule will be the subject of a specific delivery plan that will be submitted and approved by the Building Department.

Deliveries to the site are of varying types and uses. General construction material will originate from SLC and will be at predictable times and frequency. These deliveries will be scheduled to not coincide with peak winter tourist traffic patterns and will avoid holidays. In the winter peak ski season (Christmas through Presidents Day) these deliveries will be scheduled to arrive during week days after 9:30 AM and before 3:30 PM and will be direct to the construction site. Saturday deliveries are possible but will be the exception and will be further restricted to after 10:00 AM and before 3:00 PM. Sunday and holiday deliveries will be prohibited. In the balance of the year the delivery schedule will also avoid holidays and Sunday, but will generally be permitted over the normal construction hours. Summer traffic conflicts can occur on non holiday times when festivals are scheduled outside of weekends and holidays. The Master Owners Association will verify with the City the festival schedule to the project identifying areas of concern. The developer will coordinate with the City to minimize conflicts with these dates and times.

Just-in-time deliveries consist of materials fabricated off site such as structural steel, pre-cast concrete and trusses. These materials are shipped by common

carrier and are offloaded from the truck and placed directly on the building during normal working hours. While their arrival in town is random and not schedulable like routine deliveries from SLC, they are few in number and will have limited impact.

Concrete deliveries are the most demanding from a schedule point of view. Small pours can be scheduled to respect the off peak delivery schedule set out for routine deliveries. However large pours will occur year-around and may need to be scheduled for the full day. These deliveries schedules will be submitted to the Building Department for approval as previously noted.

Directions and Travel Routes

~~Compliance with the Traffic Mitigation Plan will require monitoring to insure that delivery trucks are routed down Royal Street. Consequently a Checkpoint station will be established that will monitor for compliance with this requirement.~~ Deliveries and traffic routes will be monitored and recorded by the Master Homeowners Association (MHA) who has the ability to levy fines on contractors and owners who fail to comply with the approved project plans. See MHA mitigation plan for details of requirements and coordination of CMPs throughout the project.

A Delivery Route Map providing suppliers with directions to the Resort from I-80 and US 40 including detailed information related to travel conditions and construction detours along the route(s) through Summit County and Park City. This map will be updated on a frequent basis to ensure deliveries do not get lost and cause undue impacts on other parts of Park City. The maps will require that downhill truck traffic use Royal Street. However, at the discretion of the Chief Building Official or the Chief of Police:

- (i) over-length trucks that cannot stay in their lane on the turns on Royal Street may be allowed to go down the Mine Road/Marsac Avenue; and
- (ii) trucks may be routed down the Mine Road/Marsac Avenue when weather or other conditions make travel down Royal Street unsafe or impractical.

- Deliveries will be required to be scheduled in advance to ensure that: i) they arrive during non-peak Park City travel periods; ii) equipment is available to quickly off-load the shipment; and, iii) a storage area is available. With the approval of Park City, deliveries may be scheduled outside of normal working hours to minimize traffic impacts.
- Deliveries will be timed to coincide with the installation of the materials to ensure that the Resort's storage areas do not become overcrowded.

- Deliveries will be prohibited during area special events including, but not limited to, the Fourth of July celebration, the Arts Festival and the Miner's Day celebration.
- Appropriate directional signage will be installed to clearly direct deliveries to their appropriate destination.

With regard to the improvements associated with the reconstruction of Marsac Avenue and the Mine Road, the Resort will work with Park City to develop an approved construction phasing and implementation plan. This plan will include various elements including, but not limited to, a phasing plan and schedule, a detour plan, a construction signage plan, and a public information program all similar to the one implemented on the construction of the sewer in lower Marsac Avenue.

Hours of Operation

Although for the most part construction associated with the Resort is isolated and a significant distance from existing neighboring residential areas, since the construction is taking place uphill from and in confined canyons adjacent to these residential areas that may transmit sound over a great distance, hours of construction is a concern.

In accordance with the Park City Construction Mitigation Guidelines, construction operations will be limited to the hours of 7:00 AM to 9:00 PM Monday through Saturday and 9:00 AM – 6:00 PM on Sunday. These restrictions will be strictly enforced whenever noise and disruption from construction operations may create a public concern. In more remote areas of the Annexation Area that will not affect neighboring residential areas, extended hours of operation may be requested, subject to the approval of the Park City Community Development Department.

Construction Personnel Vehicle Parking

Due to the considerable size of the Resort, the high number of anticipated construction personnel, the need to keep Marsac Ave open to the public, the restrictive nature of the terrain and the vegetation which must be protected, construction personnel vehicle parking is a concern.

The Resort will designate, construct, maintain and manage specific construction personnel vehicle-parking areas located throughout the Annexation Area. Parking is prohibited on Marsac Ave. The Ontario Mine site is the primary area for this work. Land uses for the Ontario Bench may be subject to a Conditional Use Permit. This site is of an appropriate size and is well situated to

accommodate the large numbers of construction personnel that will be working in the lower portions of the Resort in and around Development Pod A. The site is already improved with storm drainage related facilities and asphalt paving. The removal of the mill buildings has increased the area available for staging at this location.

There will be a number of smaller "site specific" construction vehicle parking areas established throughout the Annexation Area. These sites will be located only in areas slated for future construction to ensure that no new vegetation is disturbed. These sites will again be graded and treated to control storm water run-off, mud and dust.

Construction Staging and Material Storage Areas

Similar to the above referenced construction personnel vehicle parking, due to the size of the Resort, the need to keep Guardsman Pass Road open to the public, the potential for changing weather conditions, the restrictive nature of the terrain and the vegetation which must be protected, construction staging and material storage is a significant concern.

The Resort will again designate, construct, maintain and manage specific construction staging and storage areas located throughout the Annexation Area. The same two sites referenced above will play significant roles to mitigating these impacts.

The existing Ontario No. 3 Mine Building Complex will act as the primary staging and material storage site for the Resort. The existing buildings located on this site will provide opportunities to house construction field offices. The exterior portions of the site are of an appropriate size and are well situated to accommodate the long-term storage of large quantities of construction materials required by the Resort.

Excavated materials generated from the project will be processed and reused or disposed of within the annexation area, or at Bonanza Flats. Materials will be processed by sorting the material into structural fill and top soil. The bulk of this processing will occur pursuant to a City approved Construction Mitigation Plan which reduces the overall number of haul trips necessary to transport the excavation waste material to its final approved location and minimizes impacts on existing neighborhoods and future residents within the project area. Final locations for waste material storage shall be designated in area which eliminate or substantially reduce haul trips down Marsac Ave below Pod A. Processed materials which are suitable for reuse as engineered fill, aggregate, or

landscaping materials will be returned to the site as needed. This reuse will reduce offsite truck trips.

Structural fill and top soil that are surplus to the project will be subject to grading permit approval by the City. All fill and fill sites will be subject to appropriate geotechnical engineering and testing and be the subject of a grading permit as required by the IBC. Placement of this material will be covered under separate permit and is the responsibility of United Park City Mines Co (UPK).

The Daly West waste rock pile will act as the primary storage area of on-site generated materials such as trees and vegetation. This site will also be designated as a secondary construction staging area and material storage site since it is well situated to service the mid-portions of the Resort in and around Development Pods B-1 and B-2. However, all work in and around the Daly West must be coordinated with the Mine Soil and Physical Hazards Mitigation Plan. Until the mitigation of Mine Soils is complete on this site, the area available for construction staging will be limited.

In an effort to re-use all suitable materials generated during the construction of the Resort, it is anticipated that several recycling operations will take place at the Daly West staging area. The first will be a wood chipping operation to process organic materials such as trees, slash, ground vegetation and scrap lumber into mulch. This material will be available for use in a variety of ways including mud & dust control, ground stabilization and revegetation & landscaping ground cover

There will be a number of smaller "site specific" construction storage areas established throughout the Annexation Area. These sites will be located in areas slated for future construction to ensure that no new vegetation is disturbed.

In addition to having appropriate areas to stage construction activities and store construction materials, it is very important to manage these areas effectively. This management will begin at the entry to the Annexation Area.

As was stated earlier, a Resort entry "check-point" will be established in the area across from the existing stable facility at the Guardsman Connection. Resort personnel will monitor, direct and control all deliveries made to, and transported within, the Annexation Area. Materials requiring long-term storage will be directed to the Ontario #3 Mine Building Complex, while materials needed in the near-term will be directed to either the Daly West area or directly to the site of the construction.

Appropriate good housekeeping practices are also vitally important in the efficient and orderly storage of construction related materials. The Resort will

exercise good housekeeping practices in compliance with all applicable Federal, State and local laws, regulations and ordinances to prevent exposure of stored materials to storm water.

The Resort will take special care in the handling and storage of potentially hazardous materials. Examples of hazardous materials include:

- Pesticides, insecticides and herbicides
- Petroleum products including oils, fuels, diesel oil, lubricating oils and grease
- Nutrients including soil additives and fertilizers
- Construction chemicals including paints, acids for cleaning masonry surfaces, cleaning solvents, asphalt products, concrete curing compounds

The storage and use of these materials will conform to the manufacturer's recommendations and good housekeeping practices including:

- Providing locked, weather resistant storage areas
- Lining storage areas with plastic sheeting to contain any leaks
- Storing containers in a cool, dry location
- Keeping container lids tightly closed
- Monitoring all containers and storage facilities on a regular basis
- Maintaining an inventory of all products stored on-site

Any excess materials will be disposed of in compliance with all Federal, State and local laws, regulations and ordinances.

The Resort will construct security fences with gates around its stockpile and staging areas as required and will employ security personnel and services as necessary to protect these areas during off-hours.

Temporary Utilities

The Resort has installed the basic utility infrastructure for sewer, power, natural gas, electricity and phone in Marsac Avenue. Construction utilities will extend from these services.

Health & Safety Plan

In accordance with Federal OSHA standards as well as requirements of State and City ordinances, the Resort will develop and implement an approved Health and Safety Plan that will govern all construction activities associated with the Resort.

Waste & Trash Management and Recycling of Materials

As is the case with all construction projects, large quantities of waste, trash and construction by-products will be generated by the Resort. These materials must be stored, handled and disposed of properly so as not to cause adverse impacts to the surrounding area and the environment.

The Resort will develop and implement a trash management and recycling program to maintain clean construction sites, maximize material recycling, minimize disposal truck traffic impacts and minimize impacts to the local landfills. This program will control the storage and disposal of waste & trash and re-utilize recyclable materials, both organic and manufactured.

Trash collection stations will be established at all primary and secondary staging areas. The Resort will provide a sufficient number of dumpsters, designed specifically for the purpose of the storage of solid waste, and schedule timely haulage services to legal landfill disposal areas to ensure that the dumpsters do not become overfull. Haulage of partial loads will be prohibited in order to minimize truck trips. As was stated in the traffic impacts section, specific haul routes will be coordinated to minimize traffic impacts.

Recycling containers will be located near the dumpsters to facilitate separation of reusable and recyclable materials from the trash. Non-organic recyclable materials will be re-utilized on site as much as possible. The Resort will arrange for the removal of all recyclable materials that cannot be reused on-site. As was stated earlier, organic materials, such as scrap lumber, trees, slash and ground vegetation, are planned to be chipped on-site into mulch for use on-site.

Sanitary Waste Disposal

As is the case with any construction project with large numbers of construction personnel, sanitary waste disposal facilities are critical.

The Resort will provide adequate portable toilets for use by the construction personnel. These temporary toilets will be provided and maintained by a licensed provider who will dispose of all waste in compliance with all applicable State and local laws, regulations and ordinances.

Sanitary facilities will be located a sufficient distance from any storm drainage systems to prevent contamination in the event of a spill. Any spill will be cleaned up immediately.

Grading and Excavation Impacts

Impacts from grading and excavation generally fall into to three categories. The first is the generation of fugitive dust and/or mud. The second relates to traffic impacts of hauling excess materials off-site. Finally, the third relates to erosion of exposed surfaces and storm water management.

Fugitive Dust and/or Mud:

Disturbance of the natural vegetation layer and earthwork/excavation activities results in the exposure of the natural soil to the elements. During dry periods, wind, trucks and equipment traveling across these disturbed areas create fugitive dust. This fugitive dust has the potential to negatively affect air quality. During wet periods, the dust turns into mud and, if left unchecked, can impact existing watercourses and can be tracked off-site onto public roadways.

To the extent possible, disturbed areas will be kept to a minimum. Earthwork activities will be scheduled so that the area to be disturbed and left unprotected from erosion will be as small as possible and exposed for the shortest time feasible.

Areas targeted for grading and excavation operations will be delineated by the use of silt fencing on the downhill side of slopes and limits of disturbance fencing in other locations. This fencing will generally be located within five feet of the limits of cuts and fill operations. These delineated limits of disturbance will be strictly enforced to minimize the areas of disturbance.

Temporary stabilization procedures including the establishment of temporary and/or permanent vegetation, mulching, geotextile fabrics, etc. will take place as required to prevent soil erosion. These measures will be installed as soon as practical after construction activities have been temporarily or permanently ceased.

Cut and fill slopes, utility corridors and other areas of disturbance will be covered with topsoil and revegetated as soon as practical to prevent erosion. Mulch and gravel generated from the previously referenced on-site recycling program will be used to control dust and stabilized wet areas.

Fugitive dust will be controlled with appropriate application of water as a palliative. One or more water trucks will be employed throughout the workday to water down haul roads and disturbed areas.

Most of the work associated with the Resort will occur on-site and out of existing public rights-of-way. However truck traffic traveling to and from the Resort has the potential of tracking dust onto public roadways.

Each project will establish a truck wash program. For most sites vehicle wash down areas will be at the entrance to all job sites off of Marsac Avenue. Single family projects will establish portable wash facilities as part of their individual plans. This wash down area will consist of temporary asphalt paving or clean, well-graded gravel with a water hose station and a catch basin to receive the wash water. All construction vehicles leaving the job sites will be inspected by Resort personnel, hosed down as required and have their loads covered or wetted if applicable.

Street Cleaning:

The truck wash at the entrance to the job site will eliminate most sediment transport from the job site to the City's storm water conveyance; however, the potential exists for incidental or accidental transport to Marsac Avenue. Consequently, the drop inlets downhill of the project will be equipped with silt traps of filter fabric or hay bales. These silt traps will be inspected on a weekly basis and prior to any forecast for precipitation and cleaned as needed. Streets will be swept as need depending on the effectiveness of the truck wash program. Streets will also be inspected and cleaned as needed prior to any forecasted precipitation.

Traffic Impacts:

The majority of all materials generated from on-site grading, excavation and other earthwork operations will be retained within the Annexation Area. This material will be used for such things as topsoil cover material, landscape berms and/or structural fills. This policy will reduce traffic impacts on City roads.

Storm Water Management:

The project construction is covered under a SWPPP issued by the State that is held in the name of the master developer, United Park City Mines Co. (UPK). This plan corresponds with the requirements of that permit. UPK will be responsible along with the MHA for enforcing that permit within the project.

The primary goals of the SWPPP are; i) to limit the areas of disturbance of existing vegetation to only those areas required to install the proposed improvements; ii) to retain sediment on site to the extent practical through the selection, installation and maintenance of control measures in accordance with good engineering practices; and iii) to prevent construction litter, debris and chemicals from becoming a pollutant source for storm water discharges.

In general, the Resort will institute the following good housekeeping practices:

- Protecting existing vegetation to remain from disturbance
- Minimizing slope lengths and steepness
- Preventing pollutant contact with precipitation and runoff
- Keeping pollutants off exposed surfaces
- Keeping materials out of storm drainage systems
- Reducing storm runoff velocities
- Minimizing generation of waste materials and dispose of all waste materials properly
- Storing all materials properly, including adequate covering
- Preventing leaks and spills, cleaning up any spills immediately
- Preventing concrete and cement mortars from entering storm drainages
- Applying fertilizers, pesticides and herbicides in accordance with the manufacturer's instructions
- Minimizing tracking of sediment off-site

All proposed staging and materials storage areas will incorporate storm run-off controls. Storm water collection, transmission and disposal facilities will be constructed to route storm water runoff around these areas. The storm water flows from these facilities will be discharged, where possible, through areas of natural vegetation so that filtering can occur. In areas where natural vegetation is not available, siltation basins will be constructed. Upon completion of the Resort, or when a staging area is no longer being used, these storm water run-off control facilities will be removed, re-graded and re-vegetated.

The Resort will install a variety of storm water run-off prevention measures whenever natural vegetation is disturbed including, but not limited to, straw bales, silt fences, silt basins, rock check dams, etc. to prevent silt and other construction related materials from entering the storm drain systems and/or water courses.

UPK and MHA personnel will routinely inspect the above-described erosion and sediment control facilities on a regular basis. These facilities will be maintained, repaired and supplemented as required to ensure effective operating conditions. Sediment will be cleared from the control facilities when the depth of the accumulated sediment reaches a maximum of 1/3 of the height of the structure.

Upon completion of construction, all temporary facilities will be removed from the site and revegetated after the disturbed areas have stabilized.

Noise Prevention

As stated earlier, although, for the most part, construction associated with the Resort is isolated and a significant distance from existing neighboring residential

areas, since the construction is taking place uphill from and in confined canyons adjacent to residential areas, noise impacts could be a concern. Obviously, work associated with the reconstruction of Marsac Avenue and the Mine Road could generate noise that may impact residential areas along this alignment.

All construction operations will be conducted in compliance with Park City's hours of operations and noise restriction guidelines and ordinances.

In the event that any essential operation generates noise that consistently exceeds the 65-decibel limit set by Park City, Project representatives will meet with City Engineering Department and Building Department officials to determine the best method for mitigating the impact.

Engineering and Building Department officials will be notified of any proposed strong percussive noises, such as blasting activities, three days prior to the event taking place. Blasting contractors will be required to obtain necessary permits prior to blasting.

Temporary Lighting

Since for the most part, construction associated with the Resort is isolated and will take place a significant distance from existing neighboring residential areas, impacts from lights associated with after-dark construction related activities or staging and storage areas is not anticipated to be a significant concern.

It is not anticipated that normal construction activities will occur after dark. It is, however, possible that certain special operations, such as utility tie-ins that can only be performed during "off hours," may necessitate work being completed after dark. The Resort will take great care to provide adequate lighting for the safety of the construction personnel while attempting to ensure that said lighting does not impact neighboring residents. An approved temporary lighting plan will be developed and submitted to the City for their approval at the City's discretion prior to commencement of any construction operations requiring exterior, temporary lighting.

Resort Identification and Notification Information

In accordance with Park City Construction Mitigation guidelines, Resort identification signs will be constructed and posted at the entries to the Annexation Area. These signs will include, at a minimum, the following Resort information:

- Name, address and telephone number of the developer

- Name, address and telephone number of person responsible for the Resort
- Name and telephone number of the party or parties to contact in case of an emergency

In addition to the general Resort identification signs described above, and as stated previously, the Resort will develop construction signage plans as required to adequately inform the public of hazards related to construction activities, detours, etc. These signage plans will address construction activities associated with both roadways and trails.

Public Notification and Communication:

In light of the fact that the Annexation Area consists of approximately 1,650 acres used by a large segment of the population for recreational activities, keeping the public informed of the schedule and progress of the construction will be very important.

Meetings with neighboring property owners in particular and the public in general will be encouraged to keep everyone apprised of the current conditions.

The Resort will continually assess all operations that may adversely impact or inconvenience residents and/or businesses in the area of the Resort or motorists, hikers, bikers and/or equestrians traveling throughout the Annexation Area so that proper notification and communication of impacts can be made in advance. These impacts may include road closures and detours, trail closures and detours, and night operations, etc. This notification process will be maintained throughout the entire construction process. All said notifications will be coordinated with representatives of Park City and communicated to the public via the local newspaper, radio stations and mass mailings.

Although every effort will be made to minimize the disruption of the existing trail system, some trails will be temporarily closed or detoured, re-routed or permanently eliminated due to infrastructure construction. Detours and/or new permanent trails will be completed in a timely manner to minimize the impact of Resort construction activities on the trail users.

Other Issues

Since dogs on active construction sites can be both a distraction and a hazard to construction personnel as well as a threat to the well being of the animal itself, dogs will be forbidden on construction sites at any time in accordance with Park City ordinances.

V. CONSTRUCTION PHASING

Phasing of the Resort will consist of an orderly and systematic construction and development plan, as approved by the Planning Commission in December of 2001. This plan extends access and utility services to the Annexation Area in a timely fashion to facilitate the sale of a wide range of real estate product without undue impacts to Park City, its residents or the environment.

VI. CONSTRUCTION MITIGATION PLAN MANAGEMENT

FMP, the development entity overseeing the construction and development of the Resort, will have the overall responsibility for the implementation and enforcement of the requirements of this Construction Mitigation Plan.

Prior to commencement of any third party development project, and in accordance with the requirements of Park City's Master Planned Development approval process, the third party developer of said project will be required to submit a detailed, site-specific construction mitigation plan to Park City Planning and Building Departments for their review and approval. A copy of these plans will also be submitted to the Resort's Master Homeowners Association for their review and approval.

The Resort's Developer and/or Master Homeowners Association will have overall responsibility to Park City Municipal Corporation to ensure the implementation and enforcement of the requirements of these individual construction mitigation plans as part of the approved Resort Covenants, Conditions and Restrictions (CC&R's) and Design Guidelines.

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
SEPTEMBER 10, 2008

COMMISSIONERS IN ATTENDANCE:

Chair Jack Thomas, Rory Murphy, Dick Peek, Julia Pettit, Adam Strachan, Charlie Wintzer

EX OFFICIO:

Planning Director, Thomas Eddington; Brooks Robinson; Principle Planner; Kirsten Whetstone, Planner; Polly Samuels McLean, Assistant City Attorney; Matt Cassel, City Engineer

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REGULAR MEETING - 6:30 p.m.

I. ROLL CALL

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

II. ADOPTION OF MINUTES

MOTION: Commissioner Murphy moved to APPROVE the minutes of August 27, 2008 as written. Commissioner Peed seconded the motion.

VOTE: The motion passed unanimously. Commissioner Strachan abstained as he had not attended that meeting.

III. PUBLIC COMMUNICATIONS

There was no comment.

IV. STAFF & COMMISSIONERS' COMMUNICATIONS/DISCLOSURES

Planner Director, Thomas Eddington, reported that the Staff has had past discussions with the Planning Commission regarding the Historic District Guidelines and associated LMC amendments. He noted that the HPB had recommended the guidelines to the City Council pursuant to the LMC amendments at their last meeting. The Planning Commission will have the opportunity to review those guidelines at the work session on September 24th.

Director Eddington announced that the Utah Chapter of the American Planning Association is holding their annual conference on November 6th and 7th. The topic is making great communities happen. Director Eddington invited any of the Planning Commissioner's who were interested in attending. He would email the agenda to the Commissioner's. Some Staff members would also be in attendance.

Director Eddington provided an update on the Alice Claim site. Pursuant to the last meeting

when the Planning Commission visited the site and heard from King Development LLC, Director Eddington clarified that this project is part of a voluntary clean up plan with the Utah Department of Environmental Quality. He recalled discussion at the last meeting regarding areas of grubbing and clearance related to the clean up on site and he wanted the Planning Commission to understand that King Development has entered into this voluntary cleanup plan at the City's request with the UDEQ and all the areas being grubbed in an effort to further the cleanup. He recalled a question at the last meeting regarding one particular location of the site that appeared to be unnecessarily cleared. Director Eddington understood that particular clearance was necessary to reach the back side of the mine shaft for cleanup and abatement on the back side. Director Eddington stated that the plan submitted and agreed upon with UDEQ is not unlike the plan that was done at Empire Pass for Pods A and B. It is important for the City to get the land remediated and cleaned to residential standards given that the area is zoned for residential development. Director Eddington clarified that the intent does not suggested that this environmental mitigation would justify any site plan. He remarked that pursuant to discussions with Ron Ivie and Jeff Schoenbacher, the current plan is in accordance with the voluntary cleanup plan. Director Eddington distributed copies of an email from Jeff Schoenbacher that outlined the history and the process of how they reached this point.

Chair Thomas asked if the cleared area that had stakes on each side as you come down the canyon is actually the access to one of the cleanup sites. Director Eddington replied that this was correct. He understood that the access follows the best line of the slope to get to the back side of the mine to clean areas around the mine that were greater than the 2100 parts per million. He stated that the entire area is zoned HR-1 and Estate Zoning and needs to be clean to approximately 400 parts per million before residential development could occur.

Chair Thomas summarized that at the last meeting the Planning Commission made the assumption that there was no necessary cleanup at the end of that grubbed out areas. He understood from Director Eddington that this was an incorrect assumption and there are specific areas that need to be cleaned. Director Eddington replied that Ron Ivie and Jeff Schoenbacher have analyzed that plan and it is a necessary area for cleanup in coordination with the voluntary cleanup plan that has been negotiated. If they did not follow the current negotiated voluntary clean up plan that King Development LLC has with UDEQ, the City would be subject to negotiating a new cleanup plan on their own and they would prefer not to do that.

Chair Thomas clarified that there would be no grading and no engineering as part of the cleanup. Director Eddington replied that this was correct. However, he recommended that King Development, LLC bring their conceptual plans to the Planning Commission as information on what might be proposed.

Joe Tesch, representing King Development, LLC felt the questions and concerns raised that the last meeting indicated an apparent mis-communication. King Development is trying to clean up the area and the Planning Commission is trying to take care of the mountainside. Ms. Tesch thought it would be helpful in the future to have a representative from the Planning Commission when these types of decisions are made. This would help address the issues and concerns of the Planning Commission at the beginning of the process.

Commissioner Wintzer thought the process was backwards. If the Staff had presented the cleanup plan to the Planning Commission, they could have asked their questions before the work began. The Planning Commission raised these concerns when they visited the site and saw the amount of disturbance.

Commissioner Pettit had concerns with the suggestion for a Planning Commission liaison. She understood that there has been a distinct separation between the cleanup plan that was negotiated with the State and a development plan that still needs to come before the Planning Commission. She felt it was important for the public to understand that there are not promises attached to this cleanup process. Commissioner Pettit worried that the City would be sending a mixed message by sending a liaison to provide input. Mr. Tesch understood her concern. The Commissioners concurred with Commissioner Pettit that a liaison from the Planning Commission was not appropriate.

Commissioner Wintzer requested updates from the Staff to keep the Planning Commission aware of the amount of disturbance they can expect and to give them an opportunity at that point to make comments.

Chair Thomas expressed appreciation for the clean up King Development, LLC was doing because it is a major contribution to the community.

Commissioner Murphy disclosed that he is the applicant of record for 1825 Three Kings Drive, Silver Star conditional use permit and he would be recusing himself from that discussion. Commissioner Murphy stated that he disclosed his involvement on this CUP project during the candidate interviews with the City Council last fall.

Commissioner Strachan disclosed that he would be recusing himself from the 426 Woodside Avenue matter.

Commissioner Peek disclosed that he would be recusing himself from the 429 Woodside Avenue steep slope CUP item.

Commissioner Wintzer recommended that 1825 Three Kings Drive be moved to the last item on the agenda so Commissioner Murphy would not have to come back after being recused. The Planning Commission concurred.

V. CONSENT AGENDA

1. Empire Pass - Amended Construction Mitigation Plan
2. 426 Woodside Avenue - Steep Slope Conditional Use Permit

MOTION: Commissioner Wintzer made a motion to move 426 Woodside Avenue from the Consent Agenda to the Regular Agenda for discussion. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Murphy made a motion to move the Empire Pass Amended CMP from the Consent Agenda to the Regular Agenda for discussion and clarification.

VOTE: The motion passed unanimously.

REGULAR AGENDA/PUBLIC HEARINGS

1. Empire Pass - Amended Construction Mitigation Plan

Michelle Downard with the Park City Building Department in Code Enforcement reviewed the request to amend the construction mitigation plan for the Flagstaff and Empire Pass MPD. The construction mitigation plan was originally approved in 2001. Ms. Downard outlined five bullet points the applicants are requesting to amend.

On page 1 was an amendment to the number of dwelling versus residential units. This change was previously made and approved; however the construction mitigation plan approved in 2001 is currently in conflict with recent approvals of the development. The proposed amendment would make the construction mitigation plan more consistent with the new approvals.

The second amendment was on Page 7 and relates to the capacity of the water tank that is going to be provided for new development. The requirement for the original tank was 500,000 gallons and that has been increased to 1,000,000 gallons to provide increased capacity to the development.

The third amendment was on page 11, which would be to eliminate the requirement for a checkpoint station on Marsac Avenue. Ms. Downard explained that the checkpoint station conflicted between the City's requirement and what UDOT allowed on a State Highway. UDOT was not in favor of allowing a third party to limit access and to have a guard shack on the State Highway.

The fourth amendment was to allow the Chief Building Official and the Chief of Police the discretion to allow over size vehicles to exit the development area via Marsac Avenue, in addition to allowing vehicles exit the development area if weather conditions do not accommodate the vehicles exiting down Royal Street.

The fifth amendment on Page 13 is to allow the excavated materials to leave the development area, which was prohibited in the original construction mitigation plan. Ms. Downard explained that Bonanza Flats in Wasatch County can be accessed via Upper Guardsman Road and that is where excavated material will be disposed if it cannot be accommodated on site.

Chair Thomas opened the public hearing.

There was no comment.

Chair Thomas closed the public hearing.

Commissioner Murphy referred to the amendment on Page 13 and the Bonanza Flats fill site. Given the sensitive nature Wasatch County expressed when this plan was first approved regarding their jurisdiction, Commissioner Murphy was hesitant to approve this change without knowing that Wasatch County is comfortable with the plan to use Bonanza Flats.

David Smith, representing the applicant, stated that they have already has gone through the permitting process with Wasatch County and letters were submitted to the City indicating their consent. Ms. Downard remarked that the City had verified this with the County.

Commissioner Strachan asked about the route to Bonanza Flats. Doug Clyde, representing the applicant, explained that it will go up either the State Highway or the private road leading up to Red Cloud.

With respect to the change on Page 1, Commissioner Strachan asked if that would be a net increase in density. Mr. Clyde replied that it is the density increase that was recently approved in the MPD modification. Mr. Smith stated that it actually conforms to the density that was increased in the March 2007 Amended and Restated Development Agreement. Commissioner Strachan understood that Ron Ivie will have the discretion to route trucks down Marsac and asked if the preferred route would still be down Royal. Mr. Clyde replied that this was correct. Commissioner Wintzer wanted to know what they anticipate taking down Marsac. Mr. Clyde explained that Ron Ivie had concerns about long trucks having to clip the corners on Royal Street. At times Ron Ivie has also been concerned about the safety of going down Royal Street and he wanted that discretion for unusual loads. Mr. Clyde clarified that they would not be hauling material down Royal Street.

Commissioner Pettit referred to the change on page 11 regarding the checkpoint and the language in the Staff report that UDOT was not in favor of the checkpoint. She asked if it was prohibited by UDOT or they just preferred not to have one. Ms. Downard replied that it was prohibited by UDOT. Commissioner Pettit understood that the purpose of the checkpoint was to be sure that traffic would be mitigated as promised to the residents on Marsac. Unless it was actually prohibited, she could not support taking away the check and balance system.

Planner Robinson stated that when they did the regulated soil hauling from the Montage to Richardson Flats, the City set up their own checkpoint on site and not within the UDOT right-of-way. The opportunity still exists to have the checkpoint at the edge of the job site. Planner Robinson stated that for large projects the City always has the ability to do that in the construction mitigation plan for each building.

MOTION: Commissioner Murphy made a motion to APPROVE the amendment to the Flagstaff Construction Mitigation Plan as outlined in the Staff report. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

2. 426 Woodside Avenue - Steep Slope Conditional Use Permit

Due to a conflict of interest, Commissioner Strachan recused himself from this item.

Planner Kirsten Whetstone reviewed the request for a steep slope conditional use permit for a vacant lot at 426 Woodside Avenue. The applicant is the own Lots 24 and 25 of Block 4 of the Park City Survey. The lot is 50 feet wide and 75 feet deep and 3750 square feet, which would allow a duplex as a conditional use permit. She clarified that the applicant was proposing a single family home and not a duplex.

Planner Whetstone stated that the plat amendment to combine these two lots was approved by the City Council on July 17, 2008. That plat has not yet been recorded. Planner Whetstone remarked that a Snyderville Basin Water Reclamation District sewer easement runs across the rear 25 feet of this property. This sewer line currently serves a few residences on Woodside Avenue. The Water Reclamation District hopes to be able to vacate the entire line in the near future. The applicant has worked diligently with the Snyderville Basin Water Reclamation District to resolve the easement through their design. Planner Whetstone stated that the Water Reclamation District does not want to give final approval for an encroachment agreement until they know what plan is being proposed. She noted that the Staff report contained a letter from the District outlining the conditions of the encroachment agreement.

Planner Whetstone reported that on July 9, 2008 the Planning Commission reviewed this application and held a public hearing. At that time they expressed concerns with the east elevation and requested revisions and additional visual analysis, as well as a perspective model. The item was continued to this meeting. Planner Whetstone stated that since that July meeting, the applicants submitted five iterations of the design and worked with the Staff to reduce the footprint on the lot from the maximum to 1419 square feet. Planner Whetstone indicated a second letter in the Staff report from the applicant's designer outlining the modifications to the plan. Planner Whetstone reviewed slides showing the site plan, a photo montage of the surrounding properties, and the proposed streetscape.

Commissioner Murphy understood that the height exception was being requested for the front gable. Planner Whetstone replied that it was for the gable and for the peak of the long roof that runs the other direction.

Kevin King, representing the applicant, stated that the front of the gable is at 27 feet. It does not actually break the height limit until the elevation drops down on the side. Planner Whetstone reviewed slides of the rear, north and south elevations and indicated where the plan was revised to break up the massing. Planner Whetstone also presented perspectives from the front and the rear.

The Staff had reviewed this conditional use permit against the nine criteria contained in Section 15-2.2-6 of the Land Management Code for development on a steep slope greater than 30%, as well as a tenth criteria relating to the height exception. The Staff found that the proposed