

**PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION
CITY HALL, COUNCIL CHAMBERS
JUNE 8, 2011**



AGENDA

MEETING CALLED TO ORDER AT 5:30 PM

WORK SESSION – *Discussion items only. No action will be taken*

Transportation Plan – Informational update

5

General Plan – Informational update and discussion

27

ROLL CALL

ADOPTION OF MINUTES OF MAY 11, 2011

PUBLIC COMMUNICATIONS – *Items not scheduled on the regular agenda*

STAFF/BOARD COMMUNICATIONS AND DISCLOSURES

CONTINUATION(S) – *Items continued as outlined below*

1555 Iron Horse Loop Road – Development Agreement for Master Planned Development PL-10-00899

Continue to June 22, 2011

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

929 Park Avenue – Plat Amendment

PL-11-01236

89

Public hearing and possible recommendation to City Council

North Silver Lake Subdivision, Lot 2B – Appeal of Extension of Conditional Use Permit PL-11-01252

117

Quasi-Judicial hearing

ADJOURN

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

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.
Planning Commission - June 8, 2011

WORK SESSION



Planning Commission Staff Report

Subject: DRAFT Traffic and Transportation Master Plan Discussion
Author: Matthew Cassel, P.E., City Engineer
Department: Engineering
Date: June 8, 2011
Type of Item: Informational/Work Session

Summary Recommendations:

This report is informational. The study consultants have completed the DRAFT traffic and transportation master plan and staff would like to review and discuss elements of the plan with the Planning Commission.

Topic/Description:

A street master plan was prepared for Park City by Wayne Van Wagoner and Associates in 1984. This master plan was in essence a street inventory that included roadway design standards and provided a street capital improvement plan. Since that time, the Old Town Infrastructure Study (OTIS) was completed in 2002 and numerous small localized traffic studies have been performed over the years in highly congested areas of concern. As traffic congestion increases, Park City recognized the need to develop a comprehensive master plan for the City's transportation system. It is anticipated that this tool will be useful for the City to understand and resolve current and anticipated future traffic and transportation issues. This master plan completes the transportation section of the General Plan currently being updated by our Planning Department. InterPlan Company was the consultant who helped staff and the City to develop the Traffic and Transportation Master Plan.

A technical steering committee has been formed to guide the development of the Traffic and Transportation Master Plan. Committee members are as follows:

Matt Cassel	Engineering
Kent Cashel	Transportation
Thomas Eddington	Planning
Roger Evans	Building
Jonathan Weidenhamer	Sustainability
Heinrich Deiters	Sustainability
Sayre Brennan	Engineering
Brooks Robinson	Transportation
Sayre Brennan	Transportation

The following are the elements provided as part of the master plan:

- Transportation goals were developed and included in the DRAFT plan and will be cross referenced in the comprehensive plan being developed by

the Planning Department.

- Existing street and pathway inventory in a paper map and as GIS layers and include the street classifications. Street cross section standards are provided as part of the DRAFT master plan. As each road in Park City is classified (local, collector, etc.), a typical cross section has been developed. These cross sections were developed based on the existing Right-of-Way width and include the paved roads width, curb and gutter and possibly sidewalk, bike lanes and parking,
- A travel demand model that is capable of estimating travel on roads, transit and walk/bike modes in Park City. This model can be used to forecast future traffic, transit use and walk/bike uses based on a range of land use scenarios. The model is also capable of predicting traffic changes based on land use changes,
- A VISSIM model has also been developed. This model is capable of taking the information from the travel demand model and creating a visual simulation model to show the performance of our streets, transit and walk/bike networks,
- A scenario development and alternative analysis was conducted and submitted as part of the DRAFT master plan,
- Capital facilities plan development and recommendations on the next steps. The DRAFT master plan report includes a section on recommended short term capital improvements and a planning level cost for the possible long term capital projects (next recommended steps), and

Analysis

Three elements of the master plan have been included in this report and staff would like to receive Planning Commission's input. These elements are Transportation Goals, Road Cross Sections and a presentation of the transportation model.

DRAFT Transportation Goals

Defining the overall goals and objectives for transportation for Park City provides guidance to the work done during the planning process and a consistent way to evaluate various alternatives. Much work was done by city staff, the Stakeholder Committee, and the public in drafting, refining, and finalizing transportation goals for the Park City Traffic and Transportation Master Plan.

- ✓ GOAL 1: Park City will have a multimodal transportation system with complete streets and balanced availability of pedestrian, bicycle, transit and auto travel.
- ✓ GOAL 2: Park City's residents, workers, visitors and guests will have access to convenient transit for circulation throughout the City.
- ✓ GOAL 3: Park City's residents, workers, day visitors and overnight guests will have efficient, direct and convenient regional transit connections from and to area resorts, Salt Lake and Utah Counties, and other communities of the Wasatch Back.

- ✓ GOAL 4: Park City will have a complete and well-connected network of trails, bicycle lanes and sidewalks that supports safe, convenient and pleasant walking and bicycling to accommodate the needs of residents, visitors, and guests for short trips within the City and surrounding neighborhoods.
- ✓ GOAL 5: Mobility and accessibility in Park City will be as good or better than today while achieving a net reduction in the amount that each person drives a car.
- ✓ GOAL 6: Park City's street network will be well maintained, with streets that are not significantly wider than today and without a significant increase in lane mileage.
- ✓ GOAL 7: Park City's transportation system will contribute positively to public health and quality of life by achieving a high level of travel safety and by creating an environment that supports active living.
- ✓ GOAL 8: Park City's transportation system will contribute positively to improved environmental, social and economic sustainability of the community.
- ✓ GOAL 9: Park City's transportation system will support development of clustered and diverse land use centers by providing convenient multimodal access to each center concurrent with its development.
- ✓ GOAL 10: Park City will use system management and demand management techniques to minimize the financial burden and environmental impact of local transportation facilities.

In the Appendix is a list of performance measures to monitor our progress and help staff to determine if progress is being made on each goal.

DRAFT Road Cross Sections

The DRAFT road cross sections show all possible elements staff would want included if sufficient right-of-way width was available. The guiding principal followed is based on the complete street philosophy which is to consider all modes of uses when streets are being designed or re-constructed.

The road cross sections are attached in the appendix and include a DRAFT detailed section for:

- ✓ Old Town Local Street,
- ✓ Non-Old Town Local Street,
- ✓ Minor Residential Collector Street,
- ✓ Major Residential Collector Street,
- ✓ Commercial Collector Street,
- ✓ Non-UDOT Arterial, and
- ✓ UDOT Arterial

The guidelines used by City staff in developing the proposed cross sections included

1. Providing shared uses at the local street level,

2. Start the physical separation of uses at higher speeds when reaction time decreases and speed of uses are not consistent,
3. Meet national fire code requirements, and
4. Create prioritized flexible space for each road section that can be used to adjust the road section width when existing right-of-way is limited.

Model Discussion

As part of this master plan, a travel demand and traffic simulation model was developed for the Park City area in order to assess existing and future travel demand within the study area.

The purpose of the model is to offer a tool to city staff and to use this tool both during the plan development and after the plan is completed in order to anticipate transportation problems and issues. While not a perfect tool, the model can help Park City officials anticipate the future and prepare for possible unintended consequences of various actions.

The development process for the travel demand model is provided in the appendix. Matt Rifkin and InterPlan will demonstrate the model and show Planning Commission its potentials during this work session meeting.

Schedule

The remaining schedule for the adoption of the DRAFT Traffic and Transportation Master Plan is as follows:

- Planning Commission Work Session – Elements of the DRAFT plan are being presented to Planning Commission on June 8,
- City Council Work Sessions – It is anticipated to require two City Council work sessions to review the DRAFT plan. These meetings will occur in July.
- City Council Adoption – It is anticipated to require two City Council meetings to conduct public hearings and to formally adopt the final master plan. It is anticipated that these meetings will occur in August.

Department Review:

This report has been reviewed by Planning and Legal. All comments have been integrated into this report.

Significant Impacts:

The analysis and preparation of the master plan will not have significant impacts other than the time required by staff members in assisting the development of the master plan. The funds for the consultant's contract have already been appropriated, and there are no budget impacts which City Council hasn't already considered in the FY2010 budget.

Recommendation:

This report is informational. The DRAFT Traffic and Transportation Master Plan study consultants are preparing the DRAFT report for review and to start the adoption process and staff would like to provide the Planning Commission with an opportunity to provide input on elements of the plan.

Exhibits – Transportation Goals
Road Cross Sections
Model Development

Chapter 4: Transportation Plan

This chapter summarizes the basic elements of Park City's Traffic and Transportation Master Plan. The themes identified at the outset of this plan do not lend themselves to a traditional transportation plan based on a map of planned road improvements. Instead, this chapter provides the foundation from which future transportation decisions can be made, along with detailed information on various concepts provided in Chapter 6.

Goals and Objectives

Defining the overall goals and objectives for transportation for Park City provides guidance to the work done during the planning process and a consistent way to evaluate various alternatives. Much work was done by city staff, the Stakeholder Committee, and the public in drafting, refining, and finalizing transportation goals for the Park City Traffic and Transportation Master Plan.

GOAL 1: Park City will have a multimodal transportation system with complete streets and balanced availability of pedestrian, bicycle, transit and auto travel.

GOAL 2: Park City's residents, workers, visitors and guests will have access to convenient transit for circulation throughout the City.

GOAL 3: Park City's residents, workers, day visitors and overnight guests will have efficient, direct and convenient regional transit connections from and to area resorts, Salt Lake and Utah Counties, and other communities of the Wasatch Back.

GOAL 4: Park City will have a complete and well-connected network of trails, bicycle lanes and sidewalks that supports safe, convenient and pleasant walking and bicycling to accommodate the needs of residents, visitors, and guests for short trips within the City and surrounding neighborhoods.

GOAL 5: Mobility and accessibility in Park City will be as good or better than today while achieving a net reduction in the amount that each person drives a car.

GOAL 6: Park City's street network will be well maintained, with streets that are not significantly wider than today and without a significant increase in lane mileage.

GOAL 7: Park City's transportation system will contribute positively to public health and quality of life by achieving a high level of travel safety and by creating an environment that supports active living.

GOAL 8: Park City's transportation system will contribute positively to improved environmental, social and economic sustainability of the community.

GOAL 9: Park City's transportation system will support development of clustered and diverse land use centers by providing convenient multimodal access to each center concurrent with its development.

GOAL 10: Park City will use system management and demand management techniques to minimize the financial burden and environmental impact of local transportation facilities.

Performance Measures

Identifying performance measures that correlate with each of the defined goals offers Park City the ability to measure and track performance on a number of variables and how well the City is

doing in achieving their goals. Specific details on how to measure each of these variables, sources of data, and existing conditions are available in the "Report Card" section of Chapter 5.

GOAL 1. Park City will have a multimodal transportation system with complete streets and balanced availability of pedestrian, bicycle, transit and auto travel.

Strategic Objectives by 2040:

- a. Drive-alone mode share for trips on gateway corridors into Park City jobs will decrease to 50 percent (from over 70 percent today).
- b. The percentage of housing units within ¼ mile from transit routes (while maintaining transit service standard of minimum four units/acre) and paved multi-use trails will increase to 100 percent (from approximately 80 percent and 60 percent, respectively, today).
- c. Changes to individual street cross sections will be addressed on a case by case basis but will put city-wide emphasis on providing "complete street" infrastructure that supports walking, biking, transit, and carpools over single occupant vehicles.

GOAL 2. Park City's residents, workers, visitors and guests will have access to convenient transit for circulation throughout the City.

Strategic Objectives by 2040:

- a. Daily bus hours of local transit service in Park City will increase to 450 hours (from approximately 200 hours today).
- b. Peak hour frequency on Park City's spine transit network will reach 10 minutes and support timed transfers to regional transit service.
- c. Transit travel times will remain within 10 minutes of drive times on major origin-destination pairs within Park City.

GOAL 3. Park City's residents, workers, day visitors and overnight guests will have efficient, direct and convenient regional transit connections from and to area resorts, Salt Lake and Utah Counties, and other communities of the Wasatch Back.

Strategic Objectives by 2040:

- a. Average daily bus hours of regional transit service connecting Park City to points within Salt Lake, Utah, Wasatch Counties, and other parts of Summit County will reach 350 hours (from approximately 85 hours today).
- b. Weekday commuter transit service will efficiently connect Park City with at least five other cities/communities in the Wasatch Front and Back as demand dictates.
- c. Annual ridership to will grow to exceed 5 million passengers (from under 2 million today).
- d. Park City will build and/or support, through transit service and rideshare programs, continued expansion of intercept park-and-ride facilities at all gateway corridors.

GOAL 4. Park City will have a complete and well-connected network of trails, bicycle lanes and sidewalks that supports safe, convenient and pleasant walking and bicycling to accommodate the needs of residents, visitors, and guests for short trips within the City and surrounding neighborhoods.

Strategic Objectives by 2040:

- a. All of the primary bicycle corridors identified in the Park City Transportation Master Plan will be completed and open to use and redundant systems for multiple users will be planned and initiated.
- b. At least 75 percent of the linear mileage of secondary bicycle corridors identified in the Park City Transportation Master Plan will be completed and open to use.
- c. Park City will establish roadway automobile capacity trigger points on major roadways (commercial collectors and arterials) that will require a proactive review of the roadway cross section with emphasis on providing "complete streets" which improve serving balanced modes of users either directly on the corridor or on parallel corridors.

GOAL 5. Mobility and accessibility in Park City will be as good or better than today while achieving a net reduction in the amount that each person drives a car.

Strategic Objectives by 2040:

- a. Park City VMT will be tracked based on automobile counts at the major gateway corridors and will not increase faster than Park City housing or job growth.
- b. Park City will track the automobile drive time between three major internal origin-destination pairs on an annual basis and will mitigate traffic congestion when travel times increase above 10 percent on any given year.
- c. Park City will track the ratio of drive time to bicycle travel time and transit travel time between three major internal origin destination pairs and will take proactive steps to maintain increasing ratios.

GOAL 6. Park City's street network will be well-maintained, with streets that are not significantly wider than today and without a significant increase in lane mileage.

Strategic Objectives by 2040:

- a. Lane miles of Park City streets will not exceed 250 (from 200 today).
- b. Park City will track pavement condition on a continuous basis using a Remaining Service Life (RSL) scale with 20 years being the best possible condition. Park City collector and higher functioning streets will have an RSL of no less than 8.0.
- c. All elements of the transportation system including street furniture, transit equipment, signs, striping, etc. will be kept in good condition.

GOAL 7. Park City's transportation system will contribute positively to public health and quality of life by achieving a high level of travel safety and by creating an environment that supports active living.

Strategic Objectives by 2040:

- a. The crash rate for reported traffic crashes within Park City will be no more than 3.5 crashes per million vehicle miles.
- b. Park City will take positive steps to react to all fatalities resulting from traffic crashes with a goal of achieving zero fatalities within Park City.
- c. Park City will establish a bicycle and pedestrian count program on at least five major trail corridors on the primary network and will achieve incremental increases of over 25 percent with the completion of major corridors and steady increases of over 10 percent per year.
- d. Park City Engineering will coordinate with police and public safety services to provide annual crash statistics on the street system.

GOAL 8. Park City's transportation system will contribute positively to improved environmental, social and economic sustainability of the community.

Strategic Objectives by 2040:

- a. Annual petroleum consumption by surface transportation within Park City will be no more than 470,000,000 kBTU equivalent (from approximately 570,000,000 kBTU equivalent today).
- b. Annual greenhouse gas emissions from surface transportation with Park City will be no more than 50,000 short tons (approximately equal to today).
- c. Parking pricing, transit fares, and other cost incentives will be used to minimize or decrease the growth in overall vehicle miles traveled (VMT) while supporting a strong and growing Park City visitor base while.

GOAL 9. Park City's transportation system will support development of clustered and diverse land use centers by providing convenient multimodal access to each center concurrent with its development.

Strategic Objectives by 2040:

- a. Major new land developments (of greater than 200 additional Equivalent Residential Units) will be required to provide clustered and diverse land uses in order to minimize their impact on transportation infrastructure.
- b. Major new land developments (of greater than 200 additional Equivalent Residential Units) will not be approved unless or until concurrent transportation facilities, services, and infrastructure can be in place to offer balanced modal use (transit, trails, high occupant vehicles).

GOAL 10. Park City will use system management and demand management techniques to minimize the financial burden and environmental impact of local transportation facilities.

Strategic Objectives by 2040:

- a. Traffic flows on Park City roads and streets (including state highways) will be managed for efficient multimodal operations through comprehensive signal synchronization and use of intelligent transportation systems (ITS) technologies such as variable and demand-based pricing, real time parking and transit information, etc.
- b. Park City's festivals and special events will feature coordinated transportation strategies that minimize impacts of vehicular traffic while fostering growth in economic benefits.
- c. Park City will be viewed as an innovator in offering effective travel demand management incentives through both public and private programs.

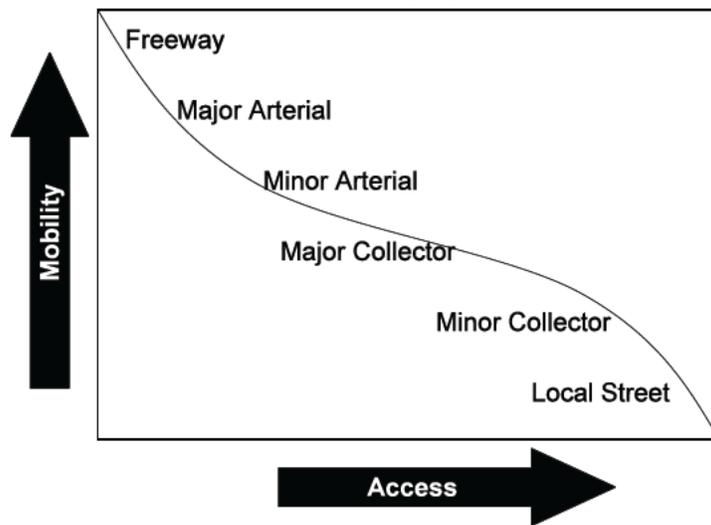
Transportation Plan Summary

Figure 4-1 offers a summary of the capital projects and plans that are important in this multi-modal strategy. They include projects and plans from entities outside of Park City such as Summit County and the Utah Department of Transportation. As discussed earlier, this plan is based on a foundation of optimizing multi-modal strategies on the gateway corridors and robust transit and high-occupancy vehicles lanes serving these corridors. These strategies will mitigate the impacts of increasing numbers of visitors to the city by minimizing the growth in vehicles coming to the city.

Functional Classification

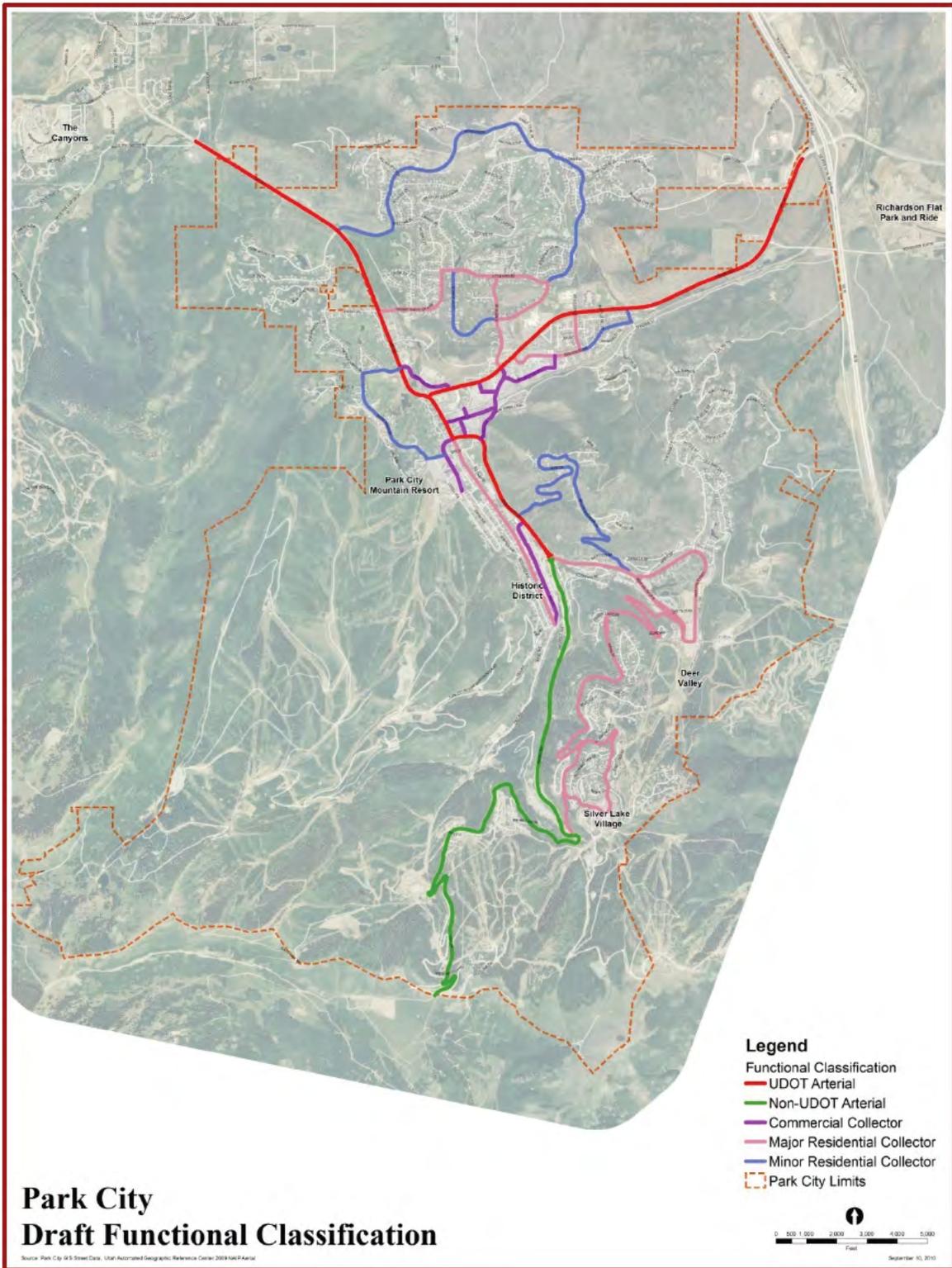
The functional classification of roads is a way to categorize different streets based on their primary function. Generally, a road's functional classification is determined by whether its purpose is to provide access or mobility. Those roads at the smaller end of the functional class system move traffic more slowly but provide greater access, such as to local roads or to residential or small commercial properties. On the other end of the scale, expressways provide greater mobility as they move more traffic at greater speeds, but with more limited accesses such as driveways and intersections. This concept is illustrated in Figure 4-2.

Figure 4-2: Access and Mobility by Functional Classification



In many areas, those streets serving higher mobility and those streets serving a variety of user modes (bicycles, pedestrians, transit, etc.) are seen as mutually exclusive. Park City embraces a "complete streets" system where every functional classification must serve all user modes. As mobility increases, various safety elements become increasingly important and must be offered in an aesthetically attractive way. Street cross-sections also offer a priority of users that may be evaluated in the event that localized problems are raised for any user group. Figure 4-3 shows the functional classification of Park City streets.

Figure 4-3: Park City Functional Classification



Standard Street Cross-Sections

This section describes the standard cross-sections for each of the functional classifications previously displayed. These standards will apply primarily to new roads, but should also be used to evaluate the elements of the roadway that are of most importance during major reconstruction, widenings, etc. For each cross-section, an order of priority is shown for elements outside of the travel lanes. This priority will be important in cases where the full right-of-way (ROW) width is not available to accommodate all of the cross-section elements.

Local Road – non-Old Town

Daily Traffic Volumes: <2,000

Threshold: 2,500 daily traffic

Description: Primarily designed to provide access to houses. Usually provide access (driveways) over speed.

When the full ROW width is not available, the order of priority on flex space will be:

- Parking
- Sidewalks



Local Road – Old Town

Daily Traffic Volumes: <2,000

Threshold: 2,500 daily traffic

Description: Primarily designed to provide access to houses. Usually provide access (driveways) over speed.

When the full ROW width is not available, the order of priority on flex space will be:

- Parking
- Sidewalks



Minor Residential Collector

Daily Traffic Volumes: 2,000 - 5,000

Description: Typically connect local roads to higher functioning roads. Access is still a priority but road design begins to accommodate somewhat higher traffic volumes.

Threshold: 8,000 daily traffic

When the full ROW width is not available, the order of priority on flex space will be:

- Sidewalks
- Parking
- Bike lanes



Major Residential Collector

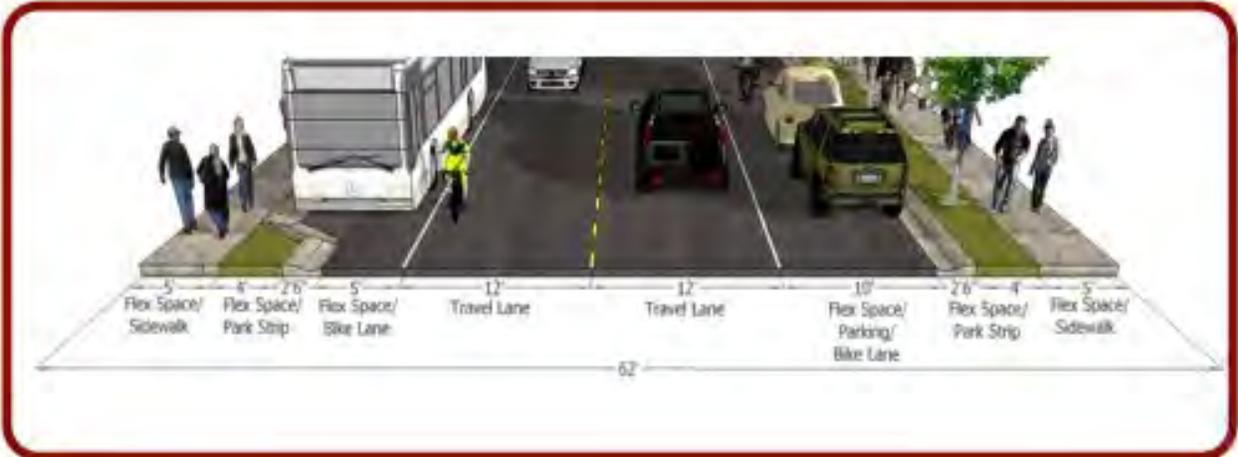
Daily Traffic Volumes: 3,000-8,000

Description: Provide access to some residential land uses but tend to serve higher traffic volumes and more direct access to arterial facilities.

Threshold: 10,000 daily traffic

When the full ROW width is not available, the order of priority will be:

- Bus pull-outs
- Parking
- Sidewalks
- Bike lanes
- Park strips



Commercial Collector

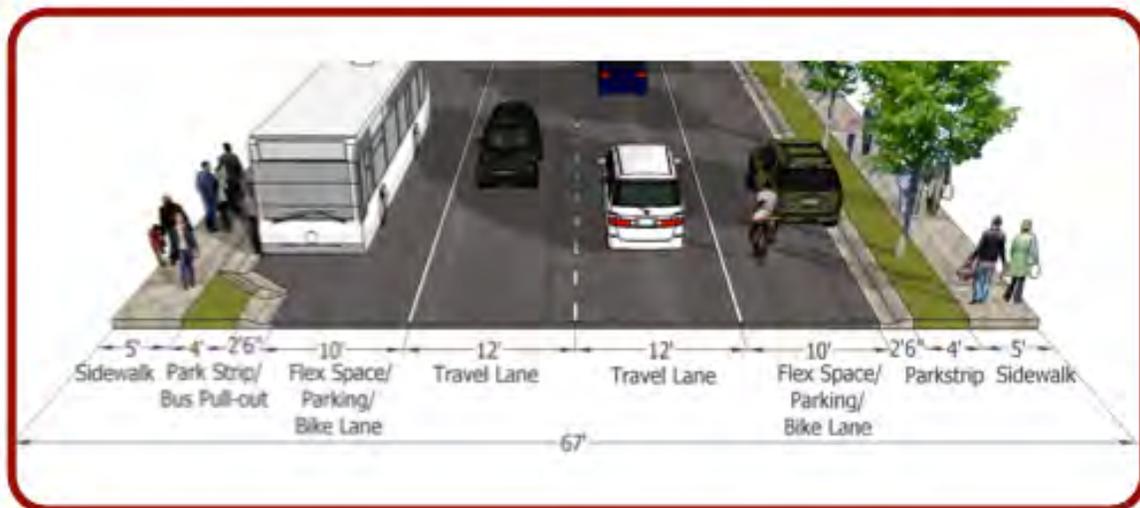
Daily Traffic Volumes: 7,000 - 15,000

Description: Provide access to local and smaller scale businesses. They serve higher volumes than residential collectors and often provide direct connections to arterial streets.

Threshold: 15,000 daily traffic

When the full ROW width is not available, the order of priority on flex space will be:

- Parking
- Sidewalks
- Bike lanes
- Park strips



Non-UDOT Arterial

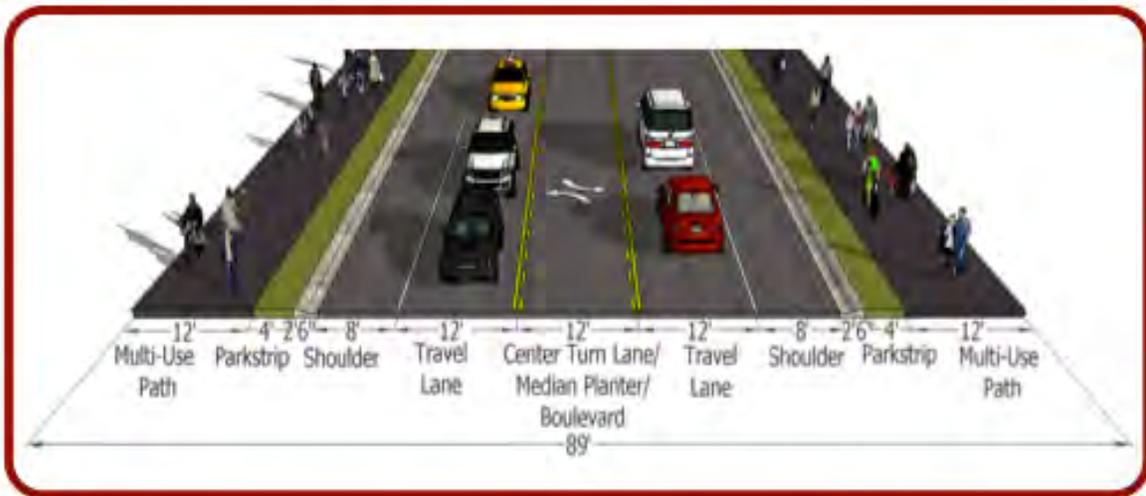
Daily Traffic Volumes: 5,000 - 15,000

Description: Provide access to Park City from areas outside the city. Although Marsac is currently State Route 224, it does not function like a standard state route which typically provides high-volume and high-speed connections across regions.

Threshold: 19,000 daily traffic

When the full ROW width is not available, the order of priority on flex space will be:

- Shoulders
- Sidewalks/multi-use paths
- Center turn lanes/medians



UDOT Arterial

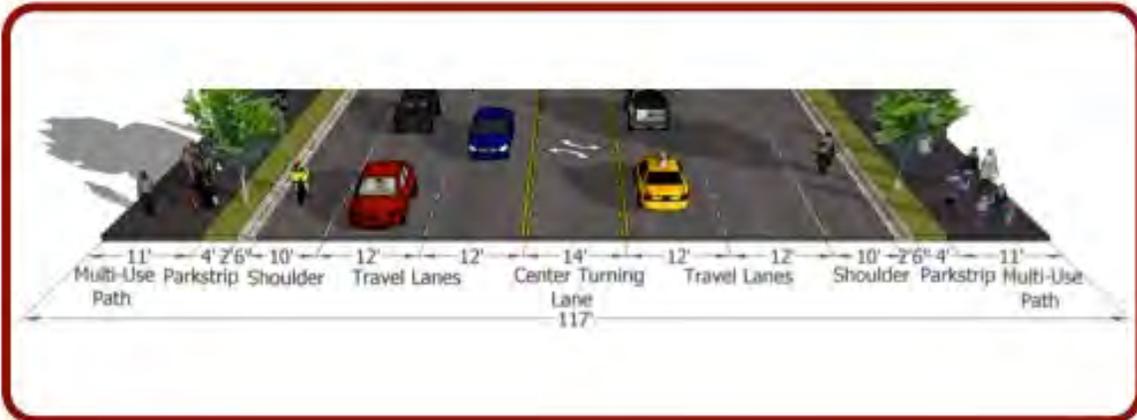
Daily Traffic Volumes: 15,000+

Description: Provide main access to Park City from other areas. They also serve large-scale land uses such as the schools on Kearns Blvd. and major commercial areas on Park Avenue.

Threshold: 38,000 daily traffic

When the full ROW width is not available, the order of priority will be:

- Shoulders
- Multi-use paths (can be narrower)
- Travel lanes (can be narrower in slower speed sections)
- Park strips



Travel Model Development and Application

As part of this plan development process, a travel demand and traffic simulation model was developed for the Park City area in order to assess existing and future travel demand within the study area.

The purpose of the model is to offer a tool to city staff and to use this tool both during the plan development and after the plan is completed in order to anticipate transportation problems and issues. While not a perfect tool, the model can help Park City officials anticipate the future and prepare for possible unintended consequences of various actions.

The travel demand model follows the basic “four step process” originally developed in the 1950s to help urban areas estimate travel demand while building the interstate system. This process is an econometric method of estimating individual choice decisions such that the aggregate estimate is reasonably accurate even if the individual estimates do not represent actual travel demand choices of individuals. The four steps of the travel demand model are:

- Trip generation
- Trip distribution
- Mode choice
- Trip assignment

The Park City travel demand model is a two-part model. The first part inputs growth assumptions in spreadsheet form that calculates trip generation, distribution and mode choice. The second part of the model is a Vissim multi-modal traffic simulation that uses dynamic assignment to route vehicles on the model roadway network. In the future, after completion of this transportation plan process, each part of the model can be used to fine tune local area growth options and to visually evaluate and display traffic problems and solutions and to help determine the impacts of parking infrastructure and transit assumptions.

The travel demand model component borrows person trip generation rates from other areas. A modal split uses a simplified logit model to estimate transit, drive alone, carpool, and walk/bike modal options. Trip distribution is simplified with fixed origin-destination pairs which were estimated. Trips by mode and by origin-destination pair are fed into the traffic simulation model. The traffic simulation is only run for the afternoon peak hour and uses a “dynamic assignment” process of allowing all trip pairs to establish the least delay route for all users of the network. Because of this dynamic assignment process, actual traffic counts are not hard-coded into the model but are the result of an iterative least delay estimate.

Model Calibration

The model was calibrated to the year 2009 and compared to Park City and UDOT pm peak hour traffic count data from that year. Traffic counts used for calibration came from Park City and UDOT’s automatic traffic recorders on S.R. 224 and S.R. 248. After running the base year travel model, results were compared to the counts data to determine the accuracy of the model. The models were calibrated for two distinct periods in Park City, Christmas week when traffic volume is typically highest, and the shoulder season when there are generally lower traffic volumes. All calibration data is in Appendix A.

Analysis Years

In addition to the 2009 model, three future land use scenarios were evaluated for the years 2020 and 2040. The base scenarios assumed land use and population as discussed above. However, an additional scenario was also evaluated that assumed no new growth within Park City but regional growth to 2020. This model alternative was used to assess the impact of Park City growth policies on the transportation system.

Baseline Model Results

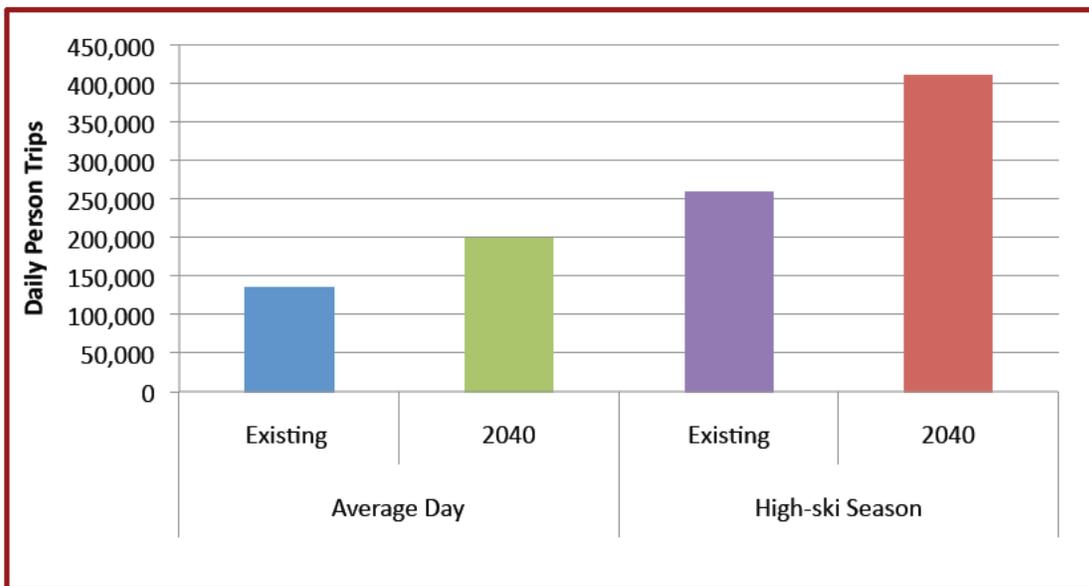
The baseline model results were generated to understand the scope of future transportation issues and the need for transportation policies or projects to address existing and future transportation concerns. These baseline models assumed the future development discussed previously along with the committed transportation projects within Park City and planned projects outside of the city boundary.

Based upon the baseline modeling:

- Park City will remain a major destination with the number of daily person trips increasing during both the shoulder and high-ski seasons.
- As a result, vehicle miles of travel (VMT) and delay will increase in the future.
- However, even with the expected growth in VMT and delay, the average day in 2040 will not approach the congestion levels that occur on high-ski days and during events.
- Congestion will continue to be an issue during the ski outload and large events.

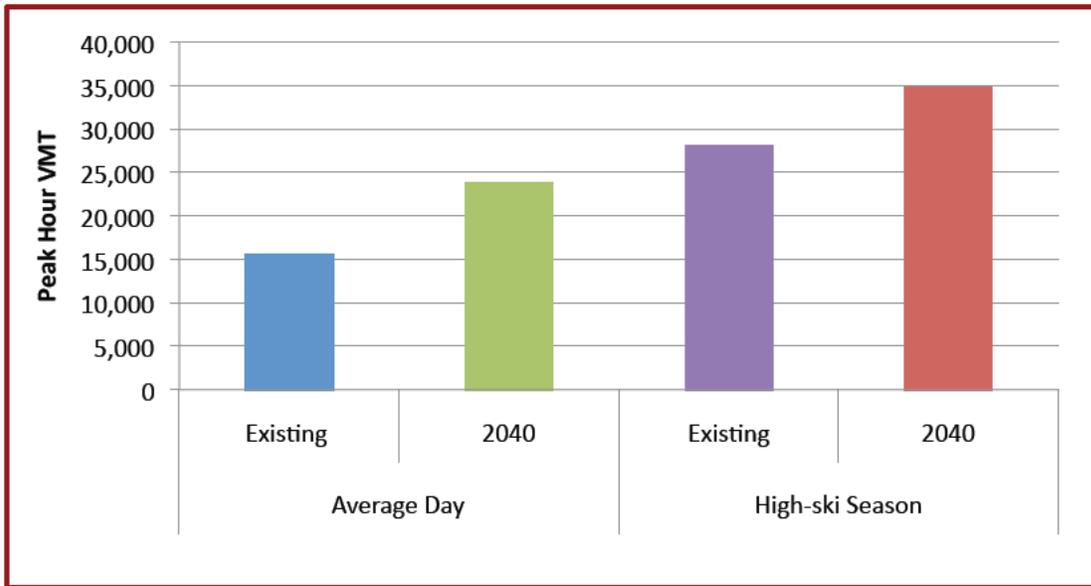
Figure 3-2 shows the daily number of person trips within Park City for the average day and during the high-ski season such as Christmas week. Daily *person* trips are expected to increase by 47 percent on an average day and by over 200 percent during the high-ski season.

Figure 3-2: Daily Person Trips, Existing and 2040



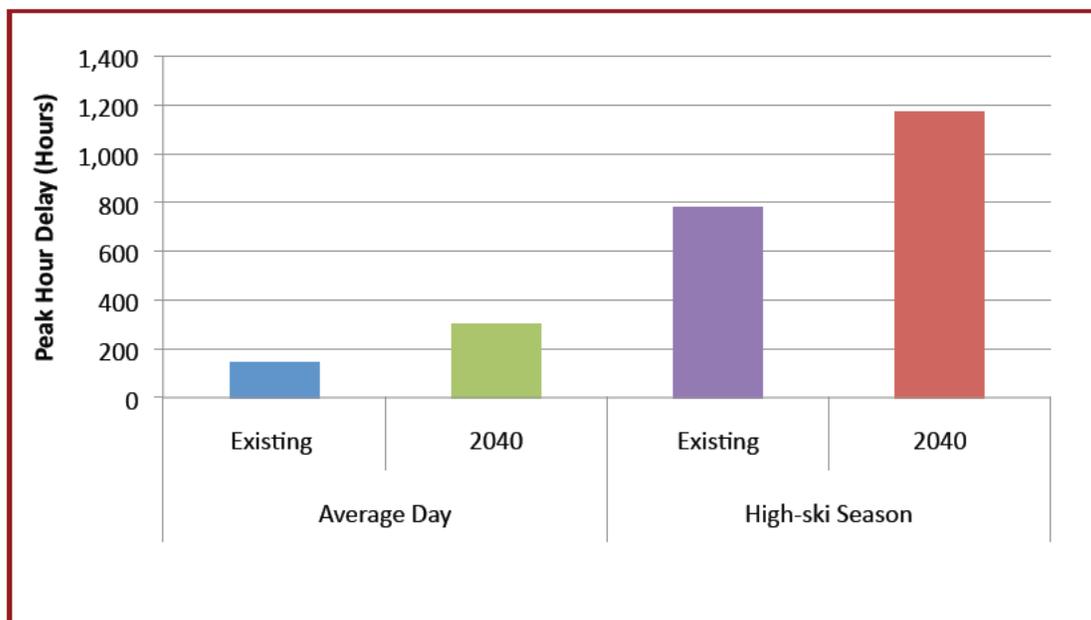
While person trips indicate how many people are traveling to/from Park City, vehicle miles traveled (VMT) is a measure of how much travel occurs in vehicles. Figure 3-3 shows the peak-hour model VMT for Park City. On an average day, the VMT increase is similar to the increase in person trips at 53 percent. However, during the high-ski season, peak-hour VMT is expected to increase by 118 percent as opposed to a 200+ percent increase in person trips.

Figure 3-3: Vehicle Miles Traveled, Existing and 2040



Vehicle hours of delay is a common measure of congestion since during congested conditions vehicle speeds are reduced and drive times increase. As illustrated in Figure 3-4, delay increases more than person trips and VMT. Peak hour vehicle delay on an average day is forecast to increase by 106 percent and on high-ski days by almost 693 percent.

Figure 3-4: Vehicle Hours of Delay, Existing and 2040



Planning Commission Staff Report



Subject: General Plan
Author: Katie Cattan
Date: June 8, 2011
Type of Item: Work Session – Informational

Background

The current General Plan was adopted on March 20, 1997 with supplemental sections added in 1999, 2000, 2001, 2002, and 2007. A minor amendment to the document was passed in 2010 to change the name of the "Park Bonanza" Supplement to the "Bonanza Park" Supplement.

Currently the Planning Staff is working on the rewrite of the General Plan. Thus far, the Staff has focused on researching the elements of the general plan and public input. The Planning Commission has discussed the General Plan as a work-session item five times since the initial start of the rewrite. It is worth noting that the Planning Staff is proposing to use the City's 2009 Visioning Document (Vision Park City 2009) as the foundation for the General Plan.

November 18, 2009 – Planning Commission Work Session

- Overview of current trends in Park City
- In-depth discussion on General Plans and the process of creating a general plan
- Consider Mission statement for Planning Commission
- Consider Brand for the General Plan
- Discussion on Growth, Evolution, and Build out

December 11, 2009 – Planning Commission Work Session

- Overview of Vision Park City 2009 Results presented by Phyllis Robinson

February 24, 2010 – Planning Commission Public Hearing

- Discussion on General Plan Goals (e.g. transportation, economic development, environment)
- More visual documents should be included in the General Plan
- Commissioners Volunteer for General Plan Elements/Issues
 - Community Character & Historic Preservation: Commissioner Luskin (need to update volunteer)
 - Community Character & Econ Development: Commissioner Hontz
 - Land Use & Growth Management: Commissioner Peek (need to update volunteer)
 - Environment/Conservation/Sustainable Dev.: Commissioner Pettit
 - Housing, Open Space and Parks and Rec: Commissioner Strachan
 - Transportation and Community Facilities: Commissioner Wintzer

May 26, 2010 – Planning Commission Work Session

- Introduce proposed Public Outreach methods to Planning Commission

July 20, 2010 – Public Outreach Meeting at Eccles

- 24 members of the public attended

July 27, 2010 – Public Outreach Meeting at Eccles

- 29 members of the public attended

October 28, 2010 – Public Outreach Meetings in specific Neighborhoods:

Thaynes-Three Kings meeting @ Silver Star
Park Meadows @ Police Station
Snow Creek-Prospector @ Yellow Snow
Old Town & Aerie @ Alpine Internet Café
Deer Valley Meeting @ Deer Valley Plaza

- 70 members of the public attended

May 11, 2011 – Planning Commission Work Session

- General Discussion on Public Outreach results
- Website Update
- Outline of Upcoming meetings

Analysis

Throughout the writing of the new General Plan, staff will be bringing monthly updates on their progress to the Planning Commission. A draft of the entire plan is scheduled to be completed by April 15, 2012. Once the draft is complete, the Planning Commission will begin to provide specific input to the content of the new General Plan.

Outline of New General Plan Format

The Planning Department will be updating the Planning Commission on the new layout of the General Plan. The new layout will focus on the outcome of Park City Vision 2009 and the communities Core Values: sense of community, natural setting, small town and historic character. (Exhibit A: Layout)



Gant Chart

The Planning Department will introduce the current Gant chart for the project management of the General Plan. (Exhibit B: Gant Chart)

Requests for Proposal

Several studies must be done for the updated General Plan. These studies will be further discussed during the meeting. The tentative list of proposed RFPs include:

- Human Health and Land Use
- Primary vs. Secondary Residents
- Artist
- Year round Economic Generator Study
- Local vs. National Chain
- Natural Resource Study
- Growth Management Study

Staff will be updating the Planning Commission on the Request for Proposals for these studies.

University of Utah Update

Staff is meeting with the University of Utah on June 6, 2011. An update on the University of Utah involvement with the General Plan will be provided at the next meeting.

Upcoming Meetings/Deadlines

June 15, 2011	Publish RFPs for additional studies
June 23, 2011	City Council update on General Plan
July 13, 2011	Planning Commission update on General Plan

Exhibits

Exhibit A Proposed Layout for the Final Document

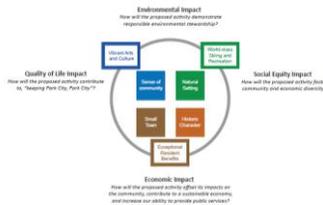
Beyond Altitude: Our Community Actualized



Chapter 1

Introduction Leading into Visioning

Chapter 2 Visioning Results



Chapter 3 Small Town

Small Town

3A The Facts and the Fluff

- Land Use
- Housing
- Growth Management
- Transportation
- Community Facilities

3B The Filter



3C Small Town Actualized

- Goals
- Actualization (Implementation)
- Measurable Indicators

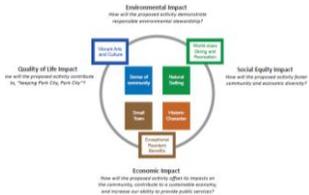


Chapter 4 Sense of Community

4A The Facts and the Fluff

- Community Character
- Community and Economic Development

4B The Filter



4C Sense of Community Actualized

- Goals
- Actualization (Implementation)
- Measurable Indicators

Chapter 5

Natural Setting



5A The Facts and the Fluff

- Open Space
- Environmental / Conservation
- Parks And Recreation

5B The Filter



5C Natural Setting Actualized

- Goals
- Actualization (Implementation)
- Measurable Indicators

Chapter 6 Historic Character



6A The Facts and the Fluff

- Historic Preservation

6B The Filter



6C Natural Setting Actualized

- Goals
- Actualization (Implementation)
- Measurable Indicators

Chapter 7
The Scorecard

Actualization Measured

All measureable located in
one organized chapter to
track progress.

MINUTES – MAY 11, 2011

**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
MAY 11, 2011**

PRESENT: Charlie Wintzer, Brooke Hontz, Julia Pettit, Mick Savage, Adam Strachan, Thomas Eddington, Francisco Astorga, Mark Harrington

WORK SESSION ITEMS

Fiscal 2012 Capital Improvement Program – Project Plan Update

Director Eddington reported that each year the Planning Commission reviews the Capital Improvement Project Plan. The Staff report contained a list of projects that was prepared by the City Engineer. The City has a ranking system with criteria for ranking the Capital Improvement Projects. The criteria includes objectives, funding, necessity, investment, and cost/benefit analysis. A CIP committee reviews, analyzes and prioritizes the projects.

Commissioner Pettit asked if the projects were listed in priority. Director Eddington replied that the projects were not in priority order; however they were grouped by equal standing in terms of points.

Commissioner Pettit asked about Hillside Avenue. Director Eddington stated that it was only on the list because they were finishing bonding and final landscaping. Once that is completed, it will be removed from the projects list. He noted that the same situation applied to the Museum expansion. That project was also nearing completion and would be removed from the list.

Commissioner Pettit was pleased to see the Crescent Tramway Trail on the project list. This has been an issue for her since those projects were developed and the pathway was never returned. Director Eddington stated that the City may also look at RDA funding for that project, as well as CIP funding. The City is prepared to do that project as soon as possible.

Chair Wintzer felt the City had fallen behind on enforcing completion of projects when it involves crossing City property. He noted that the Crescent Tram walkway has been closed for years and a similar situation occurred in his neighborhood in the past. Chair Wintzer stated that if the City allows someone to go on City property, they should be required to post a bond and follow a specified time schedule. The City should have the ability to enforce it.

Director Eddington noted that the CIP committee and others recognized this same concern, which is why Crescent Tram was back on the list.

Commissioner Savage stated that if the Planning Commission is asked to review the Capital Improvement Projects list for consistency with the General Plan, they should be given a comprehensive presentation with information that outlines the projects and the framework for how specific projects would be considered to be consistent or inconsistent with the General Plan. He pointed out that the Planning Commission was given a list of projects without any sense of the magnitude of the projects, how they are impacted by the ranking system, the status, the initiation dates and completion dates. Commissioner Savage felt it would also be appropriate to see what projects did not make the list and why. He was also interested in knowing who was on the CIP committee.

Director Eddington stated that he would meet with the City Engineer, Matt Cassel to provide a

detailed comprehensive overview. He pointed out that the listed projects were weighed against the General Plan and the City Council visioning goals. Director Eddington noted that most of the CIP are primarily infrastructure projects.

Commissioner Savage commented on the number of eroding places on the pathway that goes along the raging creek that on the side of town going down Deer Valley Drive. He did not see that pathway included on the list and assumed that for whatever reason it had not made the cut. Director Eddington explained that the City has a separate fund for most of the trails maintenance and they also have a contract with Mountainland Trails to help maintain the trails.

Commissioner Pettit agreed with Commissioner Savage that it would be beneficial to have more information in the context of the General Plan to help evaluate some of the projects that are designed to meet the General Plan.

Rocky Mountain Power Master Plan – Project Plan Update

Director Eddington introduced Chad Ambrose, Park City's representative from Rocky Mountain Power. Booklets had been provided to the Planning Commission and Mr. Ambrose presented an overview of the impetus for the plan and how it evolved.

Mr. Ambrose stated that he had attended a previous Planning Commission meeting where he provided a high level review of the Master Plan that was still in process at the time. He noted that Director Eddington was a key player in the development of the plan. Mr. Ambrose remarked that this plan was one of the best products that had ever come from Rocky Mountain Power. He credited all the task force members for its success. Mr. Ambrose noted that the task force was comprised of elected officials, staff members from cities and counties, concerned citizens and many others. Everyone contributed time and effort to put together a program that would help Rocky Mountain Power and all the communities they serve to develop a master plan for the next 20 years.

Mr. Ambrose stated that the goal of the master plan is to highlight three main components identified by the task force. The task force developed a set of criteria for siting facilities to serve the future needs of their customers. The three criteria categories were General Considerations, Criteria for Substations and Criteria for Transmission Lines.

Mr. Ambrose pointed out that the plan does not address distribution voltage, which is the voltage typically found in homes or businesses. It addresses larger scale transmission and substations necessary to service a growing population over the next 20 years.

Mr. Ambrose remarked that another key element in the plan was a map developed by the task force that identifies potential locations for transmission lines and substations. He believed the map was a way to begin discussions with the communities. Mr. Ambrose felt the effort by the Task Force would greatly improve relationships between Rocky Mountain Power and the cities and counties as they move forward to permit a new facility. The plan should provide a glimpse of what the future might look like in terms of power delivery.

Director Eddington stated that Rocky Mountain Power launched this process with the idea of trying to eliminate confrontation that can sometimes occur when the Power Company begins work unexpectedly. Director Eddington believed the best result, other than the plan itself, was the relationship that was formed between Summit and Wasatch Counties and the cities. Transmission lines cross jurisdictional boundaries and it was helpful to get to know the other communities. It was also helpful to form a relationship with Rocky Mountain Power so they could all better understand the needs and concerns. Director Eddington thought the process was very effective.

Director Eddington stated that the Planning Commission would continue to be updated as the plan moves forward. He noted that the Planning Commission would be involved with substations in Bonanza Park. Also, as they develop the utilities element of the General Plan the Planning Commission would be looking at the siting criteria and future needs and incorporate that into City documents.

Commissioner Pettit stated that when Mr. Ambrose attended a previous meeting, she had asked a number of questions tied to renewable energy and ways to reduce energy consumption through energy efficiency and distributive generation projects. She understood from that meeting that Diane Foster and her team were part of the process and very capable of addressing similar issues. Commissioner Pettit commended the effort. It is important that communities have the opportunity to provide input on important subjects, particularly dealing with substations and transmission lines because people in the immediate vicinity are significantly impacted.

General Plan – Informational Update

Planner Francisco Astorga reported that the Staff was moving forward with the General Plan and proposed to use the visioning document, Vision Park City 2009, as the base for the General Plan Update. He commented on the two public outreach meetings that were held in July and the one in October, and explained the different exercises and activities each attendee participated in using a map of their specific neighborhood. Planner Astorga noted that 123 residents participated in a survey they were asked to fill out. The intent of the exercise was for residents to identify different uses in their neighbor, what they would like to see in their neighborhood or what they thought did not belong in their neighborhood.

The same exercise was done for the city in general and allowed the residents the opportunity to identify acceptable or unacceptable uses beyond their neighborhood but within the city or outside of the city. Planner Astorga noted that some of the results were identified on page 20 of the Staff report.

Planner Astorga stated that the Staff had spent time analyzing the data and putting it into a spread sheet as a guide to move forward with the General Plan update. Director Eddington noted that the analysis was available through a link on the Planning Department website. The Commissioner could also use that link as a way to check the Staff's progress on the General Plan. Director Eddington encouraged the Commissioners to visit the Planning Department if they have questions or ideas or would like to focus on a specific element of the General Plan.

Planner Astorga reported that the Staff was using accurate information from the 2010 Census to do an analysis based on population and house size.

Director Eddington stated that if the Commissioners have questions with regards to other documents relative to planning issues that might be on the central site but not on the Planning site, he suggested that they contact Patricia Abdullah for help in navigating those documents.

Director Eddington referred to a table on page 21 of the Staff report, which contained the goals and objectives for various topics that came from the Outreach sessions. He noted that the number of positive votes were identified in green and the negative votes were in red. The Staff had laid out the goals and the residents identified their preference using red or green stickers. The information has been quantified and the Staff would bring it to the Planning Commission for additional discussion.

Director Eddington noted that page 22 of the Staff report was the result of an exercise where residents were able to write their wish list for the future of Park City.

Director Eddington reported that the Planning Department would be setting up a Community Task Force and the Staff report listed various people and/or teams that would be important for that Task Force. He asked if the Planning Commission had additional recommendations. Commissioner Pettit suggested adding Summit Lands Conservancy, Mountain Trails, and Recycle Utah. Commissioner Savage added Park City Foundation, Sundance, and Canyon.

Director Eddington stated that the Planning Commission would have the opportunity to discuss the General Plan at the June 8th meeting.

Commissioner Savage remarked that the data collected from the Public Outreach only represents a small fraction of the population, and the same group always participates. He recommended that they think of ways to incorporate a greater degree of Outreach to achieve a more balanced perspective on the priorities of the community on a long term basis. Commissioner Savage thought they should consider the importance of the secondary home community in Park City. The revenue generated from second home owners and the viability of the community on a long term basis would be predicated on those owners being participants. Commissioner Savage did not have a specific recommendation, but encouraged the Staff and the Planning Commission to think of ways to incorporate a greater degree of engagement in the early days, so people know that a meaningful effort was made to try to facilitate participation in the process.

Director Eddington hoped to use the website to reach out to more people, particularly those who do not live in Park City. He looked forward to discussing other approaches with the Planning Commission.

Commissioner Pettit recalled that during the visioning process, there was a subcommittee that was specifically focused on doing interviews with second homeowners. Director Eddington could not remember a subcommittee, but he offered to look into it. Commissioner Pettit agreed that it was important to get feedback from second homeowners, however, a continual challenge for the community is finding ways to meaningfully engage the second homeowners.

Commissioner Strachan understood that a third party contractor was hired for that visioning

process and they made inroads with the second homeowners. Director Eddington recalled that the recommendation from the consulting group was to utilize local residents to reach out because it provides a better opportunity to make a connection. He would find out exactly how that was done.

The Work Session was adjourned.

DRAFT

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MAY 11, 2011

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Julie Pettit, Mick Savage, Adam Strachan

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone Planner; Francisco Astorga, Planner;
Mark Harrington, City Attorney

=====

REGULAR MEETING

ROLL CALL

Chair Wintzer called the meeting to order at 6:00 p.m. and noted that all of the Commissioners were present.

PUBLIC COMMUNICATIONS

There was no comment.

ADOPTION OF MINUTES – April 27, 2009

Commissioner Strachan referred to page 10 of the minutes on page 36 of the Staff report, and corrected the motion for 817 Norfolk Avenue to reflect that he had abstained from the vote.

MOTION: Commissioner Strachan moved APPROVE the minutes of April 27, 2011 as corrected. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington noted that the regular meeting on May 25th would be cancelled, since several Commissioners were unable to attend and they would lack a quorum. The next meeting was scheduled for June 8, 2011.

Director Eddington introduced Chad Root, the new Chief Building Official. He also introduced Shauna Stokes, a new planner, who recently moved from the Building Department to the Planning

Department. Ms. Stokes replaces Jacque Mauer, who left the Planning Department to pursue architectural school.

Director Eddington noted that the Planning Commission was short two Commissioners due to the departure of Dick Peek and Richard Luskin. The deadline for submitting applications was Friday, May 13th. The City Council would review the applications and begin interviewing for two additional members.

Commissioner Savage asked if the process allowed the Planning Commission the ability to provide input to the City Council on which backgrounds they believe would be strong additions to the Planning Commission. Director Eddington stated that Alex Butwinski is the Council liaison to the Planning Commission. It would be appropriate to provide their comments to Mr. Butwinski and he could relay them to the City Council.

City Attorney, Mark Harrington, concurred that the most direct process would be to communicate with Alex Butwinski. He pointed out that selection is a legislative appointment process and the Commissioners were free to contact the City Council directly with individual recommendations.

Commissioner Savage thought the Planning Commission as a group should discuss skill sets they would like to see on the Planning Commission and pass that on to the City Council. Since the Planning Commissioner would not meet again until June 8th, he was concerned that the process would be completed without Planning Commission input.

Chair Wintzer agreed with Commissioner Savage. He personally felt the Planning Commission needed a member with design background. Since they have two positions to fill, Commissioner Savage suggested one with a background in house design and the second with community design experience. He believed those skill sets would augment the skills of the current Planning Commission.

Commissioner Hontz suggested that having someone from the developer/builder side would also be beneficial.

Chair Wintzer thought Commissioner Savage made a good point in terms of working the Planning Commission into the process. City Attorney Harrington remarked that the HPB has codified their preference for representation through guidelines in the Code. The process for the Planning Commission is broad based, but they could entertain an ordinance amendment to provide input on what they see as perpetual problems.

Director Eddington reported that the Planning Department was hiring a one-year contract planner and the application process for that position was closed. The applications would be reviewed for interviews. He asked Mr. Harrington if it would be appropriate, for some of the Commissioners to review the resumes with Staff and/or sit in on the interviews. City Attorney Harrington recommended that the Planning Department go through the HR process first and then determine if it would be appropriate to include some of the Commissioners. He explained that there is a provision that talks about separation of power between elected and appointed officials in

employment decisions. It would not be prohibited in the process, but appropriate steps need to be followed.

Election of Vice-Chair

MOTION: Commissioner Strachan moved to nominate Julia Pettit as the vice-chair. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

CONTINUATION(S) – Public Hearing and Continue to Date Specified

573 Main Street – Claim Jumper – Plat Amendment
(Application #PL-10-01105)

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

MOTION: Commissioner Pettit moved to CONTINUE the 573 Main Street Claim Jumper plat amendment to a date uncertain. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

The applicants for Park City Heights had not yet arrived and Director Eddington requested a change in the order of the agenda.

1. 1310 Lowell Avenue – Wind Turbine – Conditional Use Permit
(Application #PL-11-01197)

Commissioner Strachan disclosed that his firm represents PCMR, however, the representation is unrelated to the application and would not affect his vote.

Planner Astorga reviewed the application for a conditional use permit for a small wind energy system at Park City Mountain Resort. The request is for wind turbines near the top of the Silverlode lift. The system is approximately 38 feet tall and less than 20 feet in diameter. The Staff report contained the conditional use criteria, as well as additional criteria in the Land Management Code specific to a small wind energy system.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the conditional use permit for the PCMR small wind energy system, according the findings of fact, conclusions of law, and conditions of approval.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Commissioner Pettit was excited about this energy system and complimented the Resort on being a great leader for renewable energy and reducing the carbon footprint. She would like the City to keep moving forward to raise awareness and create opportunities to reduce the carbon footprint in Park City.

Chair Wintzer suggested adding a condition of approval requiring that the applicant provide an update to the Planning Commission in one year or another determined time frame. He felt it was important for the City to receive feedback on whether the wind turbines were working and hopefully encourage others to do the same.

Director Eddington added Condition #10 – The applicant shall come back to the Planning Commission after one year of operation to provide a general update on how the small wind energy system is working.

MOTION: Commissioner Pettit moved to APPROVE the conditional use permit for a small wind energy system at Park City Mountain Resort, in accordance with Findings of Fact, Conclusions of Law, and Conditions of Approval as amended. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1310 Lowell Avenue – Wind Turbine

1. The property is located at Park City Mountain Resort, 1310 Lowell Avenue.
2. The zoning is Recreation Open Space (ROS) within the Sensitive Lands Overlay (SLO).
3. The proposed Conditional Use Permit is for a Small Wind Energy System. The solar panel tracking system does not require a Conditional Use Permit.
4. The Small Wind Energy System is a vertical axis wind turbine of approximately 38 feet in height and 19.7 feet in diameter.
5. The Small Wind Energy System will be constructed near the Silverlode Lift.
6. Replacement of an already permitted turbine with a similar size and height will not require a Conditional Use Permit modification.
7. The analysis Section above is incorporated herein.

Conclusions of Law – 1310 Lowell Avenue – Wind Turbine

1. The application complies with all requirements of the LMC.

2. The use is compatible with surrounding structures in Use, Scale, Mass, and Circulation.
3. The use is consistent with the Park City General Plan, as amended.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 1310 Lowell Avenue – Wind Turbine

1. The applicant will apply for a building permit from the City within one year from the date of Planning Commission approval. If a building permit has not been granted within one year's time, this Conditional Use Permit will be void.
2. The Small Wind Energy Systems shall be lighted only if required by the FAA and shall comply with all applicable FAA regulations.
3. Any Small Wind Energy System, that has reached the end of its useful life or has been abandoned, shall be removed. A system shall be considered abandoned when it fails to operate for a period of one (1) year or more. Upon a notice of abandonment from the Building Department, the system Owner shall have sixty (60) days to provide sufficient evidence that the system has not been abandoned and request an extension, or the City shall have the authority to enter the Property and remove the system at the Owner's expense. The Owner is responsible for reclaiming the land using natural vegetation and to the greatest extent possible the land shall be fully returned to its natural state within five (5) years of the removal and decommissioning of the System.
4. The Applicant/system Owner shall maintain the system in good condition. Maintenance shall include, but not limited to, painting, mechanical and electrical repairs, structural repairs, and security measures.
5. Prior to issuance of a Building Permit, the system shall comply with all applicable sections of the International Building Code, including electrical codes and all requirements and criteria of the section.
6. Signs shall be restricted to reasonable identification of the manufacturer, operator of the system, utility, and safety signs. Educational identifier signage will also be permitted. All signs comply with the Park City Sign Code.
7. The Small Wind Energy System and associated solar panel tracking system must meet the City's Noise Ordinance per 15-6-8 and 15-6-9 of the Park City Municipal Code.
8. The Small Wind Energy System shall be a neutral color that blends with the environment. Gray, beige/brown, green or white are recommended and all paint and finished shall be non-reflective.

9. Prior to building permit issuance the City Engineer will review and approve a re-vegetation plan of disturbed areas, and temporary and permanent erosion control measures.
- 10: The applicant shall come back to the Planning Commission after one year of operation to provide a general update on how the Small Wind Energy System is working.

2. Modification to Emergency Plan for Empire Pass – Amendment to Technical Report (Application #PL-10-01208)

Director Eddington reported that the Planning Commission had reviewed the new Emergency Response Plan for the Empire Pass/Flagstaff Development. He presented a map showing the new proposal, which was reviewed by the Planning, Engineering and Building Departments, the Chief Building Official and the Fire Department. Director Eddington noted that revisions and updates were also made to the technical report as requested by the Planning Commission on March 23rd.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Commissioner Hontz thanked the Staff for making the requested revisions.

MOTION: Commissioner Hontz moved to APPROVE the adoption of the revised Technical and Updated Technical Report #7 - Emergency Response Plan, according to the Findings of Fact, Conclusions of Law, and the Conditions of Approval found in the Staff report. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Modification to Emergency Plan for Empire Pass

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 our 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 and update three (3) REPORTS: #1, THE Mine/Soil Hazard Mitigation Plan, #7, the Emergency Response Plan , and #15 the Construction Mitigation Plan.
 5. The previously identified emergency route map included a route (between the Montage Hotel site and Daly Avenue) that had slopes too steep for emergency response vehicles. The newly identified routes have been analyzed for vehicle access and Alliance Engineering has mapped the routes on a contour map.
 6. The proposed revisions to the Technical Report and emergency access route map reflect existing conditions as well as the two most recently amended Empire Pass/Flagstaff Development Agreement (March 2, 2007).

Conclusions of Law – Modification to Emergency Plan for Empire Pass

1. The Planning Commission finds that the revised and updated Technical Report #7 is 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 Report #7 is required pursuant to Ordinance 99-30, Section 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 Report #7 is 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 – Modification to Emergency Plan for Empire Pass

1. Any revisions to this Technical Report and/or emergency access route map proposed in the future must be presented to the Planning Commission for approval.

**3. Park City Heights – Master Planned Development
(Application #PL-10-01028)**

Planner Whetstone reviewed the master planned development application for 239 units on 239 acres in the CT zone, located in the Quinn's Junction area west of US40 and south of SR248. The Planning Commission last reviewed this application on April 27th.

Planner Whetstone handed out redlined copies of the Findings of Fact, Conclusions of Law and Conditions of Approval, which reflected changes requested by the Planning Commissioner per their discussion at the last meeting, as well as follow up comments submitted in writing from the applicant and the Commissioners prior to this meeting. Based on those comments and concerns, the Staff had drafted Findings of Fact, Conclusions of Law and Conditions of Approval.

Planner Whetstone commented on changes to specific conditions of approval and requested that the Planning Commission provide input or make revisions.

Condition of Approval #32, which addressed the affordable housing plan and that final review and approval would be granted by the Park City Housing Authority per the requirements of the Housing Resolution, was revised to reflect the requirements of the Housing Resolution.

Conditions of Approval #43 and #44, which addressed the wildlife study and a review by the Planning Commission, was revised to also include a review by the Planning Department, per a request from the applicant.

Condition of Approval #46 addressed conditional use permits for houses on the west ridge. Planner Whetstone clarified that while the Staff supports administrative conditional uses, they could not support the applicant's request that these homes be administrative CUPs reviewed by the Planning Staff. Therefore, the condition reflects the original intent for conditional use permits reviewed by the Planning Commission.

Condition of Approval #54 addressed timing of construction of bus shelters. Based on the last discussion, the Staff requested a specific time frame within 6 months of the 40th certificate of occupancy.

Condition of Approval #56, which addressed house sizes, was revised to incorporate specific language about a tiered approach as discussed at the last meeting. Language was also added to further place limitations on the house sizes during the subdivision plat process and to reflect that in the design guidelines.

The guidelines should also reflect a preference for small homes consistent with Best Practices in Sustainable Design and Development to address the materials and energy impacts of larger homes, as well as the historic pattern of the residential development in Old Town.

Condition of Approval #57 requires that the Park City Heights Design Guidelines shall be approved by the Planning Commission.

Commissioner Pettit referred to the redlined document and suggested that the last paragraph of Condition #56 be moved to Condition #57 as its own condition of approval. In addition, she requested that the language Planner Whetstone had deleted from Condition #57 be reinstated.

Condition of Approval #61 regarding transportation mitigation elements required by the Park City Heights Annexation Agreement, was drafted by Staff as redlined in the handout.

Chair Wintzer had asked Director Eddington to compile a list of items that would come back to the Planning Commission. He requested that the Commissioners focus their comments on items that would not be coming back. Director Eddington stated that the items that would come back to the Planning Commission include the design guidelines, the development agreement, the final subdivision plats and phasing, utility grading, drainage plan, limits of disturbance, street design cut and fills, the landscape plan for the entry area, conditional use permits for multi-family units greater than 4 units. It also includes accessory uses building, parcels I and J, the single family units on the west ridge, the wildlife study final review, the transportation numbers, and the affordable housing plan for review and recommendation.

Spencer White, representing the applicant, wanted the Planning Commission to clearly understand that the applicant was requesting a vote this evening. Mr. White had also received the redlined findings, conclusions and conditions, and he was confident that the applicant could accept with all the conditions.

The Planning Commission reviewed the Findings, Conclusions and Conditions and made the following revisions:

Finding of Fact #1 (a) – Commissioner Hontz suggested adding the words, of types of product” to the last sentence. The sentence would read, “The approximate distribution of types of product is identified in the Design Guidelines.

Finding of Fact #1(h) – Commissioner Hontz wanted the design to allow for field space that is 130 yards x 100 yards, and not 100 x 60 as currently written. The field would not have to be programmed, but the design should allow a field that size to occur without having to bring in equipment to move trees or berming, etc. Commissioner Hontz was concerned about neighborhood complaints and politics in the future that would prohibit a field. For that reason, it was important to have the field designed to occur in the future. Commissioner Hontz felt strongly that a field 100 yards x 60 yards was too small to be effective.

Mr. White pointed out that a 130 x 60 field would not physically fit on the site. He believed the largest possible field would be 100 x 60 yards. Commissioner Hontz was comfortable with the 100 yard length, and asked whether the width could be increased to 80 yards. After further discussion, Commissioner Hontz was comfortable with referencing a field size of 100 yards x 60 yards.

To address Commissioner Hontz’s concern about opposition to a field in the future, City Attorney, Mark Harrington, suggested adding a condition of approval to indicate that

preliminary site work will reserve an area of 100 yards by 80 yards until such time as a field is constructed.

After further discussion, Mr. Harrington suggested that they strike the language in (h) that referenced a specific field size and talked about requirements for regulation soccer fields. The Commissioners concurred. The red lined sentence regarding bathrooms would remain.

Finding of Fact #1 (o) – Commissioner Hontz asked if the 3,000 square feet referenced for the community/center clubhouse included the bathrooms. Mr. White answered yes.

Commissioner Pettit asked if the community center would be available for use by Park City residents outside of the Park City Heights community. Chair Wintzer felt that was an issue for the Homeowners Association and not the developer. He did not believe the City could force the HOA to pay the utilities and maintenance and allow those outside of the development to use it. Mr. White pointed out that the HOA could decide to make it available to others and charge a fee. Commissioner Pettit clarified that she was trying to find ways to tie this project to the community in a meaningful way.

Findings of Fact #12 – The second sentence referencing a FIFA sized field was struck from the language.

Commissioner Savage asked if the bathrooms included in the 3,000 sf. for the community center and accessed from the outside, would be accessible to everyone at any time. Mr. White replied that the exterior bathrooms would be maintained by the park operators and they would be accessible to everyone. The bathroom is an extension of the park itself.

Findings of Fact #32 – the language in the last sentence, "...and will be required to include mitigation for these issues" was revised to read, "...and shall include mitigation for these issues".

Finding of Fact #39 – Commissioner Pettit revised the third sentence to read, "However, other sound mitigation measures may be accomplished with landscaping, berming, smart housing, design and insulation, and sound barriers constructed as part of the dwelling units". She felt it was important to clarify that even though sound barrier walls were prohibited, but there are other means to mitigate sound.

Commissioner Pettit believed several of the Conclusions of Law were addressed in the Findings of Fact. Commissioner Strachan noted that Conclusion of Law #10 was changed since the April 27 meeting, but the changes were not redlined. Planner Whetstone replied that none of the changes resulting from the April 27th meeting were redlined. The redlines received from the Planning Commission and applicants were shown as redlines in the Staff report. The Staff re-drafted the conditions of approval based on those changes.

City Attorney Mark Harrington agreed that many of the conclusions of law were repetitive, and he thought they should be simplified with minimum wording in Section 15-6-6 of the Land Management

Code. Commissioner Strachan remarked that the April 27th Staff report had verbatim language from the LMC. Director Eddington asked if Planner Whetstone could paste in those conclusions of law.

Commissioner Pettit acknowledged that she had made comments at the last meeting in terms of having a difficult time making certain conclusions of law. However, she was comfortable with having some of the language included in the findings of fact. Commissioner Pettit thought the conclusions of law should be simple and straightforward and not a mix of factual statements versus conclusions of law.

Conclusions of Law #2 - Commissioner Pettit recommended removing the last sentence, "Surrounding uses including open space..." and make it Finding of Fact #47.

Conclusion of Law #3 was revised to read, "The MPD, as conditioned, is consistent with the Park City General Plan". The remainder of the language written was deleted.

Commissioner Savage noted that during a previous meeting, Assistant City Attorney Polly Samuels McLean stated that she was legal counsel to the Planning Commission, and she represented them in matters where they committed to something as a conclusion of law. He pointed out that Ms. McLean was not in attendance this evening. City Attorney Harrington stated that he was present and serving in the role as legal counsel. Commissioner Savage understood that Mr. Harrington represented the City as it relates to the MPD. Considering the situation this evening, he felt there could be a conflict of interest related to legal representation in terms of any liability or problems the Planning Commission may encounter in the future.

City Attorney Harrington explained that some city attorneys wear many hats, and with any City project they represent a variety of interests. He remarked that the Legal Department tries to maintain separate levels so the City can be represented in all levels of appeal. Mr. Harrington stated that Phyllis Robinson's department could hire separate legal counsel if they wished, however they have not retained outside counsel. He also could not cross represent both parties and move into his other role this evening. His role this evening was to represent the Planning Commission.

City Attorney Harrington felt Commissioner Savage had raised a valid concern, but he did not believe his representation presented an inappropriate conflict at this point. He acknowledged that his role as legal counsel to the Planning Commission would limit what his office could do in an adversarial proceeding if conflicts occur in the future.

Commissioner Savage clarified that his question was based on confusion regarding the indemnification process that would exist for each Commissioner as it relates to approval of the MPD. Mr. Harrington remarked that the Commissioners would not have individual liability as long as approvals were made within the scope of their purview and due diligence. If a Commissioner was named personally in a lawsuit, there is a statutory process by which they can request overlapping service from the City. The Commissioner would have the option of hiring their own legal counsel or requesting representation from the City Legal Department.

Commissioner Savage understood that this was not a situation where the Planning Commission, as a body or as individuals, would ever be adverse to the City Legal Department as it relates to any issue that may come about as a consequence of the approval of this MPD. Mr. Harrington replied that this was correct.

Conclusion of Law #5 was deleted entirely. Commissioner Pettit was not comfortable defining resort character, and she believed the remaining elements were covered in other findings of fact. Commissioner Strachan concurred.

Conclusion of Law #7 was revised to read "The MPD provides amenities to the community so that there is no net loss of community amenities". The remaining language was deleted.

Conclusion of Law #8 was revised to read, "The MPD is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed". The remaining language was deleted.

Conclusion of Law #9 was revised to read, "The MPD has been designed to place development on the most developable land and preserves significant features and vegetation to the extent possible". The remaining language was deleted.

Conclusion of Law #10 was removed from the conclusions of law. A portion of the language, "Direct connection and critical improvements of the Rail Trail provide alternative transportation opportunities for recreation and commuting, such as biking, walking, in-line skating, and cross country skiing", became finding of fact #48. The remainder of the language was deleted.

Commissioner Savage was amazed that there had not been more public participation and input on this project. He remarked that even though there had been appropriate legal noticing, many people are unaware of this project. Commissioner Savage stated that because the applicant has been so willing to work with the specifications of this project, he was concerned that the community at large had no idea of what to expect and there may be significant reaction once the project manifests itself. Commissioner Savage had no intention of changing anything, but he wanted his concern on the record.

Mr. White remarked that this project is in its 7th year of moving through the process. In his opinion, the public has had ample opportunity to make comment and express their concerns. Commissioner Savage agreed. He raised the issue to make everyone aware that there may be public outcry once the project physically begins.

Condition of Approval #5 - Commissioner Pettit indicated the reference to LEED for Homes Silver rating, and asked if she was correct in assuming that the standard by which this project and all the homes built in this project are to be LEEDS homes. Mr. White replied that this was correct. He explained that the Green Build Standard no longer exists

Condition of Approval #6 – Commissioner Pettit revised the second sentence to read, “Entry and perimeter landscaping shall be completed within six (6) months of issuance of the first building permit, weather and ground conditions permitting”.

Condition of Approval #14 – Commissioner Hontz asked if snow removal was only tied to sidewalks or if it was also tied to other areas where snow removal may need to occur. Commissioner Pettit clarified that she had added the language, “including, without limitation, snow removal.” Her intent was that it was specifically tied to this condition for maintenance of sidewalks. Commissioner Pettit wanted to make sure this community would be walkable during the winter. Commissioner Hontz was comfortable with the language based on the intent.

Condition of Approval #31 – The last sentence as written was replaced with a new sentence, “A minimum area of 100 x 80 shall be free from fixed improvements until final field design is approved as part of the subdivision”. Commissioner Hontz clarified that beyond a design issue, she wanted it clear to potential buyers that there could be a field and that it goes further than the CC&Rs.

City Attorney Harrington remarked that Commissioner Hontz’s concern should be addressed in a separate meeting as a separate agenda item. At that time the Planning Commission could make a policy recommendation to the Recreation Board or another appropriate entity, for a coordinated effort in following up with programming and policy decision regarding that space, that may not be subject to the MPD. He explained that the space would be programmed as part of the initial platting, but the dimensions of the field and uses would be determined by a different body at a later time.

Commissioner Hontz reiterated that her primary concern was 1) making sure the field is not precluded in the design; and 2) after it is built and people begin to move in, she did not want some residents to have the ability to prohibit others in the community from using that facility. Mr. Harrington felt they were double covered on her concerns because the City has an owner role, which could add additional influence into policy decisions.

Planner Whetstone was concerned that a larger field would preclude the tot area. Mr. White remarked that it may be impossible to fit a 100 x 80 rectangle field. He asked if Commissioner Hontz wanted hard lines or if this could be a play field with meandering edges but the same square footage. Commissioner Hontz explained why she felt it was important to have a hard line rectangular space, but she also understood the issues for not being able to have that capability. City Attorney Harrington recommended that the Planning Commission discuss or modify the dimensions at the subdivision stage.

Condition of Approval #35 – Commissioner Pettit revised the second sentence to read, “To the extent that sound mitigation measures are utilized within the MPD, such measures shall be limited to landscaping and berms, energy efficient housing design and insulation, and sound mitigation constructed as part of the design of the dwelling units and shall be reviewed by the Planning Department for compliance with the Design Guidelines.

Condition of Approval #41 – The third sentence was revised to read, “If this area is used as a construction staging, construction recycling area, and excavated materials storage area, a new construction staging area will need to be approved by the Planning Department for the remainder of Phase I and for subsequent phases and shall be re-vegetated in a like manner with the issuance of certificates of occupancy for the final units in the respective phase”.

Condition of Approval #44 – Planning Department was changed to Planning Director.

Condition of Approval #56 – Mr. White asked for clarification of the language in parenthesis, “subject to further appropriate limitations identified during the final subdivision plat process.” Commissioner Pettit explained that the language was included to give the Planning Commission the ability at the final plat to further limit the house size on some lots, if appropriate, to address other concerns. Commissioner Pettit did not want the design guidelines to be the final determinant of house size limitations.

Mr. White was concerned with putting language on a plat that may or may not be conducive to selling lots and homes. He preferred more definitive language. Commissioner Pettit clarified that consideration would be on a lot by lot basis.

Commissioner Savage understood and supported the objective of the language. However, the applicant wants the project to be a commercial success and he was concerned about placing a condition that would create a constant unknown for the applicant in terms of house size. Mr. White shared the same concern, particularly if the Planning Commission has the ability to approve or deny every plat based on house size limitations.

City Attorney Mark Harrington did not believe the Planning Commission could place a condition that modifies their subsequent approval in the next regulatory criteria, unless they were specifically reserving something within this section of the Code to apply again at that section. The Planning Commission has the ability for case by case tweaking in the platting, and it must be done within the subdivision criteria. Mr. Harrington did not think the Planning Commission was requesting anything beyond the ability they already have.

Commissioner Savage clarified that the houses would not be any larger than allowed by the MPD, and that final approval of the subdivision is based on the fact that the adequacy of a lot to support that size of a house must be validated at the time of that application.

City Attorney Harrington read from LMC Section 15-7.3-3, Square Footage, in the Subdivision Section. He felt it was unnecessary to be redundant in terms of the ability the Planning Commission already has under the LMC. However, the language needs to be clear that house sizes would not be looked at in their totality, but rather in terms of narrowing the specifics that they would anticipate looking at with any final subdivision plat.

Commissioner Pettit pointed out that the LMC does not address sustainable green building element, which is tied to the MPD. As an example, there may be a situation where the house size may need to be reduced to allow for solar access for adjacent properties. She wanted it very clear that those types of details and situations would generate an appropriate limitation. She thought it was important for potential buyers to be aware that Park City Heights is a sustainable green community and the preference is for smaller homes.

City Attorney Harrington revised Condition of Approval #56 to read, "House size limitations for all lots within the MPD shall be identified in the Design Guidelines subject to further appropriate limitations, if found necessary during the final subdivision plat process, taking into consideration the size of the lots, visibility of lots from the LMC Vantage Points, solar access of adjacent lots, onsite snow storage and ability to achieve LEED for Homes Silver ratings, to meet the applicable standards of 15-7.3-2."

The questionable language in parenthesis was removed in the revised condition. After further discussion, the phrase "for all lots" was removed from the revised language.

The last paragraph of Condition of Approval #56 became Condition of Approval #57, changing the numbers of the remaining conditions.

The new Condition of Approval #58 was revised to read, "The Park City Heights Design Guidelines are an integral component of the Park City Heights MPD and substantive amendments to the Design Guidelines require Planning Commission approval.

Condition of Approval #61 – Commissioner Hontz revised the condition to read, "The Park City Heights Design Guidelines and CC&Rs shall include information related to the history of the site and Quinn's Junction region."

Condition of Approval #62 – Commissioner Hontz wanted the language revised to require real data this winter so they can know the actual traffic counts and not metered counts. That also takes into account and accurately understands what the problem will be with the current baseline conditions created at the lights in the region and in the entire corridor, based on the real traffic impacts analysis or TIS that was completed. This will provide real data for UDOT to propose a traffic corridor analysis.

Commissioner Hontz was not comfortable with the language as written because it did not accomplish the goals she was trying to achieve. She wanted a winter traffic count at peak periods and peak hours. She also wanted to see, as part of the actual traffic winter counts, a full analysis of the traffic signals in the corridor so the Park City Heights project works better at the baseline current conditions and in the future, in order to get ahead of the UDOT problem.

Chair Wintzer asked Kent Cashel, with the Park City Transportation Division, if the City could do a traffic count or if they needed to submit a request to UDOT. Mr. Cashel replied that the City can do counts on the highway. He pointed out that they already have that data. A full-time counter that counts every minute of every day is located just east of Richardson Flat Road. That is the basis of the data on the website. Mr. Cashel stated that more robust data is also available, but the City would need to request it from UDOT. Mr. Cashel believed the City's counts reflect the same data that UDOT shows.

Commissioner Hontz stated that she had obtained the data from UDOT and she was able to get the peak winter counts. They already know when traffic problems occur, so this is not new

information. Commissioner Hontz felt it was in the project's best interest to better understand the problems that currently exist at the signals and will be further exacerbated by this project. She remarked that real counts are slightly different and more accurate than meter counts. She believed the corridor study is necessary to show what problems they currently experience and what needs to occur to rectify it.

Mr. Cashel stated that he has concerns about SR248 on a daily basis. The Transportation Department has spent a tremendous amount of time working with UDOT on short and long range planning. Mr. Cashel noted that a strategic plan was created and Park City was one of the first communities to pro-actively work with UDOT to develop a strategic plan for that road. It includes ongoing monitoring similar to what Commissioner Hontz was requesting. Mr. Cashel explained that a model was developed around that corridor and it was calibrated to current conditions, as well as future conditions. He pointed out that the model looked at integrating this project, which has been anticipated for at least four years. Mr. Cashel remarked that they have consistently looked at peak hours during the winter. He stated that UDOT is in the process of synchronizing all the signals together with fiber optic cable. This would allow them to monitor the efficiency of each signal and the corridor as a whole and make adjustments.

Commissioner Hontz asked if the synchronization through the fiber optic was already programmed and when it would occur. Mr. Cashel was unsure of the exact date, but stated that several of the signals are already tied in. When the City does the intersection improvements, which is in the process of being designed, they are required to tie into the signal at the fields. Mr. Cashel assumed there would be a gap in the system that would need to be addressed, but, it is already part of the plan. Mr. Cashel reiterated that they have a model and they would constantly be gathering the data and running it through the model. He was less concerned with the Park City Heights project and more concerned about matters that are out of their control and unrelated to this project.

Chair Wintzer asked Mr. Cashel how many years it would take to complete the fiber optics. Mr. Cashel replied that it would be installed by UDOT and he did not know the specific date. Mr. Cashel pointed out that UDOT would decide when to install the signal, and that is determined through a warrant study. The City will prepare the intersection and make it ready to install the signal.

Mr. White remarked that the applicant was not opposed to doing another study. However, he believed the existing study already indicates that improvements need to be made. He was willing to work with the City to conduct another study.

Commissioner Pettit understood that Commissioner Hontz was making the point that the study should come back to the Planning Commission to determine whether additional mitigation would be required.

Commissioner Strachan suggested a condition of approval that requires a peak traffic count study every year for five years and to bring those results to the Planning Commission. If conditions need to be further mitigated, they would do it.

City Attorney Harrington remarked that the Planning Commission would only be able to address projected impacts from this project. He stated that impact fees are not an exact science and never will be. They try to have a reasonable forecast based on best available data at the time of approval to identify concerns which they believe need to be mitigated. Unless their concerns are driven at something that is fundamentally different from the range of estimates in the original studies, which Mr. Cashel identified as the range of percentage of impact on the totality of the corridor, the Planning Commission was trying to solve something beyond the scope. Mr. Harrington pointed out that a traffic count on the road is not a count of this project. He commented on things that could manipulate the counts as much as this project.

Commissioner Hontz believed that one of the assumptions made in the TIS was that approximately 60% of the people would make a right hand turn out of the project in the morning and a left hand turn in the evening. That assumes the number of people who would be going to work in Salt Lake or elsewhere, rather than taking a left into Park City. She pointed out that if the numbers were different and 20% made a right and 80% turned left, a very different condition would occur based on this project.

City Attorney Harrington asked Commissioner Hontz what she would do with a condition at a Planning Commission level to remedy a failing UDOT intersection. Commissioner Hontz was unsure what they could do. She could not pre-think a solution without having a real problem. Commissioner Hontz felt it was reasonable to try to address problems created by this project only, on their site, based on what occurs on that site.

City Attorney Harrington remarked that the problem was to put it back into the regular framework of what they are permitted to do. If this project was approached as a subdivision that started within the City, one of the few limitations would be an impact fee to address the level of service. With an impact fee, it is hard to add additional off-site requirements, because that is what the impact fee is supposed to address.

Commissioner Hontz clarified that her comment specified everything on-site. Mr. Harrington pointed out that the intersection is off-site. He explained that since this was an annexation, they were able to condition and contract much greater improvements in addition to the impact fees.

City Attorney Harrington felt the concerns were valid, but he was cautious about setting up the Planning Commission for a failed expectation.

Chair Wintzer believed that a guideline for any traffic study would be to make the Park and Ride lot work efficiently. He believed the Park and Ride would have a greater impact on the intersection than this project.

Commissioner Hontz handed Mr. Harrington a copy of the language that she felt accomplished what needed to be done, and asked him to review it and provide his opinion. She noted that the language was on page 100 of the Staff report.

City Attorney Harrington proposed revised language to Condition of Approval #62 in the redlined handout. Commissioner Hontz felt the original condition accomplished what they were trying to achieve in a better way than the language proposed by Mr. Harrington. She reiterated that there

is already a problem with that corridor at peak hours in the winter. It has nothing to do with this project, but she did not want this project to make it worse.

Mr. Cashel remarked that the applicant did a study and he had commissioned a review of that study in 2008 by an independent transportation engineer. His review indicated that the project's contribution to peak hour traffic is quite small. Mr. Cashel believed there was little they could do in terms of linking that with some type of mitigation measure on a State road. Mr. Cashel stated that in looking at SR248, the models show that with traffic growth much greater than this project, and with integration of the Park and Ride and the bus HOV lanes, they would not eliminate any kind of queuing on that road without major enhancements. However, they will maintain a level of service consistent with what exists today.

Commissioner Savage asked Mr. Cashel for the assumptions regarding the amount of growth of traffic that led to the decision to put in an HOV lane and a Park and Ride. He asked if they were close to what was projected. Mr. Cashel did not have a specific number. He stated that there is significant growth in traffic on that corridor as growth continues to occur in and around the City. Mr. Cashel explained that the data they put in the model was based on actual counts and it forecast out. The available data was from 2009. When they ran that with the UEs coming in with this project, during Christmas week at the peak hour the traffic was at 5% at build out. The percentage was less on a regular day.

City Attorney Harrington agreed that there was an obvious problem, however, they cannot use pending development to cure deficiencies in level of service. In addition, there is a proportionality issue. They can only tie this project with things that are roughly proportional to a better cause. Commissioner Hontz stated that she was trying to be very clear about separating new development and what this applicant is responsible for versus what exists.

Commissioner Hontz was comfortable with the revised language to Condition #62 as proposed by Mr. Harrington. The language was further revised to state that the results of the annual assessment and traffic counts for the SR248/Richardson Flat intersection would be provided to UDOT with supporting data as applicable.

Commissioner Hontz noted that the Planning Commission previously discussed a ROS condition. Planner Whetstone recalled a comment to the effect that after approval, the open space area would be rezoned into the ROS. She understood that this would be a separate process and could not be a condition of this approval. City Attorney Harrington clarified that zoning is a legislative process that cannot be addressed in an MPD. Commissioner Hontz stated that in looking at the zoning map, it is important to keep the fringes or edges of the community surrounded by open space. Mr. Harrington stated that zones should not be property specific. To rezone an internal parcel to an internal project creates spot zoning and other issues. Commissioner Hontz felt they would be eliminating the spot zoning that was created with the CT zone and reconnecting the ROS to create a green fringe around the community. City Attorney Harrington remarked that the Planning Commission could make a policy recommendation to the City Council for a rezone.

Chair Wintzer pointed out that the Planning Commission has the ability to record those spots as open space, or make notes on the plat that prohibits development in those open space areas.

Director Eddington asked if there was any benefit in terms of information to the Transportation Division, for an additional transportation study that addressed counts and turning movements at the intersection of Richard Flat and SR24 this year, and the same study again at 50% of Certification of Occupancy for the project, combined with an analysis of the traffic movements out of Park City Heights on to Richardson Flat. He clarified that a condition requiring additional studies would not keep the project from moving forward.

Mr. Cashel replied that additional information is always beneficial, however, he believed they would have the same capability with the new model. If the Planning Commission required additional studies, that information would be useful. City Attorney Harrington believed the language drafted for Condition #62 provided enough basis to coordinate with the Transportation Division on both points.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Chair Wintzer was disappointed with the lack of public interest on a project this large and significant.

Commissioner Hontz stated that in reviewing minutes from previous meetings, particularly from earlier meetings, she found that the intent of the Commission and the ultimate position of each Commissioner was often not clear. For that reason, she felt it was important for the Planning Commission to make clear comments this evening and to tackle any remaining issues.

Commissioner Hontz echoed Chair Wintzer and Commissioner Savage regarding the lack of public input during this process. She believed one reason was that people do not realize that this project is in the City. Commissioner Hontz commented on the typical "not in my backyard" attitude and felt that that very soon people will realize that this is everyone's backyard. If this project is approved, she believed elected officials in both the City and the County would hear significant feedback.

Commissioner Hontz stated that she was involved in what was the only joint City/County Planning and Visioning study that encompassed this particular property. At that time they talked about the vision of what should happen at Quinn's Junction on property where the hospital is now located and where Park City Heights is proposed, as well as other properties. Commissioner Hontz stated that the opinions were varied in the discussions, but the consensus was to keep it similar or the same to what the zoning was under the County. At that time, zoning for this property was 1 per 20, or 1 per 40, depending on where it was on the site. Commissioner Hontz noted that there was considerable public input during the joint study because people felt they had the opportunity to voice what they would like to see on that site and for the region in general. Commissioner Hontz stated that she was unable to find the Quinn's Junction study. However, she found an email where she had requested the study but never received it.

Commissioner Hontz stated that if this project is approved, there is a potential to lose some goodwill and relationships they might have had with the County. Based on recent meetings with the Snyder County Planning Commission, regardless of what happens on this project moving forward, she was hopeful that the County would understand the difficult position they encountered in terms of the process that the project has gone through on this property. Commissioner Hontz remarked that annexations, annexation agreements and development agreements are legitimate and positive way to approve development. When they go through that process and reach an agreement, they should be able to move forward with it. However, not everything in the agreement makes her comfortable in terms of the project meeting the Conclusions of Law. Commissioner Hontz stated that as the project progressed during the review, she believed it became a much better project. She credited that to the work the Planning Commission and the applicant did together. However, she still struggled with getting the project to meet Conclusion of Law #2, 3 and 5 that, "The MPD as conditioned, is compatible with surrounding structures in use, scale, mass and circulation"; "The MPD as conditioned, is consistent with the Park City General Plan"; that the MPD as conditioned, strengthens and enhances the resort character of Park City". She understood what was accomplished through the annexation and how some of those restrictions went away.

Commissioner Hontz stated that when she thinks about the General Plan, which references and mirrors some of the policies the American Planning Association has on Smart Growth, it talks about the uniqueness and distinctiveness of a place, and reducing and limiting sprawl as much as possible. Commissioner Hontz believed there were definite benefits to this project in terms of providing affordable housing and more opportunities to have a greater and better community. However, she was trying to balance that with the topography and the sense of open space that would be lost as you enter or leave Park City. With the approval of this project, they would lose a little more of the uniqueness and distinctiveness of Park City. Commissioner Hontz referred to her earlier comment regarding the zoning map. One place that keeps Park City unique is its fringes, however, this project does the exact opposite. There is ample open space within the development, but it takes away the open space on the fringe that the public expects.

Commissioner Savage stated that he came into this process fairly late and found that the decisions made by a past Planning Commission were imposed on this Planning Commission and the approval of this project, and they were left to deal with the "sins of the fathers". Speaking as an individual and based on his limited ability, he found it difficult to discern whether or not the Conclusions of Law were met. For that reason he relies on the opinion of Counsel. Commissioner Savage remarked that if it was possible to re-do the project, he believed the outcome would be different. However, that was not the case and they needed to move forward. He stated that it was an honor working with the Planning Commission in terms of the rigor, depth, and passion in which they dealt with the issues, and a privilege working with the applicants due to their willingness to respond to concerns and comments. Commissioner Savage hoped that the project had not been overly managed to the point of challenging its ability to be an economic success.

Commissioner Pettit admitted that she was one of the "fathers who had sinned". She explained the difficulty coming on as a new Planning Commissioner and being faced with a project of this magnitude. If she could do it over, her earlier vote would have been very different. Commissioner Pettit stated that location was her primary concern with this project, but she understood that would

not change. She found it interesting that the Planning Commission had the opportunity this evening to look at one piece of the General Plan process that specifically focuses on growth management. She noted that several elements stood out as to why this is not the best project given some of the goals and objectives for the community. One objective is to remain a small, historic town with a sense of community, while preserving its natural setting. Another objective is to prevent sprawl and encourage responsible development. Commissioner Pettit believed the community was bumping up against a very significant tension between growth and the desire to remain a small, historic town with a resort economy. She was concerned that Park City was close to reaching the point where the tension would put too much pressure on their ability to sustain themselves as a resort community and a small historic town.

Commissioner Pettit felt this project highlighted the importance of not proactively seeking large projects within the City boundaries, especially those that are disconnected from the core amenities and the City. Commissioner Pettit thought this project highlighted very serious issues that need to be considered going forward. It is important for the Planning Commission to understand those issues as they move forward with the General Plan. Commissioner Pettit appreciated the way this project had evolved into what she believed was the best project given the location. She also appreciated the creativeness and willingness on the part of the applicant, to create an opportunity with the community to design a project that other communities can emulate in terms of sustainable and green development. For that reason she was proud of the opportunity to go through that process and if this project is approved, she hoped it was something they could be proud of in years to come.

Commissioner Strachan incorporated his comments from the April 27th meeting, where he specifically identified where the Conclusions of Law came up short, along with his general comments. Commissioner Strachan stated that he still had concerns with Conclusion of Law #1, that the MPD as conditioned complied with the LMC. He read the purpose of LMC, Chapter 15-1-2, (E) "To allow development in a manner that encourages the preservation of scenic vistas, environmentally sensitive lands, historic structures, the integrity of historic districts, and unique urban scale of the original Park City". Commissioner Strachan could not find how this project met that purpose statement. He also did not believe it met (F), "Delivery of municipal Services"; (G) To prevent development that adds to the degradation of air quality due to the development's dependence on the car. It also did not meet the finding regarding enhancing the resort character of the community.

Commissioner Strachan referred to Conclusion of Law #10 and stated that he could not make the finding that, "The MPD promotes use of non-vehicular forms of transportation". He pointed out that aside from the trails, there is no alternative to the car. The bus stop is planned but it is not conditioned and there is no certainty that it will come to fruition.

Commissioner Strachan believed that the issues related to compliance with the General Plan had been discussed numerous times. He recalled that during the pre-MPD stage, the Planning Commission discussed the fact that this would not get any easier if they approved the MPD. They also said that finding initial compliance with the General Plan would be passing the buck. Commissioner Strachan stated that the buck stops tonight and they were still faced with the General Plan. He did not believe the project met Goal #6 of the General Plan, which is "To

manage the amount, rate, form, and location of growth. Park City should expand its boundaries when the expansion helps retain community identity, enhance the open space buffer, and preserve gateways to the City”.

Commissioner Strachan remarked that this was suburban sprawl. It had cul-de-sacs, driveways, garages and cars. When and if this project breaks ground, the outcry from the public to both the Planning Commission and the City Council will become very apparent. He agreed with Commissioner Pettit's comments regarding the General Plan presentation this evening, and the top goals of the community. He noted that the wish list was no more growth and no more cars. He believed this project was the complete opposite of that wish list. Commissioner Strachan stated that sprawl has impacts to the community that were identified in this process but were not mitigated. In their haste to provide affordable housing, he believed they turned a blind eye to those impacts. Commissioner Strachan was certain that would go down in the history of this town as a mistake.

Chair Wintzer echoed Commissioner Pettit in terms of being on the past Planning Commission. He also apologized to a former chairman who had spoken eloquently to the same comments as Commissioner Strachan, but was out voted at the time. Chair Wintzer remarked that all the comments and concerns expressed this evening and throughout the process were issues that should have been dealt with five years ago when it was annexed into the City and placed in the CT zone. Chair Wintzer noted that he was on the Planning Commission at that time and the Commissioners all voted in favor of doing that. Now that the project is in this zone and in the City, the impacts related to the General Plan were not the problem of this project, because it followed what had been approved.

Chair Wintzer stated that he was looking at this project, not as to whether or not it should have been annexed, but whether or not this is the best use within the CT zone and for what was permitted. He believed this current project was so much better than what was originally approved, and he believed it was as good as they could get in that location. Chair Wintzer commended his fellow Commissioners on their dedication. It has been a painful and timely process and this Planning Commission did a fabulous job. Chair Wintzer also thanked Dick Peek and Richard Luskin for their participation and input. They followed this project all the way through, but due to circumstances and timing, they were not able see it to a vote.

Chair Wintzer believed that the downside of not approving this project was worse than the upside, and for that reason he thought it should be approved this evening.

MOTION: Commissioner Savage moved to APPROVE the Park City Heights MPD based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended at this meeting. Commissioner Pettit seconded the motion.

VOTE: The motion passed 3-2. Commissioners Wintzer, Pettit and Savage voted in favor of the motion. Commissioners Strachan and Hontz voted against the motion.

Mr. White noted that the applicant would return with the design guidelines. He requested that the Planning Commission submit their comments on the design guidelines in a timely manner.

Chair Wintzer requested that Planner Whetstone provide the red lined copy of the findings of fact, conclusions of law and conditions of approval with the final draft, so the Planning Commission could compare them for accuracy.

Given the magnitude of the changes made this evening, City Attorney Harrington suggested that the Planning Commission sign off on the action letter prior to it going out with the modified conditions.

Findings of Fact – Park City Heights MPD

1. The Park City Heights MPD includes the following:
 - a. 160 market rate units distributed in a mix of: cottage units on smaller lots (lots are approximately 6,000 to 8,600 sf in size); single-family detached units on approximately 8,000 sf to 27,000 sf lots; and single-family detached on two upper lots which are approximately 44,000 and 48,000 sf each. The approximate distribution of types of product is identified in the Design Guidelines.
 - b. 28 deed restricted townhouse units (44.78 affordable unit equivalents or AUE). These 28 units meet the required IHC affordable units under their affordable housing obligation and are configured as seven four-plexes.
 - c. 16 deed restricted units (32 AUE). These 16 units meet the affordable housing required by the CT zone (LMC 15-2.23-4(A) (8)) and the Affordable Housing Resolution 17-99. These units are configured as a mix of single-family detached, cottage homes, and townhouse units.
 - d. 35 additional non-required deed restricted affordable units in a mix of unit types.
 - e. All units (including all deed restricted units) will be constructed to LEED for Homes Silver rating, as stated in the Annexation Agreement, with each unit also achieving a minimum combined 10 points for water efficiency/conservation. Third party inspection will be provided. An industry standard Third Party inspector shall be mutually agreed upon by the Chief Building Official and the applicant prior to building permit issuance.
 - f. A total of 171.5 acres of open space (not including open space within individual lots) is provided. This is approximately 72% of the entire 239 acres. This total includes the 24 acre parcel located adjacent to Highway 248 that is deeded to the City for open space.
 - g. An additional 5 acres of deeded open space is provided on Round Valley Drive adjacent to US 40 south of the Park City Medical Center. This open space is not included in the 72% figure. This is in exchange for transferring the 28 IHC deed restricted townhouse units to the PC Heights neighborhood. This parcel is deed restricted per requirements of the Burbidge/IHC Annexation and Development Agreements.
 - h. A dedicated 3.55 acre (155,000 sf) public neighborhood City Park with field, tot lot and playground equipment, shade structure, paths, natural area, and other amenities to be designed and constructed by the developer and maintained by the City. This park is included in the open space calculations.. Bathrooms are proposed in the club house with exterior access for the park users.

- i. A 15,000 sf (approx.) community gardens area within the PC Heights neighborhood. This area is included in the open space calculations.
 - j. 3 to 4 miles of soft surface trails within and around the property and additional mile or so of hard surfaced sidewalks and paths along the Project's streets.
 - k. Trail connections to the Rail Trail and Quinn's trail, including trail on the north side of Richardson Flat Road from the 248 underpass to the Rail Trail and trail on the south side of the Road from the project to the Rail Trail. Trail connection to the south property line for future connections to the Jordanelle area. Trail easement on north side of Richardson Flat Road from Rail Trail to east property line. Trail connections to the Park City and Snyderville Basin back country trails system. Trails are further described in Finding #11.
 - l. Transit bus shelters along Richardson Flat road including "dial-a-ride signs" (City bus service expected to be extended to Park City Heights and the Park and Ride).
 - m. Bike racks at the club house and public park.
 - n. Cross walk across Richardson Flat road at the rail trail.
 - o. A 3,000 sf community center/club house area to be constructed by the developer with dedicated future ancillary support uses or possible daycare center parcels (Parcels I and J as shown on the preliminary plat). Exterior access bathrooms will be available for park users. Construction of a daycare facility would be by the owner of the daycare facility and not by the Park City Heights development.
 - p. Water infrastructure improvements that enhance the City's overall water system and provide redundancy as required by the Water Agreement executed as part of the Annexation Agreement. Water shares were dedicated to the City as part of a pre-annexation agreement.
 - q. Transportation improvements to the Richardson Flat/248 intersection including lane improvements and installation of a traffic signal to provide intersection safety (controlled left turn) and putting the Park and Ride facility and Park City Heights on the City bus route. These transportation improvements meet the requirements in the Annexation Agreement.
 - r. Following Wildlife recommendations as identified in the Biological Resources Overview prepared by Logan, Simpson Design, Inc. amended March 17, 2011.
 - s. Design Guidelines approved as part of this MPD apply to all lots, with the exception of the 2 upper lots proposed to be subject to the CCRs for the Oaks at Deer Valley, or equivalent.
 - t. No sound barrier walls or structures along US 40 within or related to the MPD.
2. The Park City Heights MPD is subject to the Park City Heights Annexation Agreement approved by the City Council on May 27, 2010. The Annexation Agreement sets forth terms and conditions of annexation, zoning, affordable housing, land use, density, transportation and traffic, phasing, trails, fire prevention, road and road design, utilities and water, fiscal impact analysis, snow removal, fees, and sustainable development requirements for the 239 acre Park City Heights MPD. The MPD as conditioned is in compliance with the requirements of the Annexation Agreement.
 3. The Park City Heights Annexation Agreement includes a Water Agreement as an integral component. The Water Agreement sets forth terms and conditions related to water facilities, restrictions regarding water, and phasing of development as it relates to

completion of water infrastructure. The MPD as conditioned is in compliance with the Water Agreement.

4. On June 17, 2010, the applicants submitted a pre-MPD application based on the annexation approval and agreement. The Planning Commission reviewed the pre-MPD application at two (2) meetings (July 14^{and} August 11, 2010) and found the application to be in initial compliance with applicable elements of the Park City General Plan.
5. On June 30, 2010, the applicants submitted a complete MPD application.
6. The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record as required by the Land Management Code.
7. Public hearings on the MPD were held on October 13th, November 10th, and December 8th, 2010 and on February 9th, February 23rd, March 9th and March 23rd, 2011 and on April 27, 2011.
8. The property is located within the Community Transition (CT) zone. The MPD is in compliance with all applicable requirements of the CT zone, including density, uses, building setbacks, building height, parking, open space, affordable housing, and sustainable development requirements.
9. Access to the site is from Richardson Flat Road, a public road previously known as Old Dump Road. Access is also proposed to the currently unimproved US 40 frontage road (UDOT) along the east property line. No roads are provided through the Park City Heights MPD to the Oaks, Royal Oaks, or any other neighborhood within the Deer Valley MPD, consistent with the Annexation Agreement.
10. Utilities are available in the area, however extension of utilities or utility upgrades to the development site are required. A final utility plan will be submitted with the final subdivision plats to be reviewed by the Interdepartmental and Utility Service providers Development Review Team. City Staff will provide utility coordination meetings to ensure that utilities are provided in the most efficient, logical manner and that comply with best practices, including consideration of aesthetics in the location of above ground utility boxes. Location of utility boxes shall be shown on the final utility plans. The MPD phasing plan shall be consistent with conditions of the Annexation Agreement related to provision of public services and facilities.
11. The MPD includes 1) a paved connector trail on the south side of and separated from Richardson Flat Road, from the project to the Rail Trail, 2) a paved connector trail on the north side of and separated from Richardson Flat Road, from the SR 248 underpass to the Rail Trail, 3) a trail connection from trails within the project to the south property boundary line, 4) a trail easement along the north side of and separated from Richardson Flat Road from the Rail Trail to the east property boundary line, and 5) several miles of paved and soft surfaced trails throughout the development. All trails will be constructed by the developer consistent with the Park City Trails Master Plan.
12. The MPD includes a dedicated neighborhood public park to be constructed by the developer according to the City's parks plan, and as further directed by the City Council. Bathrooms are provided at the clubhouse with exterior access for the park users.
13. Parking within the MPD is proposed at two spaces per unit within private garages. Additional surface parking is provided for guests, the community gardens/park area, and the neighborhood clubhouse/meeting area. The streets have been designed to allow for parking on one-side per the City Engineer. Final street design will be determined at the

time of the final plat and additional off-street guest parking areas will be incorporated into the design.

14. The proposed MPD density of 1 unit per acre complies with the density allowed by the CT zone. (239 units on 239 acres) The net density is 0.82 units per acre (195 units on 239 acres), excluding the 44 required deed restricted housing units. The density is consistent with the Annexation Agreement. If the additional 35 deed restricted affordable units are included in this analysis the net density is 0.67 units per acre (160 units on 239 acres).
15. The LMC requires a Sensitive Lands Analysis for all Master Planned Development applications. The MPD application included a Sensitive Lands Analysis.
16. A portion of property is located within the designated SR 248 Entry Corridor. This area is identified in the MPD as open space and all required entry corridor setbacks of 200' are complied with.
17. The property contains SLO designated steep slopes, ridgelines and wetland areas. These areas are identified in the MPD as open space areas and all required wetland and stream setbacks are complied with.
18. A wildlife study was conducted and a report (December 2010) was prepared by Logan Simpson Design, Inc. A revised report was prepared on March 17, 2011. The wildlife study addresses requirements of the Land Management Code and provides recommendation for mitigation of impacts on wildlife.
19. The site plan complies with the minimum MPD required 25' setback around the perimeter of the property. Setbacks range from 25' to 690' (and greater to the south property line).
20. The locations of the proposed units are consistent with the MPD site planning and Sensitive Lands Overlay criteria.
21. The property is visible from the designated LMC Vantage point along State Road 248 and a visual analysis was conducted by the applicant from this Vantage point. Additional visual analysis was provided from the intersection of Richardson Flat Road and SR 248. Units along the western perimeter are most visible along the minor ridge from SR 248. Any units that are over the 28' height limit as measured in the zone will be required to obtain an Administrative Conditional Use Permit. .
22. Structures containing more than four units and future non-residential structures on Parcels I and J will be more visible due to the location along Richardson Flat Road and the potential massing. Additional review through the conditional use process is warranted for these parcels and uses.
23. Design Guidelines for the Park City Heights MPD address site planning, architecture and design, sustainability and best practices, landscaping and water conservation, and other requirements of the Annexation Agreement.
24. A comprehensive traffic study and analysis of the Property and surrounding properties, including existing and future traffic and circulation conditions was performed by the Applicant's traffic consultant, Hales Engineering, dated June 7, 2007, on file at the Park City Planning Department. An updated traffic volume and trip generation report was provided by Hales Engineering on September 27, 2010. An additional traffic update was provided in 2008 by InterPlan Co at the request of the City Transportation Department. The Hales Engineering study was utilized during the annexation process in the determination of density and requirements for traffic and transportation related impact mitigations. The City's Transportation Department is preparing a Short range Transit Development Plan studying demand for transit, routes, efficiency of the transit system, etc

to be completed in July of 2011. This Transit Plan will address the timeline for bus service in the Quinn's Junction area. The City's Transportation Master Plan update will include the projected traffic from Park City Heights MPD in the recommendations for transportation improvements within the City.

25. Construction traffic is required to be addressed in the Construction Mitigation Plan.
26. A Geotechnical Study for the Park City Heights Development was provided by Gordon, Spilker Huber Geotechnical Consultants, Inc. (June 9, 2006). Expansive clay soils were encountered across the site in the upper two and one-half to nine and one-half feet. Shallow bedrock was found within portions of the site. Special construction methods, removal of these unsuitable soils, and other mitigations are spelled out in the Study.
27. A Fire Protection Report (March 2011) identifies potential Wildland urban interface areas within the MPD. Prior to issuance of building permits the Building Department will review individual building fire protection plans for compliance with recommendations of the Fire Protection Report and applicable building and fire codes. The fire protection component of the plan shall ensure that Park City's ISO rating is not negatively affected by development of the site.
28. Affordable housing obligations of the MPD are consistent with the affordable housing described by the Park City Heights Annexation Agreement, Housing Resolution 17-99 and as required by the CT zone. The MPD provides up to an additional 35 deed restricted housing units over the 28 deed restricted townhouse units (44.78 affordable unit equivalents (AUE) required by the IHC MPD and the 16 deed restricted units (32 AUE) required by the CT zone for the 160 market rate units). These affordable units are configured as a mix of single-family detached, duplexes, cottage units, and attached townhouse units. The additional 35 non-required deed restricted affordable units are proposed to be a mix of unit types as part of this MPD consistent with the needs described in Housing Market Assessment for Park City, dated September 2010. As part of the mix of unit types, rental housing will be considered consistent with the needs described in the September 2010 Housing Market Assessment.
29. No building height exceptions have been requested and all buildings will comply with the height limitations of the CT zone.
30. Lots have been positioned to minimize visual impacts on adjacent structures. Potential problems on neighboring properties caused by shadows, loss of solar access, and loss of air circulation, have been mitigated to the extent possible as further described in the Park City Heights Design Guidelines.
31. Utilities must be extended to the site to sustain the anticipated uses. Thirty (30') foot wide non-exclusive utility easements are generally necessary for long term maintenance and shall be dedicated on the final subdivision plats. Off-site improvements are necessary to serve the site with utilities.
32. Off-site trail and intersection improvements may create traffic delays and potential detours, short term access and private driveway blockage, increased transit time, parking inconveniences, and other impacts on the adjacent neighborhoods and to the community in general. Construction Mitigation Plans are required and shall be required to include mitigation for these issues.
33. A Construction Mitigation Plan (CMP) is necessary to identify impacts and propose reasonable mitigation of these impacts on the site, neighborhood, and community due to construction of this project. The CMP shall include information about specific construction

- phasing, traffic, parking, service and delivery, stock-piling of materials and staging of work, work hours, noise control, temporary lighting, trash management and recycling, mud and dust control, construction signs, temporary road and/or trail closures, limits of disturbance fencing, protection of existing vegetation, erosion control and storm water management.
34. Final road designs will be provided to the Planning Commission for review with the final subdivision plats. To minimize visual impacts and to minimize disturbance of existing vegetation due to large areas of cut and fill slopes, low retaining structures (in steps of 4' to 6') are recommended. These low retaining structures may be stepped to minimize their height. Design of these retaining structures is included in the PC Heights Design Guidelines to ensure consistency of design, materials, and colors throughout the development.
 35. A storm water run-off and drainage plan is necessary to ensure compliance with Park City's Storm Water Management Plan and storm water Best Management Practices for storm water during construction and post construction with special considerations to protect the wetlands delineated on and adjacent to the site.
 36. A financial guarantee for all landscaping and public improvements is necessary to ensure completion of these improvements and to protect the public from liability and physical harm if these improvements are not completed by the developer or owner in a timely manner. This financial guarantee is required prior to building permit issuance.
 37. Parcels I and J are identified on the preliminary subdivision plat as potential future support commercial and/or child care center or similar uses pad sites. These parcels are currently used as a temporary, dirt parking lot. Construction of a daycare center is not the responsibility of the applicant/developer of Park City Heights.
 38. A master sign plan is required for Planning Department review and approval and all individual signs require a sign permit prior to installation.
 39. Sound mitigation may be desired by owners of units along US 40. Conditions of approval prohibit sound barrier walls within the MPD. However, other sound mitigation measures may be accomplished with landscaping, berming, smart housing design and insulation, and sound barriers constructed as part of the dwelling units.
 40. Section 15-6-4 (G) of the LMC states that once the Planning Commission has approved an MPD, the approval shall be put in the form of a Development Agreement.
 41. The applicant stipulates to the conditions of approval.
 42. The discussion in the Analysis sections of this report and the Analysis sections of the March 23, 2011 Planning Commission Staff Report (Exhibit A) are incorporated herein.
 43. The applicants have met with Rocky Mountain Power and have increased the Rocky Mountain Powerline setbacks as required by this Utility.
 44. The site plan for the proposed MPD has been designed to minimize the visual impacts of the development from the SR 248 Entry Corridor and has preserved, through open space, the natural views of the mountains, hillsides and natural vegetation consistent with Park City's "resort character".
 45. The 171.5 acres of open space adjacent the development, the trail connections and improvements, and proposed neighborhood public park, as conditioned, will provide additional recreational opportunities to the Park City community and its visitors, which strengthens and enhances the resort character of Park City.
 46. The opportunities for mixed affordable housing types, including rental units, within the development will strengthen the resort economy by providing attainable housing options in

a sustainable and energy efficient community for workers in Park City's tourism/resort based industries.

47. Surrounding uses include open space, Highway 248, US 40, the Rail Trail, the Municipal Water Treatment Plant, Quinn's recreation complex (fields and ice rink), and the IHC medical center and offices
48. The MPD provides direct connection to and critical improvements of the Rail Trail and provides alternative transportation opportunities for recreation and commuting, such as biking, walking, in-line skating, and cross country skiing to Park City's business district at Prospector Square (within 2 miles) and to the IHC medical complex.

Conclusions of Law – Park City Heights MPD

1. The MPD, as conditioned, complies with all requirements outlined in the applicable sections of the Land Management Code, specifically Chapter 6- Master Planned Developments Section 15-6-5 as stated in Exhibit A, March 23, 2011 Planning Commission Staff Report.
2. The MPD, as conditioned, is compatible with surrounding structures in use, scale, mass, and circulation.
3. The MPD, as conditioned, is consistent with the Park City General Plan.
4. The MPD, as conditioned, is consistent with the Park City Heights Annexation Agreement.
5. The MPD, as conditioned, strengthens and enhances the resort character of Park City
6. The MPD, as conditioned, is Compatible in use, scale and mass with adjacent properties, and promotes neighborhood Compatibility.
7. The MPD provides amenities to the community so that there is no net loss of community amenities.
8. The MPD is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.
9. The MPD has been designed to place Development on the most Developable Land and preserves significant features and vegetation to the extent possible.
10. The MPD promotes the Use of non-vehicular forms of transportation through the site design and by providing trail connections.
11. The MPD has been noticed and public hearings held in accordance with the LMC.

Conditions of Approval – Park City Heights MPD

1. All standard project conditions shall apply (Exhibit E).
2. A final subdivision plat for each phase, or sub phase, of development shall be submitted for review by the Planning Commission and City Council and shall be recorded prior to issuance of building permits for individual units within that plat. The plats shall be consistent with the LMC, preliminary plat and the PC Heights site plan and documents reviewed and approved by the Planning Commission during the MPD approval. Final street design, including final cut and fill calculations and limit of disturbance areas, shall be submitted with all final subdivision plats to be reviewed and approved by the Planning Commission during final subdivision review. Off-street guest parking areas shall be identified on the final plats.
3. A limit of disturbance area (LOD), maximum building footprint and/or house size limitation and a setback requirement table for the lots shall be included on the final plats consistent with the Park City Heights Design Guidelines.
4. A note shall be added to the final plats stating that a landscape plan shall be submitted for City review and approval for each lot, prior to building permit issuance for that lot.
5. A note shall be added to the final plats stating that all units (including all deed restricted units) shall be constructed to LEED for Homes Silver rating, as stated in the Annexation Agreement, with each unit also achieving a minimum combined 10 points for water efficiency/conservation. Third party inspection will be provided to confirm compliance with the standards. An industry standard Third Party inspector shall be mutually agreed upon by the Chief Building Official and the applicant prior to building permit issuance.
6. A final landscaping and irrigation plan for common areas shall be submitted with the final plats for each phase. Entry and perimeter landscaping shall be completed within six (6) months of issuance of the first building permit, weather and ground conditions permitting. Other Project landscaping, shall be completed within nine (9) months of issuance of 50% of building permits or within six (6) months of any individual Certificate of Occupancy. Landscaping materials and irrigation shall comply with the requirements of the Annexation Agreement, including the Water Agreement, and the Park City Heights Design Guidelines.
7. All exterior building materials, colors and final design details must comply with the approved Park City Heights Design Guidelines and shall be approved by staff prior to building permit issuance.
8. All exterior lighting, including any street and/or path lighting shall be designed to limit the trespass of light into the night sky as much as possible and shall conform to the LMC Sections 15-5-5-(l) and 15-3-3(c) and the Park City Heights Design Guidelines.
9. All exterior lighting, with the exception of bollard lighting at the park shall be privately maintained.
10. A Construction Mitigation Plan (CMP) shall be submitted and approved by the City for compliance with the Municipal Code, as a condition precedent to issuance of any grading or building permits. The CMP shall address construction phasing, staging, storage of materials, circulation and traffic, parking, service and delivery, re-vegetation of disturbed areas, temporary signs and construction lighting, hours of operation, dust and mud control, storm water management, and other items as may be required by the Building Department. The immediate neighborhood and community at large shall be provided notice at least 24 hours in advance of construction work impacting private driveways, street closures, and interruption of utility service. The CMP shall include a site and landscape plan for the sales

office building (either within the clubhouse or within a finished unit) to address landscaping, lighting, and parking for the sales office. Construction Mitigation Plans shall provide mitigation measures for traffic delays and potential detours, short term access and private driveway blockage, increased transit time, parking inconveniences, and other impacts on the adjacent neighborhoods and to the community in general.

11. The CMP shall address disposal and treatment of all excavated materials. The capping of exposed soils within the City's Soils Ordinance Boundary is subject to all applicable regulations and requirements of the Park City Soils Ordinance Title 11, Chapter 15- Park City Landscaping and Maintenance of Soil Cover. A detailed Limit of Disturbance (LOD) plan shall be submitted as part of the CMP. The Limits of Disturbance for the entire site shall be minimized to the greatest extent possible, using best construction practices, and shall include the use of additional low retaining walls and steeper slopes to prevent unnecessary disturbance of native vegetation.
12. A construction recycling area and an excavation materials storage area shall be provided within the development to reduce the number of construction trips to and from the development. This condition applies at a minimum to the first two phases of development and may be waived for subsequent phases of development upon request by the applicant and upon review by the Planning, Building, and Engineering Departments.
13. A storm water run-off and drainage plan shall be submitted with the building plans and approved prior to issuance of any building permits. The plan shall follow Park City's Storm Water Management Plan and the project shall implement storm water Best Management Practices. Post development drainage shall not exceed pre-development drainage conditions and special consideration shall be made to protect the wetlands delineated on and adjacent to the site.
14. Maintenance of sidewalks (including, without limitation, snow removal), trails, lighting, and landscaping within the rights-of-way and common areas, with the exception of the public park and public trails, shall be provided by the HOA, unless otherwise agreed upon by the City Council. Language regarding ownership and maintenance of the open space and common areas shall be included on the final subdivision plats.
15. A financial guarantee, in a form and amount acceptable to the City and in conformance with the LMC Subdivision Regulations, for the value of all public improvements, pedestrian amenities and trails, sidewalks, bus stop amenities, landscaping (including landscaping to re-vegetate and re-landscape areas disturbed by construction related to the MPD) to be completed according to the final approved plans shall be provided to the City prior to building permit issuance for new construction within each phase of construction. All public improvements shall be completed according to City standards and accepted by the City Council prior to release of this guarantee.
16. Final utility plans, consistent with preliminary utility plans reviewed by the Planning Commission during the MPD review, shall be submitted with the final subdivision plats. Utility plans shall be reviewed by the Interdepartmental staff members and the utility service providers as the Development Review Team. Utilities for the MPD shall be placed underground.
17. The City Engineer shall review and approve all associated utility and public improvements plans (including streets and sidewalks, grading, drainage, trails, public necessity signs, street signs and lighting, and other required items) for compliance with the LMC and City standards as a condition precedent to final subdivision plat recordation. This shall include

- phasing plans for street construction to ensure adequate fire turn-arounds that minimize disturbance of native vegetation. Due to expansive soils in the area, grading and drainage plans shall include a comprehensive lot drainage plan for the entire phase of each final subdivision plat.
18. Above ground utility boxes must be shown on the final utility plans. The location of these boxes shall comply with best practices for the location of above ground utility boxes. These boxes shall be located in the most efficient, logical, and aesthetic locations, preferably underground. If located above ground the boxes shall be screened to minimize visual impacts and locations shall be approved by the City Engineer.
 19. The Snyderville Basin Water Reclamation District's review and approval of the utility plans and final subdivision plats, for conformance with the District's standards for review, is a condition precedent to plat recordation and building permit issuance.
 20. All construction, including grading and trails, within the Park City Soils Ordinance area shall comply with restrictions and requirements of the Park City Soils Ordinance (Municipal Code Title 11, Chapter 15).
 21. Trail improvements necessary to connect the Rail Trail to the Hwy 248 tunnel trail on the north side of Richardson Flat Road, as well as the trail connection from the Rail Trail to the public park on the south side of Richardson Flat Road, will likely impact the wetlands in this area. Precedent to issuance of a building permit for these trails a wetlands impacts and enhancements plan shall be reviewed by the Planning Staff. All required wetlands permits shall be obtained from the required agencies.
 22. Mitigation for the disturbance of any wetland areas shall be identified on the trail construction plan and shall include enhancements of wetlands as an amenity feature for users of the trail system.
 23. Enhancements to wetland areas and other disturbed areas within the MPD could include but are not limited to: educational signs, such as identification of plants and animals, ecological processes, wetlands ecology, and insights into seasonal changes to the landscape; plantings that encourage and/or provide food sources for wildlife; additional on-site water sources; clean up of degraded areas; and new nesting habitat/bird and small mammal boxes.
 24. Lots 89 and 90 of the preliminary subdivision plat shall be shifted to match the trail phasing plan to locate the trail connection on the open space.
 25. All construction, including streets, utilities, and structures shall comply with recommendations of the June 9, 2006, Geotechnical Study for the Park City Heights Development provided by Gordon, Spilker Huber Geotechnical Consultants, Inc. Special construction methods, removal of unsuitable soils, and other mitigation measures are recommended in the Study. Additional soils studies and geotechnical reports may be required by the Building Department prior to issuance of building permits for streets, utility installation, and structures.
 26. A detailed review against the Uniform Building and Fire Codes in use at the time of building permit submittal is a condition precedent to issuance of full building permit.
 27. Fire protection and emergency access plans shall be submitted prior to the issuance of any building permits and shall be consistent with applicable building and fire codes and shall take into consideration the recommendations of the Fire Protection Report (March 2011). The fire protection plans shall include any required fire sprinkler systems and landscaping restrictions within the Wildland interface zones. The plans shall ensure that Park City's ISO

- rating is not negatively affected by the development.
28. A limit of disturbance area shall be identified during the building permit review and construction fencing will be required to mitigate construction impacts. Silt fencing is required during construction in areas where run-off and construction may impact adjacent wetlands, water ways, and undisturbed areas as determined by the Building Department.
 29. Trail easements for all proposed trails in the MPD shall be platted on the final recorded subdivision plats. All trails shall be constructed consistent with the Park City Trails Master Plan and the Snyderville Basin Trails Master Plan. Connections to undeveloped property to the south providing future connections to the Wasatch County shall be consistent with the Wasatch County Trails Plan.
 30. Construction of the public park, trails within the first phase, trail connections to the Rail Trail on both the north and south sides of Richardson Flat road, as described in the findings, and other neighborhood amenities associated with the first phase, shall commence upon issuance of the 40th building permit for Phase I (as described in the Annexation Agreement) and shall be complete within 9 months from commencement of construction, unless otherwise directed by City Council. In subsequent phases, trails, amenities, and other improvements shall be completed prior to issuance of 50% of the certificates of occupancy for the units within that phase, or as otherwise stated in the Development Agreement.
 31. The neighborhood public park shall be developed in accordance with standards set forth and required by the City Council, Recreation Advisory Board and city standards. A minimum area of 100 by 80 yards shall be initially free from fixed improvements until final field design is approved or further conditioned at subdivision approval. The park will include bathrooms in the club house with exterior access for park users.
 32. An Affordable Housing Plan, consistent with the Park City Heights Annexation Agreement and as required by LMC Section 15-6-5 (J), shall be reviewed by the Planning Commission and a recommendation shall be forwarded to the Park City Housing Authority. The Park City Housing Authority shall approve the final Park City Heights Affordable Housing Plan prior to issuance of any building permits for units within the MPD.
 33. As a condition precedent to receiving a certificate of occupancy for any market rate unit the City shall be provided with proof of compliance with the approved Affordable Housing Plan.
 34. A master sign plan for the neighborhood shall be submitted, reviewed for compliance with the Park City Sign Code, and approved by the City, as a condition precedent to issuance of any individual sign permits.
 35. No sound barrier walls or structures along Hwy 40 are permitted within the MPD. To the extent sound mitigation measures are utilized within the MPD, such measures shall be limited to landscaping and berms, energy efficient housing design and insulation, and sound mitigation constructed as part of the design of the dwelling units and shall be reviewed by the Planning Department for compliance with the Design Guidelines.
 36. Approval of this Master Planned Development is subject to LMC Chapter 6- Master Planned Developments and shall expire two years from the date of execution of the Development Agreement unless Construction, as defined by the Uniform Building Code, has commenced on the project.
 37. Pursuant to Section 15-6-4 (G) of the LMC, once the Planning Commission has approved an MPD, the approval shall be put in the form of a Development Agreement. The Development Agreement must be ratified by the Planning Commission within 6 months of

- this approval. The Development Agreement shall be signed by the Mayor on behalf of the City Council and recorded with the Summit County Recorder.
38. The Park City Soils Boundary shall be identified on the final plats (if applicable).
 39. Timing of completion of all required items and public benefits shall be further described and stated in the Development Agreement.
 40. No through roads may be provided through the Park City Heights MPD to the Deer Valley MPD subdivisions.
 41. A re-vegetation plan for Parcels I and J and the open space parcel at the northeast corner of the development area of Phase I shall be submitted with the final road and utility plans. Re-vegetation of these parcels shall be completed prior to issuance of the 28th certificate of occupancy for the Park City Heights MPD. If this area is used as a construction staging, construction recycling area, and excavated materials storage area, a new construction staging area will need to be approved by the Planning Department for the remainder of Phase I and for subsequent phases and shall be re-vegetated in a like manner with the issuance of certificates of occupancy for the final units in the respective phase.
 42. Noxious weeds shall be managed per the Summit County noxious weeds ordinances during construction and in perpetuity by including regulations in the CMP, Design Guidelines, and CCRs.
 43. One additional site visit is required by certified biologists during May or June 2011 to: a) validate the observations of the preliminary biological report and, b) to further study and identify wildlife movement corridors, evidence of species of high public interest (Elk, Moose, Deer, and other small mammals), locations of den or nesting sites, and any areas of high native species diversity. The report shall include additional recommendations on mitigating impacts of the development on wildlife and wildlife corridors. The report shall be provided to the Planning Department and reviewed by the Planning Commission prior to issuance of any grading or building permits.
 44. Clearing and grubbing of vegetation and soils shall be minimized from April through July to avoid disturbance of nesting birds, unless a detailed search for active nests is conducted and submitted to the Planning Director for review by a certified wildlife biologist.
 45. As a condition precedent to building permit issuance for any structure containing more than 4 units, and for any non-residential structure proposed to be constructed on Parcels I and J of the preliminary subdivision plat, a conditional use permit shall be approved by the Planning Commission.
 46. Due to the visual exposure of these lots on the minor ridge, as a condition precedent to building permit issuance for construction of a house on the western perimeter lots, namely Lots 23, 24, 30, 31, 66, 67, 76 and 77 of the preliminary subdivision plat prepared by Ensign and dated 1/17/11, a conditional use permit shall be obtained if the proposed building height is greater than 28 feet.
 47. The applicants shall approach the adjacent property owner to the west to explore a mutually agreeable plan for incorporating the parcel into the Park City MPD and transferring density to the Park City Heights neighborhood in exchange for open space designation of this highly sensitive and visible parcel of land and the potential to relocate the upper western cul-de-sac to a less visible location.
 48. All work within the Rail Trail ROW requires review by and permits issued by the Utah State Parks/Mountain Trails Foundation, in addition to the City. The Rail Trail shall remain open to pedestrians during construction to the extent possible.

49. High energy use amenities, such as snow melt systems, heated driveways, exterior heated pools and fireplaces, shall require energy off-sets and/or require the power to be from alternative energy sources.
50. All conditions, requirements, and stipulations of the Park City Heights Annexation Agreement and Water Agreement continue to apply to this MPD.
51. The final MPD phasing plan shall be consistent with conditions of the Water Agreement as to provision of public services and facilities.
52. All transportation mitigation requirements, as stated in the Annexation Agreement, continue to apply to this MPD.
53. The Applicant must meet all applicable bonding requirements.
54. Bus shelters on both the north and south sides of Richardson Flat Road shall be constructed within 60 days of issuance of the 40th certificate of occupancy. The shelter design and location shall be approved by the City Planning, Engineering, Building, and Transportation Departments and shall include a sign with the phone number of the Park City Bus service dial-a-ride. Information regarding the dial-a-ride service shall be posted within the shelters.
55. Sheet c4.0 (LOD Erosion Control Plan) shall be amended as follows: Note 1 shall read that the LOD for roadways is not to extend beyond 3' from the cut/fill limits as shown on the plan. Note 2: A 4 to 6 foot engineered wall shall be used in areas outside the limits of future home and driveway construction and where proposed cut/fill is in excess of 10' vertical as measured from the top back of curb to cut/fill catch point. Note 3: Proposed retaining walls shall not exceed 6 feet where they are necessary. A system of 4' to 6' walls with no individual wall exceeding 6', (i.e. tiered walls) may be used. The walls shall be separated by a 3' landscaped area from top back of lower wall to toe of upper wall. Note 4: Exceptions to these standards may be granted by the Planning Commission at the time of final subdivision plat review as necessary to minimize overall total disturbance.
56. House size limitations for all lots within the MPD shall be identified in the Design Guidelines subject to further appropriate reduction if found necessary during the final subdivision plat process, taking into consideration the size of the lots, visibility of the lots from the LMC Vantage Points, solar access of adjacent lots, onsite snow storage, and ability to achieve LEED for Homes Silver rating to meet the applicable standards of LMC 15-7.3-3. Nothing herein shall preclude the applicant from proposing alternative methods of mitigation. Specifically, and without limitation, the Design Guidelines shall provide that house sizes of the Homestead lots shall be no greater than the following (as delineated below by lot numbers per the preliminary plat prepared by Ensign and dated 1/17/11)

Lots 58 thru 66- 4000 square feet
Lots 130 thru 154- 4000 square feet
Lots 163 thru 164- 4000 square feet
Lots 70 thru 72- 5000 square feet
Lots 105 thru 129- 5000 square feet
Lots 155 thru 156- 5000 square feet
Lots 77 thru 98- 6000 square feet

The Design Guidelines shall reflect a preference for smaller homes consistent with (a) “best practices” in sustainable design and development to address the materials and energy

impacts of larger homes and (b) the historic pattern of residential development in Old Town

57. The Park City Heights Design Guidelines shall be approved by the Planning Commission prior to the submittal of the Development Agreement to the Planning Commission and before any activity or permits can be pulled for the MPD. No pre-development work, including grading, clearing, etc. can occur prior to approval of the Design Guidelines by the Planning Commission.
58. The Park City Heights Design Guidelines are an integral component of the Park City Heights MPD and substantive amendments to the Design Guidelines require Planning Commission approval. Minor amendments shall be reviewed by the Planning Director for consideration and approval.
59. Adequate snow storage easements, as determined in consultation with the Park City Public Works, will be granted to accommodate for the on-site storage of snow. Snow storage shall not block internal pedestrian sidewalks and circulation trails. Removal of snow from the Park City Heights MPD is discouraged with the final decision to haul snow from this area to be made by the City's Public Works Director.
60. To further encourage non-vehicular transportation, trail maps will be posted in the clubhouse for the benefit of future residents. There will also be a ride-share board located within the clubhouse that residents may utilize in order to plan carpooling which will further limit trips from the development. The dial-a-ride phone number shall be posted at the ride-share board. The HOA shall post information and consider a bike-share program.
61. The Park City Heights Design Guidelines and CCRs shall include information related to the history of the site and Quinn's Junction region.
62. All transportation mitigation elements, as required by the Park City Heights Annexation Agreement (July 2, 2010) continue to apply to this MPD. The Applicants, as required by the Annexation Agreement, shall complete, with the first Phase (first 90 UEs) of the MPD (as described in the Annexation Agreement), the SR 248/Richardson Flat intersection improvements with all required deceleration and acceleration lanes; and shall include the required infrastructure (fiber optic, control boxes, computer links, etc.) to synchronize this traffic signal with the UDOT coordinated signal system on SR 248, within the Park City limits at the time of this MPD. At the time the traffic signal is installed, the Applicants shall request in writing that UDOT fully synchronize signals along SR 248, with supporting data as applicable. Required improvements to Richardson Flat Road, including 5' wide bike lanes, as stated in the Annexation Agreement, shall be complete with the first Phase (first 90 UEs) of the MPD. The cost sharing methodology between the Applicants and any assigns, for these mitigation elements, shall be detailed in the Park City Heights Development Agreement. The Applicant shall provide an annual assessment of traffic counts and bus needs generated by the MPD for five (5) consecutive years following issuance of the first certificate of occupancy. The applicants shall participate with the City to conduct an annual assessment, which shall include peak period counts of both summer and winter traffic in the vicinity of the SR 248/Richardson Flat Road intersection, and submit such to UDOT. This information shall be coordinated with best available UDOT data and analysis. This assessment shall be incorporated into ongoing Park City Transportation Master Plan and the Park City Transit planning efforts with UDOT. This information shall be presented annually to the Planning Commission in conjunction with an update of the City Transportation Master Plan.

**4. 2780 Telemark Drive – Appeal of Staff’s Determination
(Application #PL-11-01234)**

Planner Astorga reported that this item was a quasi-judicial appeal of the Planning Staff’s determination of setbacks. The applicant, Ms. Zimmer, was presented by her attorney, Wade R. Budge. The subject property was located at 2780 Telemark Drive, Lot 42 of the Solamere Subdivision located in the RD District.

Planner Astorga noted that the applicant was appealing the Staff’s determination that the proposed basement addition is located within the side yard setback. In March 2011, the Staff denied the applicant’s proposal to expand the below grade livable basement area into the side yard setback. The side yard setback is 12 feet and the proposed basement would extend seven 7 feet into the side yard setbacks.

Planner Astorga stated that under the LMC, the burden of proof is on the appellant to prove that the Planning Department erred in the application of the Land Management Code. The Planning Commission reviews factual matters de novo and shall determine the correctness of the decision in the interpretation and application of the Land Management Code. Planner Astorga read from the Code, “The side yard must be open and free of any structure except for patios, decks, pathway, steps and similar structures not more than 30 inches in height above final grade, provided that there is at least one foot setback to the side lot line”. He explained that the Staff found that while the proposed extension of the below grade exercise room clearly meets the definition of structure, it does not meet the exception because the basement areas is not a structure similar to a patio, deck, pathway or staircase. Therefore, the basement extension does not fit the criteria for the exception. The Staff determined that it would need to meet the 12 foot setbacks.

The Staff recommended that the Planning Commission review the findings of fact and conclusions of law, and consider upholding the Planning Staff’s determination and deny the appeal.

Wade Budge, counsel representing the applicant, stated that Ms. Zimmer had passed away the day before. However, her son was very much involved with this property and requested that they continue with the appeal. Mr. Budge stated that this home in the Solamere Subdivision was built in the 1983. He agreed with the Staff report in terms of the facts and the issues. However, he believed there were additional facts and details that would compel a different result. Mr. Budge had prepared binders with important information to help the Commissioners better understand the site, and why he believes the request that was made complies with the ordinance as written.

Mr. Budge referred to Tab A and a photograph that was taken from the neighboring property, which is a vacant lot. He pointed out two stakes in the photo that represented the boundary line between the two lots. Mr. Budge indicated the wall of the garage and explained that their proposal was to extend that wall, but below ground, to the fountain. Where the fountain is located, it would cut straight in to adjoin another corner coming out from the home. Part of the request was to

replace the patio and actually remove some of the hardscape material that abuts next to the property line and create a five foot landscaped buffer. It would be replaced with a deck and the deck would extend over it. The finished grade would be less than 30 inches.

Mr. Budge remarked that Tab B would give the Planning Commission a better sense of the location of the property line. He indicated an atrium window and noted that the runoff from the home drops straight down into a ramp that descends into the floor where the exercise room is currently located. That design has created a number of issues that result in constant flooding. Mr. Budge stated that the purpose behind this request is to bring the structure out and place it far enough away from that window, and cover it with a deck structure that would direct water out and away from the area that floods on a consistent basis.

Mr. Budge noted that Tab C showed examples of the ramp, the fountain, and provided a sense of space as to where the underground structure would extend. Tab D clearly showed the ramp, which has been problematic but could be remedied by this proposal.

Mr. Budge noted that Tab E showed how the snow accumulates.

Mr. Budge stated that Lowell Myer, an agent of Ms. Zimmer, met with Ron Ivie in 2010 and presented a drawing showing the proposed plan and its relationship to the setback and the boundary line. The summary of that discussion was that Mr. Ivie believed the plan would work, correctly believing that everything would be below a 30 inch grade. Mr. Ivie contacted Brooks Robinson and together they gave verbal agreement. Mr. Budge admitted that there was no written approval. Following that verbal agreement, Mr. Myer asked the contractor to prepare plans based on his discussion with Ron Ivie. Those plans were later taken to Brooks Robinson who drew a line on the plan, as shown on Tab F. The line cut the corner on the structure. From his discussion with Brooks Robinson, Mr. Myer understood that Mr. Robinson did not like having the corner come within five feet of the property line. Since that time, another drawing was prepared that incorporates the line drawn by Brooks Robinson. That drawing was attached as Exhibit H.

Mr. Budge noted that the applicant had made two requests of the City. One was to have a structure that would bring the underground structure to within five feet of the property line, and another request that would bring it to within 10 feet of the property line, from where the line was drawn. The result would be a two foot encroachment. The applicant proposed both requests to the Planning Department and both were rejected. For that reason, an appeal was filed based on the belief that applying the Code as written and correctly interpreting the rules of the Code, the applicant was entitled to an approval.

Mr. Budge stated that the Code provision that applies in the exception was 15-2.13-3(G) (6). The Code states that you can have no structure within 12 feet of the side yard setback, except for patios, decks, pathways, steps and similar Structures. The language further states, "not more than 30 inches in height above final grade". Mr. Budge remarked that two parts of the language were important for the analysis. One was that the word "Structures" is capitalized. The intent is not to limit the types of structures that are to be allowed in this area by that term alone. Instead, the term structure has a separate definition, which is, "Anything constructed, the use, of which requires a face location on or in the ground or attached to something having a fixed location on the ground, and which imposes an impervious material on or above the ground". The definition

includes "building". Mr. Budge had attached the definition to Exhibit H. He noted that the proposed basement addition is a structure, and that fact has been conceded by Staff. Mr. Budge stated that it is not the intent of the exception to allow anything within the side yard setback. It must be something that is limited. The limiting factor is that it cannot be more than 30 inches in height above final grade. He believed that was the critical language.

Mr. Budge remarked that the reason they have a "similar structure" is because the structure is similar in height and would not be any taller than 30 inches. Its appearance would be that of one of the items expressly identified in the Code, because it would be covered by a deck. Mr. Budge pointed out that if the language does not reflect what the City intended when the language was drafted, an amendment to the LMC could be proposed and adopted. However, the applicant should not be penalized because they have a situation that requires the use of the interpretation as written.

Mr. Budge stated that the courts have provided guidance on how to interpret ordinances. He felt an important case that is critical and applies in this situation, is the case of Patterson versus the Utah County Board of Adjustment, which was based on ambiguity in an ordinance. Patterson states that if there is an ambiguity, it must resolve in favor of the land owner. Mr. Budge stated that in Ms. Zimmer's case, there is an ambiguity and the applicant presented a reasonable interpretation that allows the use as proposed. Mr. Budge mentioned two other court cases that he believed supported their appeal.

Mr. Budge stated that what the applicant was proposing would not be harmful to the community. It would look like a deck and function as a deck, and it fits within the ordinance. The proposal allows them to address a very rare problem that occurs on this particular site. Mr. Budge urged the Planning Commission to overturn the Staff's interpretation and grant the applicant the right to build the project as proposed.

City Attorney Mark Harrington disagreed with Mr. Budge in terms of his compelling arguments regarding legality. He felt the problem with the ambiguity argument ignores the word "similar". Mr. Harrington stated that reading the Code provision in its entirety supports the Staff position, such as the express exemption to allow underground structures in side yard setbacks, even though they may have been underneath a "similar structure" that may be permitted on the surface. As an example, when the Planning Commission made a policy decision to allow underground parking structures within an MPD within the side yard setback, they took the additional step of carving out an express exception. Otherwise it would have been permitted by this very language. The key word is "similar" because that is meant to be structures or other things that are at grade and do not exceed 30 inches. Without that language, any underground structure could potentially qualify.

Mr. Harrington clarified that the Staff felt the intent was clear and it did not need to be further addressed.

Commissioner Savage asked about input from the neighbors. Planner Francisco replied that the Staff had not received public input. City Attorney Harrington remarked that the appeal requires the same noticing as the building permit application. No additional notice is required, other than posting the site indicating that a building permit has been issued.

Mr. Myer noted that the vacant lot was originally owned by Mr. and Mrs. Zimmer. Three or four years ago they sold it to the person who owned land to the west of their property. That gentleman lives in California and Mr. Myer contacted him. He had no objection to the proposal because it would not affect his property in any way.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Commissioner Hontz asked if procedurally the request needed to be appealed before it could go to the Board of Adjustment. City Attorney Harrington explained that if the applicant had appealed this request to the Board of Adjustment, they would have the independent ability to apply for a variance or special assessment by virtue of special circumstances or site conditions. He noted that the Board of Adjustment is in a better position to consider the fact that there is no objection from the adjacent property owner, as opposed to the Planning Commission who needs to justify the Code. Mr. Harrington stated that if the Planning Commission wanted to allow structures more broadly underneath a permitted surface, they could initiate an ordinance amendment that carves out additional sections, like they did with underground parking in side yards setbacks.

Commissioner Pettit did not find ambiguity in the language as written, particularly in terms of reading this provision in the full context of the Land Management Code. She agreed that "similar" was the key work in terms of modified structures and what it relates to. Because the Planning Commission is charged with applying the Code and the applicant has the ability to pursue an exception through the Board of Adjustment, Commissioner Pettit was inclined to support the Staff's determination and deny the appeal.

Commissioner Hontz concurred with Commissioner Pettit. Based on the analysis provided, she did not believe they could find in favor of the appeal, regardless of whether or not it was an intelligent improvement. Commissioner Hontz was not interested in changing the Code because there was good reason for the existing language. Commissioner Hontz supported the Staff's determination.

Commissioner Strachan did not think the language was ambiguous. He noted that the rest of the side yard exceptions included bay windows, chimneys, window wells, roof overhangs, window sills, driveways, fences, etc., and none of those were habitable spaces. Commissioner Strachan felt that height was not a sufficient similarity because it needs to be similar in nature.

Commissioner Savage thought the language was marginally ambiguous, but not blatantly ambiguous. He was willing to support the appeal on the following basis. The first point was that the applicant had an experience with the Building Official who provided verbal approval of their objectives, and they proceeded on the basis of that approval. Having personally had a similar experience, Commissioner Savage believed the City should acknowledge some level of participation and be more lenient towards an allowance. On the second point, Commissioner Savage believed there was adequate precedence for this type of allowance. He commented on

several developments in Park City where the size of homes were limited to X-square feet. However, if a room was completely underground and below grade, that space was allowed in addition to the maximum square footage. The third point was the fact that this application does no harm to anyone. The physical appearance of the deck would be the same regardless of whether or not there is occupied space below the deck. Commissioner Savage believed the appeal had merit and he could support it.

Chair Wintzer agreed with the comments made by Commissioner Pettit and Commissioner Strachan. He would uphold the Staff's determination.

MOTION: Commissioner Pettit moved to DENY the appeal for 2780 Telemark Drive, Lot 42, Solamere Subdivision, in accordance with Findings of Fact and Conclusions of Law in the Staff report. Commissioner Strachan seconded the motion.

VOTE: The motion passed 3-1. Commissioners Hontz, Pettit and Strachan voted in favor of the motion. Commissioner Savage voted against the motion.

Findings of Fact – 2780 Telemark Drive

1. The property is located at 2780 Telemark Drive, Lot 42 of the Solamere Subdivision.
2. The zoning is Residential Development (RD) District.
3. The minimum Side Yard Setback in the RD District is twelve (12) feet.
4. On March 9, 2011 applicant submitted an application to build a below grade basement area seven feet into the side yard setback.
5. Pursuant to LMC 15-15-1(1.247) "Structure" is defined as, "Anything constructed, the use of which requires a fixed location on or in the ground, or attached to something having a fixed location on the ground and which imposes an impervious material on or above the ground; definition includes "Building".
6. Below grade enclosed, livable area meets the definition of a Structure.
7. Section 15-2.13-3(G) states the Side Yard must be open and free of any Structure except those listed as exceptions in LMC 15-2.13-3(G) (1-10).
8. LMC 15-2.13-3(G) (1-10) lists the exceptions for side yard setbacks. Below grade structures are not included as an exception.
9. LMC 15-2.13-3 (G) (6) lists an exception which states, "Patios, decks, pathways, steps, and similar Structures not more than thirty inches (30") in height above Final Grade, provided there is at least one foot (1') Setback to the Side Lot Line".

10. Below grade enclosed, livable area is not a similar Structure to patios, decks, pathways, steps and does not meet the exception pursuant to LMC 15-2.13-3 (G)(6).
11. On March 22, 2011, Staff denied applicant's proposal (BD-11-16089) to expand mostly below grade livable basement area into the Side Yard pursuant to LMC Section 15-2.13-3.
12. Planning Staff received a written appeal by the applicant's representative on April 1, 2011.

Conclusions of Law – 2780 Telemark Drive

1. Enclosed, livable area as an expansion of the existing house is not allowed within the Setback even if the area is to be located under a deck not exceeding 30" from final grade pursuant to Land Management Code Section 15-2.13-3.
2. The Planning Staff did not err in the application of the Land Management Code.

Order

1. The Planning Staff's decision to deny the application because enclosed, below grade livable area would be located within the Side Yard is upheld and the appeal for the Planning determination regarding 2790 Telemark Drive building permit BD-11-16089 is denied.

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

Approved by Planning Commission: _____

REGULAR AGENDA

Planning Commission Staff Report



Application #: PL-11-01236
Subject: 929 Park plat amendment
Author: Kirsten Whetstone, MS, AICP
Date: June 8, 2011
Type of Item: Administrative – Plat Amendment

Summary Recommendations

Staff recommends that the Planning Commission hold a public hearing and consider forwarding a positive recommendation to City Council regarding the plat amendment for 929 Park Avenue based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Description

Applicant: Jonathan DeGray for Grandview Holdings
Location: 929 Park Avenue
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential single family, duplexes, and Park Station Condominiums
Reason for Review: Plat amendments require Planning Commission review and City Council action

Summary of Proposal

This is a request to combine two (2) Old Town lots and 2 adjacent remnant parcels into one (1) lot of record for an existing historic structure located at 929 Park Avenue. The existing historic house was constructed across the common property line.

Purpose

The purpose of the Historic Residential (HR-I) District is to:

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

Background

On April 4, 2011, the City received a complete application for the 929 Park Avenue plat amendment (Exhibit A). The property is located in the Historic Residential (HR-1) District across from the Park Station condominiums. Surrounding structures also include historic and contemporary single family and duplex homes in a wide range of size, height, setbacks, and mass (Exhibit B). The proposed plat amendment combines Lots 7 and 8 and the eastern 25' of Lots 25 and 26, Block 3 of the Park City Survey into one (1) 5,000 sf lot of record for an existing historic house. The proposed lot would be 50' wide and 100' deep.

The adjacent remnant parcels are the result of a 1998 lot line combination of Lots 25 and 26 at 944 Woodside, known as the Helm Replat. The Helm Replat did not include the rear 25' of Lots 25 and 26 as they were owned by the 929 Park Avenue property owner at that time (Exhibit C).

The historic house at 929 Park Avenue was constructed circa 1889 across the existing common property line. The existing single family, one story house is 39' wide and 40' deep. It is situated within one foot of the north property line and approximately 9.5' from the south property line. There are no encroachments on the property. There is a non historic 96 sf accessory tool shed on the property that will remain on the property (Exhibit D).

The existing house is vacant and was deemed un-safe and a nuisance by the Chief Building Official in 2007 and again in 2009. Following approval of a preservation plan on October 16, 2009, the property was "mothballed" in September of 2010. Pending rehabilitation and restoration of the house to meet building codes for a safe, habitable structure, the City and owner signed and recorded a maintenance agreement (Exhibit E) on September 20, 2010. This agreement states that the property shall be maintained in a secure and stabilized manner and shall be made habitable within 6 years or the City would invoke the previous order to abate the nuisance.

The structure is currently listed as a Significant historic site on Park City's Historic Site Inventory. The house is not a Landmark site due to additions and alterations made between 1949 and 1968 which diminish the site's historic character. The house is not currently eligible for listing on the National Register of Historic Places.

The current owner would like to restore the house and construct an addition to the rear per the approved preservation plan and agreement. A pre-HDDR application was submitted a pre-HDDR application. A reconstruction/penalization is not contemplated at this time. This plat amendment is necessary in order to receive a building permit for any construction due to the common lot line.

Analysis

The proposed plat amendment creates one (1) lot of record from two (2) Old Town lots plus two (2) remnant lots (625 sf each) within the HR-1 District. The applicant wishes to eliminate the lot line under the historic structure. Because the site is designated as a

Significant site within the Historic Site Inventory (HSI) and because there are requirements to restore the historic house according to the approved Historic Preservation plan, any addition to the structure will be located in the rear and will not be allowed to be constructed over the existing historic portion of the house. The existing building footprint is 962 sf. The applicants do not propose to move the house.

Additions to the house are limited by the location of the historic structure on the lot and the increased setback requirements due to the lot dimensions. Two (2) single family dwellings could not be built on the two (2) lots as the historic structure takes up the width of the property. Due to the location of the existing house and the increased front and rear setbacks due to the proposed lot depth, any addition would be located behind the existing structure with a minimum 12' rear setback. Staff has reviewed the proposed plat amendment application and finds compliance with the following Land Management Code (LMC) requirements for lot size and width:

	LMC requirement	Proposed
Minimum lot size	1,875 sq. ft.	5,000 sq. ft.
Minimum lot width	25 ft.	50 ft.

The square footage of the structure is currently 962 square feet (which is also roughly the building footprint) with a 120 sf front porch. A native stone and partial concrete foundation exists. The proposed lot meets the lot and site requirements of the HR-1 District; however the structure does not meet the required 5' side yard setback on the north property line. Any addition would be required to meet all lot and site requirements. The owner's do not propose to move the structure. Other than the north setback, there are no other non-complying situations or encroachments identified on the existing conditions survey. The following lot and site development parameters are outlined below:

	Existing	Permitted
Height	22' +/-	27 feet maximum
Front setback	16'	12 feet minimum
Rear setback	43.5'	12 feet minimum
Front/Rear combined	59.5'	25 feet minimum
Side setbacks	9.5' south/1' north (existing legal non-complying)	5 feet minimum
Footprint	962 sf	1,888 sf maximum
Parking	none	None required for historic structures

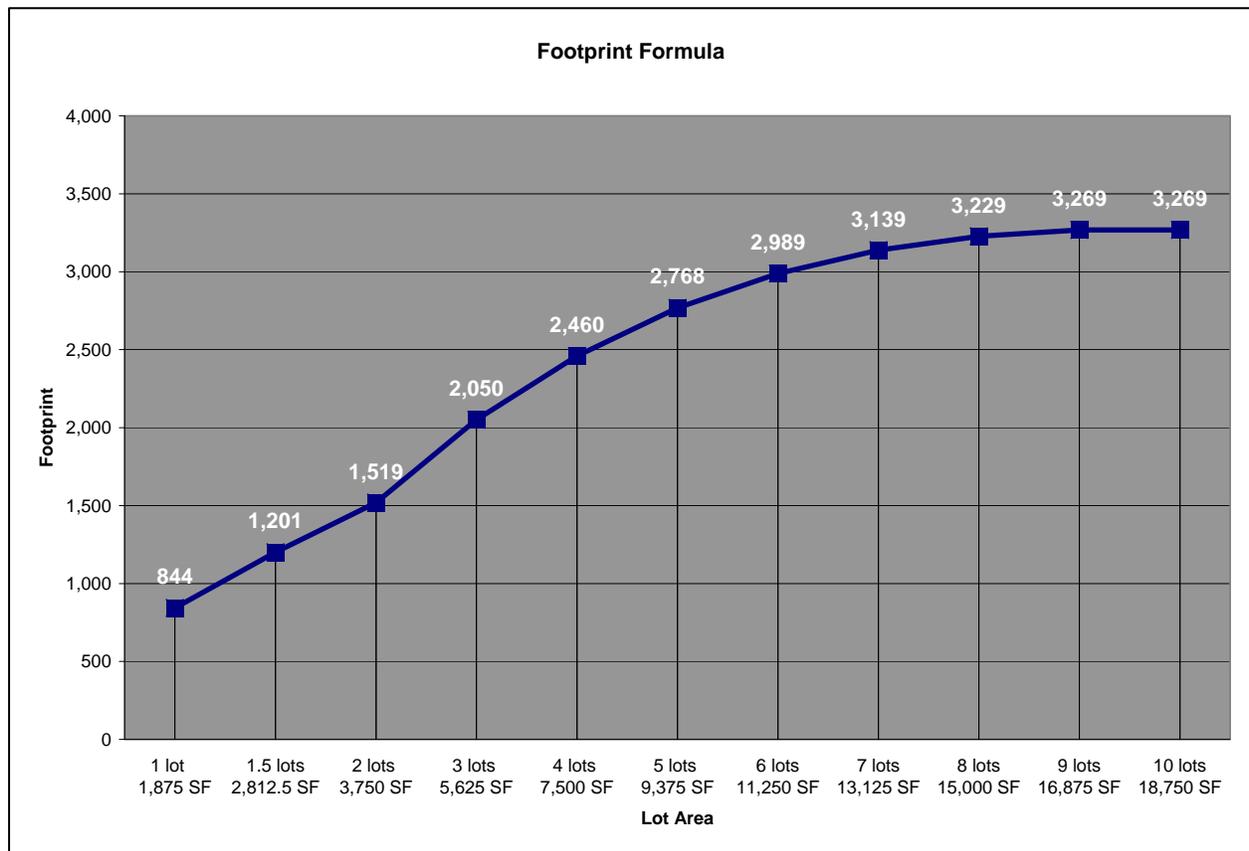
Building footprint is calculated per the formula stated in LMC Section 15-2.2-3 (D). The formula exponentially decreases the amount that the footprint may increase as the lot size increases. Standard Old Town lots (1,875 sf) are allowed a footprint of 844 sf. This formula applies to all properties in the HR-1 zone equally.

Hypothetically, without this exponentially decreasing footprint formula (see graph below), and if each 1,875 square foot of lot area were allowed 844 sf (or fraction thereof), the 2.67 lots would result in a footprint of 2,251 sf. However, applying the required LMC footprint formula to this lot combination, the allowable footprint of these 2.67 lots is reduced to 1,888 sf.

Staff prepared a neighborhood compatibility analysis to compare lot, house size floor area, and maximum allowable footprint within three hundred feet (300') along Park Avenue (See Exhibit F). The study was made possible through the information available from Summit County public records retrieved in May 2011 from the EagleWeb on-line system. The maximum footprint of each site was calculated using the acreage of each lot and the adopted LMC footprint formula below:

$$\text{Maximum Footprint} = (\text{area}/2) \times 0.9^{(\text{area}/1875)}$$

To better illustrate the building footprint Staff prepared the following graph below showing the parameters of the footprint formula:



The proposed plat amendment lot area yields a lot size of 5,000 sf and a maximum footprint of 1,888 sf per the formula above. According to the neighborhood compatibility analysis (Exhibit F) the average lot size (excluding condos and commercial property) is 4,277 sf. The average maximum footprint for lots in the area is 1,521 sf (excluding condos and commercial lots which are significantly larger buildings with larger footprints). According to the compatibility analysis the average square footage of the structures within 300' is 2,079 sf (excluding condominiums and commercial structures).

Except for when found necessary to mitigate adverse impacts during original subdivision or the plat amendment process, the LMC currently does not limit the square footage of a structure. However; the LMC does limit minimum setback, maximum footprint, maximum height, and maximum number of stories within the HR-1 District. Given the existing location of the historic structure and the new setbacks established with the proposed plat amendment application Staff finds that the lot combination would not result in a significantly larger house than exist in this neighborhood and that the streetscape will not be impacted by an addition to the rear of the structure. The proposed lot size is consistent with the pattern of development in this neighborhood. Therefore, staff does not find a basis in the record for imposing additional size limitations in this plat amendment.

All historic structures within the historic districts have to comply with the Historic District Design Guidelines (adopted 2009). There are specific guidelines dealing with additions to historic structures and relocation and/or reorientation of intact buildings. In this case, where the historic structure covers the front of the lot, the available area for an addition is behind the historic structure. Therefore, impacts on the existing streetscape, due to this plat amendment are minimized because the addition must be located to the rear and not over the top of the historic house.

Staff finds good cause for this plat amendment in order to remove the non-complying lot line that exists through the Significant historic structure and to allow a future building permit to be issued to restore and construct an addition to this threatened historic structure.

Process

Approval of this plat amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in Land Management Code Section 15-1-18.

If an addition is contemplated in the future, the applicant will have to submit a Historic District Design Review (HDDR) application to the Planning Department, which is reviewed administratively by the Planning Staff. An initial pre-Historic District Design Review is conducted by the Design Review Team, consisting of members of the Planning and Building Departments, the applicant, and the City's Historic Preservation Specialist. This pre-HDDR review is conducted prior to the applicant filing for a full HDDR. Historic Design Review applications require two separate noticing periods; the

first immediately after submittal of the full HDDR application, and the second after a staff approval.

A Steep Slope Conditional Use Permit application is not required for this property because the lot does not have a slope of 30% or more.

A building permit application, reviewed by Building, Planning, and Engineering is required prior to beginning any construction related work. A preservation guarantee will be required prior to issuance of any building permit.

Department Review

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

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record according to requirements of the Land Management Code.

Public Input

No public input had been received at the time this report was written. Any public input received between now and the public hearing will be forwarded to the Planning Commission.

Alternatives

- The Planning Commission may forward a positive recommendation to the City Council to approve the 929 Park Avenue plat amendment as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council to deny the 929 Park Avenue plat amendment and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion to a date certain and request additional information from the Staff or Applicant as deemed necessary to complete review of the application.

Significant Impacts

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

Consequences of not taking the Suggested Recommendation

The historic structure would remain as is and no construction could take place across the existing lot lines.

Recommendation

Staff recommends the Planning Commission hold a public hearing and consider forwarding a positive recommendation to approve the 929 Park Avenue plat amendment

based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance.

Exhibits

Draft Ordinance

Exhibit A- Proposed Plat

Exhibit B- Aerial photo

Exhibit C- Existing county plat of the area

Exhibit D- Existing conditions survey

Exhibit E- Agreement to stabilize and secure

Exhibit F- Compatibility Analysis

Exhibit G- photos of neighborhood

DRAFT
Ordinance No. 11-

**AN ORDINANCE APPROVING THE 929 PARK AVENUE PLAT AMENDMENT
LOCATED AT 929 PARK AVENUE, PARK CITY, UTAH.**

WHEREAS, the owner of the property located at 929 Park Avenue has petitioned the City Council for approval of the plat amendment combining Lots 7 and 8 and the eastern 25' of Lots 25 and 26, Block 3 of the Park City Survey into one lot of record; and

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

WHEREAS, proper legal notice was sent to property owners within 300 feet; and

WHEREAS, the Planning Commission held a public hearing on June 8, 2011, to receive input on plat amendment; and

WHEREAS, the Planning Commission, on June 8, 2011, forwarded a recommendation to the City Council; and,

WHEREAS, on June 23, 2011, the City Council held a public hearing to receive input on the plat amendment; and

WHEREAS, there is good cause for and it is in the best interest of Park City, Utah to approve the 929 Park Avenue Plat Amendment in order to remove the non-complying lot line that exists through the Significant historic structure, to create a single lot of record for the structure, and to allow a building permit to be issued for an addition to and restoration of this threatened historic structure.

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

SECTION 1. APPROVAL. The 929 Park Avenue plat amendment as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 929 Park Avenue.
2. The property is located in the Historic Residential (HR-1) District.
3. The proposed lot is 5,000 square feet in area.
4. The minimum lot size within the HR-1 District is 1,875 square feet.
5. The lot width of the proposed lot is fifty feet (50').
6. The minimum lot width within the HR-1 District is twenty-five feet (25').
7. The existing footprint of the structure is 962 square feet.
8. The maximum footprint for a lot this size is 1,888 square feet.

9. The proposed plat amendment combines Lots 7 and 8 and the eastern 25' of Lots 25 and 26, Block 3 of the Park City Survey into one 5,000 sf lot of record for an existing Significant historic house. The proposed lot is 50' wide and 100' deep.
10. The remnant parcels of Lots 25 and 26 are the result of a 1998 lot line combination of Lots 25 and 26 at 944 Woodside, known as the Helm Replat. The Helm Replat did not include these remnants as they were owned by the 929 Park Avenue property owner at that time.
11. The existing one story historic house at 929 Park Avenue was constructed circa 1889 across the property line between Lots 7 and 8. The existing house is 39' wide and 40' deep.
12. There are no encroachments on this property. The structure does not encroach onto adjacent property.
13. The property is listed as a significant site on the Park City Historic Sites Inventory.
14. There is a 96 sf non-historic accessory shed on the property that will remain on the property. This shed is listed as an improvement to the property.
15. The existing structure complies with the lot and site requirements, with the exception of an existing non-conforming 1 foot setback on the north side yard.
16. The current use of the property is a single family dwelling.
17. The existing house is vacant. In 2009 the house was deemed un-safe and a nuisance by the Chief Building Official. Following approval of a preservation plan on October 16, 2009, the property was "mothballed" in September of 2010.
18. Pending rehabilitation and restoration of the house to meet building codes for a safe, habitable structure, the City and owner signed and recorded a maintenance agreement on September 20, 2010.
19. No remnant parcels of land are created with this plat amendment.
20. The proposed plat amendment yields a lot size of 5,000 sf and this lot area yields a maximum footprint of 1,888 square feet per the LMC footprint formula. According to the compatibility analysis the average lot size (excluding condos and commercial property) within 300' on Park Avenue is 4,277 sf. The average maximum footprint for lots in this area is 1,521 sf (excluding condos and commercial lots which are significantly larger buildings with larger footprints).
21. According to the compatibility study the average square footage of the structures within 300' is 2,079 sf (excluding condominiums and commercial structures).
22. The proposed lot size is consistent with the pattern of development in this neighborhood and the resulting structure would be compatible in mass and scale with surrounding structures that include a mix of historic and contemporary single family homes, duplexes, and condominiums.
23. Any requested additions are required to comply with the adopted Park City Design Guidelines for Historic Districts and Sites and all additional applicable LMC criteria pertaining to additions to historic Significant structures.
24. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law:

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

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A 10' (ten foot) snow storage easement shall be dedicated to Park City across the property's frontage on Park Avenue.
4. Include a note on the plat that modified 13-D sprinklers are required

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

PASSED AND ADOPTED this 23rd day of June, 2011.

PARK CITY MUNICIPAL CORPORATION

Dana Williams, MAYOR

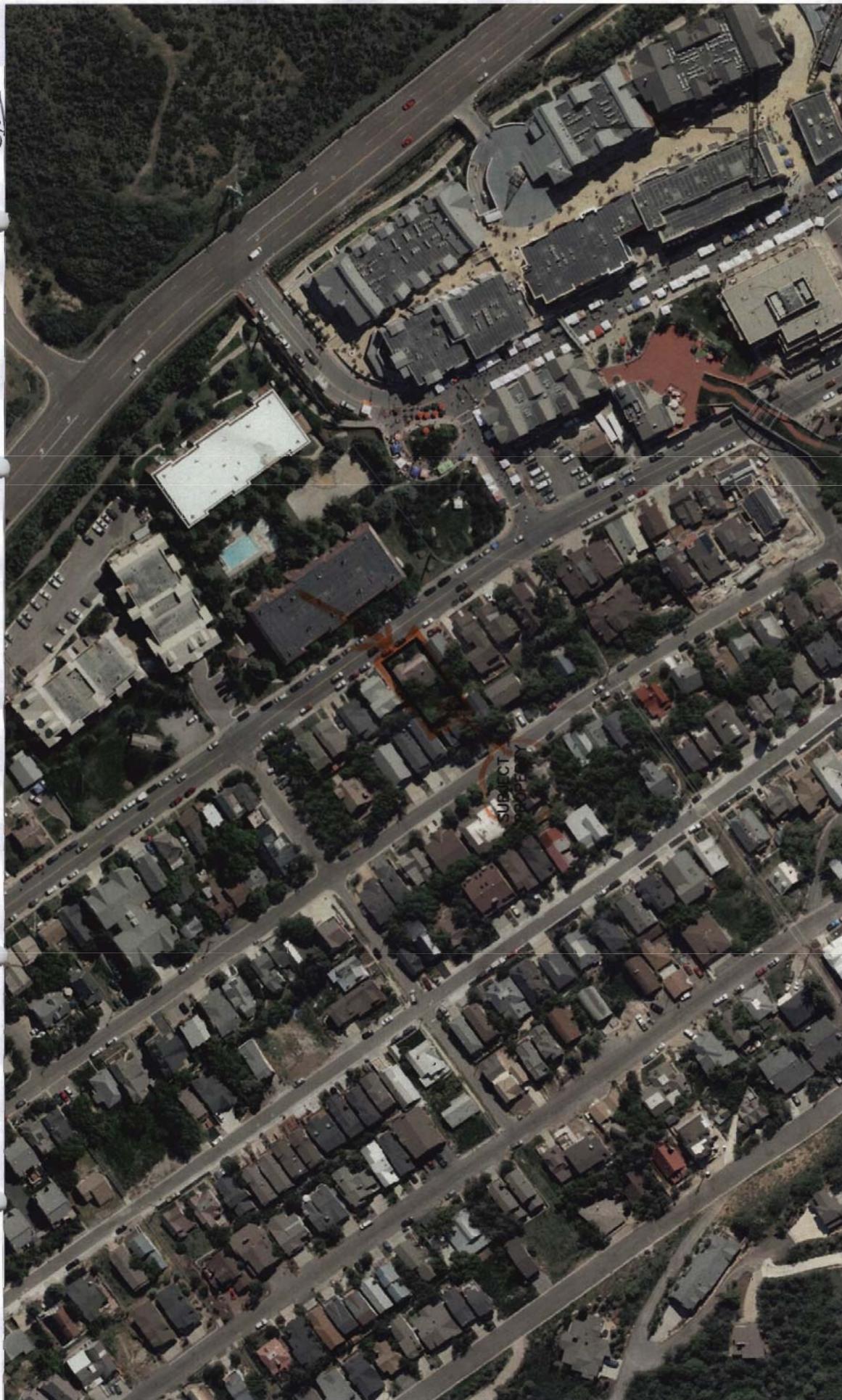
ATTEST:

Jan Scott, City Recorder

APPROVED AS TO FORM:

Mark Harrington, City Attorney

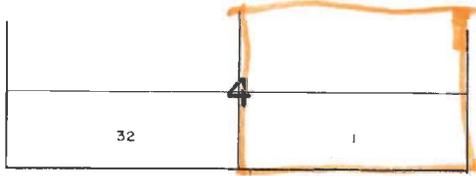
EX B



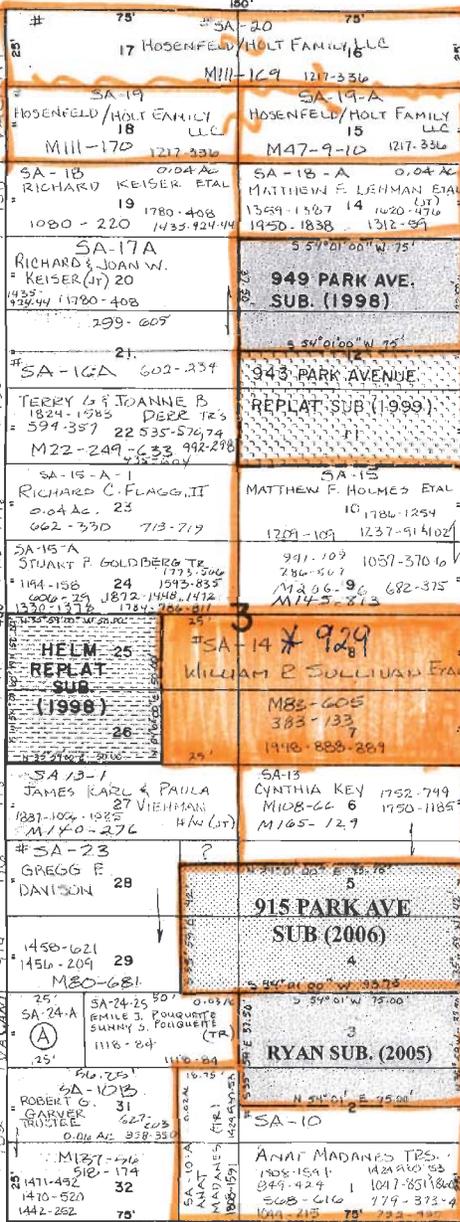
	STAFF: MERRILL KING	DATE: 3/22/11	SHEET 1 of 1
	AERIAL PHOTOGRAPH 929 PARK AVENUE BLOCK 3, SNYDER'S ADDITION FOR: JAMES & MARY ELLEN ROBERTSON JOB NO.: 4-3-11 FILE: S:\SnydersAddition\img\Aerial0329.jpg, 0329.jpg, aae-wfhd-mg		



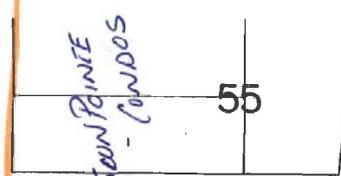
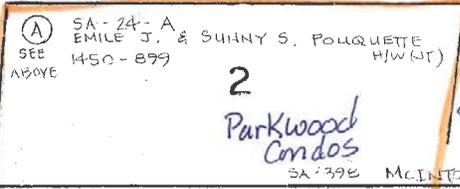
EXHIBIT C



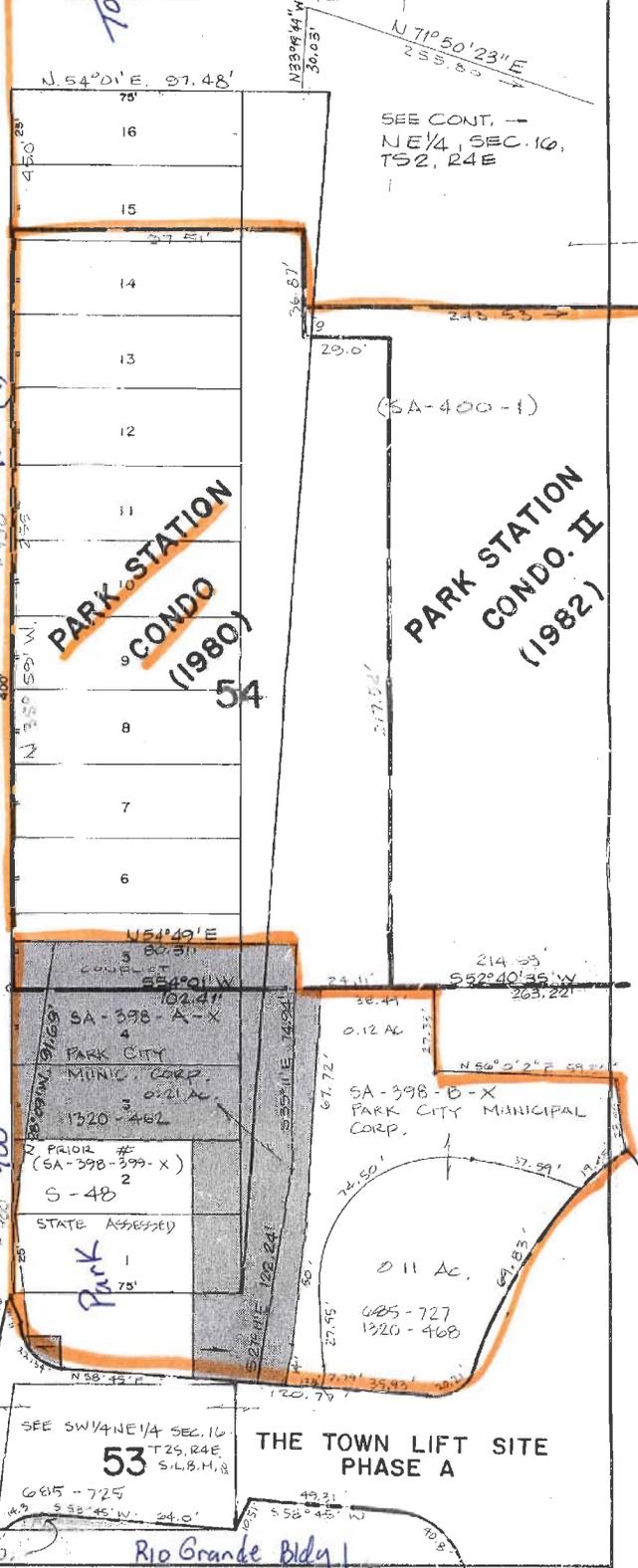
(10TH STREET)
HALLADAY STREET (N 54°01'E)



(9TH STREET)
SHEPARD STREET (N 54°01'E)
CLOSURE M 252-553



TOWN POINT
- CONDOS



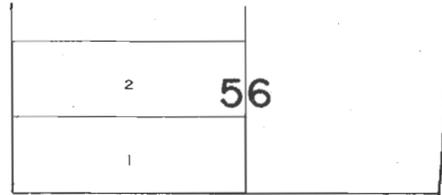
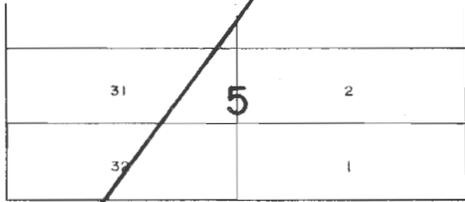
SCALE
ONE INCH = 40 FEET
BOOK PAGE

SUMMIT COUNTY, UTAH

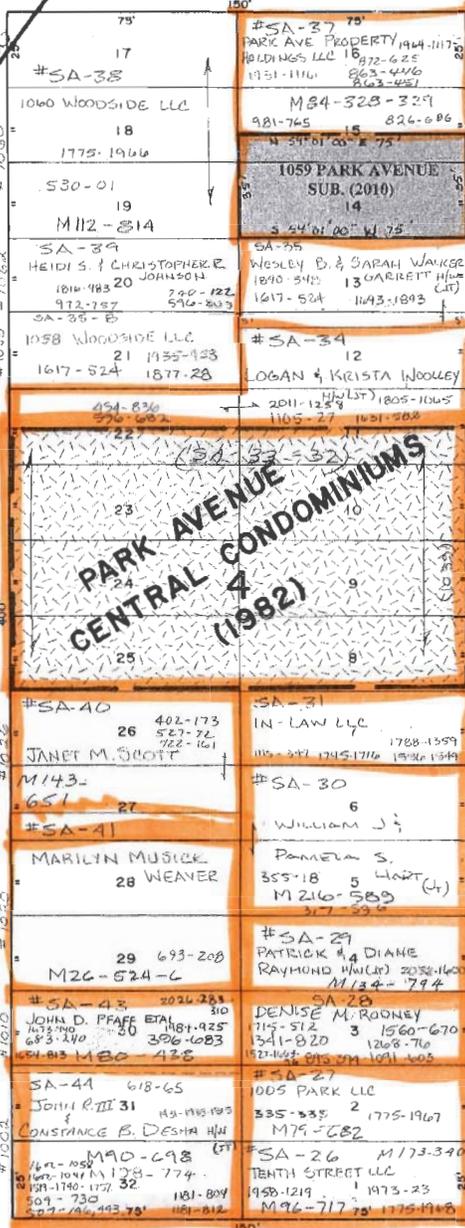
BLOCKS 4, 9, 55, SECTION 16, T2S R4E, S.L.B. 8 M.



NOTE: # REFERS TO STREET ADDRESS



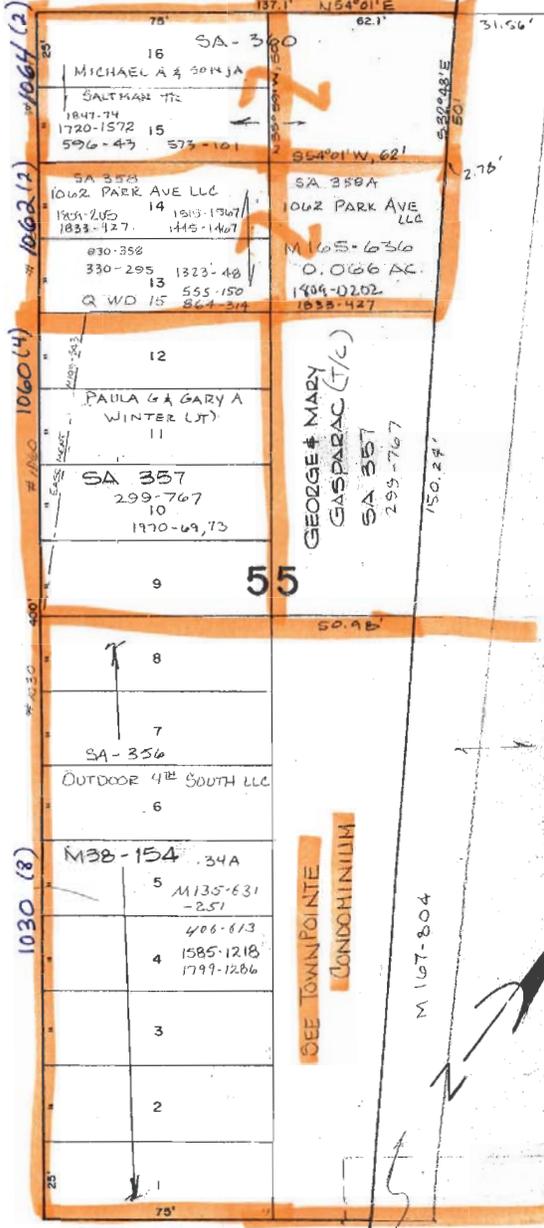
CRESCENT STREET (N 54°01' E)



Vertical list of lot numbers and addresses: 1063 (1 1/2), 1059 (1 1/2), 1049 (+), 1043 (1 1/2), 1035 (3 1/2), 1025 (1), 1021 (2), 1015 (1), 1011 (1), 1005 (2)

WOODSIDE AVENUE (N 35°59' W)

PARK AVENUE (N 35°59' W)



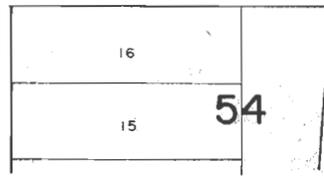
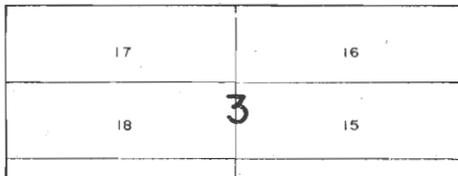
Vertical list of lot numbers and addresses: 1064 (2), 1062 (2), 1060 (4), 1030 (8)

SEE TOWNPLOT CONDOMINIUM

NOTE: SEE NE 1/4 SEC 16, T 2 S, R 4 E.

NOTE: SEE M171-453 FOR A PARKING EASEMENT

HALLADAY STREET (N 54°01' E)

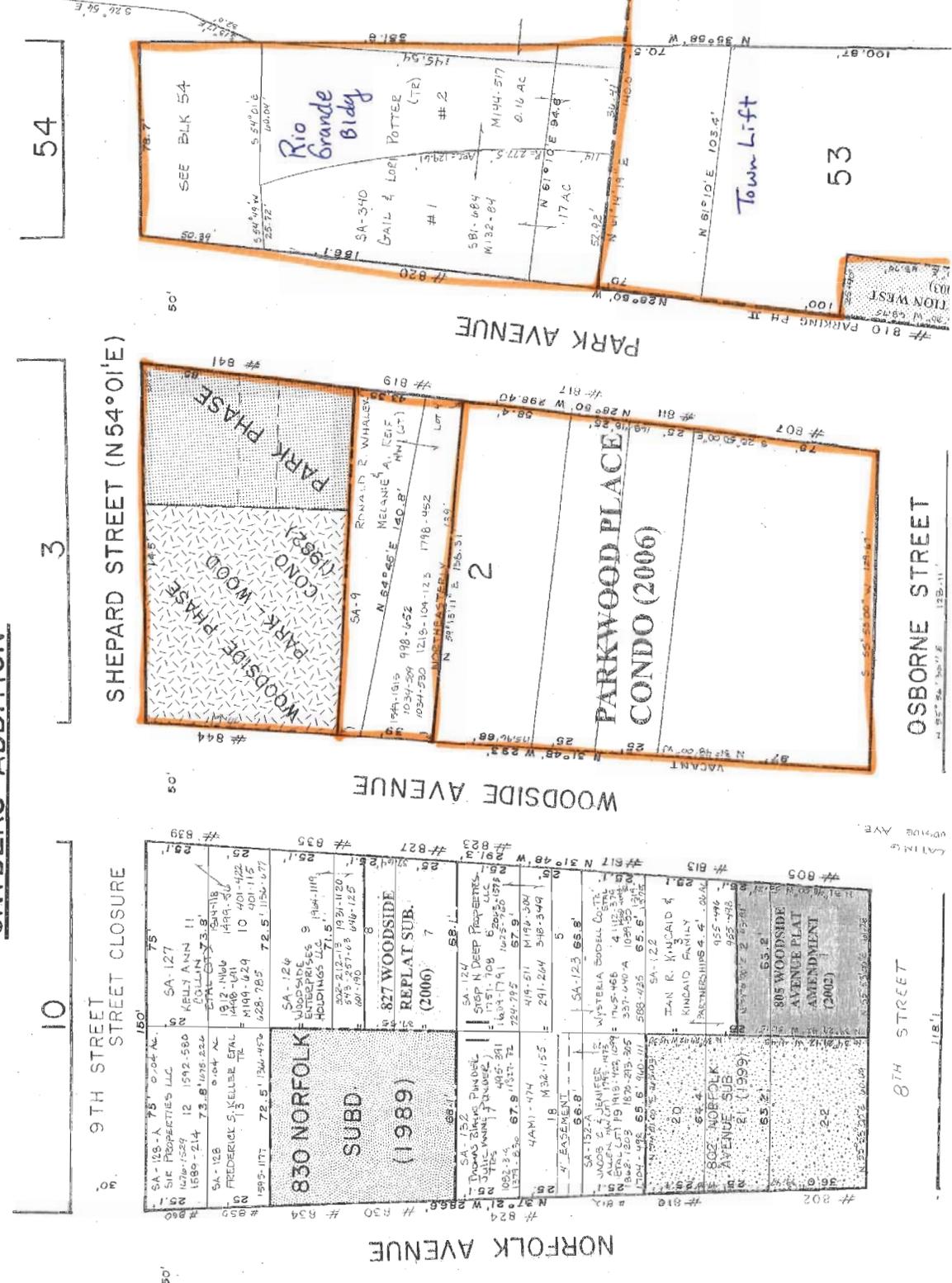


SUMMIT COUNTY, UTAH

SUMMIT COUNTY UTAH

PARK CITY - BLOCKS 1, 2, 11, 12, 53, SECTION 16, T2S R4E, S.L.B. & M. SNYDERS ADDITION

NOTE: # REFERS TO STREET ADDRESS



SEE SW 1/4 NE 1/4 SEC. 16, T2S, R4E

EX D

SURVEYOR'S CERTIFICATE

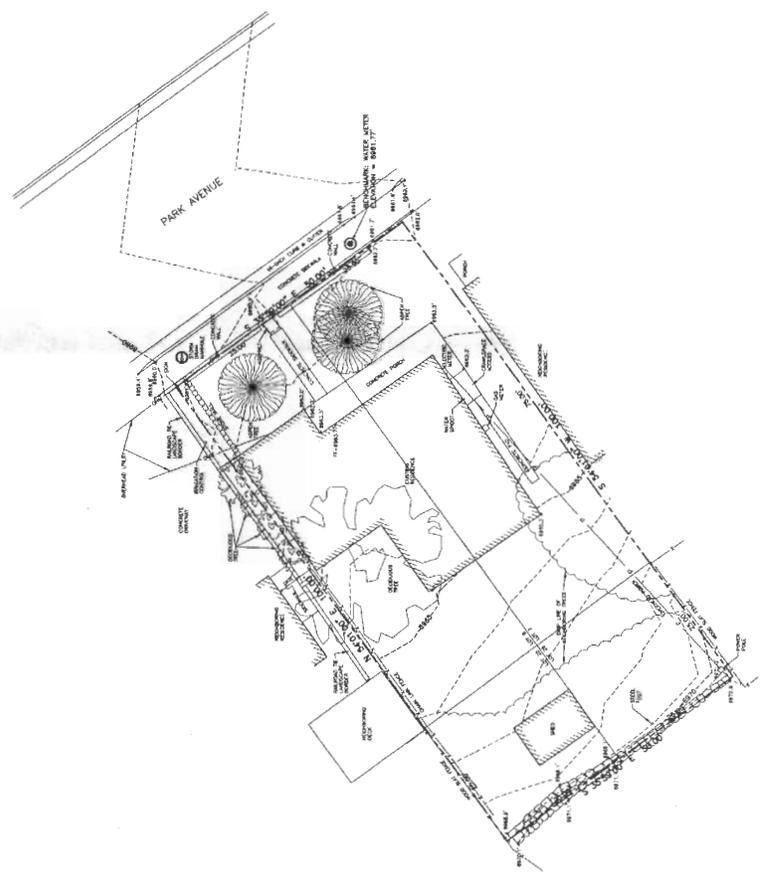
I, Marty A. Morrison, do hereby certify that I am a registered land surveyor and that this plat or certificate is a true and correct copy of the original as recorded in the public records of the State of Maryland. The topographic survey has been made under my direct supervision and the survey is a correct representation of the field work as shown on the field work as completed and is in compliance with generally accepted surveying standards for accuracy.



11-10-09

NOTES

1. See Beaconsport Meter meter.
2. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
3. This topographic map is based on a field survey performed on November 4, 2009.
4. Property corners were not set.



RECEIVED
 APR 04 2011
 PARK CITY
 PLANNING DEPT.

 <small>(435) 647-4447 CONSULTING ENGINEERS LAND SURVEYORS & ARCHITECTS 222 WEST 200TH ST. SUITE 200, PARK CITY, UTAH 84302-2224</small>	STAFF: BILL SULLIVAN MARTY MORRISON	EXISTING CONDITIONS AND TOPOGRAPHIC MAP 929 PARK AVENUE BLOCK 3, SNYDER'S ADDITION	SHEET 1 OF 1
	FOR: BILL SULLIVAN JOB NO. 11-11-09 FILE: K:\SnyderAddition\dwg\mva\topoz2009\011008.dwg	DATE: 11/10/09	

EX E.

When recorded return to:
Park City Municipal Corporation - City Recorder
P O Box 1480, Park City, Utah 84060
Fee Exempt per Utah Code
Annotated 11-13-102

AGREEMENT TO STABILIZE AND SECURE 929 PARK AVENUE

PROJECT NAME: 929 Park Avenue
OWNER'S NAME: Sullivan, William R (JT), Sullivan, Shelia A (JT) et al.
OWNER'S ADDRESS: 175 Verde Drive, Santa Cruz, CA 95060 Phone number 831-429-1043 or Bill Sullivan at verdedrive@msn.com

This Agreement is made by and between Sullivan, William R (JT), Sullivan, Sheila A (JT) et al. ("Owner") and Park City Municipal Corporation ("City") (collectively the "Parties"). Owner has proposed stabilizing and securing a historic structure which currently has been deemed dangerous. Owner's project has a street address or legal description of 929 Park Avenue, Park City, Utah (also known as Parcel SA-14, all of Lots 7 and 8 and the easterly 25 feet of Lots 25 and 26, Block 3, Snyder's Addition to the Park City Survey). Owner shall mean current owner, successors, or assigns.

Owner has requested that the City grant the necessary permit, or permits, required by the Municipal Code and the Land Management Code ("LMC") for the stabilization and security of the building to remediate the dangerous conditions. All construction shall be completed according to the approved plans on which the stabilization building permits are issued.

NOW THEREFORE, in consideration of the mutual promises, terms, and conditions hereof, City and Owner agree as follows:

1. Owner covenants and warrants performing all construction, development, mothballing and/or other permitted activity affecting the historic structure in accordance with the approved stabilization and security (mothballing) plans upon which the stabilization building permit may be issued. Owner, for itself and for its successors and assigns, grants to the Chief Building Official, or his designee, the right of entry on the stabilization project for the purposes of inspecting the stabilization project and assessing compliance with the approved stabilization and security plans.
2. Owner will apply for a building permit to secure the building against entry, vandalism or community disruption and will stabilize the building from hazards due to structural failure on or before September 20, 2010 and the work shall be initiated as soon as the contractor can schedule the work. All efforts will be made to complete the work not later than November 1, 2010. The building shall be secured and stabilized in a manner that is visually appealing when viewed from the public right-of-way and from the neighbors' vantage points.
3. The City may at any time inspect the condition of the building. If the building is not sufficiently secured or stabilized, the City will issue a written notice to come into compliance. The Owner will initiate the necessary action within seven (7) days of receipt of written notice to bring the building into compliance.

ENTRY NO. 00906959

09/20/2010 11:44:42 AM B: 2048 P: 0532

Agreement PAGE 1/5
ALAN SPRIGGS, SUMMIT COUNTY RECORDER
FEE 0.00 BY PARK CITY MUNICIPAL CORP



4. On or before submittal of the building permit application and no later than September 20, 2010, Owner will submit a building maintenance and monitoring plan to the City's reasonable satisfaction. That plan will include a plan for regular inspection of the site for sign of human intrusion or natural deterioration. The Owner will maintain and monitor the building as detailed in the stabilization plans or as detailed in subsequent plans submitted by any future owner and as agreed to by the City.
5. Owner shall improve the Property to make it habitable by submitting a building permit application to make such improvements within six (6) years of the execution of this Agreement and pursuant to the approved Historic Preservation Package as revised on July 26, 2010. The Preservation Package, dated October 16, 2009, submitted to the City on behalf of the Owner by The Elliott Workgroup, 364 Main Street, Park City, Utah, is approved and the approval runs with the property.
6. The Owner agrees to maintain the landscape/yard in a manner that is consistent with applicable Park City Municipal Corporation codes.
7. It is the intent of the Parties that the Owner will have the obligation to ensure that the building stabilization and security project be completed according to the approved building stabilization plans submitted on behalf of the Owner by the Elliott Workgroup. The Owner accepts responsibility for the actions or omissions of any contractors, sub-contractors, or other individuals under their employ or supervision working on the building stabilization project which result in a declaration of default or non-compliance.
8. The building is not habitable. Until the Building Department issues a Certificate of Occupancy (or Temporary Certificate of Occupancy) the building shall not be inhabited.
9. Owner agrees to make the conditions of this Agreement applicable to its successors and assigns.
10. Owner will record this Agreement with the Summit County Recorder within ten (10) business days after executing this Agreement and provide a recorded copy to the City.
11. The Parties understand that none of the terms herein abrogate or affect the City's right to pursue criminal sanctions for any violation or violations of City ordinances.
12. This Agreement to Stabilize and Secure the Property known as 929 Park Avenue, Park City, Utah, together with all documents incorporated herein by reference, constitutes the entire and only agreement between the Parties and cannot be altered except by written instrument signed by both Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed this
13th day of September, 2010.

OWNER

Sign: William R. Sullivan
Print Name: William R. Sullivan
Title: OWNER

Mailing Address:

175 VERDE DRIVE
SANTA CRUZ, CA 95060

ACKNOWLEDGMENT

CALIFORNIA
STATE OF ~~UTAH~~)
Private Person) ss.
COUNTY OF SUMMIT)

On this 13th day of September, 2010, before me, Michael Jones,
the undersigned notary public, personally appeared William R. Sullivan,
personally known to me / proved to me on the basis of satisfactory evidence to be the person
whose name is subscribed to the within instrument, and acknowledged that he or she executed
the same.

SEE ATTACHED
CALIFORNIA ACKNOWLEDGMENT _____
Notary Public

PARK CITY MUNICIPAL CORPORATION

Sign: K.A. Whetstone
Print Name: Kirsten A. Whetstone
Title: Sr. Planner

See attached acknowledgement

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Santa Cruz

On 09-13-2010

before me,

Michael Burns, Notary Public

personally appeared

William R. Succivan



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

[Handwritten Signature]

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Agreement to Sell 929 Park Ave

Document Date:

09-13-2010

Number of Pages:

3

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

Signer's Name:

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

ACKNOWLEDGMENT

State of Utah
County of Summit

On this 14 day of Sept, 2010, Kirsten Whetstone personally appeared before me,
 who is personally known to me,
_____ whose identity I verified on the basis of _____,
_____ whose identity I verified on the oath/affirmation of _____,
a credible witness,
to be the signer of the foregoing document, and he/she acknowledged that he/she signed it.



Sharon C Bauman
Notary Public

My Commission Expires: _____

Attribution Clause: This Certificate is prepared for, and exclusively belongs to, the accompanying document entitled
Agreement to Stabilize and Secure 929 Park Ave Apt 906959 Page 5 of 5 Summit County 1010
which consists of _____
If this Certificate is appropriated to any document other than the one described herein, it shall be deemed null and void.

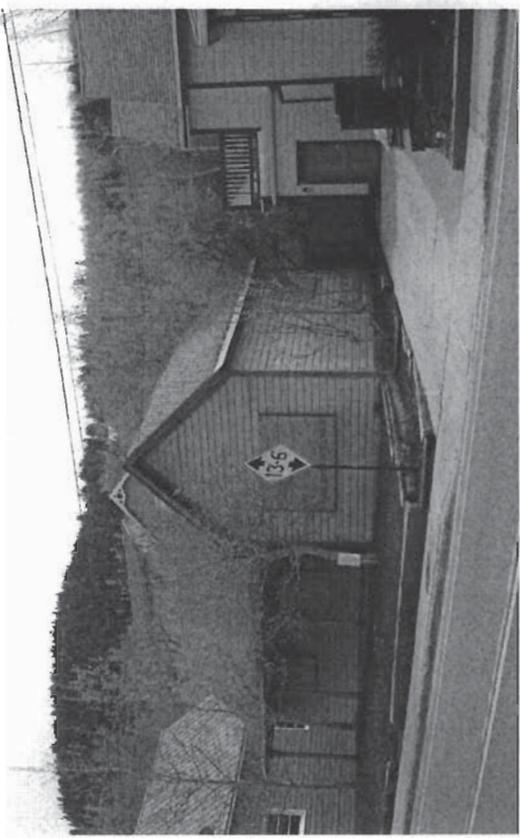
929 Park Avenue Neighborhood Compatibility Analysis

Address	Historic site	Lot Size (SF)	Living Area	Basement	Garage/shed	Total Square Footage (SF) (not sheds)	Maximum Footprint (FP) Allowed per LMC	Type of Structure	Addition to historic?
929 PARK	significant	5,000	1,208			1,208	1,888	sfd	requested
841 PARK	no	12,325	13,081			13,081	n/a	condos	n/a
901 PARK	no	3,050	2,654	1,568		4,222	1,285	sfd/duplex	n/a
909 PARK	significant	2,614	1,904	1,205		3,109	1,128	sfd	yes
915 PARK	significant	3,920	2,384		300	2,684	1,573	sfd	yes
923 PARK	significant	4,356	973			973	1,705	sfd	no
937 PARK	significant	3,485	2,107	1,198	216	3,305	1,433	sfd	yes
943 PARK	significant	3,050	1,084			1,084	1,285	sfd	yes
949 PARK	significant	3,050	1,357		100	1,357	1,285	sfd	yes
953 PARK	no	1,742	2,007		204	2,211	790	sfd	n/a
959 PARK	landmark	5,663	649			649	2,060	sfd	no
1001 PARK	no	1,742	1,620	548		2,721	790	sfd	n/a
1005 PARK	no	1,742	1,520	677		2,197	790	sfd	n/a
1030 PARK	no	14,810	1,071		600	1,671	3,222	sfd	n/a
950 PARK	no	50,600	condos			n/a	n/a	condos	n/a
820 PARK	significant	31,000	commerci	n/a	n/a	2,000	n/a	commercial	no
819 PARK	significant	5,663	1,710		48 sf shed	1,710	2,060	sfd	yes
AVERAGE		9,048 with condo							



* 929 Park

* 937 Park



* 929 Park

* 937 Park



* 915 Park

* 923 Park



* 923 Park

* 929 Park



943 Park

937 Park

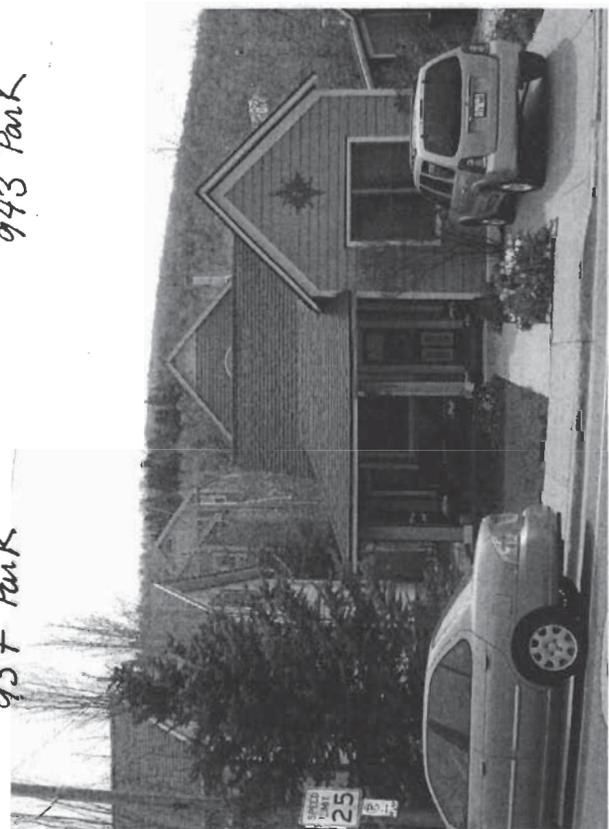


949 Park



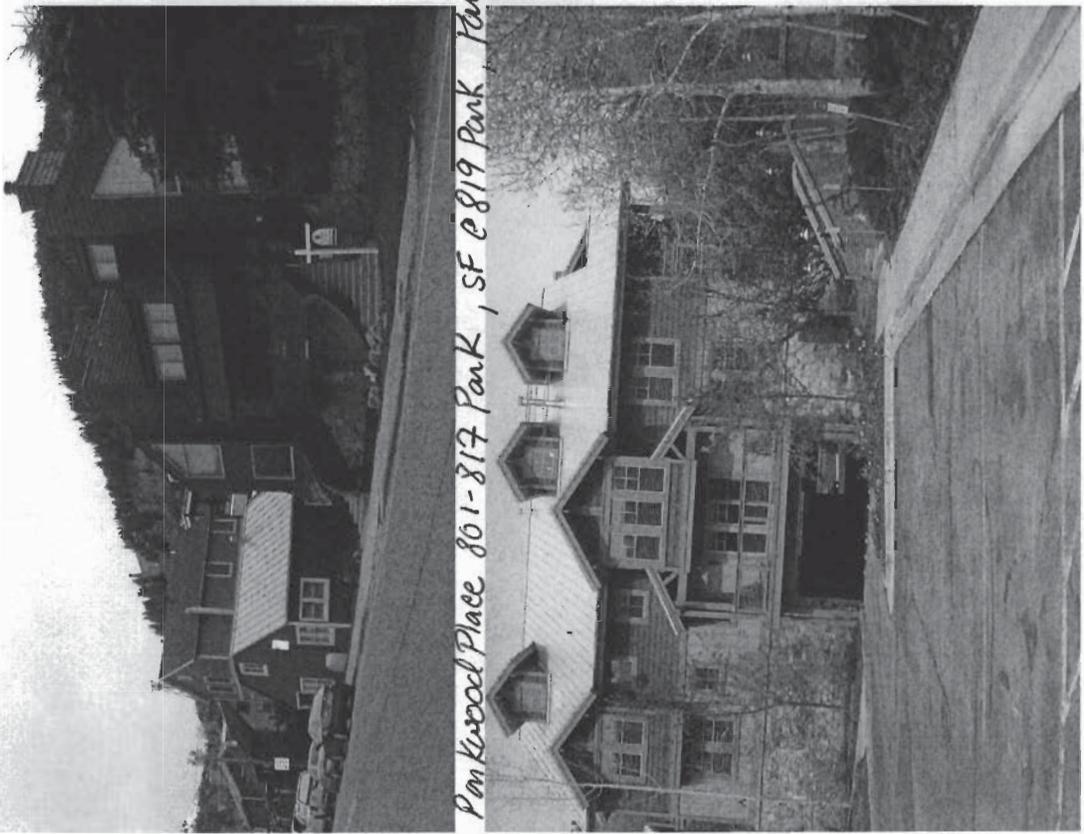
943 Park

937 Park



943 Park

1



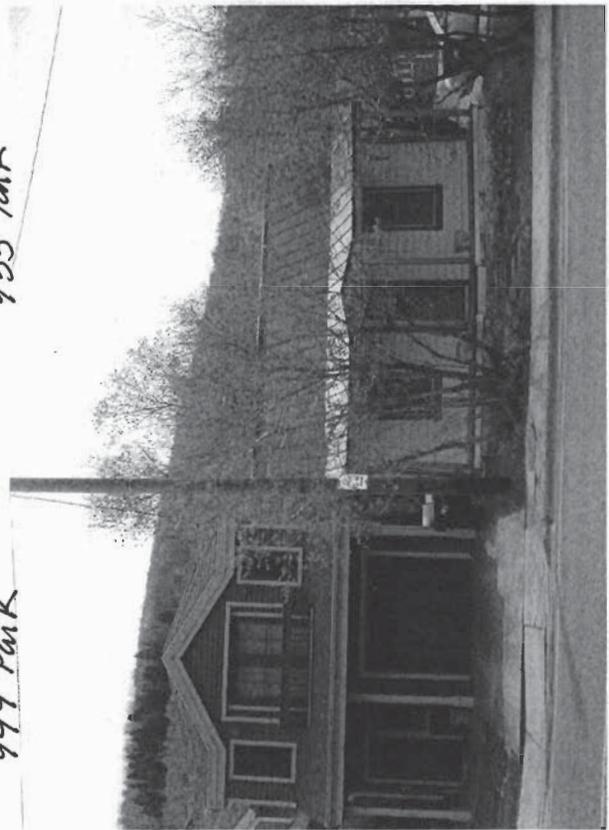
Pinkwood Place 801-817 Park, SF 819 Park, Parkwood
 Condos 841 Park

Town Pointe Condo minimums Across the Street



953 Park

949 Park



959 Park

953 Park



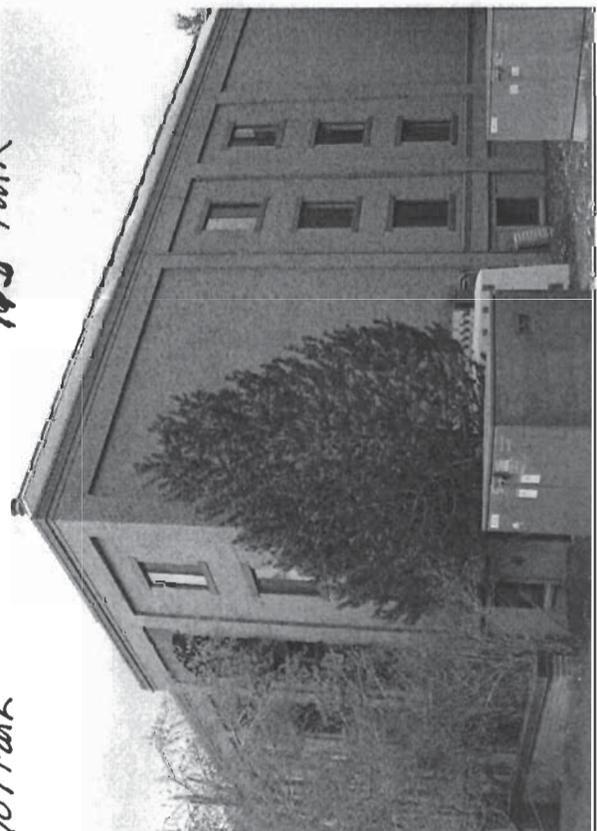
909 Park

905 Park

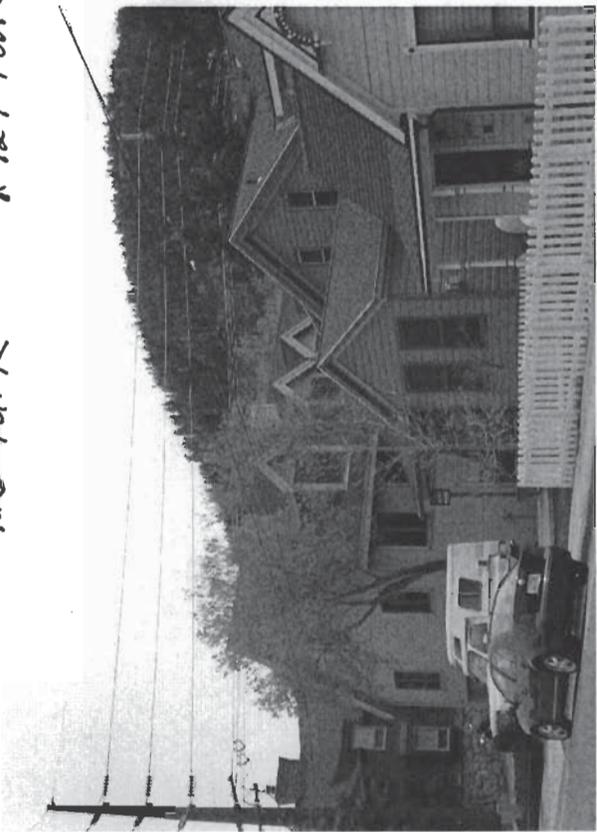


923 Park

* 929 Park



Park Station 950 Park



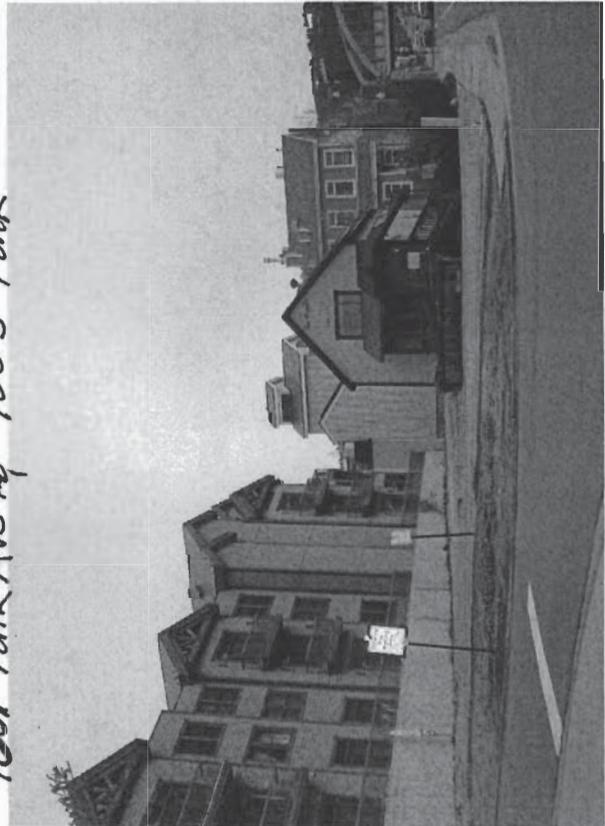
901 Park

909 Park

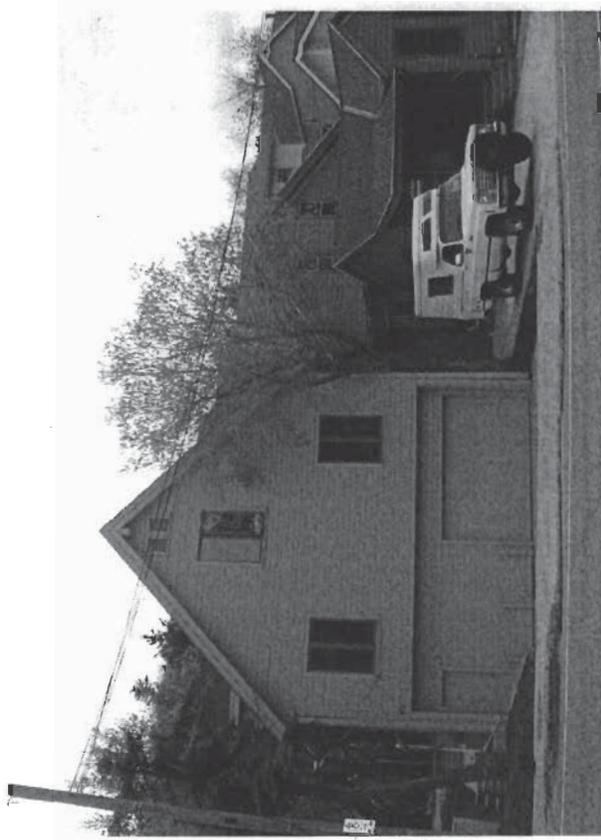
915 Park



1001 Park Ave # 1005 Park

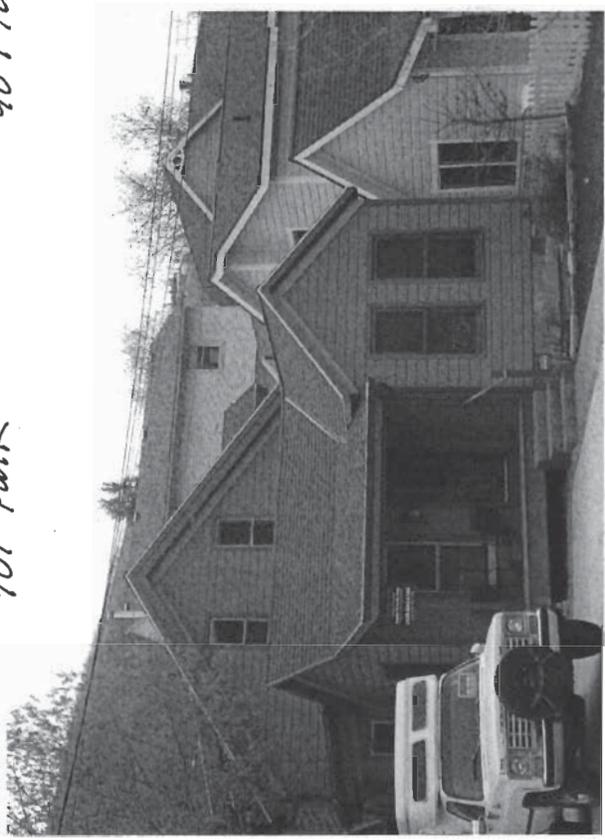


Townlift + Rio Grande Bldg
810 + 820 Park Avenue



901 Park

909 Park



909 Park

915 Park

Planning Commission Staff Report



Subject: North Silver Lake Lot 2B
Author: Katie Cattan
Date: June 8, 2011
Type of Item: Quasi-Judicial Appeal
Project Number: PL-11-01252

Summary Recommendations

Staff recommends the Planning Commission hold a quasi-judicial hearing on an appeal of the Planning Director's decision to approve an extension of the Conditional Use Permit for the North Silver Lake Lot 2B development and consider upholding the approval based on the finding of fact, conclusions of law and conditions of approval.

Topic

Appellant: Lisa Wilson, neighbor
Location: North Silver Lake Subdivision Lot 2B
Zoning: Residential Development (RD-MPD)
Adjacent Land Uses: Residential and Resort
Reason for Review: Appeals regarding staff decisions are heard by the Planning Commission

Background

Under the Deer Valley Resort Master Plan Development (MPD) the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,525 square feet of commercial and support space. The Deer Valley MPD requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC Section 15-1-10.

The original CUP application was before Planning Commission on five different occasions (August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009). During the July 8, 2009 review, the Planning Commission approved the application with a 3 – 1 vote. One Commissioner abstained.

On July 17, 2009, the neighboring property owners submitted an appeal of the Conditional Use Permit (CUP) approval for development of the North Silver Lake Subdivision Lot 2B. The City Council reviewed the appeal on October 15, 2009 and November 12, 2009. During the November 12, 2009 meeting, the City Council remanded the CUP application to the Planning Commission with specific items to be addressed.

The Planning Commission reviewed the remand during two work sessions on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April 28, 2010 to address specific findings of the City Council. The Planning Commission approved the revised conditional use permit with a four to one vote on April 28, 2010.

The approval was appealed by two separate parties. On May 7, 2010, Eric Lee submitted an appeal on behalf of property owners in the neighborhood. On May 10, 2010, Lisa Wilson submitted an additional appeal. The City Council reviewed the appeals on June 24, 2010. All parties stipulated to additional condition of approval #19. The Council did not find merit in the notice issues, the compatibility of revised design or other issues raised in Ms. Wilson's appeal. The Council added an additional requirement of an opportunity for neighborhood input prior to approval of the phasing plan(s), but found that the Planning Commission adequately addressed the issues of the remand. Accordingly, the City Council affirmed and denied in part the Planning Commission's decision to approve the North Silver Lake Lot 2B Conditional Use Permit. The City Council findings were ratified on July 1, 2010. The conditional use permit approval included a condition that the approval will expire on July 1, 2011 if no building permits are issued within the development.

On March 3, 2011, the Planning Department received a Request for Extension of the Conditional Use Permit approval. The Planning Director reviewed the request, staff analysis provided within a staff report, and the public input (Exhibit B: Staff Report w/public comment). On April 28, 2011, the Planning Director approved the Extension of the Conditional Use Permit for an additional year as conditioned. (Exhibit C: Action Letter)

Appeal

On May 9, 2011, the City received a written appeal (Exhibit A - Appeal) pursuant to Chapter 15-1-18(A) of the Land Management Code. Appeals made within ten (10) days of the Staff's determination are heard by the Planning Commission (because ten (10) calendar days from the Final Action letter fell on the weekend, the City calculates the next business date as the tenth day).

Standard of Review

An appeal of a Staff Decision is reviewed by the Planning Commission as described in 15-1-18(A). The Planning Commission shall act in a quasi-judicial manner. A "quasi judicial act" is defined as a judicial act, which is performed by someone who is not a judge. Therefore, like a judge, board members shall not have communication with anyone concerning this matter ("ex parte" communication) outside of the appeal hearing.

LMC Section 15-1-18(G) requires that the Planning Commission shall review factual matters de novo and it shall determine the correctness of the decision of the Planning Director in his interpretation and application of the land use

ordinance. “De Novo” means anew, afresh, the same as if it has not been heard before and as if no decision had been previously rendered. Any matters not related to the CUP extension review, are not applicable to this appeal.

The Planning Commission may affirm, reverse, or affirm in part and reverse in part the appeal based on written findings of fact, conclusions of law, and conditions of approval, if any, supporting the decision, and shall provide the owner and/or applicant with a copy of such. Any Planning Commission decision regarding a conditional use permit may be appealed to the City Council pursuant to LMC Section 15-1-18(C).

Analysis

Within the Land Management Code Section 15-1-10(G), **“The Planning Director may grant an extension of a Conditional Use permit for one (1) additional year when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Change of circumstance includes physical changes to the Property or surroundings.”**

1. No change in circumstance that would result in an unmitigated impact.

Complies. The submitted plans match the approved July 1, 2010 set of plans. There has been no change in circumstances to the site or the plans that would result in unmitigated impacts.

2. Would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request.

Complies. The applicable sections of the Land Management Code and the Park City General Plan have not been modified since the July 1, 2010 approval, therefore there are no new findings of non-compliance with either document.

In addition, there is one condition of approval from the July 1, 2010 approval that must be completed prior to the extension of the Conditional Use Permit extension. The original condition of approval #18 states “A bond shall be collected at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. At such time, the existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released.” A bond was collected for re-vegetation and new landscaping along the perimeter entrance. This landscaping must be completed by July 1, 2011. Due to the unusual snowpack this spring, this work could not be completed sooner and is scheduled to be done this month (June).

To enforce this condition of approval, the extension was conditioned on it being completed by July 1, 2011. The new condition #18 reads:

“The approved extension will be void if Condition of Approval #18 from the July 1, 2010 City Council approval is not completed by July 1, 2011. The condition states “A bond shall be collected at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. At such time, the existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released.”

Appeal

Per LMC Section 15-1-18(F) an appeal must have a comprehensive statement of all the reasons for the appeal, including specific provisions of the law, if known, that are alleged to be violated by the action taken. Within the eighteen page appeal, there were many references to prior application that are not under the purview of the Planning Director for the CUP extension pursuant to 15-1-10(G).

Appellant did not identify any matters related to the standard required for CUP extension review regarding change in circumstances that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Change of circumstance includes physical changes to the Property or surroundings.

Although not clearly defined, the only item which is even close to suggest a change in the circumstance regarding the physical change to the property was regarding the growth of the trees. On page 12 of the appeal, the appellant states “The North Silver Lake Lot 2B arborist report appears to be flawed. In Keith Clapier’s report he relied on a previous survey. According to the Arborist report, ‘A previous tree survey conducted indicates there are 554 trees on the parcel.’ The arborist report does not reference the date of the previous report. When was the previous survey conducted? Trees grow. The reports appear to be based on old data. There needs to be verification of the accuracy of the Arborist report.”

During the review by the Planning Commission, there was thorough consideration given to the trees. During the February 25, 2009 Planning Commission meeting, the Planning Commission was provided two arborist reports (Exhibit C. Arborist Report). The first report had been created by local arborist Keith Clapier on August 8, 2008. The Planning Commission had asked for more specifics regarding the health of the trees. A second study and report was done by Arborcare on October 30, 2008. Arborcare identified all significant vegetation on the site without consideration of the site plans and identified six classifications of the existing trees:

- trees previously indicated to be saved

- trees with good enough form and in good enough health to be saved if the site plans could allow
- trees with dual stem trunks or co-dominant leaders
- trees with current beetle infestation causing decline and dieback
- trees that are dead or have dead tops
- trees with physical or aesthetic defect.

The appellant is correct that “trees grow” as stated within the appeal. The Planning Director did not find that the amount of growth in the trees from 2008 to 2011 was a change in circumstance that would result in an unmitigated impact or non compliance with the Park City General Plan or Land Management Code in effect at the time of the extension request. The Planning Director did not require an updated Arborist report.

No other items were identified within the appeal that are relevant to the review criteria for the extension of a CUP by the Planning Director.

The appeal did identify two changes in the findings of fact that were made due to previous staff typing errors. The appellant had brought the mistakes to Staff’s attention during the public input period for the CUP extension. Two minor typing errors were identified within finding of fact #3 and finding of fact #9.

Finding of Fact #3 identified 14,552 square feet of commercial and support space. There are 14,525 square feet of commercial and support space identified in the approved plans associated with the July 2010 approval. The application utilized 5102 square feet of commercial area. There is no change in circumstance from this typing error that would result in unmitigated impacts. Finding of Fact #3 has been modified within the Planning Director’s determination to state the correct 14,525 square feet.

Finding of Fact #9 incorrectly identifies Lot 2B rather than Lot 2D as the open space lot within the North Silver Lake Subdivision. Finding of fact #9 stated:

“Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2B towards the 60% open space requirement. The Bellemont Subdivision utilized ¼ acre of the Lot 2B parcel to comply with the open space requirement.”

The dedicated open space lot within the North Silver Lake Subdivision is Lot 2D. All prior references within the staff report analysis have been to 2D and it was a typo for it to say 2B within finding of fact #9. The open space calculation was not affected by this change as all calculations were based on the open space lot being 2D (and not 2B). The open space calculation remains 70.6% as stated in finding of fact #10. There is no change in circumstance from this error that would result in unmitigated impacts. The modified finding of fact #9 states

“Within the original North Silver Lake Subdivision, the Belmont subdivision was allowed to also utilize Lot 2D towards the 60% open space requirement. The Belmont Subdivision utilized ¼ acre of the Lot 2D parcel to comply with the open space requirement.”

Notice

The noticing requirements of LMC Section 15-1-21 have been met for the appeal. The property was posted seven (7) days prior to the date set for the appeal, noticing was sent to all parties who received mailed notice for the original administrative action seven (7) days prior to the hearing, and the agenda was published in a newspaper of local circulation once seven (7) days prior to the hearing.

Public Input

Public input was received by staff during the review by the Planning Director. This input is included within Exhibit B. No public comment has been received in regards to the pending appeal.

Alternatives

- The Planning Commission may affirm the Planning Director’s decision to approve in whole or in part the North Silver Lake Lot 2B CUP extension as conditioned or amended; or
- The Planning Commission may reverse the Planning Director’s decision and deny the North Silver Lake Lot 2B CUP extension in whole or in part and direct staff to make Findings for this decision; or
- The Planning Commission may remand the matter to the Planning Director with direction on specific items; or
- The Planning Commission may continue the discussion on the appeal of the North Silver Lake CUP extension.

Recommendation

Staff recommends the Planning Commission review the appeal and consider affirming the Planning Director’s decision to approve the North Silver Lake CUP with minor typographical corrections, specifically to Finding #3 and #9 as underlined.

Findings of Fact

1. The subject property is at 7101 North Silver Lake Drive. This property is also known as Lot 2B of the North Silver Lake Subdivision.
2. The proposed development is located within the Deer Valley Master Plan Development.
3. Within the Deer Valley Master Plan, the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,525 square feet of commercial and support space.

4. The applicant has applied for a conditional use permit for the development of 54 units located on Lot 2B of the North Silver Lake Subdivision. The applicant has included 5102 square feet of support commercial space within this application. The project consists of 16 detached condominium homes and four condominium buildings containing 38 condominium units. The remaining commercial units are not transferable.
5. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area.
6. The Deer Valley Master Planned Development (MPD) requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC chapter 15-1-10.
7. The Deer Valley MPD determines densities on parcels as an apartment unit containing one bedroom or more shall constitute a dwelling unit and a hotel room or lodge room shall constitute one-half a dwelling unit. The Deer Valley MPD does not limit the size of units constructed provided that following construction the parcel proposed to be developed contains a minimum of 60% open space and otherwise complies with MPD and all applicable zoning regulations.
8. Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating "This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B." Lot 2D is 4.03 acres in size.
9. Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2D towards the 60% open space requirement. The Bellemont Subdivision utilized $\frac{1}{4}$ acre of the Lot 2D parcel to comply with the open space requirement.
10. The current application site plan contains 70.6% of open space on the site including the remainder 3.78 acres of open space on Lot 2D.
11. The property is located in the Residential Development zoning district (RD) and complies with the Residential Development ordinance.
12. The property is within the Sensitive Lands Overlay Zone and complies with the Sensitive Lands Ordinance.
13. The height limit for Lot 2B was established at 45 feet within the Deer Valley Master Plan. The development complies with the established height limit, with the allowance of five feet for a pitched roof.
14. The onsite parking requirements for the four stacked flat condominiums have decreased 25% in compliance with section 15-3-7 of the Land Management Code. The Planning Commission supports a 25% reduction in the parking for the stacked flats within the development.
15. The Planning Commission held public hearings on August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009.
16. The Planning Commission approved the CUP on July 8, 2009.
17. An appeal of the CUP approval was received July 17, 2009 within ten days per LMC 15-1-18.
18. The City Council reviewed the appeal of North Silver Lake lot 2B on October 15, 2009 and on November 12, 2009.

19. On November 12, 2009, the City Council remanded the Conditional Use Permit back to the Planning Commission with three specific items to be addressed within the order.
20. The Planning Commission reviewed the North Silver Lake Conditional Use Permit remand on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April 28, 2010. The Planning Commission approved the revised Conditional Use Permit on April 28, 2010.
21. The Conditional Use Permit was appealed by two separate parties within ten days of the Planning Commission approval.
22. The design for Building 3 decreased the overall square footage of the Building 3 twenty-five percent (25 %), reoriented the building on the site, and divided the original single building into two interconnected buildings of smaller scale and size than the original single building.
23. The landscape plan was modified to comply with the Wild Land Interface regulations.
24. Construction phasing and additional bonding beyond a public improvement guarantee has been required.
25. On July 1, 2010, the City Council approved the North Silver Lake Lot 2B Conditional Use Permit. The approval is scheduled to expire on July 1, 2011 if no building permits are issued within the development.
26. On March 17, 2011, the Planning Department received a complete application for an extension of the Conditional Use Permit. No permits for development have been issued or applied for at time of application. The extension request was submitted prior to the expiration of Conditional Use Permit.
27. The Conditional Use Permit Criteria within LMC section 15-1-10 has not changed since the July 1, 2010 City Council approval.
28. The Conditional Use Permit application for North Silver Lake Lot 2B has not changed since the July 1, 2010 City Council Approval. There are no changes in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or Land Management Code.
29. Within the July 1, 2010 approval, Condition of Approval #18 states "A bond shall be collected at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. At such time, the existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released." This requirement has not been completed at the time of extension submittal. The approved extension will be void if this condition is not met prior to July 1, 2011.
30. The building department collected a bond to ensure that the existing impacts of the site will be repaired at the time of CUP extension. The landscape plan includes re-vegetating the disturbed area including top soil and native grasses, planting eighteen (18') new trees that vary in height from 10 to 12 feet, and installing an irrigation system for the establishment of the grass and

- ongoing watering of the new trees. This work must be completed by July 1, 2011 to comply with the July 1, 2010 City Council conditions of approval.
31. The Planning Director granted a one year extension to the Conditional Use Permit on April 28, 2011 to July 1, 2012.
 32. An appeal of the Planning Directors approval was submitted on May 9, 2011.

Conclusions of Law

1. The application is consistent with the Deer Valley Master Planned Development and the Park City Land Management Code, particularly section 15-1-10, Conditional Use Permits.
2. The Use is compatible with surrounding structures in use, scale, mass, and circulation.
3. The Use is consistent with the Park City General Plan.
4. The effects of any differences in Use or scale have been mitigated through careful planning.
5. No change in circumstance is proposed within the extension that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code.

Conditions of Approval

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. This plan must address mitigation for construction impacts of noise, vibration, and other mechanical factors affecting adjacent property owners. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be included within the construction mitigation plan.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be adhered to. A member of the Planning Staff and Planning Commission will be invited to attend the pre-installation conference. Prior to operating any excavation machinery, all operators of any excavation machinery must sign off that they have read, understand, and will adhere to the Temporary Tree and Plant Protection plan.
5. A landscape plan is required with the building permit. The landscape plan must reflect the site plan and existing vegetation plan as reviewed and approved by the Planning Commission on April 28, 2010.
6. The developer shall mitigate impacts of drainage. The post-development run-off must not exceed the pre-development run-off.
7. Fire Marshall review and approval of the final site layout for compliance with City standards is a condition precedent to building permit issuance. The proposed development shall comply with the regulations of the Urban Wild Land Interface Code. A thirty foot defensible space will be mandatory around the project, limiting vegetation and mandating specific sprinklers by rating and

- location. The Fire Marshal must make findings of compliance with the urban wild land interface regulations prior to issuance of a building permit.
8. Approval of a sign plan is required prior to installation of any signs on the property.
 9. Staff review and findings of compliance with the lighting regulations of LMC Section 15-5-5(l) are required prior to the issuance of an electrical permit.
 10. This approval will expire July 1, 2012, 12 months from July 1, 2011, if no building permits are issued within the development. Continuing construction and validity of building permits is at the discretion of the Chief Building Official and Planning Director.
 11. Approval is based on plans reviewed by the City Council on June 24, 2010. Building Permit plans must substantially comply with the reviewed and approved plans. Any substantial deviation from this plan must be reviewed by the Planning Commission.
 12. The SWCA wildlife mitigation plan dated April 15, 2009 must be included within the construction mitigation plan and followed.
 13. The two ADA units are to be platted as common space and cannot be separately rented without renting another unit.
 14. The Sustainable Design Strategies created by Living Architecture as reviewed by the Planning Commission on April 28, 2010 must be adhered to within the building permit process. Any substantial deviation from this plan must be reviewed by the Planning Commission.
 15. The final condominium plat for North Silver Lake Lot 2B may not exceed the square footage for common space, private space, and commercial space as shown in the plans reviewed by the City Council on June 24, 2010.
 16. A bond shall be collected prior to issuance of a grading or building permit to cover the cost of the landscape plan as approved.
 17. A phasing and bonding plan to ensure site restoration in conjunction with building phasing beyond a public improvement guarantee must be approved by the Building Department. The plan shall include re-vegetation for perimeter enhancement and screening into the project, soil capping for any new disturbance and previous disturbance of the site, and clean-up of all staging areas. Prior to building department action on approving each phase of the phasing plan, the developer and building department shall conduct a neighborhood meeting, with minimum courtesy mailed notice to both appellants, each appellant's distribution list as provided to planning staff, and any HOAs registered with the City within the 300 foot notice area.
 18. The approved extension will be void if Condition of Approval #18 from the July 1, 2010 City Council approval is not completed by July 1, 2011. The condition states "A bond shall be collected at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. At such time, the existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released."
 19. No lockout units are permitted within this approval.

20. The conditions of approval of the original July 1, 2010 Conditional Use Permit approval continue to apply.

Order

1. The appeal is denied in whole. The Conditional Use Permit extension is approved with the amended Finding of Fact, Conclusions of Law and Conditions of Approval as stated above. .

Exhibits

Exhibit A – Appeal

Exhibit B – April 18, 2011 Staff Report w/exhibits for Planning Director action.

Exhibit C – Arborist Reports

Exhibit D – July 1, 2010 Ratified City Council Findings

North Silver Lake Lot 2B Appeal

North Silver Lake Subdivision Plat Amendment Flawed

The North Silver Lake plat is in error. The plat amendment process to change the 1997 North Silver Lake plat did not go through a public process.

In Utah I have signed 2 plat maps. One signed in Park City and another in Summit County. The first was for the La Maconnerie plat amendment in Deer Valley. The second is the Old Ranch Rd. realignment plat amendment.

We wanted to add a laundry room on to our Deer Valley condo. The addition changed the open space calculation for the entire subdivision. The Legal Department (Mark Harrington) required us to get signatures from every La Maconnerie unit to sign the plat for our addition. We Fed Ex'ed the plat map around the country to obtain the signatures for the plat amendment. We were told it was necessary to have signatures from all owners to protect the City from a lawsuit. The La Maconnerie plat amendment was in 1996. Mark Harrington was Legal Council for the City for our laundry room addition.

The second plat map signature was for the Old Ranch Rd. realignment. I was a Trustee on a 1st Trust Deed for a lot on Old Ranch Rd. As Trustee, I was asked to sign the plat amendment for the right of way change of Old Ranch Rd. I was not an owner but a Trustee on a loan document.

I have wondered why homeowners were not notified of the North Silver Lake plat amendment. Why were property owners not asked to sign the plat map?

An open space map was shown to City Council in the 1st North Silver Lake Lodge Appeal Hearing on October 15th, 2009. Most in the room seemed surprised that Deer Valley ski trails were used as open space on the development site. City Council requested that Legal (Mark Harrington) verify the use of the Silver Dollar ski trail as open space for NSL Lot 2B. City Councilmen Jim Heir had been a Planning Commissioner during the first NSL Lot 2B Harrison Horn approval. Jim Heir repeated multiple times, "Trust and verify" the use of the ski trails as open space for the project. The following Appeal hearing, Mark Harrington told City Council and the public that the use of the ski trails (Silver Dollar and Belleterre) was acceptable.

I have read the minutes for the City Council Appeal on October 15 and November 12th, 2009. I can't find City Council's question regarding the use of ski runs as open space for NSL Lot 2B. I can't find legal's (Mark Harrington's) answer about open space in the minutes.

MAY 09 2011

1 of 18

When I couldn't find the verification of the ski trails as open space in the minutes, I made a GRAMA request. A GRAMA was made for the facts used to verify the ski trails as open space for NSL Lot 2B in the Appeal process. Legal would not provide the information.

Next I made a GRAMA request for the Harrison Horn approval. In the file there was a plat map showing the ski runs as a separate open space. Bob Wells wrote a letter in 1996 stating that the Belleterre and Silver Dollar ski trails had been a separate open space. When the ski trails where a separate open space they where not included as part of the total North Silver Lake subdivision. At some point the Silver Dollar and Belletare ski trails were added to the total acreage for the subdivision.

The North Silver Lake plat map is flawed. The Plat Amendment did not follow State and Local code. The public was not notified of hearings and meetings, nor where signatures requested for the following plat changes within the North Silver Lake subdivision.

The City approved a transfer of open space from Deer Valley private property, Lot 2D, to a hotel condo site. The approval did not take into consideration the compatibility of the project within a built out single-family residential neighborhood.

1. There is an addition of 2.28 acres to the total North Silver Lake acreage for the subdivision. When we purchased our Evergreen lot in 1994, the total acreage within the North Silver Lake Subdivision was 105.94. Today the total acreage within the subdivision is 108.22 acres. We were not notified or requested to sign the plat amendment for the increase in the total subdivision acreage by 2.28 acres.
2. At the time we purchased our lot in 1994, the Silver Dollar and Belleterre trails where not a part of the North Silver Lake allocation. The Silver Dollar and Belleterre trials where added to the plat without notification and a signatures of affected parties on the plat. The addition of the Belleterre and Silver Dollar ski trails changed the open space calculation for two projects within the subdivision, Belmont and North Silver Lake Lot 2B. We were not notified or asked to sign the 1997 plat map that added ski trails to the North Silver Lake subdivision as open space for Belmont (Lot 2A) and the North Silver Lake Lodge parcel, Lot 2B.
3. We were never notified of the Lot line change on the plat that combined the existing Belleterre and Silver Dollar ski trails with private property owned by Deer Valley Resort below the Silver Dollar trail. Today this combined acreage is called Lot 2D. There were no signatures requested on the plat to change the lot lines and combine the ski trials with some of Deer Valley Resorts private property to create Lot 2D, a 4.03 acre parcel.

~~8~~ 2 of 18

MAY 09 2011

4. A height exception was made on the 1997 plat for North Silver Lake Lot 2B. The developer of Lot 2B may measure height from the curb instead of contours on the topo. This allows for increased height on Lot 2B. We were not notified or requested to sign the plat amendment exception that increased the height for one parcel within the North Silver Lake subdivision.

5. There is a right of way change. When we purchased in 1994, the Belleterre and Silver Dollar ski trails where a "separate open space". We were never notified that there was a change in the right of way that combined the ski trail right away to create one parcel on lot 2D.

I began to wonder why Mark Harrington required signatures from every condo owner for our 1996 laundry room addition, and not the 1997 North Silver Lake Plat amendment?

In the Appeal hearing on October 15th, 2009, I showed an open space for the North Silver Lake Lodge. Most appeared surprised that Deer Valley ski runs where used as open space for the North Silver Lake Lodge. Bob Wells said no one came to the Planning meeting when the open space was approved. After the use of Deer Valley ski runs was questioned as open space at the Appeal, Bob Wells never attended another Planning or Appeal hearing regarding NSL Lot 2B. Strange. He had never missed a one before. He was there for the Ritz proposal, and all North Silver Lake Lodge meetings.

Next I wondered why did I have to sign the Old Ranch Rd. plat map realignment? It was a change or right or way.

Why did Candy Erickson recues herself in the Appeal process? Her husband works for Deer Valley.

Bruce Erickson spoke in favor of the project during a Planning process. I was seated right behind him when he spoke. Bruce Erickson reeked of alcohol. I was right behind Bruce and could smell it. I mentioned it to my husband, "Did you smell that?" I saw Jim Heir at church. "Jim, is Bruce an alcoholic. Why does he reek of alcohol at a Planning meeting on a weeknight at 7:00 o'clock."

Michael O'Hara, previous Planning Commissioner, spoke in favor of the project at the Appeal hearing?

I did a GRAMA request and for the transfer of open space. The date of the Planning meeting that transfers the open space is different than the plat map. I go to Dolly's and show this to Liza. She says, "ask Mark Harrington about it". I read it. There is no input from the public to transfer open space from the ski run to Bellemont or NSL Lot 2B. Bruce Erickson and Michael O'Hara are on the Planning Commission when

MAY 09 2011

3 of 18

the meeting takes place. There was no input from the public because no one got a notice regarding the open space used for development. The open space was approved as a consent agenda item at the next planning meeting.

Background Information

The Silver Dollar and Belleterre ski trails are a right of way. The State code has specific requirements for a change of right of way. There are specific requirements in the State and Local code that were violated. The existing ski trails, Belleterre and Silver Dollar, were added to the total acreage within North Silver Lake and combined with another private parcel without a the proper public process (notification, hearing, meeting and signatures)

According to the Deer Valley ski map, the Silver Dollar ski trail is a green or beginner run to access the base of the mountain. Silver Dollar is a trail used by the public and Deer Valley property owners. Silver Dollar is a beginner ski run down Bald Mountain after getting off of the Carpenter or Homestake chair lifts. Skiers can take Success to Last Chance. If Last Chance is too steep, the green Silver Dollar run is an option.

The Silver Dollar and Belleterre are bike trails used in the summer by the public. Property owners purchased real estate within the Deer Valley Master plan based upon the ski run and bike trail amenities.

The Silver Dollar and Belleterre trails are private property owned by the developer of North Silver Lake, Deer Valley Resort. The right of way amenity was used to sell real estate for a premium within North Silver Lake. Investors purchased private property when the Silver Dollar and Belleterre trails where a "separate open space". Investors purchased property based on the ski-in ski-out right of way and bike trail.

The Silver Dollar and Belleterre trails are indicated as a "separate open space" in the Bob Wells letter dated November 16, 1996. Prior to the 1997 plat amendment, the Deer Valley Master Plan did not include the ski trails as part of the North Silver Lake subdivision's total acreage. The Bob Wells letter does not include Silver Dollar and Belleterre trails in the parcel acreage on page 3 of the letter. Bob Wells defines Belleterre and Silver Dollar a "separate open space" on page 3.

The Data map included with the letter does not have the ski trails as part North Silver Lake total acreage. The data in the Bob Wells letter is consistent with the acreage on the Data Map. The Bob Wells 1996 letter is consistent with the Deer Valley Master Plan in affect at the time.

Deer Valley Resort is the developer of North Silver Lake. One of the last parcels Deer Valley sold in the subdivision is Lot 2B.

MAY 09 2011

4 of 18

Lot D was subdivided to create Lot 2B and Lot 2D. When Lot D was subdivided, the Silver Dollar and Belleterre ski trails were added to the total acreage of the North Silver Lake subdivision. The ski trails were then added to the subdivided portion of Lot D to create Lot 2D. The subdivision increased by 2.28 acres at this time. Lot 2B became a development parcel.

Property owners within the subdivision were never notified the additional acreage would be used as open space for 2 parcels that the developer was selling, Lot 2A (Bellemont) and Lot 2B. Deer Valley Resort maintains private ownership of Lot 2D, the open space parcel that includes the ski runs. Deer Valley ski runs were added to the total acreage in the subdivision unbeknownst to affected property owners. The added ski run acreage is being used by the developer of the North Silver Lake Lodge, Lot 2B, today.

The Silver Dollar trail serves a commercial purpose as a ski run. The Silver Dollar and Belleterre trails also serve as open space parcel for adjacent developers. Using the ski run for a dual purpose generates more money for Deer Valley, the City and the developer.

The Resort uses the Lot 2D for commercial purposes: ski lift tickets, ski lessons, more people in Deer Valley's restaurants etc. The Resort uses the ski runs for a second purpose, open space to increase the size of development on the Resort. More homes on the mountain increase ticket sales and revenue. Also, Deer Valley is able to sell real estate at a higher cost because the developer gains rights to valuable open space.

Utilizing the ski run as open space allows developers to increase the size and scope of their development. The people in the area, who paid a premium to live on ski runs, have no idea the ski runs are now open space to increase development in their neighborhood.

The property owners within the DV MPD were not notified of the substantive lot line changes that permit the use of ski trails (previously a separate open space) for development purpose. Lot 2D is used for open space to increase the size and scope of slope side development. There was not a proper Planning process to create the dual purpose on Lot 2D, both commercial and open space. Proper notification, hearings and meetings and signatures on the North Silver Lake plat did not take place for the substantive change. Those within the subdivision had no warning.

The addition of the Belleterre and Silver Dollar ski trails is in non-compliance with State and local code. The lot 2D parcel was created incorrectly. When the Silver Dollar and Belleterre trails are removed from Lot 2D, a very different North Silver Lake plat exists for North Silver Lake.

MAY 09 2011

5 of 18

$$A + B = C$$

A equals the Silver Dollar and Belleterre trails

B equals the acreage below the Silver Dollar trail owned by Deer Valley

C is the total acreage on Lot 2D today at 4.03 acres

When A is removed, parcel 2D does not equal 4.03 acres

When A equals zero plus B, the total acreage on Lot 2D does not equal 4.03 acres

$$\text{zero} + B \text{ does not} = 4.03 \text{ acres}$$

When the Belleterre and the Silver Dollar ski runs are not included as part of Lot 2D, Lot 2D is no longer 4.03 acres. When Lot 2D is no longer 4.03 acres, numerous facts in the CUP are flawed.

When the ski trails are removed from Lot 2D, the parcel is no longer 4.03 acres. There is not a valid process to create the 4.03 acres Lot 2D. The open space transfer to NSL Lot 2B is no longer 3.78 acres. There is not a valid public process to create the 3.78 acre open space because Lot 2D is not 4.03 acres. When the 4.03 acres open space parcel is removed because the process violates State and local code, the North Silver Lake Lodge is no longer in compliance. Without lot 2D as open space, the project is approximately 52% open space.

124,799/5.96 acres

124,799/5.96 x 43,560

124,799/259.617.6 = .4807

1-.4807 =.5193

Open space is 52%

1997 Park City Code the State and Local code violated to create Lot 2D: The CUP is in non-compliance with the following:

The 1997 Park City Land Management Code

10-9a-208 Hearing and notice for proposal to vacate, alter, or amend a public street or right-of way

10-9a-206

10-9a-207

MAY 09 2011

6 of 18

10-9a-205
10-9a-608

Background

The current developer, Regent Properties, was able to get and approval an in 2009 from Planning Commission suggesting the developer had a vested right for 432,000 sq. ft. based upon the previous Harrison Horn CUP on Lot 2B. Developer's council suggested it was similar to Treasure Hill vested rights.

Mark Harrington was Park City's legal council in the 2009 North Silver Lake process. Harrington did not question the vested rights argument under the previous Harrison Horn CUP. The North Silver Lake Lodge was approved on July 8th 2009. The CUP was appealed to City Council.

The vested rights claim was questioned in the Appeal process. City Councilmen Jim Heir had been on the Planning Commissioner for the Harrison Horn approval. Jim Heir said he believed at the time he had approved a 195,000 sq. ft project on NSL Lot 2B. He later found out the Harrison Horn project on Lot 2B was approved at 432,000 sq. ft, instead of the 195,000 sq. ft. Jim Heir relayed this account in the November 12th 2009 Appeal hearing.

City Council denied the permit in 2009. Jim Heir made it clear there was not a vested right for 432,000 sq. ft on NSL Lot 2B. The Harrison Horn permit had expired long ago.

Why didn't the Mark Harrington protect the people of Park City during the Planning process? Mark knew the Harrison Horn permit was expired.

At the October 15th, 2009 Appeal hearing, I showed the open space map using the Silver Dollar and Belleterre ski trails as open space for the North Silver Lake Lodge. Jim Heir repeated, "Trust and verify" the use of the ski runs, "trust and verify". City Council directed the legal Dept (Mark Harrington) to verify the use of the ski runs.

At the next meeting Mark Harrington told City Council that the developer had a right to use the ski trails as open space. City Council sent the project back to Panning.

Since that time I have reviewed the minutes of the Appeal hearings. The question asked by City Council to "trust and verify" the use of the ski runs as open space is not in the minutes. Mark Harrington's answer to City Council verifying the use of ski runs, as open space is not part of the Appeal minutes.

An Appeal is a quasi-judicial process. Why during an Appeal when City Council requests Legal to "trust and verify" the use of the ski runs as open space, does the question and answer not appear in the minutes?

MAY 09 2011

I made a GRAMA request for the information used to for verify the use of the ski trails as open space for NSL Lot 2B. Verification was not provided by Legal.

The words "trust and verify" were said numerous times at City Council. When the City Council asks for verification on a legal matter, shouldn't the verification be provided to the public too?

I have attempted to listen to Jim Heir's public warning, "trust and verify" the ski trails as open space.

I made a GRAMA request for the Harrison Horn file. The 1996 Bob Wells letter, the Data map included with the Bob Well letter, and the Deer Valley Master plan raise questions to Legal's verification of facts (the ski trails can be used for Lot 2B open space) presented during a quasi-judicial Appeal process.

Additional Information

A developer's legal firm got the 432,000 sq. ft. Harrison Horn CUP approved that Planning Commissioner and City Councilmen Jim Heir admitted was a mistake. The developers legal firm argued a vested right for the North Silver Lake Lodge under the expired Harrison Horn CUP in the 2009 permit.

Why did Bruce Erickson and Michael O'Hara speak in favor of the project at Planning and City Council? Both where on the Planning Commission when the open space was created from Deer Valley's private property for Lot 2B and Belmont. The public process to create the open space from Deer Valley's private land for NSL Lot 2B, there was no public input. No one from the public showed up at the hearing.

BUILDING PADS

Bob Wells was asked in an email if there ever was a building pad on NSL Lot 2B. Our lot in Evergreen had a building pad when we purchased in 1994. Bob Wells emailed there where no building pads on NSL Lot 2B. I got a copy of the Harrison Horn file. There are building pads on the data map in the file. There is a building pad on Lot 2B and other parcels. Deer Valley had the building pads removed long ago. The building pads where removed so Mark Prothro could develop Belleterre, Belleview, Belmont and Belle Arbor.

When the building pads where removed, North Silver Lake evolved into a single-family residential neighborhood. North Silver Lake is built-out, except NSL Lot 2B. There are 3 multiunit buildings in Belle Arbor that have 3 units in each, a tri-plex. The tri-plexes

MAY 09 2011

are about the size of some homes in the area. There are no large-scale multiunit structures within North Silver Lake.

NSL lot 2B is identified as multifamily. Deer Valley removed vested rights to large scale multifamily when the building pads were removed. Now the subdivision is a residential neighborhood. The large-scale North Silver Lake Lodge multiunit structures are significantly bigger than any building in the subdivision. The only building that comes close in size is the Huntsmen home. Huntsmen's house is small in comparison to the multifamily buildings approved for the North Silver Lake Lodge.

There is no vested right for large-scale multifamily units in North Silver Lake. The building pads were removed. North Silver Lake subdivision is a built-out single-family residential subdivision. According to the definition of compatibility, the multiunit buildings are not compatible with the existing subdivision in height, scale, mass and bulk.

ALL ONE BUILDING

Causeways and bridges both underneath and above ground connect the multi unit structures. According to the LMC, when buildings are attached it creates one building. According to the NSL Lot 2B permit there are 4 multiunit building. The finding of fact in the CUP is flawed.

2B is replaced by 2D in the 2011 Action Letter

The developer of North Silver Lake Lodge requested an extension of the CUP. In 2010 I had asked Katie what the open space would be if Lot 2D was not part of the calculation. She came up with 48.

124,799/5.96 acres

$$124,799/259,617.6 = 48$$

Katie's calculation was wrong. 48 is not a percentage.

$$1 - .4807 = .5193 \text{ or } 52\%$$

The open space calculation is 52% when lot 2D is not calculated as open space. Then I began to wonder if the 70.6% open space is a correct in the CUP. The 70.6% calculation is correct if fact #9 is not included.

$$124,799/ 5.96 + 3.78$$

$$124,799/ (5.96 \times 43,560) + (3.78 \times 43,560)$$

$$124,799/ 259,617.6 + 164,656.8$$

MAY 09 2011

9 of 18

$$124,799/424,274.4 = .2941$$

$$1 - .2941 = .7059 \text{ or } 70.6\%$$

I noticed 70.6% did not include Fact #9. Fact #9 takes ¼ acre from the North Silver Lake Lodge (Lot 2B) for Belmont.

$$124,799 + .25 \text{ acres} / 5.96 + 3.78$$

$$124,799 + 10,890 / 259,617.6 + 164,656.8$$

$$136,689 / 424,274.4 = .3222$$

$$1 - .3222 = .6778 \text{ or } 68\%.$$

I emailed the Planning Department to let them know the open space calculation was flawed. There is an error in the CUP and allow the permit to expire. The open space is 68% per the facts in the CUP.

Next Planning changed Finding of Fact #9 in the Action letter. Lot 2B was replaced with to Lot 2D.

Some would suggest the 2B is a typo. I emailed Katie a year ago, July 2nd, 2010, questioning the use of 2B in Fact #9. Although Mayor Williams signed a permit on July 1st 2010 and another permit on July 2nd, 2010, fact #9 was not corrected.

The mistake is not a typo. Numerous experts have looked over the documents.

According to multiple Staff reports, CUP's, Appeals etc, ¼ acre of open space is removed from Lot 2B for Belmont. Lot 2B in fact #9 has been part of the process since the beginning. Lot 2B was approved as open space for Belmont in the 1st and 2nd CUP process. ¼ acre of Lot 2B is utilized as open space for Belmont in the 3 City Council Appeals.

Parcel 2D when the Belleterre and Silver Dollar ski trails are not included

I had a Civil Engineering Company look at the North Silver Lake Plat map. He recommended a survey. I asked if he could do a calculation from the plat map. He measured with a planimeter to keep the cost down. Lot 2D without the ski runs is approximately 1.90 acres. The Silver Dollar and Belleterre ski trails separately are approximately 2.13 acres. The ski runs appear to be wider than shown on the plat map. (See attached Civil Engineering planimeter map and calculation).

16 of 18

MAY 09 2011

Lot 2D is 4.03 acres is flawed. Lot 2D is a change of right of way and serves a commercial purpose that does not follow the guidelines of open space. There was not a public process to change the ski acreage and create Lot 2D. The ski run is a right of way. There was not a public process to change the ski run right of way. A right of way is defined as, "1.215 **RIGHT-OF-WAY**. A strip of land, dedicated to public Use that is occupied or intended to be occupied by a Street, crosswalk, trail, stairway, ski lift, railroad, road, utilities, or for another special Use. Changing and adding the ski run without notice violates 10-9a-208 - Hearing and notice for proposal to vacate, alter, or amend a public street or right of way. The Silver Dollar ski run serves a commercial purpose for Deer Valley. **2D does not fit the definition of open space in the LMC 15-6-7 "Open space may not be utilized for Streets, roads, driveways, Commercial uses or building requiring a permit." The definition of a Commercial Use is retail business, service establishment, and other enterprises that include commerce and/or trade and the buying and selling of goods and services"**

The record when ¼ acre of open space is used from the North Silver Lake Lodge parcel (Lot 2B) for Bellemont as open space:

1. May 27th, 2009 Planning Commission
2. July 8th, 2009 Planning Commission
3. October 15, 2009 City Council Appeal
4. November 12, 2009 City Council Appeal
5. November 11, 2009 Planning Commission Conditional Use Remand Review
6. January 13, 2010 Planning Commission Conditional Use Remand Review
7. March 10, 2010 Planning Commission
8. April 28th, 2010 Planning Commission
9. June 24th, 2010 City Council Appeal

Numerous experts have reviewed the documents; Planning Staff, City Attorneys, Developers attorneys etc. I sent an email regarding Lot 2B in fact #9 on July 2nd, 2010 to Katie. If 2B was a typo in 2010, 2010 was the time to correct it. No correction was made.

Changing a finding of fact #9 in a 2011 Letter is a legal liability for the City. The fact change has not gone through the public process at Planning Commission.

A developer's Legal council can be clever. A developer's attorneys slipped through an approval for a 432,000 sq. ft. project that was thought to be 195,000 sq. ft. The developer's Council got a project approved arguing vested rights for 432,000 sq. ft.

MAY 09 2011

11 of 18

based on an expired CUP. Now developer's council will argue Lot 2B in fact #9 is a typo.

Deer Valley subdivided Lot D into two parcels in the 1997 plat amendment. Lot D was subdivided into Lot 2B and 2D. This is when the ski trails were added to Lot 2D as open space for 2 parcels, Lot 2A and 2B.

A signed contract is what carries the weight in a Court. The project is 68% open space. Condition of Law #5 in the CUP says the Planning Commission did not err. There are many errors, most notably the open space calculation in fact #10. The project is not 70.6% but 68% open space. By changing Lot 2B to Lot 2D in a letter, the City is gifting ¼ acre of open space to a developer without a public hearing. Transferring ¼ acre of open space without a public process violates State and Local Code.

For the City to allow the permit to expire, it is necessary to demonstrate the conditions have changed since the approval. Lot 2B is replaced with Lot 2D in Fact #9 in the April 28, 2011 Action Letter. This is a change from the 2010 permit.

Arborist Report

The North Silver Lake Lot 2B Arborist report appears to be flawed. In Keith Clapier's report he relied on a previous survey. According to the Arborist report, "A previous tree survey conducted indicates there are 554 trees on the parcel." The Arborist does not reference the date of the previous report.

When was the previous survey conducted? Trees grow. The report appears to be based on old data. There needs to be verification of the accuracy of the Arborist report.

Sweeny

The current developer has requested an extension of the NSL Lot 2B permit. The developer is trying to emulate the Sweeny's. The Sweeny's have maintained their development rights by doing site work on Treasure Hill since the 1980's. The Sweeny's have vested rights from a 1980's permit. The current City Council is saddled with the problem of the old approval. Treasure Hill takes a considerable amount of City Hall's time and money to try to mitigate the problem.

The current developer of NSL Lot 2B is trying to emulate the Sweeny's. The developer is phasing the project and planning to put in a road and one condo. This will maintain their vested right into the future. The developer will do phasing S L O W L Y to keep the permit active.

12 of 18

MAY 09 2011

If the current City Council approves the extension, they are doing the same thing to future City Councils and public as the 1980's Treasure Hill approval has done to Old Town.

TDR's without a public process

Park City has become familiar with TDR's through the recent TDR's approved for Treasure Hill. TDR's occur in Deer Valley all the time. Affected property owners are unaware. Reference the Deer Valley Master Plan. As unit density decreased in the North Silver Lake Subdivision, unit density increased in both the Snow Park and Silver Lake Subdivision. An example of a recent TDR is Mark Protho's, (developer of Belmont, Belleview, Belleterre and Belle Arbor in North Silver Lake) did a TDR for the Christopher homes in Empire Canyon.

The public has seen the TDR process for Treasure Hill. The measures the City will go to protect an old town neighborhood is very different than another residential Park City neighborhood, the North Silver Lake subdivision.

TDRs in Deer Valley do not undergo the same public process as in the case of Treasure Hill. Transfers of Development Rights in Deer Valley are conducted by approving a CUP. Notice to homeowners is only a courtesy. Affected property owners are unaware of the TDR's that increase development in their Deer Valley neighborhoods.

North Silver Lake TDR

According to the Feb 25th, 2009 Planning Commission minutes:

"Commissioner Peek asked if the Lot 2D open space is available to be used by North Silver Lake. Planner Cattan answered no. In looking through the previous Deer Valley Master Plan to see how it had changed over time she found that at one time it was open to the lots for the Belmont, but it has never been allowed towards any other development. Commissioner Strachan asked if the North Silver Lake development would use up all that open space if they were allowed to use it. Planner Cattan stated that as written in the Deer Valley Master Plan, the Belmont is the only lot that has rights to use it towards open space. Commissioner Strachan asked if the Deer Valley MPD controls all the Belle projects that have been identified. Planner Cattan replied that it controls all that have been developed. Commissioner Strachan asked if the Staff could provide the Planning Commission with a copy of the Deer Valley MPD. Since it appears to be the controlling document, he thought it would be helpful to have that information. Planner Cattan offered to provide that document in the next Staff report."

There are no vested rights for a large-scale multiunit project. The large building pad was removed years ago by Deer Valley. The subdivision has evolved into a single-family residential neighborhood. Moving open space to NSL Lot 2B to facilitate large-scale development is in non-compliance with compatibility. Compatibility is:

"Elements affecting Compatibility include, but are not limited to Height, scale, mass and bulk of Building, pedestrian and vehicular circulation, parking, landscaping, and architecture, topography, environmentally sensitive Areas and Building patterns.

MAY 09 2011

13 of 18

The freestanding condos are compatible. The rest of the NSL Lot 2B project is not compatible with the North Silver Lake subdivision. Adding open space for a development that is not compatible is in noncompliance with State and Local code.

The Commercial space is flawed

According to fact #4 there is 5102 square feet of support commercial. There is far more commercial space than identified in the approval. Fact #3 allows for 14,552 sq. ft. of commercial and support. The fact should read 8,000 Retail, 2000 Administrative and Support, 4,525 other for the North Silver Lake subdivision. The total is 14,525 and not 14,552 for the subdivision. The permit is flawed in the Commercial designation.

Sensitive Overlay Zone

NSL Lot 2B is in a Sensitive Overlay zone. The 62,000 sq. ft. underground parking garage is not sensitive to the surrounding forest. The deep garage will block water flow to the forest of the homes below. The blasting necessary for both pool area and parking structure will affect the underground aquifer. The water flow will be adversely impacted for the forest below. The blasting will take place on a slope.

Accessory Use Loophole

Resort Accessory Uses is commercial space in disguise. The City gets more tax money with a condo hotel project. The hotel has more amenities for the guests that generate sales tax. The 2nd homeowners pay more property tax than residents. Deer Valley gets more people on their mountain. Deer Valley has more ticket sales, lessons, and skiers in their restaurants etc. The property becomes larger when ski runs are used as open space.

The property rights of Park City residents, property owners and investors are disregarded.

In the General Plan the people want to maintain their small town way of life. Voters try to choose leaders that will protect the small town way of life.

Land Management Code changes for big developers

The City has changed the code to benefit big developers. A major change is the Residential Accessory Use and Resort Accessory Use. Under today's code there is unlimited accessory space which includes lobbies, registration, concierge, bell stand and luggage storage, employee facilities, (pools, saunas, hot tubs that are not open to the public), telephone areas, public restrooms, administrative offices, hallways and

14 of 18

MAY 09 2011

circulation, elevators, stairways, back house uses, Information, Lost and found, First aid, mountain patrol, Administration, Maintenance and storage facilities, Emergency medical, public lockers, employee restrooms, ski school, day care, instruction facilities, equipment ski check etc. (15-6-8 F & G in the 2010 Code). The code has been modified recently, but the Accessory spaces remain similar.

These are some of the areas that do not count against Commercial Square footage. Some may wonder how the Montage became so big. It is the Accessory Use Loophole. Accessory uses are calculated as common area. Although used by the public, hotel guests, property owners and those who want to rent the facility, Accessory Uses are common area and do not count against commercial space entitlements.

Commercial is defined as the buying and selling of goods and services. Common area is facilities and yards under Common Ownership, identified within the projects, for the Use and enjoyment of the residents.

Some may wonder how the Montage got so big. It is the Accessory Use Loophole in the Land Management Code, 15-6-8 F & G. The City modified the local code. If you want to see the Accessory Uses in the list above, look at the code in 2009 & 2010 local code. The code was changed in December 2010.

The Vista Lounge in the Montage it is huge. It is about the size of a soccer field. The Vista Lounge is a lobby. Lobbies do not count against commercial entitlements. Lobbies are common area in the entitlement calculation. Even though the public may eat, buy a drink or attend fundraisers etc, the Vista Lounge does not count against commercial entitlements.

Park City High School students wanted to have Prom at the Montage. Montage wanted \$40,000 from the students for Prom. If students wanted a dance floor, it would be extra. Also, food would be an additional charge. Students are driving to Salt Lake for Prom. PTA Moms are not happy. Their students will be driving down the canyon. The Montage shunned their kids.

The Montage pool is designed after Hearst Castle. The pool area is an Accessory Use or common area under the current code. Common pools, saunas and hot tubs not open to the public are a Residential Accessory Use. Recently, the Pharaoh club charged \$75 for an Egyptian Theater fundraiser. Ladies only to spent a fun filled evening at the Montage pool. The pool area is not a commercial use.

The North Silver Lake Lodge makes use of the Accessory Use loophole. On the North Silver Lake Lodge plans there a massage rooms. These rooms are part of the common area and do not count toward commercial entitlements. The Montage has 29 large treatment rooms. I would presume these rooms also do not count against commercial entitlements as in the North Silver Lake Lodge CUP.

15 of 18

MAY 09 2011

Treasure Hill Accessory Use Loophole

The Sweeny's would like to get some of the Commercial space entitlements that are deemed Accessory uses like other Deer Valley Hotels, (Montage, St. Regis, Châteaux, Stein Erickson etc). The September 23, 2009 Staff report for Treasure Hill spells out the Sweeny's request. There is a vested right for 616,695 sq. ft. of Treasure Hill space. The Sweeny's are requesting 1,016,887 sq. ft. There is 400,418 sq. ft of additional sq. ft. requested under the Accessory Use section of the Code.

$$440,418/1,016,887 = 39.98\%$$

40% of the proposed Treasure Hill project is not vested under the 1986 entitlements. We read in the Park Record Treasure Hill has a vested right for 1 million sq. ft. This is not accurate. The Sweeny's are vested for 600,000 sq. ft. not 1 million.

The Sweeny's want what other developer's in Deer Valley has been getting in Deer Valley. The City approved a transfer of open space to Bonanza Park. The City is also looking for more areas for TDR's. The City needs to find 400,418 sq. ft. of Accessory space in order to give the same entitlement rights as other Deer Valley projects. If they don't, precedent has been set and Treasure Hill has grounds for a lawsuit.

North Silver Lake Lodge (NSL Lot 2B) wants in

The North Silver Lake Lodge is following the pattern of other large-scale projects. 5102 sq. ft of support commercial is approved. Harrison Horn used all of the commercial space at 14,525 sq. ft. in their permit. The NSL Lot 2B developer is using the Accessory Use loophole for a restaurant, spa, hotel lobby, workout rooms, public restroom, concierge, ski locker, spa lockers and more. These areas are not identified as commercial space in the permit.

The City has modified the Land Management Code to benefit large hotel condo development. The people are unaware of the LMC changes that have changed Park City. In an Appeal process the public will have the opportunity to learn more about why there are so many new big projects. The current developer for NSL Lot 2B does not have a vested right for large-scale development.

Parking

The parking structure under the multi unit buildings for NSL Lot 2B is common area in the CUP. The common area garage is 62,000 sq. ft. The developer got an exception for an underground parking structure. There is a 25% reduction in the number of parking spaces. There was no public process for the exception. There is no variance recorded.

16 of 18

MAY 09 2011

One would think a 25% reduction in spaces would be a benefit. A two-car garage that can fit 2 Suburbans is around 24x24. The total area is 576 sq. ft. for a 2-car garage. 38 two car garages units is approximately 21,888 sq. ft.

$$38 \times 576 = 21,888 \text{ sq. ft.}$$

The North Silver Lake Lodge garage is 62,000 sq. ft for 38 units. With a 25% reduction in parking, the parking garage is 3 times as larger than a 2-car garage would be.

$$21,888 \times 3 = 65,664$$

With the 25% reduction in parking, there will likely be a shortage of parking. Will overflow parking flow on to Silver Lake Dr? There was not approval by property owners in the subdivision for the parking exception. Driving in a parking structure takes up more area and creates less parking.

POTENTIAL ACCESSORY SPACE BENEFITS

Powder Day

Big parking garages have become common in Deer Valley. If one would like to have 1st tracks in Empire Bowl at Deer Valley, head to the Montage. Valet your car at Montage and go to the Empire chair lift. The parking garage is common area and doesn't count toward commercial entitlements.

Deer Valley sold out

If Deer Valley is sold out or the parking is too far away, pull into the St. Regis. St Regis will Valet your car. Take the funicular up to the Hotel. One can buy your lift tickets at the St. Regis Ticket sales. Ticket sales are an Accessory Use and do not count toward commercial entitlements.

Open space. Get your skins and ski

According to the Deer Valley Master Plan, all Deer Valley ski terrain is open space. We have owned property on the mountain since 1993. Nearly every morning during the ski season I put my skins on and hike up Last Chance ski run with my dogs to the top of the Carpenter lift. Once in a while we have a new Deer Valley ski patrolmen. He or she says I can't be on the slope. I tell them, Deer Valley ski slopes are open space. Read the Master Plan. Don't worry, I will be off the slope by 9:00 and I have my poop bag.

I am on the runs most days during the ski season before 9:00 am and after 4:45 pm. I let ski patrol know to ask Chuck English, Bob Wells, or Bob Wheaton for affirmation that the ski runs are open space.

17 of 18

MAY 09 2011

Phasing

For those who live in the neighborhood, the hole is known as the Deer Valley pit. Permitting the developer to use the \$40,000 in escrow intended to fill in the hole for its landscaping obligation under the CUP is a change in circumstances that impacts the surrounding neighborhood. The existence of the excavation is not a compatible use and must be mitigated by restoration of the surface to its natural grade.

Circumstances within the permit have changed. The most obvious is Lot 2B is replaced by Lot 2D in fact #9 in a Planning Department letter. The Lot 2B change to Lot 2D has not undergone a public process. Also, changing the use of the escrow funds for landscaping.

Let the CUP expire, and then the City Council can sort things out.

If anything is not clear, please let me know. I would be happy to explain. I have included a great deal of supporting documentation to help sort things out.

Respectfully

Lisa Wilson

P. O. Box 1718
Park City, UT 84060

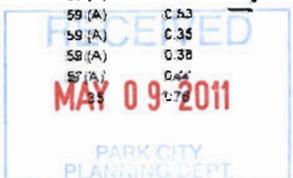
18 of 18

MAY 09 2011

Snow Park + Silver Lake
 44 + 16.5 = 60.5

DEER VALLEY RESORT
 NINTH AMENDED AND RESTATED
 LARGE SCALE MASTER PLANNED DEVELOPMENT PERMIT
 EXHIBIT 1
 DEVELOPMENT PARCELS
 28-Jun-06

PARCEL NAME	PERMITTED DENSITY (UNITS)	DEVELOPED DENSITY (UNITS)	NOTES	HEIGHT (FEET)	PARCEL SIZE (ACRES)	change in density
DEER VALLEY COMMUNITY / Snow Park						
Stonebridge & Boulder Creek Multi-Family	50	54	1	28	10.23	
Aspenwood Multi-Family	30	30		28	9.21	
Pine Inn & Trails End Multi-Family	40	45	1	35	8.52	
In The Trees (South Multi-Family) Multi-Family	14	14		28-45	2.87	
Black Diamond Lodge (Snow Park Lodge Multi-Family)	29	27		28-75	5.70	
Courcheval Multi-Family	13.5	27	1	35	1.82	
Daystar Multi-Family	24	24		28	9.84	
Fawngrove Multi-Family	50	50		28	12.05	
Chateau Fawngrove Multi-Family	10.5	11	2	28	incl	
Bristlecone Multi-Family	20	20		28	incl	
Lakeside Multi-Family	60	60		28	5.49	
Solamere Single Family (includes Oaks, Royal Oaks & Hidden Oaks)	274	274		28	237.81	
Pinnacle Multi-Family	86	88		28	38.80	
Comstock Lodge (East Bench Multi-Family)	10.5	21	1	35	3.50	
Red Stag Lodge	8.5	11	1	35	incl	
Powder Run Multi-Family	25	33	1	35	3.20	
Wildflower (Deer Valley North Lot 1 Multi-Family)	11	14	1	28	1.04	
Glenfiddich (Deer Valley North Lot 2 Multi-Family)	12	12		28	1.45	
Chaparral (Deer Valley North Lot 3 Multi-Family)	15	20	1	28	1.44	
Lodges @ Deer Valley (Northeast Multi-Family) (includes Silver Baron Lodge)	115	109	3	28-35	12.65	
Snow Park Village (Snow Park Hotel & Parking Sites)	210.75	0	4	28-45	14.83	
Total Deer Valley Community	1108.75					increase 44
AMERICAN FLAG COMMUNITY						
American Flag Single Family	93	93		28	83.04	
LaMacconnere Multi-Family	15	15		28	5.19	
Total American Flag Community	108					
NORTH SILVER LAKE COMMUNITY						
Westview Single Family	18	1		28	40.85	
Evergreen Single Family	38	31		28	27.60	
NSL Homesite Parcel #1	1			35	1.95	
Belleluna Single Family	10	10		28	11.42	
Bellevue Townhomes (NSL Subdivision Lot 1)	24	14	10	28	4.62	
Belmont Townhomes (NSL Subdivision Lots 2A and 2A-1)	18	12	10	28	3.75	
NSL Subdivision Lot 2B	54	0		45	5.95	
BelleArbor Townhomes (NSL Subdivision Lot 2C)	43	21	10	28-35	8.25	
NSL Subdivision Lot 2D Open Space Lot	0	0	5	0	4.05	
Total North Silver Lake Community	201					decrease 57
SILVER LAKE COMMUNITY						
Stag Lodge Multi-Family	50	52	6	28-35	7.34	
Cache Multi-Family	12	12		28	1.77	
Sterlingwood Multi-Family	18	18		28-35	2.48	
Deer Valley Club	20	30	1	28-45	1.53	
Double Eagle (SL East Parcel 2 Multi-Family)	16	18		28-35	2.26	
Stein Enksen Lodge Multi-Family	66.75	65	11	28-35	10.86	
Little Belle Multi-Family	20	20		28	3.88	
Chateau At Silver Lake Lot 23 Deer Valley Club Estates Subdivision)	65	78	1	28-45	3.24	
Sterling Lodge (Lot 2 Silver Lake East Subdivision)	14	14		28-45	0.61	
Royal Plaza Multi-Family (Silver Lake Village Lot A)	7	13	1	59 (A)	0.48	
Mt. Cervin Plaza Multi-Family (Silver Lake Village Lot B)	7.5	7		59 (A)	0.54	
Inn at Silver Lake (Silver Lake Village Lot C)	10	8		59 (A)	0.50	
Goldener Hirsch Inn (Silver Lake Village Lot D)	6	20	1	59 (A)	0.35	
Mt. Cervin Multi-Family (Silver Lake Village Lot E)	16	15		59 (A)	0.53	
Silver Lake Village Lot F	11	0		59 (A)	0.35	
Silver Lake Village Lot G	11	0		59 (A)	0.38	
Silver Lake Village Lot H	12	0		59 (A)	0.44	
Silver Lake Village Lot I	4	4		59 (A)	0.78	



The Sixth DV MPD (October 10, 1990) had the following allocations for North Silver Lake:

Parcel Name	Approved Density	Height	Parcel Size
Westview	15	28	40.69
Evergreen Single Family	36	28	27.6
NSL Homesite Parcel #1	1	35	1.90
Belletere Single Family	10	28	11.42
NSL Multi-Family Parcel B	16	28	1.84
NSL Multi-Family Parcel C	32	28	5.21
★ NSL Multi-Family Parcel D	70	45	8.35
NSL Multi-Family Parcel E	24	35	4.74
NSL Multi-Family Parcel F	32	28	6.59
Subtotal	236		108.34

The Seventh DV MPD (April 14, 1993) had the following allocations for North Silver Lake:

Parcel Name	Approved Density	Height	Parcel Size
Westview	15	28	40.69
Evergreen Single Family	36	28	27.6
NSL Homesite Parcel #1	1	35	1.90
Belletere Single Family	10	28	11.42
NSL Multi-Family Parcel B	24 (increase 6)	28	4.62 (increase 2.78)
NSL Multi-Family Parcel C	18 (decrease 14)	28	3.63 (decrease 1.58)
★ NSL Multi-Family Parcel D	54 (decrease 16)	45	8.05 (decrease .30)
NSL Multi-Family Parcel E	19 (decrease 5)	35	3.36 (decrease 1.38)
NSL Multi-Family Parcel F	24 (decrease 8)	28	4.67 (decrease 1.92)
Subtotal	201 (decrease 35)		105.94 (decrease 2.4)

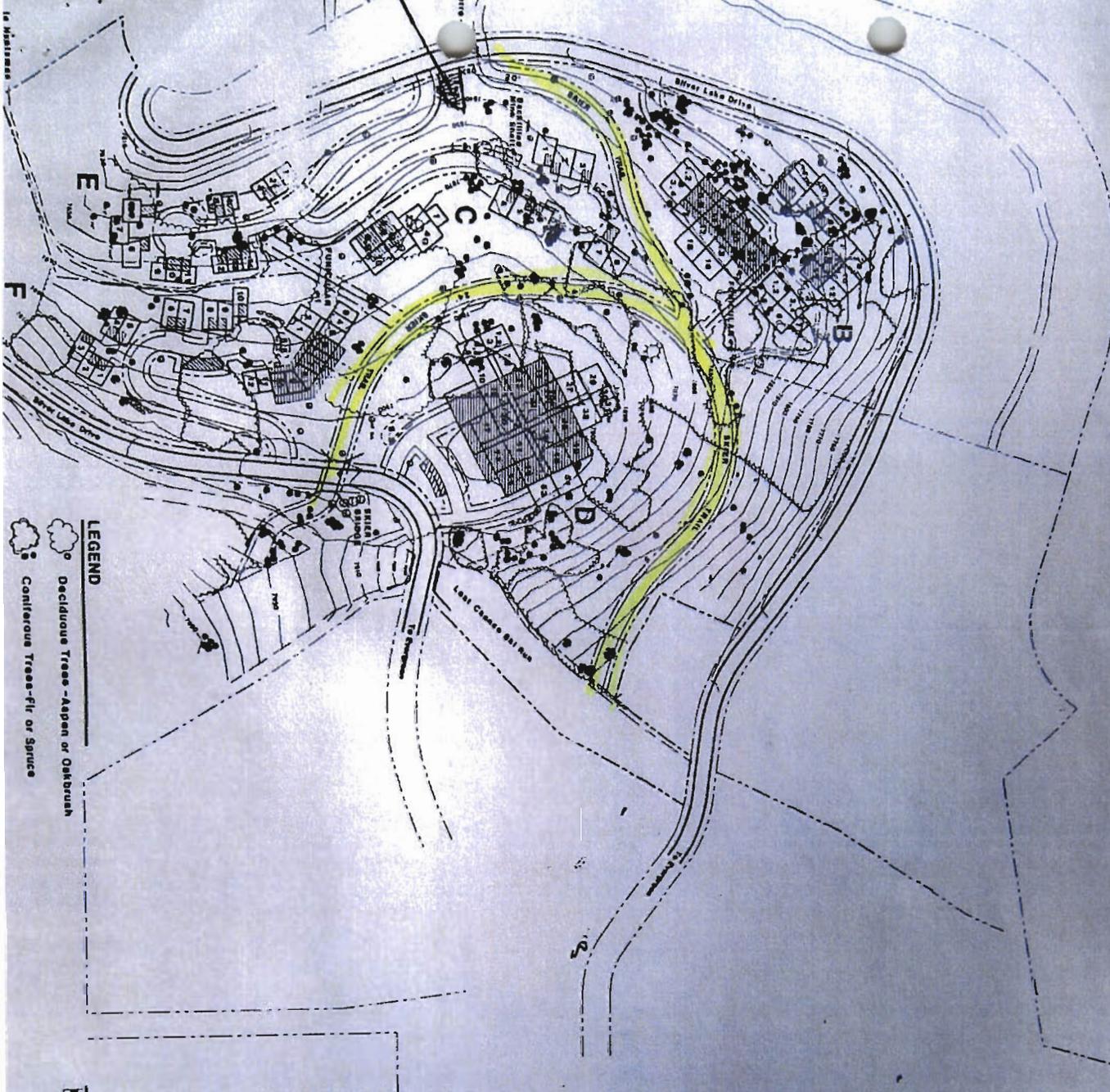
$$108.34 - 105.94 = 2.4 \text{ acre decrease}$$

The Eighth DV MPD (April 25, 2001) had the following allocations for North Silver Lake:

Parcel Name	Approved Density	Developed Density	Height	Parcel Size
Westview	15	1	28	40.69
Evergreen Single Family	36	36	28	27.6
NSL Homesite Parcel #1	1	1	35	1.90
Belletere Single Family	10	10	28	11.42
Bellevue Townhomes (NSL Subdivision Lot 1 – previously Parcel B)	24	14	28	4.62
Bellemont Townhomes (NSL Subdivision Lots 2A and 2A-1 previously NSL Multi-Family Parcel C)	18	12	28	3.75 (increase 0.12)
NSL Subdivision Lot 2B (previously NSL Multi-Family Parcel D)	54	0	45	5.96 (decrease 2.09)
BelleArbor Townhomes (NSL Subdivision Lot 2C previously NSL Multi-Family Parcel E and F)	43	21	28-35	8.25 (increase 0.22)
NSL Subdivision Lot 2D Open Space Lot	0	0	0	4.03
Subtotal	201			108.22

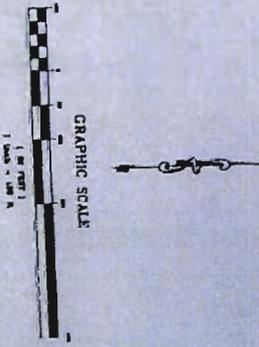
Lot 2 has a footnote that states "this parcel has been platted as open space with the open space applying to the open space requirement of Lot 2B."

$$108.22 - 105.94 = 2.28 \text{ increase}$$



LEGEND

- Deciduous Trees - Aspen or Oakbrush
- Coniferous Trees - Fir or Spruce



All units shown are contained on a 2,250 S.F. per unit basis. Note that may require utilization of the limit of construction.

DEVELOPMENT DATA

ACRES	UNITS	COVERAGE	HEIGHT
A PARCEL SOLD SINCE PREVIOUS MPD APPROVAL			
B	4.02 AC.	41	31.1% 28'
C	3.63 AC.	18	31.9% 28'
D	8.05 AC.	53	19.4% 45'
E	3.36 AC.	14	21.1% 35'
F	4.67 AC.	22	20.3% 28'
TOTAL (B-F) 146			

NORTH SILVER LAKE LODGE 330,000 square feet

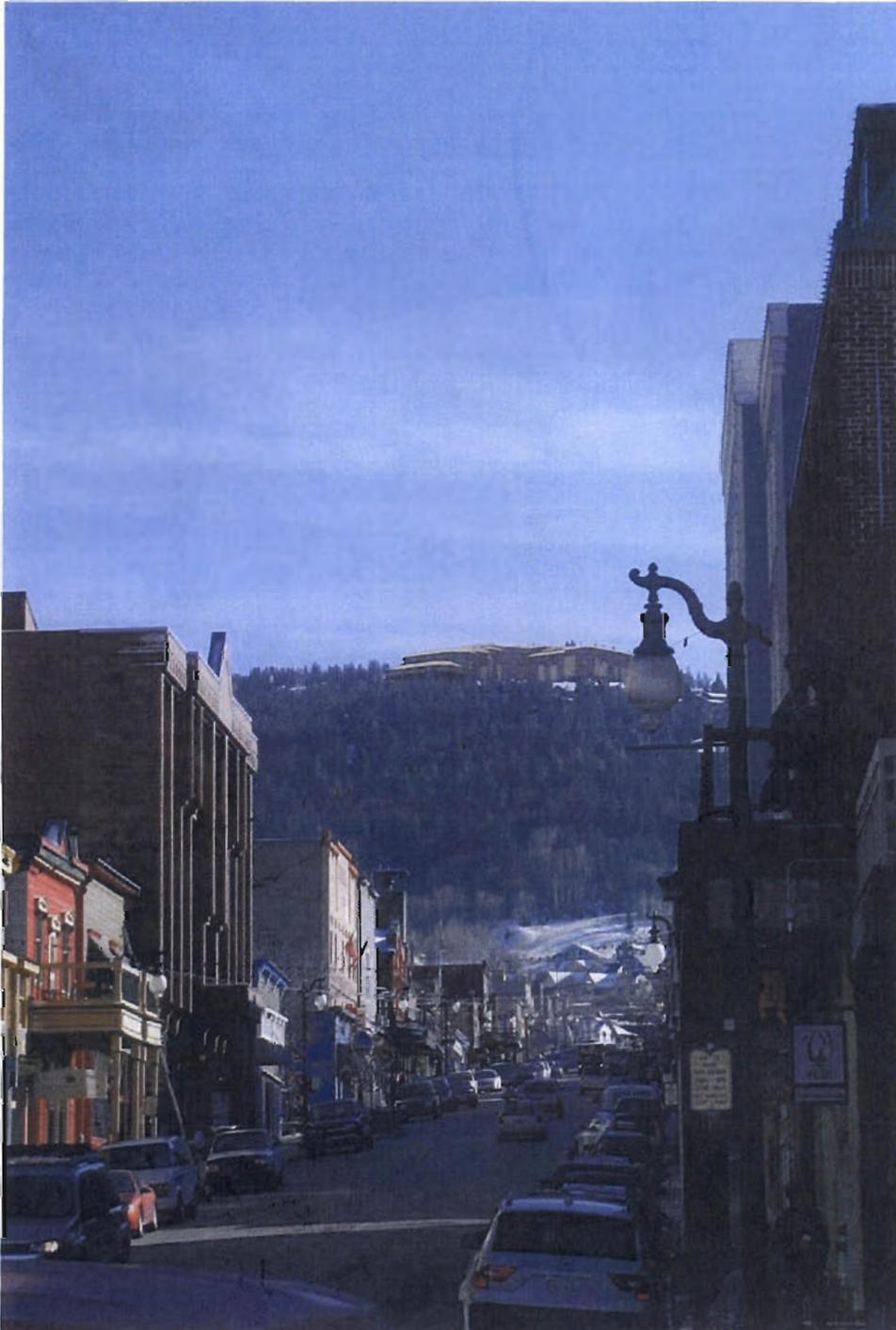
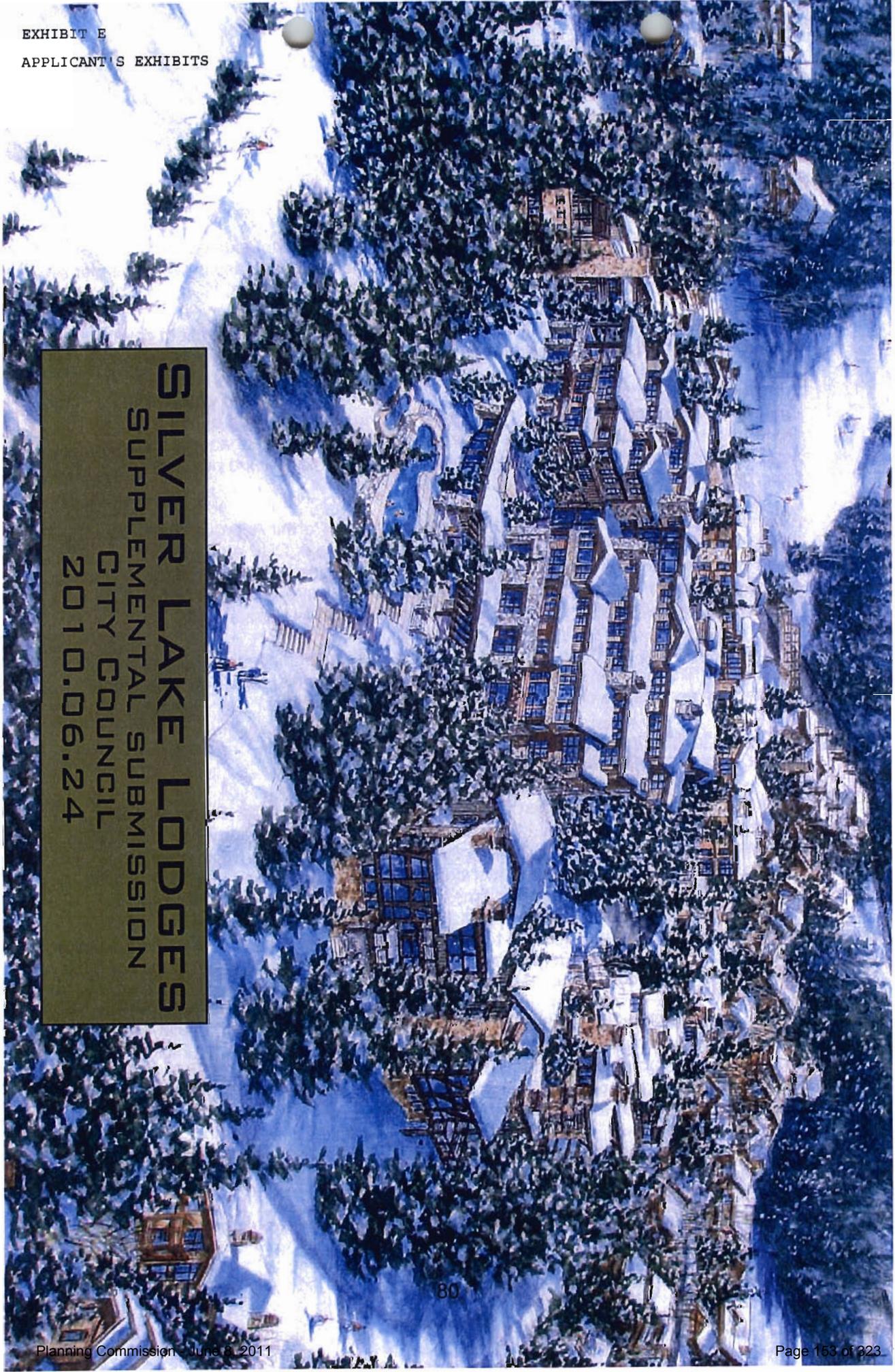
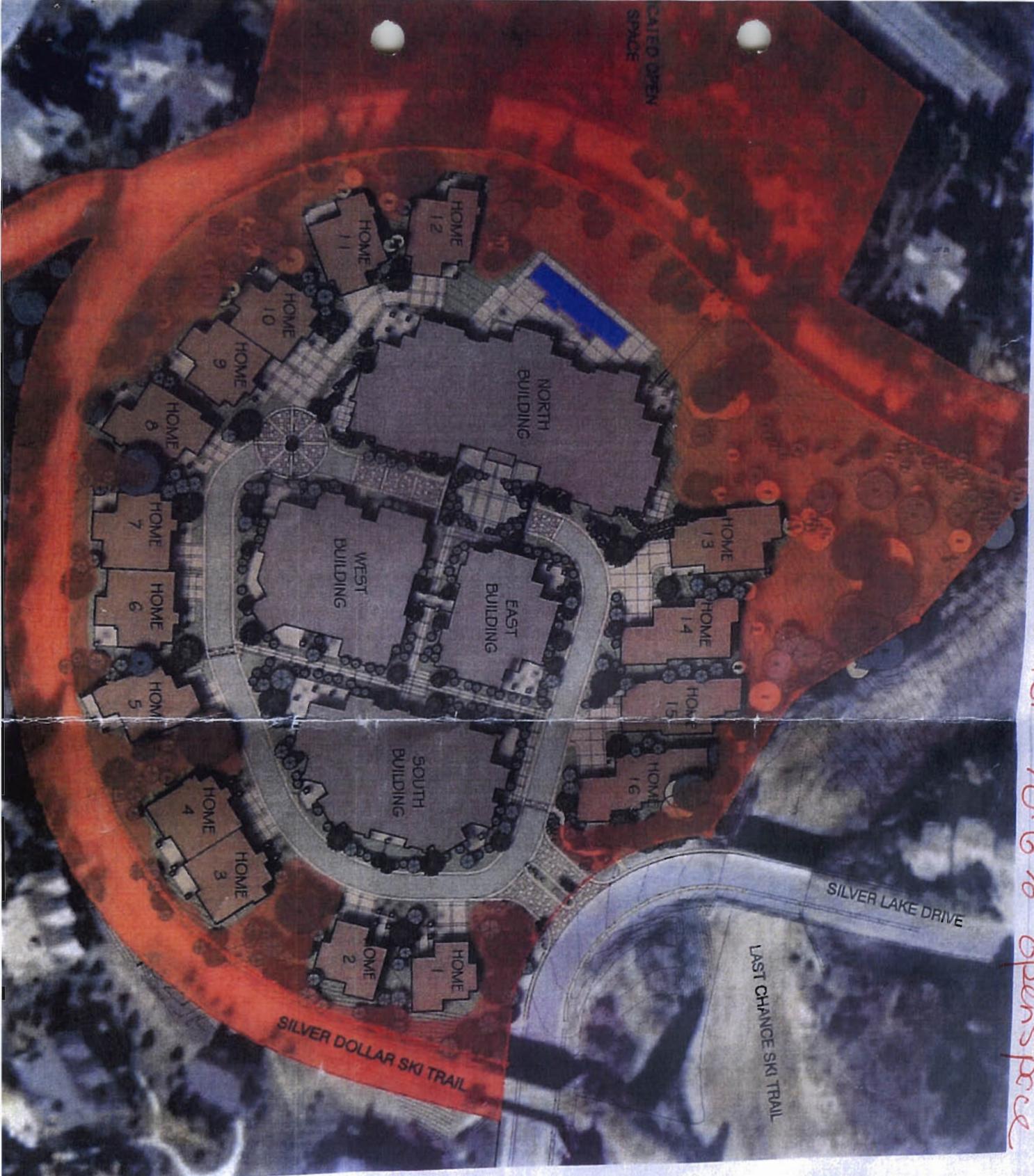


Photo of Ritz in same location a few years back. The current developer has not provided a photo to the public.

SILVER LAKE LODGES
SUPPLEMENTAL SUBMISSION
CITY COUNCIL
2010.06.24



This is 1st CVP. 2nd Permit is for 70.6% openspace



73.9% Open Space

Majority of Open Sp perimeter of the si neighboring commun

A large dedicated op the natural setting a Deer Valley.

The homes are pul "Last Chance" ski natural setting expe

The Bells

of the of

can't get

No Tree

fourers

depend th

Prst th

From: "Katie Cattan" <kcattan@parkcity.org>
Subject: **RE: Compatible with existing area?**
Date: June 9, 2009 1:01:25 PM MDT
To: "Lisa Wilson" <lisa@winco.us>
▶ 1 Attachment, 49.0 KB

Hi Lisa,

This is the definition in the code for Compatibility:

1.55. COMPATIBLE OR COMPATIBILITY. Characteristics of different Uses or designs that integrate with and relate to one another to maintain and/or enhance the context of a surrounding Area or neighborhood. Elements affecting Compatibility include, but are not limited to, Height, scale, mass and bulk of Building, pedestrian and vehicular circulation, parking, landscaping and architecture, topography, environmentally sensitive Areas, and Building patterns.

Katie Cattan
Planner
Park City Municipal Corporation
Phone (435) 615-5068
Fax (435) 615-4906

From: Lisa Wilson [mailto:lisa@winco.us]
Sent: Tuesday, June 09, 2009 12:41 PM
To: Katie Cattan
Subject: Compatible with existing area?

Katie,

Thanks for letting me know. Just wondering if you could send the City definition of "compatible with existing area"?

Thanks,
Lisa

On Jun 9, 2009, at 7:53 AM, Katie Cattan wrote:

2010 NSL Lot 2B Permit

the opinion. The City Council and Planning Commission approved Lot 2B, not Lot 2D, as open space for Belmont? The recent Action Letter changed Lot 2B to a different parcel, Lot 2D in Fact #9? Was there any notification of the change made to Finding of Fact #9? (See Fact #9 in 2010 City Council Approval below and Action Letter)

Lisa

room or lodge room shall constitute one-half a dwelling unit. The Deer Valley MPD does not limit the size of units constructed provided that following construction the parcel proposed to be developed contains a minimum of 60% open space and otherwise complies with MPD and all applicable zoning regulations.

8. Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating "This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B." Lot 2D is 4.03 acres in size.
9. Within the original North Silver Lake Subdivision, the Belmont subdivision was allowed to also utilize Lot 2B towards the 60% open space requirement. The Belmont Subdivision utilized $\frac{1}{4}$ acre of the Lot 2B parcel to comply with the open space requirement.
10. The current application site plan contains 70.6% of open space on the site including the remainder 3.78 acres of open space on Lot 2D.
11. The property is located in the Residential Development zoning district (RD) and complies with the Residential Development ordinance.
12. The property is within the Sensitive Lands Overlay Zone and complies with the Sensitive Lands Ordinance.
13. The height limit for Lot 2B was established at 45 feet within the Deer Valley Master Plan. The development complies with the established height limit, with the allowance of five feet for a pitched roof.
14. The onsite parking requirements for the four stacked flat condominiums have decreased 25% in compliance with section 15-3-7 of the Land Management Code. The Planning Commission supports a 25% reduction in the parking for the stacked flats within the development.
15. The Planning Commission held public hearings on August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009.
16. The Planning Commission approved the CUP on July 8, 2009.
17. An appeal of the CUP approval was received July 17, 2009 within ten days per LMC 15-1-18.
18. The City Council reviewed the appeal of North Silver Lake lot 2B on October 15, 2009 and on November 12, 2009.
19. On November 12, 2009, the City Council remanded the Conditional Use Permit back to the Planning Commission with three specific items to be addressed within the order.
20. The Planning Commission reviewed the North Silver Lake Conditional Use Permit remand on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April

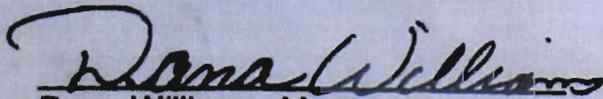
21. The Conditional Use Permit was appealed by two separate parties within ten days of the Planning Commission approval.

22. The design for Building 3 decreased the overall square footage of the Building 3 twenty-five percent (25 %), reoriented the building on the site, and divided the site into two interconnected buildings of smaller scale and footprint building.

approved with the amended Findings of Fact and Conditions of Approval as stated above.

2. Appeal #2 from Lisa Wilson is denied in whole. The CUP is approved with the amended Findings of Fact and Conditions of Approval as stated above.

Dated this 4th day of July, 2010.


Dana Williams, Mayor

development.

ate open space" prior to
r Valley Master Plan. The
it Data acreage on the map is
ccolo, "the ski runs where
.d".

DEVELOPMENT DATA			
AREA	ACRES	UNITS	COVERAGE
A	0.28	40	14.29
B	0.28	40	14.29
C	0.28	40	14.29
D	0.28	40	14.29
E	0.28	40	14.29
F	0.28	40	14.29
TOTAL (6) 1.68			



Building • Engineering • Planning

April 28, 2011

SR Silver Lake, LLC
11990 San Vicente Blvd., Suite 200
Los Angeles, California 90049

NOTICE OF PLANNING DIRECTOR ACTION (Revised 4/28/2011 COA #10)

<u>Application #</u>	PL-11-01210
<u>Subject</u>	North Silver Lake Lot 2B
<u>Description</u>	Extension of Conditional Use Permit Approval
<u>Action Taken</u>	Approved
<u>Date of Action</u>	April 28, 2011

On April 28, 2011, the Planning Director of the Park City Planning Department made an official determination of Approval of a one year extension of the approved conditional use permit application based on the following:

Findings of Fact

1. The subject property is at 7101 North Silver Lake Drive. This property is also known as Lot 2B of the North Silver Lake Subdivision.
2. The proposed development is located within the Deer Valley Master Plan Development.
3. Within the Deer Valley Master Plan, the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,525 square feet of commercial and support space.
4. The applicant has applied for a conditional use permit for the development of 54 units located on Lot 2B of the North Silver Lake Subdivision. The applicant has included 5102 square feet of support commercial space within this application. The project consists of 16 detached condominium homes and four condominium buildings containing 38 condominium units. The remaining commercial units are not transferable.
5. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area.
6. The Deer Valley Master Planned Development (MPD) requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC chapter 15-1-10.
7. The Deer Valley MPD determines densities on parcels as an apartment unit containing one bedroom or more shall constitute a dwelling unit and a hotel room or

Park City Municipal Corporation • 445 Marsac Avenue • P.O. Box 1480 • Park City, Utah 84060-1480
Building (435) 615-5100 • Engineering (435) 615-5055 • Planning (435) 615-5060
FAX (435) 615-4906

lodge room shall constitute one-half a dwelling unit. The Deer Valley MPD does not limit the size of units constructed provided that following construction the parcel proposed to be developed contains a minimum of 60% open space and otherwise complies with MPD and all applicable zoning regulations.

8. Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating "This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B." Lot 2D is 4.03 acres in size.
9. Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2D towards the 60% open space requirement. The Bellemont Subdivision utilized ¼ acre of the Lot 2D parcel to comply with the open space requirement.
10. The current application site plan contains 70.6% of open space on the site including the remainder 3.78 acres of open space on Lot 2D.
11. The property is located in the Residential Development zoning district (RD) and complies with the Residential Development ordinance.
12. The property is within the Sensitive Lands Overlay Zone and complies with the Sensitive Lands Ordinance.
13. The height limit for Lot 2B was established at 45 feet within the Deer Valley Master Plan. The development complies with the established height limit, with the allowance of five feet for a pitched roof.
14. The onsite parking requirements for the four stacked flat condominiums have decreased 25% in compliance with section 15-3-7 of the Land Management Code. The Planning Commission supports a 25% reduction in the parking for the stacked flats within the development.
15. The Planning Commission held public hearings on August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009.
16. The Planning Commission approved the CUP on July 8, 2009.
17. An appeal of the CUP approval was received July 17, 2009 within ten days per LMC 15-1-18.
18. The City Council reviewed the appeal of North Silver Lake lot 2B on October 15, 2009 and on November 12, 2009.
19. On November 12, 2009, the City Council remanded the Conditional Use Permit back to the Planning Commission with three specific items to be addressed within the order.
20. The Planning Commission reviewed the North Silver Lake Conditional Use Permit remand on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April 28, 2010. The Planning Commission approved the revised Conditional Use Permit on April 28, 2010.
21. The Conditional Use Permit was appealed by two separate parties within ten days of the Planning Commission approval.
22. The design for Building 3 decreased the overall square footage of the Building 3 twenty-five percent (25 %), reoriented the building on the site, and divided the original single building into two interconnected buildings of smaller scale and size than the original single building.

From: Lisa Wilson <lisawilson@me.com>
Subject: **2D acreage**
Date: July 2, 2010 2:38:34 PM MDT
To: Katie Cattan <kcattan@parkcity.org>



Can you put the acreage of Lot 2D in #9?

On Jul 2, 2010, at 2:01 PM, Katie Cattan wrote:

That should have been Lot 2D. I will get direction on how to fix this error. Good catch. Thank you!

Katie Cattan
Senior Planner
Park City Municipal Corp.
435-615-5068

From: Lisa Wilson [<mailto:lisawilson@me.com>]
Sent: Friday, July 02, 2010 1:56 PM
To: Katie Cattan
Cc: Eric Lee; Tom Boone; Brad Wilson
Subject: Re: Ratification of NSL CUP appeals

Katie,

Can you define what Lot 2B is in number 9?

5. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area.

9. Within the original North Silver Lake Subdivision, the Bellemont Subdivision was allowed to utilize Lot 2B

Thanks,
Lisa

On Jul 2, 2010, at 1:15 PM, Katie Cattan wrote:

Attached is the ratified findings of fact, conclusions of law, and conditions of approval for the appeals of North Silver Lake Lot 2B.

Katie Cattan
Senior Planner
Park City Municipal Corp.
435-615-5068

<NSL CUP Ratification - Signed 07.01.10.pdf>

From: Lisa Wilson <lisawilson@me.com>

Subject: **You have seen**

Date: May 3, 2011 1:53:38 PM MDT

To: Cindy Matsumoto <cindy.matsumoto@parkcity.org>, Liza Simpson <liza@parkcity.org>, Joe Kernan <jkernan@parkcity.org>, Alex Butwinski <alex.butwinski@parkcity.org>



City Council,

Now that you have seen the documents, maybe I can explain it a little better. Have you had anyone ever try to explain the Derivatives Market? The Derivatives market has played a major role in this recession. What the developers have done is similar to derivatives except, instead of swapping derivatives they swap open space. One can deceive the public with open space transfers in layers of paper work that virtually no one can comprehend. The public doesn't get all the data to calculate the amount of open space transferred. I will try to explain just one of the many layers of deception in the North Silver Lake Lodge permit, also known as North Silver Lake Lot 2B. There is more questionable transfers of development rights within the permit. This is just one layer.

Fact #9 in 2010 permit says that 1/4 acre is taken from the North Silver Lake Hotel site (Lot 2B) and transferred to the adjacent Bellemont Subdivision. The wording in Fact #9 has been part of the process for a very long time. The North Silver Lake Lodge was first approved in 2009. The Planning Commission approved the transfer of 1/4 acre of open space from the Hotel site to Bellemont in Fact # _____. The approval was appealed to City Council in 2009. The City Council in 2009 sent the project back to Planning with some recommendations.

The North Silver Lake Lodge was approved a 2nd time on April 28, 2010. There was a 2nd appeal. The Council members in attendance unanimously approved the North Silver Lake Lodge. On July 2, 2010 Mayor Dana Williams signed the permit. Members in attendance on City Council and Planning Commission voted in favor of the permit with one exception of one person. Commissioner Strachen did not vote in favor of the 332,000 square foot Condo Hotel project at the top of Main. The finding of facts in #9 have been reviewed multiple times by Staff, Planning Commission and City Council. This is not a typo.

The CUP says the project is 70.6% open space. The City did not calculate in fact #9 in the 2010 open space calculation. Fact #9 also takes 1/4 acres from the North Silver Lake Lodge development site, Lot 2B. When 1/4 acre is also transferred from the development site to Bellemont the open space calculation becomes 68% open space.

After one year, when most have given up, the City sends out a Action Letter to extend the permit for another year. The extension letter changes Fact #9. When comparing fact #9 in the 2010 permit (signed by the Mayor) with Fact #9 in the April 28, 2011 extension letter there is a change. Lot 2B has been changed to Lot 2D in Fact #9. This change happens twice in Fact #9 in the extension letter. This is not a typo.

By changing 2B to 2D the project finally becomes 70.6% open space by the extension. The project becomes 70.6% open space without a specific public process for an open space transfer. There will be a hearing without notice of what is really going on in the extension letter. Changing Fact #9 from 2B to 2D adds an additional 1/4 acre of open space to the developers site that does not exist in the 2010 approval. City government will have just transferred 1/4 acre of open space without a public process. Without the extension letter and change from 2B to 2D the project is 68.2% open space. The CUP is flawed because the current approval is NOT 70.6%. Fact #10 is in error. The CUP is flawed. The CUP is 68%.

A condition in the 2010 permit is the Planning Commission did not error. The 2010 Condition of Law #5 in the permit reads, "The Planning Commission did not err in approving the Application." Condition #5 has been changed in the Action or Extension letter dated April 28 2011. The extension letter Condition of Law #5 no longer reads, "The Planning Commission did not err in approving the Application."

Fact #9 and Condition of Law #5 have changed without going through the public process. In order to stop the changes an Appeal must be filed by May 8th, 2010 or allow the CUP to expire. The developer and City government have circumvented the public process. The developer is about to get an additional 1/4 acre of open space on their parcel. Even if they don't ever develop the site, they just got 1/4 acre of Deer Valley ski front property. I am not sure what 1/4 acre of open space is worth but it is real money.

City Council will not be able to take input or email from the public if an Appeal is filed May 8th. An appeal process makes the City Council judge and jury. An appeal is a quasi-judicial process.

City Council, the developer is making a web. If the extension goes through not only will the developer gain the 1/4 acre in Fact 9, they will gain the 3.78 acres in open space from Deer Valley's Private Property, Lot 2D. The 2010 approval by Planning and City Council will transfer the 3.78 acres that is available. There is not a specific public process thus far (notification, hearing, meetings etc) in the record for the transfer of 3.78 acres from Deer Valley's private property (lot 2D) to the development site (Lot 2B). Although there may be open space available on the plat map, it was never legally transferred. It is a bit like having money in the bank. Until it is transferred, the money is still in the bank. If the City extends the permit, you will be complicit in the transfer of development rights from Lot 2D to Lot 2B. This is TDR corruption.

Perhaps letting the CUP expire will stop the open space transfer for now until City Council can get this thing sorted out. Please let the permit expire. We don't want to be a Bell, CA.

We can still talk up until May 8th. This is the last day to file an appeal. Call me, stop by, email, what ever. Please protect the City from Legal Liability.

By for now,
Lisa

Oh yes. So far I have just sent this to you.

Math Analysis:

Total coverage of Lot 2B is 124,799 sq. ft. 1/4 acre of Lot 2B is used as open space for Bellemont (10,890 sq. ft.). Lot 2B is 5.96 acres (259,617.6 sq. ft). Lot 2D has 3.78 acres acres remaining (164,656.8 sq. ft.). Lot 2D is 4.03 acres (175,546.8) 1 acre = 43,560 square feet.

Planning Departments Calculation:

The calculation when 1/4 acre is removed from Lot 2D as open space for Bellemont and Lot 2D has 3.78 acres remaining is 70.6%. 70.6% open space is Fact #10. 3.78 acres remaining is Fact #10.

$$124,799 / 259,617.6 + 164,656.8 =$$

$$124,799 / 424,274 = .2941$$

$$1 - .2941 = .7059$$

70.6% open space

The open space calculation when 1/4 acre is removed from Lot 2B as open space for Bellemont and Lot 2D has 3.78 acres remaining is 68.02%.

$$(5.96 \text{ Lot 2B} + 3.78 \text{ Lot 2D remaining}) \times 43,560 = 424,274$$

$$124,799 + 10,890 / 259,617.6 + 164,656.8$$

$$135,689 / 424,274 = .3198$$

$$1 - .3198 = .6802$$

68.02% open space



DEER VALLEY

Executive Offices

November 16, 1996

Mr. Kevin LoPiccolo
Planner
Department of Community Development
Park City Municipal Corporation
P. O. Box 1480
Park City, Utah 84060

RECEIVED
NOV 19 1996
PARK CITY
PLANNING DEPT.

Re: Bellemont Project and North Silver Lake Subdivision

Dear Kevin:

This is in followup to the November 6, 1996 meeting on the subject with you and Kirsten Whetstone attended by the undersigned (on behalf of Deer Valley Resort), Mark Prothro of Perkins-Timberlake Company (the Bellemont project developer), and Steve Deckert of Alliance Engineering (representing both Deer Valley and Perkins-Timberlake Company). In addition to the items listed in your followup letter of November 11 (copy attached), my notes indicated that:

1. Meg Ryan had advised you that Deer Valley's employee housing requirement set forth in the Seventh Amended and Restated Master Planned Development Permit for Deer Valley Resort, a portion of which was originally tied to the North Silver Lake MPD, had been fulfilled; but I was to provide you with a summary of that requirement for your file on this project. Deer Valley's total requirement with respect to employee housing under the MPD permit was 109 units. At the time of the Seventh Amended Permit, 90 units of the total 109 had been fulfilled; 84 units had been previously provided offsite (42 units in the Parkside Apartments and 42 units in the Fireside Apartments - see page 8 of the Seventh Amended MPD); 4 units had been previously provided onsite (Little Belle, Stag Lodge, Sterlingwood, and Mt. Cervin - see Exhibit 1 to Seventh Amended MPD) and 2 units applicable to Bald Eagle had been satisfied in lieu by the developer of the Bald Eagle Community (see Exhibit 1 to Seventh Amended MPD). This left a balance of 19 as set forth on page 8 of the Seventh Amended MPD. Subsequently, 1 unit was provided in the Deer Valley Club project in Silver Lake, 8 units were provided in the Washington Mill project on Daly Avenue, and 3 units were provided in the Peace House facility on Marsac Avenue. This left a balance of 7 units which the Park City Council acknowledged as fulfilled in connection with Deer Valley's cash equity contribution to the Silver Meadows project on Kearns Boulevard developed by PSC Development. Enclosed is the documentation package related to the final 7 units. Section 2 of the Employee Housing Agreement between Deer Valley and Park City Municipal Corporation included in the documentation recites that this 7 unit

MAY 09 2011
PARK CITY
PLANNING DEPT.

credit fully satisfies Deer Valley's employee housing obligation under the Seventh Amended MPD Permit and Toby Ross's memorandum and the other correspondence included in the documentation provides the same background information as summarized above. In addition to the 109 units provided as set forth above, Deer Valley recently acquired an additional 45 studio units in Prospector Square for its own direct employee housing use. Please let me know if you have any questions regarding this.

2. We were to provide you with a written narrative explanation of the platting process for North Silver Lake. This follows. In the original Deer Valley MPD, the North Silver Lake Community consisted of the Westview parcel (now a portion of the Huntsman estate property) with an assigned development density of 34 units, and the remainder of North Silver Lake which had a density range of between 176 and 312 units. The Westview parcel was a legal parcel separated from the remainder of North Silver Lake by Royal Street. The remainder of the North Silver Lake Community was at that time a single block of ground. With respect to density range parcels, the Deer Valley MPD Permit provides that the ultimate density will be established based on a site specific plan submission to the Planning Commission. Such a submission was made by Deer Valley and a master plan for the remainder of the North Silver Lake Community was approved by the Planning Commission in 1986 with a fixed density of 236 units, being 36 lots in the Evergreen subdivision and 200 multi-family units on the balance of North Silver Lake as follows:

<i>Belleterre</i>	Parcel A <i>10 homes</i>	26 units	10.71 acres
	Parcel B	16 units	2.19 acres
	Parcel C	32 units	5.23 acres
	Parcel D	70 units	7.89 acres
	Parcel E	24 units	4.80 acres
	Parcel F	32 units	7.14 acres

An open space parcel of 5 acres was established on the Parcel A side of Silver Lake Drive between the east boundary line of Parcel A and the west boundaries of the existing American Flag Subdivision and the proposed Evergreen subdivision. This configuration was incorporated into the First Amendment to the Fifth Amended and Restated Deer Valley MPD Permit. Evergreen subdivision was approved by the Planning Commission and was legally separated from the balance of the property by the filing of subdivision plats (the final plat being recorded in May of 1988). In connection with the construction of Evergreen subdivision Silver Lake Drive was installed as a dedicated City street which resulted in the creation of Parcel A as a legal separate parcel of property without the necessity of creating the parcel with a platting process. In 1990, the Belleterre Subdivision was approved by the Planning Commission as a development of Perkins-Timberlake Company on this Parcel A, consisting of 10 single family homesites in substitution of the 26 multi-family units previously approved in 1986. A separate subdivision plat for Belleterre was recorded in 1991 to create the 10 lots. This left the property that consisted of Parcels B-F in the chart above being a single tract of land with an approved master plan but not yet legally subdivided into parcels. In 1991, Deer Valley submitted a proposed modification of Parcels B-F of the North Silver Lake MPD which, with some revisions, was approved by the Planning Commission on July 31, 1991 as the revised North Silver Lake MPD.

DEER VALLEY®

The revised configuration was as follows:

	Belleterre Parcel A	10	
Lot 1	Bellevue Parcel B	24 units	4.62 acres
2A-Bellefont	Parcel C	18 units	3.63 acres
2B NSL Lodge	Parcel D	54 units	8.05 acres
	Parcel E	19 units	3.36 acres
	Parcel F	24 units	4.67 acres

This revised configuration resulted in a density reduction of 35 units on the five remaining parcels, adjustment of the boundaries of the parcels, and the creation of an additional approximate 2 acre open space parcel between Parcel B and the existing Evergreen subdivision. The 2 acre open space parcel is included in the acreage assigned to Parcel D above. The difference between the total acreage in Parcels B-F as per the 1986 MPD and the 1991 Revised MPD is attributable to the ski runs being included in the various parcel acreages in 1986 but not in 1991, i.e., the ski runs were reflected on the plan as separate open space. A copy of the Revised North Silver Lake MPD plan is enclosed. In 1992, Deer Valley agreed to convey revised Parcel B to Perkins-Timberlake Company and Perkins-Timberlake Company presented its plans for the Bellevue project on Parcel B to the Planning Commission, proposing 18 units on the 24 unit parcel. Concurrent with Perkins-Timberlake's submission, Deer Valley submitted a subdivision plat to create Parcel B as a legal subdivided parcel, i.e., Lot 1 of the North Silver Lake Subdivision so that the parcel could be legally conveyed to Perkins-Timberlake. Lot 2 of said subdivision was the remainder of the North Silver Lake MPD property, consisting of the combination of Parcels C-F in the chart above. The subdivision and the Bellevue project on Lot 1 was approved by the Planning Commission and the North Silver Lake Subdivision plat was recorded on February 19, 1993. The Bellevue project has since been completed by Perkins-Timberlake Company on Lot 1 (former Parcel B). At the present time, Deer Valley has agreed to convey Parcel C to Perkins-Timberlake for the development of the proposed Bellefont project. The current submission to you consists of a proposed subdivision of the Lot 2 remainder of North Silver Lake into Lot 2A (former Parcel C), Lot 2B (former Parcel D but excluding the approximate 2 acre open space parcel), Lot 2C (the combination of former Parcels E and F), and Lot 2D (an open space parcel consisting of the approximate 2 acres of open space in Parcel D and the Silver Dollar and Belleterre ski runs which have been installed), together with the proposal of Perkins-Timberlake Company to develop 12 units on Lot 2A (former Parcel C) similar to the Bellevue units previously constructed on Lot 1 in lieu of the 18 units approved in the Revised North Silver Lake MPD. That is, we are following the same procedure as before when Lot 1 was legally created to enable conveyance for the Bellevue project. The configuration of the subdivision plat before you is consistent with the MPD except that it leaves the combination of Parcels E and F in the master plan as one lot on the basis that these parcels are contiguous and may be developed in the future as one parcel or may be developed separately, i.e., we would like to retain flexibility as to the exact location of the boundary between the two parcels until a specific plan is developed. The above explanation is probably more lengthy than necessary but it does summarize the happenings in one place.

3. We discussed the allocation of the open space to the various parcels in the revised MPD. My understanding is that we would include a tabulation on the subdivision plat that

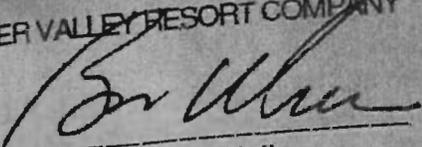
DEER VALLEY®

reflected the allocation for purposes of meeting the 60% open space requirements. This would clarify the open space determination or calculation for all parties. Steve Deckert is in the process of doing this.

Steve Deckert is also addressing the items listed in your November 11 letter. Thank you for your assistance.

Sincerely,

DEER VALLEY RESORT COMPANY

By 
Robert W. Wells

cc: Mark Prothro
Steve Deckert

City Council Staff Report



PLANNING DEPARTMENT

Subject: North Silver Lake Lot 2B
Author: Katie Cattan
Date: July 1, 2010
Type of Item: Quasi-Judicial - Appeal of CUP Application

Summary Recommendation

Staff requests that the City Council ratify the findings of fact, conclusions of law, and conditions of approval for the Appeals of North Silver Lake Lot 2B Conditional Use Permit.

Topic

Appellants: #1: Eric Lee, Attorney representing adjacent property owners, and
#2 Lisa Wilson, resident
Location: Lot 2B Subdivision of Lot 2, North Silver Lake
Zoning: Residential Development (RD)
Adjacent Land Use: Ski resort area and residential
Reason for review: Appeals of Planning Commission decisions are reviewed by City Council

Background

Under the Deer Valley Resort Master Plan Development (MPD) the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space. The Deer Valley MPD requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC Section 15-1-10.

The original CUP application was before Planning Commission on five different occasions (August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009). During the July 8, 2009 review, the Planning Commission approved the application with a 3 – 1 vote. One Commissioner abstained.

On July 17, 2009, the neighboring property owners submitted an appeal of the Conditional Use Permit (CUP) approval of the North Silver Lake Subdivision Lot 2B. The City Council reviewed the appeal on October 15, 2009 and November 12, 2009. During the November 12, 2009 meeting, the City Council remanded the CUP application to the Planning Commission with specific items included in the order to be addressed.

A handwritten signature in black ink, appearing to be "K. Cattan", located at the bottom right of the page.

The Planning Commission reviewed the remand during two work sessions on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April 28, 2010 to address the order and findings of the City Council. The Planning Commission approved the revised conditional use permit with a four to one vote on April 28, 2010.

The approval was appealed by two separate parties. On May 7, 2010, Eric Lee submitted an appeal (Exhibit A). On May 10, 2010, Lisa Wilson submitted an additional appeal (Exhibit B). The City Council reviewed the appeal on June 24, 2010. All parties stipulated to additional condition of approval #19. The Council did not find merit in the notice issues, the compatibility of revised design or other issues raised in Ms. Wilson's appeal. The Council added an additional requirement of an opportunity for neighborhood input prior to approval of the phasing plan(s), but found that the Planning Commission adequately addressed the issues of the remand. Accordingly, the City Council affirmed and denied in part the Planning Commission's decision to approve the North Silver Lake Lot 2B Conditional Use Permit.

Findings of Fact, Conclusions of Law and Conditions of Approval re: NSL Subdivision Lot 2B Conditional Use Permit.

On July 1, 2010, having been duly advised, the City Council hereby modifies the Planning Commission Findings of Fact, Conclusions of Law, Conditions of Approval and Order with minor corrections to the findings and conditions (underlined) as follows:

Findings of Fact

1. The subject property is at 7101 North Silver Lake Drive. This property is also known as Lot 2B of the North Silver Lake Subdivision.
2. The proposed development is located within the Deer Valley Master Plan Development.
3. Within the Deer Valley Master Plan, the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space.
4. The applicant has applied for a conditional use permit for the development of 54 units located on Lot 2B of the North Silver Lake Subdivision. The applicant has included 5102 square feet of support commercial space within this application. The project consists of 16 detached condominium homes and four condominium buildings containing 38 condominium units. The remaining commercial units are not transferable.
5. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area.
6. The Deer Valley Master Planned Development (MPD) requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC chapter 15-1-10.
7. The Deer Valley MPD determines densities on parcels as an apartment unit containing one bedroom or more shall constitute a dwelling unit and a hotel

room or lodge room shall constitute one-half a dwelling unit. The Deer Valley MPD does not limit the size of units constructed provided that following construction the parcel proposed to be developed contains a minimum of 60% open space and otherwise complies with MPD and all applicable zoning regulations.

8. Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating "This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B." Lot 2D is 4.03 acres in size.
9. Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2B towards the 60% open space requirement. The Bellemont Subdivision utilized ¼ acre of the Lot 2B parcel to comply with the open space requirement.
10. The current application site plan contains 70.6% of open space on the site including the remainder 3.78 acres of open space on Lot 2D.
11. The property is located in the Residential Development zoning district (RD) and complies with the Residential Development ordinance.
12. The property is within the Sensitive Lands Overlay Zone and complies with the Sensitive Lands Ordinance.
13. The height limit for Lot 2B was established at 45 feet within the Deer Valley Master Plan. The development complies with the established height limit, with the allowance of five feet for a pitched roof.
14. The onsite parking requirements for the four stacked flat condominiums have decreased 25% in compliance with section 15-3-7 of the Land Management Code. The Planning Commission supports a 25% reduction in the parking for the stacked flats within the development.
15. The Planning Commission held public hearings on August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009.
16. The Planning Commission approved the CUP on July 8, 2009.
17. An appeal of the CUP approval was received July 17, 2009 within ten days per LMC 15-1-18.
18. The City Council reviewed the appeal of North Silver Lake lot 2B on October 15, 2009 and on November 12, 2009.
19. On November 12, 2009, the City Council remanded the Conditional Use Permit back to the Planning Commission with three specific items to be addressed within the order.
20. The Planning Commission reviewed the North Silver Lake Conditional Use Permit remand on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April 28, 2010. The Planning Commission approved the revised Conditional Use Permit on April 28, 2010.
21. The Conditional Use Permit was appealed by two separate parties within ten days of the Planning Commission approval.
22. The design for Building 3 decreased the overall square footage of the Building 3 twenty-five percent (25 %), reoriented the building on the site, and divided the original single building into two interconnected buildings of smaller scale and size than the original single building.

23. The landscape plan was modified to comply with the Wild Land Interface regulations.
24. Construction phasing and additional bonding beyond a public improvement guarantee has been required.

Conclusions of Law

1. The application is consistent with the Deer Valley Master Planned Development and the Park City Land Management Code, particularly section 15-1-10, Conditional Use Permits.
2. The Use is compatible with surrounding structures in use, scale, mass, and circulation.
3. The Use is consistent with the Park City General Plan.
4. The effects of any differences in Use or scale have been mitigated through careful planning.
5. The Planning Commission did not err in approving the application.

Conditions of Approval

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. This plan must address mitigation for construction impacts of noise, vibration, and other mechanical factors affecting adjacent property owners. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be included within the construction mitigation plan.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be adhered to. A member of the Planning Staff and Planning Commission will be invited to attend the pre-installation conference. Prior to operating any excavation machinery, all operators of any excavation machinery must sign off that they have read, understand, and will adhere to the Temporary Tree and Plant Protection plan.
5. A landscape plan is required with the building permit. The landscape plan must reflect the site plan and existing vegetation plan as reviewed and approved by the Planning Commission on April 28, 2010.
6. The developer shall mitigate impacts of drainage. The post-development run-off must not exceed the pre-development run-off.
7. Fire Marshall review and approval of the final site layout for compliance with City standards is a condition precedent to building permit issuance. The proposed development shall comply with the regulations of the Urban Wild Land Interface Code. A thirty foot defensible space will be mandatory around the project, limiting vegetation and mandating specific sprinklers by rating and

approved with the amended Findings of Fact and Conditions of Approval as stated above.

2. Appeal #2 from Lisa Wilson is denied in whole. The CUP is approved with the amended Findings of Fact and Conditions of Approval as stated above.

Dated this 1st day of July, 2010.


Dana Williams, Mayor

From: Lisa Wilson <lisawilson@me.com>
Subject: 1997 Land LMC
Date: November 10, 2010 4:19:07 PM MST



▶ 4 Attachments, 1.7 MB

The 1997 Park City LMC required 51% of the property owners signatures to amend a subdivision. There are no property owner signatures on the Subdivision Plat to add unit density.

March 1997 Park City Land Management Code

enactment, in so far as the substance of the old and new provisions are the same. This Code shall not be construed as affecting the term of office of any board or commission member appointed under the prior enactment. Structures built prior to the adoption of this ordinance, or for which building permits were issued and on which work commences as required under the permit shall, to the extent they do not conform to this ordinance, be considered as non-conforming uses, and shall not be affected hereby. Uses which were non-conforming under the old enactments shall not be affected by this Code, unless the Code is changed in a manner that makes the use conforming to the zone.

1.5 AMENDMENTS TO THE LAND MANAGEMENT CODE AND ZONING MAP. It may become desirable from time to time to amend the provisions of this Code or the zoning map. All amendments shall be made in the following manner:

1.5.1 Procedural Amendments. Amendments to the procedural provisions of the Code may be made by the City Council from time to time following a public hearing. Hearings on matters that are procedural in nature and do not directly affect the nature of uses on any given parcel of land, or which do not change allowed uses from permitted to conditional uses, shall be advertised for one week, prior to the week of the hearing, in a newspaper having general circulation in the City. The amendments may be adopted on the day of the hearing or at any time following the hearing.

1.5.2 Substantive Amendments. Amendments to the Code which affect the use of land within the City by (1) allowing a use previously prohibited; (2) prohibiting a use previously allowed; (3) increasing or decreasing the density of the uses allowed; (4) changing a permitted use to a conditional use; (5) changing a conditional use to a permitted use; or (6) changing the zone of any property shall be made following public hearings as required by this Code.

1.5.3 Zone Change. A petition to change the zone of any property in Park City shall be filed first with the Planning Department on a form prescribed for that purpose. The petition shall contain a legal description of the property, the petition, and a statement of the reasons for the change in the land included within the

...ion shall state the current zone of the ... which the petitioners desire to have a ... established, the petition shall so state ... of the uses and standards requested ... for acting on a petition for a zone ... and the zone within a legally recorded ... must include signatures of owners ... lots in the subdivision.

(1) Hearings before Planning Commission. The Planning Commission shall hold a public hearing on all petitions for zone changes received from applicants or property owners affected by the change. The Commission shall also hold a public hearing on substantive amendments in the Land Management Code. Notice of all public hearings before the Planning Commission shall be given as set forth in Section 1.15 of this Code. The notice shall state generally the nature of the proposed amendment and land affected, and the time, place, and date of the hearing. More detailed information shall be available for public inspection at the office of the City Development Department at the time the notice is published.

Action by Planning Commission. Following the hearing, the Planning Commission shall advise the City Council with recommendations to the City Council regarding the proposal. The Planning Commission shall act on the proposal at the time of the hearing or at its next regularly scheduled meeting following the hearing, unless the applicant or petitioner has requested the matter be held for further consideration, or the petition is withdrawn. If the Commission fails to act at its next regularly scheduled meeting, the proposal shall be forwarded to the City Council for consideration without recommendation.

Hearings before City Council. The City Council shall hold a public hearing on all petitions for zone changes and substantive amendments to the Land Management Code.

with reference to topographic data submitted to the Development Director. Where land of less than 25% slope is surrounded by land of 25% or greater slope, the Commission shall entertain an application for rezoning of less than 25% slope to RD if the Community Development Director determines that the land is accessible by a road which is a road of standard width that does not require grading, and that the grading of the road or the land in question will not create geologic, or similar hazards for land on the proposed road, and that all cuts and fills for the road are stabilized. See Section 7.12.5.

Any person, firm, partnership, or corporation or agents thereof violating or causing to be violated any provision of this Code shall be guilty of a Class "B" misdemeanor and shall be punishable by a fine and/or imprisonment not to exceed the current Park City Criminal Code. The City shall be entitled to bring an action for enforcement of the violation. Any property owners shall also be liable for the continuation of a violation if they are notified that the plaintiff

shall give notice of the action to the City Recorder prior to filing the action.

LICENSING. All departments, officials and public employees of the City who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Code. They shall issue licenses and permits only in conformance with the provisions of this Code. Licenses issued in violation of this Code shall take no effect, and are null and void.

ZONING MAP ADOPTED. The zoning map for Park City as adopted by the City Council and executed by the Mayor is the zoning map for Park City. Upon amendment to the zoning map, the Mayor shall execute a new map, or re-execute the existing map with amendments noted thereon.

PROCEDURE UNDER THE CODE. No building permit shall be issued for any building project unless the plans for the project have been submitted to and approved by the Planning and Development Department. Proposals submitted to the Planning and Development Department shall be reviewed according to

From: "Katie Cattan" <kcattan@parkcity.org>
Subject: **FW: Unit Equivalent ?'s**
Date: April 19, 2010 7:50:23 AM MDT
To: "Lisa Wilson" <lisawilson@me.com>, "Lisa Wilson" <lisa@winco.us>, "Brad Wilson" <brad@winco.us>
▶ 2 Attachments, 260 KB

Hi Lisa and brad,

Here are the responses to your questions.

Where does it reference that Deer Valley defined unit sizes rather than utilize the 2000 sq. ft. residential unit equivalent of the LMC?

1. The Deer Valley Master Plan defines unit size in section A. I have attached the Master Plan.

What year was "unit equivalents" made part of the Land Management Code?

2. I know unit equivalents were in the LMC at the time of treasure hill mpd 1986 and most likely earlier. If you'd like to know the exact date, please specify and I can look up. There are 55 editions of the LMC and it requires going through archived documents to review.

Is the unit equivalent section of the LMC only applied to a project if it is required as in the Treasure Hill MPD.

3. Unit equivalents are applied to all projects as required under the LMC unless specified otherwise in the approved MPD.

From your last email: Does 15-6-8 (A-G) in the LMC apply for the Deer Valley MPD?

4. The Deer Valley MPD specified how unit equivalents are calculated. The LMC calculation of 2000 square feet is not applicable. The application is under the allowance of meeting space and support commercial at 5 percent of total square footage each.

What is the proposed % open space on 2B for North Silver Lake Lodge? (Do not include 2D in the calculation)

5. Lot 2D is included in the open space calculation of 70.6%. Total coverage of lot 2B is 124,799 square feet. The size of lot 2B is 5.96 acres. 1 acre = 43560 square feet.
 $124,799 / 2,596,173.6 = 48\%$

Will someone be able to rent a room for one night?

6. Nightly rentals are allowed in the zone. Under the current code they would have to rent the entire unit. There are no lockout units proposed in the project.

What is the total residential square footage?

7. Attached are my calculations for total residential square footage.

Regards,
Katie

Katie Cattan
Senior Planner
Park City Municipal Corp.
435-615-5068

From: Lisa Wilson [mailto:lisa@winco.us]
Sent: Sunday, April 11, 2010 6:09 AM
To: Katie Cattan
Subject: Unit Equivalent ?'s

Hi Katie,

From: Lisa Wilson <lisawilson@me.com>

Subject: **TDR=Unlimited Accessory Use**

Date: March 15, 2011 2:19:45 PM MDT

To: dana@parkcity.org, Liza <liza@parkcity.org>, Joe Kernan <jkernan@parkcity.org>, Alex Butwinski <alex.butwinski@parkcity.org>, Candy Erickson <cerickson@parkcity.org>, Cindy Matsumoto <cindy.matsumoto@parkcity.org>



This letter was emailed to the Planning Office March 1st to distribute. I just got back to town and can't reach Katie. If you already received a copy, please disregard.

Dear City Council and Planning Commission,

Currently, Treasure Hill has a vested right for 616,695 square feet. A public fear has been created that Treasure Hill has a vested right for 1,016,887 square feet. The additional 400,000 plus square feet is not a vested right nor grandfathered under the 1986 agreement. 40% of Treasure Hill's proposed million square feet is not vested. Treasure Hill's 1 million square feet vested right presented in the press is fabricated. The break down of the Treasure Hill's 616,695 sq. ft. vested right is spelled out in the Sept 23, 2009 Treasure Hill Staff report.

Original proposed square footage under 1986 Treasure Hill agreement

197 UE's x 2000 Residential

19 UE's x 1000 Commercial

203,695 SF Parking in 1986 agreement

$394,000 + 19,000 + 203,695 = 616,695$ SF Treasure Hill Vested Right

The majority of Treasure Hill's extra 400,000 sq. ft. is from the Accessory Use section of the Land Management Code. According to Planning Staff, "Under today's code there is unlimited accessory space which includes lobbies, hallways, etc. This is where a building can become much larger than another and it doesn't count toward entitlements." Planning Staff is referring to 15-6-15 F & G, the Accessory Uses section of the code. Accessory Uses allows the public to use space within a Condo Hotel that is commercial space and does not count against entitlements. In the code areas such as lobbies, registration, ski equipment locker rooms, common pools, saunas and hot tubs, public restrooms, hallways and circulation, public lockers, ski school/day care facilities, emergency medical facilities, ticket sales, ski check, etc are areas that serve the public but do not count against commercial entitlements. The Accessory Use section of the code was added after the 1986 Treasure Hill approval and accounts for approximately 400,000 square feet beyond the vested rights.

September 23, 2009 Treasure Hill Staff report defines area beyond vested right:

Additional Support Commercial & Accessory - 33,412

Additional Meeting Space - 16,127

Circulation, Common & Accessory Space - 309,511

$33,412 + 16,127 + 309,511 = 359,050$

In the September 23, 2009 Treasure Staff Report there is an additional 41,368 square feet of parking beyond the original 1986 Treasure Hill agreement.

$41,368 + 359,050 = 400,418$

There is 400,418 additional sq. ft. beyond the vested rights established in the 1986 Treasure Hill agreement.

$400,418/1,016,887 = 39.38\%$

There is 40% more square footage proposed for Treasure Hill than vested under the 1986 Treasure Hill agreement.

To give an idea of what 400,000 square feet is, recently the City and County offered MIDA a parcel with 350,000 square feet to build a commercial project including Costco. One City Council person in a KPCW interview called 350,000 square feet "massive, massive!" The extra square footage in the current Treasure Hill model and proposal is 400,000 square feet. The extra square footage beyond the vested rights and entitlements is "massive".

Recently, the City Council unanimously approved another Hotel in Deer Valley. The North Silver Lake Lodge is a 332,000 square foot Condo Hotel above the top of Main St. 100,521 sq. ft. of the project is common area, another term for Accessory Uses. 30% of the project can be attributed to the Accessory Use code. The Condo Hotel is similar in size to the "massive" controversial 350,000 sq. ft. MIDA commercial project. The North Silver Lake Lodge CUP took place July 1, 2010. This is an example of an approval and demonstrates how Accessory Uses are abused for "massive" Condo Hotels.

100,521/332,493 = 30.2%

Approximately 30% of North Silver Lake Lodge is additional space beyond entitlements. The Lobby, spa, work out rooms, sauna, locker rooms, registration, hallways etc in the North Silver Lake lodge are primarily common area. These areas open to the public do not count against entitlements in the CUP.

Some may wonder how big hotels have begun to appear in Park City, such as the St. Regis and Montage. The St. Regis is approximately 450,000 sq. ft. and the Montage around 750,000 sq. ft. If 40% of the Treasure Hill's proposal is extra space beyond entitlements and the North Silver Lake Lodge is 30% beyond entitlements, what percentage of space in the Montage and St. Regis is due to space that does not count toward entitlements?

Please visit the Montage Vista Lounge (massive). Lobbies do not count against entitlements. The Vista Lounge, that serves drinks and food to the public, takes up nearly and entire floor of the Montage. Store your boots in the ski locker room open to the public while having lunch. Ski locker rooms are an Accessory Use. There are 29 treatment rooms in the Spa. Get a massage or take a class and then swim in the indoor pool modeled after Hearst Castle. Common pools, saunas and hot tubs not open to the public are an Accessory Use and do not count against entitlements under code. The spa, workout room, sauna, jacuzzi etc take up another floor of the Montage. How much of the Montage is Accessory Use space that does not count against entitlements?

Currently, the City has the ability to refuse 400,000 of Treasure Hill's requested square footage based upon the extra space in not a vested right under the 1986 agreement. If TDR's are approved the by City Council, the current Accessory Uses code becomes vested when the density rights are transferred to the buyer. The buyer becomes vested under the new code that permits unlimited Accessory uses. Treasure Hill's Unit Equivalentents when transferred are to be doubled. The TDR recommendation entitles the buyer to double the Unit Equivalentents plus an added bonus, a vested right in double the unlimited Accessory Uses (15-6-15 F & G).

TDRs are not a new process within Park City. TDRs are done within Deer Valley all the time unbeknownst to affected property owners. It appears the Sweeny's would like to reap the same benefits that Deer Valley developers have experienced for years.

The Planning Commission has recommended only a portion of Treasure Hill's UE's be transferred at this time. The current proposal leaves open the door to more TDRs in the future and unlimited density within Park City. It is easy to request something small and keep adding TDR's when the public's guard is down. Treasure Hill TDRs open the door for developers to build unlimited accessory space in Park City.

Questions for City Council

1. What is the worst case scenario for Park City if all Treasure Hill's UE's are approved as TDRs?
2. How many additional square feet could be added to Park City?
3. Will TDRs create the Unlimited Density Loophole for developers?

Previously, Accessory Uses were not a vested development right in the original 1986 Treasure Hill agreement. Treasure Hill TDR's will create unlimited density in Park City, when previously there where restrictions. Treasure Hill's TDRs will add unlimited square footage via the Accessory Uses section of the code. Treasure Hill TDRs double the Unit Equivalentents and include the added bonus of unlimited Accessory Use as a vested right.

The people of Park City have been misled that Treasure Hill has a vested right for 1 million square feet. The misrepresentation has resulted in the TDR loophole that permits new "unlimited accessory space" within Park City that does not count against entitlements. The public is unaware Treasure Hill TDRs add significant density to Park City far beyond the Treasure Hill Unit Equivalentents.

Please investigate the misuse of the Accessory Use code to build "massive" hotels and the potential to compound the misuse with TDRs.

Solution: Remove the Accessory Use section of the LMC (15-6-15 F & G).

If anything is incorrect, please let me know.

Respectfully,

Lisa Wilson

PARK CITY ARBORIST

Keith B. Clapier / ISA Certified Arborist #UT-0034A
435-513-2188/kclapier@sitestar.net/www.parkcityarborist.com

On July 24th, 2008 I was contracted to look at the North Silver Lake Lodge parcel, in Upper Deer Valley, Park City, Utah 84060 to conduct a forest health assessment and develop a Tree Preservation Plan. The North Silver Lake Lodge parcel is 5.96 acres and sits between 7,830-7,910 feet in elevation. The site is on a north-south oriented ridge; therefore the aspects are west, north and east. The major forest type is an uneven-aged stand of white fir (*Abies concolor* var. *concolor*) and Rocky Mountain or blue Douglas fir (*Pseudotsuga mensiesii* var. *glauca*) with a minor component of a Gambel oak (*Quercus gambelii*) type. Keep in mind, that forests are dynamic systems. The forest we see today is the product of extensive mining-era disturbances, subsequent stand development and successional trends that continue to operate. Thus, current conditions do not represent a stable end point, but rather a transitional "snapshot of time"¹. Because the more shade tolerant white fir is reproducing successfully in the understory, according to Mauk², this would make it a white fir/Oregon grape (*A. concolor/Berberis repens*) Habitat Type. White fir is the indicated climax, with seral associates varying in occurrence by phase. Stand structure is more closed in this Oregon grape phase with Douglas fir being the principal seral associate and occasionally quaking aspen (*Populus tremuloides*). The closed canopy provides thermo-regulation for wildlife, therefore numerous, recent deer beds were observed in this closed canopy. Understory is typically brushy which includes Oregon grape, serviceberry, snowberry, mountain lilac, mountain lover, chokecherry, blue elderberry, big-tooth maple, Gambel oak, mountain sagebrush, Engelman's aster, chickweed and Geyer's sedge. Soils are derived from a metamorphic, i.e. quartzite, colluvium. Soils are cobbly and stony with a textural class of silty clay loam or clay loam and are generally well-drained³. In the absence of fire, the white fir in this Habitat Type is able to climax. The white fir is able to grow in reduced rates in the shade of the canopy. Once the canopy is opened, they will exhibit a spurt of growth, however, when growing in these closed canopy sites they fail to develop well-tapered boles, therefore they lack wind sturdiness and are susceptible to windthrow in these newly exposed sites. A previous tree survey conducted indicates that there are 554 trees on the parcel. Of these, 88% are white fir and 12% are Douglas fir. A survey conducted by this author in 2008 indicates that there are 30 individual trees (18 white firs and 12 Douglas firs) that should be preserved. The criteria used were species, health, size, age, structure, hazard assessment, spacing (stocking rate) and wildlife value. Because seven out of eight trees are white fir, and Douglas fir live much longer, ages in excess of 500 years are not uncommon⁴, a management goal should be to preserve as much of the Douglas fir as possible. However, a good mix of Douglas fir and white fir of all age classes is desirable. Single-species stands are generally at greater risk of catastrophic loss to insects and diseases than are mixed-species stands⁵.

A housing development is proposed on this 5.96 acres site which consists of four condominiums (four buildings with 31 units) on top of the ridge, and 21 individual townhouses (approximately 4,000 square feet each) with an access road separating the Townhouses and condominiums. In addition to the encircling access road, a spur road is proposed to access Townhouses #17-21 on the east side of the condominiums due to the steep grade; and an entrance to the entire development project on the southeast side from Silver Lake Drive. The individual trees identified for preservation and are located within the Zone of Disturbance (ZOD) are as follows: #61, #67, #69, #78, #79, #132, #139, #140, #141, #155, #156, #204, #247, #248, #302, #323, #351, #358, #399, #407, #462, #463, #464, #465, #470, #477, #498, #550, #511, #555 (see map for locations). In addition to these 30 individual trees identified, several "incidental trees" should be preserved, some (but not all) are as follows: #124, #252, #357, #469, #470, and #473. These "incidentals" are located inside setbacks and in the northeast corner of the parcel just outside the ZOD.

Recommendation: Tree preservation zones need to be in place for all trees identified for preservation, both within the ZOD and "incidental trees". These preservation zones will not only prevent injury to trunk, crown, and roots; but will also help preserve mycorrhiza in the soil. These fungi are significant in the establishment and development in early growth on poor sites⁶. Conifers depend on these mutualistic fungi for efficient uptake of mineral nutrients and water. The preservation of these 30 individual trees within the ZOD assumes and is dependent that there is flexibility in the "footprint" of the Townhouses. It is recommended that a Certified Arborist or Forester be on-site before construction commences to demarcate these preservation zones to prevent root damage⁷. Severance of large woody

¹ Forest Management Plan for Alta Ski Area, James Long and Scott Roberts, 1994.

² Coniferous Forest Habitat Types of Northern Utah, Ronald L. Mauk, USDA Forest Service, INT-1710.

³ Soil Survey and Interpretations of Parley's Park of Summit Co, USDA SCS Bulletin 495, 1977.

⁴ Silvics of North America Volume 1 Conifers, USDA Forest Service, Ag Handbook 654, 1990.

⁵ Forest Management Plan for Alta Ski Area, James Long and Scott Roberts, 1994.

⁶ Silvics of North America Volume 1 Conifers, USDA Forest Service, Ag Handbook 654, 1990.

⁷ One technique recommended by the ISA (International Society of Arboriculture) is to use the "dripline" of the tree or outer edge of the canopy. No disturbance should be allowed inside the dripline. The inside of the canopy is what is sometimes referred to as the Critical Root Zone (CRZ).

PARK CITY ARBORIST
Keith B. Clapier / ISA Certified Arborist #UT-0034A
435-513-2188/kclapier@sitestar.net/www.parkcityarborist.com

roots (greater than 2" diameter) can lead to root disease and compromise stability, especially where shallow roots have formed. Note: inspections on-site indicate that a thin mantle of soil has lead to the development of said shallow, large woody (buttress) roots.

Tree Preservation Plan⁸

- **Townhouse #1:** No change, leave footprint as shown on map. Try to preserve as much as the native aspen for wildlife habitat. Aspen have a high wildlife value due to the diversity of the understory and cavities for nesting birds. Aspen also are visually appealing and contribute to the diversity of forest vegetation. However, aspen also have thin bark and are very susceptible to damage. Preservation zones should include clumps of trees rather than individuals due to their coarse root development.
- **Townhouse #2:** No change, leave footprint as shown on map.
- **Townhouse #3:** Move footprint ten feet northwest (310°), to preserve Tree #61, a 34" DBH white fir that is windsturdy due to the openness of the site. Flip-flop the driveway. Designing the driveway so that it spans forest soil (if height limits will allow) rather than a poured concrete pad on engineered substrate will significantly benefit the preservation of trees. Note: hardscape areas like concrete and asphalt cause elevated temperatures in the summer, reflected radiation, low humidity, impermeable surfaces, flooding, low soil quality, compaction, and low oxygen to the roots.
- **Townhouse #4:** No change in footprint as shown on map. Flip-flop driveway.
- **Townhouse #5:** Move footprint ten feet north-northwest (340°) to preserve Tree #69 and Tree #67. Note: Tree #67 is the largest tree on the 5.96 parcel, a 48" DBH Douglas fir. These old-growth trees, like #67, have multiple values like high carbon sequestration and high wildlife habitat, especially for bird species like raptors. Unfortunately, Tree #69, a vigorous 24" DBH white fir is going to be removed on this footprint if the current Townhouse Style "1" is used. If a narrower style of Townhouse could be built on this site e.g. Style "4", this could provide the flexibility needed to preserve Tree #69.
- **Townhouse #6:** Move ten feet north (360°) to preserve Tree #79; a mid-sized (20" DBH), vigorous Douglas fir.
- **Townhouse #7:** Move ten feet north (360°). Flip-flop driveway on Townhouse #7. Because many of the white firs are growing in a clump within the footprint shown on the map, they may be susceptible to windthrow if the canopy is opened up. Note: these closed canopy sites are difficult to protect if opened up.
- **Townhouse #8:** No change in footprint. Unfortunately Tree #123, a nice 18" DBH Douglas fir is going to be removed from this site.
- **Townhouse #9:** Move footprint ten feet east-southeast (110°), flip-flop driveway (reverse plan) to preserve Tree #139.
- **Townhouse #10:** Move footprint 20 feet southeast (130°), flip-flop and shorten driveway to 16 feet in length (or eliminate). Span driveway to preserve Tree #155, 156, 204 and 206. Note Tree #206, is a vigorous, 12" DBH Douglas fir.
- **Townhouse #11:** Move footprint five feet southeast (140°) to allow space for Tree #247. Shorten driveway to preserve Tree #248, a 12" DBH Douglas fir.
- **Townhouse #12:** Move footprint 24 feet east (90°) to preserve Tree #293, a 10" DBH Douglas fir. Note: Townhouses #12 and #13 may "share a wall" to help fit into the natural Gambel oak opening.
- **Townhouse #13:** Footprint needs be crowded with Townhouse #12 to the east. Townhouse #13 footprint will approximately sit where site plan shows "funicular building".
- **Townhouse #14:** Move footprint 10 feet to west (270°) and crowd up with Townhouse #13. Note: Townhouses #14 and #15 can share a wall to help fit into natural Gambel oak opening.
- **Townhouse #15:** Move footprint 10 feet to west (270°) and share wall with Townhouse #14.
- **Townhouse #16:** Move footprint 10 feet southwest (225°) to main access road, flip-flop and span driveway (if height limits will allow) to preserve Trees #399, and #407, along with "incidentals" #293, #302, #351, #369, #370, #511.
- **Townhouse #17:** Move footprint west-southwest (247°) 20 feet to main access road. Shorten and span driveway if height limits will allow.

⁸ Note: footprints were taken from North Silver Lake Lodge Tree Species/Health Rating Plan, Evergreen Engineering Inc., Park City Utah, 2008.

PARK CITY ARBORIST
Keith B. Clapier / ISA Certified Arborist #UT-0034A
435-513-2188/kclapier@sitestar.net/www.parkcityarborist.com

- **Townhouse #18:** Move footprint west (270°) 20 feet to preserve Tree #462, #463, #464, and #465. Shorten and span driveway (if height limits will allow).
- **Townhouse #19:** Move footprint west-northwest (270°) 20 feet to main access road. Shorten and span driveway (if height limits will allow) to preserve Trees #473, #470, #469, and #407. Note: the spur road will eliminate many existing trees, but many of these trees have codominant stems. Because codominant stems are more susceptible to windthrow, that can develop into hazard trees over time. Also, many of the firs are crowded in this closed canopy, therefore they lack trunk taper and many of the smaller individuals are suppressed.
- **Townhouse #20:** Move footprint ten feet west (280°), shorten and span driveway (if height limits will allow) to preserve Trees #555, #556 and #498.
- **Townhouse #21:** Move seven feet west (270°), shorten driveway to preserve Tree #550.
- **Condominiums A, B, C, D:** Due to the scale of development proposed and the low quality of trees in this immediate area, there is not much Tree Preservation that can be done around the condominiums.
- **The access road:** The main road that encircles the condominiums can remain as shown on the plan with some realignment modifications. These modifications are as follows. 1) Shift road five feet north of Condo Building D, to preserve Tree #323. Tree #323 is a vigorous 16" DBH Douglas fir. Note: eliminating or shortening the driveways on the Townhouses to the north will provide the necessary space for the road realignment. 2) Shift the road alignment five feet west from Condo Building B to preserve Tree #78 (24" DBH white fir) and Tree #132 (16" DBH white fir), both vigorous, mid-sized conifers. This road realignment requires shortening or eliminating the driveways of Townhouses #6, #7, and #8.

Conclusion, tree preservation means designing with nature. Because many of the sideslopes on this 5.96 acre parcel are steep 20° (36% grade) especially on the east side of the parcel, structure designs includes (but are not limited to) "stepping-up" the foundation, spanning driveways, etc. The author acknowledges that the developer is constrained by building codes like height restrictions, but I've seen homes designed in the Park City area that include the garage on the top floor and more living space in the lower floors, especially if a three-story building is being designed. Just as it's important to plant the "right tree for the right site", it's equally important to build the "right structure for the right site". One advantage I can see with this site is that the access road is above the Townhouses proposed for development. A crane can be strategically placed uphill to transfer building materials around the structure. This will eliminate countless trips with heavy machinery around the structure, consequently reducing soil compaction, trunk and crown damage etc. Designing with nature also includes the placement of utilities. All utilities should follow access roads. Do not trench roots to place utilities. If a utility needs to be placed through a Tree Preservation Zone e.g. placement of sewerlines downhill, **bore** under the roots using high-pressure water or an auger. In addition, most tree preservation is accomplished preconstruction. This includes identifying (which this tree survey has accomplished) and establishing preservation zones with temporary fencing. These preservation zones prevent injury to trunk and crown, changing the soil grade around roots, and prevent soil compaction and severance of roots. Some recommendations for landscaping are as follows. Conifers: sub-alpine fir (*Abies lasiocarpa*), lodgepole pine (*Pinus contorta*), ponderosa pine (*P ponderosa*), bristlecone pine (*P aristata*), Colorado blue-spruce (*Picea pungens*), Rocky Mountain juniper (*Juniperus scopulorum*). Deciduous or shade trees: mountain-ash (*Sorbus aucuparia*), western river birch (*Betula occidentalis* subsp *fontinalis*), amur maple (*Acer ginnala*), Rocky Mountain maple (*A glabrum*), flowering crabapple (*Malus spp*).

I certify that all the statements of fact in this appraisal are true, complete, and correct to the best of my knowledge and belief, and that they are made in good faith.

// signature //

Keith B. Clapier
ISA Certified Arborist #UT-0034A, August 8th, 2008.

Planning Commission Staff Report



PLANNING DEPARTMENT

Subject: Treasure Hill
Author: Katie Cattan
Date: September 23, 2009
Type of Item: Administrative – Conditional Use Permit

Summary Recommendations

Staff recommends that the Planning Commission review mass, scale, and compatibility of the Treasure Hill Conditional Use Permit (CUP) as analyzed in the staff report and presented by the applicant, and discuss the project as a work session item. A public hearing shall follow the work session during the regular meeting. The public hearing should be continued to November 11, 2009.

Topic

Applicant: MPE, Inc.
Location: Creole Gulch and Mid-station of Sweeney Properties MPD
Zoning: Estate MPD (E-MPD)
Adjacent Land Use: Ski resort area and residential
Reason for Review: Conditional Use Permit is required per the Sweeney MPD
Topic of Discussion: TRAFFIC

Background

The Sweeney Properties Master Plan (SPMP) was approved by the Planning Commission on December 18, 1985. The Hillside properties consist of Creole Gulch and the Mid-station. These Hillside properties are the last two parcels to be developed within the SPMP. The following is the maximum density allowed for each of the parcels:

Creole Gulch	7.75 acres
161.5 residential UEs	
15.5 commercial UEs	
Mid-station	3.75 acres
35.5 residential UEs	
3.5 commercial UEs	
Total	11.5 acres
197 residential UEs	
19 commercial UEs	

A residential UE is 2000 square feet and a commercial UE is 1000 square feet. Per the MPD, commercial UEs may only be used for support commercial use.

Under the SPMP, each development parcel is required to attain the approval of a Conditional Use Permit from the Planning Commission. On January 13, 2004, the

applicant submitted a Conditional Use Permit application for the Creole Gulch and Mid-station sites. The CUP was reviewed by the Planning Commission from April 14, 2004 until April 26, 2006 in a series of twenty-three (23) previous meetings.

The focus of this staff report is on CUP criteria 8, 11, and 15. These criteria were previously discussed during Planning Commission meetings on August 11, 2004, August 25th, 2004, January 11, 2006, and January 25, 2006. The staff reports and minutes of these meetings are available at

<http://www.parkcity.org/citydepartments/planning/treasurehill.html>. During these meetings the Planning Commission identified the need of additional information to complete the review the criteria. The Planning Commission requested a model representing the massing of the project (Exhibit A – computer model), more specific architectural detailing of buildings, visual analysis from key vantage points (Exhibit B), and a streetscape (Exhibit C). Another focus of the discussion was the review of criterion 11 and the possibility of setting up a design review task force to evaluate the style, design, and architectural detailing of the project.

Summary of Recent Previous Meetings

January 7, 2009 - Planning Commission - Overview

Reviewed history of the original Sweeney Properties Master Plan, outlined the current review criteria for the current Conditional Use Permit, reviewed affordable housing plan (recommended on-site units), discussed review process, and setbacks.

February 11, 2009 – Planning Commission – Traffic

Staff provided the Planning Commission with an outline of the previous Planning Commission meetings regarding traffic. Staff outlined four issues raised within the previous Planning Commission review followed with specific questions. The topics were proposed use and traffic generation, pedestrian circulation, on-site parking, and displaced parking

February 26, 2009 – Housing Authority- Employee Housing

During this meeting, the Housing Authority directed the applicant to place the employee housing onsite.

April 22, 2009 – Planning Commission – Traffic

Attorney Jody Burnett, who had been retained as independent counsel to render an advisory opinion on the issue of vested rights for the Sweeney MPD presented his findings. Next, the applicant responded to concerns raised by the Planning Commission during the February 11, 2009 meeting that were outlined by staff in a letter. In general, the Planning Commission expressed concern that the proposed mitigation was creating too much of a burden on the adjacent neighborhood and that mitigation to Empire Avenue had not been addressed. (Note: Due to an issue with the recording device, the minutes of April 22, 2009 meeting are not currently available. A full recording has been obtained but the minutes have not been adopted.)

July 22, 2009 – Planning Commission – Traffic

Applicant presented customized approach to pedestrian mitigation. Continued concern for snow removal cost and management, location of improvements, width of streets, and onsite parking. Commission Wintzer submitted a list of suggestions for traffic mitigation.

August 24, 2009 – Planning Commission Work Session site visit

Analysis

Support Commercial Incompliance

Staff calculation of maximum possible additional Support Commercial and Meeting Space

The Treasure site is allowed 197 Unit Equivalents (UEs) of residential and 19 UEs of commercial area under the MPD. Of the 19 UEs of commercial, 15.5 were allocated to the Creole Site and 3.5 were allocated to the Mid-Station site. The MPD was approved under the 1985 Land Management Code. Any additional support commercial and meeting space areas above the 19 UEs must be in compliance with the LMC at the time of the MPD vesting. These figures are maximum possible allowances as long as any adverse impacts attributed to the density have been mitigated. Any additional support commercial above the 19 UEs is not vested.

Staff utilized Section 10.12 of the 1985 LMC to quantify the maximum possible additional support commercial and meeting space. The 1985 LMC section 10.12 Unit Equivalents states:

“Hotel uses must be declared at the time of site plan approval, and are subject to review for neighborhood compatibility. The election to use unit equivalents in the form of hotel rooms may not be allowed in all areas because of neighborhood conflicts or more intensive traffic generated. Within a hotel, up to 5% of the total floor area may be dedicated to meeting rooms, and support commercial areas without requiring the use of a unit equivalent of commercial space.

Staff calculated the floor area of the hotel (ONLY) and quantified the possible 5% support commercial of the total floor area of the hotel. Staff calculated total floor area of the hotel not including the additional proposed commercial area and meeting space.

$(\text{Floor area of Hotel}) \times .05 = \text{possible maximum Support Commercial and Meeting Space combined.}$

The hotel area is located within Building 4b. The total floor area of the hotel (not including the commercial and meeting space) is 234,803 square feet. Five percent of 234,803 square feet is 11,740 square feet. The applicant currently has 49,539 of support commercial/meeting space proposed above the 19 UEs allowed under within the MPD. The current application is 37,799 square feet above the maximum possible allowance (11,740 square feet). Also, this calculation is assuming that the Planning Commission will allow all the commercial units to be located on the Creole Site. Within

the MPD, 15.5 UEs of commercial were allocated to the Creole Site and 3.5 UEs of commercial were allocated to the Mid-Station Site.

Staff finds that the proposed support commercial exceeds the 1985 LMC maximum allowance.

	Sweeney MPD	Proposed	Compliance
Residential Units	197	196.96	Complies
Commercial Units	19	18.86	Complies with total, but allocation per site does not comply
Support Commercial	5% of hotel is 11,740	49,539	Exceeds allowed amount by 37,799

The original MPD entitled 19 unit equivalents of commercial, divided into Mid-Station (3.5 UEs) and Creole (15.5 UEs). Any additional commercial area is not vested under the MPD and staff finds that such additional area will add impacts to the development which cannot be mitigated. Not only does the additional space create larger buildings and massing, but also additional traffic from deliveries and employees. These impacts are contrary to the original MPD approval and not vested density. The applicant must mitigate all impacts to additional support commercial

The applicant does not agree with staff's methodology for calculating support commercial.

Applicant calculation of Support Commercial and Meeting Space:

The applicant has utilized today's code to calculate the support commercial area and meeting space within the development. They have calculated the total gross floor area of all the buildings per the current LMC definition. They have added together the gross floor area of ALL the buildings within the project because the buildings are either hotels or will be recorded as nightly rental condominium. The total Gross Floor Area calculated by the applicant is 682,001 square feet. 5% of 682,001 is 34,105 square feet.

Project Totals:

Commercial UEs	18,863 square feet
Support Commercial	33,412 square feet
Meeting Space	16,127 square feet
Gross Floor Area	682,001 square feet

NOTE: The applicant also added the square footage of the support commercial and meeting space in the Gross Floor Area calculation. These numbers should not have been included in the calculation. These figures are

Bldg. 4A	21,100 sq. ft. support commercial
Bldg. 4A	16,127 sq. ft. meeting space
Bldg. 4B	5,626 sq. ft. support commercial

Bldg. 5C 6,686 sq. ft. support commercial

Total 49,539 sq. ft.

$682,001 - 49,539 = 632,462$

$5\% \text{ of } 632,462 = 31,623.1$

Current LMC reference:

15-6-8 (C) Within a hotel or nightly rental condominium project, up to five percent of the total Gross Floor Area may be dedicated to support commercial uses, which shall not count against any allotted commercial unit equivalents approved as part of the MPD. Any Support Commercial Uses in excess of five percent (5%) of the total gross floor area will be required to use commercial unit equivalents, if approved as a part of the MPD. If no commercial allocation has been granted for an MPD, no more than five percent (5%) of the floor area can be support Commercial Uses and no other commercial uses will be allowed.

15-6-8 (D) Within a hotel or condominium project, up to five percent (5%) of the total gross floor area may be dedicated for meeting room space without the use of unit equivalents. Meeting space in excess of five percent (5%) of the total Gross Floor Area will be counted as commercial unit equivalents. Any square footage which is not used in the five percent support commercial allocation can be used as meeting space. Meeting space in excess of the five percent (5%) allocation for meeting rooms and the five percent (5%) allocation for support commercial shall be counted as commercial unit equivalents. Accessory meeting spaces, such as back of house, administrative areas, banquet offices, banquet preparation areas, and storage areas are spaces normally associated with and necessary to serve meeting and banquet activities and uses. These accessory meeting spaces do not require the use of unit equivalents.

By the applicants calculation, the project could have up to an additional 31,623 sf of support commercial and 31,623 sf of meeting space.

Independent public advisory opinion from Attorney Jody K Burnett

The City Council hired Attorney Jody K. Burnett to provide an independent public advisory regarding vesting of the original MPD. Attorney Burnett reviewed the support commercial in terms of vesting. The following is from the letter to the Park City Planning Commission from Attorney Jody Burnett dated April 22, 2009:

Finally, I also want to address a question that has been raised as to what standard should apply, in the vesting context, to the calculation of the amount of any additional support commercial and/or meeting space for the Sweeney MPD. **From my vantage point, the evaluation of historical vested rights has to be viewed in the context of the land use regulations which were in place at the time the vesting occurred as a result of the original MPD approval. In this case, that means** the provisions of the Land Management Code in effect as of the date of that original approval in 1986 should also be applied to the calculation of any additional meeting space and support commercial areas without requiring the use of unit equivalents of density. As you move forward with the conditional use permit approval process, the provisions of Section 10.12 of the 1985 LMC should be used for that purpose, which I understand provide that up to five percent (5%) of the total floor area within a hotel may be dedicated to meeting rooms, and support commercial areas without requiring the use of a unit equivalent of commercial space.

Sweeney Master Plan Development Parameters and Conditions

Development parameter and condition #3 of the Sweeney Master Plan states

“The approved densities are those attached as an exhibit and shall be limited to the maximums identified thereon. Parking shall be provided on-site in the enclosed structures and reviewed in accordance with either the table on the approved restrictions and requirements exhibit or the adopted ordinances at the time of project approval. All support commercial uses shall be oriented and provide convenient service to those residing within the project and not designed to serve off-site or attract customers from other areas. “

Staff Conclusion on support commercial.

Staff finds that any support commercial over 5% of the total floor area within specific hotels must count towards the MPD 19 unit equivalents. Even if the Planning Commission agrees with the applicant, any support commercial above the 19 unit equivalents is not vested and would be subject to a full blown, new compatibility and MPD/CUP review (if you allow the applicant to take advantage of more permissive provisions of the current code, such application would be a substantive amendment to the original MPD and require re-opening the entire MPD). Addition support commercial causes additional impacts such as impacts to mass and building size, traffic from deliveries and employees, greater water usage, etc. Rather than focus on the calculation methods, the Planning Commission should focus on impacts of additional support commercial and the level of mitigation. **The developer has vested rights to 19,000 square feet of support commercial and 5% of the hotel area as long as impacts are mitigated within the CUP review.**

Discussion Points

1. Does the Planning Commission agree with Staff's analysis on support commercial?
2. The applicant has given the staff the perception that the project as it is designed today will not be modified. This should be discussed during the work session. **If the**

applicant is not going to make modifications to comply with the support commercial, staff can make findings for denial and move onto the next elements in the review.

Difference in approved MPD and current application

The MPD which was approved by the City Council on October 16, 1986, included exhibits showing calculations for the units within the project. Two major differences have been identified in the review by staff of the current project versus the original master plan approval.

1. The total square footage of the project is larger than originally anticipated within the master plan approval and original CUP submittal.
2. The modification of grade is more extensive than originally anticipated creating greater impacts to the site, scale, hillside, and neighborhood.

Evolution in Square Footage

The original MPD exhibits did not quantify total square footage. The original MPD exhibits showed the total unit equivalents utilized within the Creole and Mid-station sites. The totals represented are 197 UEs of residential and 19 UEs of support commercial. No additional support commercial was shown on these exhibits. Parking was also shown on the original MPD exhibits with 464 total parking spaces and approximately 203,695 square feet of area.

The original CUP application in 2004 for Planning Commission review was a total of 849,007 square feet. The following is a breakdown of the project from the 2004 submittal.

Use	Square Footage
Support Commercial	22,653
Residential	483,359
Ancillary	86,037
Parking	256,958
Total	849,007

In 2006, the Planning Commission asked the applicant to provide more details on the current plan. The revisions to the plan (that are now the current application under review) include an additional 186,010 square feet. The following is a breakdown of the current submittal.

Use	Square Footage
Support Commercial	18,863
Residential	393,911
Additional Support Commercial	33,412
Additional meeting space	16,127
Circulation, common space, accessory space	309,511
Parking	245,063
Total	1,016,887

The additional space has been added to the support commercial, meeting space, circulation, common space, and accessory space since the original 2004 submittal. This increase in area accounts for 16.5% of the current total square footage of the project.

The proposed square footage of this project does not comply with the purpose statements of the Land Management Code and the goals and actions listed within the General Plan. Within the MPD, the area was assigned a specific number of unit equivalents. The way in which these unit equivalents are designed within the project area must meet the purpose statements of the zone and the General Plan.

The project is located in the Estate zoning district of Park City. The purpose statements within the Estate zone, purpose statement 8 states "encourage comprehensive, efficient, compatible development which results in distinct and cohesive neighborhoods through application of the sensitive lands ordinance." Although the application is not required to meet the standards of the SLO, the design should be efficient and compatible. The current application is excessive and inefficient.

Within Chapter 2 of the Park City General Plan several goals are stated that address massing and scale. Specifically,

"new development, both commercial and residential, should be modest in scale and utilize historic and natural buildings materials. New structures should blend in with the landscape."

"Preserve an attractive, healthy environment with clean air and natural landscapes. To preserve the natural views of the mountains and meadows, new development should not be allowed on ridges, but rather focused between the middle and the base of hills and in other less visible areas. New development should retain the maximum possible amount of natural vegetation, to screen structures and preserve the natural quality of the landscape."

"Park City should manage new development to control the phasing, type, appearance, location, and quantity of community growth by adopting and enforcing growth management strategies"

"The community's growth should be managed so that direct and indirect adverse impacts can be anticipated, identified, and mitigated to the extent possible."

The intent of Chapter 3, the Community Character Element of the Park City General Plan, is to "sustain the character and image of the Park City community through specific policies, recommendations, and actions that will accomplish the primary goal of maintaining the community's development patterns and way of life". Within this section the downtown area is described as "with its historic character marked by buildings of simple design, modest scale, and modest height, is the community's "crown jewel." The discussion continues with "new commercial and residential development, modest in scale, and utilizing historic and natural building materials". Staff has concerns with the

scale of the project. The amount of circulation area, lobby areas, parking circulation, etc. are not modest in scale and compatible to the surrounding area.

Discussion point

3. Staff requests discussion and direction on additional square footage.

Conditional Use Permit Criteria Analysis

Standard of Review for Conditional Use Permit

Land Management Code: Conditional Use Permit 15-1-10:

“The Planning Department will evaluate all proposed Conditional Uses and may recommend conditions of approval to preserve the character of the zone and to mitigate potential adverse effects of the Conditional Use.

A Conditional Use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of proposed use in accordance with applicable standards.

If the reasonable anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.”

The Planning Department and Planning Commission must review each of the following items when considering whether or not the proposed conditional use mitigates impacts of the following criteria related to mass, bulk, scale, compatibility, design, and site design:

- 8. building mass, bulk, and orientation, and the location of buildings on the site; including orientation to buildings on adjoining lots;
- 11. physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing;
- 15. within and adjoining the site impacts on environmentally sensitive lands, slope retention, and appropriateness of the proposed structure to the topography of the site.

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

The 1986 MPD approval set standards for increased density and increased height on the site. The MPD set height envelopes over the site which increased the allowed height from the front to the rear lot lines. The area closest to the front lot line along the Lowell Avenue/Empire Avenue switchback was set at a 0' maximum building height. The maximum building height increases in steps from the front property line. Maximum elevations were also set within the MPD. The mid-station maximum elevation was set at 7420 feet and 7275 feet for Creole. The current application complies with the height requirements set forth in the MPD, yet the design modifies existing grade well beyond the anticipated amounts shown in the exhibits of the MPD.

The following is a portion of the Creole Height diagram from the MPD exhibits page 22.

(D) **MPD REQUIREMENTS.** All of the MPD requirements and findings of this section shall apply to Affordable Housing MPD projects.

(E) **DENSITY BONUS.** The reviewing agency may increase the allowable Density to a maximum of twenty (20) Unit Equivalents per acre. The Unit Equivalent formula applies.

(F) **PARKING.** Off-Street parking will be required at a rate of one (1) space per Bedroom.

(G) **OPEN SPACE.** A minimum of fifty percent (50%) of the Parcel shall be retained or developed as open space. A reduction in the percentage of open space, to not less than forty percent (40%), may be granted upon a finding by the Planning Commission that additional on or Off-Site amenities, such as playgrounds, trails, recreation facilities, bus shelters, significant landscaping, or other amenities will be provided above any that are required. Project open space may be utilized for project amenities, such as tennis courts, Buildings not requiring a Building Permit, pathways, plazas, and similar Uses. Open space may not be utilized for Streets, roads, or Parking Areas.

(H) **RENTAL RESTRICTIONS.** The provisions of the moderate income housing exception shall not prohibit the monthly rental of an individually owned unit. However, Nightly Rentals or timesharing shall not be permitted within Developments using this exception. Monthly rental of

individually owned units shall comply with the guidelines and restrictions set forth by the Housing Authority as stated in the adopted Affordable Housing resolution in effect at the time of Application.

(Amended by Ord. Nos. 06-22; 09-10)

15-6-8. UNIT EQUIVALENTS.

Density of Development is a factor of both the Use and size of Structures built within a project. In order to allow for, and to encourage, a variety of unit configurations, Density shall be calculated on the basis of Unit Equivalents. Unless otherwise stipulated, one (1) Unit Equivalent equates to one (1) single family Lot, 2,000 square feet of Multi-Family Dwelling floor area, or 1,000 square feet of commercial or office floor area. A duplex Lot equates to two (2) Unit Equivalents, unless otherwise stipulated by the Master Planned Development (MPD). The MPD may stipulate maximum Building Footprint and/or maximum floor area for single family and duplex Lots. Residential Unit Equivalents for Multi-Family Dwellings shall be calculated on the basis of one (1) Unit Equivalent per 2,000 square feet and portions of Unit Equivalents for additional square feet above or below 2,000. For example: 2,460 square feet of a multi-family unit shall count as 1.23 Unit Equivalents.

Affordable Housing units required as part of the MPD approval, and constructed on Site do not count towards the residential Unit Equivalents of the Master Plan. Required

ADA units do not count towards the residential Unit Equivalents.

Support Uses and accessory meeting space use Unit Equivalents as outlined in Section 15-6-8(C) and (D) below.

(A) **CALCULATING RESIDENTIAL UNIT SQUARE FOOTAGE.** Unit square footage shall be measured from the interior of the exterior unit walls. All bathrooms, halls, closets, storage and utility rooms within a unit will be included in the calculation for square footage. Exterior hallways, common circulation and hotel use areas, such as lobbies, elevators, storage, and other similar Areas, will not be included. Common outdoor facilities, such as pools, spas, recreation facilities, ice-skating rinks, decks, porches, etc. do not require the Use of Unit Equivalents.

(B) **LOCKOUTS.** For purposes of calculating Unit Equivalents, Lockouts shall be included in the overall square footage of a unit.

(C) **SUPPORT COMMERCIAL WITHIN RESIDENTIAL MASTER PLANNED DEVELOPMENTS.** Within a Hotel or Nightly Rental Condominium project, up to five percent (5%) of the total Gross Floor Area may be dedicated to Support Commercial Uses, which shall not count against any allotted commercial Unit Equivalents approved as part of the MPD. Any Support Commercial Uses in excess of five percent (5%) of the total Gross Floor Area will be required to use commercial Unit Equivalents, if approved as a part of the MPD. If no commercial allocation has been

granted for an MPD, no more than five percent (5%) of the floor area can be support Commercial Uses, and no other Commercial Uses will be allowed.

(D) **MEETING SPACE.** Within a Hotel or Condominium project, up to five percent (5%) of the total Gross Floor Area may be dedicated for meeting room space without the Use of Unit Equivalents. Meeting space in excess of five percent (5%) of the total Gross Floor Area will be counted as commercial Unit Equivalents. Any square footage, which is not used in the five percent (5%) support commercial allocation can be used as meeting space. Meeting space in excess of the five percent (5%) allocation for meeting rooms and the five percent (5%) allocation for support commercial shall be counted as commercial Unit Equivalents. Accessory meeting spaces, such as back of house, administrative areas, banquet offices, banquet preparation areas, and storage areas are spaces normally associated with and necessary to serve meeting and banquet activities and Uses. These accessory meeting spaces do not require the use of Unit Equivalents.

(E) **COMMERCIAL UNIT EQUIVALENTS.** Commercial spaces, approved as a part of a Master Planned Development, shall be calculated on the basis of one (1) Unit Equivalent per 1000 square feet of Net Leasable Floor Area, exclusive of common corridors, for each part of a 1,000 square foot interval. For example: 2,460 square feet of commercial Area shall count as 2.46 Unit Equivalents.

(F) **RESIDENTIAL ACCESSORY USES.** Residential Accessory Uses include those facilities that are for the benefit of the residents of a commercial Residential Use, such as a Hotel or Nightly Rental Condominium project which are common to the residential project and are not inside the individual unit. Residential Accessory Uses do not require the use of Unit Equivalents and include such Uses as:

- Ski/Equipment lockers
- Lobbies
- Registration
- Concierge
- Bell stand/luggage storage
- Maintenance Areas
- Mechanical rooms
- Laundry facilities and storage
- Employee facilities
- Common pools, saunas and hot tubs not open to the public
- Telephone Areas
- Public restrooms
- Administrative offices
- Hallways and circulation
- Elevators and stairways
- Back of house Uses

(G) **RESORT ACCESSORY USES.** The following Uses are considered accessory for the operation of a resort for winter and summer operations. These Uses are incidental to and customarily found in connection with the principal Use or Building and are operated for the convenience of the Owners, occupants, employees, customers, or visitors to the principal resort Use. Accessory Uses associated with an approved summer or winter resort do not require the Use of a Unit

Equivalent. These Uses include such Uses as:

- Information
- Lost and found
- First Aid
- Mountain patrol
- Administration
- Maintenance and storage facilities
- Emergency medical facilities
- Public lockers
- Public restrooms
- Employee restrooms
- Ski school/day care facilities
- Instruction facilities
- Ticket sales
- Equipment/ski check
- Circulation and hallways

(Amended by Ord. Nos. 06-22; 09-10)

(E) **Club, Private Residence Project.** Any Condominium Property that is subject to a Private Residence Club deed, interest, trust, or other arrangement for providing for Use and Ownership as a Private Residence Club, and contains at least four (4) units.

1.48. **CLUSTER DEVELOPMENT.** A design that concentrates Buildings in specific Areas on a Site to allow the remaining land to be used for recreation, Open Space, and preservation of environmentally sensitive Areas.

1.49. **CODE.** The Land Management Code (LMC).

1.50. **COLLECTOR ROAD.** A road intended to move traffic from local roads to major throughways. A Collector Road generally serves a neighborhood or a large Subdivision.

1.51. **CO-LOCATION.** The location of Telecommunications Facility on an existing Structure, tower, or Building, in such a manner that precludes the need for that Telecommunications Facility to be located on a free-standing Structure of its own.

1.52. **COMMERCIAL USE.** Retail Business, service establishments, professional offices, and other enterprises that include commerce and/or trade and the buying and selling of goods and services.

(A) **Commercial Use, Support.** A Commercial Use oriented toward the internal circulation of a Development, for the purpose of serving the needs of the residents or users of that Development, and

not Persons drawn from Off-Site.

(B) **Commercial Use, Resort Support.** A Commercial Use that is clearly incidental to, and customarily found in connection with, the principal resort Use, and which is operated and maintained for the benefit or convenience of the Owner, occupants, employees, customers of, or visitors to, the principal Use.

1.53. **COMMON AREA.** Facilities and yards under Common Ownership, identified within projects, for the Use and enjoyment of the residents.

1.54. **COMMON OWNERSHIP.** Ownership of the same Property by different Persons.

1.55. **COMPATIBLE OR COMPATIBILITY.** Characteristics of different Uses or designs that integrate with and relate to one another to maintain and/or enhance the context of a surrounding Area or neighborhood. Elements affecting Compatibility include, but are not limited to, Height, scale, mass and bulk of Building, pedestrian and vehicular circulation, parking, landscaping and architecture, topography, environmentally sensitive Areas, and Building patterns.

1.56. **CONDITIONAL USE.** A land Use that, because of its unique characteristics or potential impact, is allowed only if certain measures are taken to mitigate or eliminate the potential impacts.

1.57. **CONDOMINIUM.** Any Structure or Parcel that has been submitted to

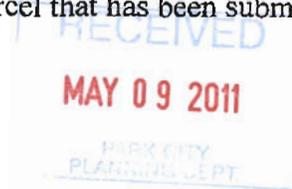


EXHIBIT 3
COMMERCIAL AND SUPPORT SPACE
14-Apr-93

LOCATION	RETAIL SALES	ADMIN. & SUPPORT	COMMERCIAL OFFICES	OTHER	TOTAL
SPORTS FACILITY		7000		55000	62000
SNOW PARK CENTER	12760	14519		17426	44705
SNOW PARK CHILD CARE		200		2800	3000
SNOW PARK SKI SCHOOL		500		500	1000
SNOW PARK PLAZA BUILDING	3100	2180	16000	2000	23280
GENERAL SNOW PARK COMMERCIAL (1)	40000				40000
SILVER LAKE CENTER	137	7918		16691	24746
SILVER LAKE COMMUNITY	27962	7043	4265	16020	55290
BALD EAGLE COMMUNITY	10000	5000		5000	20000
NORTH SILVER LAKE COMMUNITY	8000	2000		4525	14525
MAINTENANCE, WHSE, & SHOPS				19320	19320
TOTAL	101959	46360	20265	139282	307866

NOTES: General Snow Park Commercial may only be utilized on certain parcels in Project with approval of Commission and Permittee.

101
+15
87
88

Government Records Access and Management Act Request (GRAMA)

Date: Jan 24, 2010
To: Park City Municipal Corporation
City Recorder
P O Box 1480
Park City UT 84060
Re: **Government Records Access Request**

This is a request under the Utah Government Records Access and Management Act, Utah Code '63-2-204(1). I request that a copy of the following document(s) ♥ or documents containing the following information ♠ be provided to me:

City Council requested the Legal Dept verify the use of the Silver Dollar ski run as open space in the 1st Appeal hearing for North Silver Lake Lodge in 2009. What were the facts disclosed by the Legal Dept to the City Council to verify the use of the Silver Dollar ski run as open space for NSL Lot 2B?
I acknowledge I will be charged \$.10 per page. If you estimate that copy fees will exceed \$20.00, please inform me first. Please email the information and save some paper

OR I would like to arrange for personal examination of the following documents:

In the event I require copies, I acknowledge that I will be charged \$.10 per page. Please contact me at the following phone number to arrange for this review.

If for any reason this request for documents is rejected, please provide me with the reasons for the denial and the name of the person to whom to appeal the decision. Please respond as soon as possible or within ten business days.

Sincerely,

Signature: Lisa A. Wilson
Printed Name: Lisa A. Wilson
Mailing Address: P.O. Box 1718, Park City, UT 84060
Telephone Number: (435) 645-7973
Fax Number: (435) 645-7975
email: lisa@winco.us

Received: _____
Reviewed by City Attorney: _____
Assigned to: _____
Completed/Mailed/Picked Up: _____

[Go To](#)Utah CodeTitle 10 Utah Municipal CodeChapter 9a Municipal Land Use, Development, and Management

Section 205 Notice of public hearings and public meetings on adoption or modification of ordinance.

10-9a-205. Notice of public hearings and public meetings on adoption or modification of ordinance.

- (1) Each municipality shall give:
- (a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and
 - (b) notice of each public meeting on the subject.
- (2) Each notice of a public hearing under Subsection (1)(a) shall be:
- (a) mailed to each affected entity at least 10 calendar days before the public hearing;
 - (b) posted:
 - (i) in at least three public locations within the municipality; or
 - (ii) on the municipality's official website; and
 - (c) (i) (A) published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and
 - (B) published in accordance with Section **45-1-101**, at least 10 calendar days before the public hearing; or
 - (ii) mailed at least three days before the public hearing to:
 - (A) each property owner whose land is directly affected by the land use ordinance change; and
 - (B) each adjacent property owner within the parameters specified by municipal ordinance.
- (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:
- (a) in at least three public locations within the municipality; or
 - (b) on the municipality's official website.

Amended by Chapter 388, 2009 General Session

Download Code-Section [Zipped](#) [WordPerfect](#) [10_09a020500.ZIP](#) 2,270 Bytes

[<< Previous Section \(10-9a-204\)](#) [Next Section \(10-9a-206\)](#) >>

[Questions/Comments](#) | [Utah State Home Page](#) | [Terms of Use/Privacy Policy](#)

[Justia](#) > [Law](#) > [Utah Law](#) > [Utah Code](#) > [Title 10 — Utah Municipal Code](#) > [Chapter 09a — Municipal Land Use, Development, and Management](#) > 10-9a-206 — Third party notice.

Search Justia

10-9a-206 — Third party notice.

Search Utah Code All US State Codes

10-9a-206. Third party notice.

(1) If a municipality requires notice to adjacent property owners, the municipality shall:

- (a) mail notice to the record owner of each parcel within parameters specified by municipal ordinance; or
- (b) post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.

(2) If a municipality mails notice to third party property owners under Subsection (1), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

Enacted by Chapter 254, 2005 General Session

Justia Lawyer, Legal Aid & Services Directory: [Utah Public Benefits Lawyers](#)

Copyright © Justia - No copyright claim is made to any of the government data on these pages.

[Company](#) :: [Terms of Service](#) :: [Privacy Policy](#) :: [Contact Us](#) :: [Have a Happy Day!](#)

[Go To](#)

[Utah Code](#)

[Title 10 Utah Municipal Code](#)

[Chapter 9a Municipal Land Use, Development, and Management](#)

Section 207 Notice for an amendment to a subdivision -- Notice for vacation of or change of street

10-9a-207. Notice for an amendment to a subdivision -- Notice for vacation of or change of street.

- (1) (a) For an amendment to a subdivision, each municipality shall provide notice of the location, date, and place of at least one public meeting, as provided in Subsection (1)(b).
- (b) At least 10 calendar days before the public meeting, the notice required under Subsection (1)(a) shall be:
 - (i) mailed and addressed to the record owner of each parcel within specified parameters of the property; or
 - (ii) posted on the property proposed for subdivision, in a visible location, with a sign of a size, durability, and print quality that is reasonably calculated to give notice to passers-by.
- (2) Each municipality shall provide notice as required by Section **10-9a-208** for a subdivision that involves a vacation, alteration, or amendment of a street.

Amended by Chapter 338, 2009 General Session

Download Code Section [Zipped WordPerfect 10_09a020700.ZIP](#) 2,086 Bytes

[<< Previous Section \(10-9a-206\)](#) [Next Section \(10-9a-208\) >>](#)

[Questions/Comments](#) | [Utah State Home Page](#) | [Terms of Use/Privacy Policy](#)

[Supreme Court Center](#) | [US Laws](#) | [Blawgs.FM](#) | [BlawgSearch.com](#) | [Justia](#)

[Justia](#) > [Law](#) > [Utah Law](#) > [Utah Code](#) > [Title 10 — Utah Municipal Code](#) > [Chapter 09a — Municipal Land Use, Development, and Management](#) > 10-9a-208 — Hearing and notice for proposal to vacate, alter, or amend a public street or right-of-way.

10-9a-208 — Hearing and notice for proposal to vacate, alter, or amend a public street or right-of-way.

Utah Code All US State Codes

10-9a-208. Hearing and notice for proposal to vacate, alter, or amend a public street or right-of-way.

For any proposal to vacate, alter, or amend a public street or right-of-way, the land use authority shall hold a public hearing and shall give notice of the date, place, and time of the hearing by:

- (1) mailing notice as required in Section **10-9a-207**;
- (2) mailing notice to each affected entity; and
- (3) (a) publishing notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in the municipality in which the land subject to the petition is located; or
 (b) if there is no newspaper of general circulation in the municipality, posting the property and posting notice in three public places for four consecutive weeks before the hearing.

Amended by Chapter 240, 2006 General Session

[Justia Lawyer, Legal Aid & Services Directory: Utah Public Benefits Lawyers](#)

Copyright © Justia - No copyright claim is made to any of the government data on these pages.

[Company](#) :: [Terms of Service](#) :: [Privacy Policy](#) :: [Contact Us](#) :: [Have a Happy Day!](#)

[Go To](#)[Utah Code](#)[Title 10 Utah Municipal Code](#)[Chapter 9a Municipal Land Use, Development, and Management](#)**Section 604** Subdivision plat approval procedure -- Effect of not complying.**10-9a-604. Subdivision plat approval procedure -- Effect of not complying.**

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the plat has been approved by:

(i) the land use authority of the municipality in which the land described in the plat is located; and

(ii) other officers that the municipality designates in its ordinance; and

(b) all approvals are entered in writing on the plat by the designated officers.

(2) A subdivision plat recorded without the signatures required under this section is void.

(3) A transfer of land pursuant to a void plat is voidable.

Amended by Chapter 338, 2009 General Session

Download Code Section [Zipped](#) [WordPerfect](#) [10_09a060400.ZIP](#) 1,843 Bytes

[<< Previous Section \(10-9a-603\)](#) [Next Section \(10-9a-604.5\) >>](#)

[Questions/Comments](#) | [Utah State Home Page](#) | [Terms of Use/Privacy Policy](#)

Justia > Law > Utah Law > Utah Code > Title 10 — Utah
Municipal Code > Chapter 09a — Municipal Land Use,
Development, and Management > 10-9a-608 — Vacating or
changing a subdivision plat.

Search Justia

10-9a-608 — Vacating or changing a subdivision plat.

Search Utah Code All US State Codes

10-9a-608. Vacating or changing a subdivision plat.

(1) (a) Subject to Section **10-9a-609.5**, and provided that notice has been given pursuant to local ordinance and Section **10-9a-208**, the land use authority may, with or without a petition, consider and resolve any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any lot contained in a subdivision plat.

(b) If a petition is filed, the land use authority shall hold a public hearing within 45 days after the petition is filed or, if applicable, within 45 days after receipt of the planning commission's recommendation under Subsection (2), if:

- (i) any owner within the plat notifies the municipality of their objection in writing within ten days of mailed notification; or
- (ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) (a) (i) The planning commission shall consider and provide a recommendation for a proposed vacation, alteration, or amendment under Subsection (1)(a) before the land use authority takes final action.

(ii) The planning commission shall give its recommendation within 30 days after the proposed vacation, alteration, or amendment is referred to it, or as that time period is extended by agreement with the applicant.

(b) Subsection (2)(a) does not apply if the planning commission has been designated as the land use authority.

(3) The public hearing requirement of Subsection (1)(b) does not apply and a land use authority may consider at a public meeting an owner's petition to alter a subdivision plat if:

- (a) the petition seeks to join two or more of the owner's contiguous, residential lots; and
- (b) notice has been given pursuant to local ordinance.

(4) Each request to vacate or alter a street or alley, contained in a petition to vacate, alter, or amend a subdivision plat is also subject to Section **10-9a-609.5**.

(5) Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in writing, petition to have the plat, any portion of it, or any street or lot contained in it vacated, altered, or amended as provided in this section and Section **10-9a-609.5**.

(6) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat shall include:

- (a) the name and address of all owners of record of the land contained in the entire plat;
- (b) the name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and

(c) the signature of each of these owners who consents to the petition.

(7) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (7)(b).

(b) The land use authority shall approve an exchange of title under Subsection (7)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (7)(b):

- (i) a notice of approval shall be recorded in the office of the county recorder which:
 - (A) is executed by each owner included in the exchange and by the land use authority;
 - (B) contains an acknowledgment for each party executing the notice in accordance with

the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and

(ii) a conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.

(d) A notice of approval recorded under this Subsection (7) does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property.

(8) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (8)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

(d) Except as provided in Subsection (8)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is voidable.

Amended by Chapter 163, 2006 General Session

Justia Lawyer, Legal Aid & Services Directory: [Utah Public Benefits Lawyers](#)

Copyright © Justia - No copyright claim is made to any of the government data on these pages.

[Company](#) :: [Terms of Service](#) :: [Privacy Policy](#) :: [Contact Us](#) :: [Have a Happy Day!](#)

Go To

Utah Code

Title 10 Utah Municipal Code

Chapter 9a Municipal Land Use, Development, and Management

Section 609 Land use authority approval of vacation, alteration, or amendment of plat -- Recording of amended plat.

10-9a-609. Land use authority approval of vacation, alteration, or amendment of plat -- Recording the amended plat.

(1) The land use authority may approve the vacation, alteration, or amendment of a plat showing the vacation, alteration, or amendment if the land use authority finds

- (a) there is good cause for the vacation, alteration, or amendment; and
- (b) no public street, right-of-way, or easement has been vacated or altered.

(2) The land use authority shall ensure that the amended plat showing the vacation, alteration, or amendment is recorded in the office of the county recorder in which the land is located.

(3) If an entire subdivision is vacated, the legislative body shall ensure that a legislative resolution containing a legal description of the entire vacated subdivision is recorded in the county recorder's office.

Amended by Chapter 338, 2009 General Session

Download Code Section [Zipped](#) WordPerfect [10_09a060900.ZIP](#) 1,958 Bytes

[<< Previous Section \(10-9a-608\)](#) [Next Section \(10-9a-609.5\) >>](#)

[Questions/Comments](#) | [Utah State Home Page](#) | [Terms of Use/Privacy Policy](#)

[Supreme Court Center](#) | [US Laws](#) | [Blawgs.FM](#) | [BlawgSearch.com](#) | [Justia](#)

[Justia](#) > [Law](#) > [Utah Law](#) > [Utah Code](#) > [Title 10 — Utah Municipal Code](#) > [Chapter 09a — Municipal Land Use, Development, and Management](#) > 10-9a-702 — Variances.

Search Justia

10-9a-702 — Variances.

Search Utah Code All US State Codes

10-9a-702. Variances.

(1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.

(2) (a) The appeal authority may grant a variance only if:

(i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;

(ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;

(iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

(iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) the spirit of the land use ordinance is observed and substantial justice done.

(b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship unless the alleged hardship:

(A) is located on or associated with the property for which the variance is sought; and

(B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:

(i) relate to the hardship complained of; and

(ii) deprive the property of privileges granted to other properties in the same zone.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

(5) The appeal authority may not grant a use variance.

(6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:

(a) mitigate any harmful affects of the variance; or

(b) serve the purpose of the standard or requirement that is waived or modified.

Renumbered and Amended by Chapter 254, 2005 General Session

Justia Lawyer, Legal Aid & Services Directory: [Utah Public Benefits Lawyers](#)

Copyright © Justia - No copyright claim is made to any of the government data on these pages.

[Company](#) .. [Terms of Service](#) [Privacy Policy](#) .. [Contact Us](#) .. [Have a Happy Day!](#)

May I have the square footage of the project broken down.

- a. total square footage
- b. total common area
- c. total square footage below grade
- d. square footage of each of the towers above and below grade
- e. which towers are connected by a bridge above or below grade?

A. Total Square Footage : 332,493

Condos: 241,814

Homes: 90,679

Totals: 332,493

B. Common Area: 100,521

241,814 (entire condos) – 141,293 (residential) = 100,521 total Common Area including the commercial space

Of the 100,521 sf of common area, 62,000 sf is parking.

C. Total Square footage below grade: 77,452 sf

Parking Level 1	29,560
Parking Level 2	32,440 (partially below grade)
Building 3 Level 00	15,452
TOTAL	77,452

D.

Building 1. 42,238 sf

Building 2 22,496 sf

Building 3 70,358 sf (level 00 is below grade 15,452)

Building 4 44,722 sf

Parking under buildings 1, 2, and 4 is underground in level 1 (29,560 sf) and partially underground. (32,440 sf).

The connection located between building 2 and building 4 is 9 feet wide by 28.5 feet long and is located above grade.

The parking garage is connected to building 3 below grade.

Planning Commission Meeting Minutes of October 22, 2008 Page 30

made sure that quarter-of-an acre cannot be applied towards this project's open space because it has already been utilized within the Deer Valley MPD.

Planner Cattan remarked that the single family homes around the periphery are less dense and most of the density is in the center. In addition, the height requirement in Lot 2B is the highest at 45 feet.

Planner Cattan noted that Criteria 11 speaks to compatibility. Within the project the applicant has proposed four central condominiums, sixteen single family homes and four duplexes around the periphery. The homes around the periphery are within the RD height requirement. Planner Cattan understood that four homes were over the height limit because the units were moved forward to protect some trees. In terms of compatibility, she believed the applicants made an effort to work with the height of the neighboring zone and the surrounding single family homes, as well as the scale of the single family homes and duplexes on the periphery. The major height was confined to the center.

Commissioner Wintzer wanted to know which houses exceeded the height. He was told that it was four units closest to the open space.

Planner Cattan noted that the Staff report incorrectly states that the sensitive lands overlay is not applicable. She explained that it is not applicable in terms of changing density rights; but the limits of disturbance, vegetation protection and building design standards of the sensitive lands overlay do apply. Language within the Deer Valley Master Plan defines how the SLO applies. Planner Cattan noted that every tree on the site has been identified on a site plan and she will include that as an attachment for the next meeting. She stated that the design must meet the Park City architectural guidelines as well as the Deer Valley guidelines.

Commissioner Peek asked if the Lot 2D open space is available to be used by North Silver Lake. Planner Cattan answered no. In looking through the previous Deer Valley Master Plan to see how it had changed over time she found that at one time it was open to the lots for the Belmont, but it has never been allowed towards any other development. Commissioner Strachan asked if the North Silver Lake development would use up all that open space if they were allowed to use it. Planner Cattan stated that as written in the Deer Valley Master Plan, the Belmont is the only lot that has rights to use it towards open space. Commissioner Strachan asked if the Deer Valley MPD controls all the Belle projects that have been identified. Planner Cattan replied that it controls all that have been developed. Commissioner Strachan asked if the Staff could provide the Planning Commission with a copy of the Deer Valley MPD. Since it appears to be the controlling document, he thought it would be helpful to have that information. Planner Cattan offered to provide that document in the next Staff report.

Planner Cattan reported that comments from the public had been emailed to the Planning Commission.

Matthew Leavy, representing applicant, stated that he has worked on this project with Kelly Peart and Doug Clyde for the past eighteen months. Mr. Leavy stated that he works for Regent Properties, which is a Los Angeles based real estate development firm that was founded in 1989. Since that time they have acquired a billion dollars worth of real estate assets. Mr. Leavy

From: Lisa Wilson <lisawilson@me.com>
Subject: **Where was Lot D?**
Date: June 3, 2010 3:57:18 AM MDT
To: Katie Cattan <kcattan@parkcity.org>



Was any part of the original parcel D ever below the Silver Dollar ski run? That is, was any portion where Lot D it is today?

On Jun 2, 2010, at 9:32 AM, Katie Cattan wrote:

Just notice my typo. Height has stayed consistent at 45 feet.

Katie Cattan
Senior Planner
Park City Municipal Corp.
435-615-5068

From: Katie Cattan
Sent: Wednesday, June 02, 2010 9:22 AM
To: 'Lisa Wilson'; Brad Wilson; Tom Boone
Cc: Tom Bakaly; Mark Harrington; Polly Samuels McLean; Thomas Eddington
Subject: FW: Did the City Error?

Hi Lisa,

I reviewed the DV MPD records. When the NSL subdivision was approved the original Parcel names changed. The NSL Multi-Family Parcel D was renamed in the NSL Subdivision Lot 2B. The units were not increased. Between the 7th and 8th amendment Parcel D became Lot 2B but the units stayed the same at 54 units. The height also stayed consistent at 54 feet. I put this into a word document to show the progression and identified the name changes. Lot 2B (originally Parcel D) is identified in red.

I have asked Patty to check on the status of the files you requested. I hope to get an update today.

Are you available to meet Thursday morning. I am getting the numbers you requested together and will be ready by Thursday AM. Let me know.

Thank you,
Kaite

Katie Cattan
Senior Planner
Park City Municipal Corp.
435-615-5068

From: Lisa Wilson [<mailto:lisawilson@me.com>]
Sent: Tuesday, June 01, 2010 4:37 PM
To: Tom Bakaly; Katie Cattan
Subject: Did the City Error?

Did the City Error in Approving the 8th Amendment to the Deer Valley Master Plan?

The Deer Valley Master Plan identifies the North Silver Lake area as 60% open space.

In 1997 a plat map approved the use of North Silver Lake Lot 2D as open space for Bellemont and 2B. The 7th Amendment to Deer Valley Master Plan was in affect in 1997. According to the 7th Amendment, North Silver Lake Lot 2D was 54 units with a roof height of 45 ft. In the 1997 Planning minutes there is approval for a plat map change for parcel 2B, 2D and Bellemont. **There is no public comment.** I have filed a Gram

**PARK CITY PLANNING COMMISSION
WORK SESSION NOTES
FEBRUARY 12, 1997**

Present: Chair Fred Jones, Tom Calder, Bruce Erickson, Karri Hays, Chris Larson, Michael O'Hara, Diane Zimney, Megan Ryan, Kevin LoPiccolo, Kirsten Whetstone

WORK SESSION

1414-1430 Empire Avenue - Plat Amendment

The applicant requested that this item be postponed.

Subdivision of Lot 2 - North Silver Lake Subdivision Lot 2A - CUE for PUC

Planner LoPiccolo reviewed the request for 12 single-family units in the North Silver Lake MPD using a site map to orient the location within Deer Valley and adjacent properties. He stated that the applicant is requesting a plat amendment to create five lots, with Lot 2A being the subject of this review. Parcel A, Belleterre, and Parcel B, Bellevue, were part of the master planned development. There were originally six phases to the MPD for North Silver Lake. Belleterre was built and sold off, and Bellevue was built and is no longer a part of the plan. The plat amendment further subdivides Lot 2 of the North Silver Lake Subdivision to create four development parcels to coincide with the MPD. The requested MPD revisions will decrease the density. The original MPD approval was for 18 units of attached housing clustering on Lot 2A. The small-scale MPD is for 12 detached units.

Planner LoPiccolo discussed the three areas to be addressed and other issues in the Staff report. He asked for input on the open space allocation, detached versus attached clustered development, and the visual aspects of the project. He stated that the MPD is clear on the intent for clustering to preserve the existing vegetation. The applicants felt they could achieve a similar result with detached structures and preserve more vegetation by nestling the units within the existing vegetation. Planner LoPiccolo discussed the construction management plan and stated that the applicant will prepare a narrative on the time frame for constructing the 12 units. Trails were an issue for discussion, and the Staff has requested that the entire North Lake subdivision have a trails plan.

Chair Jones asked if the proposed units will be developer built. Planner LoPiccolo replied that they will be similar to Bellevue, which was developer built.

Commissioner Larson asked for an explanation of the Lot 2D open space dedication. Planner LoPiccolo explained that the applicants propose a plat amendment to dedicate Lot 2D as permanent open space

to be listed on the plat as open space in perpetuity. The applicant is requesting that a transfer or allocation in the calculation of open space for development on 2A be allowed to use one-quarter acre of Lot 2D for Lot 2A, with the remaining 3.7 acres of 2D being allocated to Lot 2B. Lot 2D has previously been part of development parcel B of the MPD. Trails have been established, and the applicant felt this was a cleaner approach to dividing the space.

Commissioner Hays asked about the buildability of Lot 2D. Planner LoPiccolo replied that the majority is undevelopable and will be used as open space and trails.

* Commissioner Erickson recalled that a detailed vegetative analysis was prepared with the MPD and asked if there was a chance of finding the old files.

Commissioner Calder favored the look of vegetation at Belleterre as opposed to 18 units in a mass with trees stuck around them. He felt this proposal was better than one with huge, massed buildings.

Commissioner Larson was trying to decide if it would be better to keep the open space in Lot 2D or spread it throughout the development.

Commissioner Erickson stated that his main question was whether the open space would be more usable to the homeowners as part of the parcel or in one large chunk. He initially thought that it would be more usable in one chunk.

Commissioner Hays asked about the effects of erosion with the proposed design versus attached units and wanted to know the grade of the slope. Planner LoPiccolo stated that this is a gentle slope.

After discussing the issues, Chair Jones clarified that the Planning Commission is comfortable with the concept, but they need more visual information for specific vegetation questions. Senior Planner Megan Ryan indicated that Kevin would provide more visual information at the next meeting and suggested a site visit for specific Planning Commissioners.

1245 Deer Valley Drive, First Western Mortgage Building - CUP

Kevin LoPiccolo reviewed the project, explaining that two years ago the Planning Commission approved an application for a 13,000-square-foot professional office building at 1245 Deer Valley Drive. The CUP expired a year later, so the application was inactive. The applicant returned several months ago with a submittal requesting

Chair Jones opened the public hearing.

There was no input.

Chair Jones closed the public hearing.

6. Subdivision of Lot 2 - North Silver Lake Subdivision
7. Bellefont at Deer Valley, North Silver Lake Subdivision Lot 2A (adjacent to Bellevue at Deer Valley) - CUP

These two items were discussed jointly.

Planner LoPiccolo reported that the North Silver Lake Subdivision application was reviewed by the Planning Commission at a work session in February. The original MPD approval and the Deer Valley Master Plan called for 18 units in Lot 2. The applicant requested a revision to the MPD to permit 12 single-family dwellings. At the work session, the Staff and Planning Commission discussed four areas associated with this project. One is the open space allocation, and Planner LoPiccolo referred to an exhibit showing how Lot 2D was to be split and a percentage given to Lots 2A and 2B. Lot 2A will receive approximately .25, acres and the remaining acreage from Lot 2D will be allocated to Lot 2B. The Commissioners discussed whether the approved massive single building was more appropriate for the site, or whether 12 single-family dwellings would better suit the site. The Planning Commission felt the 12 single-family dwellings were better suited and would tie in more closely with Bellevue. Vegetation was another concern, and Planner LoPiccolo and three Commissioners visited Silver Lake to evaluate the site. The Planning Commission directed the Staff to look more closely at existing vegetation and requested that the applicant do whatever they could to preserve existing trees. The Commissioners identified Lots 4 and 5 as the ones that would receive the greatest impact. Planner LoPiccolo worked with the applicant to mitigate the loss of trees, and the staff report lists two alternatives for Planning Commission consideration. One would be for the applicant to return to the Planning Commission to show the realignment, or the Staff could work with the applicant for Lots 4 and 5. Planner LoPiccolo distributed copies of an additional condition of approval not included in the Staff report and a utility plan for the project. He stated that the Staff recommends forwarding a positive recommendation to the City Council for the plat amendment to split Lot 2 into four parcels, to approve a Conditional Use Permit for 12 single-family dwellings, and to revise the MPD for the allocation of Lot 2D for the 60% open space requirement and a revision for attached versus detached dwelling units.

Chair Jones opened the public hearing.

* There was no input.

Chair Jones closed the public hearing.

MOTION: Commissioner Larson moved to forward a POSITIVE recommendation to City Council on a plat amendment for Parcel 2 of North Silver Lake Subdivision with the findings of fact, conclusions of law, and conditions of approval as outlined in the staff report.

Commissioner Larson asked if the modified conditions are included in this recommendation or in the MPD. Planner LoPiccolo replied that the added condition would be part of the MPD.

Commissioner Erickson seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Larson moved to APPROVE the North Silver Lake MPD revision and the Bellemont small scale MPD for Parcel 2A including a Conditional Use Permit for 12 single-family dwellings with the modified findings of fact, conclusions of law, and conditions of approval. Commissioner Erickson seconded the motion with a clarification that the Planning Commission recommends that the Staff work with the applicant to realign the two building pads and that the motion includes Condition #12 and Finding #7 per the memorandum dated May 14.

VOTE: The motion passed unanimously.

Findings of Fact - Subdivision Plat of Lot 2 of North Silver Lake

1. The proposal is consistent with both Park City Land Management Code and State Subdivision requirements.
2. The plat amendment is necessary to subdivide Lot 2 into four lots of record.
3. The City Attorney and City Engineer's review and approval of the final form and content of the amended plat is a condition precedent to recording the plat.
4. Plat amendment and subdivision of Lot 2, North Silver Lake, is precedent on review and approval by City Council.
5. All Standard Project Conditions shall apply.
6. The applicant stipulates to all conditions of approval.

Findings of Fact - Amendment to North Silver Lake MPD

1. The project complies with the 60% open space requirement with the addition of Lot 2D of approximately 4.03 acres.
2. The total Bellemont development maximum building pad square footage is 30,000 square feet for twelve (12) units. This building/unit size will be used as the primary size control for the development project.
3. No density bonus is requested under this application.
4. The applicant stipulates to all conditions of approval.

Conditional Use Permit for 12 Single-Family Dwellings

1. The proposed single-family residential are allowed in the Residential Development Zone.
2. The height of the proposed units is less than or equal to 33 feet.
3. Considerable excavation and dirt handling may be required with this project. Off-site dirt storage requires authorization from the property owner and the City and restoration securities from the contractor.
4. The elevations submitted at the Work Session on February 12, 1997, are the elevations that have been reviewed and approved in substantial form by the Staff and Planning Commission.
5. A construction management and phasing plan is required to protect the existing units from construction disturbance and to minimize the impact of construction activity in the surrounding area.
6. The applicant stipulates to all conditions of approval.

Conclusions of Law - Conditional Use Permit for 12 Single-Family Dwellings

1. The application complies with all requirements of Section 1.13 of the Land Management Code.
2. The proposed units, through planning and architectural detailing, are compatible with the residential communities in the vicinity in mass, use, scale and circulation.
3. The proposed use is consistent with the Park City Comprehensive Plan.

4. Any negative effects of the project have been mitigated to the best extent possible through planning and conditions of approval.
5. The application is consistent with the Open Space requirements as outlined in Chapter 10 of the Land Management Code.

Conditions of Approval - Conditional Use Permit for 12 Single-Family Dwellings

1. All Standard Project Conditions of Approval apply to this project.
2. The final building plans shall reflect substantial compliance with the elevations submitted and reviewed by the Planning Commission on May 14, 1997.
3. A Construction Management Plan (CMP) shall be submitted to and approved by the Community Development Department prior to the issuance of any building permits. The plan shall address staging, material storage, construction time lines, special signs, parking, fencing, and any other construction related details to the satisfaction of the Community Development Department.
4. All modifications to plans as specified by conditions, and all final design aspects such as architectural detailing, building materials, and colors, shall be submitted to and approved by the Community Development Department. Limits of disturbance fencing shall be installed, inspected, and approved prior to building permit issuance.
5. Final grading, drainage, utility, storm runoff detention, and erosion control plans shall be reviewed and approved by the City Engineer prior to commencement of construction. Limits of disturbance boundaries and fencing shall be reviewed and approved by the Community Development Department. Limits of disturbance fencing shall be installed, inspected, and approved prior to building permit issuance.
6. The landscape plans shall include plans for revegetation for all areas disturbed during construction including areas for future utility installation.
7. All proposed public improvements, including the waterline loop with appropriate pressure reducing valving, are subject to review and approval by the City Engineer in accordance with current Park City Design Standards, Construction Specifications, and Standard Drawings. All improvements shall

be installed or sufficient guarantees, as determined by the City Engineer, posted prior to occupancy.

8. The applicant shall obtain approval from the Community Development Department of a final site plan detailing adequate automobile and emergency circulation.
9. Any desired modification to the approved plans after the issuance of a building permit must be specifically requested and approved by the Community Development Department in writing prior to execution.
10. This Conditional Use Permit shall expire if building permits are not issued within twelve (12) months from the date of this approval, and the applicant must reapply for said use with the Planning Department.
11. The plat amendment and subdivision of Lot 2, North Silver Lake, is a condition precedent on review and approval by City Council.
12. City Attorney and City Engineer review and approval of the amended plat for compliance with the Land Management Code, Utah State Code, and this Final Conditions of Approval is a condition precedent to plat recordation.

8. 32 Prospect Avenue - Plat amendment

MOTION: Commissioner Erickson moved to POSTPONE this item to a date uncertain. Commissioner Hays seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission Meeting adjourned at 7:40 p.m.

Approved by Planning Commission



a full CUP process. Small parking areas of four or less parking spaces would be reviewed and approved by the Staff, and parking areas five or greater would require a formal CUP process.

Administrator Putt noted that telecommunication structures were discussed, and the Planning Commission directed that they be approved through a formal CUP process per the telecommunications ordinance.

Administrator Putt explained that the purpose of conservation open space is to deal with undisturbed lands and areas which provide a backdrop and are passive in nature. In this draft, some of the purpose statements which were part of definitions of open space presented by Cheryl Fox on March 29 were incorporated. Some of the definitions are a blend of purpose statements and intent as well as definitions. On March 29, the Planning Commission directed the Staff to craft the definitions into language consistent with definition of terms in the LMC. In addition, the intent of each definition will be incorporated into the purpose statement of the COS zone. That work has been completed and is listed on the first page of the first section.

Administrator Putt stated that permitted and conditional uses in the COS zone are abbreviated from those that would be found in the ROS zone because the intent is to have less development and more passive, low-intensity activity. The only allowed use in the Conservation Open Space zone will be Conservation Activities. Conditional uses which require a public hearing process includes trails, trailhead improvements, municipal utility uses and structures. Larger structures will not be permitted in that zone. The same applies to ski-related accessory buildings.

Administrator Putt reported that discussion occurred as to whether ski terrain, ski tows, ski lifts, and bridges should be included. The consensus on March 29 was that they be placed in this zone and require a CUP but to identify that they will only be approved subject to the uses having already been approved as part of a ski area MPD.

Administrator Putt noted that this matter was discussed during work session, and the Planning Commission recommended that keeping the COS zone and possibly renaming it the Open Space Zone. Creation of a third open space zone is being considered, and Commissioners Larson and Erickson have agreed to work with the Staff on draft legislation and uses.

Administrator Putt explained that these districts are scheduled for public hearing, and no action is requested this evening.

EXHIBIT 3
COMMERCIAL AND SUPPORT SPACE
14-Apr-93

LOCATION	RETAIL SALES	ADMIN. & SUPPORT	COMMERCIAL OFFICES	OTHER	TOTAL
SPORTS FACILITY		7000		55000	62000
SNOW PARK CENTER	12760	14519		17426	44705
SNOW PARK CHILD CARE		200		2800	3000
SNOW PARK SKI SCHOOL		500		500	1000
SNOW PARK PLAZA BUILDING	3100	2180	16000	2000	23280
GENERAL SNOW PARK COMMERCIAL (1)	40000				40000
SILVER LAKE CENTER	137	7918		16691	24746
SILVER LAKE COMMUNITY	27962	7043	4265	16020	55290
BALD EAGLE COMMUNITY	10000	5000		5000	20000
NORTH SILVER LAKE COMMUNITY	8000	2000		4525	14525
MAINTENANCE, WHSE, & SHOPS				19320	19320
TOTAL	101959	46360	20265	139282	307866

NOTES: General Snow Park Commercial may only be utilized on certain parcels in Project with approval of Commission and Permittee.

Planning Director Determination Staff Report



Subject: North Silver Lake Lot 2B
Author: Katie Cattan
Application #: PL-11-01210
Date: April 18, 2011
Type of Item: Administrative – CUP Extension

Summary Recommendations

Staff recommends that the Planning Director review the Conditional Use Permit (CUP) extension request and consider approving the extension based on the finding of fact, conclusions of law, and conditions of approval in the staff report.

Topic

Applicant: SR Silver Lake LLC
Location: Lot 2B North Silver Lake Subdivision
Zoning: Residential Development (RD)
Adjacent Land Uses: Residential and Ski Area
Reason for Review: Conditional Use Permit extensions require Planning Director review and approval

Proposal

- This is a request to for an extension of the North Silver Lake Lot 2B CUP which was approved by the City Council on July 1, 2010.
- The application is the exact same as the approved July 1, 2010 plans.

Background

Under the Deer Valley Resort Master Plan Development (MPD) the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space. The Deer Valley MPD requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC Section 15-1-10.

The original CUP application was before Planning Commission on five different occasions (August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009). During the July 8, 2009 review, the Planning Commission approved the application with a 3 – 1 vote. One Commissioner abstained.

On July 17, 2009, the neighboring property owners submitted an appeal of the Conditional Use Permit (CUP) approval of the North Silver Lake Subdivision Lot 2B. The City Council reviewed the appeal on October 15, 2009 and November 12, 2009. During the November 12, 2009 meeting, the City Council remanded the CUP application to the Planning Commission with specific items included in the order to be addressed.

The Planning Commission reviewed the remand during two work sessions on November 11, 2009 and January 13, 2010 and two Planning Commission regular

agenda meetings on March 10, 2010 and April 28, 2010 to address the order and findings of the City Council. The Planning Commission approved the revised conditional use permit with a four to one vote on April 28, 2010.

The approval was appealed by two separate parties. On May 7, 2010, Eric Lee submitted an appeal. On May 10, 2010, Lisa Wilson submitted an additional appeal. The City Council reviewed the appeal on June 24, 2010. All parties stipulated to additional condition of approval #19. The Council did not find merit in the notice issues, the compatibility of revised design or other issues raised in Ms. Wilson's appeal. The Council added an additional requirement of an opportunity for neighborhood input prior to approval of the phasing plan(s), but found that the Planning Commission adequately addressed the issues of the remand. Accordingly, the City Council affirmed and denied in part the Planning Commission's decision to approve the North Silver Lake Lot 2B Conditional Use Permit.

On March 3, 2011, the Planning Department received a Request for Extension of the Conditional Use Permit approval.

Analysis

Within the Land Management Code Section 15-1-10(G), "The Planning Director may grant an extension of a Conditional Use permit for one (1) additional year when the Applicant is able to demonstrate no change in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Change of circumstance includes physical changes to the Property or surroundings. Notice shall be provided consistent with the original Conditional Use permit approval per Section 15-1-12. Extension requests must be submitted prior to the expiration of the Conditional Use permit."

1. No change in circumstance that would result in an unmitigated impact.

Complies. The submitted plans match the approved July 1, 2010 set of plans. There has been no change in circumstances to the site or the plans that would result in unmitigated impacts.

2. Would result in a finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request.

Complies. The Land Management Code and the Park City General Plan has not been modified since the July 1, 2010 approval, therefore there are no new findings of non-compliance with either document.

There is one condition of approval that must be completed prior to the extension of the Conditional Use Permit extension. Condition of Approval #18 states "A bond shall be collected at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. At such time, the existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released." A bond was collected for re-vegetation and new landscaping

along the perimeter entrance. This landscaping must be completed by July 1, 2011. Due to snowpack, this work will not be done until June 2011. To enforce this, condition of approval #18 states

“The approved extension will be void if Condition of Approval #18 from the July 1, 2010 City Council approval is not completed by July 1, 2011. The condition states “A bond shall be collected at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. At such time, the existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released.”

Questions have been raised by the public regarding Condition of Approval #18 regarding the “capping of the rock area” rather than filling the entire site then capping the area. The conclusion specifically required that the “existing rock area of the site shall be capped with soil and re-vegetated. Staff reviewed the City Council minutes from the June 24, 2010 and July 1, 2010 City Council meeting and did not find any evidence of discussion on filling the existing hole. Capping was discussed.

The following comments made by Planner Cattan are from the City Council Minutes from the June 24, 2010 meeting:

“To address Construction Phasing and additional bonding referred to in remand item 3, additional conditions were approved to require that the Building Department approve a phasing and bonding plan to ensure site restoration in conjunction with building phasing beyond the public improvement guarantee; and, collection of a bond at the time of CUP approval to ensure that existing impacts of the site will be repaired at the time of CUP expiration or extension. These conditions specify that financial guarantees include revegetation of the perimeter enhancement, capping for new disturbances and previous disturbances, and cleanup of all staging areas on the site.

Planner Cattan Katie explained she had listened to recordings of the November 19, 2009 City Council meeting which clarified that Council had not asked for a completion bond. Council members specified that the intent was to ensure that throughout the stages of construction, if it were to be abandoned, the City would be able to restore the site to a visually acceptable level. Additionally, Council wanted to make sure that the project would be staged and that the Building Department should manage bonding to ensure site restoration with phasing stages. The Chief Building Official also recommended that a condition be added to mitigate existing impacts on the site. Conditions of Approval 17 and 18 addressed these issues.”

The term “fill” was not present in the June 24, 2010 City Council meeting minutes or within the conditions of approval. (Exhibit A: Minutes June 24, 2010 and July 1, 2010 City Council meetings.)

Two minor typing errors were identified within finding of fact #4 and finding of fact #9.

Finding of Fact #4 identified 14,552 square feet of commercial and support space. There are 14,525 square feet of commercial and support space. The application utilized 5102 square feet of commercial area. There is not change in circumstance from this typing error that would result in unmitigated impacts. Finding of Fact #4 has been modified to state 14,525 square feet.

Finding of Fact #4 incorrectly identifies Lot 2B rather than Lot 2D as the open space lot within the North Silver Lake Subdivision. Finding of fact #9 stated:

“Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2B towards the 60% open space requirement. The Bellemont Subdivision utilized ¼ acre of the Lot 2B parcel to comply with the open space requirement.”

The dedicate open space lot within the North Silver Lake Subdivision is Lot 2D. This finding of fact has been changed for accuracy. The open space calculation was not affected by this change. The open space calculation remains 70.6% as stated in finding of fact #10. There is not change in circumstance from this error that would result in unmitigated impacts. The modified finding of fact #9 states

“Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2D towards the 60% open space requirement. The Bellemont Subdivision utilized ¼ acre of the Lot 2D parcel to comply with the open space requirement.”

Department Review

The Planning Department has reviewed this request. The request was discussed at internal Staff meetings where representatives from local utilities and City Staff were in attendance. No issues were raised during this meeting.

Notice

Notice of this hearing was sent to property owners within 300 feet and the property was posted fourteen days in advance of the Planning Directors determination. Legal notice was also placed in the Park Record.

Public Input

Several letters have been submitted to the Planning Department regarding this application (Exhibit B).

Consequences of not taking the Suggested Recommendation

The applicant would have to submit a new application for a CUP to be reviewed by the Planning Commission.

Exhibits

Exhibit A – Minutes June 24, 2010 and July 1, 2010 City Council meetings
Exhibit B – Public Comment

Recommendation

Staff recommends that the Planning Director review the requested extension and consider approving the extension according to the findings of fact, conclusions of law, and conditions of approval:

Findings of Fact

1. The subject property is at 7101 North Silver Lake Drive. This property is also known as Lot 2B of the North Silver Lake Subdivision.
2. The proposed development is located within the Deer Valley Master Plan Development.
3. Within the Deer Valley Master Plan, the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,525 square feet of commercial and support space.
4. The applicant has applied for a conditional use permit for the development of 54 units located on Lot 2B of the North Silver Lake Subdivision. The applicant has included 5102 square feet of support commercial space within this application. The project consists of 16 detached condominium homes and four condominium buildings containing 38 condominium units. The remaining commercial units are not transferable.
5. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area.
6. The Deer Valley Master Planned Development (MPD) requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC chapter 15-1-10.
7. The Deer Valley MPD determines densities on parcels as an apartment unit containing one bedroom or more shall constitute a dwelling unit and a hotel room or lodge room shall constitute one-half a dwelling unit. The Deer Valley MPD does not limit the size of units constructed provided that following construction the parcel proposed to be developed contains a minimum of 60% open space and otherwise complies with MPD and all applicable zoning regulations.
8. Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating "This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B." Lot 2D is 4.03 acres in size.
9. Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2D towards the 60% open space requirement. The Bellemont Subdivision utilized $\frac{1}{4}$ acre of the Lot 2D parcel to comply with the open space requirement.
10. The current application site plan contains 70.6% of open space on the site including the remainder 3.78 acres of open space on Lot 2D.
11. The property is located in the Residential Development zoning district (RD) and complies with the Residential Development ordinance.
12. The property is within the Sensitive Lands Overlay Zone and complies with the Sensitive Lands Ordinance.
13. The height limit for Lot 2B was established at 45 feet within the Deer Valley Master Plan. The development complies with the established height limit, with the allowance of five feet for a pitched roof.

14. The onsite parking requirements for the four stacked flat condominiums have decreased 25% in compliance with section 15-3-7 of the Land Management Code. The Planning Commission supports a 25% reduction in the parking for the stacked flats within the development.
15. The Planning Commission held public hearings on August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009.
16. The Planning Commission approved the CUP on July 8, 2009.
17. An appeal of the CUP approval was received July 17, 2009 within ten days per LMC 15-1-18.
18. The City Council reviewed the appeal of North Silver Lake lot 2B on October 15, 2009 and on November 12, 2009.
19. On November 12, 2009, the City Council remanded the Conditional Use Permit back to the Planning Commission with three specific items to be addressed within the order.
20. The Planning Commission reviewed the North Silver Lake Conditional Use Permit remand on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April 28, 2010. The Planning Commission approved the revised Conditional Use Permit on April 28, 2010.
21. The Conditional Use Permit was appealed by two separate parties within ten days of the Planning Commission approval.
22. The design for Building 3 decreased the overall square footage of the Building 3 twenty-five percent (25 %), reoriented the building on the site, and divided the original single building into two interconnected buildings of smaller scale and size than the original single building.
23. The landscape plan was modified to comply with the Wild Land Interface regulations.
24. Construction phasing and additional bonding beyond a public improvement guarantee has been required.
25. On July 1, 2010, the City Council approved the North Silver Lake Lot 2B Conditional Use Permit. The approval is scheduled to expire on July 1, 2011 if no building permits are issued within the development.
26. On March 17, 2011, the Planning Department received a complete application for an extension of the Conditional Use Permit. No permits for development have been issued or applied for at time of application. The extension request was submitted prior to the expiration of Conditional Use Permit.
27. The Conditional Use Permit Criteria within LMC section 15-1-10 has not changed since the July 1, 2010 City Council approval.
28. The Conditional Use Permit application for North Silver Lake Lot 2B has not changed since the July 1, 2010 City Council Approval. There are no changes in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or Land Management Code.
29. Within the July 1, 2010 approval, Condition of Approval #18 states "A bond shall be collected at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. At such time, the existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year,

this bond shall be released.” This requirement has not been completed at the time of extension submittal. The approved extension will be void if this condition is not met prior to July 1, 2011.

30. The building department collected a bond to ensure that the existing impacts of the site will be repaired at the time of CUP extension. The landscape plan includes re-vegetating the disturbed area including top soil and native grasses, planting eighteen (18') new trees that vary in height from 10 to 12 feet, and installing an irrigation system for the establishment of the grass and ongoing watering of the new trees. This work must be completed by July 1, 2011 to comply with the July 1, 2010 City Council conditions of approval.

1.

2. Conclusions of Law

1. The application is consistent with the Deer Valley Master Planned Development and the Park City Land Management Code, particularly section 15-1-10, Conditional Use Permits.
2. The Use is compatible with surrounding structures in use, scale, mass, and circulation.
3. The Use is consistent with the Park City General Plan.
4. The effects of any differences in Use or scale have been mitigated through careful planning.
5. No change in circumstance is proposed within the extension that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or the Land Management Code.

3.

Conditions of Approval

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. This plan must address mitigation for construction impacts of noise, vibration, and other mechanical factors affecting adjacent property owners. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be included within the construction mitigation plan.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be adhered to. A member of the Planning Staff and Planning Commission will be invited to attend the pre-installation conference. Prior to operating any excavation machinery, all operators of any excavation machinery must sign off that they have read, understand, and will adhere to the Temporary Tree and Plant Protection plan.
5. A landscape plan is required with the building permit. The landscape plan must reflect the site plan and existing vegetation plan as reviewed and approved by the Planning Commission on April 28, 2010.
6. The developer shall mitigate impacts of drainage. The post-development run-off must not exceed the pre-development run-off.
7. Fire Marshall review and approval of the final site layout for compliance with City standards is a condition precedent to building permit issuance. The proposed development shall comply with the regulations of the Urban Wild

Land Interface Code. A thirty foot defensible space will be mandatory around the project, limiting vegetation and mandating specific sprinklers by rating and location. The Fire Marshal must make findings of compliance with the urban wild land interface regulations prior to issuance of a building permit.

8. Approval of a sign plan is required prior to installation of any signs on the property.
9. Staff review and findings of compliance with the lighting regulations of LMC Section 15-5-5(l) are required prior to the issuance of an electrical permit.
10. This approval will expire July 1, 2011, 12 months from July 1, 2010, if no building permits are issued within the development. Continuing construction and validity of building permits is at the discretion of the Chief Building Official and Planning Director.
11. Approval is based on plans reviewed by the City Council on June 24, 2010. Building Permit plans must substantially comply with the reviewed and approved plans. Any substantial deviation from this plan must be reviewed by the Planning Commission.
12. The SWCA wildlife mitigation plan dated April 15, 2009 must be included within the construction mitigation plan and followed.
13. The two ADA units are to be platted as common space and cannot be separately rented without renting another unit.
14. The Sustainable Design Strategies created by Living Architecture as reviewed by the Planning Commission on April 28, 2010 must be adhered to within the building permit process. Any substantial deviation from this plan must be reviewed by the Planning Commission.
15. The final condominium plat for North Silver Lake Lot 2B may not exceed the square footage for common space, private space, and commercial space as shown in the plans reviewed by the City Council on June 24, 2010.
16. A bond shall be collected prior to issuance of a grading or building permit to cover the cost of the landscape plan as approved.
17. A phasing and bonding plan to ensure site restoration in conjunction with building phasing beyond a public improvement guarantee must be approved by the Building Department. The plan shall include re-vegetation for perimeter enhancement and screening into the project, soil capping for any new disturbance and previous disturbance of the site, and clean-up of all staging areas. Prior to building department action on approving each phase of the phasing plan, the developer and building department shall conduct a neighborhood meeting, with minimum courtesy mailed notice to both appellants, each appellant's distribution list as provided to planning staff, and any HOAs registered with the City within the 300 foot notice area.
18. The approved extension will be void if Condition of Approval #18 from the July 1, 2010 City Council approval is not completed by July 1, 2011. The condition states "A bond shall be collected at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. At such time, the existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released."
19. No lockout units are permitted within this approval.

20. The conditions of approval of the original July 1, 2010 Conditional Use Permit approval continue to apply.

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JULY 1, 2010**

Present: Mayor Dana Williams; Council members Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto and Liza Simpson

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Kent Cashel, Transportation Manager

1. Council questions/comments. Liza Simpson thanked Kent Cashel for preparing a thorough report on a parking situation she had reported. Mayor Williams expressed kudos for everyone involved in the City's Employee Picnic as well as the dedication of the Roger Harlan Memorial Skate Park. He announced that another long-time local, Richard Siemons, had passed away during the week. He had attended Mel Fletcher's memorial in Oakley where many generations of Parkites celebrated Mel's life and his impact on town. He also attended Dolly Makoff's 80th birthday and noted it was 36 years ago this year that Dolly's Bookstore became part of Main Street. Alex Butwinski had participated in the Park City Summit County Arts Council Board Meeting where various task force representatives provided updates.

2. A Drive for a Cure. Anne E. Cantwell and Emy Farrow-German, students from Connecticut explained they had been travelling across the United States to educate the public on the effects of Multiple Sclerosis and to raise funds for the Multiple Sclerosis Foundation. Ms. Cantwell explained that 200 patients were diagnosed each week with the disease, which affects 400,000 people in the United States and over 2,000,000 worldwide. Ms. Cantwell's father has MS and she described the progression of his symptoms. She also characterized the four types of the disease. They explained that all funds would be used by the National MS Society whose goals are education and funding for research.

3. PC-SLC Transit Service – Transportation Manager Kent Cashel and Summit County Public Works Director Kevin Callahan presented Council with an overview of findings from Phase 1 of the Park City to Salt Lake City transit study. Staff seeks direction from Council to embark on Phase 2 of the study, noting that final Staff recommendations, and a request for Council decision, would be part of the Short Range Transit Development plan update in 2011.

Kent Cashel explained that inter county commute patterns are strong and getting stronger; in addition, there is a strong growth pattern of employment going both directions along Interstate 80. There is also a high volume of recreation and tourism traffic, particularly on the weekend.

He informed Council the City and County had been investigating a Park City to Salt Lake City transit route since 2000. In 2000, the Short Range Transit Development Plan (SRTDP) explored this service, but chose to focus on the Old Town Transit Center development and enhancement of local services. Again in 2003, SRTDP's focus was development and integration of service along SR-224 to Kimball Junction. Finally, in 2006, the City conducted a survey of western Summit County residents to assess the level of demand for a Park City to Salt Lake City commuter service which indicated strong rider demand. As a result, Staff contracted with LSC Transportation Consultants, Inc., to summarize the survey results and conduct concept level planning. City Staff also began working with Utah Transit Authority planning staff to investigate Salt Lake City demand for this transit route. In 2007, UTA and Park City engaged a team of University of Utah urban planning students to conduct an in-depth study, which

concluded that strong demand, both up and down the canyon, existed for a Park City to Salt Lake City route.

Mr. Cashel explained that a regional transit system on the Wasatch Back would serve as a link to the commuter rail and light rail spreading throughout the Wasatch Front. In addition, he stressed this was a key component in Park City's congestion management strategy to avoid expanding the footprints of our roads until absolutely necessary.

In the 2007 SRTDP, the focus was directed on development and expansion of capital facilities, a Kimball Junction transit center or transfer facility, passenger shelters and park and rids that would be required to support the region's expanding transit system. It also included a statement that Park City, Summit County, and UTA should work cooperatively to complete planning for a PC-SLC bus route. The entities entered into a Tri-Party Letter of Intent in 2008, which identified four deliverables for the first phase of the study: determine rider demand; determine routes and stops; determine necessary equipment and facilities; and determine economic feasibility of service before proceeding further.

Mr. Cashel reviewed the bus route, which would transport riders from the Old Town Transit Center to Jeremy Ranch and on to Salt Lake City where riders had opportunities to transfer to light rail, bus routes or commuter rail. Stops are planned at the OTTC, the Fresh Market, which is the busiest stop in town, the Canyons, the Kimball Junction transfer center, and the park and ride at Jeremy Ranch. In response to Mayor Williams' concern that the first two stops in town did not have long term parking access, Mr. Cashel concurred, and noted they would encourage the use of our transit system to access the bus stops and would synchronize schedules so the transfers were timely.

Mr. Cashel explained the study team reviewed a spectrum of service options, and determined that Enhanced Bus (EB) and Bus Rapid Transit (BRT) categories were appropriate for this service. The Enhanced Bus service uses commuter busses that are comfortable and offer an option to begin service at reduced costs. The Bus Rapid Transit service uses low floor buses, which use technology to allow quick loading and unloading, and fare collection. Queue jumping is also a component of bus rapid transit that saves time on the route. He reviewed tables in the Staff report that described anticipated ridership for the two levels of service as well as operating, capital costs and investment per rider for each of the service scenarios. Operating and maintenance costs range from \$1,810,022 to \$4,199,360 for the Expanded Bus and up to \$5,242,822 to the Bus Rapid Transit Scenarios depending on frequency of service. Capital costs could range from one time expenditures of \$3,275,000 to \$6.7 to \$80.4 Million, again depending on scenario and frequency of service. He stressed that the Federal Government funded the Capital Cost at 80%, and the figures would be lower. The cost sharing methodology had not been determined yet, but based on the assumption that the three entities would share equally, the City's share of operating costs could range from \$603,343 to \$1,747,433.

In response to Cindy Matsumoto's question about federal funding, Mr. Cashel explained transit was funded in five-year segments and we will know shortly what the commitment of the new funding authorization bill will be. He also explained his conservative approach to projected fare recovery and noted it would be refined if Council directed Staff to complete Phase II of the study.

Mr. Cashel identified several potential funding options: existing revenues that are not yet committed; reprogramming revenues by instituting reductions in current services; identification of new revenue sources, i.e., federal operating assistance, partnerships with major employers that are already providing some transit, and enacting an additional ¼ cent of transit sales tax. Staff feels it is financially viable and worth continuing to study.

The Tri-Party Agreement identified deliverables for Phase II, which includes cost sharing; cooperatively pursuing Federal and State financial assistance; development of plans to provide local funding to operate the service; and, identification of risk management and human resource challenges of a jointly operated service.

Mr. Cashel reiterated that Staff was seeking approval from Council to move forward and continue working on the Park City to Salt Lake City transit service. Should Council provide that direction, Staff would incorporate findings into the Short Range Transit Development Plan to be completed in 2011. Council members all agreed that Staff should move forward, with a caution that the methodology for cost sharing be reviewed carefully based on population and use.

Mayor Williams shared public input received from Jim Doilney who suggested that the transit center be located near a hub of high density living. Mr. Cashel explained from a transit perspective that the west side of SR-224 had better access.

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 1, 2010**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at 6:00 P.M. at the Marsac Municipal Building on Thursday, July 1, 2010. Members in attendance were Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Phyllis Robinson, Communications and Public Affairs Manager; Roger McClain, Water Project Manager, Katie Cattan, Senior Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Jonathan Weidenhamer reminded Council of open houses related to Treasure Hill discussions, which would be held at the High School on Tuesdays, July 6 and 13, from 6:00 P.M. to 8:00 P.M. Michael Kovacs distributed an artist's rendition of the Bonanza Tunnel that is part of the walkability projects.

III PUBLIC INPUT (*Any matter of City business not scheduled on agenda*)

There was no public input. .

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 17, 2010

Alex Butwinski pointed out correction in the work notes. Alex Butwinski, "I move approval of the work session notes and minutes of the June 17, 2010 meeting as amended". Candace Erickson seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

V RESIGNATIONS AND APPOINTMENTS

1. Consideration of four new appointments to the Library Board:
 - o Suzette Lamb Robarge for a term expiring July 1, 2011
 - o Carolyn Creek-McCallister a term expiring July 1, 2013
 - o Fonya Kovacs for a term expiring July 1, 2013
 - o Elizabeth "Sam" Wilkerson for a term expiring July 1, 2013

Joe Kernan, "I move approval of appointments to the Library Board as specified". Cindy Matsumoto seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

VI NEW BUSINESS (*New items with presentations and/or anticipated detailed discussions*)

1. Consideration of fee waivers for affordable housing (Habitat for Humanity) - Phyllis Robinson, noted that two years ago Council had authorized donation land at 154 Marsac Avenue to Habitat to Humanity for construction of affordable housing. The project has now received all necessary regulatory approvals, and Staff was before Council to request fee waivers for building permits, and up to \$5,000 per unit in impact fee waivers for roads, streets and police. Council has the authority to authorize the waivers under Sections 11-12-13 and 11-13-4(A) of the Municipal Code. Mayor Williams opened the discussion for public input. Hearing none, he closed the hearing. Liza Simpson, "move approval of fee waivers for the affordable housing at 154 Marsac Avenue". Alex Butwinski seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

2. Consideration of award of Economic Development Grants totaling \$15,000 to Local Tourist - Economic Development Manager Jonathan Weidenhamer introduced Alan Mao and Tom Raudorf, founders of Local Tourist and grant applicants. Jonathan briefly reviewed grants that had been awarded through the Economic Development Grant program which began in 2005: 2005 – Center for Applied Media, \$18,000; 2006 – Park City Institute for Public Policy, \$10,000; Park 2007 - Silly Market, \$7,000; 2009 – High West Distillery, \$11,000 and Genius Supply Store, \$9,000. With the exception of Park City Institute for Public Policy, all organizations are still operating in Park City. High West Distillery and Genius Supply Store are due to update Council on their businesses this summer.

Mr. Weidenhamer explained the Economic Development Grant Policy included six criteria by which must be met in order to be eligible for a grant. While reviewing the current application, the committee suggested it may be time to overhaul the criteria to more closely align them with the City's Economic Development Strategic Plan. Should Council wish to provide direction on that during their discussion, Staff was interested in hearing their comments.

Jonathan explained a majority of the review committee recommended a total award of \$15,000 to be applied to two goals: \$5,000 for local content and \$10,000 for development of the trip planner account. Three members of the committee recommended that no funds be awarded.

Alan Mao, Local Tourist, provide Council an overview of their backgrounds, which included creating Ski West, an on-line wholesaler and tour operator of ski vacation rentals. They were an early mover into aggregating the inventory of local property management companies from presentation on-line, and also an early adopter of search engine marketing and search engine optimization techniques. Ski West was acquired by Overstock.com in 2005; they created Overstock.com Travel in 2007, and subsequently led efforts to sell Overstock.com Travel to Kinderhook Industries. They remained as part of the executive team, and the company, operating under the name Vacation Roost generated \$40 million in ski resort and lodging sales, with \$14 million go to the Park City market.

Following a shift in the market for vacation rentals, they began developing the concept of Local Tourist around their belief in advantages offered to the consumer by professional property managers. Interaction with visitors and renters is standardized and service levels are consistent which contributes to positive perceptions that visitors form about Park City. He stressed that property management companies are businesses that report revenues and remit taxes which sustain the level of quality and public services that make Park City enjoyable to visit and live.

Mr. Mao explained that the power of aggregation allowed greater investment in vacation rental tools and their search technology offered a unified customer experience and allowed comparison between distinct rental units. He explained the true innovation of Local Tourist was the way they leveraged the concepts to deliver customer demand to local businesses. Whereas traditionally wholesalers, tour operators and other aggregators act as middlemen, Local Tourist passes demand directly through to local businesses after attracting consumer interest. This pass-through ensures that the customer speaks to the most knowledgeable person and removes the duplication that exists on the vendor level. As opposed to commissions in excess of 24% for securing a client charged by most wholesalers, Local Tourist will be charging fees ranging from \$.60 to a few dollars for each referral depending on the type of interaction. Cost savings translate to more taxable revenue being collected by local companies, rather than commissions being paid to companies residing outside of Park City.

In the future, Mr. Mao anticipates representation of many more elements of vacation packages and their concept encourages cooperation between different elements of those packages. Local Tourist can spread the costs of acquisition to multiple businesses. They believe the method by which they qualify clients and users refines selections and Local Tourist referrals are actually more qualified than each business could have done individually.

Mr. Mao explained while Local Tourist was beyond the concept stage, they were still in a startup phase. They do not have full time employees and are a bootstrap organization. They have already committed the capital to prove their concept, but investment by the City would allow them to accelerate growth. Additionally, support and endorsement by the City will have a demonstrable impact on new vendor adoption.

Mr. Mao discussed the impact of content development and addressed the staff concern of incremental versus redistributed revenue. They believe quality content fosters quality traffic and attracts users to the site. Well written, topical, articles and content will attract and educate visitors about the Park City lifestyle. A great proportion of traffic generated by Local Tourist will be incremental in nature, but a segment of demand will be redistributed as well. They believe their non-transactional venue where rich content is the focus of the site will displace demand from other on-line segments, as well as traditional broadcast mediums. He noted they were currently working with the Historic Main Street Business Alliance with regard to their efforts to rebrand and create a destination portal focused on Main Street businesses.

Mr. Raudorf demonstrated how the Local Tourist site responded to searches dining by demonstrating searches for kid friendly restaurants in Park City, as well as searches for fine dining. Search results included articles written by a local content writer.

Mr. Mao stated another element for keeping users engaged with Local Tourist would be their trip planner account that acts as a central base of a visitor's interest. In addition to creating an itinerary, including lodging, restaurant elements and activities, they could share the itineraries

with friends and people traveling with them. Local Tourist would be able to make relevant suggestions as they learn about users' interests and plans. Liza Simpson asked whether the trip planner account would pull information to create recommendations based on visitors' itineraries. Mr. Mao explained they had not considered using other visitors' itineraries, but to make recommendations that were logically driven based on the customer's search.

Alex Butwinski asked if Local Tourist had an office in Park City and what would happen if Council did not provide the grant. Mr. Mao explained they are located in a home office in the Black Bear Lodge and they would remain in Park City. They want to use the City grant funds to accelerate their growth. When asked by Mr. Butwinski where else they would market Local Tourist, Mr. Mao emphasized they consider Park City their home, but would like to be successful enough to warrant growth in other markets.

Candace Erickson asked whether a guest at the Canyons would receive recommendations for restaurants at Redstone. Mr. Mao responded they would, but Local Tourist would also recommend restaurants in town. The logic that drives recommendations has not yet been determined. Mr. Erickson felt they were replicating the Chamber site and asked whether they would include all businesses or only those who advertized or agreed to provide a fee based on use. She felt they had done an incredible job creating the website, but was not convinced it would bring new people to Park City. She noted she lost interest if she was not going through to someone who could handle a transaction. Mr. Mao explained that users would be connected directly to the property managers after selecting elements of interest to them.

Joe Kernan questioned whether Local Tourist would generate overnight visitors, or just create a better experience for visitors. Mr. Mao explained they were not only competing against an incremental visitor, they were also looking at a shift in consumer behavior from a transactional website, to non-transactional websites that are information based. They see users coming from both of those arenas, but cannot say how many would have come before. Their goal is to make it easy for a visitor to make the decision to come to Park City.

Liza Simpson requested clarification there would be no VRBO (vacation rental by owner) properties on the site, and the lodging properties advertised would be working through management companies. Mr. Mao confirmed and stated they did not envision listing any VRBOs. Ms. Simpson explained her excitement about the trip planner and felt it was beneficial for people to get to know town better before they came. The trip planner would act a bit as a concierge and would trickle further out into the community as the website content got richer.

Council members were divided in their support of the request. Councilors Erickson and Butwinski did not believe it met Criteria Two and Three. Councilors Matsumoto and Kernan were amenable to offering a smaller grant than recommended by Staff. Councilor Simpson reaffirmed her support for the grant to Local Tourist which offered exciting ideas and new concepts. Cindy Matsumoto, "I move approval of an Economic Development Grant for Local Tourist in the amount of \$5,000". Liza Simpson seconded. Motion carried.

Alex Butwinski	Nay
Candace Erickson	Nay
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

Following the vote, Jonathan Weidenhamer requested that Council provide direction regarding use of the grant money. He explained the use would be included in the contract, and it will be helpful when they return to report on their progress. Council members all agreed they wanted to award the full amount for local content development.

3. Consideration of award of Construction Agreement in a form approved by the City Attorney, with JB Gordon Construction for the construction of the Rail Trail Waterlines in the amount of \$2,137,848. - Roger McClain, water project manager explained the Rail Trail Waterlines project was a continuation of the City's water capital projects. The pipe corridor extends from Quinn's Water Treatment Plant to Wyatt Earp Way and includes several segments: a 20-inch finished waterline, an 18-inch raw waterline, and 12-inch Judge Tunnel waterline.

Staff has worked with State Parks, Mountain Trails Foundation and the Bureau of Land Management to develop temporary construction access and trails will not be closed at any time. The minimal portion of Rail Trail will be restored and the entire section of rail trail from Richardson Flat Road to Wyatt Earp way will be repaved. All excavated soils within the project will be reintroduced to the site via grading operations. The site is located within the Park City Soils Ordinance and the construction plan requires importation of top soil and reseeding to meet ordinance requirements. Mr. McClain added that Staff met with project corridor stakeholders and held an open house, which seven people attended. JB Gordon was the lowest responsive bidder of the ten bids received. Horrocks Engineers reviewed the bids and recommended the award to JB Gordon Construction. Mr. McClain will be the City's project manager.

Alex Butwinski asked why there was a difference between the bid amount and the actual Staff recommendation. Mr. McClain explained that one of the additives was removed from the contract. The City worked with the water treatment plant's contractor and that cost will be placed in their contract.

Mayor Williams requested public input. Hearing none, he closed the discussion. Liza Simpson, "I move approval of the award of Construction Agreement in a form approved by the City Attorney, with JB Gordon Construction for the construction of the Rail Trail Waterlines in the amount of \$2,137,848." Alex Butwinski seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

4. Consideration of First Amendment to the Professional Services Agreement, in a form approved by the City Attorney, with Horrocks Engineers for waterlines from Quinn's Water Treatment Plant to Wyatt Earp Way (Rail Trail Waterlines) in the amount of \$53,292. - Roger McClain, Project Manager explained that Horrocks Engineers was selected to design the Waterlines from Quinn's Water Treatment Plant to Wyatt Earp Way (Rail Trail Waterlines). As design progressed, the preliminary alignment was field reviewed and issues were identified that raised concerns about the selected alignment. The First Amendment to the Professional Services Agreement captures additional costs for design, construction engineering services, and geotechnical engineering services. The additional services include: 1) Wyatt Earp (Rail Trail

to Sidewinder) realignment; 2) re-grading in order to retain soils on site, rather than hauling for disposal; 3) use of ductile iron pipe which provides corrosion protection; and 4) construction access which eliminated need to cross bridges.

Mayor Williams requested public input and hearing none, closed the discussion. Cindy Matsumoto, "I move approval of the First Amendment to the Professional Services Agreement, in a form approved by the City Attorney, with Horrocks Engineers for waterlines from Quinn's Water Treatment Plant to Wyatt Earp Way (Rail Trail Waterlines) in the amount of \$53,292". Joe Kernan seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

VII OLD BUSINESS

1. Consideration of Ratification of Findings of Fact, Conclusions of Law, and Conditions of Approval for the Appeals of North Silver Lake Lot 2B Conditional Use Permit. - Candace Erickson was recused and left the meeting. Senior Planner Katie reviewed minor edits to Finding of Fact 24, Conditions of Approval 15 and 17, and Order 1. These were corrected after the staff report was published. The appellants received notification and were in agreement. Mayor Williams requested public input. Hearing none, he closed the discussion. Alex Butwinski, "I move that Council ratify the Findings of Fact, Conclusions of Law, and Conditions of Approval for the Appeals of North Silver Lake Lot 2B Conditional Use Permit". Liza seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Recused
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

VIII ADDITIONAL DISCUSSION – AGENDA ITEMS

There was no additional discussion.

IX ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at 2:00 P.M. Members in attendance were Mayor Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Tom Daley, Deputy City Attorney; Diane Foster, Environmental Manager; Jason Christensen; Legal Intern; Michael Kovacs, Assistant City Manager; Kathy Lundborg, Water Manager; Jonathan Weidenhamer, Economic Development Manager and Thomas Eddington, Planning Manager.

Joe Kernan, "I move to close the meeting to discuss personnel, property and litigation". Alex Butwinski seconded. Motion carried unanimously. The meeting opened at 4:45 P.M. Liza Simpson, "I move to open the meeting". Joe Kernan seconded. Motion carried unanimously.

Sharon C Bauman

Sharon C. Bauman CMC, Deputy City Recorder



**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JUNE 24, 2010**

Present: Mayor Dana Williams; Council members Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Michael Kovacs, Assistant City Manager

Snow Creek Cottages Ribbon-Cutting Ceremony - Prior to Work Session, Council and Staff met on site for a ribbon cutting ceremony and celebration for the Snow Creek Cottages project.

Council questions/comments. Candace Erickson noted the Mayor and most Council members had attended a quarterly breakfast with the Park City School District. The Chamber Board has reported that increasing tax revenues have allowed them to reinstitute most of their programs. Summit County is creating an ordinance that would allow municipalities and public entities to operate off-leash locations (dog parks) that are regulated by the entity's guidelines. Finally, the County Board of Health has received and reviewed new applications for the Director position and hopes to conduct interviews soon. Liza Simpson thanked Jan Scott for inviting Marilyn and Roger Harlan's daughters to the skate park dedication on June 27th before the City Summer Picnic. Alex Butwinski reported that Planning Commission approved a name change for the Bonanza Park area and ratified the development agreement for the Racquet Club project. Joe Kernan attended the Coalville 3rd Annual Pig Roast.

Mayor Williams had attended the Concert in the Park as well as a memorial service for Brenda Smith. He reported that Park City lost one of its true greats in the passing of Mel Fletcher and services for him would be on Sunday in Oakley. He had participated in a series of water, MIDA and EPA meetings.

Public Art Advisory Board recommendation-Kimball Art Center Sculpture - Assistant City Manager Michael Kovacs reported that the Public Art Advisory Board had reviewed a request to accept and move the Kimball Art Center Olympic Sculpture to public property. They voted to forward a recommendation to City Council to deny the request to accept the sculpture.

Following the art board meeting, local property owner Mark Fischer contacted staff and was willing to move the sculpture to his property in the Bonanza-Park District. He proposed placing the sculpture near the Maverick Store at Kearns Boulevard and Bonanza Drive. Council members expressed appreciation of his interest and encouraged him to move forward with the regulatory process since the location is subject to Frontage Protection Zone regulations. Manager Bakaly asked Council whether they would like to see it go on public property if there were issues that could not be resolved. Some Council members felt it was not appropriate to spend the amount of money that would be required for the City to move the structure. They encouraged Mr. Fischer to proceed through the regulatory process. In response to a question about fee waivers, Manager Bakaly suggested that Mr. Fischer begin the regulatory process and Council could discuss fee waivers in the future if necessary.

Council adjourned work session and conducted interviews for four positions on the Public Art Advisory Board.

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 24, 2010**

I ROLL CALL

Mayor Williams called the regular meeting of the City Council to order at 6:00 p.m. at the Marsac Municipal Building on Thursday, June 24, 2010. Members in attendance were Dana William, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto and Liza Simpson. Staff present were Tom Bakaly, City Manager; Mark Harrington, City Attorney; Max Paap, Special Events Manager; Matt Twombly, Parks Project Manager, Heinrich Deters, Trails Coordinator, and Roger McClain, Water Project Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

There were no communications or disclosures.

III PUBLIC INPUT (*Any matter of City business not scheduled on agenda*)

There was no public input.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JUNE 10, 2010

Liza Simpson, "I move approval of the work session notes and minutes of the June 10, 2010 meeting". Alex Butwinski seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

V NEW BUSINESS (*New items with presentations and/or anticipated detailed discussions*)

1. Consideration of a Master Festival License for the KPCW Back Alley Bash, as conditioned, on July 2, 2010 to be held on the Town Lift Plaza - Mayor Williams disclosed his band was performing at the event and Candace Erickson disclosed she is employed by Cole Sport who sponsors the event. Max Paap reviewed the application submitted by Community Wireless for its annual fundraising music event on the Town Lift Plaza. The event has been changed to July 2nd to align with the KPCW's 30th Anniversary. The Special Events Team focused on minimizing impacts on neighbors in the Town Lift Area and determined that parking for the event was sufficient. Mayor Williams opened the public hearing. There was no input and he closed the hearing.

Cindy Matsumoto, "I move approval of the Master Festival License for the KPCW Back Alley Bash, as conditioned, on July 2, 2010 to be held on the town Lift Plaza". Joe Kernan seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye

Cindy Matsumoto	Aye
Liza Simpson	Aye

3. Consideration of a Resolution celebrating KPCW's 30th Anniversary and proclaiming June 28 through July 4, 2010 as "KPCW Week" in Park City, Utah - Mayor Williams read a resolution proclaiming "KPCW Week" in Park City, Utah.

Liza Simpson, "I move approval of a Resolution celebrating KPCW's 30th Anniversary and proclaiming June 28 through July 4, 2010 as "KPCW Week" in Park City, Utah". Candace Erickson seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

2. Consideration of a construction contract, in a form approved by the City Attorney, with Silver Spur Construction LLC in the amount of \$774,740 for the Holiday Ranch Loop Pathway project – Trails Coordinator Heinrich Deters explained the Holiday Ranch Loop project was a priority identified by the Walkability Committee and the scope included an 8 foot wide separated asphalt path from Little Kate Road to the McLeod Creek Trail, as well as a six foot concrete sidewalk from the McLeod Creek Trail to SR-224. The roadway will be narrowed, with new rolled gutter the entire length. Storm drains will be installed to tie into the Little Kate storm drain improvements and sections of curb will be replaced as part of the storm drain improvements. He added that drought tolerant landscaping is planned for the buffer between the roadway and the trail and street trees will also be placed in the buffer.

In response to the published Request for Proposals, Staff received five bids and Staff determined that Silver Spur Construction was the lowest responsible bidder with a bid amount of \$782,539.69. Alternates were included for irrigation pipe and the Water Department chose to use reinforced pipe that resulted in a \$7,800 savings, so the total contract is \$774,740. Construction is scheduled to begin in mid-July with completion by mid-October.

Mayor Williams opened the public hearing and closed it upon receiving no comments.

Alex Butwinski, "I move approval of a construction contract, in form approved by the City Attorney's Office, with Silver Spur Construction LLC in the amount of \$774,740 for the Holiday Ranch Loop Pathway project". Liza Simpson seconded. Motion unanimously carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

Liza Simpson requested a brief discussion about whether Council needed to receive copies of all contracts in their packets. City Attorney Harrington suggested that if Staff is recommending

entering into the City's standard contract, they should include the scope of work in the staff report. Manager Bakaly clarified Council's direction that they no longer wanted to receive copies of full contracts; they just want the scope of work to be included with staff reports.

4. Consideration of two appeals of the Planning Commission's April 28, 2010 approval of a conditional use permit application for the North Silver Lake Lodges Project, submitted by North Silver Lake Lodge LLC-appellants Lisa Wilson, individual, and adjacent owner associations represented by Jones Waldo, Attorneys at Law

- (a) Staff presentation and scope of appeals
- (b) Appeal 1- Appellant Eric Lee's presentation
- (c) Appeal 2- Appellant Lisa Wilson's presentation
- (d) Applicant's presentation
- (e) Possible action on Appeal 1/Eric Lee
- (f) Possible action on Appeal 2/Lisa Wilson

Councilor Candace Erickson recused herself due to her husband's participation in the application representing the North Silver Lake project and left the meeting.

Mayor Williams outlined the process: Council will vote to decide whether or not to expand the scope of appeal to allow public input; Staff will introduce the appeal followed by questions from Council; the two appellants will present their appeals; the applicant and developer will make a presentation; all parties may have reserved opportunities to respond; and, finally, Council will deliberate and take action on the appeals.

Liza Simpson, "I move to accept public input". Alex Butwinski seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Recused
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

Planner Katie Cattan stated the remanded North Silver Lake Lot 2B Conditional Use Permit was approved by the Planning Commission on April 28, 2010 and two separate parties had appealed this approval: Eric Lee and Lisa Wilson. The North Silver Lake Subdivision Lot 2B is permitted for a density of 54 residential units and 14,552 square feet of commercial and support space under the Deer Valley Resort Master Plan Development. The original CUP was reviewed by Planning Commission on five occasions in 2008 and 2009. Following the July 8, 2009 approval, neighboring property owners appealed the permit and Council, at its meeting of November 12, 2009, remanded the CUP to Planning Commission with direction to review three specific items. Planning Commission reviewed the remanded items and after discussing the project at two work sessions and two regular meetings in 2009 and 2010, approved the revised conditional use permit on April 28, 2010.

Planner Cattan reviewed the three specific items Council included in their remand order: 1) the height, scale, mass and bulk of Building 3 shall be further reduced to meet the Compatibility standard; 2) further specificity regarding a final landscape plan and bond with consideration for Wild Land Interface regulations shall be reviewed and/or further conditioned; and 3) construction phasing and additional bonding beyond public improvement guarantee shall be required.

Building 3 was redesigned which resulted in a 25% reduction in square footage. It was reoriented on the site, provides greater stepping of the building, less exposure of the basement floor; and separated into two buildings, Buildings 3A and 3B. With these changes, Planning Commission found that it had been reduced to meet Compatibility.

The Landscape Plan referenced in remand item 2 was updated to comply with a tree mitigation plan and will require that any one high quality tree that was removed would be replaced with two 20'-30' trees and any second tier trees would be replaced with one and one-half 20'-30' trees.

To address Construction Phasing and additional bonding referred to in remand item 3, additional conditions were approved to require that the Building Department approve a phasing and bonding plan to ensure site restoration in conjunction with building phasing beyond the public improvement guarantee; and, collection of a bond at the time of CUP approval to ensure that existing impacts of the site will be repaired at the time of CUP expiration or extension. These conditions specify that financial guarantees include revegetation of the perimeter enhancement, capping for new disturbances and previous disturbances, and cleanup of all staging areas on the site.

Planner Cattan summarized the first appeal from Eric Lee who represents local residents in the area of the project. He references the Commission's failure to address the construction phasing plan as specified in the Council remand. He asserts the Commission improperly delegated responsibility to the Building Department and did so with language that offers no direction regarding mitigation measures to be required in the construction phasing plan. And, further, that the Commission erred in characterizing the construction phasing plan as a site restoration scheme.

Planner Cattan Katie explained she had listened to recordings of the November 19, 2009 City Council meeting which clarified that Council had not asked for a completion bond. Council members specified that the intent was to ensure that throughout the stages of construction, if it were to be abandoned, the City would be able to restore the site to a visually acceptable level. Additionally, Council wanted to make sure that the project would be staged and that the Building Department should manage bonding to ensure site restoration with phasing stages. The Chief Building Official also recommended that a condition be added to mitigate existing impacts on the site. Conditions of Approval 17 and 18 addressed these issues.

Mr. Lee also submitted a supplemental appeal letter appealing the condition of approval regarding lockout units, which had been discussed during the City Council remand, but had been omitted from the Planning Commission approval on April 28, 2010. Staff agreed with the appellant and added Condition of Approval 19 that no lockout units are permitted with this approval.

The second appeal from neighborhood residents, Brad and Lisa Wilson, included eight items, three of which were not applicable to the remand. Ms. Cattan reviewed each of the points and provided Staff's response to each.

1) Ms. Wilson stated the April 28, 2010 Planning Commission meeting was not properly noticed and notification was not posted on the parcel for 14 days prior to the planning meeting. Staff complied with the Land Management Code noticing matrix throughout the review and courtesy

mailings to owners within 300 feet, publication in the Park Record and posting on the property occurred 14 days prior to the hearing. The April 28th meeting was a continuation from March 10, 2010 and no secondary courtesy noticing is required when items are continued.

2) The Wilsons stated the April 2001 8th Amendment to the Deer Valley Master Plan changed the 60% open space requirement defined in the DVMPD for the North Silver Lake Zone and nearby owners were not notified that this could adversely affect them. Staff noted the time to appeal the 8th Amendment expired in 2001.

3) Mr. and Mrs. Wilson stated that Land Management Code changes increased the square footage of North Silver Lake Lodge beyond what was defined in the Code at the time it was platted. Staff explained this was not applicable as it refers to a previous application, not the application under review.

4) The Wilsons argued the North Silver Lake Lodge was not compatible with the existing area. Staff noted the only building subject to the remand was Building 3. As discussed, there had been a 25% reduction in square footage, reorientation on the site, greater stepping and separation of the buildings, as well as less exposure of the basement level.

5) Ms. Wilson stated the number of existing natural trees after construction would be significantly less than the developer represented. Staff referred to the mitigation plan that requires tree replacement of each high quality tree with two 20'-30' trees and replacement of second tier trees with one and one-half 20'-30' trees. In addition, a condition of approval was included to require a bond covering the cost of the landscape plan.

6) The Wilsons pointed out that lock out units were prohibited under the previous CUP approval, but that had been changed and would allow a potential of more than 54 additional rentable units for the hotel. Staff noted that issue had been identified at the April 28, 2010 public hearing and a condition of approval was added to reflect that language so no lockout units are permitted within this approval.

Council Member Kernan questioned the possibility of future owners applying to amend that condition. Ms. Cattan explained they would have to reapply for a conditional use permit in order to include lockout units in this project. She noted they are allowed by the Deer Valley MPD. Attorney Mark Harrington stated that Council's action would prohibit them in this project; however, there was no way to prevent future applications to amend the CUP.

7) Mr. and Mrs. Wilson stated there was not a phasing plan to complete the project. Staff stated Conditions 10 and 18 under which the approval expires within a year if no building permits were issued, and the requirement for phasing and bonding plans to be approved by the Building Department, have addressed this.

8) The Wilsons state the North Silver Lake area was platted in 1987 or 1988 and property owners were not notified when plat amendment changes were made in the zone. Staff explained this referred to a previous application was not applicable to the remand.

Council members had no questions and Mayor Williams opened the floor to Appellant 1, Eric Lee.

Eric Lee, Jones Waldo, representing owners of neighboring properties and homeowners associations in the area, stated the main focus of the appeal was the Commission's failure to address the construction phasing plan as specified in Council's remand. A project of this magnitude, in a mature single-family neighborhood, had the potential to materially disrupt the lives, use and enjoyment of neighboring property owners. They believe the Planning Commission did not follow Council's directive to review and approve a construction phasing plan. Instead, they delegated responsibility to develop a specific construction phasing plan to the Building Department and did so without providing direction regarding the impacts Council felt needed to be addressed.

Mr. Lee stated the applicant argued that the Commission's decision did not require the Building Department to review and approve a plan, but to address a plan. Additionally, the applicants argue that the Commission's decision to delegate to the Building Department met the spirit of your remand order. He felt the focus of that argument was too narrow and didn't address the Council's finding that construction phasing and bonding was necessary to mitigate visual and construction impacts of the conditional use permit. In addition, he felt the Planning Commission erred by characterizing the construction phasing plan as a site restoration scheme. He believed Council's direction to address unmitigated adverse impacts of the conditional use had not been addressed. He and his clients encouraged review of a phasing plan by the Planning Commission in a public process that gave the public the right to appeal the conclusions if they were not satisfied.

He requested that Council again remand the issue to the Planning Commission with specific instructions to identify visual and construction impacts that construction of this project will create on surrounding neighborhoods and create a plan at the Planning Commission level that addresses those impacts. He outlined suggestions to address the unusual situation of a large project being built in the middle of a mature residential neighborhood: 1) each phase should be stand-alone; 2) once construction begins on a phase, it must be completed within a specified period of time; 3) evidence of financial resources should be provided; 4) construction should begin with the perimeter structures to buffer neighbors from high density core, unless entire project is constructed in one phase; and, 5) mitigation of any substantial time between phases should include removal of all construction fences, trailers, materials, etc.

Appellant two, Lisa Wilson, stated she had filed a complaint with the State Ombudsman regarding this project. Ms. Wilson reported that her family had been travelling and had just returned to Park City.

Mayor Williams cautioned Ms. Wilson that the issues on appeal that can be discussed were noticing, compatibility, trees, lockout units and the phasing plan. He noted the lockout issue had been addressed.

Ms. Wilson stated the property was not noticed for the required 14 days and she had submitted photos taken before the April meeting showing that the sign was not properly posted. She reported this to the Planning and was surprised that Planning Commission approved the project without proper noticing. She had spoken to property owners who had not received mailed notice, not only for these hearings, but for previous reviews of the project as well. She informed KPCW of this and she and another neighbor participated in a KPCW interview about this project. She felt the developer intentionally and consistently left adjacent property owners off the mailing list.

Regarding the reduction in size of Building 3, she distributed building plans for a large home near her property to illustrate its size as well as the ski bridge, or causeway, in the center of the home and the amount of vegetation that had been removed from the site. Although the developer suggests there are three buildings on the property, it is all one building depending on the way the causeways work, and is not compatible with the neighborhood. The neighborhood is made up of single family homes, and Deer Valley consistently decreased densities on various parcels. Because there are no multi-family structures in North Silver Lake, she questioned how such a large building could be considered to be compatible in height, scale, mass and bulk. From Main Street it will look like one building and one won't see the gaps between buildings.

Ms. Wilson felt that beginning the construction on the perimeter of the project was extremely dangerous. She commented on the City's experience with Treasure Hill that had been built in increments over the years to maintain property rights and was now a problem. She asked Council not to create a problem for future City Council's and requested that they deny the project.

Doug Clyde represented the applicant, along with architect John Shirley and attorney Tom Bennett. Mr. Clyde explained that following the remand instructions from Council, they returned to Planning Commission to test their revised concept and then converted it to detailed plans, which were reviewed in subsequent meetings with the Planning Commission. The visual simulation dramatically shows that the project is much smaller.

Architect John Shirley commended the client for being willing to take a fresh look and redesigning the building. He noted they had reduced the mass of building three by 25% and had split it into two buildings to break up the impact. A subterranean portion of the project will house common area, spas, ski lockers, etc. Because the building was moved down the hill, it reduced the number of stories. Elimination of the ski funicular provided an opportunity to plant more trees to screen the building from the open space below. Doug Clyde pointed out that the new design stepped back, with a maximum of four stories, and because of the way they reoriented it on the site, visual impacts from Main Street have been substantially reduced.

Mr. Clyde addressed the landscape plan and noted the redesigned project provided substantially more opportunity to provide vegetative screening. He noted their simulation was done with trees as they would be planted; they did not attempt to project new growth.

Mr. Clyde clarified for Councilor Kernan that the photograph from Main Street was taken from street level just below the pedestrian bridge on Lower Main.

Tom Bennett, attorney for the applicant, commented that Building 3 had been dramatically redesigned to reduce and meet the compatibility standard as directed by the remand. He addressed the appellant's argument for requiring the Planning Commission to impose a phasing plan. He noted the Planning Commission followed the City's standard practice and addressed the issue by adoption findings of fact and conditions of approval relating to phasing and bonding and making it clearly the responsibility of the Building Department to monitor final decisions on phasing and bonding. He stated that although there are provisions in Master Planned Development approvals for imposition of phasing plans, there is none in the Conditional Use Permit process. He appreciated the appellant making suggestions for phasing plans, and addressed examples of why they do not work. Phasing plans are dependent on many variables

and, for example, requiring the completion of one phase before beginning the next may not make sense in times of economic boom. Those decisions are very personal and are the inherent right of the property owner. Regarding the proof of financial ability to perform, he was unsure the City wanted to assume the role of judging an applicant's financial ability to develop a project.

One appellant requested that the project be built from the outside in, while the other appellant disagreed, which highlighted problems with the government and the public trying to settle on a phasing plan. The applicant was willing to rely on the resources of the Building Department in requiring appropriate mitigation for the phased construction to minimize impacts on neighbors.

Katie Cattan introduced Interim Building Official Roger Evans who was present to respond to questions regarding the Building Department and construction mitigation phasing plans.

Attorney Harrington stated that the Building Department has utilized a quasi-public process for construction mitigation plans and phasing plans for large projects such as Flagstaff. Mr. Evans explained that developers typically submit plans for the entire site, not individual buildings, and Building issues separate permits in order to track progress, issue Certificates of Occupancy and release limits of disturbance fees, which are a cash bond. Planning had incorporated Ron Ivie's suggestions to ensure that mitigation issues were covered if the project was not completed.

Mr. Harrington asked whether it would be useful to build in an opportunity for a series of courtesy neighborhood meetings to get additional input at the time the Construction Mitigation Plan was approved. He asked whether the Building Department would want them to require a specific plan, or include further conditions or parameters regarding phasing, and bonding if Council determined that the Planning Commission appropriately implemented their direction. Mr. Evans indicated they could hold neighborhood meetings to review the plans and discuss mitigation measures.

Councilor Cindy Matsumoto asked how long empty foundations were allowed to sit in a project. Mr. Evans stated the Building Department was reviewing old permits and had plans to remediate abandoned foundations. Building permits are good for 180 days as long as work is progressing, and developers can request extensions to keep the project in place. Ms. Matsumoto clarified that each building would be bonded, which would provide money for remediation if the project stalled. Mr. Evans stated they collected a cash bond which can be used to mitigate sites.

Mark Harrington clarified there was a one year CUP approval with an opportunity to request an additional one year extension through the Planning Commission, and there was also the building permit process.

Attorney Bob Dillon asked if pulling a building permit for a foundation vested a CUP or whether plans for the entire structure must be submitted in order to receive a foundation permit. City Attorney Harrington stated that pulling the first permit does vest the Conditional Use Permit; however, it can still be cancelled for inactivity if there was subsequent failure to keep the permit going.

Roger Evans explained that developers pull the footing and foundation permits first because they aren't required to pay impact fees at that time; however, the Building Department does not

issue footing and foundation permits until they have reviewed the entire plan. Once they pull the footing and foundation permit they have 180 days to pull the full permit or go through extension process.

Mr. Dillon stated these structures would be part of a condominium project and asked whether they were required to file their Condominium Plat and Declarations prior to obtaining building permits. Mark Harrington explained that, while there are certain sites that have lot lines and code issues that would prevent the permit from being issued, in this case they have the lot of record and it was likely not an issue. The Condominium Plat is not recorded until the project is completed.

Mr. Dillon questioned allowing a developer to start without knowing that they would comply with the Conditional Use Permit and suggested that if construction plans were sufficient to obtain a building permit, they should be sufficient to create the condominium map for the portion of the project they want to build. Mr. Harrington explained that building plans were complete prior to obtaining footing and foundation permits, but noted there were almost always in-the-field amendments to every building plan of this size and it was preferable to have the condominium plat come in after the fact. Mr. Dillon clarified that they would not be able to sell anything until the plat was recorded.

Council Member Butwinski prompted a discussion about burden of proof for noticing. Attorney Harrington explained there had to be reasonable evidence on the record, and Council had made a finding of fact that there was not. He noted they received competing testimony and none regarding the noticing prior to the March 2010 meeting. Mr. Butwinski confirmed that the Planning Department maintains a mailing list along as well as a copy of the notice letter. Ms. Cattan explained that the applicant provides stamped, addressed envelopes accompanied by a list from a title company and Planning does not check the list. Courtesy notices are not re-sent when a project is continued, although Planning posts the property and publishes again in the newspaper and website.

Tom Bennett, attorney for the developer, indicated they would be willing to engage in neighborhood meetings for each phase of the construction mitigation.

Mayor Williams opened the hearing for public input. There was none and he closed the hearing.

Eric Lee referred to Mr. Bennett's comments and felt the concept of neighborhood meetings to review construction mitigation and phasing plans was sound. However, they were looking for that at the Planning Commission level because they are the body within City Government charged with addressing adverse impacts on a neighborhood. Also, there is no appeal process associated with a neighborhood forum with the building department and the neighbors have no recourse if their concerns are not taken into consideration. Mark Harrington clarified that although the meetings were not appealable; any staff action was appealable to the Planning Commission.

Mr. Lee addressed the necessity of requiring a phasing plan at the onset of the project as opposed to allowing the developer the flexibility to make those decisions as the project progressed. The developer must recognize that the neighbors have concerns and we believe that a permit should be issued only if the adverse impacts are adequately mitigated. They did not receive the mitigation plan they should have and think the project needs to go back.

Lisa Wilson commented about phasing plans and shared that the Deer Crest Homeowners Association is going to require bonding for all buildings due to a number of uncompleted homes. She hoped the City would require bonds so they are not left with the eyesore of unfinished construction.

Mayor Williams requested that Council discuss each appeal separately and opened the discussion regarding Appeal One.

Joe Kernan was comfortable with the Building Official making an administrative approval of the construction phasing plan, but suggested having conditions related to public input, whether it is neighborhood meetings or something more formal. Liza Simpson agreed, but felt the Building department understood the best way to move projects forward. She was comfortable adding conditions of approval if necessary. Council members expressed a preference for informal meetings and Mark Harrington suggested adding language to Condition 17 that required a neighborhood meeting at each phase prior to Building Department action.

Alex Butwinski believed height, mass and scale had been reduced to improve compatibility and landscaping plans had been sufficient addressed. Regarding the phasing plan, the City uses bonding as a mechanism to ensure the phasing was followed and the project was completed. He relayed a question from Planning Commissioner Peek regarding whether bonding was used to return the site to vegetation or to move the project forward. Roger Evans explained the Building Department would determine where they were in phasing, and the bond would be adequate to address a solution.

Regarding the requirement for an applicant to provide proof of financial wherewithal, Mr. Butwinski noted there had been no precedent either in the Code or past practice. Mr. Harrington explained that annexations required an economic profile; however, in this context it would be highly unusual. He added that the City does not have an institutional basis to make the necessary analysis in terms of what constitutes financial viability, and he would not recommend it.

Mark Harrington clarified for Liza Simpson that if Council amended Condition of Approval 17 and add a condition regarding lockout provisions, they were granting the appeal in part, denying the appeal in part, and providing direction to Staff to return with findings.

Liza Simpson, "I move that Council deny Appeal One in part, and uphold the appeal in part, and amend Condition of Approval 17 with language that addresses that a meeting with residents to gather input be held before Building Department approval is given at each phase of construction; and with changes as outlined in the Staff Report regarding lockout units."

Attorney Tom Bennett questioned that it was being characterized as denial in part. He felt the appeal was denied subject to the modification of Condition 17 to add a requirement for community meetings as part of construction mitigation process. Attorney Harrington explained the appeal was upheld in part because of the lockout component. He stated new findings and conditions would be ratified by Council and thirty days for district court appeal would run from that final approval. Tom Bennett clarified that, if the motion passed, the appeal would be denied and Council would receive a set of findings and order at the next meeting.

Joe Kernan seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Recused
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

Mayor Williams requested discussion regarding Appeal Two. Council Members concurred that the Planning Commission had mitigated all applicable items and they did not see any merit in the appeal. The project had been greatly improved and all issues that were applicable in the appeal had been mitigated by the Planning Commission.

Returning to the burden of proof for noticing, Mr. Butwinski clarified that the Planning Commission felt they had necessary proof to find that the notice requirement was filled. Mark Harrington responded they clearly did and noted there was no allegation of improper legal notice for the first meeting, but there was an allegation regarding mailed notice for the second hearing and the fact that the posted notice fell down prior to the second hearing. He explained that mailed notice was problematic because it was a courtesy attempt to reach those who do not read the newspaper or the City's website.

Cindy Matsumoto stated the process had resulted in a better project. She stated Lisa Wilson had been part of that and thanked her for her commitment.

Joe Kernan "I move that Council deny Appeal Two." Alex Butwinski seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Recused
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Aye

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

There were none.

VII ADJOURNMENT

With no further business, Mayor Williams adjourned the meeting at 8:30 p.m.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at 2:00 p.m. Members in attendance were Mayor Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Tom Daley, Deputy City Attorney; Jason Christensen, Legal Intern; Kathy Lundborg, Water Manager; Diane Foster, Environmental Manager; Craig Sanchez, Golf Manager; and Linda Tillson, Library Manager. Liza Simpson "I move to close the meeting to discuss personnel, property and litigation." Joe Kernan seconded. Motion unanimously carried. The meeting opened at 3:15

p.m. Liza Simpson "I move to open the meeting." Alex Butwinski seconded. Motion
unanimously carried.

Sharon C Bauman

Sharon C. Bauman CMC, Deputy City Recorder





Attorneys Est. 1875

April 14, 2011

TEL: 435-200-0085
FAX: 435-200-0084

1441 WEST UTE BOULEVARD
SUITE 330
PARK CITY, UT 84098

WWW.JONESWALDO.COM

AFFILIATED FIRM
LEAR & LEAR, LLP

HAND DELIVERED

Mr. Tom Eddington
Planning Department
Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060

Re: Extension of North Silver Lake Lodge Project CUP (the "CUP").

Dear Mr. Eddington:

Jones Waldo Holbrook & McDonough represents a number of owner associations and owners of properties that adjoin or are in close proximity to the North Silver Lake Lodge Project (the "Project"). Please accept this letter as our clients' objection to the extension application submitted by North Silver Lake Lodge, LLC (the "Applicant") for the Project's CUP.

As you are aware, our clients have objected to the Project on the grounds that it is an incompatible use under the PCMC Land Management Code (the "LMC"), including without limitation, construction use under LMC§15-15-1.276, LMC§15-1-10(D)(2) and LMC§15-1-10(D)(4). The lack of any certain construction and phasing plans for this Project for years to come has an ongoing negative impact on the surrounding neighborhoods and their values. For this reason we ask that you deny the application to extend the existing CUP.

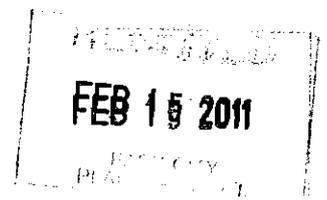
In the event that you grant the Applicant's extension request, we demand on behalf of our clients that the extension be subject to the fulfillment of Requirement #18 of the approval of the CUP prior to July 1, 2011. We request that you have the PCMC Building Department provide us with copies of all plans and specifications for the work to be done to comply with said requirement #18 so that we may comment on their adequacy.

Please do not hesitate to contact me if you have any questions relating to the above matter.

Sincerely,

Robert C. Dillon

cc: Mr. Tom Boone
Ms. Katie Cattan



Lisa Wilson
P. O. Box 1718
Park City, UT 84060
(435) 645-7973
lisa@winco.us

April 8, 2011

Re: Request to Deny North Silver Lake Lodge CUP

Tom Eddington,

Summary

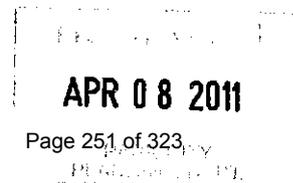
In order to deny the CUP it is necessary to show the findings of fact are flawed. The CUP is flawed because the North Silver Lake allocation increased without notice and a public process. The acreage added to North Silver Lake is the Silver Dollar and Belleterre ski runs. Without proof that the ski runs were added to the North Silver Lake allocation according to State and Local Code, the CUP is flawed. When the ski runs are removed from Lot 2D, Lot 2D is less than 4.03 acres. Without the ski runs as part of Lot 2D, 3.78 acres of open space cannot be transferred to NSL Lot 2B. Without the ski runs as part of Lot 2D, the CUP is not 70.6%. Finding of fact #8, #9, #10 and Conditions of Law #1 & #5 are flawed.

Supporting Information

GRAMA requests have been made. This is the information provided thus far. There is no notice in the public record referencing a request to add 2.28 acres to the North Silver Lake allocation in 1997. The total allocation increased by 2.28 acres in the 8th Amendment to the DV MPD. To change a plat and add acreage to a subdivision allocation according to the code a public notice, a public process, and additional signatures on the plat map are required. No record has been provided for the addition of 2.28 acres to the North Silver Lake Subdivision in 1997.

The 2.28 acres added to the allocation is the Silver Dollar ski run and Belleterre ski run. The 1996 letter written by Bob Wells to Planning confirms this fact. Also, the subdivision map included with the Bob Wells letter indicates in 1996 the Silver Dollar and Belleterre ski runs were not part of the North Silver Lake allocation. This is confirmed by the values in the right hand corner of the Development Data map.

*Tom,
Denying out of town
I know this finding
isn't really enough
for you to consider
denying the extension
request. Lisa*



The 1997 Park City Land Management Code is specific when changing a subdivision plat. Also, the State code is specific. (See enclosed 1997 LMC and State Statutes).

The 1997 Park City Land Management requires:

"1.5 (b) Substantive Amendments. Amendments to the Code which affect the uses to be made of land within the City by (1) allowing a previously prohibited; (2) prohibiting a use previously allowed; (3) increasing or decreasing the density of the uses previously allowed; (5) change a conditional use to a permitted use, or (6) changing the zone or any property shall be made only after public hearing as required by this code.

(c) Petition for Zone Changes...To change or amend the zone within a legally recorded subdivision the petition must include signatures or owners of at least 51% of the platted lots with in the subdivision.

(1) Hearings before Planning Commission. The Planning Commission shall hold public hearing on all petitions for zone changes received from citizens or property owners affected by the change... The notice shall state generally the nature of the proposed amendment and land affected, and the time, place, date of the hearing....

1.7 Penalties. Any person, firm, partnership, or corporation, or the principal agents there of violating or causing the violation of the Code shall be guilty of a Class "B" misdemeanor and punished upon conviction by a fine and/or imprisonment described in the current Park City criminal code...."

The public record or lack there of is indicative of illegal activity and requires further review.

May 14, 1997 Planning minutes:

"Commissioner Larsen asked for an explanation of Lot 2D open space dedication. Planner LoPiccolo explained that the applicants propose a plat amendment to dedicate Lot 2D as permanent open space to be listed on the plat in perpetuity. The applicant is requesting that a transfer or allocation in the calculation of open space for development on 2A be allowed to use one-quarter acre of Lot 2D for 2A"

A copy of the May 14, 1997 minutes is included. The notification to homeowners did not indicate the transfer of ¼ acre of open space development entitlements to Lot 2A/Bellefont. The notification did not indicate a transfer of 3.78 acres of open space development rights to NSL Lot 2B. There is no record that Deer Valley Resort would maintain private ownership of Lot 2D while transferring the

open space development rights. There is no public record that 2.28 acres would be added to the North Silver Lake allocation and the acreage added would be the Belleterre and Silver Dollar ski runs. There is no notice to create North Silver Lake Lot 2D and 2B. There is no public input in the record. No property owner signatures appear on the plat amendment.

Without a public process to add 2.28 acres to the allocation, Lot 2D is not 4.03 acres. The plat map #487578 for the Subdivision of Lot 2 North Silver Lake is flawed.

When Lot 2D is less than 4.03 acres, it is impossible to transfer 3.78 acres of open space development rights to Lot 2B.

Without a public process and public record to create NSL Lot 2D, the open space calculation for North Silver Lake Lodge is not 70.6%. Finding of fact #10 in the North Silver Lake Lodge CUP is flawed. 70.6% open space is underlined in the CUP for emphasis. Any open space value that differs from 70.6% causes the North Silver Lake Lodge CUP to be flawed.

According to Planning's calculation when Lot 2D is removed as open space, the North Silver Lake Lodge becomes 48% open space.

Total coverage of Lot 2B is 124,799 square feet. The size of the Lot 2B is 5.96 acres. 1 acre = 43,560 square feet. $124,799/2,596,273 = 48\%$

The noticing in the public record is for Bellemont. There is no noticing for North Silver Lake Lot 2B and North Silver Lake Lot 2D.

Recently the public was able to witness the TDR process for Treasure Hill. The TDR process to transfer open space from NSL Lot 2D to 2B, the North Silver Lake Lodge parcel, is very different. There is no notice for the TDR. There is no public process or input for the TDR to benefit NSL Lot 2B.

Questions:

1. Is there proof in the public record to add 2.28 acres to the North Silver Lake allocation?

2. Is there proof that can be verified in the record to combine the Silver Dollar and Belleterre ski runs with the remainder of Lot 2D and create a total of 4.03 acres on Lot 2D?

3. Is there proof that can be verified in the record that 4.03 acres of Deer Valley Resort's open space development right on Lot 2D was transferred according to

APR 08 2011

code to Lot 2B and Bellemont while Deer Valley maintained private ownership of Lot 2D?

4. Why in Finding of Fact #9 in the 2001 CUP is ¼ acre of open space used for Bellemont from Lot 2B The plat map indicates ¼ acres is from Lot 2D. (See enclosed Quasi-Judicial – Appeal of CUP. Plat map #487578 says 2D, not 2B)

5. Is there 3.02 acres remaining on Lot 2D as stated in the Ombudsman Advisory Opinion or, 3.78 acres remaining on Lot 2D as stated in the 2001 CUP or, some other value?

6. Is there proof that 3.78 acres of Deer Valley's open space right was transferred from Lot 2D to Lot 2B in compliance with the LMC while Deer Valley Resort maintained private ownership of Lot 2D?

Finding of fact #3 in the 2001 CUP states:

"Within the Deer Valley Master Plan, the North Silver Lake Subdivision is permitted a density of 54 residential units and 14,552 sq. ft. of commercial and support space."

According to the 7th Amendment of the Deer Valley Master plan:

Retail – 8,000 sq. ft.

Administration and Support – 2000 sq. ft.

Other – 4,525 sq. ft

Total – 14,525

7. When did the North Silver Lake commercial entitlements change in the Deer Valley Master Plan?

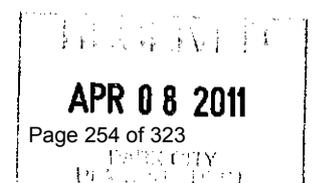
8. Is there a public record of a public process that is consistent with the Land Management Code to change the North Silver Lake commercial entitlements to a 14,552 sq. ft.?

9. Are Findings of Fact #3, #8, #9 and/or #10 in the July 1, 2010 CUP flawed?

10. Are Conclusions of Law #1 and/or #5 in the July 1, 2010 CUP flawed?

Please provide documentation available in the public record to verify Findings of Fact #3, #8, #9, #10 and Conditions of Law #1 & #5.

The Deer Valley Master Plan is divided into areas. The subdivisions are the Deer Valley Community (a.k.a. Snow Park), American Flag, North Silver Lake and Silver Lake. Substantive changes have been made within the subdivisions



without notice. There has been a transfer of density into the Snow Park and Silver Lake subdivisions while there has been a reduction of density in the North Silver Lake subdivision. Although sending and receiving zone have not been established, density is transferred within Deer Valley frequently. The TDRs have not been noticed and gone through the public process like Treasure Hill. (Please see Deer Valley Resort Restated MPD enclosed) Changes occur within Deer Valley regularly unbeknownst to affected property owners. According to the LMC, "The notice shall state generally the nature of the proposed amendment and land affected." We have owned property in Deer Valley since 1994 and have not received notice that the MPD has been amended. The Deer Valley Master Plan is a semi-private document not available on the internet. Try Googling it. It is difficult for the public to get copies of earlier versions of the Master Plan and discover the changes, transfers etc inserted into the document. The Park City Planning Office charges a fee for every page of older versions of the DV MPD that discourages requests.

Inserting substantive changes within the Deer Valley Master Plan unbeknownst to affected property owners does not comply with the Park City Land Management Code or State Code.

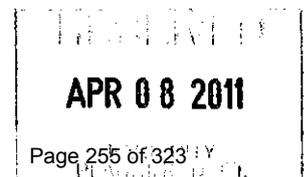
The North Silver Lake Lodge CUP is flawed.

Burden of Proof: There is no record that the Belleterre and Silver Dollar ski runs were added to North Silver Lake allocation in compliance with the Land Management Code and State Code. The ski runs were added illegally and combined with the balance of Lot 2D to create 4.03 acres owned by Deer Valley Resort. There is no record that 3.78 acres of Deer Valley Resort's open space entitlements on Lot 2D were transferred to Lot 2B in compliance with the 1997 LMC and State Code. There is no notice of a TDR. Notice and a public hearing with homeowners present is not part of the public record. Property owner signatures do not appear on the plat map #487578. The public record has not been made available for the addition of the ski runs to the North Silver Lake allocation. The notice of a substantive open space entitlement transfer to NSL Lot 2B is not available.

When 4.03 acres of the open space entitlement transfer on Lot 2D is removed, the ~~2001~~²⁰¹¹ approval violates the Deer Valley Master Plan and Park City Land Management Code. The project is less than the required 60% open space. The open space for North Silver Lake Lodge on parcel 2B alone is 48%.

To protect the City from legal liability the recommendation is that the CUP be allowed to expire.

Enclosed supporting documentation:



FJA
PER VOICEMAIL
FROM WEA WILSON
RECEIVED ON 4/08/11

1. City Council Quasi-Judicial-Appeal of CUP Application
2. November 16, 1996 Letter to Planning by Bob Wells with Development Data Map
3. 1997 LMC 1.1 to 1.11
4. May 25, 1997 Planning Notice
5. Aug 12, 1997 Planning Notice
6. Planning Commission Minutes May 14, 1997
7. State Code 10-9a-206
8. State Code 10-9a-207
9. State Code 10-9a-205
10. State Code 10-9a-608
11. Deer Valley Resort 9th Amended MPD Exhibit-1 Development Parcels
12. Chart prepared by planning of North Silver Lake allocation

Respectfully,

Lisa A. Wilson

City Council Staff Report



Subject: North Silver Lake Lot 2B
Author: Katie Cattan
Date: July 1, 2010
Type of Item: Quasi-Judicial - Appeal of CUP Application

Summary Recommendation

Staff requests that the City Council ratify the findings of fact, conclusions of law, and conditions of approval for the Appeals of North Silver Lake Lot 2B Conditional Use Permit.

Topic

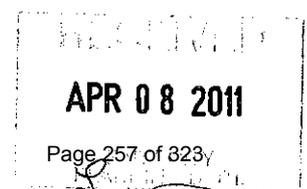
Appellants: #1: Eric Lee, Attorney representing adjacent property owners, and
#2 Lisa Wilson, resident
Location: Lot 2B Subdivision of Lot 2, North Silver Lake
Zoning: Residential Development (RD)
Adjacent Land Use: Ski resort area and residential
Reason for review: Appeals of Planning Commission decisions are reviewed by City Council

Background

Under the Deer Valley Resort Master Plan Development (MPD) the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space. The Deer Valley MPD requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC Section 15-1-10.

The original CUP application was before Planning Commission on five different occasions (August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009). During the July 8, 2009 review, the Planning Commission approved the application with a 3 – 1 vote. One Commissioner abstained.

On July 17, 2009, the neighboring property owners submitted an appeal of the Conditional Use Permit (CUP) approval of the North Silver Lake Subdivision Lot 2B. The City Council reviewed the appeal on October 15, 2009 and November 12, 2009. During the November 12, 2009 meeting, the City Council remanded the CUP application to the Planning Commission with specific items included in the order to be addressed.



The Planning Commission reviewed the remand during two work sessions on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April 28, 2010 to address the order and findings of the City Council. The Planning Commission approved the revised conditional use permit with a four to one vote on April 28, 2010.

The approval was appealed by two separate parties. On May 7, 2010, Eric Lee submitted an appeal (Exhibit A). On May 10, 2010, Lisa Wilson submitted an additional appeal (Exhibit B). The City Council reviewed the appeal on June 24, 2010. All parties stipulated to additional condition of approval #19. The Council did not find merit in the notice issues, the compatibility of revised design or other issues raised in Ms. Wilson's appeal. The Council added an additional requirement of an opportunity for neighborhood input prior to approval of the phasing plan(s), but found that the Planning Commission adequately addressed the issues of the remand. Accordingly, the City Council affirmed and denied in part the Planning Commission's decision to approve the North Silver Lake Lot 2B Conditional Use Permit.

Findings of Fact, Conclusions of Law and Conditions of Approval re: NSL Subdivision Lot 2B Conditional Use Permit.

On July 1, 2010, having been duly advised, the City Council hereby modifies the Planning Commission Findings of Fact, Conclusions of Law, Conditions of Approval and Order with minor corrections to the findings and conditions (underlined) as follows:

Findings of Fact

1. The subject property is at 7101 North Silver Lake Drive. This property is also known as Lot 2B of the North Silver Lake Subdivision.
2. The proposed development is located within the Deer Valley Master Plan Development.
3. Within the Deer Valley Master Plan, the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space.
4. The applicant has applied for a conditional use permit for the development of 54 units located on Lot 2B of the North Silver Lake Subdivision. The applicant has included 5102 square feet of support commercial space within this application. The project consists of 16 detached condominium homes and four condominium buildings containing 38 condominium units. The remaining commercial units are not transferable.
5. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area.
6. The Deer Valley Master Planned Development (MPD) requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC chapter 15-1-10.
7. The Deer Valley MPD determines densities on parcels as an apartment unit containing one bedroom or more shall constitute a dwelling unit and a hotel

room or lodge room shall constitute one-half a dwelling unit. The Deer Valley MPD does not limit the size of units constructed provided that following construction the parcel proposed to be developed contains a minimum of 60% open space and otherwise complies with MPD and all applicable zoning regulations.

8. Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating "This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B." Lot 2D is 4.03 acres in size.
9. Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2B towards the 60% open space requirement. The Bellemont Subdivision utilized ¼ acre of the Lot 2B parcel to comply with the open space requirement.
10. The current application site plan contains 70.6% of open space on the site including the remainder 3.78 acres of open space on Lot 2D.
11. The property is located in the Residential Development zoning district (RD) and complies with the Residential Development ordinance.
12. The property is within the Sensitive Lands Overlay Zone and complies with the Sensitive Lands Ordinance.
13. The height limit for Lot 2B was established at 45 feet within the Deer Valley Master Plan. The development complies with the established height limit, with the allowance of five feet for a pitched roof.
14. The onsite parking requirements for the four stacked flat condominiums have decreased 25% in compliance with section 15-3-7 of the Land Management Code. The Planning Commission supports a 25% reduction in the parking for the stacked flats within the development.
15. The Planning Commission held public hearings on August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009.
16. The Planning Commission approved the CUP on July 8, 2009.
17. An appeal of the CUP approval was received July 17, 2009 within ten days per LMC 15-1-18.
18. The City Council reviewed the appeal of North Silver Lake lot 2B on October 15, 2009 and on November 12, 2009.
19. On November 12, 2009, the City Council remanded the Conditional Use Permit back to the Planning Commission with three specific items to be addressed within the order.
20. The Planning Commission reviewed the North Silver Lake Conditional Use Permit remand on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April 28, 2010. The Planning Commission approved the revised Conditional Use Permit on April 28, 2010.
21. The Conditional Use Permit was appealed by two separate parties within ten days of the Planning Commission approval.
22. The design for Building 3 decreased the overall square footage of the Building 3 twenty-five percent (25 %), reoriented the building on the site, and divided the original single building into two interconnected buildings of smaller scale and size than the original single building.

23. The landscape plan was modified to comply with the Wild Land Interface regulations.
24. Construction phasing and additional bonding beyond a public improvement guarantee has been required.

Conclusions of Law

1. The application is consistent with the Deer Valley Master Planned Development and the Park City Land Management Code, particularly section 15-1-10, Conditional Use Permits.
2. The Use is compatible with surrounding structures in use, scale, mass, and circulation.
3. The Use is consistent with the Park City General Plan.
4. The effects of any differences in Use or scale have been mitigated through careful planning.
5. The Planning Commission did not err in approving the application.

Conditions of Approval

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. This plan must address mitigation for construction impacts of noise, vibration, and other mechanical factors affecting adjacent property owners. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be included within the construction mitigation plan.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be adhered to. A member of the Planning Staff and Planning Commission will be invited to attend the pre-installation conference. Prior to operating any excavation machinery, all operators of any excavation machinery must sign off that they have read, understand, and will adhere to the Temporary Tree and Plant Protection plan.
5. A landscape plan is required with the building permit. The landscape plan must reflect the site plan and existing vegetation plan as reviewed and approved by the Planning Commission on April 28, 2010.
6. The developer shall mitigate impacts of drainage. The post-development run-off must not exceed the pre-development run-off.
7. Fire Marshall review and approval of the final site layout for compliance with City standards is a condition precedent to building permit issuance. The proposed development shall comply with the regulations of the Urban Wild Land Interface Code. A thirty foot defensible space will be mandatory around the project, limiting vegetation and mandating specific sprinklers by rating and

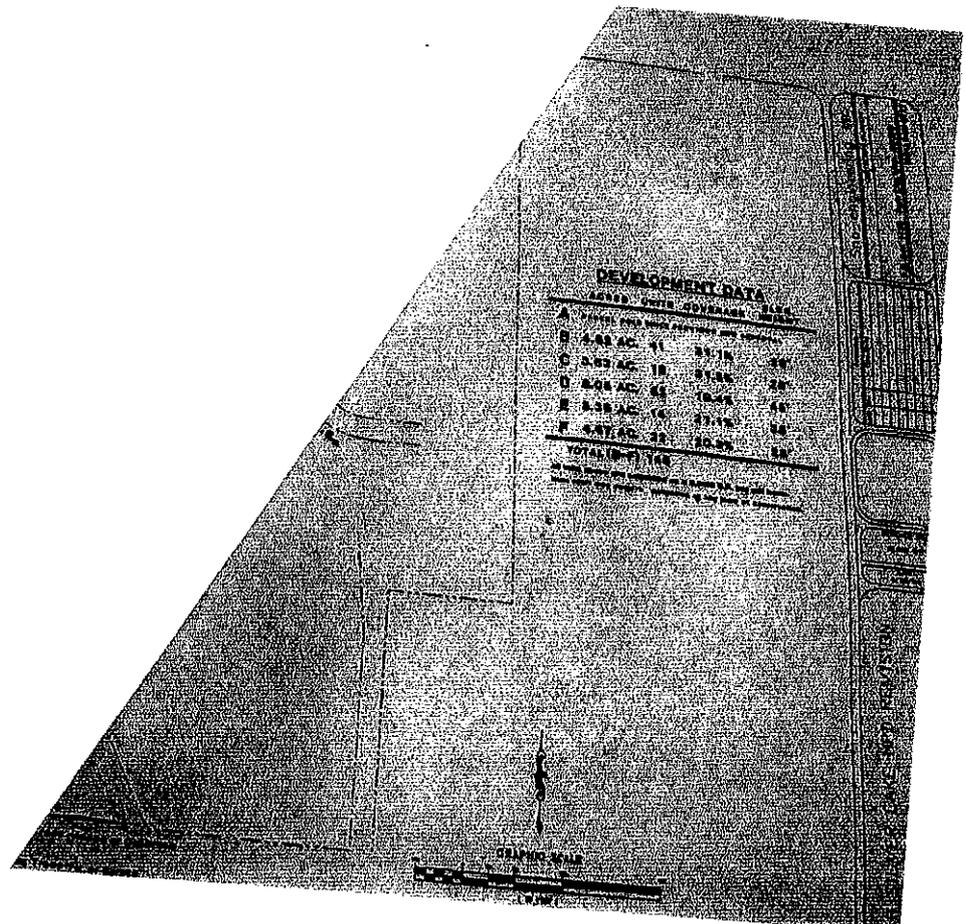
- approved with the amended Findings of Fact and Conditions of Approval as stated above.
2. Appeal #2 from Lisa Wilson is denied in whole. The CUP is approved with the amended Findings of Fact and Conditions of Approval as stated above.

Dated this 4th day of July, 2010.

Dana Williams
 Dana Williams, Mayor

development,

ate open space" prior to
 or Valley Master Plan. The
 it Data acreage on the map is
 cclo, "the ski runs where
 d".





DEER VALLEY

Executive Offices

November 16, 1996

Mr. Kevin LoPiccolo
Planner
Department of Community Development
Park City Municipal Corporation
P. O. Box 1480
Park City, Utah 84060

RECEIVED
NOV 19 1996
PARK CITY
PLANNING DEPT.

Re: Bellemont Project and North Silver Lake Subdivision

Dear Kevin:

This is in followup to the November 6, 1996 meeting on the subject with you and Kirsten Whetstone attended by the undersigned (on behalf of Deer Valley Resort), Mark Prothro of Perkins-Timberlake Company (the Bellemont project developer), and Steve Deckert of Alliance Engineering (representing both Deer Valley and Perkins-Timberlake Company). In addition to the items listed in your followup letter of November 11 (copy attached), my notes indicated that:

1. Meg Ryan had advised you that Deer Valley's employee housing requirement set forth in the Seventh Amended and Restated Master Planned Development Permit for Deer Valley Resort, a portion of which was originally tied to the North Silver Lake MPD, had been fulfilled; but I was to provide you with a summary of that requirement for your file on this project. Deer Valley's total requirement with respect to employee housing under the MPD permit was 109 units. At the time of the Seventh Amended Permit, 90 units of the total 109 had been fulfilled; 84 units had been previously provided offsite (42 units in the Parkside Apartments and 42 units in the Fireside Apartments - see page 8 of the Seventh Amended MPD); 4 units had been previously provided onsite (Little Belle, Stag Lodge, Sterlingwood, and Mt. Cervin - see Exhibit 1 to Seventh Amended MPD) and 2 units applicable to Bald Eagle had been satisfied in lieu by the developer of the Bald Eagle Community (see Exhibit 1 to Seventh Amended MPD). This left a balance of 19 as set forth on page 8 of the Seventh Amended MPD. Subsequently, 1 unit was provided in the Deer Valley Club project in Silver Lake, 8 units were provided in the Washington Mill project on Daly Avenue, and 3 units were provided in the Peace House facility on Marsac Avenue. This left a balance of 7 units which the Park City Council acknowledged as fulfilled in connection with Deer Valley's cash equity contribution to the Silver Meadows project on Kearns Boulevard developed by PSC Development. Enclosed is the documentation package related to the final 7 units. Section 2 of the Employee Housing Agreement between Deer Valley and Park City Municipal Corporation included in the documentation recites that this 7 unit

RECEIVED
APR 08 2011
PARK CITY
PLANNING DEPT.

DEER VALLEY®

credit fully satisfies Deer Valley's employee housing obligation under the Seventh Amended MPD Permit and Toby Ross's memorandum and the other correspondence included in the documentation provides the same background information as summarized above. In addition to the 109 units provided as set forth above, Deer Valley recently acquired an additional 45 studio units in Prospector Square for its own direct employee housing use. Please let me know if you have any questions regarding this.

2. We were to provide you with a written narrative explanation of the platting process for North Silver Lake. This follows. In the original Deer Valley MPD, the North Silver Lake Community consisted of the Westview parcel (now a portion of the Huntsman estate property) with an assigned development density of 34 units, and the remainder of North Silver Lake which had a density range of between 176 and 312 units. The Westview parcel was a legal parcel separated from the remainder of North Silver Lake by Royal Street. The remainder of the North Silver Lake Community was at that time a single block of ground. With respect to density range parcels, the Deer Valley MPD Permit provides that the ultimate density will be established based on a site specific plan submission to the Planning Commission. Such a submission was made by Deer Valley and a master plan for the remainder of the North Silver Lake Community was approved by the Planning Commission in 1986 with a fixed density of 236 units, being 36 lots in the Evergreen subdivision and 200 multi-family units on the balance of North Silver Lake as follows:

<i>Belleterre</i>	Parcel A <i>10 homes</i>	26 units	10.71 acres
	Parcel B	16 units	2.19 acres
	Parcel C	32 units	5.23 acres
	Parcel D	70 units	7.89 acres
	Parcel E	24 units	4.80 acres
	Parcel F	32 units	7.14 acres

An open space parcel of 5 acres was established on the Parcel A side of Silver Lake Drive between the east boundary line of Parcel A and the west boundaries of the existing American Flag Subdivision and the proposed Evergreen subdivision. This configuration was incorporated into the First Amendment to the Fifth Amended and Restated Deer Valley MPD Permit. Evergreen subdivision was approved by the Planning Commission and was legally separated from the balance of the property by the filing of subdivision plats (the final plat being recorded in May of 1988). In connection with the construction of Evergreen subdivision Silver Lake Drive was installed as a dedicated City street which resulted in the creation of Parcel A as a legal separate parcel of property without the necessity of creating the parcel with a platting process. In 1990, the Belleterre Subdivision was approved by the Planning Commission as a development of Perkins-Timberlake Company on this Parcel A, consisting of 10 single family homesites in substitution of the 26 multi-family units previously approved in 1986. A separate subdivision plat for Belleterre was recorded in 1991 to create the 10 lots. This left the property that consisted of Parcels B-F in the chart above being a single tract of land with an approved master plan but not yet legally subdivided into parcels. In 1991, Deer Valley submitted a proposed modification of Parcels B-F of the North Silver Lake MPD which, with some revisions, was approved by the Planning Commission on July 31, 1991 as the revised North Silver Lake MPD.

DEER VALLEY

The revised configuration with the following:

Parcel	Units	Acres
Parcel A	12	4.0 acres
Parcel B	24 units	4.0 acres
Parcel C	18 units	3.0 acres
Parcel D	54 units	8.0 acres
Parcel E	19 units	3.0 acres
Parcel F	24 units	4.0 acres

This revised configuration resulted in a density reduction of 35 units on the five remaining parcels, adjustment of the boundaries of the parcels, and the creation of an additional approximately 2 acre open space parcel between Parcel B and the existing Evergreen subdivision. The approximately 2 acre open space parcel is included in the acreage assigned to Parcel D above. The acreage between the total acreage in Parcels B-F as per the 1986 MAP and the 1991 Revised MAP is approximately the same as the acreage in the various parcels created in 1986 but the 35 units were reflected on the plan as separate open space. A copy of the Revised North Silver Lake MPD plan is enclosed. In 1992, Deer Valley agreed to convey revised Parcel 2 to Perkins-Timberlake Company and Perkins-Timberlake Company presented its plan for the Bellevue project on Parcel B to the Planning Commission proposing 18 units on the 24 unit parcel. Concurrent with Perkins-Timberlake's submission, Deer Valley submitted a subdivision plat to create Parcel B as a legal subdivided parcel, i.e., Lot 1 of the North Silver Lake Subdivision so that the parcel could be legally conveyed to Perkins-Timberlake. Lot 2 of said subdivision was the remainder of the North Silver Lake MPD property, consisting of the combination of Parcels C-F in the chart above. The subdivision and the Bellevue project on Lot 1 was approved by the Planning Commission and the North Silver Lake Subdivision plat was recorded on February 19, 1993. The Bellevue project has since been completed by Perkins-Timberlake Company on Lot 1 (former Parcel B). At the present time, Deer Valley has agreed to convey Parcel C to Perkins-Timberlake for the development of the proposed Bellemont project. The current submission to you consists of a proposed subdivision of the Lot 2 remainder of North Silver Lake into Lot 2A (former Parcel C), Lot 2B (former Parcel D but excluding the approximate 2 acre open space parcel), Lot 2C (the combination of former Parcels E and F), and Lot 2D (an open space parcel consisting of the approximate 2 acres of open space in Parcel D and the Silver Dollar and Belleterre ski runs which have been installed) together with the proposal of Perkins-Timberlake Company to develop 12 units on Lot 2A (former Parcel C) similar to the Bellevue units previously constructed on Lot 1 in lieu of the 18 units approved in the Revised North Silver Lake MPD. That is, we are following the same procedure as before when Lot 1 was legally created to enable conveyance for the Bellevue project. The configuration of the subdivision plat before you is consistent with the MPD except that it leaves the combination of Parcels E and F in the master plan as one lot on the basis that these parcels are contiguous and may be developed in the future as one parcel or may be developed separately, i.e., we would like to retain flexibility as to the exact location of the boundary between the two parcels until a specific plan is developed. The above explanation is probably more lengthy than necessary but it does summarize the happenings in one place.

3. We discussed the allocation of the open space to the various parcels in the revised MPD. My understanding is that we would include a titulation on the subdivision plat that

DEER VALLEY®

reflected the allocation for purposes of meeting the 60% open space requirements. This would clarify the open space determination or calculation for all parties. Steve Deckert is in the process of doing this.

Steve Deckert is also addressing the items listed in your November 11 letter. Thank you for your assistance.

Sincerely,

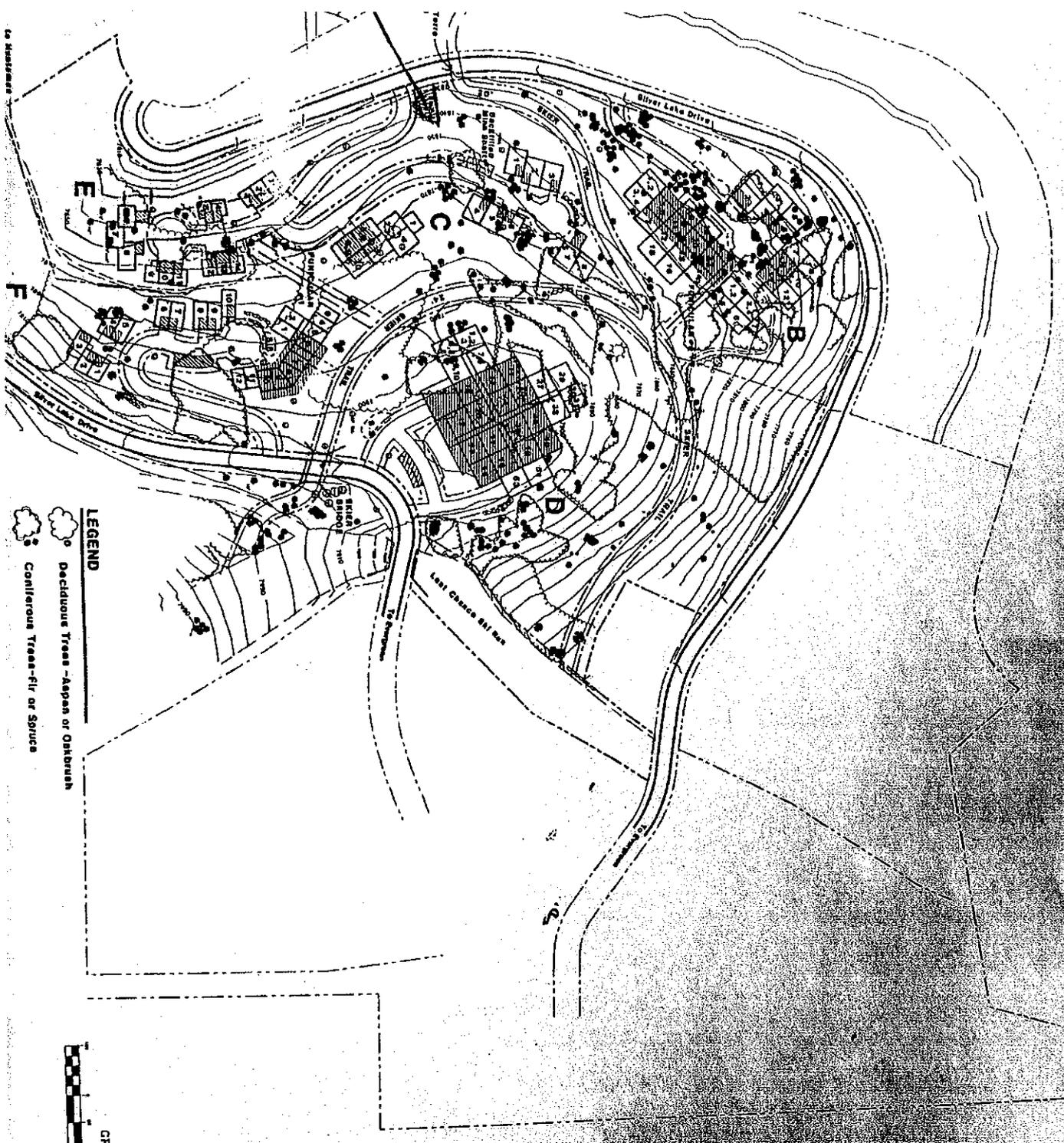
DEER VALLEY RESORT COMPANY

By



Robert W. Wells

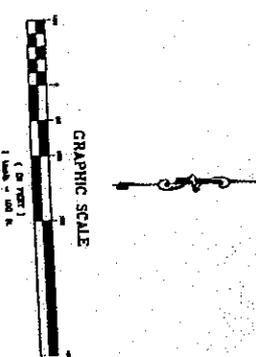
cc: Mark Prothro
Steve Deckert



LEGEND

☁ Deciduous Trees - Aspen or Oakbrush

🌲 Coniferous Trees - Fir or Spruce



DEVELOPMENT DATA

ACRES - JAMES COVINGTON, JR.

A 1.02 AC. 4.1

B 1.02 AC. 4.1

C 3.83 AC. 16.1

D 1.02 AC. 4.1

E 2.26 AC. 9.8

F 4.87 AC. 21.2

TOTAL 16.04 AC.

997 LMC

ORDINANCE

AN ORDINANCE ADOPTING THE LAND MANAGEMENT CODE OF 1983 TO PROVIDE FOR A COMPREHENSIVE ZONING PLAN OF PARK CITY AND ADOPTING AN OFFICIAL ZONING MAP FOR PARK CITY, UTAH

Be it ordained by the City Council of Park City:

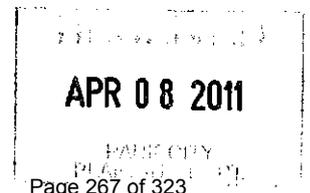
CHAPTER 1. GENERAL PROVISIONS/PROCEDURES

1.1. SHORT TITLE. This ordinance shall be known as the Park City Land Management Code, and is referred to herein as this Code or the Code.

1.2. STATEMENT OF PURPOSE. The Code is designed and enacted to implement the objectives of the Park City Comprehensive Plan and Development Guide, and to promote the general health and welfare of the present and future inhabitants of the City, and to protect property values of the City and the neighborhoods within the City, and to create an atmosphere attractive to visitors and residents. It is the intention of the City in adopting this Code to fully exercise all of the powers granted to visitors and residents. It is the intention of the City in adopting this Code to provisions of the Utah Zoning Enabling Act, Section 10-9-1 et seq. Utah Code Annotated, 1953, as amended, and all other powers granted by statute or by common law for the regulation of land uses and improvements. The intention of the City is to assure the proper and sensitive development of land within Park City to protect and enhance the quality of life in general. The Code is intended to allow development in a manner that encourages the preservation of scenic values, historic structures, the unique urban scale of original Park City, and provides for well-planned commercial and residential centers, smooth traffic circulation, and efficient delivery of municipal services. The Code seeks to prevent development that adds to existing geologic hazards, erosion, flooding, or other conditions that create potential dangers to life and safety in the community or detract from the quality of life in the community.

1.3. CONFLICT. The provisions of this Code are in addition to all other City ordinances, the Laws of the State of Utah, the Laws of the United States, and applicable common law. This Code shall not supersede any private land use regulations in deeds or covenants which are more restrictive than this Code. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law.

1.4. EFFECT ON PREVIOUS ORDINANCES AND MAPS. The existing zoning ordinances of Park City, including the official zoning maps adopted with those ordinances, are hereby amended in their entirety to conform to the provisions of this Code, provided that this Code is a continuation of those existing ordinances, and not a new



enactment, in so far as the substance of the old and new provisions are the same. This Code shall not be construed as affecting the term of office of any board or commission member appointed under the prior enactment. Structures built prior to the adoption of this ordinance, or for which building permits were issued and on which work commences as required under the permit shall, to the extent they do not conform to this ordinance, be considered as non-conforming uses, and shall not be affected hereby. Uses which were non-conforming under the old enactments shall not be affected by this Code, unless the Code is changed in a manner that makes the use conforming to the zone.

1.5 AMENDMENTS TO THE LAND MANAGEMENT CODE AND ZONING MAP. It may become desirable from time to time to amend the provisions of this Code or the zoning map. All amendments shall be made in the following manner:

- (a) Procedural Amendments. Amendments to the procedural provisions of the Code may be made by the City Council from time to time following a public hearing. Hearings on matters that are procedural in nature and do not directly affect the nature of uses on any given parcel of land, or which do not change allowed uses from permitted to conditional uses, shall be advertised for one week, prior to the week of the hearing, in a newspaper having general circulation in the City. The amendment may be adopted on the day of the hearing or at any time following the hearing.
- (b) Substantive Amendments. Amendments to the Code which affect the uses to be made of land within the City by (1) allowing a use previously prohibited; (2) prohibiting a use previously allowed; (3) increasing or decreasing the density of the uses previously allowed; (4) changing a permitted use to a conditional use; (5) changing a conditional use to a permitted use, or (6) changing the zone of any property shall be made only after public hearings as required by this Code.
- (c) Petition for Zone Change. A petition to change the zone of any land within Park City shall be filed first with the Community Development Department on a form prescribed for that purpose. The form shall contain a legal description of the land affected by the petition, and a statement of the petitioner's interest in the land included within the petition. The petition shall state the current zone of the property and the zone which the petitioners desire to have a new zone designation established, the petition shall so state, and give some indication of the uses and standards requested. A fee may be established for acting on a petition for a zone change. To change or amend the zone within a legally recorded subdivision, the petition must include signatures of owners of at least 51% of the platted lots in the subdivision.

- (1) Hearings before Planning Commission. The Planning Commission shall hold a public hearing on all petitions for zone changes received from citizens or property owners affected by the change. The Commission shall also hold a public hearing on substantive amendments in the Land Management Code. Notice of all zone change hearings before the Planning Commission shall be given as set forth in Section 1.15 of this Code. The notice shall state generally the nature of the proposed amendment and land affected, and the time, place, and date of the hearing. More detailed information shall be available for public inspection at the office of the Community Development Department at the time the notice is published.
- (2) Action by Planning Commission. Following the hearing, the Planning Commission shall adopt formal recommendations to the City Council regarding the matter before it, approving, disapproving, or modifying the proposal. The Planning Commission shall act on the proposal at the time of the hearing or at its next regularly scheduled meeting following the hearing, unless the proponent or petitioner has requested the matter be tabled for further consideration, or the petition is withdrawn. If the Commission fails to act at its next regularly scheduled meeting, the proposal shall be forwarded to the City Council for consideration without recommendation.
- (3) Hearing before City Council. The City Council shall hold a public hearing on all petitions for zone changes and substantive amendments to the Land Management Code. Following the hearing, the Council shall approve, disapprove, or modify and approve the proposal before it. The hearing may be continued, if necessary, without republication of notice. The recommendations of the Planning Commission are advisory only, and the Council may overrule the recommendations of the Commission. Council action on amendments to the Code or to the zoning map require the affirmative vote of three or more City Council members. Council may act on the petition at the time of the hearing or at subsequent meetings.
- (4) Joint Hearings. At the option of the City Council, the hearings before the Planning Commission and the Council may be consolidated into a single hearing, provided however, that separate votes shall be taken by the Commission and the Council. The Commission vote shall be taken first. Notice for any joint hearing shall comply with the standards set forth in Section 1.15 of this Code.

1.6. CREATION OF DISTRICTS AND ZONE MAP. In order to carry out the purposes of the Code, zone districts have been established as set forth in Chapter 7 of the Code. These zone districts are identified on the official zoning map, which is adopted as a part of the this Code. In interpreting the zoning map, the following standards shall apply:

- Note: 1/17
- (a) The zoning boundary lines are intended to conform to existing property boundary lines when not in a public right-of-way, or to follow the center line of public rights-of-way (including prescriptive rights-of-way), unless the lines are located by specific dimensions, in which case the dimensions shall control. Where the zoning district lines approximately follow the lot lines as they exist at the date of adoption of this Code, the district lines shall be conformed to the lot lines.
- (b) Where the zoning district lines appear to have intentionally divided a lot or parcel between two or more districts, the applicable zoning for each portion of the lot or parcel shall be determined by using the scale shown on the map. If the placement of the district line cannot be determined, the standards of the zone allowing the less intensive land use shall be applied to the entire parcel.
- (c) Where the district lines are intended to follow natural land contours, such as the boundaries for the Estate District, the line shall be determined at the point at which the general slope of the land changes to 25% grade. In the event of a dispute as to the location of the change in grade, the point shall be fixed with reference to topographic data submitted to the Community Development Director. Where land of less than 25% slope is surrounded by land of 25% or greater slope, the Planning Commission shall entertain an application to rezone the land of less than 25% slope to RD if the Community Development staff determines that the land is accessible by two means, one of which is a road of standard width that does not exceed 10% grade, and that the grading of the road or roads to reach the land in question will not create hydrologic, erosion, geologic, or similar hazards for land lying below the proposed road, and that all cuts and fills for the road can be safely stabilized. See Section 7.12.5.

1.7. PENALTIES. Any person, firm, partnership, or corporation, or the principals or agents thereof violating or causing the violation of this Code shall be guilty of a Class "B" misdemeanor and punished upon conviction by a fine and/or imprisonment described in the current Park City Criminal Code. In addition, the City shall be entitled to bring an action to enjoin the continuation of the violation. Private Citizens of Park City or property owners shall also have a right to file actions to enjoin the continuation of a violation affecting their interests, provided that the plaintiff in such

action shall give notice of the action to the City Recorder prior to filing the action.

1.8. LICENSING. All departments, officials and public employees of the City who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Code, and shall issue licenses and permits only in conformance with the provisions of this Code. Licenses issued in violation of this Code shall take no effect, and are null and void.

1.9. ZONING MAP ADOPTED. The zoning map for Park City as presented to the City Council and executed by the Mayor is the official zoning map for Park City. Upon amendment to the zoning map, the Mayor shall execute a new map or re-execute the existing map with the amendments noted thereon.

1.10. PROCEDURE UNDER THE CODE. No building permit shall be issued for any building project unless the plans for the proposed structure have been submitted to and approved by the Community Development Department. Proposals submitted to the Community Development Department shall be reviewed according to either the Permitted Use Review process or the Conditional Use Review process, which includes Small Scale Master Planned Developments. Projects in the Historic District are subject to design review under the Historic District Guidelines. Subdivisions, long-range development master plans, and Large Scale Master Planned Developments are initially reviewed by staff and submitted to the Planning Commission for review and final approval. No planning review shall occur until all applicable planning application fees have been paid, and no final approval shall be effective until all other fees assessed by ordinance, including applicable staff review and engineering fees have been paid. Upon issuance of final planning approval under either review process, the plans are forwarded to the Building Department for building permit issuance under the provisions of the Uniform Building Code, as adopted and amended by Park City.

1.11. PERMITTED USE REVIEW PROCESS. On any proposal to construct a building or other improvement to property which is defined by this Code as a permitted use in the zone in which the building is proposed, the Community Development Department shall review the submission to determine whether the proposal (a.) is a permitted use within the zone for which it is proposed, (b.) complies with the requirements of that zone for building height, setback, front, side, and rear yards, and lot coverage; (c.) that the applicable parking requirements have been satisfied; and (d.) the plan conforms to the Park City Architectural Design Guidelines, the Historic District Design Guidelines, and architectural review process established for that zone. Upon finding that the proposal complies with the applicable zoning requirements, and can be adequately serviced by roads, existing utility systems or lines, the plans shall be reviewed for Building Code compliance and permit



March 25, 1997

NOTICE TO ADJOINING PROPERTY OWNERS

Dear Property Owner:

The Park City Planning Department has received an application for a project to be located in your neighborhood as described below. The Planning Commission will review this proposal at their regularly scheduled meeting on Wednesday, April 9, at 7:00 p.m. in the City Council Chambers at City Hall (The Marsac Building), 445 Marsac Avenue and you are welcome to attend.

Project Location: Lot 2-North Silver Lake Subdivision
and
Bellemont at Deer Valley, North Silver Lake Subdivision Lot 2A

Applicant: Perkins Timberlake Company

Project Description: A request for a plat amendment and a small scale MPD for a 12-lot subdivision.

If you have any questions or comments regarding the proposal, please contact this office at (801) 645-5021 during normal business hours. You are invited to attend the meeting and address the Commissioners with your comments and questions, or send them to the Planning Staff and we will forward them for you.

Sincerely,

Kevin G. LoPiccolo
Planner

KGL/π

Park City Municipal Corporation • 445 Marsac Avenue • P.O. Box 1480 • Park City, UT 84060-1480
Community Development (801) 645-5020 • Engineering 645-5020 • Building 645-5040
Planning 645-5021 • FAX (801) 645-5078

APR 08 2011



August 12, 1997

NOTICE OF PUBLIC HEARING
TO ADJOINING PROPERTY OWNERS

Dear Property Owner:

The Park City Planning Department has received an application for a project to be located in your neighborhood as described below. The Planning Commission will review this proposal at their regularly scheduled meeting on Wednesday, August 27, at 7:00 p.m. in the City Council Work Session room at City Hall (The Marsac Building), 445 Marsac Avenue and you are welcome to attend.

Project Location: Lot 2A, North SilverLake Subdivision
Applicant: Mark Prothro/Bellecorp
Project Description: Condominium conversion plat to allow for separate ownership of the units.

If you have any questions or comments regarding the proposal, please contact this office at (801) 645-5021 during normal business hours. You are invited to attend the meeting and address the Commissioners with your comments and questions, or send them to the Planning Staff and we will forward them for you.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin G. LoPiccolo".

Kevin G. LoPiccolo
Planner

KGL/rr

APR 08 2011

Chair Jones opened the public hearing.

There was no input.

Chair Jones closed the public hearing.

6. Subdivision of Lot 2 - North Silver Lake Subdivision
7. Bellemont at Deer Valley, North Silver Lake Subdivision Lot 2A (adjacent to Bellevue at Deer Valley) - CUP

These two items were discussed jointly.

Planner LoPiccolo reported that the North Silver Lake Subdivision application was reviewed by the Planning Commission at a work session in February. The original MPD approval and the Deer Valley Master Plan called for 18 units in Lot 2. The applicant requested a revision to the MPD to permit 12 single-family dwellings. At the work session, the Staff and Planning Commission discussed four areas associated with this project. One is the open space allocation, and Planner LoPiccolo referred to an exhibit showing how Lot 2D was to be split and a percentage given to Lots 2A and 2B. Lot 2A will receive approximately .25, acres and the remaining acreage from Lot 2D will be allocated to Lot 2B. The Commissioners discussed whether the approved massive single building was more appropriate for the site, or whether 12 single-family dwellings would better suit the site. The Planning Commission felt the 12 single-family dwellings were better suited and would tie in more closely with Bellevue. Vegetation was another concern, and Planner LoPiccolo and three Commissioners visited Silver Lake to evaluate the site. The Planning Commission directed the Staff to look more closely at existing vegetation and requested that the applicant do whatever they could to preserve existing trees. The Commissioners identified Lots 4 and 5 as the ones that would receive the greatest impact. Planner LoPiccolo worked with the applicant to mitigate the loss of trees, and the staff report lists two alternatives for Planning Commission consideration. One would be for the applicant to return to the Planning Commission to show the realignment, or the Staff could work with the applicant for Lots 4 and 5. Planner LoPiccolo distributed copies of an additional condition of approval not included in the Staff report and a utility plan for the project. He stated that the Staff recommends forwarding a positive recommendation to the City Council for the plat amendment to split Lot 2 into four parcels, to approve a Conditional Use Permit for 12 single-family dwellings, and to revise the MPD for the allocation of Lot 2D for the 60% open space requirement and a revision for attached versus detached dwelling units.

Chair Jones opened the public hearing.

* There was no input.

Chair Jones closed the public hearing.

MOTION: Commissioner Larson moved to forward a POSITIVE recommendation to City Council on a plat amendment for Parcel 2 of North Silver Lake Subdivision with the findings of fact, conclusions of law, and conditions of approval as outlined in the staff report.

Commissioner Larson asked if the modified conditions are included in this recommendation or in the MPD. Planner LoPiccolo replied that the added condition would be part of the MPD.

Commissioner Erickson seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Larson moved to APPROVE the North Silver Lake MPD revision and the Bellemont small scale MPD for Parcel 2A including a Conditional Use Permit for 12 single-family dwellings with the modified findings of fact, conclusions of law, and conditions of approval. Commissioner Erickson seconded the motion with a clarification that the Planning Commission recommends that the Staff work with the applicant to realign the two building pads and that the motion includes Condition #12 and Finding #7 per the memorandum dated May 14.

VOTE: The motion passed unanimously.

Findings of Fact - Subdivision Plat of Lot 2 of North Silver Lake

1. The proposal is consistent with both Park City Land Management Code and State Subdivision requirements.
2. The plat amendment is necessary to subdivide Lot 2 into four lots of record.
3. The City Attorney and City Engineer's review and approval of the final form and content of the amended plat is a condition precedent to recording the plat.
4. Plat amendment and subdivision of Lot 2, North Silver Lake, is precedent on review and approval by City Council.
5. All Standard Project Conditions shall apply.
6. The applicant stipulates to all conditions of approval.

Findings of Fact - Amendment to North Silver Lake MPD

1. The project complies with the 60% open space requirement with the addition of Lot 2D of approximately 4.03 acres.
2. The total Bellemont development maximum building pad square footage is 30,000 square feet for twelve (12) units. This building/unit size will be used as the primary size control for the development project.
3. No density bonus is requested under this application.
4. The applicant stipulates to all conditions of approval.

Conditional Use Permit for 12 Single-Family Dwellings

1. The proposed single-family residential are allowed in the Residential Development Zone.
2. The height of the proposed units is less than or equal to 33 feet.
3. Considerable excavation and dirt handling may be required with this project. Off-site dirt storage requires authorization from the property owner and the City and restoration securities from the contractor.
4. The elevations submitted at the Work Session on February 12, 1997, are the elevations that have been reviewed and approved in substantial form by the Staff and Planning Commission.
5. A construction management and phasing plan is required to protect the existing units from construction disturbance and to minimize the impact of construction activity in the surrounding area.
6. The applicant stipulates to all conditions of approval.

Conclusions of Law - Conditional Use Permit for 12 Single-Family Dwellings

1. The application complies with all requirements of Section 1.13 of the Land Management Code.
2. The proposed units, through planning and architectural detailing, are compatible with the residential communities in the vicinity in mass, use, scale and circulation.
3. The proposed use is consistent with the Park City Comprehensive Plan.

4. Any negative effects of the project have been mitigated to the best extent possible through planning and conditions of approval.
5. The application is consistent with the Open Space requirements as outlined in Chapter 10 of the Land Management Code.

Conditions of Approval - Conditional Use Permit for 12 Single-Family Dwellings

1. All Standard Project Conditions of Approval apply to this project.
2. The final building plans shall reflect substantial compliance with the elevations submitted and reviewed by the Planning Commission on May 14, 1997.
3. A Construction Management Plan (CMP) shall be submitted to and approved by the Community Development Department prior to the issuance of any building permits. The plan shall address staging, material storage, construction time lines, special signs, parking, fencing, and any other construction related details to the satisfaction of the Community Development Department.
4. All modifications to plans as specified by conditions, and all final design aspects such as architectural detailing, building materials, and colors, shall be submitted to and approved by the Community Development Department. Limits of disturbance fencing shall be installed, inspected, and approved prior to building permit issuance.
5. Final grading, drainage, utility, storm runoff detention, and erosion control plans shall be reviewed and approved by the City Engineer prior to commencement of construction. Limits of disturbance boundaries and fencing shall be reviewed and approved by the Community Development Department. Limits of disturbance fencing shall be installed, inspected, and approved prior to building permit issuance.
6. The landscape plans shall include plans for revegetation for all areas disturbed during construction including areas for future utility installation.
7. All proposed public improvements, including the waterline loop with appropriate pressure reducing valving, are subject to review and approval by the City Engineer in accordance with current Park City Design Standards, Construction Specifications, and Standard Drawings. All improvements shall

be installed or sufficient guarantees, as determined by the City Engineer, posted prior to occupancy.

8. The applicant shall obtain approval from the Community Development Department of a final site plan detailing adequate automobile and emergency circulation.
9. Any desired modification to the approved plans after the issuance of a building permit must be specifically requested and approved by the Community Development Department in writing prior to execution.
10. This Conditional Use Permit shall expire if building permits are not issued within twelve (12) months from the date of this approval, and the applicant must reapply for said use with the Planning Department.
11. The plat amendment and subdivision of Lot 2, North Silver Lake, is a condition precedent on review and approval by City Council.
12. City Attorney and City Engineer review and approval of the amended plat for compliance with the Land Management Code, Utah State Code, and this Final Conditions of Approval is a condition precedent to plat recordation.

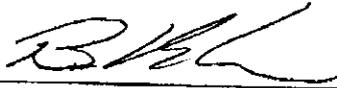
8. 32 Prospect Avenue - Plat amendment

MOTION: Commissioner Erickson moved to POSTPONE this item to a date uncertain. Commissioner Hays seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission Meeting adjourned at 7:40 p.m.

Approved by Planning Commission



Justia > Law > Utah Law > Utah Code > Title 10 - Utah
Municipal Code > Chapter 09a - Municipal Land Use,
Development, and Management > 10-9a-206 - Third party
notice.

Supreme Court Center | US Laws | Blawgs.FM | BlawgSearch.com | Justia

10-9a-206 - Third party notice.

Utah Code All US State Codes

10-9a-206. Third party notice.

- (1) If a municipality requires notice to adjacent property owners, the municipality shall:
 - (a) mail notice to the record owner of each parcel within parameters specified by municipal ordinance; or
 - (b) post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.
- (2) If a municipality mails notice to third party property owners under Subsection (1), it shall mail equivalent notice to property owners within an adjacent jurisdiction.

Enacted by Chapter 254, 2005 General Session

Justia Lawyer, Legal Aid & Services Directory: [Utah Public Benefits Lawyers](#)

Copyright © Justia - No copyright claim is made to any of the government data on these pages.

Company :: Terms of Service :: Privacy Policy :: Contact Us :: Have a Happy Day!

APR 08 2011
 Page 1 of 1
 Page 279 of 323

[Go To](#)

Utah Code

Title 10 Utah Municipal Code

Chapter 9a Municipal Land Use, Development, and Management

Section 207 Notice for an amendment to a subdivision -- Notice for vacation of or change to street

10-9a-207. Notice for an amendment to a subdivision -- Notice for vacation of or change to street.

(1) (a) For an amendment to a subdivision, each municipality shall provide notice of the date, time, and place of at least one public meeting, as provided in Subsection (1)(b).

(b) At least 10 calendar days before the public meeting, the notice required under Subsection (1) shall be:

(i) mailed and addressed to the record owner of each parcel within specified parameters of the property; or

(ii) posted on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passers-by.

(2) Each municipality shall provide notice as required by Section **10-9a-208** for a subdivision that involves a vacation, alteration, or amendment of a street.

Amended by Chapter 338, 2009 General Session

Download Code Section [Zipped WordPerfect 10_09a020700.ZIP](#) 2.086 Bytes

[<< Previous Section \(10-9a-206\)](#) [Next Section \(10-9a-208\) >>](#)

[Questions/Comments](#) | [Utah State Home Page](#) | [Terms of Use/Privacy Policy](#)

Go To

Utah Code

Title 10 Utah Municipal Code

Chapter 9a Municipal Land Use, Development, and Management

Section 205 Notice of public hearings and public meetings on adoption or modification of land use ordinance.

10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use ordinance.

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website; and

(c) (i) (A) published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and

(B) published in accordance with Section 45-1-101, at least 10 calendar days before the public hearing; or

(ii) mailed at least three days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by municipal ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:

(a) in at least three public locations within the municipality; or

(b) on the municipality's official website.

Amended by Chapter 388, 2009 General Session

Download Code Section [Zipped WordPerfect 10_09a020500.ZIP](#) 2,270 Bytes

[<< Previous Section \(10-9a-204\)](#) [Next Section \(10-9a-206\) >>](#)

[Questions/Comments](#) | [Utah State Home Page](#) | [Terms of Use/Privacy Policy](#)

Justia > Law > Utah Law > Utah Code > Title 10 — Utah
Municipal Code > Chapter 09a — Municipal Land Use,
Development, and Management > 10-9a-608 — Vacating or
changing a subdivision plat.

10-9a-608 — Vacating or changing a subdivision plat.

Utah Code All US State Codes

10-9a-608. Vacating or changing a subdivision plat.

(1) (a) Subject to Section 10-9a-609.5, and provided that notice has been given pursuant to local ordinance and Section 10-9a-208, the land use authority may, with or without a petition, consider and resolve any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any lot contained in a subdivision plat.

(b) If a petition is filed, the land use authority shall hold a public hearing within 45 days after the petition is filed or, if applicable, within 45 days after receipt of the planning commission's recommendation under Subsection (2), if:

- (i) any owner within the plat notifies the municipality of their objection in writing within ten days of mailed notification;
- (ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) (a) (i) The planning commission shall consider and provide a recommendation for a proposed vacation, alteration, or amendment under Subsection (1)(a) before the land use authority takes final action.

(ii) The planning commission shall give its recommendation within 30 days after the proposed vacation, alteration, or amendment is referred to it, or as that time period is extended by agreement with the applicant.

(b) Subsection (2)(a) does not apply if the planning commission has been designated as the land use authority.

(3) The public hearing requirement of Subsection (1)(b) does not apply and a land use authority may consider at a public meeting an owner's petition to alter a subdivision plat if:

- (a) the petition seeks to join two or more of the owner's contiguous, residential lots; and
- (b) notice has been given pursuant to local ordinance.

(4) Each request to vacate or alter a street or alley, contained in a petition to vacate, alter, or amend a subdivision plat is also subject to Section 10-9a-609.5.

(5) Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in writing, petition to have the plat, any portion of it, or any street or lot contained in it vacated, altered, or amended as provided in this section and Section 10-9a-609.5.

(6) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat shall include:

(a) the name and address of all owners of record of the land contained in the entire plat;

(b) the name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and

(c) the signature of each of these owners who consents to the petition.

(7) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (7)(b).

(b) The land use authority shall approve an exchange of title under Subsection (7)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (7)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with

the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and

(ii) a conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.

(d) A notice of approval recorded under this Subsection (7) does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property.

(8) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (8)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

(d) Except as provided in Subsection (8)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is voidable.

Amended by Chapter 163, 2006 General Session

Justia Lawyer, Legal Aid & Services Directory: [Utah Public Benefits Lawyers](#)

Copyright © Justia - No copyright claim is made to any of the government data on these pages.

[Company](#) :: [Terms of Service](#) :: [Privacy Policy](#) :: [Contact Us](#) :: [Have a Happy Day!](#)

TDR's appear to happen all the time in Deer Valley without a public process. Snowpark and Silver Lake Density have increased while North Silver Lake has decreased.

From: Lisa Wilson <lisa@winco.us>
 Subject: Fwd: Thanks/NSL7's
 Date: July 6, 2009 9:52:29 PM MDT

1 Attachment, 238 KB

DEER VALLEY RESORT
 NINTH AMENDED AND RESTATED
 LARGE SCALE MASTER PLANNED DEVELOPMENT PERMIT
 EXHIBIT 1
 DEVELOPMENT PARCELS
 28-Jun-08

PARCEL NAME	PERMITTED DENSITY (UNITS)	DEVELOPED DENSITY (UNITS)	NOTES	HEIGHT (FEET)	PARCEL SIZE (ACRES)	change in density
DEER VALLEY COMMUNITY / Snow Park						
Stonebridge & Boulder Creek Multi-Family	50	54	1	28	10.23	
Aspenwood Multi-Family	30	30		28	9.21	
Pine Inn & Trails End Multi-Family	40	45	1	35	8.52	
In The Trees (South Multi-Family) Multi-Family	14	14		28-45	2.87	
Black Diamond Lodge (Snow Park Lodge Multi-Family)	29	27		28-75	5.70	
Courcheval Multi-Family	13.5	27	1	35	1.82	
Oyster Multi-Family	24	24		26	9.04	
Fawn Grove Multi-Family	50	50		28	12.05	
Chateaux Fawn Grove Multi-Family	10.5	11	2	28	incl	
Bristlecone Multi-Family	20	20		28	incl	
Lakeside Multi-Family	60	60		28	5.49	
Solomons Single Family (includes Oaks, Royal Oaks & Hidden Oaks)	274	274		28	237.81	
Pinnacle Multi-Family	85	85		28	38.80	
Camstock Lodge (East Baron Multi-Family)	10.5	21	1	35	3.50	
Red Stag Lodge	8.5	11	1	35	incl	
Powder Run Multi-Family	23	33	1	35	3.20	
Withrow (Deer Valley North Lot 1 Multi-Family)	11	14	1	28	1.04	
Gierldich (Deer Valley North Lot 2 Multi-Family)	12	12		28	1.45	
Chapparral (Deer Valley North Lot 3 Multi-Family)	15	20	1	28	1.44	
Lodges @ Deer Valley (Northeast Multi-Family) (includes Silver Baron Lodge)	115	109	3	28-35	12.65	
Snow Park Village (Snow Park Hotel & Parking Sites)	210.75	0	4	28-45	14.93	
Total Deer Valley Community	1108.75	0				increase 44
AMERICAN FLAG COMMUNITY						
American Flag Single Family	93	93		28	63.04	
LaMacquerie Multi-Family	15	15		28	6.19	
Total American Flag Community	108					
NORTH SILVER LAKE COMMUNITY						
Westview Single Family	15	1		28	40.89	
Evergreen Single Family	38	31		28	27.50	
NSL Homesite Parcel #1	1	1		35	1.90	
Belletera Single Family	10	10		28	11.42	
Bellevue Townhomes (NSL Subdivision Lot 1)	24	14	10	28	4.62	
Beframont Townhomes (NSL Subdivision Lots 2A and 2A-1)	18	12	10	28	3.75	
NSL Subdivision Lot 2B	54	0		45	5.95	
BelleArbor Townhomes (NSL Subdivision Lot 2C)	43	21	10	28-35	8.25	
NSL Subdivision Lot 2D Open Space Lot	0	0	5	0	4.03	
Total North Silver Lake Community	201					decrease 57
SILVER LAKE COMMUNITY						
Stag Lodge Multi-Family	50	52	6	28-35	7.34	
Ceche Multi-Family	12	12		28	1.77	
Sterlingwood Multi-Family	18	18		28-35	2.48	
Deer Valley Club	20	30	1	28-45	1.53	
Double Eagle (SL East Parcel 2 Multi-Family)	18	18		28-35	2.26	
Stein Enksen Lodge Multi-Family	66.75	65	11	28-35	10.86	
Little Belle Multi-Family	20	20		28	3.86	
Chateaux At Silver Lake Lot 23 Deer Valley Club Estates Subdivision)	65	78	1	28-45	3.24	
Sterling Lodge (Lot 2 Silver Lake East Subdivision)	14	14		28-45	0.61	
Royal Plaza Multi-Family (Silver Lake Village Lot A)	7	13	1	59 (A)	0.48	
Mt. Cervin Plaza Multi-Family (Silver Lake Village Lot B)	7.5	7		59 (A)	0.54	
Inn at Silver Lake (Silver Lake Village Lot C)	10	8		59 (A)	0.50	
Goldener Hirsch Inn (Silver Lake Village Lot D)	6	20	1	59 (A)	0.35	
Mt Cervin Multi-Family (Silver Lake Village Lot E)	16	15		59 (A)	0.53	
Silver Lake Village Lot F	11	0		59 (A)	0.35	
Silver Lake Village Lot G	11	0		59 (A)	0.38	
Silver Lake Village Lot H	12	0		59 (A)	0.44	
SL Multi-Family	0	4		35	0.78	

The Sixth DV MPD (October 10, 1990) had the following allocations for North Silver Lake:

Parcel Name	Approved Density	Height	Parcel Size
Westview	15	28	40.69
Evergreen Single Family	36	28	27.6
NSL Homesite Parcel #1	1	35	1.90
Belletere Single Family	10	28	11.42
NSL Multi-Family Parcel B	16	28	1.84
NSL Multi-Family Parcel C	32	28	5.21
NSL Multi-Family Parcel D	70	45	8.35
NSL Multi-Family Parcel E	24	35	4.74
NSL Multi-Family Parcel F	32	28	6.59
Subtotal	236		108.34

The Seventh DV MPD (April 14, 1993) had the following allocations for North Silver Lake:

Parcel Name	Approved Density	Height	Parcel Size
Westview	15	28	40.69
Evergreen Single Family	36	28	27.6
NSL Homesite Parcel #1	1	35	1.90
Belletere Single Family	10	28	11.42
NSL Multi-Family Parcel B	24 (increase 6)	28	4.62 (increase 2.78)
NSL Multi-Family Parcel C	18 (decrease 14)	28	3.63 (decrease 1.58)
NSL Multi-Family Parcel D	54 (decrease 16)	45	8.05 (decrease .30)
NSL Multi-Family Parcel E	19 (decrease 5)	35	3.36 (decrease 1.38)
NSL Multi-Family Parcel F	24 (decrease 8)	28	4.67 (decrease 1.92)
Subtotal	201 (decrease 35)		105.94 (decrease 2.4)

APR 08 2011

The Eighth DV MPD (April 25, 2001 had the following allocations for North Silver Lake:

Parcel Name	Approved Density	Developed Density	Height	Parcel Size
Westview	15	1	28	40.69
Evergreen Single Family	36	36	28	27.6
NSL Homesite Parcel #1	1	1	35	1.90
Belletere Single Family	10	10	28	11.42
Bellevue Townhomes (NSL Subdivision Lot 1 – previously Parcel B)	24	14	28	4.62
Bellemont Townhomes (NSL Subdivision Lots 2A and 2A-1 previously NSL Multi-Family Parcel C)	18	12	28	3.75 (increase 0.12)
NSL Subdivision Lot 2B (previously NSL Multi-Family Parcel D)	54	0	45	5.96 (decrease 2.09)
BelleArbor Townhomes (NSL Subdivision Lot 2C previously NSL Multi-Family Parcel E and F)	43	21	28- 35	8.25 (increase 0.22)
NSL Subdivision Lot 2D Open Space Lot	0	0	0	4.03
Subtotal	201			108.22

Lot 2 has a footnote that states "this parcel has been platted as open space with the open space applying to the open space requirement of Lot 2B."

From: [Lisa Wilson](#)
To: [Katie Cattan](#)
Subject: Revised Flawed NSL Lodge?
Date: Monday, April 18, 2011 11:00:19 AM

Katie,

The North Silver Lake Lodge open space calculation is flawed. 70.6% open space is the correct calculation when 1/4 acre of open space is used from Lot 2D. According to the Staff Reports and Planning meetings, 1/4 acre of open space is used from Lot 2D for Bellemont. The July 2010 CUP uses 2B as open space for Bellemont. According to Finding of Fact #9 in the North Silver Lodge CUP, 1/4 acre of open space is used from Lot 2B, instead of Lot 2D. [When Lot 2B is used as open space for Bellemont the open space calculation changes to 68.02%, instead of 70.6% open space. Finding of Fact #10 is flawed.](#)

Finding of Fact #9: "Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2B towards the 60% open space requirement. The Bellemont Subdivision utilized 1/4 acre of the Lot 2B parcel to comply with the open space requirement."

Finding of Fact #10: "The current application site plan contains 70.6% of open space on the site including the remainder 3.78 acres of open space on Lot 2D."

It appears the Planning Department has given the developer Deer Valley ski-in ski-out real estate.

Has the Planning Department intentionally deceived the public in the transfer of open space from Lot 2D?

Lisa

Math Analysis:

Total coverage of Lot 2B is 124,799 sq. ft. 1/4 acre of Lot 2B is used as open space for Bellemont (10,890 sq. ft.). Lot 2B is 5.96 acres (259,617.6 sq. ft.). Lot 2D has 3.78 acres acres remaining (164,656.8 sq. ft.). Lot 2D is 4.03 acres (175,546.8) 1 acre = 43,560 square feet.

Planning Departments Calculation:

The calculation when 1/4 acre is removed from Lot 2D as open space for Belemont and Lot 2D has 3.78 acres remaining is 70.6%.

$$124,799 / 259,617.6 + 164,656.8 =$$

$$124,799 / 424,274 = .2941$$

$$1 - .2941 = .7059$$

[70.6% open space](#)

The open space calculation when 1/4 acre is removed from Lot 2B as open space for Bellemont and Lot 2D has 3.78 acres remaining is 68.02%.

$$(5.96 + 3.78) \times 43,560 = 424,274$$

$$124,799 + 10,890 / 259,617.6 + 164.656.$$

$$135,689 / 424,274 = .3198$$

$$1 - .3198 = .6802$$

68.02% open space

The calculation when 1/4 acres is removed from Lot 2B as open space for Bellemont and Lot 2D is 4.02 acres is 68.6%.

$$5.96 + 4.03 = 9.99$$

$$9.99 \times 43560 = 435,164.4$$

$$124,799 + 10,890 / 259,617.6 + 175.546.8 =$$

$$135,689 / 435,164.4 = .31181$$

$$1 - .3118 = .6882$$

68.8% open space

From: [Lisa Wilson](#)
To: [Katie Cattan](#)
Subject: Mature Aspens
Date: Monday, April 18, 2011 4:57:56 PM

Katie

These Aspens do not appear on the Arborist map. The Aspens are on the right when skiing down the Silver Dollar ski trail from Last Chance. The Belle's Elevator is in the middle of the photo. The raised area is the Silver Dollar ski run. Below the ski run is a grove of Aspens on NSL Lot 2B. Aspens on the parcel were struggling after the grade was raised to build the Silver Dollar ski run and the Deer Valley pit was excavated. The ones that are left appear healthy. This photo was taken early Spring 2010.



P1040775

Lisa



Attorneys Est. 1875

TEL: 435-200-0085
FAX: 435-200-0084

1441 WEST UTE BOULEVARD
SUITE 330
PARK CITY, UT 84098

WWW.JONESWALDO.COM

AFFILIATED FIRM
LEAR & LEAR, LLP

April 19, 2011

HAND DELIVERED

Mr. Tom Eddington
Planning Department
Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060

Re: Extension of North Silver Lake Lodge Project CUP (the "CUP").

Dear Mr. Eddington:

Jones Waldo Holbrook & McDonough represents a number of owner associations and owners of properties that adjoin or are in close proximity to the North Silver Lake Lodge Project (the "Project"). This is a follow-up to our letter dated April 14, 2011 that was hand-delivered to your office last week. Please accept this letter as our clients' additional objection to the extension application submitted by North Silver Lake Lodge, LLC (the "Applicant") for the Project's CUP.

Yesterday Ms. Katie Cattan delivered to me the attached letter and landscaping plan from Tom Clyde on behalf of the applicant. She stated that the existing hole would not be filled in as she did not interpret Condition #18 of the CUP for the Project to require such action.

We strongly object to this interpretation. The "existing impacts" in Condition #18 clearly includes the existing hole. It is visible to the surrounding neighbors and neighborhoods and they are impacted by its continuing existence. The \$40,000 in escrow was held by the City to fill in and repair the hole as part of an earlier project for which the CUP expired. Allowing the Applicant to use this money to landscape without filling in the hole is an appropriation and misuse of the earlier escrowed funds.

Not requiring the Applicant to put up the entire \$65,000 for the landscaping budget in addition to filling in the hole with the existing \$40,000 in escrow was a violation of the

Mr. Tom Eddington
April 19, 2011
Page 2

conditions of the CUP and we take the position that the CUP for the Project should now be terminated without any extension.

If the Planning Department is going to maintain its position that filling the hole in at this time is not required, then adequate funds to fill in the hole later if necessary should be escrowed or bonded at this time, and such escrow amount should be at least the prior amount in escrow or larger if necessary.

Please do not hesitate to contact me if you have any questions relating to the above matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Dillon', with a stylized flourish at the end.

Robert C. Dillon

Cc: Mr. Tom Boone
Ms. Katie Cattan



DOUGLAS CLYDE
Mountain Resort Consulting Services, LLC

P.O. Box 561
5258 N. New Lane
Oakley, UT 84055

September 22, 2010

Katie Cattan
Park City Municipal Corporation
445 Marsac Ave
P.O. Box 1480
Park City, UT 84060-1480

Re: The North Silver Lake parcel 2B mitigation plan

Dear Katie:

Attached is the site plan denoting the location and number of trees to be planted to provide the visual screening that is required should the owners of the project request an extension of the CUP. In addition to the vegetation buffer provided by the proposed and existing trees, the condition of approval also required that the existing disturbed area be revegetated with grass. As discussed in our meeting with Building, revegetation of the disturbed area will require the import of some top soil in order to get grass established. The top soil will be seeded with drought tolerant grasses. No irrigation of the grass is intended other than possibly for establishment as needed in the first growing season. Roger indicated that the routine City bond of \$0.75 per sq ft would likely cover this work. While I think it is likely to more than cover the cost, using the standard City bonding requirement would appear appropriate.

The tree planting will be comprised of eighteen 10-12' evergreens that will be planted along the front of the parcel. This in addition to the existing specimen trees will provide screening of the views of the "pit" from the road. The trees will be planted with some supplemental soil amendment and irrigated by a drip irrigation system. Water usage will be minimal.

I have attached the budget for the project the majority of which is composed of the revegetation of the existing site disturbance at the standard City rate. The irrigation system will consist of an in ground irrigation box with a battery powered timer connected to a drip irrigation line which is connected to each tree. The labor for planting the trees is estimated to be two labors for three days plus a backhoe and operator with periodic inspection and direction by an arborist. Soil amendment will be added to the trees backfill to improve moisture holding capacity.

PARK CITY MUNICIPAL CORPORATION

OCT 19 2010

BUILDING DEPARTMENT

Mountain Resort Consulting Services, LLC
Douglas Clyde its Managing Member
Phone: 435-333-8001 - Fax: 435-783-5687 - email: dclayde@allwest.net

Please review the attached budget with the Building department and let me know if this analysis is adequate for your purposes. If you need more information on the budget, I am available by phone next week or in person starting on the week of the 4th.

Sincerely,

A handwritten signature in black ink, appearing to be the initials 'DJC'.

APPROVED
PARK MUNICIPAL CORP

OCT 19 2010

BUILDING

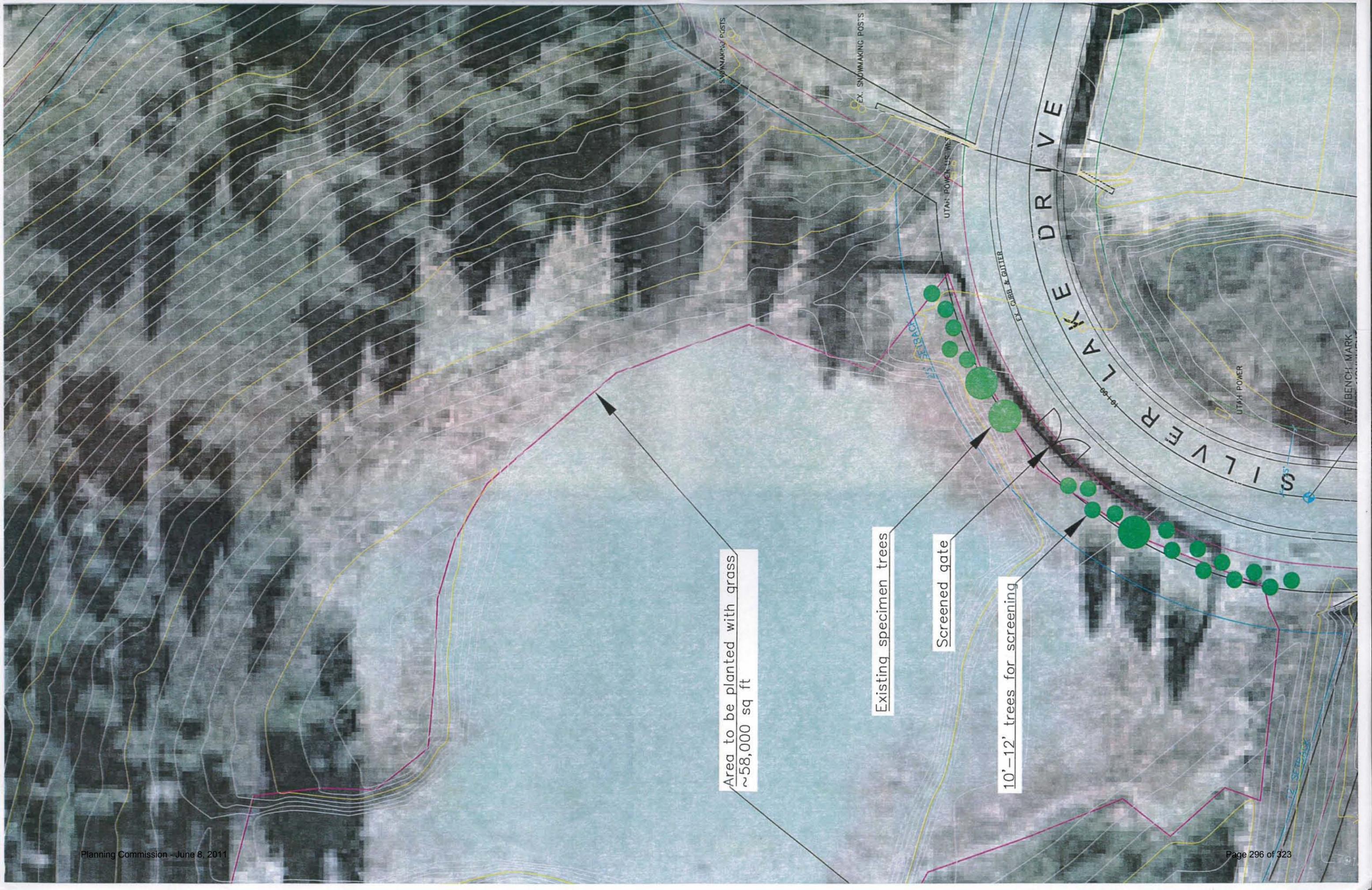
North Silver Lake Revegetation Budget

	units	Cost/unit	Total
Reveg grass	58,000	0.75	43,500
Trees	18	600	10,800
Tree Planting			6,040
Irrigation system	1		1,000
Water meter instalation	1	3,500	3,500
Relocate existing gate	1	300	300
Sub total			65,140
Existing Remaining Bond			-40,535
Total			24,605

Details on cost of tree planting

	units	Cost/unit	
Labor (2 men 3 days)	48	35	1,680
Backhoe (3 days)	24	130	3,120
Mob de mob	2	120	240
Soil ammendment for trees (yd3)	10	60	600
Arborist	8	50	400
			<u>6,040</u>

APR 20 2010
 PARK CITY MUNICIPAL BUILDING
 OCT 19 2010
 BUILDING DEPT.



Area to be planted with grass
~58,000 sq ft

Existing specimen trees

Screened gate

10'-12' trees for screening

From: [Bob Dillon](#)
To: [Katie Cattan](#)
Cc: [Tom Boone](#); [Mark Harrington](#); [Polly Samuels McLean](#); [Thomas Eddington](#); [Isaac Stein](#); [Tom Bailey](#); [Brad Wilson](#)
Subject: RE: North Silver Lake Lodge CUP Extension
Date: Wednesday, April 20, 2011 12:06:31 PM

Katie,

My clients are seriously upset that the \$40,000 escrow money may be used for some other purpose than filling in the hole. Every hearing that was held on this matter by the Planning Commission and the City Council was always supported by the underlying premise that the hole would be filled in if this project didn't go forward. Many things can happen in the future. You cannot assume that Regents will be successful – two other developers have failed to go forward. This site could in the future even be a “sending zone” or purchased as open space by the City. The hole is a nasty blight on the surrounding neighborhoods. We want it gone and we want the assurance that there will be funds available to make it go away if necessary. Allowing these funds to be used for mere landscaping would be misappropriation of these funds by the City.

Bob

From: Katie Cattan [mailto:kcattan@parkcity.org]
Sent: Wednesday, April 20, 2011 10:11 AM
To: Bob Dillon
Subject: RE: North Silver Lake Lodge CUP Extension

Dear Bob Dillon,

Thank you for your comments. I have put them with the other public comments for Thomas Eddington to review.

Regards,

Katie Cattan
Senior Planner
Park City Municipal Corp.
435-615-5068

From: Bob Dillon [mailto:rdillon@utahbroadband.com]
Sent: Tuesday, April 19, 2011 4:46 PM
To: Thomas Eddington
Cc: Tom Boone; Katie Cattan
Subject: North Silver Lake Lodge CUP Extension

Tom,

Attached is an additional objection letter. I will deliver the original to your office later today.

Bob

From: [Lisa Wilson](#)
To: [Katie Cattan](#)
Subject: Fact #4 incorrect/Flawed re-cap
Date: Wednesday, April 20, 2011 12:52:26 PM

Hi Katie,

Just wanted to let you know Finding of Fact #4 is also flawed. According to #4, "...The project consists of 16 detached condominium homes and four condominium buildings containing 38 condominiums..." The four multi-unit condominium buildings is really one building. In reading the LMC, buildings that are attached are considered all one building. The buildings are attached by underground and above ground causeways or bridges. The finding of fact should read **one** condominium building and not four.

Here is a short recap of the Findings of Fact that are flawed.

Fact #3 "...Lot 2B is permitted a density of...14,552 sq. ft. of commercial and support space." The total in the DV MPD is 14,525 sq. and defined by categories, not a lump sum.

Fact #4 The project consists of 4 condominium buildings according. There is one multi-unit condominium/hotel building according to the LMC, not four.

Fact #8 Lot 2D is 4.03 acres is flawed. Lot 2D is a change of right of way and serves a commercial purpose that does not follow the guidelines of open space. There was not a public process to change the ski acreage and create Lot 2D. The ski run is a right of way. There was not a public process to change the ski run right of way. A right of way is defined as, "**1.215 RIGHT-OF-WAY. A strip of land, dedicated to public Use that is occupied or intended to be occupied by a Street, crosswalk, trail, stairway, ski lift, railroad, road, utilities, or for another special Use.** Changing and adding the ski run without notice violates **10-9a-208 - Hearing and notice for proposal to vacate, alter, or amend a public street or right of way.** The Silver Dollar ski run serves a commercial purpose for Deer Valley. 2D does not fit the definition of open space in the LMC 15-6-7 "Open space may not be utilized for Streets, roads, driveways, Commercial uses or building requiring a permit." The definition of a Commercial Use is retail business, service establishment, and other enterprises that include commerce and/or trade and the buying and selling of goods and services".

Fact #9 The Bellemont subdivision uses 1/4 from 2B is flawed. Transferring open space from 2B, instead of 2D, is different than the Staff reports and Planning Meeting discussions. When 1/4 acre is used from 2B instead of 2D the CUP is no longer 70.6% open space.

Fact #10 The current application is no longer 70.6% open space when 2B is used as open space instead of 2D. Fact #10 is flawed.

Conclusion of Law #5 is flawed. "The Planning Commission did not err in approving the application."

Finding of Fact 3, 4, 8, 9, 10 and Conditions of Law #5 are flawed.

Please do not recommend an extension of the CUP and create legal liability for the City.

Lisa

PARK CITY ARBORIST

Keith B. Clapier / ISA Certified Arborist #UT-0034A
435-513-2188/kclapier@sitestar.net/www.parkcityarborist.com

On July 24th, 2008 I was contracted to look at the North Silver Lake Lodge parcel, in Upper Deer Valley, Park City, Utah 84060 to conduct a forest health assessment and develop a Tree Preservation Plan. The North Silver Lake Lodge parcel is 5.96 acres and sits between 7,830-7,910 feet in elevation. The site is on a north-south oriented ridge; therefore the aspects are west, north and east. The major forest type is an uneven-aged stand of white fir (*Abies concolor* var. *concolor*) and Rocky Mountain or blue Douglas fir (*Pseudotsuga mensiesii* var. *glauca*) with a minor component of a Gambel oak (*Quercus gambelii*) type. Keep in mind, that forests are dynamic systems. The forest we see today is the product of extensive mining-era disturbances, subsequent stand development and successional trends that continue to operate. Thus, current conditions do not represent a stable end point, but rather a transitional “snapshot of time”¹. Because the more shade tolerant white fir is reproducing successfully in the understory, according to Mauk², this would make it a white fir/Oregon grape (*A. concolor*/*Berberis repens*) Habitat Type. White fir is the indicated climax, with seral associates varying in occurrence by phase. Stand structure is more closed in this Oregon grape phase with Douglas fir being the principal seral associate and occasionally quaking aspen (*Populus tremuloides*). The closed canopy provides thermo-regulation for wildlife, therefore numerous, recent deer beds were observed in this closed canopy. Understory is typically brushy which includes Oregon grape, serviceberry, snowberry, mountain lilac, mountain lover, chokecherry, blue elderberry, big-tooth maple, Gambel oak, mountain sagebrush, Engelmann’s aster, chickweed and Geyer’s sedge. Soils are derived from a metamorphic, i.e. quartzite, colluvium. Soils are cobbly and stony with a textural class of silty clay loam or clay loam and are generally well-drained³. In the absence of fire, the white fir in this Habitat Type is able to climax. The white fir is able to grow in reduced rates in the shade of the canopy. Once the canopy is opened, they will exhibit a spurt of growth, however, when growing in these closed canopy sites they fail to develop well-tapered boles, therefore they lack wind sturdiness and are susceptible to windthrow in these newly exposed sites. A previous tree survey conducted indicates that there are 554 trees on the parcel. Of these, 88% are white fir and 12% are Douglas fir. A survey conducted by this author in 2008 indicates that there are 30 individual trees (18 white firs and 12 Douglas firs) that should be preserved. The criteria used were species, health, size, age, structure, hazard assessment, spacing (stocking rate) and wildlife value. Because seven out of eight trees are white fir, and Douglas fir live much longer, ages in excess of 500 years are not uncommon⁴, a management goal should be to preserve as much of the Douglas fir as possible. However, a good mix of Douglas fir and white fir of all age classes is desirable. Single-species stands are generally at greater risk of catastrophic loss to insects and diseases than are mixed-species stands⁵.

A housing development is proposed on this 5.96 acres site which consists of four condominiums (four buildings with 31 units) on top of the ridge, and 21 individual townhouses (approximately 4,000 square feet each) with an access road separating the Townhouses and condominiums. In addition to the encircling access road, a spur road is proposed to access Townhouses #17-21 on the east side of the condominiums due to the steep grade; and an entrance to the entire development project on the southeast side from Silver Lake Drive. The individual trees identified for preservation and are located within the Zone of Disturbance (ZOD) are as follows: #61, #67, #69, #78, #79, #132, #139, #140, #141, #155, #156, #204, #247, #248, #302, #323, #351, #358, #399, #407, #462, #463, #464, #465, #470, #477, #498, #550, #511, #555 (see map for locations). In addition to these 30 individual trees identified, several “incidental trees” should be preserved, some (but not all) are as follows: #124, #252, #357, #469, #470, and #473. These “incidentals” are located inside setbacks and in the northeast corner of the parcel just outside the ZOD.

Recommendation: Tree preservation zones need to be in place for all trees identified for preservation, both within the ZOD and “incidental trees”. These preservation zones will not only prevent injury to trunk, crown, and roots; but will also help preserve mycorrhiza in the soil. These fungi are significant in the establishment and development in early growth on poor sites⁶. Conifers depend on these mutualistic fungi for efficient uptake of mineral nutrients and water. The preservation of these 30 individual trees within the ZOD assumes and is dependent that there is flexibility in the “footprint” of the Townhouses. It is recommended that a Certified Arborist or Forester be on-site before construction commences to demarcate these preservation zones to prevent root damage⁷. Severance of large woody

¹ Forest Management Plan for Alta Ski Area, James Long and Scott Roberts, 1994.

² Coniferous Forest Habitat Types of Northern Utah, Ronald L. Mauk, USDA Forest Service, INT-1710.

³ Soil Survey and Interpretations of Parley’s Park of Summit Co, USDA SCS Bulletin 495, 1977.

⁴ Silvics of North America Volume 1 Conifers, USDA Forest Service, Ag Handbook 654, 1990.

⁵ Forest Management Plan for Alta Ski Area, James Long and Scott Roberts, 1994.

⁶ Silvics of North America Volume 1 Conifers, USDA Forest Service, Ag Handbook 654, 1990.

⁷ One technique recommended by the ISA (International Society of Arboriculture) is to use the “dripline” of the tree or outer edge of the canopy. No disturbance should be allowed inside the dripline. The inside of the canopy is what is sometimes referred to as the Critical Root Zone (CRZ).

PARK CITY ARBORIST

Keith B. Clapier / ISA Certified Arborist #UT-0034A
435-513-2188/kclapier@sitestar.net/www.parkcityarborist.com

roots (greater than 2" diameter) can lead to root disease and compromise stability, especially where shallow roots have formed. Note: inspections on-site indicate that a thin mantle of soil has lead to the development of said shallow, large woody (buttress) roots.

Tree Preservation Plan⁸

- **Townhouse #1:** No change, leave footprint as shown on map. Try to preserve as much as the native aspen for wildlife habitat. Aspen have a high wildlife value due to the diversity of the understory and cavities for nesting birds. Aspen also are visually appealing and contribute to the diversity of forest vegetation. However, aspen also have thin bark and are very susceptible to damage. Preservation zones should include clumps of trees rather than individuals due to their coarse root development.
- **Townhouse #2:** No change, leave footprint as shown on map.
- **Townhouse #3:** Move footprint ten feet northwest (310°), to preserve Tree #61, a 34" DBH white fir that is windsturdy due to the openness of the site. Flip-flop the driveway. Designing the driveway so that it spans forest soil (if height limits will allow) rather than a poured concrete pad on engineered substrate will significantly benefit the preservation of trees. Note: hardscape areas like concrete and asphalt cause elevated temperatures in the summer, reflected radiation, low humidity, impermeable surfaces, flooding, low soil quality, compaction, and low oxygen to the roots.
- **Townhouse #4:** No change in footprint as shown on map. Flip-flop driveway.
- **Townhouse #5:** Move footprint ten feet north-northwest (340°) to preserve Tree #69 and Tree #67. Note: Tree #67 is the largest tree on the 5.96 parcel, a 48" DBH Douglas fir. These old-growth trees, like #67, have multiple values like high carbon sequestration and high wildlife habitat, especially for bird species like raptors. Unfortunately, Tree #69, a vigorous 24" DBH white fir is going to be removed on this footprint if the current Townhouse Style "1" is used. If a narrower style of Townhouse could be built on this site e.g. Style "4", this could provide the flexibility needed to preserve Tree #69.
- **Townhouse #6:** Move ten feet north (360°) to preserve Tree #79; a mid-sized (20" DBH), vigorous Douglas fir.
- **Townhouse #7:** Move ten feet north (360°). Flip-flop driveway on Townhouse #7. Because many of the white firs are growing in a clump within the footprint shown on the map, they may be susceptible to windthrow if the canopy is opened up. Note: these closed canopy sites are difficult to protect if opened up.
- **Townhouse #8:** No change in footprint. Unfortunately Tree #123, a nice 18" DBH Douglas fir is going to be removed from this site.
- **Townhouse #9:** Move footprint ten feet east-southeast (110°), flip-flop driveway (reverse plan) to preserve Tree #139.
- **Townhouse #10:** Move footprint 20 feet southeast (130°), flip-flop and shorten driveway to 16 feet in length (or eliminate). Span driveway to preserve Tree #155, 156, 204 and 206. Note Tree #206, is a vigorous, 12" DBH Douglas fir.
- **Townhouse #11:** Move footprint five feet southeast (140°) to allow space for Tree #247. Shorten driveway to preserve Tree #248, a 12" DBH Douglas fir.
- **Townhouse #12:** Move footprint 24 feet east (90°) to preserve Tree #293, a 10" DBH Douglas fir. Note: Townhouses #12 and #13 may "share a wall" to help fit into the natural Gambel oak opening.
- **Townhouse #13:** Footprint needs be crowded with Townhouse #12 to the east. Townhouse #13 footprint will approximately sit where site plan shows "funicular building".
- **Townhouse #14:** Move footprint 10 feet to west (270°) and crowd up with Townhouse #13. Note: Townhouses #14 and #15 can share a wall to help fit into natural Gambel oak opening.
- **Townhouse #15:** Move footprint 10 feet to west (270°) and share wall with Townhouse #14.
- **Townhouse #16:** Move footprint 10 feet southwest (225°) to main access road, flip-flop and span driveway (if height limits will allow) to preserve Trees #399, and #407, along with "incidentals" #293, #302, #351, #369, #370, #511.
- **Townhouse #17:** Move footprint west-southwest (247°) 20 feet to main access road. Shorten and span driveway if height limits will allow.

⁸ Note: footprints were taken from North Silver Lake Lodge Tree Species/Health Rating Plan, Evergreen Engineering Inc., Park City Utah, 2008.

PARK CITY ARBORIST

Keith B. Clapier / ISA Certified Arborist #UT-0034A
435-513-2188/kclapier@sitestar.net/www.parkcityarborist.com

- **Townhouse #18:** Move footprint west (270°) 20 feet to preserve Tree #462, #463, #464, and #465. Shorten and span driveway (if height limits will allow).
- **Townhouse #19:** Move footprint west-northwest (270°) 20 feet to main access road. Shorten and span driveway (if height limits will allow) to preserve Trees #473, #470, #469, and #407. Note: the spur road will eliminate many existing trees, but many of these trees have codominant stems. Because codominant stems are more susceptible to windthrow, that can develop into hazard trees over time. Also, many of the firs are crowded in this closed canopy, therefore they lack trunk taper and many of the smaller individuals are suppressed.
- **Townhouse #20:** Move footprint ten feet west (280°), shorten and span driveway (if height limits will allow) to preserve Trees #555, #556 and #498.
- **Townhouse #21:** Move seven feet west (270°), shorten driveway to preserve Tree #550.
- **Condominiums A, B, C, D:** Due to the scale of development proposed and the low quality of trees in this immediate area, there is not much Tree Preservation that can be done around the condominiums.
- **The access road:** The main road that encircles the condominiums can remain as shown on the plan with some realignment modifications. These modifications are as follows. 1) Shift road five feet north of Condo Building D, to preserve Tree #323. Tree #323 is a vigorous 16" DBH Douglas fir. Note: eliminating or shortening the driveways on the Townhouses to the north will provide the necessary space for the road realignment. 2) Shift the road alignment five feet west from Condo Building B to preserve Tree #78 (24" DBH white fir) and Tree #132 (16" DBH white fir), both vigorous, mid-sized conifers. This road realignment requires shortening or eliminating the driveways of Townhouses #6, #7, and #8.

Conclusion, tree preservation means designing with nature. Because many of the sideslopes on this 5.96 acre parcel are steep 20° (36% grade) especially on the east side of the parcel, structure designs includes (but are not limited to) "stepping-up" the foundation, spanning driveways, etc. The author acknowledges that the developer is constrained by building codes like height restrictions, but I've seen homes designed in the Park City area that include the garage on the top floor and more living space in the lower floors, especially if a three-story building is being designed. Just as it's important to plant the "right tree for the right site", it's equally important to build the "right structure for the right site". One advantage I can see with this site is that the access road is above the Townhouses proposed for development. A crane can be strategically placed uphill to transfer building materials around the structure. This will eliminate countless trips with heavy machinery around the structure, consequently reducing soil compaction, trunk and crown damage etc. Designing with nature also includes the placement of utilities. All utilities should follow access roads. Do **not** trench roots to place utilities. If a utility needs to be placed through a Tree Preservation Zone e.g. placement of sewerlines downhill, **bore** under the roots using high-pressure water or an auger. In addition, most tree preservation is accomplished preconstruction. This includes identifying (which this tree survey has accomplished) and establishing preservation zones with temporary fencing. These preservation zones prevent injury to trunk and crown, changing the soil grade around roots, and prevent soil compaction and severance of roots. Some recommendations for landscaping are as follows. Conifers: sub-alpine fir (*Abies lasiocarpa*), lodgepole pine (*Pinus contorta*), ponderosa pine (*P ponderosa*), bristlecone pine (*P aristata*), Colorado blue-spruce (*Picea pungens*), Rocky Mountain juniper (*Juniperus scopulorum*). Deciduous or shade trees: mountain-ash (*Sorbus aucuparia*), western river birch (*Betula occidentalis* subspp *fontinalis*), amur maple (*Acer ginnala*), Rocky Mountain maple (*A glabrum*), flowering crabapple (*Malus spp*).

I certify that all the statements of fact in this appraisal are true, complete, and correct to the best of my knowledge and belief, and that they are made in good faith.

// signature //

Keith B. Clapier
ISA Certified Arborist #UT-0034A, August 8th, 2008.

Arborcare/Arborscape, Inc.
3268 West 900 South
Salt Lake City, UT 84104
801-972-8733

Regent Properties
11990 San Vicente, Suite 200
Los Angeles, CA 90049

12/15/2008

On site contact:
Doug Clyde
PO Box 561
Oakley, UT 84055
435-333-8001
dcl Clyde@allwest.net

Tree Inventory and Evaluation on “The North Silver Lake” Development Parcel

Arborcare was contracted on October 30, 2008 to re-evaluate the trees on the North Silver Lake Development Parcel in Deer Valley, UT. Previous reports had been prepared going in depth about the particulars of the site. I was asked to look at the stand more in general, and to look at each of the trees independent of what the site plans were showing.

The site is dominated by white fir (*Abies concolor*) with scattered Douglas fir (*Pseudotsuga mensiesii*). Overall the trees on this site are not the highest quality either physically or aesthetically. The white fir on the site are in poor overall health and are individually poor quality trees. There are many dead and dying trees throughout the site, a high percentage of the trees have either dual stem trunks or co-dominant leaders in their crowns, and bark beetles such as the fir engraver beetle are present in many of the white firs. Of the trees that are alive and have healthier crowns, many are in dense groups or pockets of trees. Because of the overcrowding in these pockets and lack of any thinning taking place over time, most of these trees have major defects such as lean or significant dieback that has occurred throughout the lower parts of the trees or up one entire side. These tree defects have developed too severely to be corrected at this point, and if left pose a risk of failure, will continue to perpetuate the beetle infestation, or are of poor aesthetic quality in terms of developing residential units around them. The Douglas firs are in better general health, and are regarded as higher quality trees in the long term.



For a native stand there are a very high proportion of the trees that are dead or dying or have major physical defects. Even the trees that are the “healthier” ones do not look very full, healthy, or vigorous. While short term it is always desirable to keep as many trees on site as possible, especially of the native variety, this site would probably be benefited in the long term by the replacement of the majority of these trees with younger, healthier trees more resistant to the current beetle problems in the area. Planning and care does need to be taken during the construction process to ensure the health of any of the trees that are to remain on the site, and a tree preservation plan should be followed very closely and strictly. I have read, and agree with, the memorandum written by Brooks Robinson in 2001 to the planning commission regarding the North Silver Lake 2B Tree Report.

I was asked to plot each tree with its existing tagged number, and to classify each based on health and defects. According to a previous tree survey it was indicated that there are 554 trees on the entire parcel. The trees I was focusing on were the ones in close proximity to the proposed access road and down the hill towards the ski run. A total of 445 trees were looked at on an individual tree by tree basis. Of those 445, 378 were white fir, or 85%, and the remaining 67 were Douglas fir, or 15%. Each of these trees were evaluated and classified into 6 groups: Trees previously indicated to be saved, Trees with good enough form and in good enough health to be saved if the site plans could allow, Trees with dual stem trunks or co-dominant leaders, Trees with current beetle infestations causing decline and dieback, Trees that are dead or have dead tops, and Trees with physical or aesthetic defects.

35 trees were found to have orange flagging around them indicating trees to save. 14 of the 35, 40%, were Douglas firs, and 21 were white firs. The Douglas firs are the more desirable trees on the site and this is reflected in the higher percentage of Douglas firs to be saved in relation to what the natural breakdown of the stand is. These 35 trees were the highest quality trees on the site. Even though these were the highest quality trees on the site, several still had undesirable features such as co-dominant leaders, and some were in slight decline. Many of the trees have also suffered from overcrowding and inadequate spacing causing decent amounts of dieback in the lower portions of the trees, or up one or more sides of the trees that will become very noticeable once the undesirable

trees are removed from around them. Because of the beetle problems in the area and already on the site it would be a good idea to have the trees that remain be sprayed for bark beetle prevention. As the development begins it would also be recommended to perform deep root fertilization on any of the trees that sustain any stress, disturbance, or root damage as a result of construction to help aid in their recovery.

Group 1. Trees Previously Flagged to be Saved

#	SPECIES	COMMENT
61	doug	
67	doug	
69	white	
70	white	partial dead top, but young tree and recovering
79	doug	
123	doug	
124	white	co-dom
139	white	dual top
140	white	
141	white	
247	white	co-dom
252	white	
272	doug	
273	white	
357	doug	
358	white	
399	doug	
407	doug	
467	doug	co-dom
468	white	
469	white	
470	doug	
471	doug	
473	white	
477	white	
478	white	
480	white	
498	white	
509	doug	
511	white	
512	white	
513	white	
518	white	
537	doug	dying top
577	doug	

87 additional trees were observed on the property that had not been previously flagged to be saved, but were in good enough health that an argument could be made that they could also be saved. It was not taken into account where these trees were located in regards to the proposed development plans, thus it is not likely that anywhere near all 87

of these trees could also be saved, but gives options of some trees that could be saved in addition to the other 35. 29 of these 87 trees are smaller trees, less than 25' tall, that are in good health and have good form. All 29 of these trees were more out in the open where they have been able to develop better. Many of the remaining 58 of these trees have some of the undesirable qualities previously mentioned such as some crowding and dieback or beetle activity to a lesser degree that has not caused significant decline to this point. Even though these trees are classified as savable, most are not very high quality trees in terms of total overall health or form, but merely represent the best of what the site has to offer. Once the other trees with more severe problems around them are removed and these remaining ones would be made more visible, I doubt many people would describe these trees as centerpieces of a landscape or something they would enjoy looking at through their front window on a daily basis. Many of these trees are trees that could be saved, and maybe with some strategic planting around them some of the aesthetic defects could be screened or hidden to some degree. But, given a choice, for the long term health and growth of the trees to be on the site, it would be better removing most of these trees and replacing them healthy, desirable trees.

Group 2. Additional Trees that could be Saved if Development Plans would Permit

#	SPECIES	COMMENT
71	white	
75	doug	12'
80	white	
81	white	
93	white	lower crowding and dead branches
94	white	lower crowding and dead branches
121	white	4' from #123 (flagged doug-fir) dead branches up 1 side - tree that used to be next to it
132	white	broke
140a	doug	12'
155	white	leaning
156	white	leaning
158	white	bare on 1 side
195	white	crowded, leaning, but younger tree
204	doug	slight lean
206	doug	slight lean
209	white	crowded
210	white	crowded
234	doug	10-15'
235	doug	10-15'
236	doug	10-15'
242	white	crowded
243	doug	trunk sweep and undercut on downhill side of base
248	doug	trunk sweep and undercut on downhill side of base
254	white	thin lower branches
293	doug	trunk sweep and undercut on downhill side of base
319	white	
323	doug	
355	white	
366	doug	15'

367	doug	
368	doug	
369	doug	15'
370	doug	20'
381	doug	15'
409	white	
428	white	
430	doug	
431	white	
431a	doug	
431b	white	
431c	white	
432	doug	
433a	doug	15'
433b	doug	10'
434	white	
436	doug	
438	doug	
452	doug	
457a	doug	15'
464	white	
474	white	
481	white	
484	white	
505	white	
514a	doug	10'
514b	white	10'
515	white	
516	doug	
518b	doug	10'
518c	doug	20'
518d	white	20'
518e	white	18'
518f	doug	25'
518g	white	10'
518h	doug	10'
518i	doug	10'
518j	white	20'
518k	white	18'
518l	doug	15'
518m	white	20'
518n	white	25'
518o	doug	25'
518p	doug	25'
521	white	
522	white	
524	white	crowded
526	white	
527	white	
529	white	

530	white
531	white
532	white
533	white
547	white
548	doug
554	doug
555	doug

In addition to these 87 individual trees there were also some trees that could be kept as groups. These are all trees currently growing in groups where crowding and spacing has been an issue and dieback has occurred on each of the trees as individuals, but as a group they are currently in decent health and look respectable in regard to their outward appearance. The problem with keeping trees in such groups is that they are not typically going to be good long term trees for the site. The crowding has already caused issues for the trees individually, and these problems will only progress as the trees grow larger and the interference between them causes further problems. But, these trees can be looked at as good trees for the short term, possibly keeping more of the native trees on site, and as the planted trees on the development start to grow and fill in these trees could be removed and replaced in the future. Again, if looking at the long term health and growth, these trees would most likely be better off being removed and replaced.

Group 2.1. Additional trees that could be kept as groups

#	COMMENT
a	158, 159, 160, 177, 178, 179
b	244, 245, 246
c	278, 279, 280, 281, 282, 284, 287
d	295, 297, 298 (with #293 - flagged doug-fir)
e	495, 496, 497
f	492, 493, 494
g	485, 486, 487, 488, 489
h	513, 514

***these tree numbers have all been entered on other lists stating individual defects

Every other tree on the site that was inventoried had enough of a physical or aesthetic defect that they would not be desirable trees to keep on a development project. 38 of the trees, or 9%, were dead or had completely dead tops.



Group 3. Dead Trees or Trees with Dead Tops

#	SPECIES	COMMENT
63	white	dead top
83	white	dead top
96	white	dead
99	white	dead top
104	white	dead
131	white	dead
153	white	dead
154	white	dead
162	white	dead
174	white	dead
175	white	dead
176	white	dead top
187	white	dead top
211	white	dead
213	white	dead, broken
216	white	dead
230	white	dead
231	white	dead
232	white	dead
261a	white	dead
286	white	dead top
290	white	dead top
313	white	dead
316	white	dead
443	white	dead top
445	white	dead top
455	white	dead
456	white	dead
466	white	dead top
510	white	dead
516	white	dead
534	white	dead
535	white	dead
536	white	dead
541	white	dead

543	white	dead top
546	white	dead top
551	white	dead

76 of the trees, 17%, had dual stem or multi stem trunks originating from near ground level, or co-dominant leaders in the main canopy. These types of trees have a much higher risk of failure and are recognized as hazardous trees because of this higher risk of failure. The attachments either near ground level or higher up in the canopy are not as strong as a regular branch attachment, almost always have some amount of included bark between the attachment, and the likelihood of failure increases over time as the stems or leaders grow larger. There are some instances where trees with dual stems originating from near ground level can be cabled together to help reduce the risk of failure. Cables, however, do not eliminate the risk and require monitoring and maintenance over time to ensure their strength and the health of the tree. Trees such as #68 and #125 are examples of trees that could be considered as candidates to be saved if cables were installed.



Group 4. Trees with Dual or Multi Stem Trunks or Co-Dominant Leaders

#	SPECIES	COMMENT
62	white	co-dom, dead top
68	white	dual stem, healthy tree - could be cabled
73	white	dual stem
82	white	co-dom
84	white	co-dom
85	white	co-dom
88	white	co-dom
91	white	co-dom
92	white	co-dom
97	white	co-dom
111	white	co-dom
112	white	co-dom
114	white	co-dom
115	white	co-dom
125	white	dual stem, smaller tree (20') - could be saved
133	white	dual stem
138	white	multi stem

142	white	dual stem
150c	white	co-dom
150e	white	co-dom
165	white	co-dom
168	white	co-dom
172	white	co-dom
179	white	dual stem
182	white	co-dom
186	white	co-dom
188	white	co-dom
196	white	co-dom
198	white	dual stem
198a	white	dual stem
200	white	co-dom
203	white	co-dom
205	doug	dual stem
250	white	co-dom
253	white	co-dom
256	white	co-dom
257	white	co-dom
260	doug	co-dom
263	white	dual stem
265	white	co-dom
303	white	dual stem
307	white	co-dom
312	white	co-dom
314	white	dual stem
315	white	dual stem
317	white	dual stem
318	white	dual stem
363	white	dual stem
364	white	dual stem
370a	doug	co-dom
371	white	co-dom
402	white	dual stem
404	white	dual stem
408	white	dual stem
427	white	multi stem
429	white	dual stem
433	white	co-dom
435	white	co-dom
439	white	dual stem
440	white	dual stem
441	white	dual stem
444	white	dual stem
447	white	co-dom
448	doug	co-dom
453	white	dual stem
472	white	dual stem
479	white	dual stem

483	white	dual stem
499	white	co-dom, dead tops
508	white	co-dom
513a	white	co-dom
518q	white	15', dual stem
523	white	co-dom
542	white	co-dom
550	white	dual stem
553	white	co-dom

43 of the trees, 10%, have current beetle infestations that are causing the tree to decline or die. Many of the trees that were classified as dead were likely also killed by beetles. A significant portion of the other trees on site, notably the white firs, have evidence of beetles as well, just not to the extent that those trees are declining or dying as a result at this point in time.



Group 5. Trees Declining From Beetle Infestation

#	SPECIES	COMMENT
74	white	beetles
78	white	
106	white	
107	white	
117	white	
119	white	
120	white	
122	white	
126	white	
130	white	
135	white	
150d	white	dead top
166	white	
167	white	

184	white	
212	white	
228	white	
238	white	
239	white	
258	white	
261	white	
264	white	
270	white	
275	white	
288	white	
294	white	
301	white	
302	white	
304	white	
310	white	
359	white	
359a	white	
360	white	
396	white	
437	white	
442	white	
449	white	
450	white	
456a	white	
457	white	
459	white	
462	white	
519	white	no # on tree, but numbered on map

The remaining 166 trees, 37%, had significant physical or aesthetic defects. The physical defects included problems such as trunk deformities or irregularities, broken or damaged tops, or significant amount of leaning. All of these types of problems increase the risk of failure and increase the risk of future insect and disease problems. The aesthetic defects were all results of the over crowding and spacing of the trees causing dieback. For trees on this site the dieback typically affected over 50% of the growing area of the individual tree, meaning that if left standing alone the tree would look more dead than alive.

Group 6. Trees with Physical and/or Aesthetic Defects

#	SPECIES	COMMENT
64	white	crowded
65	white	crowded
66	white	in decline
76	white	broken
77	white	deformed base
86	white	crowded

87	white	broken top
89	white	broken top
90	white	crowded
95	white	broken top
98	white	leaning, crowded
100	white	crowded, center tree of bad group
101	white	broken top
102	white	crowded
103	white	crowded
105	white	crowded
108	white	crowded
109	white	crowded
110	white	broken top
113	white	leaning, crowded
116	white	base defect, leaning
118	white	crowded, leaning
127	white	leaning, crowded
128	white	leaning, crowded
129	white	leaning, crowded
134	white	leaning, crowded, deformed
136	white	crowded
137	white	crowded
141a	white	crowded
143	white	crowded, deformed
144	white	crowded, dead up 1 whole side
145	white	crowded, dead up 1 whole side
146	white	broken top
147	white	crowded
147a	white	crowded
148	white	crowded
149	white	crowded
150	white	crowded
150a	white	crowded, leaning
150b	white	crowded
151	white	broken top
157	white	trunk defect
159	white	crowded, leaning
160	white	crowded
163	white	crowded, leaning
164	white	crowded, leaning
168a	white	crowded, leaning
169	white	trunk defect, leaning
170	white	major lean
171	white	major lean
173	white	crowded, leaning
177	white	crowded, leaning
178	doug	crowded, thin - no needles until 25' up
181	white	crowded, leaning
183	white	crowded
184a	white	crowded

185	white	trunk defect
189	white	crowded, stunted
190	white	leaning
191	white	leaning
192	white	crowded, deformed base
193	white	crowded
194	white	crowded
198b	white	crowded, leaning
201	white	deformed trunk
202	white	crowded
207	white	crowded
208	white	crowded
214	white	crowded
215	doug	crowded, no needles until 25' up
217	doug	crowded
218	doug	deformed top from crowding
219	white	crowded
221	white	crowded
222	white	crowded
223	white	crowded
224	white	crowded
225	white	crowded
226	white	crowded
227	white	crowded
227a	white	crowded
229	white	leaning
233	white	crowded, leaning
237	white	trunk defect, crowded
240	white	crowded
241	white	falling over
244	white	crowded
245	white	crowded
246	white	crowded
249	white	crowded, leaning
255	white	leaning, base defect
259	white	crowded
262	white	crowded
266	white	crowded
267	white	crowded
268	white	crowded
269	white	crowded
271	doug	trunk defect
276	white	leaning
278	white	crowded
279	white	crowded
280	white	crowded
281	white	crowded
282	white	crowded
283	white	crowded, stunted
284	white	crowded

285	white	broken top
287	white	crowded
291	white	crowded
292	white	crowded
295	white	crowded
296	white	crowded, leaning
297	white	crowded
298	white	crowded
299	white	crowded, stunted
305	white	crowded, leaning
311	white	broke and regrew
315a	doug	top broke half way up, new leader took over
356	doug	leaning, bent top
359b	white	blow-over
365	white	trunk defect
372	white	trunk sweep, leaning
373	white	trunk sweep, leaning
397	white	top broke in past and regrew new top
400	white	crowded, leaning
403	white	crowded
406	white	crowded
410	white	crowded, leaning
446	white	sweep, leaning
451	white	crowded
454	white	crowded, leaning
458	white	leaning
460	white	crowded, leaning
461	white	crowded, trunk defect
463	white	crowded, leaning
465	white	crowded, broken top
472a	doug	crowded
473a	white	small and crowded in center on group of large trees
473b	white	small and crowded in center on group of large trees
473c	white	small and crowded in center on group of large trees
475	white	leaning
476	white	crowded
482	white	crowded
485	white	crowded
486	white	crowded
487	white	crowded
488	white	crowded
489	white	crowded
492	white	crowded
493	doug	crowded
494	white	crowded
495	white	crowded
496	white	crowded
497	white	crowded
513	white	crowded
514	white	crowded

518a	doug	15', trunk damage
520	white	crowded, no # on tree, but numbered on map
524a	white	crowded
525	white	crowded
527a	white	crowded
528	white	crowded
538	white	crowded, leaning
539	white	crowded, leaning
540	white	crowded, leaning
549	white	deformed trunk

There were two groups of trees, Group A and Group B, which were looked at slightly differently. Group A is located inside of where the access road and condominiums are proposed, in an area unlikely that the trees would be able to be saved due to their place in the proposed development. The trees of Group A were not inventoried individually, but were looked at overall in terms of their health and structure. Group A was representative of the majority of the stand. They are mostly larger, older trees, the majority of which are crowded, dual stem or co-dominant, dead trees or trees with dead tops, and showing signs of beetle activity. All but a few were white fir. Group B, which is located in the east point, is far enough below the proposed development that these trees would likely all remain and should be unaffected by the development. 36 trees in Group B were included in the inventory lists, 27 of which were included on the additional savable list even though they likely could all be saved. The trees in Group B are much younger on average than the rest of the stand. There are approximately 30 additional Douglas and white firs in the 5' height range, a much higher amount than anywhere else on the site, that were not counted in the inventory. Three-quarters of the trees in this group are 5-25' tall Douglas and white firs. There is a much higher proportion of Douglas fir in this group than elsewhere in the stand. The older trees in this group, however, have the same general issues and defects seen throughout the stand.

I certify that all of the statements of fact are true, complete, and correct to the best of my knowledge and belief, and that they are made in good faith.

Christopher Kolb
 Certified Arborist WE-5809A
 Arborcare/Arborscape, Inc.

City Council Staff Report



PLANNING DEPARTMENT

Subject: North Silver Lake Lot 2B
Author: Katie Cattan
Date: July 1, 2010
Type of Item: Quasi-Judicial - Appeal of CUP Application

Summary Recommendation

Staff requests that the City Council ratify the findings of fact, conclusions of law, and conditions of approval for the Appeals of North Silver Lake Lot 2B Conditional Use Permit.

Topic

Appellants: #1: Eric Lee, Attorney representing adjacent property owners, and
#2 Lisa Wilson, resident
Location: Lot 2B Subdivision of Lot 2, North Silver Lake
Zoning: Residential Development (RD)
Adjacent Land Use: Ski resort area and residential
Reason for review: Appeals of Planning Commission decisions are reviewed by City Council

Background

Under the Deer Valley Resort Master Plan Development (MPD) the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space. The Deer Valley MPD requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC Section 15-1-10.

The original CUP application was before Planning Commission on five different occasions (August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009). During the July 8, 2009 review, the Planning Commission approved the application with a 3 – 1 vote. One Commissioner abstained.

On July 17, 2009, the neighboring property owners submitted an appeal of the Conditional Use Permit (CUP) approval of the North Silver Lake Subdivision Lot 2B. The City Council reviewed the appeal on October 15, 2009 and November 12, 2009. During the November 12, 2009 meeting, the City Council remanded the CUP application to the Planning Commission with specific items included in the order to be addressed.

The Planning Commission reviewed the remand during two work sessions on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April 28, 2010 to address the order and findings of the City Council. The Planning Commission approved the revised conditional use permit with a four to one vote on April 28, 2010.

The approval was appealed by two separate parties. On May 7, 2010, Eric Lee submitted an appeal (Exhibit A). On May 10, 2010, Lisa Wilson submitted an additional appeal (Exhibit B). The City Council reviewed the appeal on June 24, 2010. All parties stipulated to additional condition of approval #19. The Council did not find merit in the notice issues, the compatibility of revised design or other issues raised in Ms. Wilson's appeal. The Council added an additional requirement of an opportunity for neighborhood input prior to approval of the phasing plan(s), but found that the Planning Commission adequately addressed the issues of the remand. Accordingly, the City Council affirmed and denied in part the Planning Commission's decision to approve the North Silver Lake Lot 2B Conditional Use Permit.

Findings of Fact, Conclusions of Law and Conditions of Approval re: NSL Subdivision Lot 2B Conditional Use Permit.

On July 1, 2010, having been duly advised, the City Council hereby modifies the Planning Commission Findings of Fact, Conclusions of Law, Conditions of Approval and Order with minor corrections to the findings and conditions (underlined) as follows:

Findings of Fact

1. The subject property is at 7101 North Silver Lake Drive. This property is also known as Lot 2B of the North Silver Lake Subdivision.
2. The proposed development is located within the Deer Valley Master Plan Development.
3. Within the Deer Valley Master Plan, the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space.
4. The applicant has applied for a conditional use permit for the development of 54 units located on Lot 2B of the North Silver Lake Subdivision. The applicant has included 5102 square feet of support commercial space within this application. The project consists of 16 detached condominium homes and four condominium buildings containing 38 condorrinium units. The remaining commercial units are not transferable.
5. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area.
6. The Deer Valley Master Planned Development (MPD) requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of LMC chapter 15-1-10.
7. The Deer Valley MPD determines densities on parcels as an apartment unit containing one bedroom or more shall constitute a dwelling unit and a hotel

room or lodge room shall constitute one-half a dwelling unit. The Deer Valley MPD does not limit the size of units constructed provided that following construction the parcel proposed to be developed contains a minimum of 60% open space and otherwise complies with MPD and all applicable zoning regulations.

8. Within the Deer Valley MPD development parcels exhibit there is a note for the NSL Subdivision Lot 2D Open Space stating "This parcel has been platted as open space, with the open space applying to the open space requirement of Lot 2B." Lot 2D is 4.03 acres in size.
9. Within the original North Silver Lake Subdivision, the Bellemont subdivision was allowed to also utilize Lot 2B towards the 60% open space requirement. The Bellemont Subdivision utilized ¼ acre of the Lot 2B parcel to comply with the open space requirement.
10. The current application site plan contains 70.6% of open space on the site including the remainder 3.78 acres of open space on Lot 2D.
11. The property is located in the Residential Development zoning district (RD) and complies with the Residential Development ordinance.
12. The property is within the Sensitive Lands Overlay Zone and complies with the Sensitive Lands Ordinance.
13. The height limit for Lot 2B was established at 45 feet within the Deer Valley Master Plan. The development complies with the established height limit, with the allowance of five feet for a pitched roof.
14. The onsite parking requirements for the four stacked flat condominiums have decreased 25% in compliance with section 15-3-7 of the Land Management Code. The Planning Commission supports a 25% reduction in the parking for the stacked flats within the development.
15. The Planning Commission held public hearings on August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009.
16. The Planning Commission approved the CUP on July 8, 2009.
17. An appeal of the CUP approval was received July 17, 2009 within ten days per LMC 15-1-18.
18. The City Council reviewed the appeal of North Silver Lake lot 2B on October 15, 2009 and on November 12, 2009.
19. On November 12, 2009, the City Council remanded the Conditional Use Permit back to the Planning Commission with three specific items to be addressed within the order.
20. The Planning Commission reviewed the North Silver Lake Conditional Use Permit remand on November 11, 2009 and January 13, 2010 and two Planning Commission regular agenda meetings on March 10, 2010 and April 28, 2010. The Planning Commission approved the revised Conditional Use Permit on April 28, 2010.
21. The Conditional Use Permit was appealed by two separate parties within ten days of the Planning Commission approval.
22. The design for Building 3 decreased the overall square footage of the Building 3 twenty-five percent (25 %), reoriented the building on the site, and divided the original single building into two interconnected buildings of smaller scale and size than the original single building.

23. The landscape plan was modified to comply with the Wild Land Interface regulations.
24. Construction phasing and additional bonding beyond a public improvement guarantee has been required.

Conclusions of Law

1. The application is consistent with the Deer Valley Master Planned Development and the Park City Land Management Code, particularly section 15-1-10, Conditional Use Permits.
2. The Use is compatible with surrounding structures in use, scale, mass, and circulation.
3. The Use is consistent with the Park City General Plan.
4. The effects of any differences in Use or scale have been mitigated through careful planning.
5. The Planning Commission did not err in approving the application.

Conditions of Approval

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. This plan must address mitigation for construction impacts of noise, vibration, and other mechanical factors affecting adjacent property owners. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be included within the construction mitigation plan.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. The Arborcare Temporary Tree and Plant Protection Plan dated April 2, 2009 must be adhered to. A member of the Planning Staff and Planning Commission will be invited to attend the pre-installation conference. Prior to operating any excavation machinery, all operators of any excavation machinery must sign off that they have read, understand, and will adhere to the Temporary Tree and Plant Protection plan.
5. A landscape plan is required with the building permit. The landscape plan must reflect the site plan and existing vegetation plan as reviewed and approved by the Planning Commission on April 28, 2010.
6. The developer shall mitigate impacts of drainage. The post-development run-off must not exceed the pre-development run-off.
7. Fire Marshall review and approval of the final site layout for compliance with City standards is a condition precedent to building permit issuance. The proposed development shall comply with the regulations of the Urban Wild Land Interface Code. A thirty foot defensible space will be mandatory around the project, limiting vegetation and mandating specific sprinklers by rating and

- location. The Fire Marshal must make findings of compliance with the urban wild land interface regulations prior to issuance of a building permit.
8. Approval of a sign plan is required prior to installation of any signs on the property.
 9. Staff review and findings of compliance with the lighting regulations of LMC Section 15-5-5(l) are required prior to the issuance of an electrical permit.
 10. This approval will expire July 1, 2011, 12 months from July 1, 2010, if no building permits are issued within the development. Continuing construction and validity of building permits is at the discretion of the Chief Building Official and Planning Director.
 11. Approval is based on plans reviewed by the City Council on June 24, 2010. Building Permit plans must substantially comply with the reviewed and approved plans. Any substantial deviation from this plan must be reviewed by the Planning Commission.
 12. The SWCA wildlife mitigation plan dated April 15, 2009 must be included within the construction mitigation plan and followed.
 13. The two ADA units are to be platted as common space and cannot be separately rented without renting another unit.
 14. The Sustainable Design Strategies created by Living Architecture as reviewed by the Planning Commission on April 28, 2010 must be adhered to within the building permit process. Any substantial deviation from this plan must be reviewed by the Planning Commission.
 15. The final condominium plat for North Silver Lake Lot 2B may not exceed the square footage for common space, private space, and commercial space as shown in the plans reviewed by the City Council on June 24, 2010.
 16. A bond shall be collected prior to issuance of a grading or building permit to cover the cost of the landscape plan as approved.
 17. A phasing and bonding plan to ensure site restoration in conjunction with building phasing beyond a public improvement guarantee must be approved by the Building Department. The plan shall include re-vegetation for perimeter enhancement and screening into the project, soil capping for any new disturbance and previous disturbance of the site, and clean-up of all staging areas. Prior to building department action on approving each phase of the phasing plan, the developer and building department shall conduct a neighborhood meeting, with minimum courtesy mailed notice to both appellants, each appellant's distribution list as provided to planning staff, and any HOAs registered with the City within the 300 foot notice area.
 18. A bond shall be collected at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. At such time, the existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released.
 19. No lockout units are permitted within this approval.

Order:

1. Appeal #1 from Eric Lee is affirmed in part and denied in part. The CUP is

approved with the amended Findings of Fact and Conditions of Approval as stated above.

2. Appeal #2 from Lisa Wilson is denied in whole. The CUP is approved with the amended Findings of Fact and Conditions of Approval as stated above.

Dated this 4th day of July, 2010.


Dana Williams, Mayor