

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
MARCH 25, 2015

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Melissa Band, Preston Campbell, Steve Joyce, John Phillips, Adam Strachan, Doug Thimm

EX OFFICIO:

Planning Manager Kay Sintz, Planner; Francisco Astorga, Hannah Turpen Planner; Polly Samuels McLean, Assistant City Attorney

=====

REGULAR MEETING

**ROLL CALL**

Chair Worel called the meeting to order at 5:35 p.m. and noted that all Commissioners were present.

**ADOPTION OF MINUTES**

March 11, 2015

Chair Worel referred to page 4 and corrected Chair Pro Tem Joyce to correctly read Chair **Pro Tem Joyce**.

Commissioner Joyce referred to page 14, fourth paragraph, and corrected dollars and sense to correctly read **dollars and cents**.

Commissioner Phillips referred to page 21, third to last paragraph, and the statement, Commissioner Phillips stated that water was at the top of his list. He corrected the minutes to reflect his actual statement that water was **not** at the top of his list.

MOTION: Commissioner Joyce moved to APPROVE the minutes of March 11<sup>th</sup>, 2015 as corrected. Commissioner Band seconded the motion.

VOTE: The motion passed. Commissioner Strachan abstained since he was absent from the March 11th meeting.

**PUBLIC INPUT**

There were no comments.

## **STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

The Staff and Commissioners wished Commissioner Band Happy Birthday.

Planning Manager Sintz introduced Louis Rodriguez, the new Planning Analyst at the Planning Department Counter. He worked in the Finance Department during the Sundance season and after that he was hired by the Planning Department. Ms. Sintz reported that Makena was promoted to Planning Technician, and Shauna Stokes received a promotion and moved to the IT Department.

Planning Manager Sintz asked the Commissioners about reinstating the Consent Agenda. She noted that plats, conditional use permits, steep slope conditional use permits can all be approved on a Consent Agenda. She provided a hand-out and noted that the paragraph at the bottom indicates the language for when items can be pulled off of Consent Agenda. An item can be removed if it is contested or if someone wants to give public input, or a Commissioner can pull an item off the Consent Agenda for discussion. Ms. Sintz stated that the Staff would move forward with Consent Agenda for the April 8<sup>th</sup> meeting if the Planning Commission was in favor of doing that.

Commissioner Strachan recalled that Consent Agendas were done in the past. He asked if the Planning Commission would still receive full Staff report for Consent Agenda items. Planning Manager Sintz answered yes. She clarified that they would never put an item on Consent Agenda if the Staff was requesting direction or if item would require significant discussion.

Commissioner Strachan favored the Consent Agenda and thought it was worth trying again because the Commissioners have the ability to pull any item off the Consent Agenda. The Commissioners concurred.

Assistant City Attorney reminded the Planning Commission about disclosures. She understood that sometime the Commissioners are approached by the public outside of Planning Commission meetings, particularly regarding high profile matters, and those communications should be disclosed so everyone has the benefit of knowing that there was a conversation and was said.

Commissioner Band disclosed that she was stopped at Rotary by a member of the community who acknowledged that she could not talk about the application, but wanted her to hear his comments. He was supportive of Vail and the gondola and the Snow Hut, but he did not like what he saw in the packet regarding historic structures. Commissioner Band stated that she was also stopped by one member of the community at the gym and two others at the grocery store all in support of Vail.

Commissioner Band disclosed that she had emailed Sandra Morrison and Lynn Ware Peek on Saturday to let them know what was on the agenda, with a link to the packet. She has done that even before she was a Planning Commissioner because she believes the citizens should know what is being talked about.

Commissioner Phillips disclosed that he would be recusing himself from the Norfolk Subdivision Plan. He had a working relationship with the owners in the past and he could not say with absolute certainty that he could remain objective.

Commissioner Strachan disclosed that he would be recusing himself from the Vail Interconnect application due to business reasons.

#### Election of New Chair

MOTION: Commissioner Joyce nominated Adam Strachan as the next Planning Commission Chairperson. Commissioner Band seconded the motion.

Commissioner Strachan accepted the nomination.

VOTE: The motion passed unanimously.

MOTION: Commissioner Phillips nominated Steve Joyce as Vice-Chair. Commissioner Band seconded the motion.

Commissioner Joyce accepted the nomination.

VOTE: The motion passed unanimously.

Commissioner Strachan assumed the Chair and thanked Commissioner Worel for her years of service as the Chairperson. In his time on the Planning Commission she was one of the best.

#### **REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION**

1. **1119 Park Avenue – Plat Amendment to combine one and a half lots into a single lot of record.** (Application PL-15-02672)

Planner Turpen reported that the proposed plat amendment is located at 1119 Park Avenue. It creates one lot of record from the existing one and a half lot. The property

consists of Lot 5 and the southerly half of Lot 6 of Block 5 of the Snyder's Addition to Park City. The Owner desires to unify the property into one lot of records by removing the existing interior lot line. The site is listed as a Landmark structure on the Historic Sites Inventory.

The Staff found good cause for this plat amendment as it will eliminate the existing interior lot line and create one legal lot of record from the 1-1/2 existing lots. The existing structure straddles the lot line between Lot 5 and Lot 6. Therefore this plat amendment would allow the structure to be one lot of record. Without the plat amendment any new development would be confined to Lot 5, as no new development would be permitted to straddle an interior lot line.

Planner Turpen noted that the property owner has submitted a Historic District Design Review application. The intent is to renovate the Landmark structure and have an addition.

The Staff recommended that the Planning Commission conduct a public hearing for the 1119 Park Avenue plat amendment and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law, Conditions of Approval as found in the draft ordinance.

Chair Strachan asked why the prior owner did not apply for a plat amendment. Planner Turpen was unsure. She noted that the building was sold while improvements were being made to the building. Part of the HDDR will be to fix some of those issues. A Notice in Order was issued and the previous owner was fixing the structure as directed by the Notice in Order.

Dave Beckmina with Wasatch Engineering Contractors, represented the applicant. He believed the application was straightforward. The plat amendment would clean up the interior lot lines as required by the City. He did not believe the prior owner pulled the proper building permits and followed the normal process.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

**MOTION:** Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for the subdivision plat amendment located at 1119 Park Avenue, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1119 Park Avenue

1. The property is located at 1119 Park Avenue.
2. The property is in the Historic Residential (HR-1) District.
3. The subject property consists of all of Lot 5 and the southerly half (1/2) of Lot 6, Block 5, Snyder's Addition. The applicant does not have ownership of the northerly half (1/2) of Lot 6.
4. The entire area is recognized by the County as Parcel SA-48.
5. The site is designated as a "Landmark" historic structure by the Historic Sites Inventory (HSI).
6. The building footprint of the existing historic structure is approximately 522 square feet.
7. The proposed plat amendment creates one (1) lot of record from the existing area consisting of approximately 2,812.5 square feet.
8. A single-family dwelling is an allowed use in the Historic Residential (HR-1) District.
9. The minimum lot area for a single-family dwelling is 1,875 square feet; the lot at 1119 Park Avenue will be 2,812.5 square feet. The proposed lot meets the minimum lot area for a single-family dwelling.
10. The minimum lot width allowed in the district is twenty-five feet (25'). The proposed lot is thirty-seven and one-half feet (37.5') wide. The proposed lot meets the minimum lot width requirement.
11. The existing historic structure does not meet the required side yard setbacks on the north and south. The side yard setback on the south side is 1 ft. to .75 ft. (from west to east). The side yard setback on the north side is 1 ft. The existing historic structure meets all requirements for front and rear setbacks. The front yard setback is 26 ft. The rear yard setback is 36.5 ft. In accordance with the Land Management Code (LMC) 15-2.2-4, Historic Structures that do not comply with Building Setbacks are valid Complying Structures. Additions must comply

with Building Setbacks, Building Footprint, driveway location standards and Building Height.

12. There is an existing concrete driveway and concrete sidewalk that encroaches into the Park Avenue right-of-way.

13. In May 2012, the City issued a Notice and Order from the Building Department for the property owner to stabilize the building. Work began in the spring of 2013 to stabilize the dilapidated landmark building with new footings and foundation. Inspections on this work began on May 1, 2013 and the most recent inspection was conducted on July 26, 2013.

14. The applicant applied for a Historic District Design Review (HDDR) application to renovate and construct an addition on January 6, 2015. A Pre-Historic District Design Review (Pre-HDDR) application for the renovation and addition was completed on October 2, 2014. The applicant applied for a Plat Amendment application on January 27, 2015. The Plat Amendment application was deemed complete on January 29, 2015.

15. The property is located in a FEMA Flood Zone A which requires the lowest occupied floor to be equal to or above the base flood elevation. An elevation certificate will be required.

16. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

#### Conclusions of Law – 1119 Park Avenue

1. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding lot combinations.
2. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
3. 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 – 1119 Park Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat 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 at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' 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 ten feet (10') wide public snow storage easement will be required along the Park Avenue frontage of the property and shall be shown on the plat prior to recordation.

4. The applicant can either remove the existing chain link fence and wood slat fence from the properties of 1125 Park Avenue and 1120 Woodside Avenue, or enter into an encroachment agreement with the respective property owners prior to final recordation of this plat.

5. Modified 13-D sprinklers will be required,

6. An elevation certificate will be required for any major modifications verifying the lowest occupied floor is at or above base flood elevation.

2. **1893 Prospector Avenue – Pre-Mater Planned Development for 10 residential units.** (Application PL-14-02586)

**1893 Prospector Avenue – Conditional Use Permit for 10 residential units in the GC Zone** (Application PL-14-02584)

Planner Astorga noted that Kirsten Whetstone was the project planner and he would be reviewing the application in her absence this evening.

Planner Astorga reported that the application is for a Pre-MPD and conditional use permit. The request for ten units is the maximum threshold for a Master Planned Development. A conditional permit is required in the GC zone.

Planner Astorga commented on a noticing issue as noted in the Staff report. The posted and mailed notice letters included both the pre-MPD and the CUP information; however the published notice included only the pre-MPD. The Planning Commission could review and take action on the Pre-MPD; however, because the CUP was incorrectly noticed, the Staff recommended that the Planning Commission review the CUP this evening but continue it to the next meeting on April 8, 2015.

Planner Astorga stated that the primary purpose of the MPD application is to find compliance with the General Plan, as well as the purposes statements of the specific district, which in this case is the GC zone.

The property owner and the project architect were available to answer questions. Planner Astorga noted that the applicant had created a physical model and he encouraged the Planning Commission to leave the dais to look at the model.

The Staff recommended that the Planning Commission conduct a public hearing for both the Pre-MPD and the conditional use permit, consider approving the pre-master planned development, and review the CUP with a continuation to the next meeting.

Chair Strachan was reluctant to have the Planning Commission provide input on the CUP because it was noticed incorrectly. He believed that their comments could sway public input or that public input could change their thinking, and he preferred to have it clean and noticed properly before anyone comments. The Commissioners concurred.

Assistant City Attorney McLean stated that if the Planning Commission would like additional information regarding the CUP for the next meeting, they should provide that direction to the Staff or applicant this evening.

Ehlias Louis, representing the applicant, presented the project called Central Park City Condominiums, familiarized the Planning Commission with the project and walked through some of the MPD issues. Mr. Louis stated that the conceptual design is 10 units which requires an MPD approval process. It is a residential project in Prospector Square in Parking Lot F. The applicant thinks of it as an organic infill project on Parking Lot F that will provide a more logical arrangement for development in that area.

Mr. Louis stated that the purpose and goal is to provide housing in Central Park City. The lot is located next to the Rail Trail. The ten residential units would be located in Prospector Square in close proximity to food, employment, hotels, the athletic club, and transportation. The demographic would be young professionals who want to move into Park City. Mr. Louis showed the building site as it exists today. It is a large, square parking structure. They have worked out an agreement with the Prospector Square Property Owners Association to replat the lots. Planner Astorga noted that the replat was approved in May 2014. Mr. Louis stated that the current lot is 99 spaces and has a tarmac feel. The original lots did not provide much room for buffer zones with the other residential units.

Mr. Louis presented a slide showing how the plat looks currently. The lot being discussed this evening is the new Lot 25B, which is in the back next to the Rail Trail. He pointed out



how the reconfiguration of the parking lot provides an organic infill project that looks more like what they want in terms of developing the area. Mr. Louis stated that the project expands the parking from 99 parking spaces to 103 spaces. They propose to add landscaping that does not currently exist. He believed that reorganization of the parking lot provides true vehicle circulation versus an open square with no limits. It increases the pedestrian walkways, and where the two lots are located it provides ample buffer against the other residential buildings in the area.

Mr. Louis walked through some of the design concepts. A good livable building has natural light and great views. The building was designed in an L-configuration to capture natural light on every corner in either a bedroom or living space. Extensive decking is provided as communal space for the building residents to provide community and outdoor feeling. The project is connected to the Rail Trail by a bridge which makes it easy to access the Rail Trail for alternative transportation into the City. The design is a multi-level form to give more interest to the building itself. The plan is for green roofing.

Mr. Louis stated that the GC zone has a FAR of 2.0. The lot is 5,760 square feet, and the building area is 11,520 square feet. He noted that upon completion the project would be under that square footage. The configuration of the building is for six smaller, two-bedroom, one bath units; and four larger units of 1,000 square feet. The units calculate to 12 parking spaces, however, the parking in the area is the Prospector Square parking regulations, and the 103 spots around the building are all accessible for the residential units. Mr. Louis pointed out that due to the design of the building on stilts, there will be 12 individual parking spots underneath the building, but those will not be exclusive for the residents due to the parking regulations of Prospector Square.

Mr. Louis presented the elevations and the requested height. He believed the proposed design optimizes the site for the demographics and for the surrounding area. To make it all work within the FAR, they were asking for a flat roof height exemption of 41'6". As shown on the model and on the elevations its height would not be for the entire building. The configuration of the building garners the view of PC Hill and over to the Resort. To comply with the development agreement with the Prospector Square Owners Association to provide 103 parking spaces, the building is designed on stilts, which means that the residential units start on the second floor, or at the Rail Trail elevation.

Mr. Louis stated that the units will be market affordable in the \$400,000 range. The units are smaller, green design, and promote alternative transportation. He reiterated that the targeted demographic is young professionals. They believe it improves Parking Lot F and it gives a true circulation to the parking lot itself. The project adds pedestrian walkways, landscaping and it increases parking. Mr. Louis noted that they were currently working with the City regarding the affordable housing requirement for 15% of the square footage.

There are concept drawings showing how the affordable housing would work with this design. Their desire is to include the affordable housing units on site.

Commissioner Band asked if the twelve parking spots under the building would be unassigned. Mr. Louis answered yes, because they cannot be assigned due to the Prospector parking requirements.

Commissioner Thimm asked whether the request for additional building height was under the purview of their discussion this evening or under the CUP. Planner Astorga replied that the MPD allows the Planning Commission to grant additional height if they can make specific findings to allow it. He clarified that a height exception cannot create additional square footage. It would be tied to the future MPD application after the pre-MPD is approved.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Chair Strachan recalled that when Henry Sigg developed Lot G he had issues with connecting to the Rail Trail UDOT was the owner and there were also habitat protection issues. Hank Louis, representing the applicant, stated that they had letters from the DNR and the Army Corp of Engineers and everyone wants the connection.

Chair Strachan clarified that the issue for discussion was whether or not this project complies with the General Plan. He informed the applicant that the height may be a problem in the future. Based on his review of the GC zone, it would difficult to meet the criteria for a height exception with a flat roof. Chair Strachan was comfortable with the rest of the project and he welcomed it to the Prospector neighborhood because it was due for some infill.

Commissioner Joyce stated that he was trying to justify the height exception. He gave the applicant the challenge of proving whether or not they could justify the height exception. Commissioner Joyce was not convinced that having to put parking underneath the building to satisfy the agreement for 103 spaces was enough justification to support the Code criteria. Commissioner Joyce asked if keeping the affordable housing within the project included the ten units or if it would be additional units. Mr. Louis stated that currently there was a difference of opinion between the Planning Staff and the Prospector Square Property Owners Association. In his opinion, the ideal solution would be to include the affordable housing in the building, making the project 12 units, with two deed restricted full

affordable housing units per the Affordable Housing Resolution. However, there is a different of opinion of the requirement of affordable housing due to the Prospector Square overlay, and how much the LMC applies. Mr. Louis stated that the applicant was currently working through the process. He had asked Planner Whetstone and the City Housing Specialist, Rhoda Stauffer to provide their opinion so they can begin discussing it with the Prospector Square Property Owners Association.

Commissioner Worel stated that if the two affordable housing units were added, whether additional square footage would be added to the building, or whether the square footage would be taken from existing units. Mr. Louis replied that they would add square footage to accommodate the two units; however, per the Affordable Housing Code, the deed restricted units would not be counted in the FAR. Therefore, the project would still be under the FAR but the square footage of the global project would be increased.

Commissioner Joyce assumed that adding square footage without cutting into the square footage of the ten units would result in more height. Mr. Louis stated that it would extend the building but it would not be higher.

Commissioner Thimm understood that it would be additional fourth level space. Hank Louis stated that they would call it a third level. He noted that there was a flood plain issue and they were actually trading parking lot for parking lot or asphalt for asphalt on the ground level. He stated that architecturally they cut down the mass in order to alleviate the height situation. Without the height exception they could build a box, but he did not think that would be pleasing to anyone.

Chair Strachan pointed out that the applicant and the Planning Commission would be having those discussions during the MPD process.

Commissioner Thimm was concerned about the height and how it complies with the LMC. From the model and some of the images shown he thought it appeared to be a clean, contemporary design. Commissioner Thimm stated that the LMC purpose statement speaks about embracing the Resort feel, and he questioned how this very contemporary, clean line structure would meet that purpose. Mr. Louis stated that his first response to the Resort feel would be the actual use of the building itself versus the aesthetics of the building. The Resort feel is that people come to play. It is about recreation, being outdoors, active lifestyle and mountain lifestyle. Mr. Louis agreed that the design is contemporary, but that brings diversity to a community that spurs discussion and inspiration. The idea is to make sure that young professionals can live there and to promote the mountain living, outside lifestyle.

Commissioner Thimm stated that the same sentence in the LMC talks about creating distinct and diverse solutions. In terms of blending with the Resort feel, he asked if the applicant had talked about materials for the building exterior. Hank Louis replied that materials have been talked about, but they were not delving into it until they know whether or not they can even do this project. Mr. Louis stated that it would definitely be a Resort feel based on their interpretation. He recognized that their interpretation might be different from the Commissioners. Mr. Louis emphasized that they would definitely make it fit with the mountain community.

Chair Strachan stated that the discussion regarding modern contemporary buildings in Park City is an issue that the Staff and the Planning Commission have debated for many years. He thought it was an issue that the Staff should bring to the Planning Commission as a Work Session item. It is not fair to one particular applicant to voice that debate over a broader Park City in the context of a particular application. Chair Strachan felt it was important for the Planning Commission to determine where they stand on that issue so they can address when they are faced with specific applications that are modern and contemporary. In the last five years he has seen more and more contemporary designs come before them and it was time to have that discussion as a Planning Commission.

Planner Manager Sintz stated that the Prospect area is ripe for redevelopment and it does not have an identity. The City was working on a sense of place in this entire overall area. Ms. Sintz agreed that they were seeing a lot more different styles of architecture because people are getting tired of the standard model. She looks at this as a method of which Park City is on the cutting edge of defining new types of architecture for areas outside of the Historic District or areas that already have a context or defined restrictions. Ms. Sintz thought it was appropriate to relook at different architecture and building types that should be under broad consideration.

Commissioner Joyce pointed out that many of the contemporary designs being built have flat roof designs. He thought the Planning Commission should include height and different roof styles in their discussion to see if flat roofs make sense.

Commissioner Campbell felt that if the Planning Commission did not provide further direction that the project would languish for another fifteen years. He did not believe it was fair to send the applicant back with the nebulous that it might or might not be approved. The next generation of plans will be expensive and he thought the Planning Commission should give the applicant more specific direction.

Chair Strachan believed the Planning Commission would have provided that direction this evening if the noticing had been proper done and they could have had the CUP discussion.

Commissioner Campbell asked if the Planning Commission would agree to provide specific direction at the next meeting. The Commissioners agreed.

Commissioner Band thought it was nice to see an apartment building for the first time since the 1980s. She hoped they could find a way within the LMC to grant the height exception or make this project work because it is definitely needed in Park City. In terms of fitting in, she believed it fits well with the Carriage House across the street.

Commissioner Phillips liked this project and the idea of what they were creating. It is the live/work/play that they have all talked about and he hoped they could find a way to make it work because it would be good for Park City. He likes how it engages the Rail Trail and different modes of transportation. It fits the younger generation that will be living there. Commissioner Phillips stated that he personally would like to see more buildings engage the Rail Trail.

Commissioner Worel agreed with her fellow Commissioners. It is an exciting project and it is needed. She asked if the intent is to keep the units as apartments and not turn them into condos eventually. Ehlias Louis stated that the intention is sell them as condominiums. He clarified that if they were apartments the owner would hold and take revenue from the apartments. A condominium is where each unit is labeled as a separate tax ID so they could be sold individually under an HOA. Hank Louis hoped to have them as apartments and revenue property; however they were working on financial models to see how that would work. Commissioner Worel concurred with Commissioner Band that an apartment building was important in this town. She was excited when she thought this came before them as an apartment rather than condominiums.

Assistant City Attorney stated that whether the units are rentals or owned by individuals, the City cannot control or be involved in whether the developer rents the units or sells them. Commissioner Band understood that they were condominium units so they could be potentially be sold later on, but the plan is for the applicant to hold and rent them for a time. Hank Louis stated that it was what they would like to do. However, they intend to legally condominiumize the units from the beginning and it could be a hybrid. The units likely would be sold, but within a window of what would be affordable. Commissioner Band believed the correct term was attainable.

Commissioner Thimm thought this neighborhood could be characterized as eclectic and he thought this design fits nicely within that. He liked the attachment to the rail trail and the fact that it embraces views. He also like the fact that it was a four-sided building. As they press forward with materials, he suggested that they embrace what already exists at this location and what might be done in the future. Hank Louis stated that they were working closely with Alison Butz on how Prospector and Bonanza Park are moving forward.

MOTION: Commissioner Phillips moved to APPROVE the pre-MPD for Central Park Apartments located at 1893 Prospector Avenue. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Phillips to CONTINUE the CUP for Central Park Apartments located at 1893 Prospector Avenue to April 8, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact 1893 Prospector Avenue – Pre-MPD

1. On December 15, 2014, the Planning Department received a completed application for a pre- Application for a Master Planned Development (MPD) is located at 1893 Prospector Avenue.
2. The proposed MPD is for a ten unit residential building within the Prospector Neighborhood (Prospector Square).
3. Units range in size from 800 square feet to 1,010 square feet.
4. A phasing plan for this MPD is not necessary as the single building will be constructed in one phase.
5. The property is zoned General Commercial (GC) and residential uses require a Conditional Use Permit. The applicant has submitted an application for a Conditional Use Permit for residential uses to be reviewed simultaneously with this pre-MPD.
6. Access to the property is from Prospector Avenue, an existing public street. .
7. The site is described as Lot 25b of the Gigaplat replat of the Prospector Square Amended Subdivision plat. The lot contains 5,760 square feet.
8. A requirement for any Master Planned Development (MPD) is a pre-application public meeting and determination of compliance with the Park City General Plan and the GC zone.

9. The Land Management Code (LMC 15-6-4(B)) describes the pre-MPD application process.

10. The purpose of the pre-application public meeting is to have the applicant present preliminary concepts and give the public an opportunity to respond to those concepts prior to submittal of the MPD amendment application.

11. The property is located in the Prospector neighborhood, as described in the new Park City General Plan. The proposed MPD proposes energy in the Prospector Neighborhood section of the General Plan.

12. Small Town Goals of the General Plan include protection of undeveloped land; discourage sprawl, and direct growth inward to strengthen existing neighborhoods. Alternative modes of transportation are encouraged.

13. This neighborhood is identified as a Development Node. The proposed MPD includes small, energy efficient residential units that support the desired mix use neighborhood concepts by providing smaller residential units that are in close proximity to employment, retail, dining, recreation, trails, schools, and the bus system. The development is proposed on an existing development lot as infill development. The elements of the proposed development support goals identified in the Small Town sections of the General Plan and maintain the general character of Park City.

14. Natural Setting Goals of the General Plan include conserve a healthy network of open space for continued access to and respect for the natural setting. Goals also include energy efficiency and conservation of natural resources.

15. The proposed MPD is located on an infill property that is an existing platted development lot of record. The proposed MPD proposes energy efficient construction, green roofs, and connections to the trails and open space areas. The close proximity to employment, retail, dining, recreation, trails, schools, and the bus system support goals identified in the Natural Setting section of the General Plan. Additional information related to "green building" strategies for the proposed buildings will be addressed with the MPD application.

16. Sense of Community Goals of the General Plan include creation of diversity of housing, including affordable housing; provision of parks and recreation

opportunities; and provision of world class recreation and infrastructure to host local, regional, national, and international events while maintaining a balance with the sense of community.

17. A primary reason for the proposed MPD is to provide energy efficient, smaller more affordable housing units in close proximity to employment, retail, dining, recreation, open space, trails, schools, and the bus system. The MPD creates a diversity of housing for Park City and contributes to the sense of community by providing housing for full time residents.

18. On March 25, 2015, the Planning Commission held a public hearing and discussed the pre-MPD for the residential project at 1983 Prospector Avenue.

#### Conclusions of Law – 1893 Prospector Avenue – Pre-MPD

1. The preliminary MPD plans for the 10 unit residential building proposed to be located at 1893 Prospector Avenue, within the Prospector Neighborhood and the General Commercial (GC) Zone, comply with the Park City General Plan and are consistent with the General Commercial (GC) zoning.

3. **1345 Lowell Avenue – Amendments to Master Planned Development and Mountain Upgrade Plan; and Conditional Use Permits – Proposed Interconnect Gondola between Canyons and PCMR & Snow Hut on-mountain restaurant expansion** (Application PL-14-02600)

Chair Strachan recused himself and left the room. Vice-Chair Joyce assumed the Chair.

Planner Astorga noted that the Planning Commission would be reviewing the MPD Development Agreement and the Mountain Upgrade Plan, as well as a conditional use permit at Park City Mountain Resort for the Interconnect and expansion to the Snow Hut. He reported that the Planning Commission had an extensive discussion regarding this application on February 25, 2015.

Planner Astorga showed the updated rear or west elevation of the Snow Hut as requested by the Planning Commissioner at the last meeting. Commissioner Thimm stated that he had raised the issue at the last meeting and he appreciated the revisions that responded to his suggestion to wrap it around. He believed that making it a four-sided building was a great response. Commissioner Thimm stated that keeping the base of the building as snow piles up against it was logical and he appreciated the applicant's efforts.



Planner Astorga stated that employee housing, historic preservation and trails were the next items for discussion. He remarked that the Staff has been working with the applicant on certain conditions of approval. A copy of the latest version of the conditions of approval as stipulated by the applicant was sent to the Planning Commission.

Planner Astorga commented on employee housing. He noted that during the last meeting it was recognized that PCMR was behind on providing employee housing, but that the employees the housing was specifically for was tied to base development. Therefore, the condition of approval reads, "Unless Section 2.2 of the Development Agreement is satisfied, specifically regarding Parcel A..." The first option is for the applicants to catch up with the employee housing before the next MPD/CUP for base development. He stated that currently the DA indicates all of the units as off-site employee housing. Therefore, a sentence was added stating that if that requirement was amended to have on-site employee housing, the applicant would have to get approval from the Housing Authority. If the applicant did not move forward with that option, they would have to come back with an affordable housing plan subject to the Park City Housing Authority. Planner Astorga reiterated that the three options were currently tied to the specific Condition of approval.

Planning Manager Sintz clarified that the requirement was for 23 employees; not 23 units. The Staff had modified the Findings and Conditions to reflect that. Planner Astorga stated that he would review the amended conditions at the end of his presentation.

Commissioner Band wanted to know how many units would be provided to accommodate 23 employees. Planner Astorga believed it would vary depending on the plan the applicants would submit for employee housing. Planner Sintz noted that 23 employees was based on the original language.

Planner Astorga stated that Condition of Approval #4 related to Historic Preservation. He reported on a commitment from Vail Resorts, identified in Section A) of the Condition of Approval, "Identify historically significant structures within the PCMR Development Agreement property by October 1<sup>st</sup>, 2015; B) complete the inventory of historically significant structures and the preservation and restoration plan for such structures." He believed the exact wording came from the 2007 Annexation Agreement. Planner Astorga stated that the C) portion of Part 1 is that by March 25, 2016, to dedicate or secure specific preservation easements. That language also came from the 2007 Agreement.

Planner Astorga remarked that the second part states that "In addition, by October 1<sup>st</sup>, 2015, the developer, under the PCMR Development shall contribute a total of \$50,000 towards preservation of the prioritized historically significant structure on the PCMR Development Agreement property as approved by the Planning Department preservation planner." The Condition reads, "or they propose a five-year capital fundraising plan

dedicated towards restoration, stabilization of the historically significant structures.” A disclaimer at the ends states that nothing changes the stipulation from the 2007 Agreement.

Planner Astorga stated that the last item was Trails. An updated Exhibit P tied back to a version of the 2008 Trails Master Plan and the 2007 Annexation Agreement. Public trails that existed at the time of the Annexation in 2007 were added to the Park City Master Trails Plan in 2008. Planner Astorga noted that the developer was still finalizing a survey of the entire property of their acquisition and ground lease of the property. A final trails plan must be submitted and evaluated as part of the next application for a small scale MPD, under those specific Development Agreements for Parcels A through E, which is tied to base development. It will help determine which trails are required to be dedicated to the City. Planner Astorga noted that this was the current trails Condition of Approval.

Planner Astorga stated that an exhibit was added regarding construction access which came as an email from Tim Beck with Vail Resorts. Planner Astorga remarked that Vail would have to work with the Building Department since that part of the process is governed by the construction mitigation plan. The Staff provided the exhibit so everyone would understand the access roads and number of trips.

Planner Astorga reported that the Staff was supportive of the proposed amendments to the MPD, the Development Agreement and the Mountain Upgrade Plan. The Staff recommended that the Planning Commission conduct a public hearing and consider approving this specific request.

Planner Astorga stated that prior to a motion he would like the opportunity to amend some of the Findings of Fact.

Vice-Chair Joyce noted that employee housing, historic preservation and trails were the issues raised at the last meeting. He asked the Commissioners if additional items needed to be addressed. The Commissioners had no other issues.

Blaise Carrig, representing Vail Resorts remarked that they had worked with the Staff on the issues that were raised. He noted that trails came up later in their discussions, but Vail has agreed to recognize and comply with all the requirements of the previous Development Agreement. Mr. Carrig stated that they also need to identify any other trails that may have come on since that time and have to be added as well. Mr. Carrig remarked that the most difficult issue was historic preservation. Vail Resorts still questioned the extent of their obligation and believes it falls with the Development Agreement for Flagstaff. Understanding that preservation still needed to be done, Vail agreed to take on the requirement of the Development Agreement to on inventory and preservation plan. They

intend to get input from all the involved parties so the Plan will fulfill what everyone wants and agrees to. Mr. Carrig stated that there was also a requirement for easements for those sites, and Vail Resorts will get those easements done. They reached out to Talisker to see what had been done on their part, and Talisker agreed that not all of their obligations were met. Vail Resorts and Talisker agreed to work together to determine how to move forward. Mr. Carrig remarked that the prior Development Agreement did specify who would do what. Therefore, the \$50,000 would cover emergency work on the sites that need to be stabilized immediately. They have also agreed to enter into a capital fundraising program for five years to take care of issues identified in the future. Mr. Carrig appreciated the cooperation between the Staff and the Vail team to resolve the issues.

Vie-Chair Joyce opened the public hearing.

Planner Astorga reported that the Staff received two public input letters after the Staff report was published. Copies were provided to the Planning Commission.

Hans Fuegi, a long-time resident and business owner in Park City, stated that it was only six months ago that the community was on edge wondering about the lawsuit between Park City Mountain Resort and Vail. Fortunately, the two parties came to agreement and they found someone to operate the Resort who has done a remarkable job in a short time. Vail is now willing to spend \$50 million to improve the resort and connect PCMR and the Canyons. Mr. Fuegi understood that the Planning Commission could not rubber stamp an application, but he encouraged them to do whatever they could to approve this application so it could move forward as quickly as possible. Vail Resorts has an ambitious timeline to build the Gondola and improve the Snow Hut, and he believed everyone, particularly the business community, would appreciate it if they could meet their goal.

Sally Elliott, stated that preservation of the mining structures at the Mountain Resort are paramount. Telling their stories to guests and sharing their heritage is personally important to her. Ms. Elliott remarked that she has been working for years with United Park City Mines and others to preserve these fabulous relics of Park City's mining history. She believed they have come to a place where Vail has committed to upholding the requirement to stabilize those structures and keep them for future skiers to enjoy. Ms. Elliott stated that \$50,000 is a "drop in the bucket" but Vail is willing to work with Park City. She urged the Planning Commission to approve whatever they can to help the community preserve the mining structures and their stories. Having the easements is significant because this is the first time they have come even close to acquiring those easements, and having a partner in preservation has never been an option because United Park City Mines wanted to limit their liability. Ms. Elliott stated that she would personally join whatever efforts are made to help tell the story, raise the money, provide the opportunities and continue to hold hands with Vail as they try to preserve the story they have purchased.

Charlie Sturgis, with Mountain Trails Foundation, stated that two months ago the Vail/PCMR Group took the time and effort to contact Mountain Trails and talk about the impact to the trails systems during the summer construction period. Mr. Sturgis remarked that Mountain Trails Foundation feels comfortable about having a low impact season and to have an extensive communication plan that would notify the public quickly on construction issues that might close a trail or pose safety issues. Mr. Sturgis stated that the PCMR/Vail group has a strong commitment to minimize the impacts as best as possible. They are also credibly aware of how much the trails are used. He looked forward to working with the PCMR/Vail group.

Sandra Morrison, with the Park City Historic Society and Museum, noted that the community obviously recognizes how valuable these historic structures are in linking to their mining past. She thanked Bill Rock, with PCMR, for recognizing their value and for reaching out to the Historical Society and Museum. Ms. Morrison stated that the Annexation Agreement included an update of the historic preservation plan for the historic structures in the annexation area, but it had problems and eight years later nothing has been done. Mr. Morrison passed around photos to show the deteriorated conditions of the historic structures, and how some were being held up by strapping and pole shores. Ms. Morrison appreciated the Staff and Vail Resorts for drafting new language. She received it at 5:00 today and was not able to review it thoroughly. Ms. Morrison noted that she had submitted a letter on Monday with some suggestions. In looking through the new language, she hoped her suggestions could be incorporated into the proposed condition. She was confused with language stating that the preservation plan would only encompass those structures that are confirmed to be located within the property either owned by Vail or held by Vail pursuant to its ground lease from Talisker. She has never seen the lease and has no idea what it says, but it potentially excludes all of the historic structures. Ms. Morrison suggested deleting all the words in parenthesis because she did not believe it met the intention of the 2007 Annexation Agreement. She asked if the Staff or the Planning Commission had seen the lease.

Planner Astorga stated that the Staff has not seen the lease. However, they felt comfortable with the language because the lease area is the only area that Vail has control over. Bill Rock clarified that they were trying to define the structures that sit within that leased area. They already know there are five or six structures. Planner Astorga stated that the Staff did a quick analysis, and they might define them differently. The Staff counted approximately 40 structures in the perceived lease area, however, they are reluctant to say an exact number until they see the survey. At that point, they will have an exact identification of each historic structure.

Ms. Morrison understood that by definition, a lease holder, which would be Talisker, has no control of the property, and that the tenant, which is Vail, would assume responsibility for maintenance of all the property.

Mr. Rock stated that Talisker is not the owner of the land. TCFC is the entity that owns the property. Talisker is a separate entity. Mr. Rock explained that Vail leased the annexed property from TCFC and it has a boundary. The Talisker land is much greater and Vail has no control over that land. They only have control over the land that they actually lease. Defining that and which historic entities are on that land is the first step. Mr. Rock noted that they started out with \$50,000 but it may be more. They had not put a limitation on the cost. Mr. Rock stated that they committed to doing the inventory because the inventory that was done in the past did not satisfy anyone. Vail wants to make sure that this inventory satisfies the scope and how to reach the final answers because there has been deterioration since the Annexation. He emphasized that Vail is willing to step up and do the inventory to meet the obligation. The first step is to get an understanding of what needs to be done.

Ms. Morrison agreed. She was only suggesting that the language was not necessary in the condition of approval if they were only talking about the PCMR development agreement property.

Assistant City Attorney McLean suggested that the Planning Commission take public comment without a back and forth discussion between the public and the applicants. Following public input, the Commissioners or the applicant could respond.

Ms. Morrison reiterated that her first concern was that the lease excludes every historic structure, which puts them back at ground zero on how to achieve preservation of these beloved community assets. Ms. Morrison suggested adding language in the Condition requiring that the restoration plan should include meeting the Secretary of Interior Standards for treatment of historic properties. She also suggested a timeline for the preservation to be completed, especially given that a number of these structures will not survive another winter. Additional language in the condition of approval should require that building permits for stabilization measures be pulled for work to begin this summer. Ms. Morrison thought a capital fundraising campaign was a fabulous idea, but a timeline should be established for the restoration work before the structures deteriorate beyond the point of being able to be preserved. She thought five years was too long of a timeline and it should be tied to the priorities that are created within the plan.

Commissioner Campbell appreciated the Historical Society's work because it is a large part of what they were all trying to accomplish. He asked Ms. Morrison what she thought was a realistic expectation of what the Planning Commission should be asking for in terms of

number of structures to preserve. Ms. Morrison stated that in her letter she offered the Silver King Water Tanks, the King Con ore bin, the Jupiter ore bin, the California Comstock, and the King Con counterweight. She only offered those because the Museum has plans from a structural engineer already in place, which makes it possible to obtain a building permit to begin work this summer. Commissioner Campbell asked if Ms. Morrison was suggested that they limit their efforts to the five structures she identified. Ms. Morrison answered no. Her intent was to identify structures that could be started on this summer because the plans are in place and the costs estimates are known. She acknowledged that there may be other structures that might not survive another winter.

Commissioner Nann asked for a ballpark cost estimate on the five structures that Ms. Morrison had identified. Ms. Morrison stated that the structural engineer and the Park City Historical Society believe the preservation plan could be done by this Fall at a cost between \$50,000 and \$60,000, depending on whether or not an architect needs to be involved. The cost to stabilize water tanks C & D was estimated at \$100,000. The tank that is tied to the tree is in the most jeopardy but the two are tied together.

Commissioner Thimm asked if the cost estimates were for a full restoration or short-term stabilization. Ms. Morrison replied that it was only for stabilization, but it would not be short-term. The structures will be stabilized to survive another twenty five to fifty years. Ms. Morrison stated that the cost estimate for the Jupiter ore bin and the King Con ore bin were \$20,000 each. The California Comstock was estimated at \$200,000.

Aimee McDonald, with the Kimball Arts Center, stated that as they value their roles as an art and cultural community agent, the Kimball appreciates that Vail has demonstrated to be a terrific community partner and how they value the role that art and cultures plays in this community. Ms. McDonald wanted to go on record in support of Vail.

Ron Butkovich embraces the opportunity to hold hands with Vail on this project. The historic structures are unbelievable and they need to be rescued. The City has been trying to get this down for many years and he hoped they could succeed this time and see progress made with these structures so they can survive.

Marianne Cone, stated that she previously ran the Museum. When they did the Silver King water towers on Silver Queen Road, it was done with equal participation from United Park City Mines, Park City Mountain Resort, and the City, and it occurred really quickly. Ms. Cone remarked that things can get done with cooperation.

Vice-Chair Joyce closed the public hearing.

Commissioner Worel wanted to know who would head-up the five-year capital fundraising campaign. Mr. Carrig stated that Vail would lead it. They would make capital contributions, as well as launching fundraising efforts to support it. Commissioner Worel thought it was a fantastic effort and recognized that it was a big job.

Commissioner Band was much more comfortable with this revised plan because she originally had serious concerns. She acknowledged the comments from the public that Vail has been a community partner. She thanked Vail Resorts for making the ski season a lot better. However, Commissioner Band felt that they were in a “buck stops here” situation. She was pleased that Vail was stepping up to preserve the historic structures and she liked the changes proposed, but it was important for her to see some timelines. Commissioner Band thought the structures that are in danger of demolition by neglect should be stabilized first, and there should be a timeline for each building on the plan, as well as a timeline for the plan in total. Commissioner Band suggested that the buildings that are not being restored should be checked each year until they are scheduled for preservation. She would like to see that tied into the base development, so if the structures are not taken care of the City would have some recourse. Commissioner Band requested tighter and more specific timelines in the Conditions of Approval.

Commissioner Thimm was unsure whether they could define a timeline until the survey was done. He thought the commitment to do the survey to establish priorities was important. Commissioner Thimm remarked that Park City has harsh winters and he could see the benefit in relooking at the structures annually to identify structures that further deteriorated over the winter. Commissioner Thimm believed that the overall timeline should be tied to the actual survey because without the survey they do not know enough to formulate a timeline.

Commissioner Phillips was encouraged by the progress that was made since the last meeting. He applauded the Staff and the applicant for their efforts to address all the concerns expressed at that meeting. Commissioner Phillips stated that the history is what makes Park City what it is. The mining history is important and he felt that the applicant understood its importance as well. To avoid delaying what Vail was willing to do to upgrade the Resort and begin a long relationship with the City and the citizens, he was willing to take a leap of faith knowing that Vail was in it for the long run.

Commissioner Campbell stated that he would like to someone to define a realistic number of the structures that should be maintained. He pointed out that the survey could come back with hundreds of items and it would be impractical to expect Vail to take care of all of them. Commissioner Campbell preferred to see a smaller number preserved perfectly as opposed to a hundred structures done half way.

Mr. Carrig stated that their goal for the survey and inventory would be to have the structures prioritized and to coordinate with the City's Preservation Specialist, the Museum and other interested parties. Once they have a priority list they could build a time frame off of it. Mr. Carrig noted that a condition of approval calls for coordinating through the Planning Staff's preservation team.

Commissioner Campbell believed Vail could understand that the Planning Commission was frustrated that promises were made by previous owners and nothing was done. In his opinion, the City also has some responsibility for the fact that the requirements were never carried out. Commissioner Campbell wanted to make sure it was treated differently this time and he had every expectation that Vail would treat it differently. Commissioner Campbell asked how they could keep Vail moving forward on the upgrades while waiting for the inventory.

Mr. Carrig noted that the conditions specify a timeline for completing the inventory. They want to make sure they have the right scope and that they want to be thorough in getting the plan done. Mr. Carrig remarked that Vail will be working with the Planning Staff this summer to do some remedial work. Their commitment is to raise money every year for further stabilization over the next five years. Once the priority list is done they will establish the capital fund and work on those priority projects.

Commissioner Worel suggested setting a deadline for the prioritized list and timeline. She noted that in past projects the applicant has had to update the Planning Commission after a certain period of time. She thought lack of monitoring and oversight was the reason why these things fell through the cracks and were never done.

Commissioner Band liked Commissioner Worel's suggestion, but she felt an obligation to have consequences if things are not done this time and in a timely manner.

Planning Manager Sintz noted that Item B in the Condition of Approval states that the preservation and restoration plan would be completed and confirmed by March 25, 2016. Ms. Sintz pointed out that Vail has committed \$50,000 towards the preservation of the prioritized endangered sites prior to October 1, 2015.

Commissioner Band was concerned that the \$50,000 may not be enough. She was looking for cooperation and communication. If Vail spends their \$50,000 to shore up what they can, but if it looks like something else is in danger, they would check communicate with the City and others to find a way to fix it before the ski season starts. Commissioner Band wanted less promises and more actionable items.



Vice-Chair Joyce read a statement in the conditions, "To be located within property either owned by VR CPC holdings or held by VR CPC holdings pursuant to this ground lease...." He understood it was the land Vails control, but he wanted to make sure it was all the right land and not part of the right land. Vice-Chair Joyce thought it was a lot of legalese and he was unsure what it all meant and whether it applied to the correct areas.

Mr. Carrig stated that it was the entire ski area lease but it was not crafted around the historic structures. It is the area leased to operate the ski area. It is a large boundary mass but it excludes the development land of Flagstaff.

Vice-Chair Joyce wanted to hear from the City Legal Staff whether they were comfortable with the language and that it was 100% of the leased land.

City Attorney Mark Harrington stated that the Legal Department was comfortable that it captures the portion that Vail controls. He stated that they kept the last sentence so regardless, the original provision is still operative and enforceable. The Condition as it applies to all the annexed area still applies.

Vice-Chair Joyce noted that land that was part of the Flagstaff agreement likely has a number of historic sites. He wanted to know what the City was doing to pursue an equivalent set of agreement from the people who were responsible for doing this seven years ago. Commissioner Joyce assumed that Flagstaff Development still exists in some form.

City Attorney Harrington stated that the Planning Staff would continue to follow up with Flagstaff and their successors and interests as best as possible. Mr. Harrington stated that historic preservation is a double-edged sword in terms of enforcement, particularly on structures that are well passed any degree of habitability. Once they get into enforcement the options are more than just to preserve. The City balances those options with a carrot and stick approach with nudging and a grant program, as well as any other resource available.

Vice-Chair Joyce noted that work was planned on the most endangered structures this summer, and he asked if there would be any issues if the easements were not in place. Mr. Carrig stated that it would not prevent them from doing the work because they still have access.

Vice-Chair Joyce asked if the Commissioners had issues or changes regarding historic preservation. Commissioner Band asked Assistant City Attorney to help draft language that would require the applicant to update either the Planning Department or the Planning Commission at the end of the summer so if other structures deemed pertinent still need to

be stabilized they can work together on a plan of action. City Attorney Harrington suggested adding a parenthetical at the end of Subsection B ending with “by March 35, 2016, (upon completion of the restoration plan, the applicant will return to the Planning Commission and give a report, including prioritization, an annual check-in proposal, and progress report.)”

Commissioner Worel thought the sentence was needed, but she did not believe it addressed the structures that might fall down before the start of the ski season. Mr. Harrington stated that that was the reason for adding the language, that the Staff will immediately address the prioritization and has to approve the acceptance of that plan with the prioritization in it. He noted that the Staff is better at preservation plans than they were ten years ago and getting those typical requirements in the plan is expected. Mr. Harrington stated that they did their best to get an affirmative statement by the applicant, which is harder to enforce moving forward. That was the reason for going with an approach they felt was enforceable but also balanced the fact that they could not have all the language they wanted from the existing development agreement. Mr. Harrington believed that all five of the elements were a good “bird in the hand” towards a new partnership, which is why the City accepted it.

Commissioner Band wanted to know what recourse the City had if the deadlines are missed and nothing happened. Mr. Harrington stated that they could stop the processing of any base area applications. If any of the deadlines pass and the applicant has not obtained the CO's on any active permits, those could be withheld pending the fulfillment of these conditions of approval. Mr. Harrington thought it was important for the Commissioners to understand that development is the trigger. The conditions of approval have to be reasonably related to the impact of the development permit being issued.

Commissioner Campbell asked if they could specifically state in Section 4 that it is tied to the small scale MPD application, using the same language from Section 3. Mr. Harrington stated that they have performance ability with the hard deadlines. He believed that hard deadlines have more teeth than a subsequent application that may not occur. Mr. Harrington was not opposed to adding the language, but he cautioned the Planning Commission that sometimes people interpret that as being able to modify.

Vice-Chair Joyce called for discussion on Employee Housing. He believed he understood the intent, but again it was a lot of legalese. Vice-Chair Joyce understood that there was a requirement based on Parcel A to house 23 employees. That requirement is still in place but the housing was never provided. Vice-Chair Joyce stated that one option is for the housing to be provided before the applicant could bring forth the next MPD application. However, another option allows the applicant to work with the Park City Housing Authority to devise a new plan and incorporate it as part of a proposal for base development. If

there is agreement, it would replace the original plan for employee housing that is tied to Parcel A. Planner Astorga replied that this was correct. He noted that currently the Development Agreement ties it to off-site employee housing. Therefore, if Vail Resorts wanted to provide the housing on-site, they also have a third option to go back to the Housing Authority for an amendment to put it on site.

Vice-Chair Joyce asked if that type of an agreement with the Housing Authority would come back to the Planning Commission. Planner Astorga believed the decision is with the Housing Authority and it would not come back to the Planning Commission.

City Attorney Harrington stated that it was a little of both. The Planning Commission has the final approval of the site plan. If the proposal includes on-site employee housing, it would go through the same regulatory approval under the site plan. However, an amendment to the actual housing plan would be under the purview of the Housing Authority.

Vice-Chair Joyce understood that Vail was assuming an obligation that they were not a party to. His frustration was with PCMR who owed the employee housing, and with the City for not following through to make sure the requirement was met. Regarding the housing for 23 employee, Vice-Chair Joyce was concerned that they would be kicking the can further down the road if the applicant negotiates a new plan with the Housing Authority that may still be off-site. He was concerned that it would eliminate their ability to require compliance with the housing requirement before new applications could be submitted. City Attorney Harrington disagreed. He believed they would see a firmer commitment. Vice-Chair Joyce understood from the language that if the applicant comes to some agreement with the Housing Authority, it would eliminate the Condition that requires the applicant to provide employee housing before new applications could be accepted. Mr. Harrington explained that if the housing goes on-site, the applicant would have to propose it. Vice-Chair pointed out that there was no language to indicate that. Based his interpretation, a firm number of 23 employees could be changed and replaced with completion bonds and letters of credit, and nothing still gets done.

City Attorney Harrington stated that the Planning Commission has the purview to recommend to the City Council that the housing 23 employees should not be moved on-site; and therefore, the requirement would remain to provide the housing before the next application could be accepted. Mr. Harrington clarified that the Planning Commission has that authority, but he would not recommend it. His recommendation was having the ability to move all the units on-site, which means there would be a new due date. Mr. Harrington explained that if the 23 gets worked into the new application, it then has an affirmative security because the Bond is used to make sure the City can do the affordable housing if the applicant defaults.

Mr. Carrig stated that the intent was if it was more desirable to put the housing on-site, the applicant would include that in the application for development of the base area. As a guarantee that the housing would be provided, the applicant was willing to put a completion bond or a letter of credit upfront to prove their commitment.

Vice-Chair Joyce understood that it was different from a fee-in-lieu, but it still puts the burden on the City to build the affordable housing. The only difference is that it would be funded. Mr. Carrig stated that the bond could include building the employee housing on the area where it was approved. Vice-Chair Joyce stated that he would be more comfortable with that provision. He asked Mr. Harrington to suggest language that would address the concerns and use the completion bond in a way that forces the housing to be one per the plan. Mr. Harrington stated that the City had to convince Vail Resorts to have faith in accepting this because it went beyond what Vail had contemplated they were subject to. He stated that if the City Council negotiates and approves a different affordable housing plan, it would still be better than the 80 employee plan from 2000 that did not have any requirements in place. By being subject to the current Resolution and Code standards, those assurances will be in place. Mr. Harrington remarked that the Planning Commission could recommend the minimum elements of the housing plan, but the ultimate decision would be the Housing Authority in terms of weighing the pro and cons.

Vice-Chair Joyce reiterated that his only concern is that the teeth they had in terms of tying completion of the employee housing to acceptance of future applications was being softened by giving the applicant the ability to further delay the housing until future development. Mr. Harrington explained that the City would still have the control because they would have to affirmatively approve the amended housing plan.

The Commissioners thanked Commissioner Joyce and Mr. Harrington for their dialogue because it helped clarify it for everyone.

Vice-Chair Joyce asked if there were any questions or concerns regarding the Trails. He asked if there was a reason why the trails could not be done before the base development. City Attorney Harrington stated that it was a two-fold condition. One was to memorialize the existing public trails in existence at the time of Annexation. After triple-checking, they believe it was mostly fulfilled in terms of the adoption of the updated Park City Trails Master Plan. The second part is that what normally occurs at the MPD housing development is the transportation/site plan component. Trail exactions need to be reasonably related to the development activity such as trail corridors, the transportation plan, circulation, etc. That part of the analysis in the newly required trails, by definition, must occur when the residential/commercial development proceeds. It is tied to that development and it was meant to occur with the MPD Development as opposed to the continued operations of the

ski area. Vice-Chair Joyce thought this was already triggered by the 2007 Annexation. Mr. Harrington noted that the existing condition of approval actually says that any new trails will be addressed at any subdivision, annexation plat, or MPD amendment. That aspect was carried forward in the revised condition.

Commissioner Band noted that Mr. Sturgis in his public comment informed the Commissioners that Vail pro-actively reached out to Mountain Trails Foundation.

Planner Astorga reported on minor changes to the Findings of Fact. Finding of Fact 40, he added "no additional parking at the base". Findings 116 and 118 were revised to say 23 employees, not 23 units. Those were the only changes in addition to the revised Conditions of Approval 3, 4 and 5 as discussed this evening.

MOTION: Commissioner Phillips moved APPROVE the Master Planned Development, the Development Agreement and Mountain Upgrade Plan Amendments and Conditional Use Permit for the Park City Mountain Resort based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Worel seconded the motion.

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

#### Findings of Fact – MPD

1. The site is known as Park City Mountain Resort.
2. The site address is 1345 Lowell Avenue.
3. On December 23, 2014 the applicant submitted a request to amend the existing Master Planned Development & Development Agreement.
4. The current application is an amendment to the Mountain Upgrade Plan for the Interconnect Gondola and expansion of the Snow Hut on-mountain restaurant AND an amendment to the Park City Mountain Resort Master Plan Development (MPD) to satisfy requirements of the 2007 annexation which requires the addition of the upper mountain ski terrain to PCMR's original MPD.
5. A Ski Lift is listed as a Conditional Use Permit (CUP) in the ROS District. CUPs are reviewed and approved by the Park City Planning Commission.
6. In June 1997, the Park City Planning Commission approved the Park City Mountain Resort Large Scale Master Plan.

7. The Development Agreement was recorded with the County in July 1998.
8. The approved Master Plan includes development according to the PCMR Concept Master Plan and conditions of approval.
9. The conditions of approval include development of skiing and related facilities identified in the Mountain Upgrade Plan.
10. In March 2007, additional Park City Mountain Resort ski terrain was annexed into Park City Municipal Corporation known as the Annexation Agreement for the United Park City Mines Company Lands at Park City Mountain Resort.
11. The annexation indicated that the next Development Activity Application or amendment under the PCMR MPD must add the PCMR lease land annexed to the PCMR MPD.
12. In conjunction with the other amendments the applicant requests to fulfill the requirements of the annexation by incorporating PCMR's upper terrain into the PCMR Master Planned Development & Development Agreement.
12. In conjunction with the other amendments the applicant requests to fulfill the requirements of the annexation by incorporating PCMR's upper terrain into the PCMR Master Planned Development & Development Agreement.
13. The Mountain Upgrade Plan was recorded with the Development Agreement and identifies the background/methodology, design criteria, existing ski resort facilities, Mountain upgrading plan, future expansion potential, and conclusion.
14. The amendment of the Mountain Upgrade Plan includes the construction of those portions of the interconnect lift with Canyons Resort, and related lift towers, ski trails, terminals, buildings, infrastructure, and related appurtenances located in Park City.
15. The interconnect gondola is not specifically referenced in the Mountain Upgrade Plan, the terrain in which the lift is proposed is already designated in the Mountain Upgrade Plan for future ski pod development.
16. The proposed interconnect gondola will connect Park City Mountain Resort and Canyons Resort.
17. The amendment of the Mountain Upgrade Plan also includes the expansion of

the Snow Hut on-mountain restaurant.

18. The improvement and enlargement of the Snow Hut is to improve mountain guest services.

19. The Planning Commission held a public hearing and reviewed this request on February 25, 2015.

20. During the February 25, 2015 Planning Commission meeting staff requested discussion by the Planning Commission on four items: building height, parking, employee housing, and historic preservation.

21. The purpose of the Master Planned Development Amendment application public meeting is to have the applicant present their amendments and give the public and Planning Commission an opportunity to evaluate those amendments in accordance with the applicable code criteria.

22. The proposed amendment to the Development Agreement does not change approved densities.

23. The site is not located in the HR-1 or HR-2 District. The proposed amendments take place with the areas shown in the Mountain Upgrade Plan, located in the Recreation and Open Space District (zone).

24. The proposed amendments are not nearby the exterior boundary of the MPD with the exception of the interconnect line.

25. The Snow Hut on-mountain restaurant and the PCMR interconnect line terminal are a minimum of 2,000 feet from PMCR perimeter.

26. Open space is established by the approved MPD. Of the approximately 3,700 acres in the ski resort, nearly 95% of the property is considered recreation/open space (i.e. trails and forested areas).

27. The proposed projects will not materially affect the required open space.

28. The LMC indicates that the Planning Department shall review the parking analysis and provide a recommendation to the Planning Commission. The Commission is to make a finding during review of the MPD as to whether or not the parking analysis supports a determination to increase or decrease the required number of Parking Spaces.

29. The Developer shall comply with the parking mitigation plan. This plan shall be reviewed and modified, if necessary, as a part of the Small Scale MPD (CUP) for each phase to evaluate transit alternatives and demonstrated parking needs.

30. If, in practice, the parking mitigation plan fails to adequately mitigate peak day parking requirements, the City shall have the authority to require the Resort to limit ticket sales until the parking mitigation plan is revised to address the issues. The intent is that any off-site parking solution include a coordinated and cooperative effort with the City, other ski areas, the Park City School District, Summit County, and the Park City Chamber/Bureau to provide creative solutions for peak day and special event parking.

31. The replacement of the Snow Hut does not affect skier capacity and subsequently does not affect parking requirements.

32. Skiers and riders are already on the mountain during operations, and the replacement Snow Hut Lodge is designed to significantly improve service at a major connection area in a central area of the ski resort.

33. The Interconnect Gondola functions only as an access/transfer lift between existing ski operations and has not been designed with round trip skiing on it. Given it is an access lift only between the two areas there is no skier capacity increase associated with it.

34. No additional parking is impacted by the Snow Hut on-mountain restaurant expansion.

35. The applicant indicated that in 2014 the Snow Hut has 154 indoor seats and 200 outdoor seats.

36. The Mountain Upgrade Plan called for several items in the conclusion of Section III - Existing Ski Resort Facilities, one of which was to position additional on-mountain seating to accommodate existing and upgrade facilities.

37. The Mountain Upgrade Plan indicated that the Snow Hut needed additional seating based on the seating requirement summary based on logical distribution of the CCC. As indicated in the document in 1997, the Snow Hut had 168 indoor seats available but should have 414 indoor seats.



38. The applicant currently proposes to increase the indoor seating from the 168 indicated in 1997 to approximately 500 and the outdoor seating to stay the same at approximately 250 seats (indicated in 1997).

39. The net increase, from what was necessary in 1997, is 86 seats, which is 21% above the required number of seats.

40. The increase of 86 indoor seats (1997) from the identified CCC necessitates no additional parking at the base since the skier capacity is not affected.

41. Skiers are already on the mountain during operations and the CCC remains unchanged.

42. The proposed Interconnect Gondola does not need more parking as it functions only as an access/transfer lift between existing ski operations and has not been designed with round trip skiing on it.

43. The approved and recorded Development Agreement states that parking mitigation is reviewed at each Small Scale Master Planned Development (Conditional Use Permit) approval.

44. The review that occurred for "Parcel A," was satisfied, noting that no additional parking issues would be occurring until later phases were built-out at the base.

45. The applicant requests an increase in building height for the Snow Hut expansion.

46. In the ROS District no structure may be erected to a height greater than twenty-eight feet (28') from existing grade.

47. To allow for a pitched roof and to provide usable space within the structure, a gable, hip, or similar pitched roof may extend up to five feet (5') above the Zone Height, if the roof pitch is 4:12 or greater.

48. The majority of the proposed new building does not meet the maximum roof height, according to its corresponding roof pitch, of either 28 or 33 feet.

49. The corner on the left on the front elevation is approximately 52 feet above existing grade.

50. The corner on the right on the front elevation is approximately 68 feet above

existing grade.

51. The front elevation has the tallest points found on the proposed snow hut expansion.

52. When viewed from the side elevation, north, about a quarter of the building on the right meets the maximum of height 28/33 feet.

53. When viewed from the other side, south elevation, two thirds (2/3s) of the building from the left on the lowest form and about 1/3 of the ridge towards the left meets the maximum building height.

54. When reviewing the rear of the building, west elevation, the entire wall (rear façade) meets the maximum height.

55. The roof however, as indicated on the other elevations does not meet the height.

56. It is estimated that approximately 70% of the overall roof does not meet the maximum corresponding building height.

57. In order to grant building height in addition to that which is allowed in the ROS District, underlying zone, the Planning Commission is required to make specific findings Outlined in LMC § 15-5-5(F)(1)-(5).

58. The proposed increase in Building Height does not result in increased square footage or Building volume over what would be allowed under the zone required Building Height and Density.

59. Even though the building is indeed tall, not just in form but also due to the terrain (height measured from existing grade per Park City codes), the proposed building is a one (1) story building which maximizes sun-light exposure from the windows on the front, east elevation.

60. There is no density increase as the existing support commercial use for the restaurant does not require use of unit equivalents. A different design with the same capacity at height would result in greater site disturbance, grading and less architectural variation.

61. The proposed Snow Hut is remote from any other building.

62. The minimum setback for the building is 2,000 feet. No other structures, except ski lifts are within this area. No impact to view, solar access, shadows, or other criteria will occur.

63. The site is centralized in the upper mountain of the existing ski resort, and not generally visible from developed off-site locations in Park City. As a ski resort operation, the site will be re-vegetated with a proven seed mix.

64. The adjacent open space is designated ski terrain. With approximately 3,700 acres of ski terrain the proposed projects 17,200 square feet of footprint will have no effect on open space or its usability.

65. The proposed height of the building is the result of a combination of the single story accessible design and the roof design which does not shed snow to public areas or decks, and does not require heat taping in roof valleys or edges to prevent large icicle development.

66. The large glazed areas are designed to maximize solar gain in support of the project sustainability goals. Interruptions in the roof plane would interrupt snow shed and possible increase height with no purpose.

67. There are no other buildings within one-half mile to match roof façade or variations.

68. The proposed roof form maximizes sun-light exposure on the east elevation.

69. The proposed one (1) story structure meets the following Architectural Design Guidelines outlined in LMC § 15-5-5.

70. The Architectural Style and Motif is not prohibited by the LMC.

71. The proposed siding is not prohibited by the LMC.

72. The applicant proposes the following three (3) main exterior wall materials on the front and side elevations: 1. reclaimed board and batten; 2. horizontal chinked trestlewood; and 3. rusted corten ribbed siding. The applicant proposes concrete masonry unit (CMU) on the bottom half of the rear elevation.

73. Applicant proposes a dark green shingle roof and a metal standing seam for the two smaller shed roofs as seen on the rear, west elevation.

74. The combination roof shape is not listed under prohibited roof forms.
75. Window treatments are not prohibited by the code.
76. The applicant has not submitted plans regarding this provision.
77. The project shall fully comply with any provisions indicated in the LMC or approved MPD regarding lighting.
78. The applicant has not submitted plans regarding this provision.
79. The project shall fully comply with any provisions indicated in the LMC or approved MPD regarding trash/recycling enclosures.
80. The applicant has not submitted plans regarding this provision.
81. The project shall fully comply with any provisions indicated in the LMC or approved MPD regarding mechanical equipment.
82. LMC § 15-5-8 indicates the following regarding façade length and variations, following: Structures that exceed 120 feet in length on any facade shall provide a prominent shift in the mass of the Structure at each 120 foot interval, or less if the Developer desires, reflecting a change in function or scale. The shift shall be in the form of either a fifteen foot (15') change in Building Facade alignment or a fifteen foot (15') change in the Building Height. A combination of both the Building Height and Building Facade change is encouraged and to that end, if the combined change occurs at the same location in the Building plan, a fifteen foot (15') total change will be considered as full compliance.
83. The east elevation, front does not meet the façade façade length and variations requirement.
84. The façade is 140 feet long and does not provide a prominent shift in the mass of the structure.
85. The north and south elevations provide appropriate breaks, both horizontally and vertically (height) where a shift was incorporated in the design.
86. The west elevation, rear, meets the shift in the form of a fifteen foot (15') change in the building height.

87. LMC § 15-5-7 indicates that in some cases, the Planning Director, may vary from these standards if warranted by unusual or unique circumstances. This may result in variation from the strict interpretation of this section and may be granted by the Planning Director.

88. The Planning Director has reviewed the submitted plans and finds that the site is unusual and unique due to its remote location.

89. The Snow Hut is located on the mountain, accessible to skiers.

90. The location of the Snow Hut is not in a typical Park City neighborhood.

91. The intent of the façade length and variation criteria is to break up the massing of buildings so that they relate to the pedestrian scale.

92. The amount of glass on the front, east elevation, also helps mitigate the width of the building adding an aesthetically pleasing component.

93. When the Planning Commission grants additional Building Height due to a Site Specific analysis and determination, that additional Building Height shall only apply to the specific plans being reviewed and approved at the time. Additional

Building Height for a specific project will not necessarily be considered for a different, or modified, project on the same Site.

94. The additional height due to the specific site analysis is not detrimental and in compliance with applicable LMC standards regarding the height allowance.

95. The Snow Hut Lodge is located on the footprint of the existing building and against an existing hill side to maximize skier circulation in the area.

96. Placing excavated material on site will remove the reverse slope between the King Con run and the building location. Skier circulation down to the King Con lift will be improved by the site grading on Broadway and the new location of the building.

97. The Interconnect Gondola is located not to interfere with skier circulation and provides direct access to the Snow Hut Lodge.

98. No retaining structures are proposed. Site grading is minimized while providing an on-snow / no stairs access to Snow Hut.

99. Existing summer biking and hiking trails on the Park City Mountain Resort side of the project are avoided to extent possible. Within the Summit County portion of the site, the evacuation routes may cross existing biking / hiking trails within the terms of the property agreements with trail operators and landowners.

100. Snow storage is on-site. The building is designed to shed snow away from public areas and service doors.

101. Refuse and recycling will take place in the building footprint consistent with the sustainability goals of Park City Mountain Resort. Refuse removal will not change from current operations.

102. Transportation to the site is via lifts, skiing and snowboarding only. No public vehicle access is proposed.

103. Significant vegetation is retained and protected.

104. Vegetation removed for site grading consists mainly of existing ski runs grasses and brush. The lift line corridor will require tree removal but ground disturbance will only occur in lift tower areas, base terminal area and evacuation route construction.

105. The visual simulations have been conducted properly for review of viewshed and ridgeline protection. The terminal structure minimizes the intrusion on the ridgeline from either east or west sight lines.

106. The lift line impacts are reduced as it is below the sky line and in many places within a forested area.

107. A visual analysis from designated viewpoints has been submitted to illustrate the visual effects of the proposed lift system.

108. The interconnect gondola system, towers and terminals, and evacuation route in Thaynes Canyon are shown on the visual simulation from the designated viewpoints.

109. The location of the proposed Snow Hut building is also shown in the simulations.

110. All other elements of the Sensitive Land analysis for the original MPD remain in

effect and unchanged by this project.

111. The MPD Development Agreement states the following:  
Developer shall construct or provide deed restricted off-site housing for 80 PCMR employees on or before October 1, 2003. The rental rate (not including utilities) for the employee housing will be determined by the City Council Housing Resolutions Establishing Guidelines and Standards, but will not exceed 1/3 of the employee's base gross wages. The rental rate shall be assured in perpetuity through deed restrictions in form and substance satisfactory to the City. Developer must commence construction or complete the purchase of housing to accommodate 80 employees within 90 days of receiving a Small Scale MPD which, in combination with previously granted Small Scale MPDs, represent approvals for a total of 50% of the total square footage of the Concept Master Plan. Developer must work expeditiously to complete the employee housing project(s). In no case shall Small Scale MPDs, which represent approvals for a total of 60% of the Small Scale MPDs within the PCMR Concept Master Plan, be issued until the required housing is available for occupancy. Park City will provide Developer a letter of compliance when it fulfills this requirement.

If there is a downturn in the market, and the Developer fails to obtain approval for 60% of the Small Scale MPDs within the PCMR Concept Master Plan, on or before October 1, 2003, Developer shall, at a minimum acquire, by lease or by purchase its proportionate obligation to produce employee housing, and shall offer such housing to employees at a price at or below Park City's applicable affordable housing rates and standards. For example, if only 40% of the Small Scale MPDs have been approved by October 1, 2003, Developer shall provide housing for 32 PCMR employees at the lesser of the City's Affordable Housing rate or no more than 1/3 of the employee's monthly income. Once Developer ultimately achieves the 60% Small Scale MPD approval, it must provide deed restricted housing for all 80 employees as detailed above.

112. The existing MPD contains the requirement for employee housing, this project does not change these requirements.

113. Employee housing is actually triggered ONLY by the receipt and approval of Conditional Use Permits (Small Scale MPD's) of the base area, "Parcels A - E."

114. As indicated in the Development Agreement, there was a trigger date of October 1, 2003, for 60% of the Small Scale MPDs (CUPs for each parcel), with an exception of a market downturn hit, which did take place.

115. Under this situation, the employee requirement was proportionally based on approved Small Scale MPD's (CUPs for each parcel).

116. The Planning Department calculates, Parcel A, the first and only approved Small Scale MPD/CUP for Marriott Mountainside/Legacy Lodge, accounted for approximately 334,000 total s.f. of the total 1,156,787 s.f. in the Large Scale Master Plan or 28.8% of 80 employee units required. This equates to 23 employees required after October 1, 2003.

117. Section 2.2 of the Development Agreement states, "In no case shall Small Scale MPDs...be issued until the required housing is available for occupancy."

118. No additional base parcels can be approved until the 23 employee housing is available and in use.

119. The employee housing requirement is not triggered by the requested amendment for on-mountain upgrades, updates, etc.

120. No child care is proposed in this application.

121. The project does not affect possible child care demands.

122. The City has received a map and list of known Physical Mine Hazards on the property.

123. A mine hazard mitigation plan has also been submitted to the City with appropriate mitigation. The map and mitigation plan are filed in the office of the City's Environmental Regulatory Program Manager and mitigation is scheduled to be completed by December 1, 2015.

124. Proposed development activity is not anticipated to encounter known historic mine waste.

125. The site is not within the soils boundary. In the event mine waste is encountered, it must be handled in accordance to State and Federal Law.

126. In accordance with LMC §15-8-5 (B)(15) and (C)(9), the prior applicants at the time of the 2007 annexation agreed to update the Preservation Plan submitted in 2000 for the additional annexed area.



127. The 2007 annexation included the following analysis in the February 1, 2007 staff report:

18. Historic and cultural resources. This annexation will include historic mining era structures within the Park City limits. The Silver King mine and other mining structures throughout the annexation area are more than 50 years old and would be considered to be historic structures due to the age of construction. No determination of historical significance has been made. Any changes to the historic buildings would require review by the Planning Department for compliance with the LMC preservation ordinance and Historic Design Guidelines. The Flagstaff Historic Preservation Technical Report will necessarily need to be amended to include those resources within the annexed area. The annexation therefore has a significant public benefit in the area of historic or cultural resources, in that several historic structures will be included within the City limits. If the structures are rehabilitated to building code, resort support uses could be permitted subject to a Conditional Use Permit.

128. Finding of Fact no. 7, of the 2007 annexation indicated that the proposed annexation protects the general interests and character of Park City including several historic mining era structures within the Park City Boundary.

129. The applicants agreed to update the mitigation as identified in the original Annexation Agreement regarding historic preservation:  
Historic Preservation. The Historic Preservation Plan, at a minimum, shall contain an inventory of historically significant structures located within the Project and shall set forth a preservation and restoration plan, including a commitment to dedicating preservation easements to the City, with respect to any such historically significant structures. The head frame at Daly West site is historically significant.

130. The Annexation Agreement for the United Park City Mines Company Lands at PCMR tied the various agreements together.

131. This 2007 Annexation is conditioned upon the Amended and Restated Development Agreement For Flagstaff Mountain, the Talisker Conservation Deed Restriction and the Conservation Easement executed and recorded herewith. (Annexation Agreement paragraph 26).

132. The inventory is to be completed to comply with the 2007 Annexation and the Preservation and Restoration Plans are finished and approved by the City.

133. A Condition of Approval to this MPD amendment requiring completion of the

outstanding inventory and subsequent Preservation and Restoration Plans prior to the City accepting any application for base area development is to be added.

134. The Preservation and Restoration plans shall also indicate a stabilization timeframe for each site.

135. In accordance with LMC §15-8-5(C)(3), the prior applicants at the time of the 2007 annexation acknowledged numerous trails in the annexed area, and their public use through dedication to the Park City Master Trails Map. See exact language below:

5. Trails. Numerous trails exist on the annexation property. These trails will be available for public use subject to reasonable restrictions due to construction, maintenance, and environmental factors including wildlife and erosion. The existing and any newly required trails shall be added to the Park City Master Trails and as necessary dedicated to the City either on the Annexation plat or at the time of PCMR MPD amendment.

136. A Condition of Approval to this MPD amendment requiring trails language needs to be added to this approval.

137. The proposed Interconnect Gondola and Snow Hut on-mountain restaurant are not detrimental impacts of the Mountain Upgrade Plan.

138. The Interconnect increases accessible terrain as it connects PCMR with the Canyons Resort.

139. The Snow Hut expansion reduces the resort's restaurant seating deficiencies.

#### Conclusions of Law - MPD

A. The MPD Amendment, as conditioned, complies with all the requirements of the Land Management Code;

B. The MPD Amendment, as conditioned, meets the minimum requirements of Section 15-6-5 herein;

C. The MPD Amendment, as conditioned, is consistent with the Park City General Plan;

D. The MPD Amendment, as conditioned, provides the highest value of Open Space, as determined by the Planning Commission;

E. The MPD Amendment, as conditioned, strengthens and enhances the resort character of Park City;

F. The MPD Amendment, as conditioned, compliments the natural features on the

Site and preserves significant features or vegetation to the extent possible;

G. The MPD Amendment, as conditioned, is Compatible in Use, scale, and mass with adjacent Properties, and promotes neighborhood Compatibility, and Historic Compatibility, where appropriate, and protects residential neighborhoods and Uses;

H. The MPD Amendment, as conditioned, provides amenities to the community so that there is no net loss of community amenities;

I. The MPD Amendment, as conditioned, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.

J. The MPD Amendment, as conditioned, meets the Sensitive Lands requirements of the Land Management Code. The project has been designed to place Development on the most developable land and least visually obtrusive portions of the Site;

K. The MPD Amendment, as conditioned, promotes the Use of non-vehicular forms of transportation through design and by providing trail connections; and

L. The MPD Amendment has been noticed and public hearing held in accordance with this Code.

M. The MPD Amendment, as conditioned, incorporates best planning practices for sustainable development, including water conservation measures and energy efficient design and construction, per the Residential and Commercial Energy and Green Building program and codes adopted by the Park City Building Department in effect at the time of the Application.

N. The MPD Amendment, as conditioned, addresses and mitigates Physical Mine Hazards according to accepted City regulations and policies.

O. The MPD Amendment, as conditioned, addresses and mitigates Historic Mine Waste and complies with the requirements of the Park City Soils Boundary Ordinance.

#### Conditions of Approval – MPD

1. The project shall fully comply with any provisions indicated in the LMC or approved MPD regarding lighting, trash/recycling enclosures, mechanical equipment, etc.

2. In the event mine waste is encountered, it must be handled in accordance to State and Federal Law.

3. Employee Housing. Unless Section 2.2 of the Development Agreement is previously satisfied by the developer in an off-site location which shall include employee housing required by the development of Parcel A (the “Required Employee Housing”), or an

updated housing plan is approved by the Housing Authority, the Developer shall include as part of the next application for a Small Scale MPD/CUP approved after March 25, 2015 under the Development Agreement for Parcels A-E (the "Next Small Scale MPD Application") an affordable housing plan subject to Park City Housing Authority approval per the Housing Resolution in effect at the time of application for the Required Employee Housing and the employee housing required for the Next Small Scale MPD/CUP Application as determined by such resolution. Unless otherwise approved in the housing plan or previously satisfied, a completion bond or letter of credit in a form approved by the City Attorney will be required for the Required Housing as a condition of building permit issues for the Next Small Scale MPD. Nothing in this condition shall be deemed to relieve any owner or prior developer of Parcel A from any liability that may exist to the City, the Developer, or any future developers in the MPD for failure to comply with Section 2.2 of the Development Agreement.

4. Historic Preservation. In furtherance of assisting the developers in meeting their obligations under Section 2.9.3 of the Amended and Restated Development Agreement for Flagstaff Mountain dated March 2, 2007, the Developer under the PCMR Development Agreement shall, (a) identify historically significant structures within the PCMR Development Agreement Property by October 1, 2015, (b) complete the inventory of historically significant structures and the preservation and restoration plan for such structures, as located within the PCMR Development Agreement Property (provided such sites are confirmed to be located within the property either owned by VR CPC Holdings, Inc. or held by VR CPC Holdings, Inc. pursuant to its ground lease from TCFC LeaseCo LLC) by March 25, 2016; (upon completion of the staff approval of the preservation and restoration plan, the applicant shall come back to the Planning Commission to report on the prioritization, annual check-in schedule and progress report on work complete to date) and (c) no later than March 25, 2016, dedicate and/or secure preservation easements for the historically significant structures (or reasonably equivalent long-term rights satisfactory to the City if easements are unavailable) for the City with respect to the identified sites within the PCMR Development Agreement Property. In addition, by October 1, 2015, the Developer under the PCMR Development Agreement shall contribute a total of \$50,000 towards the preservation of the prioritized historically significant structures on the PCMR Development Agreement Property as approved by the Planning Department/Preservation Planner, and propose a five (5) year capital fundraising plan dedicated towards restoration/stabilization of the historically significant structures. Nothing herein shall release the original Flagstaff Mountain Developer (e.g., United Park City Mines) or current property owner from any existing obligation under the Ordinance 07-10, and all related agreements including the Amended and Restated Development Agreement for Flagstaff Mountain dated March 2, 2007.

5. Trails. Public trails existing at the time of annexation in 2007 were added to the Park City Master Trails Plan in 2008 as depicted on Exhibit P. Developer is finalizing survey and other closing matters with regards to their acquisition and ground lease of the property. A final trails plan shall be submitted and evaluated as part of the next application for a Small Scale MPD/CUP approved after March 25, 2015 under the Development Agreement for Parcels A-E (the "Next Small Scale MPD Application") to determine which existing trails or any newly required trails are required to be dedicated to the City. Unless such trails are previously dedicated by plat/subdivision, prior to the issuance of a Certificate of Occupancy for the Next Small Scale MPD Application, the Developer and any other necessary owner/party shall execute an irrevocable offer of dedication or easement in compliance with the requirements of Section 5 of the Annexation Agreement which remains in full force and effect, and states: Numerous trails exist on the annexation property. These trails will be available for public use subject to reasonable restrictions due to construction, maintenance, and environmental factors including wildlife and erosion. The existing and any newly required trails shall be added to the Park City Master Trails and as necessary dedicated to the city either on the Annexation plat or at the time of PCMR MPD amendment.

#### Findings of Fact – CUP

1. LMC § 15-4-18 indicates that the location and use of a passenger tramway, including a ski tow or ski lift, is a Conditional Use.
2. CUPs under this section shall be issued only after public hearing before the Planning Commission, and upon the Planning Commission finding that all the following conditions can be met.
3. The interconnect complies with the Ownership of Liftway and Public Purpose criteria.
4. The interconnect complies with the Width, Utility Clearance, Liftway Setback, State Regulation, criteria, as conditioned.

#### Conclusions of Law – CUP

1. The application complies with all requirements of the Land Management Code.
2. The use will be compatible with surrounding structures in use, scale, mass, and circulation.
3. The use is consistent with the Park City General, as amended.

4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – CUP

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. A final utility plan, including a drainage plan for utility installation, public improvements, and drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers prior to issuance of a building permit.
4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
5. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
6. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges to confirm that the building complies with all height restrictions.
7. This Conditional Use Permit approval will expire on March 25, 2016, if a building permit has not issued by the building department before the expiration date, unless an extension of this approval has been granted by the Planning Commission.
4. **429 Ontario Avenue – Steep Slope Conditional Use Permit – Construction of a new single-family dwelling. (Application PL-14-02351)**

Chair Strachan resumed the Chair.

Planner Astorga reviewed the application for a steep slope conditional use permit on a vacant platted lot at 429 Ontario Avenue. The Planning Department received a complete

application for a single family dwelling, which is a permitted use in the zone. However, a conditional use permit is required for building over a slope of 30% or greater if the structure is more than 1,000. This application fell into that requirement. Planner Astorga reported that concurrently with this application they were in the final stages of finalizing the Historic District Design Review.

Planner Astorga stated that the application meets the building footprint. This is an interesting lot as indicated on the survey. It has a platted easement for access. Planner Astorga stated that Ontario Avenue was built in an interesting way. Therefore, unlike other vacant lots where most of the houses are built with either a 10' foot front yard setback, or an 18' foot setback to park a vehicle on the driveway, this application does not have that ability because the platted easement prohibits parking a car. Therefore, the house needed to be offset approximately 16 feet from the front property line, which meets the setbacks. However, this created design issues. Planner Astorga noted that the applicant had gone through several iterations prior to the plan presented this evening.

Planner Astorga stated that another item for discussion was the roof height. He indicated gardening or planting features on the lot that were apparently used at some point. The Staff did not find any historical significance for the elements, but they did make a determination per the natural grade definition in the LMC, that the grade has been altered. Planner Astorga reviewed the site plan to show where a section of the house did not meet the maximum building height as viewed from the front elevation. It was approximately eight inches for a distance of three or four feet. Planner Astorga noted that Park City looks at the roof in terms of real time by looking at roof over topo and making sure that every point is below the maximum building height. Based on the manmade features and the specific definition of natural grade, he, along with the applicant and former Planning Director Thomas Eddington, determined that if the grade was not disturbed this site would meet the maximum height. Planner Astorga requested discussion by the Planning Commission the proposed height as it relates to the maximum building height. Planner Astorga noted that the project designer, Jeremy Pack, had to shrink the house many times before designing something they were all comfortable with and could recommend to the Planning Commission.

Planner Astorga commented on the roof pitch an read from page 275 of the Staff report, "The primary roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch. He noted that in looking at the front elevation, the gable does not orient towards the street and it does meet the 7:12 roof pitch. However, the roof form over the garage is a flat roof but not a green roof. Planner Astorga asked the Commissioners for feedback on whether or not it falls under the provision, "A roof that is not part of the primary roof design

may be below the required 7:12 roof pitch.” He noted that as viewed from the front elevation the garage and the house appear to be separate. However, the other elevations show two levels of house underneath the garage. Planner Astorga remarked that there was some gray area between the house and the garage.

Planner Astorga stated that if the Planning Commission could not make the finding, the applicant has two options. First, they could make it into a green roof, which would meet the definition. The second option would be to extend the roof, which would be more difficult because the applicant is required to have two parking spaces. The applicant was proposed tandem parking, is allowed in Old Town. Planner Astorga remarked that the applicant was not meeting the building height as currently proposed with the flat roof. However, an exception in the Code can be granted on a downhill lot. When the Code was written the Staff discovered that on a downhill slope it may not be possible to have a tandem garage and still meet the height. For that reason the exception was added. Planner Astorga clarified that if they put a roof over the garage structure, the applicant may still come back and request a height exception, because he is hindered by the required roof pitched of 7:12 and 12:12, versus the appropriate length necessary for a tandem garage.

Planner Astorga stated that other than the requested discussion on maximum building height as measured from natural grade, and the roof over the garage, the Staff finds compliance with all the other parameters of the HR-1 District. Following the discussion this evening, the Staff recommended that the Planning Commission conduct a public hearing and consider approving the steep slope conditional use permit according to the findings of fact, conclusions of law and conditions of approval in the Staff report.

Planning Manager Sintz asked if the applicant could do a pitched roof and obtain a height exception from the Planning Director for a downhill lot to meet the tandem garage scenario, and still meet Code. As currently designed with the flat roof, they would need an exception that would give approximately 32 feet. If they were to add a pitch, it would be significantly more. The maximum limit on the exception is 35'. Therefore, the applicant most likely could not do a pitched roof and still request the exception. Ms. Sintz asked what the height exception request for the garage would be if they did an interpolated grade across the site similar to the other side. In that scenario with a flat roof, Planner Astorga believed it would be under the 35' maximum. Ms. Sintz assumed the applicant could then do a pitched roof up to 35' if the grade was interpolated. Planner Astorga answered yes.

Chair Strachan thought they could only do it if they could not find that the existing grade was the controlling point. Ms. Sintz stated that it was obvious that the grade has been manipulated. The Staff has worked with applicants in the past to see if an interpolated grade across the site reveals another identifying point on the lot. Planner Astorga remarked that the house is tight and setback exactly ten feet, which is the requirement.



The garage is right to the edge of the driveway. He believed this was one of the few sites where the LMC has done a good job regulating the bulkiness of the structure because it is so tight everywhere. Chair Strachan remarked that there are some difficult lots in Old Town. Planner Astorga agreed, and noted that those lots are the last ones to be developed.

Commissioner Worel noted that Condition of Approval #7 requires a certified topo survey of the property. Planner Astorga replied that he did have a certified topo survey. He believed the language in Condition #7 was a standard condition of approval. Commissioner Worel clarified that the topo they were measuring against was the certified topo, and they would not be seeing another topo. Planner Astorga answered yes.

Chair Strachan opened the public hearing.

Scott Coty stated that he lives at the end of the right-of way and has for 31 years. His main concern was parking. Mr. Coty hoped the garage is large enough to for two cars. Many times he has not been able to get into his driveway with all of the construction going on at the end of his driveway between this project and another project. Mr. Coty understood that the property can be developed, but again, his main concern is property and his ability to reach his house. Mr. Coty had no other objections. He liked the looks of the house and he thought it would add value to the neighborhood.

Chair Strachan noted that two parking spaces is required by Code and the Building Department will check the size of the parking spots before issuing a Certificate of Occupancy.

Jeremy Pack, representing the applicant, stated that in addition to parking two cars in the garage, here would also be room to park cars in front of the garage. Planner Astorga stated that for the benefits of Lots 1, 2, 25 and 16, no off-street is allowed in the driveway easement. Mr. Pack identified a flat area away from the easement that would be used for additional parking. Planner Astorga questioned whether the concept described by Mr. Pack would comply with the Historic District Design Guidelines. He recommended that Mr. Pack provide two parking spaces in the garage and have their guests park at China Bridge.

Chair Strachan closed the public hearing.

Commissioner Worel liked the design. At first glance thought there was a deck on top of the garage but later realized there was no access to it. She asked if a deck was ever contemplated because there are railings. Mr. Pack indicated a ladder type structure that leads to the top of the garage. Planner Astorga clarified that it was not meant to be habitable space. Mr. Pack agreed. Planning Manager Sintz stated that originally when the

flat roof exemption when in and stated that it had to be a green roof, it was to prohibit the use of flat roofs for patio areas.

Commissioner Band was comfortable with the interpolated grade. She did not think the planter boxes should be part of grade. She liked the proposal.

Commissioner Phillips had no issues and supported the design. He did not believe the area where the height exceeded the maximum by 8" was enough to make the applicant redesign the house. Commissioner Band understood that the interpolated topo would put the height under the maximum. Planner Astorga answered yes.

Commissioner Campbell commended Mr. Pack on the design. He believed Mr. Pack had the experience to know that it was not only a difficult lot to design but it would also be difficult and expensive to build on. Commissioner Campbell thought the Planning Commission should be prepared to see more of these application come before them because only the difficult lots are left to build in Old Town. He suggested finding a way to standardize the approval process for these applications because they add more value to the neighborhood than vacant lots. Planner Astorga pointed out that these lots are also difficult for the planners to review.

Commissioner Joyce was astounded that any could design a house and build it on such a steep lot between two houses. He did not have any problems with the flat roof. He supported the proposal.

Commissioner Thimm thought this was a good solution to a difficult problem. He believed the definition of natural grade and the interpolation point was the correct interpretation. Commission Thimm thought tandem parking was a good resolution of an issue that exists due to situations beyond their control. He referred to a conversation earlier this evening about contemporary versus more traditional architecture. He believed the two blended together well in this circumstance and he thought it was a nice solution. Commissioner Thimm thanked the Planning Staff for working with the applicant to achieve a resolution that everyone could feel comfortable with.

Chair Strachan stated that he had the minority opinion. He thought the Code specifically says existing grade as defined; and the term "interpolated" does not even exist in the Code. Chair Strachan stated that terms of convenience read into Codes are the devils of the Code reader. He was not opposed to flat roofs, but per the Code they have to be green. He understood that the lots are difficult, and in this situation where it was apparent how the Commissioners would vote, he suggested that the Staff put a definition of interpolated grade on the list of changes to the LMC.

Planner Astorga noted that the definition of Natural Grade was outlined on page 277 of the Staff report, and he had underlined the sentence, "The Planning Department shall estimate the natural grade if not readily apparent." Planning Manager Sintz thought the interpolated grade was more of a realistic expectation of what natural grade was than the modified grade that was created by adding the planter boxes causing the unnatural condition.

Chair Strachan stated that while it might be true, it was not in the Code. Ms. Sintz would argue that it is. Her interpretation was opposite of how Chair Strachan read it. In her opinion, interpolated takes the grade back to more of what the natural grade would be to give a fair shot at what the rest of the lot reads. Based on Ms. Sintz comment, Chair Strachan questioned why they would have "existing grade" defined in the Code as "the grade prior to any proposed development". He reads that to mean the proposed application. Ms. Sintz acknowledged that she and Chair Strachan were interpreting the same language differently. Chair Strachan clarified that he was not saying it was unfair or absurd. His issue is that it was not in the Code.

Commissioner Band thought Chair Strachan made a good point and she agreed that it needed to be clarified in the Code. Chair Strachan reiterated his request to put it on the list of LMC changes to be considered. Commissioner Campbell suggested that it should be a separate discussion and not when they have an application in front of them. He thought they should approve this application and allow the applicant to move forward; and then use it as a model for their discussion to draft language that is clear for future applications. The Commissioners agreed.

MOTION: Commissioner Worel moved to APPROVE the Steep Slope Conditional Use permit for the construction of a new single family dwelling at 429 Ontario Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the Staff report. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 429 Ontario Avenue

1. The property is located at 429 Ontario Avenue.
2. The property is located in the Historic Residential-1 District.
3. The property is Lot 2 of the Anderson Re-Plat.
4. The applicant requests a Conditional Use Permit for construction of a new-single family dwelling.

5. The total proposed structure square footage is greater than 1,000 square feet, and would be constructed on a slopes greater thirty percent (30%) or greater.
6. A Historic District Design Review application is concurrently being reviewed by staff for compliance with the Design Guidelines for Historic Districts.
7. The proposed structure is 3,385 square feet, which includes the 385 square foot two (2) car tandem garage.
8. The proposed main floor is 599 (plus the garage).
9. The proposed lower floor is 1,244 square feet.
10. The proposed sub-1 lower floor is 1,157 square feet.
11. The property is 3,750 square feet in size.
12. The maximum building footprint is 1,519 square feet.
13. The proposed building footprint is 1,518.42 square feet.
14. The minimum front and rear yard setbacks are ten feet (10').
15. The proposed front yard setback is sixteen feet (16').
16. The proposed rear yard setback is ten feet (10').
17. The minimum side yard setbacks are five feet (5') minimum, ten feet (10') total.
18. The proposed north side yard setback is six feet (6').
19. The proposed south side yard setback is five feet (5')
20. The proposed structure is to comply with the building height parameters outline in the Land Management Code.
21. The proposed structure complies with the maximum building height parameters.
22. The proposed structure is located towards the center of the lot with a sixteen foot (16') front yard setback and a ten foot (10') rear yard setback.

23.The applicant submitted a model, and streetscape renderings showing a contextual analysis of visual impacts.

24.The proposed structure cannot be seen from the key vantage points as indicated in the LMC Section 15-15-1.283, with the exception of cross canyon view.

25.The cross canyon view contains a back drop of three and four (3 & 4) story buildings.

26.The building is located in a neighborhood of similar structures and is completely surrounded by developed sites.

27.The platted lot contains an access easement for the benefit of lots 1, 2, 25, & 26.

28.The plat also indicates that no off-street parking is allowed in the driveway easement.

29.The proposal uses the access easement into a two (2) car tandem garage.

30.According to the submitted site plan only one (1) retaining wall is proposed.

31.The proposed retaining wall is set up along the northeast corner of the proposed structure running north towards the neighboring house.

32.The proposed retaining wall replaces an existing wall which supports the platted driveway easement.

33.The retaining wall will meet the Land Management Code development standards as they are permitted to not exceed six feet (6') above final grade when placed in the side yard setback areas.

34.Due to the topography of the site, from the front elevation the site resembles a one (1) story building with a significant cut as the proposed structure is a three (3) story single-family dwelling as seen on the other three (3) elevations.

35.The maximum building height of 27 feet make the proposed lot follows the perceived natural topography of the site. The rear portion of the garage, per the proposed tandem garage exception, breaks the twenty seven foot (27') maximum.

36.The front façade is broken up which assists in providing front yard variation.

37. The main ridge orients with the contours and the street.
38. The tandem garage solution chosen, as affected by the platted driveway easement, minimizes the impact of the garage door on street.
39. The rear elevation is broken up as it contains rear access decks and the form has both vertical and horizontal small individual compartments.
40. The garage roof is completely different than the roof over the house as it is flat.
41. The portion of the house has the minimum 7:12 roof pitch.
42. The different pitch makes the garage subordinate in design.
43. The flat roof is not a green roof, per the Land Management Code's definition.
44. A green roof is defined as "A roof of a Building that is covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems. This does not refer to roofs which are colored green, as with green roof shingles".
45. The Land Management Code indicates that the primary roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.
46. The roof over the garage is simply not part of the primary roof pitch, therefore, that roof form may be below the required roof pitch.
47. As viewed from Ontario Avenue, the garage is found to be subordinate to the house as they have two (2) completely different roof forms.
48. The proposed structure is both horizontally and vertically articulated and broken into compatible massing components.
49. The design includes setback variations and lower building heights for portions of the structure on the rear elevation.
50. The proposed massing and architectural design components are compatible with both the volume and massing of single-family dwellings in the area comprised of

three and four (3 & 4) story dwellings.

51.The site has a man-made feature revealed by the certified topographic survey.

52.The man-made feature area created an effect on the site along the north side of the subject site as it has been flattened.

53.The Planning Department estimates Natural Grade, if not readily apparent, by reference elevations at points where the disturbed Area appears to meet the undisturbed portions of the Property.

54.The Planning Director has reviewed the topographic survey in terms of natural grade and finds that the site has indeed been disturbed as shown on survey and other evidence has been submitted to the Planning Department for review.

55.The Planning Director estimates that the elevation contours have been pushed to the front of the lot.

56.The Land Management Code designates a height exception for a tandem garage on a downhill lot in the Historic Residential-1 District.

57.Thomas Eddington, Planning Director, has reviewed the proposal and finds that the proposed tandem garage meets the criteria in order to receive the height exception for the tandem configuration garage.

#### Conclusions of Law – 429 Ontario Avenue

1. The Steep Slope Conditional Use Permit, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B).
2. The Steep Slope Conditional Use Permit, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

#### Conditions of Approval – 429 Ontario

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.
3. A final utility plan, including a drainage plan for utility installation, public improvements, and drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers prior to issuance of a building permit.
4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
5. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
6. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the Design Guidelines for Historic Districts and Historic Sites.
7. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges to confirm that the building complies with all height restrictions.
8. The applicant shall submit a detailed shoring plan prior to the issue of a building permit. The shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer.
9. This approval will expire on March 25, 2016, if a building permit has not issued by the building department before the expiration date, unless an extension of this approval has been granted by the Planning Commission.
10. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission, subject to additional changes made during the Historic District Design Review.
11. All retaining walls within any of the setback areas shall not exceed more than six feet



(6') in height measured from final grade.

12. As part of the Construction Mitigation Plan, an access plan for 421 and 417 Ontario will be provided.

5. **259, 261, 263 Norfolk Avenue – Consideration of the First Amended Upper Norfolk Subdivision Plat – Amending Conditions of Approval on Ordinance No. 06-55.** (Application PL-15-02665)

Commissioner Phillips recused himself and left the room.

Planner Astorga introduced Jerry Fiat and John Pelichoud, representing the applicants. He handed out two letters of public comment that he received after the packet was prepared.

Planner Astorga reviewed the administrative application amending conditions of approval of an approved ordinance 06-55. He stated that originally there was a triplex on the site that had illegal lockout units. The triplex structure was demolished and the site was replatted to three lots of record; 259, 261, and 263 Norfolk. When that application was approved in 2006, there were seven conditions of that approval, as outlined on page 316 of the Staff report. Condition #4 read, "Construction access to the lots is to be from King Road through the adjacent property to the west, as per the submitted construction easement agreements." Condition #5 read, "The construction easement agreements must be finalized and submitted to the City prior to receiving building permits". Planner Astorga noted that the application met all the conditions of approval. At that time the applicant's representative had the ability to secure access easement for construction through King Road; and not through Upper Norfolk, which was part of the condition of approval.

Planner Astorga reviewed a 2012 aerial photograph on page 330 of the staff report, which showed the three lots. He noted that there was secured staging area behind each of the lots which went over the 220 King Road property that is currently owned by Robert Sfire. In addition to the staging areas there was also an easement through 220 King Road to through the lot known as the Herman Property. Planner Astorga stated that the issue is that the Herman property lot had an expiration date and the construction easement would cease on December 31<sup>st</sup>, 2009. Therefore, when the property owners failed to receive their approvals through both the Planning Department through design reviews, and subsequently for building permits, they were in violation of the ordinance that approved the plat amendment creating the three subject lots.

Planner Astorga stated that since the King Road access is no longer an option, the applicant is requesting to come off Norfolk Avenue but still utilize the staging area that was obtained through the proper easements. He noted that the language on the 220 King

Road lot indicated the use of a construction staging area for two years from the time construction begins. Planner Astorga remarked that it was a difficult situation because due to circumstances the applicants were currently not meeting those specific conditions of approval.

Planner Astorga explained that the Staff asked the applicants to submit the plat amendment application again. The reason was not to amend the plat but rather to remove the conditions of approval, and to comply with the new plan as indicated by the applicant's representative in his project description. The language of the project description was included on page 317 of the Staff report, indicating what they would do to mitigate the construction.

Planner Astorga stated that since the applicant only has two years to build and they have a good area for staging construction materials, they would like to move forward and build each single family dwelling on all three lots at the same time. The Staff believed their proposal was an appropriate method of construction.

Jerry Fiat clarified that at the time he was the representative for the property owner and he had secured two different easements. One was for construction staging, which was the easement with Robert Sfire, and it would remain the same because the construction staging has not changed.

Chair Strachan asked if that easement would expire. Mr. Fiat stated that it expires two years after the start of construction. He clarified that the easement was purchased from Mr. Sfire to facilitate building the homes. The intent was always to build all three homes at one time. Mr. Fiat stated that what has changed is that he was the owner of the adjoining property at 200 King Road and he granted an easement across the property that expired after two years. The reason for the expiration was in case he wanted to build on that lot. Mr. Fiat pointed out that the condition of approval was in the ordinance but not on the plat.

Mr. Fiat stated that there was confusion over the matter and Assistant City Attorney McLean informed them that they had to go through the process of amending the ordinance with the condition of approval requiring access off of King Road. Mr. Fiat explained that the plan is to have all the staging materials and all the parking, dumpster and porta-pottys will all be off of Upper Norfolk.

Chair Strachan asked if they would be building a road from Norfolk through one of the lots to access the staging area. Mr. Fiat answered no. They would simply lift it up and over the site. Mr. Fiat clarified that even though he had granted that access, he never thought it was a viable access. It is a 1,000 feet of disturbance to get from King Road and 20,000 feet of re-vegetating. The property owner at the time gave the easement but they never

thought of it as a viable access. Mr. Fiat stated that there would be no parking or construction staging on Upper Norfolk. It would only be used for access.

Chair Strachan asked Mr. Fiat to explain how it would work when a cement truck goes up to pour the foundation. Mr. Fiat replied that there is a shared driveway for all three lots and the truck would pull into the unimproved upper Norfolk right-of-way. Chair Strachan wanted to know what would happen while the driveway was being built. He was concerned about the lack of room on Upper Norfolk. Mr. Fiat remarked that there was enough room because they had paid for an easement on the back. Chair Strachan was comfortable with the staging area but the issue was getting it ready. Mr. Fiat assured him that there was room to pull everything off the road.

Commissioner Joyce noted that many issues were brought up during the plat amendment discussions that were brushed off to be addressed during the Steep Slope CUP process. He understood that the Staff had re-evaluated the site and a Steep Slope CUP was not required. Commissioner Joyce pointed out that it was in a finding of fact that those issues would be addressed with the Steep Slope CUP. In reading the minutes for the plat amendment there was a lot of discussion regarding the position and location of the driveway and how it would be accessed. That was only one of the items that was mentioned throughout the minutes that was put off until the Steep Slope CUP.

Commissioner Joyce pointed out that some of the checks and balances that the previous Planning Commission relied on were now gone because the site was re-evaluated and it was determined that the percentage of slope was under 30%. Planner Astorga explained that removing the triplex completely changed the topography of the site. Based on that fact former Planning Director Eddington went on site and measured the grades. Planner Astorga stated that if Commissioner Joyce was more concerned with the access that was part of the original approval, none of that would be changing. Construction access would be the only change. Commissioner Joyce clarified that his issue was that when the Planning Commission approved the plat they chose not to address a number of their concerns as part of the plat amendment because they planned to address those concerns as part of the Steep Slope CUP. Now there is no CUP process he was concerned about addressing those issues.

Mr. Fiat stated that he did not have the list of concerns that Commissioner Joyce was referring to, but he could address the driveway. He explained that originally the proposal was to have individual driveways. That was met with opposition and they instead proposed two driveways. Since there was still opposition they opted for a single shared driveway. Mr. Fiat remarked that a full detail of the proposed shared driveway was provided at the time and the City should have it on file. He pointed out that the driveway is in the City right-of-way and the City Engineer would have absolute control over it. The applicants have to

secure an agreement with the City for the driveway, which is the normal process. Mr. Fiat felt certain that there were no outstanding issues with the driveway.

Commissioner Astorga understood that Commissioner Joyce was concerned when the determination was made that the site no longer required a Steep Slope CUP, because when the Planning Commissioner approved the plat amendment they believed that the mitigating factors would be reviewed in that future process. Commissioner Joyce clarified that he would not have an issue with it if he had not read through the past meeting minutes and saw how many times specific concerns were pushed off to the CUP process. Chair Strachan recalled that nightly rentals and lockouts were two concerns that they intended to address with the Steep Slope CUP. Mr. Fiat noted that the applicants had volunteered not to have lockouts. That was specified in the conditions of approval and it would not change.

Assistant City Attorney McLean clarified that the language in the conditions of approval says no accessory apartments. Mr. Fiat was unclear on the difference between a lock out and an accessory apartment. Planner Astorga understood that when the concern was raised, the applicant stipulated to adding that specific plat note and that would not change.

Planner Astorga asked if Commissioner Joyce would feel more comfortable if the Staff conducted a Steep Slope CUP analysis to try and mitigate the identified concerns from 2006. Commissioner Joyce understood that it would be an additional burden on the Staff but he thought it was a necessary step.

Commissioner Worel referred to page 350 of the Staff report, and noted that the Minutes from 2006 reflect that Planner Maloney said that the 14 criteria listed in the Conditional Use Permit section of the Land Management Code would have to be addressed and all issues would have to be mitigated prior to the applicant receiving a conditional use permit. That clarified that the Planning Commission intended to look at all 14 criteria. Planner Astorga remarked that in that same paragraph in the minutes Planner Maloney, who was the project planner at the time, also that noted that all three lots are on slopes greater than 30% which will require a conditional use permit prior to any development on the property. He pointed out that the plat amendment was done prior to demolition of the triplex, which is why the Steep Slope CUP was referenced.

Commissioner Campbell wanted to know who tore down the triplex. Mr. Fiat provided some background. He stated that the property was sold to an individual, David Dewer. The structure was 45' in height and it was built on the unimproved right-of-way. It had six units, three of which were illegal. When Mr. Dewer purchased the property and what was not included in the conditions of approval for the plat amendment, was the requirement to demolish the triplex structure before the plat was recorded. However, plat was recorded before the structure was demolished, creating an illegal structure that spanned all three

lots. When they looked at rebuying the property, they had conversations with Ron Ivie and found that the City was actually looking at demolishing the triplex. In those conversations, Mr. Fiat told Ron Ivie that if they purchased the property they would demolish the structure immediately, which they did. The grade was interpolated once the structure was removed. Mr. Fiat remarked that having to go through a Steep Slope CUP is a large burden and a time consuming process. They would like to build the houses this year.

Commissioner Campbell clarified that he was not pushing for the applicant to go through the Steep Slope CUP process. However, he thought it was important to at least look at the 14 criteria that the former Planning Commission thought they would be reviewing to address their concerns. Mr. Fiat stated that from his reading of the minutes, the Planning Commission was not saying that they had 14 concerns. He believed it was more to the point that 14 points are reviewed in a conditional use permit.

Commissioner Campbell was curious how the topography of the lot changed during the demolition. Mr. Fiat replied that the structure spanned the entire property and there were overhanging decks, which made it difficult to accurately determine the grade. Once the structure was removed the Planning Department measured all the way across from the high point to the low point and it was found to be 17% or 18% slope. Mr. Fiat clarified that the grade had not changed, it was just more accurately.

Chair Strachan asked if the determination that it would be subject to a Steep Slope CUP was made before or after the structure was removed. Planner Astorga replied that the determination for a Steep Slope CUP was made as part of the plat amendment. Mr. Fiat was uncertain whether a formal determination was ever made because it was never really addressed. He stated that he never actually read the conditions of approval and it was his fault for not paying attention to the comments. He has since learned a hard lesson that they need to read the conditions and the plat notes.

Assistant City Attorney asked if there was a determination letter by Thomas Eddington regarding steep slopes. Planner Astorga answered yes. However, the letter was not included in the Staff report because the applicant was requesting to remove the two conditions of approval. Planner Astorga noted that Finding #13 of Ordinance 06-55 reads, "The proposed lots have slopes of greater than 30% and are subject to a conditional use permit, construction on a steep slope review." Planner Astorga stated that he does not like doing that on the plats that he reviews because he never knows whether the applicant will choose to put their footprint on those exact slopes. He addresses that issue with the design review and building permits and when he receives a certified survey. That is when he can honestly say that the slope hits the threshold. Planner Astorga felt it was premature to make that determination at the time of the plat amendment unless it can be verified that the entire lot is over 30%.

Assistant City Attorney McLean stated that because the Finding of Fact was part of the plat amendment approval, and the Staff has indicated that the finding may not be accurate, in re-opening the ordinance, the Planning Commission needs evidence to show that it is no longer accurate so the Finding of Fact could be removed. Planner Astorga agreed. He suggested that the applicant could submit a survey for the Staff to review. He noted that a survey could not be submitted without a footprint and a proposed floor plan on the survey. At that point the Staff would be able to make a determination of whether or not the slope was 30% or greater. Ms. McLean thought they already knew the footprint because the discussion this evening is about where the construction will take place. Planner Astorga clarified that the Staff did not know the exact location of the footprints of the three lots. He would ask the applicant to provide a certified survey and to identify an approximate location of the footprint.

Commissioner Campbell thought that was unnecessary because when the applicant comes in for a building permit it would not be approved if the slope is over 30%. Planner Astorga stated that if he sees 30% or greater slopes, independent of what may have been said in a previous memo, he has the obligation to say that it hits the threshold. Commissioner Campbell understood that it would come back to the Planning Commission if the slope was found to be over 30%. Planner Astorga answered yes. However, he understood Commissioner Joyce's concern about the previous Planning Commission waiting for the CUP to address the issues.

Commissioner Campbell believed Mr. Fiat was right in saying that the 14 criteria in the LMC would have to be addressed in a Steep Slope CUP, but they were not 14 specific concerns that were raised. Commissioner Campbell pointed out that if the slope is less than 30% those 14 criteria would not apply to these lots. Assistant City Attorney McLean stated that the concern she was hearing was that according to the 2006 Minutes there was further discussion about factors related to the original subdivision, and those concerns would be addressed with the Steep Slope CUP. In this case the Staff is finding that a Steep Slope CUP is not required. However, since there is an existing Finding of Fact that talks about a Steep Slope Cup, and because they were re-opening the ordinance, she recommended that the issue be addressed to determine whether or not the Finding of Fact is accurate. If a certified survey shows that a Steep Slope CUP is not needed, the Planning Commission could determine whether other issues needed to be addressed as part of the subdivision.

Chair Strachan opened the public hearing.

Jeff Braebender, a property owner at 283 Upper Norfolk, adjacent to 263 Norfolk. Mr. Braebender appreciated that the applicants have a right and an opportunity to build on their

project, and they should. However, he was concerned with the staging area behind 263. There is a large stand of mature scrub oak, and he would not want that disturbed or torn out for the convenience of a staging area because they would not be able to return it to its existing condition. Mr. Braebender requested that the language be strengthened to address the impacts to the staging area. He pointed out that there was still a significant amount of space that could accommodate the staging without disturbing the stand of scrub oak. Mr. Braebender stated that his second issue was treating all three lots as though they were the same, because they are not. When looking at the slope he thought the lots need to be addressed individually and not together. Mr. Braebender commented on access and he referred to the 25 feet of green space by Norfolk Avenue that is owned by the City. He understood that the applicants intend to cut a driveway where the bare land is but leave that green space. He did not believe that made sense and he thought the Commissioner would draw that same conclusion if they visited that area. Mr. Braebender stated that no one should dig a tunnel through there and leave dirt alongside of the road. The road is one car length wide in that spot. He thought it would be an opportunity to take out that space and provide direct access into those spots and to provide additional parking spaces. It would improve the road at the same time. Mr. Braebender believed his suggestion would also resolve the staging area problem. In his opinion, this was an opportunity for the City to work with the developer and spend City money to fix problems that already exist, especially for the people living from 302 through 256 who have difficulty getting in and out of their driveways now. He believed that at some point the City would have to address fixing Norfolk Avenue and this would fix at least 25% of it in conjunction with this project.

Ed DiSisto, a resident at 244 Upper Norfolk, stated that the original plan to stage the access and the mitigation behind was considered because of the problems that would occur if it was done on Norfolk Avenue. He noted that five years ago two people died on Norfolk Avenue and it is uncertain what can happen or when it will happen. There have always been problems with emergency vehicles getting all the way down the street to assist people in need. Mr. DiSisto remarked that the proposal says nothing about construction parking, particularly when three lots are being built at the same time. He also had a personal concern. He indicated a retaining wall and noted that the City gave Mr. Pack and Don Holbrook permission to build a retaining wall to create parking spaces for 244, 238 and 236 Norfolk. In one of the first plans that Mr. Fiat proposed, he wanted to cut down half that wall to create an ingress and egress to the project. That plan was reviewed and it was determined to be a bad idea primarily because of the slope. There was also an agreement with the City to have that wall there. Mr. DiSisto was concerned about a precedent of the City giving permission to someone and then taking it away and giving it to someone else. Mr. DiSisto wanted to make sure that nothing is allowed to creep in that would allow something like that to happen again. He remarked that there is nowhere for large construction trucks to turn around on the road, and traffic would be backed up or blocked waiting for those trucks to move. He was also concerned about storing the

excavated dirt, and he questioned how much of the staging area would be taken away for storing. Mr. DiSisto had not seen a mitigation plan, and he was left to rely on a few sentences in the Staff report, which he believed left it open for the applicants to do whatever they want.

Chair Strachan closed the public hearing.

Commissioner Campbell felt that he had sent the wrong message by misreading the 2006 Minutes. In re-reading them, he reiterated that the applicant was correct in stating that the 14 points of the Steep Slope CUP has nothing to do with particular application. He believed the question was whether or not a Steep Slope CUP was required, and Planner Astorga was indicating that it was not. Commissioner Campbell pointed out that if that assumption is wrong and the Staff finds that a Steep Slope CUP is required, it would come back to the Planning Commission.

Chair Strachan asked what legal standard was being applied. He personally has never been involved in amending an ordinance. Assistant City Attorney stated that it was not called out in the Code; and she believed it goes back to the original ordinance. The applicants have the right to build on their property and they have platted lots. The objective is to correct what was previously done. She believed it was more akin to a regular subdivision process when amending the original ordinance. Chair Strachan agreed. Using the example of an MPD, when a design is materially changed from an approved MPD, the whole MPD comes back for review. He believed that changing or removing one or two selected conditions of approval is like a stack of dominoes because they are all intertwined. Ms. McLean stated that the Planning Commission needs evidence to show that the slope is less than 30% so the Finding of Fact that talks about the Steep Slope CUP can be removed. Chair Strachan could not find a Code section that allows an applicant to amend a past ordinance. The closest process is when an applicant fails to record the plat on time and they have to start the process over. He was unsure which Code section they could cite to validate that they were following the Code by amending this ordinance to eliminate a condition of approval. He was uncomfortable doing that without following something specific in the Code.

Assistant City Attorney McLean stated that ordinances, by their own nature, can be amended. It would be a new ordinance that amends the prior ordinance. She noted that it has been done before and cited examples. Ms. McLean clarified that the lot lines were not being changed to change the plat. The request is to change the access that was identified in the conditions of approval. She stated that the Planning Commission has the purview to look into whether or not it is a Steep Slope CUP because that is a specific Finding of Fact #13. They also need to understand why the conditions of approval are there, and that those concerns have been met.



Commissioner Joyce stated that separating his issue with the Steep Slope CUP, and focusing on the access issue, he would need to delve into some of the impacts addressed in a construction mitigation plan before he could be comfortable removing the requirements. He needed to be convinced that their plans for construction staging, etc., would not greatly impact the neighbors or the road. Mr. Fiat noted that he specifically stated that there would be no parking on the street. He currently has three projects in progress and not one construction worker's car is parked in any part of the public right-of-way. He noted that he is allowed two parking passes to park on the street and he never takes them. He secures off-street parking for all of the workers, and sometimes that involves a shuttle to the work site, renting parking spaces or paying people to use their parking spaces. He lived on a street and he knows how angry he gets when someone takes is parking. Commissioner Joyce thought the problem was greater than just upsetting a neighbor. The street is very narrow and if one construction truck is stopped to unload, emergency vehicles are blocked from accessing the road. He needed to hear and understand their plan before he would consider removing the conditions of approval.

Mr. Fiat was prepared to talk about the specifics of the plan. Chair Strachan understood that Commissioner Joyce was looking for evidence that the plan would work, as opposed to having Mr. Fiat just talk about it.

Commissioner Thimm agreed with Commissioner Joyce. He noted that a condition was made and to whatever degree is was part of the premise for the approval. He thought that issue needed to be revisited so the Commissioners could understand exactly how the access would happen. He was willing to accept that it may work, but at that moment the Planning Commission had nothing in front of them to support it, other than Mr. Fiat telling them that it will work based on examples of other sites. Commissioner Thimm asked Assistant Attorney McLean how they should address the Finding regarding the Steep Slope CUP. Planner Astorga stated that if he had been the project planner in 2006 he would have written the Finding to say, "if there are any slopes of 30% or greater and the house sits on them, then it shall require the Steep Slope CUP application." Commissioner Thimm agreed that it would be better language, but the Finding was not written that way. Planner Astorga clarified that they could rewrite the Finding with that language. Ms. McLean agreed that it could be one way to address the issue. The other way would be to come back with a copy of a certified survey.

Commissioner Joyce was comfortable that if the steep slopes were determined, it would come back to the Planning Commission. He reiterated that his frustration was that the previous Planning Commission had concerns, but they did not spend time on them because throughout the minutes they kept saying it would be addressed in a Steep Slope CUP. He thought it was a fundamental assumption of their approval, and they disregarded

some concerns in an effort to deal with them later. The problems that were kicked down the road now have nowhere to go to be addressed. Commissioner Joyce remarked that a having a certified survey would not address his concern.

Commissioner Band thought her fellow Commissioners had done a good job stating the problem.

Commissioner Worel was still hung up on the statement by Planner Maloney that all three lots were on slopes greater than 30% which would require a CUP. He hoped that he had based his statement on something that could back it up, such as a survey or something else that was submitted as part of the proposal. Commissioner Worel believed that all of the decisions made by the Planning Commission and the City Council at that point in time were, in part, based on the Steep Slope CUP. She asked the Staff to research whether or not there was a past survey that they could compare with a current survey. Planner Astorga noted that there was not a current survey on the land.

Commissioner Band asked if they needed to treat this as a new application. Assistant City Attorney McLean stated that the applicant submitted an application to amend the ordinance. It was called the First Amended of the Subdivision, and the applicant was requesting to amend the subdivision plat to remove two conditions, and to address the finding of fact was not accurate.

Chair Strachan noted that Findings of Fact 13-17 say that the proposed lots have steep slopes greater than 30%; that there is not sufficient area on the property to conduct construction staging; Norfolk Avenue and Upper Norfolk are substandard narrow streets on steep hillside; on-street and off-street parking on Upper Norfolk and Norfolk is significantly limited due to steep narrow streets; snow removal and emergency access. Chair Strachan remarked that at a minimum, they needed to get evidence in the record to mitigate those findings. He thought it should be done through a very detailed construction mitigation plan or some type of submittal that addresses, for example, Finding #17, snow removal and emergency access. Without some type of plan to address those particular findings of fact, he was not sure they could say the potential impacts have been mitigated, which they are required to do by Code.

John Pack, stated that he flew in from Chicago to attend this meeting. He used to live in Park Meadows and he now lives in Chicago. He and his wife purchased the property at 263 Norfolk from the bank. He understood that the Planning Commission wants to be responsible to all the parties involved and work towards solutions, and he appreciated that. Mr. Pack stated that when he purchased the property in 2010 he and his wife did a significant amount of research to make sure it was a good parcel. They looked at the plat, the title record, and consulted an attorney. He noted that none of the issues raised this

evening were ever mentioned. There was never a hint that these issues could have existed. Therefore, they purchased their property believing it was a buildable lot. It was only later that they realized that the ordinance had not been properly recorded on to the plat. Mr. Pack felt like an innocent party in the matter because after doing his due diligence he still had no knowledge of these prior issues. He thought the Commissioners had a legitimate concern regarding emergency access, and he agreed that it was important to address those issues because it is a matter of public safety. Mr. Pack asked the Planning Commission to be sensitive of the fact that he was not involved in the previous process and he and his wife thought they were buying a piece of property in a beautiful part of Park City where they could build a nice, historically relevant home. He hoped they could reach a conclusion that meets the City's needs as well as those of the applicants.

Assistant City Attorney McLean understood that people do not always know where to look for ordinances; however, this ordinance was correctly passed and published and met all the legal requirements. She clarified that ordinances do not always get recorded against the property. Ms. McLean stated that thanks to the efforts of Mr. Fiat, the City has changed its procedure to give people more notice of the ordinance numbers and the ordinance number now put on the plat. But at that time the ordinance was legal. Not having it on the plat did not create a deficiency in the ordinance.

Mr. Fiat stated that the hard language is his letter that was included in the Staff report says that all staging, parking, deliveries, cranes, dumpster, porta-potty's, etc., will be off the driveway servicing the three lots, or on the properties and additional staging area in the rear of the properties. No shall park in the neighbors' parking spaces or outside the driveway servicing the lots. He believed that language was stronger than anything he has typically done in Old Town. He thought it was clear that they would not impede any emergency vehicles or snow removal. Mr. Fiat was comfortable making the language part of the construction mitigation plan, or even part of the ordinance.

Chair Strachan stated that there still needs to be evidence that a fire truck or other emergency vehicles are certain dimensions and how much right-of-way they need for access. Mr. Fiat was unsure how he could provide that evidence. Assistant City Attorney McLean told Mr. Fiat that the Planning Commission was asking for a construction mitigation plan in writing, and that there be some analysis of the other terms, which were pushed off at the original plat based on there being a Steep Slope CUP, as well as some analysis from Staff as to how those are addressed currently.

Commissioner Campbell thought construction mitigation plans were the purview of the Building Department. Ms. McLean replied that the Building Department handles the construction mitigation plan, but when there are issues related to the platting, the Planning Commission can add conditions of approval related to the construction mitigation plan.

Commissioner Campbell agreed with Chair Strachan that the letter from the applicant did not give enough teeth. He clarified that if the Planning Commission was forwarding an amendment to the City Council which would basically become a new ordinance, they could add anything they wanted to the ordinance. Ms. McLean replied that this was correct. Commissioner Campbell thought they could add a condition stating that these notes would be incorporated in the new ordinance and move this forward this evening.

Commissioner Band agreed. She thought they could add conditions of approval regarding the staging, construction vehicles, dumpsters, etc. that holds the applicants to do what they have stated they intend to do. She believed they could do that this evening rather than require the applicant to come back. Commissioner Band stated that she was trying to find a solution without requiring the applicant to do studies.

Commissioner Joyce pointed out that the original intent of the conditions of the approval was to take construction off of Upper Norfolk and keep it on King Road. The fact that they are building three houses simultaneously puts three pieces of construction traffic in a significantly small area at one time.

Chair Strachan clarified that he was not suggesting that the applicant do a study. He just wanted to see something in writing showing how they propose to keep the trucks off the road. Chair Strachan thought it was important to see the construction mitigation plan. Mr. Fiat stated that he has already submitted a full construction plan to the Building and Planning Departments. Planner Astorga clarified that what they received was a site plan. There was nothing regarding construction mitigation. Planner Astorga understood that Chair Strachan wanted to see a mitigation plan that addresses Findings 13-17 to see how the applicant intends to mitigate the findings from 2006. Chair Strachan was not opposed to drafting new findings if that was a better approach.

Mr. Fiat pointed out that if they make it a condition of approval, Code Enforcement would make sure that the conditions are met. Chair Strachan wanted mitigation measures that would keep it from going as far as Code Enforcement. In order to fulfill their responsibility to mitigate what they know are impacts, they need something in writing to support an approval.

Chair Strachan called for a motion.

MOTION: Commissioner Joyce moved to CONTINUE 259, 261, 263 Norfolk Avenue, consideration of First Amended Upper Norfolk Subdivision Plat to May 13, 2015. Commissioner Worel seconded the motion.

Planning Commission Meeting  
March 25, 2015  
Page 69

VOTE: The motion passed 4-1. Commissioner Campbell voted against the motion. Commissioner Phillips was recused.

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

Approved by Planning Commission: \_\_\_\_\_