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

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

Planning Director Thomas Eddington; Kayla Sintz, Planning Manager; Kirsten Whetstone, Planner; Francisco Astorga, Planner; John Boehm, Planner; Polly Samuels McLean, Assistant City Attorney

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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

February 11, 2015

Chair Worel corrected the address 98 Hidden Splendor Court to correctly read **9 Hidden Splendor Court.** She noted that the correction needed to occur on page 2 of the minutes in both the second paragraph and in the heading under Regular Agenda, and in the Motion.

Commissioner Thimm referred to page 6 and the statement that the applicant was "bothered" by Commissioner Band's statement. He thought the applicant's reaction should be characterized more as "concerned" regarding her next steps. Commissioner Band recalled that the applicant was a little alarmed by her comments. However, given the extent of the discussion and the fact that there was no recording, she was comfortable with the wording as written.

MOTION: Commissioner Joyce moved to APPROVE the minutes of February 11, 2015 as amended. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington reported that the Form Based Code/Bonanza Park discussion was going back to the City Council on March 5th. Information from the last meeting would be incorporated in the hopes of getting direction from the City Council. The Planning Commission could see it as early as the following month.

Commissioner Strachan stated that he would be recusing himself from the PCMR/Canyons connection discussion this evening since his firm represents the applicant in various litigation matters.

It was disclosed that six out of seven Commissioners have an Epic Pass.

CONTINUATIONS (Public Hearing and Continue to date specified.)

1. Alice Claim south of intersection of King Road and Ridge Avenue – Subdivision and Plat Amendment (Application PL-08-00371)

Chair Worel opened the public hearing.

Carol Sletta, a resident at 135 Sampson, was disappointed years ago when the City did not see Woodside Gulch, Alice Claim, Alice Lode as a candidate for open space. The area is well used as a hiking, biking, snowshoeing and moose trail, and it is a beautiful mountainside. The City is now looking at a nine house subdivision. She questioned why they would want a nine home subdivision on the last beautiful hillside in Old Town, and a large retaining wall replacing large evergreens. Ms. Sletta was certain the City had done a study on the impacts the subdivision would have to the neighborhood. She was unsure how they calculate number of houses, number of cars, etc., but she was interested in seeing the findings. Ms. Sletta was concerned about traffic and the impacts at the intersection of Ridge and King Road. On a good day the intersection can be problematic and during the winter it can be dangerous and difficult to navigate. The intersection is also used by the Resort to access their route to the mountain maintenance and other buildings. Ms. Sletta stated that the thought of multiple construction projects occurring in the neighborhood at the same time was concerning. In addition to several projects in progress at the north end of Sampson, other projects approved in that location, as well the approved projects on Anchor Ridge, she could see major problems for public safety and access to the neighborhood. She asked if all the traffic would be traveling through the King Road/Ridge intersection. Ms. Sletta provided an example from last summer when a construction site on Sampson would often close the street going north at the same time a

water pipeline installation would close the road on the south at the intersection of King and Ridge. She would have to ask the workers to move their cars or equipment so she could leave Sampson Avenue. Ms. Sletta stressed the importance of making sure that mitigation plans are enforced. She asked the Commissioners to consider a scenario that would impede emergency vehicles because of the projects and related traffic. She believed this project was more than what the neighborhood could handle.

Chair Worel closed the public hearing.

Chair Worel understood that the applicant had asked that this item be continued to March 25th rather than March 11th as indicated on the agenda. Planner Alexander noted that the agenda was fairly full for March 25th. If the Commissioners preferred, the applicant was amendable to a continuation to April 8th.

MOTION: Commissioner Strachan moved to CONTINUE the Alice Claim Subdivision and Plat Amendment public hearing to April 8, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

2. Alice Claim south of intersection of King Road and Ridge Avenue – Conditional Use Permit for retaining walls up to 25' in height **(**Application PL-15-02669)

Chair Worel opened the public hearing. There were no comments. Chair Worel closed the public hearing.

MOTION: Commissioner Strachan moved to CONTINUE the public hearing on the Alice Claim CUP to April 8, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 9 Hidden Splendor Court – 9 Hidden Splendor Re-Plat – Plat Amendment to combine four lots into a single lot of record (Application PL-15-02535)

Planner John Boehm reviewed the application for the proposed 9 Hidden Splendor subdivision plat. The applicant was requesting a plat amendment to combine four existing lots into a single lot of record. The lot combination would involve Lots 82 and 82A, and the remnant lots of 83 and 83A of the Thaynes Canyon Subdivision.

Planner Boehm stated that it was important to understand the history of the neighborhood in order to fully understand this application. He noted that the Thaynes Canyon Subdivision Plat was originally approved by the City Council in July 1971. In February 1977 an addition to the Thaynes Canyon subdivision plat was approved adding lots 65A through 84A to the subdivision. Planner Boehm pointed out that the added land was a remnant of the Park City Golf Course that was not utilized or maintained by the golf course. The land was added to the Thaynes Canyon Subdivision with several conditions that were outlined in a March 23, 1977 agreement between the City and the Royal Street Land Company, who was the developer at the time. Planner Boehm explained that the 1977 Land Use Agreement limits the use of these added "A lots" to landscaping or private recreation facilities. The agreement also mentions that garages may be built in these areas, but only if approved by the City through a Conditional Use Permit.

Planner Boehm stated that the only prior approval of a plat amendment involving these A lots that the staff could find involved a property directly to the south of the subject property. On July 25, 1996 the City Council approved a four-lot combination for the 13 Hidden Splendor Subdivision known as the Eriksen Plat. A note was added to the new plat to ensure a continuance of the 1977 agreement. Planner Boehm reported that in keeping with the 1977 agreement the City approved a Conditional Use Permit for construction of a garage in the former A lot in August 1996. He noted that 380 square feet of this garage encroached into the former A lots.

The Staff had analyzed the proposed plat amendment and recommended that if approved, a note be placed on the new plat to ensure continuance of this 1977 agreement. The Staff also found that lot combinations in the single family zone where this proposed plat is located requires a restriction on the maximum house size allowed on the combined lot. Planner Boehm stated that in subdivisions where maximum house size is not specified, such as Thaynes Canyon, the Planning Director must determine the maximum house size based on neighborhood compatibility. The Staff worked with the Planning Director to make the determination outlined in the Staff report.

Planner Boehm stated that given the precedence established by the 13 Hidden Splendor Plat Amendment, the reduction in allowed house size and the proposed continuance of the restrictions of the 1977 Land Use Agreement, the Staff found good cause for this plat amendment.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval found in the draft ordinance.

Marshal King, with Alliance Engineering and Solem Casparic, the project architect, were the applicant's representatives.

Commissioner Strachan asked if there was a mechanism to keep the 1977 agreement in place without a plat note, or whether the plat note was needed to ensure that the A lots remain for recreational use or a garage.

Assistant City Attorney recommended that a note be added on the plat to ensure that the restrictions are identified. Director Eddington agreed that it was a good idea to match the recorded document. Commissioner Strachan asked if the note was placed on the Eriksen re-plat for the south lot. Planner Boehm answered yes.

Commissioner Phillips referred to the existing garage and understood that all four lots were combined for 13 Hidden Splendor. Planner Boehm replied that he was correct. Commissioner Phillips asked if the 10-foot setback for the house was maintained. Planner Boehm answered no. It is all one structure. The house encroaches into the setback and the garage goes into the A lots. Director Eddington clarified that it was allowed per a conditional use permit.

Chair Worel opened the public hearing.

Doug Stevens, the adjacent property owner, did not believed there was any question that building could not occur on the A lots. He thought the most unexpected impact would be how it affects and changes the neighborhood. Mr. Stevens stated that the applicant the applicant was not only asking for the lot combination, but also to eliminate the ten foot rear-yard setback. He did his own due diligence when he purchased his property and he looked at the property line for the normal lots and saw where the homes were built. He did a visual analysis of how any new construction would affect his property. Mr. Stevens stated that based on his due diligence he made the decision to purchase his property. He is now being asked to accept that a house could eliminate that 10-foot rear-yard setback. Mr. Stevens stated that it may not be a big issue on a lot by lot basis; however, there is significant open space back there and the natural tendency would be to move the built-environment back to the property line. Doing so would have a negative impact on the neighborhood. He and his neighbors believe the neighborhood should be developed by keeping the built environment and the mass of the built environment near the streets and not pushed back into the open area. Mr. Stevens did not oppose re-platting the property, but he would like to have the original setbacks from the original plat maintained.

Lori Sweeney stated that she lives on the lower right-hand side behind this lot. Ms. Sweeney agreed with Mr. Stevens comments. She stated that the open space is the gem of the neighborhood, and taking away or reducing the open space would financially impact

their homes. Ms. Sweeney was concerned that if they say yes to this applicant, what they would do with future applicants who make the same request, since several homes in the neighborhood need remodeling. Rules are in place and the setbacks are very important to the neighborhood. Ms. Sweeney asked the Planning Commission to make sure the setbacks are kept in place and to make those stipulations in this process.

Ruth Drapkin, stated that she lives on Lot 65 and 65A. When she purchased her home she put a lot of consideration into the open space in that area, as well as the character of the neighborhood. Combining the lots and allowing for a bigger home and not respecting the setbacks would not take into consideration the character of the neighborhood.

Chair Worel closed the public hearing.

Commissioner Joyce stated that he was in sync with the public comments. He was comfortable combining the lots and he had no issues with the house size because it was compatible with houses in the area. He clarified that before hearing public comment he had the same issues with moving the setback. Commissioner Joyce believed that when someone buys into a platted subdivision the building footprints are already defined and the neighbors should be able to count on that agreed-to legal document. In his opinion, when someone wants to change what is already in place to make it advantageous for them, the question is whether it creates negative impacts on the rest of the neighborhood. If the answer is yes, then the person who wants to change it should keep with the agreement they bought into when they purchased their property. Commissioner Joyce clarified that he had no problems with anything other than eliminating the 10' foot setback. He believed it was clear that when the A lots were deeded to the owners of the adjacent lots, it was done to protect that land for specific uses. He felt certain that the intent was to protect the open space in the back. Commissioner Joyce stated that his opinion would be consistent for anyone who would approach them about combining the A lots with their existing lots. He suggested the possibility of updating the 1970's document to be clear that if the lots are combined the 10' foot setback would remain.

Commissioner Band expressed her concern with the consistency logic because the City had already allowed Stein Eriksen to do it. He was allowed to replat and got a garage because of it. She stated that when they say yes to one it is difficult to say no to everyone else. Commissioner Band remarked that another part of the argument is that this is open space and it has been used as open space. However, the plat also allows basketball courts and garages with a conditional use permit, and she believed those uses could change the character of the neighborhood as well. In her opinion, it is not really open space it is just currently being used as open space.

Commissioner Joyce understood that the space may have other things in it, but when they gave the land to the owners they attached specific restrictions. He was trying to be very consistent with that intent. Commissioner Joyce was bothered by the Stein Eriksen issue. He thought it was a mistake that was made 20 years ago in a different time and place based on different judgment. Commissioner Joyce was surprised that the City had allowed Stein Eriksen to do what he did, but it was not a reason to continue making the same mistake.

Commissioner Band concurred, however, in their recent legal training they were told that once a conditional use permit is issued they needed to be consistent with other applications. She liked keeping the original setbacks and she was persuaded by Commissioner Joyce's argument, but she was unsure how they could deny the request when the precedent had already been set with a prior CUP.

Commissioner Phillips pointed out that this application was not a conditional use permit, which made it different. He agreed with Commissioner Joyce an echoed his sentiments. For whatever reason Stein Eriksen was allowed the Conditional Use Permit, he felt it was a mistake. Commissioner Phillips preferred to learn from that mistake rather than continue to make the same mistake. He had carefully looked at both sides of the issue and he believed they should not perpetuate the problem. Commissioner Phillips also struggled with the fact that there was no proof as to whether or not it affects the property owners, which they also learned from their legal training with the Ombudsman. Commissioner Phillips was divided on the matter but he reiterated his agreement with Commissioner Joyce.

Commissioner Strachan stated that changing the setbacks is generally not something he likes to do. He could not find the analysis for good cause for that part of the application in the Staff report; and he asked if there was good cause finding for the setback. Planner Boehm replied that the good cause analysis was only done for eliminating the lot line. Commissioner Strachan asked the applicant what good cause they would assert for eliminating the setback.

Marshal King with Alliance Engineering stated that after the lot lines are removed the setback becomes 50' to 55' on the owner's property, which is a considerable setback. Secondly, the existing house is only 7 feet from the line as it exists now. Therefore, they would be allowed to go an additional 7 feet to that lot.

Commissioner Strachan understood that the proposed ordinance would limit the maximum house size to 7,702 square feet. He questioned why that size of a house would not fit within the existing setbacks if the lot lines are removed. Mr. Casparic, the project architect, believed it would fit because currently they could build a 20,000 square foot house on the

parcel. Mr. Casparic noted that the lots were combined for Stein Eriksen and he built into the A lot. This applicant was not proposing to build into the A lot. They were not requesting a conditional use permit because they only want the ability to build to the A lot. Commissioner Strachan stated that if the applicant could build the proposed 7,702 square foot house on the lot within the existing setbacks, he could not see a good cause for changing those.

Commissioner Phillips concurred that the struggle was with the setback and not the size of the house. Commissioner Strachan clarified that house size was a separate analysis. Without that analysis he did not believe they could say for certain that there were no issues with the house size. It is a separate analysis that was not before them this evening.

Commissioner Strachan stated that in the end he agreed with Commissioner Joyce. He suggested that Findings of Fact #13 and #14 should be Conditions of Approval instead of Findings.

Assistant City Attorney McLean suggested that they also consider adding a Finding of Fact stating that the LMC has changed and that the good cause requirement came into effect after the 1977 agreement and the Stein Eriksen replat in 1996. Director Eddington stated that they should also add a Finding noting that this meets with the compatibility of the neighborhood and that the Planning Commission recommends that the 10-foot setback be maintained for all the A lots to keep it consistent. Commissioner Strachan noted that the good cause verbiage was referenced in LMC 15-7-7, Utah Code Annotated 10-98-609.

Mr. King pointed out that the agreement allows the owner the option to build a garage on the property. He remarked that the garage could still be built with the 10-foot setback but it would not be attached to the house. He understood that it was a separate issue from what was being discussed this evening. Commissioner Joyce replied that nothing in the agreement says that an owner has the right to build an attached garage versus a detached garage. Mr. King stated that if the 10-foot setback was put in on the original lot and someone wanted a detached garage in the back, he questioned whether the garage was better than having no 10-foot along the lot line. He asked if the agreement would go away and the owner would no longer be allowed to build the garage in that area.

Commissioner Strachan thought it was a question for the drafters of the 1977 agreement, and a question for the Planning Commission if a CUP application comes before them for a garage. Mr. King thought it was strange to allow a structure back there regardless of whether it is a garage or living quarter, and to have a 10-foot setback, because the idea of the setback is to keep anything from being built beyond the 10 feet. If the reason for the setback is to keep anything from going back there, he questioned why a garage would be

allowed through a CUP. Commissioner Strachan pointed out that it was a result of the 1977 agreement.

Commissioner Thimm thought it was important to look at this application through the lens of the policy that is already in place. The policy is that the Planning Commission could consider a CUP approval for a garage. When he visited the site and studied the documents, the question that kept coming up in his mind was whether removing the lot line removes the intent of what seems to be an established built-to line. Commissioner Thimm stated that he could not find that it would occur that way. Regardless of whether or not it happened in the Stein Eriksen parcel, he could not see perpetuating a decision based solely on that fact. Commissioner Thimm agreed with Commissioner Joyce that there was an establish inference of a build-to line at that point. Commissioner Thimm was comfortable combining the lots. He believed the Staff made good findings in terms of the allowable size of the house because it appears to be consistent with the neighborhood.

Commissioner Campbell agreed with Mr. King in principle, but he thought it was more than an inference. The 10-foot setback was there when this applicant and all the neighbors purchase their lots, and everyone had the same expectation. He could only support moving it if all the neighbors came in and supported moving it. Commissioner Campbell believed that when Stein Eriksen did his it was not in anyone's way, which is why the neighbors then, and probably now, did not object. From the comments this evening there was clear objection to moving the setback. In terms of the garage, Commissioner Campbell did not believe anyone expected it to be an attached garage. He agreed that the neighbors would not be happy if this applicant built a garage back there. He also agreed that the applicant has the right to build a garage in that location, but it would have to be a detached garage.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the plat amendment at 9 Hidden Splendor Court, according to the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance and as amended. Commissioner Joyce seconded the motion.

Commissioner Strachan clarified that the Findings of Fact were amended to include a Finding that the good cause requirement in the LMC and the State Statute came into effect after the original Stein Eriksen replat. Commissioner Campbell clarified that the setback remains unchanged. Commissioner Strachan stated that he could find nothing in the Conditions of Approval as written that changed the setbacks. Assistant City Attorney McLean recommended that they also add a Condition of Approval stating that any house building must be set back 10 feet from the original lot line adjacent to the A lots. Commissioner Campbell noted that they were already 7 feet away. He asked if it was appropriate to make it more restrictive. Director Eddington replied that it was an existing

non-compliant structure; therefore, if the structure is removed by any means other than an act of God or an accident, it would have to be built to the 10' setback. He suggested that they keep the language at 10-feet if they intend to implement the 10 foot setback.

Chair Worel asked if Commissioner Strachan wanted his motion to include moving Findings of Fact #13 and #14 into Conditions of Approval. Commissioner Strachan answered yes. He drafted a condition to read, "The original setbacks from the existing lot lines shall be maintained. "No setbacks shall be changed by this plat amendment." Commissioner Campbell thought the wording made it sound like 10-feet from the new property.

Assistant City Attorney McLean believed the Planning Commission's intent was clear. Before it goes to the City Council the Legal Department would review it to make sure that the language in the condition of approval is wordsmithed in a way to reflect their very clear intent.

VOTE: The motion passed unanimously.

Findings of Fact – 9 Hidden Splendor Court

1. The subject property is located at 9 Hidden Splendor Court within the Single Family (SF) District.

2. The proposed 9 Hidden Splendor Subdivision consists of Lot 82 and a portion of Lot 83, and Lot 82A and a portion of lot 83A, of the additions to Lots 65-84 Thaynes Canyon Subdivision.

3. On November 4, 2014, the applicants submitted an application for a plat amendment to combine four (4) lots containing a total of 32,083 square feet into one (1) lot of record.

4. The application was deemed complete on November 4, 2014.

5. There is an existing single-family home and detached garage on Lot 82 at 9 Hidden Splendor.

6. The existing single family home is located seven feet (7') from the rear property line on Lot 82, making it an existing, non-compliant structure as the current rear yard setback for the Thaynes Canyon No. 1 Subdivision is ten feet (10').

7. Lots 82A, 83A and the remnant portion of Lot 83 at 9 Hidden Splendor are currently

vacant.

8. There is a five foot (5') utility easement along the front of Lots 82 and 83.

9. There is a seven foot (7') utility and drainage easement along the sides and rear of Lots 82 and 83.

10. There is a recorded stream easement along the rear of Lot 83A and a portion of Lot 82A.

11. An Agreement between the City and Royal Street Land Company, restricting the use of parcels 65A-84A, was recorded at the Summit County Recorder's Office on March 23, 1977.

12. City Council approved a four lot plat amendment for the neighboring property at 13 Hidden Splendor Court on July 25, 1996.

13. As conditioned, the proposed plat amendment does not create any new noncomplying or non-conforming situations.

14. The Good Cause requirement for subdivision plats was added to Utah State Code after the 1996 Eriksen Replat.

Conclusions of Law – 9 Hidden Splendor Court

1. There is good cause for this plat amendment.

2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.

3. Neither the public nor any person will be materially injured by the proposed plat amendment.

4. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 9 Hidden Splendor Court

1. Prior to plat recordation a note shall be added to the plat stating that all conditions of the March 23, 1977 Agreement between Royal Street Land Company and the City,

as stated in the document recorded as entry #137582 in Book M93, at the Summit County Recorder's Office, shall apply. The area affected by the Agreement shall be cross-hatched on the plat prior to recordation.

2. A 12 wide drainage/stream easement will be provided along the back lot line.

3. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

4. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

5. The Planning Director has determined that the maximum allowed footprint of a new home on the combined lots shall be 5,210 square feet with allowances of an additional 1,000 square feet for structures that are at least 50% single-story or 1,500 square feet for structures that are at least 75% single-story.

6. The Planning Director has determined that the maximum house size on the combined lots shall be 7,702 square feet.

2. 1345 Lowell Avenue – Master Planned Development Agreement Amendment – Proposed Interconnect Gondola Between Canyons and PCMR & Snow Hut Remodel/Expansion (Application PL-15-02800)

Commissioner Strachan recused himself and left the room.

Planner Francisco Astorga reviewed the request for an amendment to the Master Planned Development and the Mountain Upgrade Plan at PCMR. The Staff recommended that the Planning Commission review the submitted MPD amendment and the Mountain Upgrade Plan and provide direction to the applicant and Staff. The Staff also recommended that the Planning Commission conduct a public hearing this evening and continue the item to March 25, 2015.

Planner Astorga stated that the purpose of the amendment is to amend the Mountain Upgrade Plan for the interconnect lift, and to expand the Snow Hut on-mountain restaurant. The second portion of the amendment is to fulfill the requirements of the 2007 Annexation

that the upper mountain ski terrain, also known as the leased PCMR area, become part of the PCMR MPD.

Planner Astorga explained that the original development agreement or MPD was approved in 1997, and the actual development agreement was recorded in 1998. The reason for updating the Mountain Upgrade Plan is because the lift was not contemplated in the original approved plan. Planner Astorga noted that all of the rights of development are tied to the development at the base of PCMR. The MPD identifies those as Parcels A, B, C, D and E. Parcel A has already been developed.

Planner Astorga stated that the MPD was subject to specific parameters outlined in the development agreement, as well as specific obligations of the developer and the conditions of approval, many of which included the amenities on the Mountain.

Planner Astorga reported on public comment he received after the Staff reports were delivered; however that public input was provided to the Commissioners. He also received a response to one of those comments from Vail Resorts. The first 22 pages of the Development Agreement were included in the Staff report to help the Planning Commission understand the big picture. He also provided to the Commissioners clarification from Vail Resorts regarding one of the items for discussion this evening regarding historic preservation. That response mentions a document that was created by the City as outlined in a City Council Staff report dated October 9, 2014, and the Commissioners had a copy of that document as well.

Planner Astorga reviewed the exhibits that were submitted showing the existing conditions of the interconnect lift mid-station as viewed from various location. Other exhibits showed the actual survey submitted by the applicant, and the City-County boundary lines showing that approximately one-fourth of the area is within the Park City boundary. Another exhibit showed the disturbance of the site and the cut and fill areas. Planner Astorga presented an exhibit showing the footprint of the existing Snow Hut and the proposed expansion. Additional exhibits were of floor plans, roof plan, elevations and sections. Renderings showing what the applicant was currently proposing, as well as a materials board were also provided.

Planner Astorga requested discussion by the Planning Commission on four items outlined in the Staff report. The first item was Building Height. He stated that when reviewing an MPD, the Planning Commission has the ability to authorize additional height beyond the zone height. In this District, which is zoned ROS, the maximum height is 28 feet. Planner Astorga explained that in Park City they always measure height from existing grade. Because the current Snow Hut is constructed on stilts, the change in height appears to be significant. He calculated the perceived height from the existing grade to be approximately

61 feet, but in reality, once completed it would be much less than 61 feet. However, the Staff finds that it would break the maximum height of 28 feet. Planner Astorga pointed out that the Planning Commission would be asked to make findings for a requested height exception.

Planner Astorga stated that parking was another item for discussion. The parking was originally identified in the MPD from the analysis that was done with the Mountain Upgrade Plan. The specific Mountain Upgrade Plan indicated that the site had 1,810 parking spaces. After mitigating for snow storage and traffic control, that number is reduced to 1700 spaces. Planner Astorga remarked that the parking spaces were intended to be for skiers and users of the site. It was never intended to be part of the development rights associated with Parcels A through E. The requirement was for those parcels to come back to the Planning Commission for approval, at which time the parking would be re-analyzed from the standpoint of whether or not each side was fulfilling their own parking requirements and whether sufficient parking was being provided for the skiers.

Planner Astorga noted that page 54 of the Staff report contained language from the original Development Agreement, identified as a condition of approval and an obligation of development as found in Section 2.1.13. It reads, "As part of the small scale MPD it is a conditional use permit for each phase to evaluate transit alternatives and demonstrated parking needs." The Staff used that to interpret how the applicant needs to come up with specific parking. However, Section 2.3.6 of the Development Agreement states that, "At all times Developer shall assure that it has adequate parking or has implemented such other assurances, as provided in the Parking Mitigation Plan, to mitigate the impact of any proposed expansion of lift capacity."

Planner Astorga read a statement from the applicant regarding parking, found on page 148 of the Staff report. "The replacement of the Snow Hut does not affect skier capacity and subsequently does not affect parking requirements. Skiers and riders are already on the Mountain during operations and the replacement Snow Hut Lodge is designed to significant improve service at a major connection area in a central area of the ski resort. The interconnect gondola functions only as an access transfer lift between existing ski operations. It has not been designed with round-trip skiing on it. Given that it is an access lift only between the two areas, there is no skier capacity increase associated with it." Planner Astorga requested discussion by the Planning Commission regarding this issue.

Planner Astorga stated that another item for discussion included the employee affordable housing requirement that was originally set up. He noted that the Staff report contained the exact requirement language as written in the 1997/1998 Development Agreement, which indicates a requirement for 80 PCMR employees that had to take place on or before October 1st, 2003. Planner Astorga stated that there was a clause in the requirement

indicating that if there was a downturn in the market and the developer failed to obtain approval for 60% of the small scale MPD or the CUPs, which they did not get 60%, the developer was supposed to come up with the employee housing on a proportional basis from what had already been approved. Planner Astorga stated that in that case, the only parcel that was approved was Parcel A. He pointed out that Parcel A was approved in conjunction with the original MPD in 1998.

The Staff calculated the obligation for employee housing and found that the obligation is equivalent to 23 units. Since the employee housing was not tied to the Mountain Upgrade Plan but rather to each phase of each conditional use permit or small scale MPD, the Staff recognized that PCMR was behind with this obligation. Therefore, the Planning Department would need to see those functional 23 units before moving forward with development on the remaining parcels. Planner Astorga asked if the Planning Commission concurred with the Staff's finding.

Planner Astorga stated that the last item for discussion related to historic preservation. When the MPD was approved the upper terrain was not part of the City. That area was annexed in 2007. The annexation triggered the specific condition of approval that said that during the next development application or amendment of the MPD, the upper terrain would become part of the PCMR approved MPD. Regarding historic preservation, the Staff found that there was a commitment from the property owner regarding the preservation of some historic structures. A clause in the Annexation Agreement indicates that the property owner needed to complete an inventory regarding those historic mine sites, as well as a stabilization and restoration plan for those sites. Planner Astorga stated that the City has not seen that inventory and the Staff had concerns about when it would be done.

The Staff recommended adding a condition of approval to this specific MDP amendment requiring the outstanding inventory and subsequent preservation and restoration plan. He requested input from the Planning Commission on this issue.

Tim Beck, Vice-President of Planning for Vail Resorts, introduced Blaise Carrig, the president of the Mountain Division for Vail Resorts, and Bill Rock, the Chief Operating Officer for Park City Mountain Resort.

Mr. Beck thought the Staff had done a remarkable job capturing all the elements involved. He thanked the Staff and the Commissioners for their time and effort. Mr. Beck believed that the two projects under consideration; the interconnect gondola and the Snow Hut restaurant, would be great additions to both the community and the Resorts.

Blaise Carrig remarked that the proposed improvements would raise the bar on the experience of the existing conditions at the Resort. This is part of a larger plan where

some pieces would be done through administrative approvals. He noted that the King Kong lift has historically long lines and they intend to increase the capacity of that lift and use it to replace the existing Mother Lode lift, which is a slower lift that under-utilizes great terrain.

Mr. Carrig stated that the dining experience is a critical issue as evidenced from guest surveys and personal experience. Improvements to the Snow Hut Lodge would provide needed seating capacity for the existing business, because they are currently unable to seat everyone who comes during the lunch time periods. Mr. Carrig pointed out that PCMR and the Canyons are operated as one and one lift ticket provides access to both Resorts. He noted that the Interconnect Gondola would allow them to make it a singular consolidated ski experience. He believed their proposed plan would help upgrade the experience at the Resort.

Chair Worel opened the public hearing.

Diane Thompson stated that she has been a full-year resident of Park City for eight years. She favored all the improvements that Vail was proposed to improve the Snow Hut, which is currently a disaster. Ms. Thompson had gone to the Canyons for the first time in three years and had an excellent experience. She thought it would be great to be able to take the Gondola over instead of driving or having to take the bus. Ms. Thompson remarked that it is a Mountain and a ski town and anything they could do to improve the experience would be most welcome.

Scott Loomis, Executive Director of Mountainlands Community Housing Trusts, stated that a small part of what they do is the Roommate Roundup each year which helps line up landlords and roommates for seasonal workers. Mr. Loomis noted that most of the people they see at roommate roundup are employees from Park City Mountain Resort and the Canyons. It thought it was shameful that Park City Mountain Resort and the Canyons have done nothing to support the affordable housing in the community, or the seasonal housing. Deer Valley has over 100 units and they heavily subsidize the units and transportation to take care of their employees. To date nothing has been done by either PCMR or the Canyons. Mr. Loomis pointed out that the Canyons has an affordable housing obligation of 287 units in the County. When the plan was originally in effect in 1999 they had 20 units which were later sold. For the last 12 years the Canyons has run at a deficiency of 20 units per year. Mr. Loomis hoped that when the Planning Commission considers the expansion that they will at least make the resorts meet the existing obligation before anything more is developed.

David Dubois, a Snyderville Basin resident, wholeheartedly supported the interconnect gondola. He has driven between Snyderville and Park City about 35 times this year to go

skiing. If the gondola is installed he would not have to drive to Park City. He could drive two block and ski to downtown Park City for lunch and ski back. Mr. Dubois stated that Park City has a traffic problem and being able to park at the Canyons and ski into town would help mitigate traffic issues.

Sandra Morrison from the Park City Historical Society and Museum spoke about the historic preservation component of both the original Flagstaff Annexation agreement and the amended 2007 agreement. Ms. Morrison stated that everyone loves Park City's history; yet the historic mining structures that surround the town continually fall into disrepair and they are in jeopardy. She noted that the original Flagstaff agreement spoke about restoration efforts for the Judge, the Daly West and the Little Bell but nothing has been done. The 2007 amendment included inventory and stabilization efforts, but that also has not occurred. Ms. Morrison pointed out that the Staff recommendation in the Staff report ties the historic preservation prior to the City accepting any application for the base area development. She wanted to confirm with Staff that preservation compliance was not tied to this particular application; only future base area applications.

Planner Astorga replied that it was one of the discussion items for the Planning Commission because they would be the ones taking action.

Ms. Morrison reported that currently some of the structures at PCMR were being held up by false shores. One of the water tanks is strapped and tied to the neighboring trees to keep it from demolishing the buildings. She pointed out that the buildings would not last another winter and the stabilization efforts to need to happen now if they really want to preserve these structures for the future.

Planning Manager Kayla Sintz referred to Ms. Morrison's question about whether historic preservation would be tied to the base development. She stated that the Staff was recommending base development as a time trigger similar to what was attempted to be used for affordable housing in 2003. She noted that it was already included as part of the annexation. Ms. Sintz clarified that the requirement is already there. The Staff was not asking whether or not the Planning Commission agreed that the requirement for the preservation plan and stabilization plan should be included; but instead whether base development should be the trigger mechanism for that preservation plan.

Wendy Fisher, the Executive Director of Utah Open Lands, stated that they hold a conservation easement on open space adjacent to the ski area. They have already been in contact with Vail to let them know that they are a stakeholder and they were watching this process to make sure the open space is protected.

Bob Wheaton with Deer Valley Resort stated that he was speaking both as a private citizen and as a representative of the resort. Mr. Wheaton stated that as Vail was putting together their vision for PCMR and the Canyons, he received a call from Mr. Carrig informing him of their vison for the Resort, including the interconnect gondola and the Snow Hut. Mr. Carrig explained the cuts and fills and other improvements throughout the resort. Mr. Wheaton remarked that the proposal Vail Resorts was presenting was not only insightful, it was brilliant, and it was exactly what the Resort needs. He stated that Vail Resorts had Deer Valley's full support.

Alex Butwinski concurred with Mr. Wheaton's comments. Even if the gondola is a minor transportation link, it would be the first step in some of the intermodal transportation ideas that Mountain Accord will be looking at for the next five to fifteen years. Mr. Butwinski thought it was a good idea and they should move forward with the gondola connection.

Bill Coleman commented on the trigger concept and development at the base of the resort. He was involved with the Hidden Splendor issue discussed this evening when that "pesky" open space was added. However, since then they have come to realize how many things were done in the past at too small of a scale. Mr. Coleman believed the one thing they did right in the early 1970s was to make great plans for the base areas, none of which have really come to pass at Deer Valley, PCMR or the Canyon, and they are critical issues to solving the transportation issue. Mr. Coleman stated that he has heard very little conversation about the City doing what it can to provide incentives to build the villages. He believed the A, B, C and D parking lot is a huge solver of problems. The concerns about height are outdated when it comes to the scale they talked about. Mr. Coleman thought this was a place and time to allow variations on the theme in an effort to incentivize building the villages. He believed this proposed plan was one of those incentives. It would help build both villages, which would filter people through in a very slow time frame every day, and it could provide employee housing. Mr. Coleman stated that making adjustments to the old outdated plans would be the biggest solving mechanism. He encouraged the City to not only make this plan work, but to look at it as the beginning of a major solution that needs to be carried further.

Jim Hier stated that as someone who was involved with the 1997 and 1998 Plan and the acquisition, he supported the total concept of the proposed development and the gondola. He also reinforced the comments by Scott Loomis. He pointed out that Mr. Loomis had not complained about the Deer Valley affordable housing component because Deer Valley provides for their employees through affordable housing. However, PCMR and the Canyons are behind on the affordable housing aspect. Mr. Hier stated that as the overall master development gets tweaked and instills trigger points that help enforce what has already been planned, it would be well worth their time and effort.

Chair Worel closed the public hearing.

The Planning Commission discussed the four questions outlined in the Staff report.

Building Height

Chair Worel asked what the actual height would be when completed.

Peter Grove, the project architect, stated that the tallest location on the southeast corner would be approximately 62 feet from finished grade to the very top. Planner Astorga noted that the corner to the proposed grade would be approximately 40 feet.

Commissioner Thimm stated that in talking about building height and scale, part of the story has to do with the overall building and increasing the number of seats for dining. He noted that the 1999 MPD identified over 400 seats of deficiency. He remarked that adding that number of seats is a volume that affects scale. In dealing with buildings and heights, he believed the scale starts to come into play. Commissioner Thimm referred to public comment about an antiquated zoning requirement. He thought they had the ability to recognize the need for more height, as well as the volume and scale, and it was within the purview of their consideration as this application moves forward.

Commissioner Thimm stated that another part of the zoning code that was not mentioned was the matter of the offsets. Planner Astorga explained that the specific criteria that the Planning Commission needed in order to grant the height exception was outlined on Page 56, Items 1 through 5. The fifth item states that the height must meet Chapter 5 of the LMC, Architectural Guidelines. The Guidelines require a break in the façade length for buildings over 120 feet. The Code requires a horizontal step of at least 15' or a vertical step of the same length of 15'. However, that next Code section indicates that the Planning Director may provide an exception from those specific architectural standards. It was presented to the Planning Director and the Staff has taken a larger approach regarding the original intent of the façade variation. The Staff found that it was intended to assist in finding a better pedestrian scale in a specific neighborhood. Planner Astorga pointed out that the front on the east face is the only façade that does not meet the requirement. The length from corner to corner is 140 feet. Both sides and the back meet the regulation. Commissioner Thimm noted that the east side is considered the dominant face of the building in terms of the front door.

Director Eddington clarified that the primary intent of the façade breakup is to keep larger buildings from overpowering smaller buildings in the neighborhood. In this particular case the idea of the façade is to gain as much solar access as possible and to invite the outside to the inside. He believed that breaking up the front façade would alter the character of the

building. With the use of beams and wood as proposed, he felt it met the intent of the Code, specifically in this location. It is a remote location and there was no concern about affecting smaller structures.

Commissioner Thimm agreed. He believed the architect answered the questions and addressed the need. He had looked on the architect's website and found a photograph of a similar building at North Star. Commissioner Thimm had studied the elevations contained in the Staff report and as he looked at the different sides of the building he was able to appreciate how this building would look from a character standpoint. He thought it appears that the west face of the building would be the first face the riders would see coming from the Canyons. It is masonry and roofing and he asked if anything could be done to improve the appearance on the west side, which is the back side. He suggested bringing the materials on the sides around and making it a four-sided building. Commissioner Thimm passed around photos he had obtained from the website to show what he was talking about.

Mr. Beck stated that some things could be done with materials; however, there is significant vegetation that hits that side of the building up high on the ridge as you come down on to it. He believed that would help mitigate the view on the west side. Commissioner Thimm felt there would be visible views of this face of the building. He noted that the Planning Commission often talks about "gives and gets". In this case they were looking at a height exception and not having the offsets in the building face. He emphasized his preference for improving the west face of the building.

Mr. Beck and Mr. Carrig were not opposed to considering Commissioner's Thimm request. Mr. Grove stated that they have also been working with the grading around the backside of the building and how it digs into the hillside. Retaining would be done and a path of approximately 20 feet will be provided to get the snow out and around. Where the lodge sits in relation to the hill is very steep and they were cutting into the grade. Mr. Grove stated that in discussing what products would be appropriate to retain the snow they decided on a combination of concrete materials up to a certain level. Adding finishes as suggested by Commissioner Thimm was very doable. Commissioner Thimm personally thought they had a great palate and bringing it around to the west face of the building would be a great improvement.

Commissioner Joyce stated that he worked at PCMR for three years and he dislikes the old Snow Hut. He liked what the applicant was proposing and he completely agreed with the Planning Director's determination that the restriction for height was irrelevant because the building is in a remote location. He supported the exception for building height.

Commissioner Campbell thought it looked great. Commissioner Phillips agreed with the Staff. He believed the Staff and the design team had done a great job. He was comfortable with the proposal. Commissioner Band concurred with the comments of her fellow Commissioners. It is in a remote location and the upgrades are definitely needed. Chair Worel agreed.

Parking

Planner Astorga stated that the issue was the complexity of the original MPD and that the parking requirements were tied to each individual phase. The Staff would have to look at each phase, and at the same time not affect the current skier parking. Planner Astorga noted that he had read the language submitted by the applicant in his presentation which stated that neither project in the amendment would necessitate additional parking.

Commissioner Band asked for the number of skiers on an average ski weekend versus peak ski days. Mr. Carrig stated that currently the peak ski days are just shy of 10,000 skiers. Those are holiday periods where they have a lot of destination visitors. Melissa Band understood that the old MPD Development Agreement estimated approximately 9900 skiers on a peak day and that 1700 parking space would be adequate. She has personally been to the resort on many weekends and never found the parking to be adequate. Commissioner Band recognized that there were base development triggers, but she is not a fan of kicking the can down the road. She thought the gondola would help a little, but additional marketing and the Epic Pass would bring more skiers and they will still have parking issues.

Mr. Carrig stated that the Epic Pass has more growth in a destination market than in the local market. They have sold a fair number of Epic Passes in the community, but at the same time they eliminated a large number of the discount product that was in the marketplace. Mr. Carrig stated that they have not seen a growth in business due to the Epic Pass but they have seen a shift in customers that previously purchased day tickets at a reduced cost. The primary growth has been in the destination skier market.

Mr. Carrig stated that in looking long term, they have been talking with the City and the County on how they can work together on longer-term parking and transit solutions. He recognized it as an issue but he did not have an exact answer. Mr. Carrig reported that they had secured an additional 200 parking spaces at the Canyons this year on a lease. If Park City is full they could park people at the Canyons. They were also looking for additional parking within Park City. Mr. Carrig commented on other things that could be to ease peak days that they currently do at their other resorts. One is to incentivize carpooling for both skiers and employees. Another alternative is to run the lifts 30 to 45 minutes longer on peak days to diffuse the outflow so everyone is not leaving at the same time. Mr.

Carrig stated that they were trying to address transit and parking issues for both the short and long term.

Commissioner Phillips stated that he is always concerned about parking. He was certain that the applicants are very aware of the problems and that they were trying to find solutions. He was pleased to hear Mr. Carrig's comments and he was comfortable with the fact that they are thinking about it. Commissioner Phillips remarked that skiers park at City Park and other places in town, and as a body the Planning Commission voiced their concerns in the past when PCMR was looking at doing something different at the base prior to the acquisition of the Resort. Commissioner Phillips thought the gondola may change some of the dynamics. It is a new mode of transportation and he believed it would lessen traffic on the road. His concern was that Vail may be so successful that the Resort would bring more people into town and expand the parking and traffic problem.

Mr. Carrig stated that they have been in conversations with the City regarding the development of lots which includes the building of a parking garage on the lot nearest the admin building and how to partner to make it work. Mr. Carrig clarified that they were open to transit ideas but they also needed to look at future expansion and accommodating cars.

Commissioner Band asked if lockers were being considered. It is difficult to drag ski gear on the bus and prior to the acquisition she had spoken to PCMR about lockers. She noted that there are very few lockers for seasonal skiers and the ones they do have are very expensive. Commissioner Band stated that if the goal is to get locals out of their cars, having plentiful, inexpensive lockers would be a way to encourage it. Mr. Carrig replied that they do have lockers in their other resorts. One of the constraints is that right now they do not control much of the commercial real estate in the base area. If that changes they might be able to provide lockers in the current village. He noted that they were definitely looking at lockers when planning the other lots.

Commissioner Campbell did not believe the Planning Commission should be involved in the number of parking spaces. He is convinced that parking is self-regulating because if it is difficult to park the skiers will go somewhere else. If that happens the Resort would be forced to build a bigger parking lot. Commissioner Campbell stated that until they grow their business they would not have the cash flow to build a big parking deck, and he was personally opposed to forcing them into building a deck before they were ready. Commissioner Campbell was also convinced that more parking in town encourages more people to drive into town. He preferred to have less parking in Park City and have people park at the Canyons.

Commissioner Joyce stated that he would agree with Commissioner Campbell except that it spills out into other businesses. He would be fine with it if there was a way to contain

parking to the Resort lot or people went to another resort. Unfortunately, that is not what happens. During Presidents Day he watched people park their cars in various places away from the Resort and walk up to PCMR to ski for the day. When that happens it intrudes on businesses, City parking, and private parking. Commissioner Joyce stated that the two administrative pieces that were not within the purview of the Planning Commission, which was increasing the lift capacity on King Kong and Mother Lode, impacts the capacity for skiers on the Mountain. Being a smart company Vail would not put $50 million dollars into one year of investment between the two resorts without expecting some impact to the skier days. It will be marketed as the largest ski resort in the Country and the expected return on their investment will be more people coming to ski. He believed they would be successful and he really liked their plans. Commission Joyce stated that he did not like PCMR's parking; however, he was unsure what he could ask them to do about it. His suggestion would be for the Resort to somehow monitor the neighborhood parking and when someone starts to take their skis out of a parked car they would be asked to move. They could also work with the City to ticket illegal parking. Those types of parking issues would become the Resort's problem and he would feel more comfortable with that approach if it was a workable solution. Commissioner Joyce requested that the applicants do their best to resolve the problem because it is an impact to the surrounding community.

Commissioner Thimm stated that as a skier who stood at the bus stop for over an hour and a half on a day between Christmas and New Year's, he had concerns about parking. He also understood the limitation on space. All the existing improvements were based upon the approvals that were in place. As he read through the Staff report, it appeared that rather than a typical planning and zoning formula to calculate parking, it was based on the CCC that was part of the documentation from some of the original approvals. Commissioner Thimm asked if when the interconnect comes in and when the other improvements on the Mountain take place, whether any consideration was given to an updated version of the CCC that takes into account the changes that are occurring on the Mountain.

Mr. Beck stated that the plan was done in 1999. A lot has changed in the industry since then and many variables come into the CCC calculation. He remarked that they have talked about updating the plan at some point because it needs to be updated in many respects. Mr. Beck agreed that it was a component that needed to be looked and it has been talked about as a component of the base area development concept.

Commissioner Thimm stated that he talks to a lot of people when he skis and he often hears how people drove around for 45 minutes looking for a parking space. He always tells people about the high school and other parking lots, but it would be helpful if the Resort had a way to actively communicate that information so people would know where

they could park and take to bus to the resort. If people know where to park it would start to mitigate some of the traffic that occurs at the Resort.

Mr. Beck agreed with Commissioner Thimm. They deal with this same issue at many of their resorts and through signage and other means they have directed people to off-site parking lot. He noted that Bill Rock has been evaluating the best ways to flow the traffic.

Commissioner Joyce asked if they had considered paid parking as a way to encourage people to carpool and use other transit. Mr. Carrig stated that the Vail does not do paid parking because it is done by the individual cities. However, if they build a parking garage it would be paid parking.

Commissioner Band understood that parking is an issue and there is no one solution. It needs to be a cooperative effort between the community, the Resort and the City. She was frustrated to know that it was already a problem and there was no mechanism to do anything about it. Commissioner Band read from the LMC Section 15.6 under MPDs – Modifications, "Changes in MPD which constitute a change in concept, density, unit type, or configuration of any portion or phase of the MPD will justify review of the entire Master Plan and Development Agreement by the Commission." She asked if the Planning Commission was able to review the entire plan and possibly decide they did not like it.

Director Eddington stated that the language was relative to the base plan. At the time they called them small scale MPDs or Conditional Use Permits. When they begin to look at the base plan the Planning Commission would have the opportunity to address some of the issues. It would not be appropriate at this time because the Mountain plan currently under review would not alter the parking.

Planning Manager Sintz stated that page 9, Section 2.1.13 of the existing Development Agreement references the parking mitigation plan, which as part of the whole large scale MPD was Exhibit J and K. That document states that, "This plan shall be reviewed and modified if necessary as part of the small scale MPD/CUP for each phase to evaluate transit alternatives and demonstrated parking needs." Ms. Sintz remarked that part of Exhibit J/K is the actual traffic and parking mitigation plan and it has a number of neighborhood mitigation strategies such as having lots counted on a daily basis, restricting ticket sales until the issue is resolved, and many other measures. She wanted the Planning Commission to understand that there was a trigger mechanism for the parking analysis or parking mitigation going forward with the small scale MPD.

Chair Worel stated that before moving to Park City full time she and her husband owned a second home directly across the street from PCMR. She knows firsthand what it is like to be locked in your house because skiers have parked in your driveway. As she read the

Staff report, she questioned whether parking mitigation applied only to the base area development, or whether it included the plan they were looking at this evening. She agreed with her fellow Commissioners that it was all tied to the base area. Chair Worel applauded the applicants for working with the City and the County and coming up with creative ideas to increase the outflow off the Mountain and also to look at way to park people at the Canyons and bring them into PCMR via the gondola.

Planning Manager Sintz summarized that the Planning Commission agrees that the parking mitigation would be effected by the additional small scale MPD or the base development. She asked if there was anything the Planning Commission would like to see regarding parking or an analysis for the March 25th meeting.

Commissioner Campbell felt they were confusing parking and traffic. He thought traffic was the real issue. He was more interested in talking about what they could do to reduce the number of cars coming in and out of the City rather than where the cars park. Commissioners Band and Joyce thought Commissioner Campbell would feel differently if he lived a block or two from the Resort and someone parked in his driveway. Commissioner Campbell stated that it was a law enforcement issue and when that happens people should call the police. He did not believe it was an issue for the Planning Commission. Commissioner Joyce pointed out that the Planning Commission has the responsibility to make sure the applicant has adequately mitigated the parking impacts. Commissioner Campbell stated that if they could incentivize people to park outside of the City it would mitigate the parking impacts. Commissioner Joyce agreed that the concept would resolve both the traffic and the parking problem. However, he did not agree with the idea that was only a traffic problem and not a parking problem. Commissioner Campbell clarified that he was not saying it was only a traffic problem; but he believes the traffic problem was more important to more people in town than parking.

Commissioner Band thought the parking problem should be part of their purview and discussion as well. Part of the purpose statement of creating an MPD is to protect residential uses and neighborhoods from impacts of non-residential uses using Best Practice methods and diligent Code enforcement. Commissioner Joyce pointed out that the current agreement states that, “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 tickets sales until a parking limitation plan is revised to address these issues.” Commissioner Band expected Vail Resorts to be a good partner. They just want them to understand that parking is very important to the community and it already affects their quality of life. Mr. Carrig totally agreed and he reiterated some of the work they have done with the City and the County to find solutions.

Commissioner Phillips agreed with the response from Vail Resorts regarding a letter from the public and that the current proposal does not necessarily affect the parking. He personally did not need additional information for the March 25th meeting, but he would want to see something more as they move forward with the base area development.

Employee Housing Requirement

Planner Astorga reiterated the Staff recommendation that before the Planning Department accepts a conditional use application for Parcels B, C, D and E, the applicant would first have to provide a plan for the required 23 affordable housing units.

Commissioner Band recognized that this applicant inherited the affordable housing issue. Short of forcing them buy 23 units, she did not believe there was a way to require them to do it right now but it should be in place before they consider any other applications.

Commissioner Phillips asked the applicants for their thoughts on the Staff recommendation. Mr. Carrig was comfortable dealing with it prior to the base area development as recommended by Staff. They did inherit it because it should have been done in 2003 and they only discovered it through the process. Mr. Carrig stated that if traffic and parking were the biggest external problems, employment is their biggest internal problem. He expected they would be looking at employee housing beyond the requirement because it would have to meet their needs going forward.

Commissioner Campbell stated that it is important for all the resorts to be in compliance with the employee housing requirements. Over time they lose control of being able to enforce compliance and one of the only ways to enforce it is to make the applicant live up to the current agreement before discussing anything new. He favored the Staff recommendation. Commissioners Joyce, Thimm and Worel concurred.

Historic Preservation

Planner Astorga noted that the historic preservation plan that was done in 2000 and updated in 2007 was included on page 66 of the Staff report. He read, "The Flagstaff Historic Preservation Technical Report will necessarily need to be amended to include those resources within the annexed area." Planner Astorga stated that the Staff found a Finding of Fact from the 2007 annexation that brought that area into the City, which talks about the general interest and character of Park City, including several historic mining era structures within the Park City boundary. Planner Astorga stated that the specific historic preservation section of that agreement gave further details regarding to that historic preservation plan which starts with a completed inventory and moves on to stabilization and specific restoration. He clarified that the Staff was not requesting that they

fully restore the buildings to what they were, but they want to see a plan that shows how they intend to protect the structures. The Staff found a specific clause in the agreement that now brings the area that was technically outside of the City into the City as indicated in the Staff report.
Planner Astorga noted that the Staff sent an email to the Planning Commission that included a specific amendment to what was written in the Staff report regarding Vail Resort's position. He read the email into the record. "The current applicant objects to any condition of approval as they state that the obligation to complete the preservation plan falls to the Flagstaff developers pursuant to the annexation ordinance and Section 2.9.3 of the Flagstaff Development Agreement. The applicant also states that its position is confirmed on Page 5, Item 2 of the Park City Planning Department Staff Report to City Council dated October 9th, 2014. However, Vail is committed to cooperate on this issue with the Flagstaff developers, the City, and stakeholders such as the Park City Historical Society."

Planner Astorga requested discussion on a specific condition of approval because the Staff is very concerned that in the last eight years they have not seen the completed inventory. He asked if the Planning Commission was willing to place a condition of approval similar to the employee housing tied to base development, or whether they would rather have the Staff formulate a condition of approval with more specific parameters and a time frame for submitting the report.

Commissioner Thimm understood that the new ownership had inherited certain things, including the preservation plan and inventory. However, as time goes on the structures would continue to deteriorate and it was important to inventory and document what is there. Commissioner Thimm had read the email with regard to the responsibility threat; however, he also read the portion indicating that Vail was willing to work with the stakeholders involved. He asked what Vail was willing to bring to the table.

Mr. Carrig stated that the King Kong Counterweight is in immediate disrepair and Vail has made a commitment to fix it this summer. He believed that Vail would participate in the inventory and help draft a plan, but they feel that the actual obligation to do the work goes to the Flagstaff developer because it was part of the Flagstaff Development Agreement. He pointed out that it was different than the other pieces of non-compliance that ran with the ski resort. Mr. Carrig stated that they had not yet met with the Flagstaff developer about coming to the table, but Vail would be an involved party. Mr. Carrig was not prepared to commit to what Vail would do to keep the structures from falling down at the Resort. He believed the inventory needed to be completed before they could know the extent of what needs to be done.

Commissioner Thimm agreed with starting with the inventory. He asked if it would be possible for Vail to engage in conversation with the Flagstaff developer prior to the March 25th meeting and report back to the Planning Commission. Mr. Carrig believed they could based on comments from their legal counsel.

Commissioner Joyce wanted to hear an opinion from the City Attorney regarding whether or not the inventory conveys with the responsibility of the ski resort. He would like to know where the responsibility falls and who should be held accountable. Commissioner Joyce noted that nothing has been done in eight years and he was looking for a hard stop trigger to keep this from lingering any longer. Prior to the meeting on March 25th, he would like to know the clear ownership of who is responsible, as well as a clear plan with a hard date for when it gets done, and a consequence if it is not done.

Planning Manager Sintz reported that the City Attorney has already given input and feels that Vail has the obligation as part of the 2007 amendment, which is why the Staff included it as a discussion item this evening. Ms. Sintz believed the Staff could provide trigger dates and possible implementation strategies for discussion at the next meeting.

City Attorney Mark Harrington clarified that the obligation flows to subsequent beneficiaries of the annexation. Therefore, the Staff feels sound in their position that it would be conditioned on the subsequent applications. However, the City has intentionally not specified who is responsible and who has the power to do the work. It was not specified in 2007 and not as the proposed condition would be worded with this application. It still allows the dialogue to take place between the leasee, the current owner, and the Flagstaff developer. Mr. Harrington stated that it was a sensitive negotiation in 2007. At that time Talisker and PCMR/the Cumming family were in pre-litigation mode and it was very contentious to get the annexation approved in a manner accepted by both parties. The City was stuck in the middle and did not want to over-specify an on-going issue that needed to be worked out. Mr. Harrington pointed out that the inventory and the preservation plan were hard requirements for annexation. It was built in as a finding of fact and supported by the conclusions of law. There was not an affirmative condition of approval stating who would do it and within what timeframe. Mr. Harrington understood that it was intentionally not affirmed in a condition of approval in an effort to allow the parties to work things out. However, it was never worked out between the parties and the responsibility falls to Vail as the new owner. Mr. Harrington clarified that the City was not trying to put an unfair burden on Vail, but they could not “kick the can” forever. He thought the condition was appropriate. They will try to work out who has the obligation and by when, but if not, there is an appropriate trigger that ties it to base area development. Mr. Harrington pointed out that mining structures have a different regulatory component and EPA is often involved. The City does not want to skirt responsibility, but he believed the Staff had walked the fine line in terms of balancing both aspects.

Commissioner Joyce understood that the trigger would be tying it to the first base area CUP, but he still would like Vail to come back on March 25th with a better plan of how to get it done. Mr. Carrig reiterated their willingness to make the effort.

Commissioner Band understood from the City Attorney that the obligation runs with the land. If Vail could work things out with the Flagstaff developer that would be to their benefit, but from the standpoint of the City the responsibility belongs to Vail.

Commissioner Campbell asked if there was some agreement to identify the more significant structures and pay attention to those structures first. Director Eddington stated that the Staff has a good understanding of what they think are the top ten most endangered sites. The Staff had done an analysis identifying the most significant structures and narrowed those down to the most endangered in terms of not being stabilized. That analysis was shared with Mr. Beck and his team.

Commissioner Joyce remarked that the hard requirement is to inventory all the structures and have a preservation plan in place. He did not believe there was a hard requirement to stabilize or preserve everything on the inventory.

Mr. Beck stated that he and Director Eddington have met several times and it is still unclear which structures are on the annexed property. They have been talking about it but the survey has not been done. Most of the structures were known but the question was where they are located. Director Eddington noted that the Planning Department has a good map based on the site surveys and field surveys that were done this summer. What they are working through with Vail is determining exactly where the lines fall with regard to the leased property, Talisker property, etc. They have been overlaying the different GIS maps in an effort to determine which ones fall on which side. Planner Astorga presented the two maps, noting that the smaller map were the critical areas the Staff had identified.

Planner Astorga expressed the concern that Vail may not come back for seven years with a CUP for base area development. Director Eddington thought they could begin to work with Vail on a stabilization plan and put together a timeline with a date for when stabilization would begin. The Staff could discuss that with the Vail team and report back to the Planning Commission on March 25th.

Commissioner Joyce expressed an additional concern regarding construction mitigation. He noted that a lot of construction will be going on in the canyon in a very short period of time. He understood that the Building Department would regulate noise, safety and other issues, but in some cases the Planning Commission has had the ability to place additional constraints to mitigate the impacts. Commissioner Joyce noted that construction access

would be through a small neighborhood and he wanted to make sure they would be sensitive to the neighbors. Mr. Beck stated that they were working through construction impacts. He noted that in this case there are two canyons. Some work will occur on the County side and other work will occur on the City side. Mr. Beck remarked that there is a need for equipment and materials, as well a labor, and that generates construction traffic. There is also a need for a staging area. Some of the lift work will be done through helicopters and that creates the need for aerial. He identified areas they were looking at for staging areas in the lower parking lots. They have also looked at Swede Alley and King Road, and they were looking at labor pooling out of the existing parking lots. They have an agreement with Armstrong and Utah Open Space Lands regarding the use of the road. Mr. Beck agreed that the work need to be done quickly and they were working around trying to stage the project, recognizing that other construction would be occurring at the same time. There is a heightened concern by everyone related to construction and construction traffic. Mr. Beck stated that they were in the preliminary stages but they would provide a full construction mitigation plan to the Building Department. He could update the Commissioners on where they are in the process at the March 25th meeting.

Planner Astorga stated that the Planning Commission had provided sufficient direction to come back on March 25th. He noted that Tim Beck has been very responsive and easy to work with. Planner Astorga pointed out that the Staff had identified the four issues for discussion. As noted in the Staff report, they had no concerns with any other issues. He encouraged the Commissioners to contact him if they had other comments or concerns prior to the March 25th meeting.

Commissioner Strachan returned to the meeting.

3. <u>Land Management Code Amendments – Chapter 2.1 (HRL), Chapter 2.2 (HR-1) Chapter 2.3 (HR.2) Chapter 2.4 (HRM), and Chapter 2.16 (RC) – Regarding side and Rear Setbacks for patios and hot tubs</u> (Application PL-14-02595)

Planner Kirsten Whetstone stated that these items were the beginning of the 2015 updates to the LMC, starting with administrative items and issues that have been raised by citizens. The proposed amendments have been reviewed for consistency with the recently adopted General Plan.

Planner Whetstone stated that the last item on the agenda related to Chapter 9 of the LMC would be continued pending additional items that the State Legislature has changed regarding non-conforming uses and non-complying structures.

Planner Whetstone stated that the amendments regarding setbacks for hot tubs and patios in the HRL, HR1, HR2, HRM, also include the RC zone because that zone has the same

setbacks and setbacks exception for the Old Town lots. She clarified that it would not apply to multi-family or the resort part of the RC zone.

Planner Whetstone stated that currently patios are allowed to go to one foot in the rear and they are allowed in the side setback, which is normally a 3' setback for a standard 25' wide lot. If the lot is wider by more than a lot and a half, the side setbacks are increased to 5'. Patios, steps and other elements are allowed at grade. Planner Whetstone explained that currently hot tubs require a 5' setback in the rear. When the rear setback is 10' the hot tub is allowed an exception five feet into the setback with at least five feet to the property line, as well as five feet to the side. Planner Whetstone noted that the language as written was confusing and some of the changes were clean-up language for consistency.

Planner Whetstone pointed out that numerous older hot tubs that were installed are within the distance between the property line and five feet. As people are starting to replace their hot tubs with more energy efficient hot tubs, various property owners have tried to remedy these situations with either a variance request or an opinion on whether it is considered a legal non-complying structure. Planner Whetstone noted that an accessory structure as much as 18' tall is allowed within one foot of the rear property line as long as it does not cover more than 50% of the rear yard. A patio is also allowed within one foot of the property line.

Planner Whetstone reviewed the redlined LMC changes shown on Exhibit A in the Staff report. In the HRL zone the Staff proposes to changed the rear yard exception to "screened hot tubs or similar structures located at least 3' from the rear yard." The hot tub would have to be screened with a fence, wall or thick vegetation that would provide screening in the winter. For side yard exceptions, the screened hot tub would be located at least 3'.

Commissioner Campbell asked if currently the hot tub is allowed to go right to the property line on the side yard. Planner Whetstone replied that currently the setback is 5'. Commissioner Phillips stated that under the scenario of a one level with a deck, the hot tub could not sit on the edge of the deck. It would have to be two feet in. Under the current LMC the deck to go to 3' but the hot tub has to be at 5'. Commissioner Band pointed out that under the current Code the deck could go to 1'.

Chair Worel asked if hot tubs were different than pools, because pools are required to be fully enclosed with a fence. Assistant City Attorney McLean believed fencing for pools was a Building Department requirement. Director Eddington understood that the Building Department generally does not treat hot tubs as pools and hot tubs are not required to have a fence. He noted that the Staff was recommending screening for hot tubs if the Planning Commission finds that 3' is an appropriate setback. Director Eddington did not

believe there was much difference between 3' and 5' in terms of setback. The noise from the hot tub motor is not mitigated by the extra two feet. He was unsure why the setback was set at 5' initially, but it would be difficult to install a hot tub with a 10' rear setback. Director Eddington stated that if 5' was established by design, it has worked fairly well, but a lot of hot tubs were installed prior to the 5' setback Code requirement. The question is whether 3' with screening is a better mitigation procedure to allow for better movement and functionality in the back yard and provide screening between neighbors. He clarified that nothing would mitigate the sounds from equipment and people enjoying their hot tub.

Commissioner Band asked if the purpose of the screening was for noise or visual. Planner Whetstone replied that it was primarily for visual. She had researched hot tubs and found that the newer hot tubs come in cabinets and have covers.

Commissioner Joyce questioned why the Staff recommended 3' and not one-foot. Director Eddington stated that it was an issue of being able to walk around the hot tub and maintaining it. With a one-foot setback there was the potential of stepping over on the neighbor's property. Director Eddington remarked that 3' is also the minimum side yard setback for a structure and they kept the rear-yard consistent with that.

Commissioner Thimm asked if anyone had applied for variances. Planner Whetstone replied that one owner had applied for a variance, but their situation was a little different. She noted that the Staff had received another application, but when the owner was told about the proposed amendments they decided to wait.

Commissioner Campbell thought the definition of a screen was vague. Commissioner Phillips agreed. He asked if the screen needed to be higher than the hot tub. Director Eddington stated that if the Planning Commission agreed on the 3' setback the Staff could come back with a specific definition for the screening. Commissioner Campbell remarked that most people like to sit in their hot tub and enjoy the view. He was concerned that the screening requirement would force people to eliminate their view.

Commissioner Band asked if the intent was to visually screen the hot tub from the neighbors. Planner Whetstone answered yes. Director Eddington suggested that screening could be 4' to 6' so it would not affect the view. He pointed out that it would only be required along the property line where the hot tub sits so they would still have the views in the other directions.

Planner Whetstone stated that the Staff would be bringing back Chapter 15, the definitions chapter, for a number of revisions. They were also beginning the implementation of the General Plan, as well as other sections where they need to come back with additional

definitions. Planner Whetstone remarked that the amendments proposed this evening could be continued until they all come back sometime in March.

Chair Worel opened the public hearing.

Mary Wintzer, 320 McHenry Street stated that if the hot tub amendments are continued it would give the Planning Commission time to contemplate her comments. Ms. Wintzer stated that she has lived in Old Town for 43 years and she understood that several of the Commissioners have or had the Old Town living experience. Ms. Wintzer remarked that the Planning Commission and the City Council are the HOA for Old Town. Already in Old Town house are upon houses with the topography of Old Town. To move the hot tubs even closer to the property line would affect the quality of life for many people, not just the person who owns the hot tub. Ms. Wintzer did not believe it was a God given right that everyone should have a hot tub. Another issue is that the more dense and crowded Old Town becomes, the more it forces full-time residents in the neighborhoods to move out of Old Town. She suspected that the majority of people who want hot tubs are second homeowners. Ms. Wintzer asked the Commissioners to reflect on the fact that it is not as simple as moving the hot tub because it would create a ricochet of events and those without hot tubs could not enjoy their yard because someone is two-feet closer to their property. Ms. Wintzer pointed out that two feet is a significant distance when you have a small yard. She asked the Planning Commission to consider that the consequences are far greater than simply two feet.

Ruth Meintsma, 305 Woodside asked if they had considered hot tubs on a steep slope. With screening it could be quite an imposing structure on to a downhill house.

Planner Whetstone stated that the Staff had discussed it. Director Eddington noted that the issue is that most people have graded their rear yards to be either a patio or other space, so it would generally be on fairly flat land. However, he agreed with Ms. Meintsma that if the backyard of your property is on the downhill side, the house above could appear imposing. Director Eddington stated that the issue currently occurs with the 5' setback if someone chooses to put a fence along their back yard. He noted that most yards end up having a fence anyway for privacy.

In response to Ms. Wintzer, Director Eddington wanted it clear that the Staff was not necessarily proposing this amendment. They think it is a good idea in general given the space challenges, but if the 5' setback eliminates some hot tubs it may have been done by design. Director Eddington stated that the Staff is concerned about the fact that mostly secondary homes want hot tubs and whether that negatively affects the primary homes. That was the reason for recommending significant screening if the Planning Commission decided to reduce the rear setback from 5' to 3'.

Commissioner Joyce stated that his concern was consistency. There is magic about a hot tub. If from a visual standpoint if he could build a shed in his backyard three feet from the property line, it would block views. Considering the "people" aspect of the issue, he was unsure why hot tubs would be regulated but not patio furniture. People spending time on their patio can generate noise disturbance as much as anyone else. Commissioner Joyce found it odd to have a hot tub regulation given that there are already structural regulations. He understood why pools were treated differently because of the safety factor.

Commissioner Phillips stated that he lives on an uphill lot and he has a hot tub. His hot tub is on a second level and he looks into another neighbor's yard that has a hot tub. His neighbor behind him throws parties on their deck. He understood the issues Ms. Wintzer had addressed. Commissioner Phillips stated that if the setback is reduced to 3' the owner could have a 7' hot tub, which can fit a lot of people. He commented on the number of nights he hears people on vacation having a good time in the hot tub, but it is part of living in Old Town. However, if there are twice as many people in a larger hot tub, he might be bothered by the noise because he has children. Commissioner Phillips stated that hot tubs continually get bigger and that was something they needed to consider. He would be in favor of limiting the setback to 4'. He did not support screening. Commissioner Phillips agreed with the 3' setback on the side yard.

Commission Campbell agreed with no screening. He was opposed to requiring people to put up a screen.

The Staff and Commissioners discussed situations where a hot tub could be considered legal non-complying. Director Eddington stated that if a hot tub was installed prior to the Code being in effect, it would be legal non-complying.

Commissioner Phillips disclosed that he did not realize that the setback was five feet from the side yard; therefore, his hot tub is non-complying and does not meet the setbacks. Director Eddington stated that many existing hot tubs are non-complying.

Commissioner Joyce could not understand why this was an exception. If they talk about structures and setbacks being 3 feet from the back and three feet from the side, he could not understand why a hot tub could be four feet and a shed only three feet. He asked for an explanation of why those two things are different. Director Eddington was unsure why they were different. He suggested that some people might view hot tubs as an attractive since they are designed to create use and sound. Those impacts are harder to mitigate as opposed to a shed. Commissioner Joyce stated that if hot tubs are such a nuisance they should be outlawed. He would understand that argument even though he would disagree with it. However, he did not believe the problems would be mitigated by having a 4-foot

exception instead of the standard 3-feet. It would not be any quieter or noticeably different. Commissioner Joyce favored making life simpler for all the constituents. He thought they should eliminate the exception for hot tubs and treat it like a structure.

Commissioner Thimm stated that when he read it he thought it was intended to be different, otherwise it would be consistent. Commissioner Thimm commented on enforcements. He stated that reading the language without the change, it says screened mechanical equipment, hot tubs, and similar structures located at least five feet from the rear lot line. Commissioner Thimm stated that when they enforce the current Code, he asked if they were enforcing a screened hot tub. Planner Whetstone answered yes. Commissioner Thimm clarified that the issue regarding screening in the 3' versus 5' discussion was not really an issue as written. Planner Whetstone noted that the items listed were exceptions to the setback. She explained that putting the hot tub in the back more than ten feet and it is not in the ten foot setback, then it does not fall into the exception and it does not need to be screened. Director Eddington stated that very few houses have not built to the ten foot rear setback line. Planner Whetstone clarified that screening would only be required if someone took the exception of five feet from the property line. Commissioner Thimm thought the screening definition should be clear to avoid arguments at the Planning Department counter. Director Eddington concurred.

Chair Worel thought they could all agree there was lack of clarity and further discussion would not resolve the confusion. Director Eddington asked for direction from the Planning Commission so the Staff could draft appropriate language for the next meeting.

Commissioner Strachan stated that with all of the socially important issues they discussed in the General Plan he was surprised that this was the first LMC amendment to come before them. He did not have an opinion one way or the other on whether it should be 5 feet, 3 feet or 4 feet or screened.

Commissioner Band stated that she has lived in Old Town and she respects the comments made by Ms. Wintzer because it is small and neighbors can be loud. However, she agreed with Commissioner Joyce that all accessory structures on a lot should be treated the same. Commissioner Band was not in favor of screening because she did not think it would accomplish its purpose.

Commissioner Phillips favored the 3' and 3' setbacks. He could not see a need for screening.

Commissioner Campbell was comfortable with 3' and 3' setbacks. He thought they should keep it simple and not require screening.

Commissioner Joyce thought the setbacks should be 3' and 3', including for hot tubs, and no screening.

Commissioner Thimm was comfortable with 3' and 3' and no screen, but he did not want to lose the screened element for mechanical equipment. Commissioner Thimm noted that the discussion was about hot tubs, but in reading the language he asked if mechanical equipment could be brought closer to the property line. Planner Whetstone noted that mechanical equipment is typically an air conditioner and that is usually up against the house.

Commissioner Strachan believed these were issues that would be flushed out at the counter and they may see additional revisions because of it. He suggested that the Staff come back at the next meeting with new language without the screening, and the Commissioners could vote to approve specific language.

MOTION: Commissioner Strachan moved to CONTINUE the public hearing on the setback regulations for hot tubs in the HRL, HR1, HR2, HRM and RC Zoning Districts to March 25, 2015. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

4. Chapters 2 (in all applicable zoning districts) and 15 (Definitions) to clarify Essential Municipal and Public Utility Uses

Planner Whetstone requested that the Planning Commission continue Chapters 2 and 15 in an effort to keep all the amendments together for the March 25th meeting.

Planner Whetstone referred to page 189 of the Staff report. She noted that every zoning district had the same language as either an allowed use or a conditional use. She read, Essential Municipal Public Utility Use, Facility, Service and Structure." The request was to add the word "and" after "Municipal" to read as Essential Municipal and Public Utility Use. The intent was to make the distinction between municipal uses and other utilities such as power and non-municipal utilities.

MOTION: Commissioner Strachan moved to CONTINUE the public hearing on Essential Municipal and Public Use Facilities, Services and Structures in all Zoning Districts to March 25, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

5. Chapter 2.24 – Regarding Transfer of Development Rights (TDR)

Planner Whetstone handed out public input from Thomas Hurd. She also handed out a map that identifies the SOT1, SOT2 and SOT3, which are the sending zones that are different than the sending zones for all of the historic districts. She also provided copies of the redlines.

Planner Whetstone stated that the current language talks about all vacant lots within the Park City historic districts. It then says, "except those lots in the SOT1, SOT2, SOT3, which are the sending overlay, and Sending TH, which is sending Treasure Hill, and all sites listed on the Inventory shall be eligible as sending sites and shall be an overlay zoning district referred to as a TDR Sending Historic." Planner Whetstone noted that it never says that the vacant lots in the SOT1, SOT2, etc., are eligible, but it later talks about how to get the credits. She stated that the first blue line was her attempt to clarify and reiterate that all lots included in the SOT1, 2 and 3 and in the Sending Treasure Hill are eligible as sending sites as further specified in Section 15-2.24.

Commissioner Joyce thought the TDR looked like something that was invented to make the Treasure Hill deal work. If he was asked whether it made more sense to move density out of Old Town over to the base of Deer Valley, he would have to say no because Old Town is where people shop and eat and there are real transit solutions. Commissioner Joyce stated that if they were going to have a TDR discussion, it should be one that really makes sense.

Planner Whetstone stated that the primary reason for these sending zones, at least in the in SOT1, SOT2 and SOT3, is the fact that the lots are very steep, they have sensitive lands, narrow streets and they are not ideal for development. Commissioner Joyce understood that reasoning; however, if they discussion is about making sure they use those and eliminate the HR1, it would be an interesting planning discussion about where TDR sources should be coming from. Planner Whetstone explained that they also have property owners in one of those sending zones that have an interest in using the TDR. She noted that the TDR has only been used once. The General Plan identifies in some of the strategies that they relook at receiving and sending zones. There is an urgency to do some cleanup language, but the Staff intends to come back with the map that shows all of the existing sending and receiving zones, and to have that planning discussion.

Director Eddington stated that the idea of the SOT1, 2 and 3 was to denote areas that were challenged by the road infrastructure, steep slopes, etc., and to offer an opportunity to transfer those development rights. The Planning Commission at that time discussed that these areas could have negative impacts but they did not want to take away the individual property owner's right to develop their property or to make money on it via the sending zone. The HR1 Historic District was included because there was a discussion with regard

to compatibility and that people were building houses to the full footprint and to the full heights, which they are allowed to do pursuant to the LMC as long as they meet compatibility and the Historic District Designs Guidelines. At that time there were some historic houses that were recommended to stay as they were and/or add very small additions. In order to encourage that, the owner had the right to transfer the square footage that they did not build out to, which gave them an economic incentive for not building to the full height and footprint. That approach was desired by most everyone in Old Town. Director Eddington stated that they knew it would not be used extensively, but in the places where it was used it was deemed a good planning tactic.

Director Eddington stated that in regards to the issue this evening, they were clarifying language and discussing the issue of Old Town lots in the SOT zone. He noted that double Old Town lots only get one credit if they transfer. The question is whether they should give them two credits to be more equitable and fair. Director Eddington reiterated that the purpose of tonight's discussion was to clarify language and consider the equity issue.

Chair Worel opened the public hearing.

Bill Coleman referred to the map and SOT1 and noted that there were two or three lots that were not included. He thought it appeared arbitrary and odd not to include those lots in one of those zones. Mr. Coleman stated that he raised that question on behalf of Kathy Doobie and her family from Indiana. They are old miners and wanted to make sure they were in the deal. On a second issue, Mr. Coleman stated that he has been working with Harry and Sidney Reid on their property and he suggested some changes in their wordsmithing. He clarified that he is not a proponent of TDRs. He does not believe they work or that they City has proven that they work. Mr. Coleman read from the first page, item H, "Providing a mechanism whereby the development rights may be allowed to transfer." Although it may be a wonderful idea, he submitted five ways that it might work better. Mr. Coleman referred to Section 3B and read, "The determination letter is not a binding document and does not grant a vested right." He asked at what point is it vested. He did not believe the language was clear. He understood what they were trying to do but it does not tie together with Section 9 on the next page which says that no matter what happens, maintenance and all responsibility for the property after the TDR is erased from it is still the owners. Mr. Coleman pointed out that there was no mechanism to unload the full responsibility of the property and the liability. He read from Section 5, Transfer of development rights, "… by reissuing the development credits in the transferee's name and reporting the development credit certificate…." He thought there should be a way to sell the development rights with or without City approval. Once a deal is made, he questioned how the property could become vested to the new owner. The language says, "at the time of approval", but it does not stop someone from selling a TDR without City guidance. It is

the fundamental problem with TDRs because no one on the buying side of these TDRs wants to buy their land twice. This is why TDRs are not working. Mr. Coleman referred to Section 8 and stated that his biggest concern is that all the rights must be sold. It is not possible to only sell some rights. At some point the ownership has to be considered. He believed the presumption is one owner, but that is not true in all cases. Mr. Coleman appreciated the one lot/one density limit. However, he did not believe that solved all the questions. When they try to find a market for TDRs, he did not believe it exists and he challenged the City to show him how it would. He believed they were close by making it make more sense on the steeper lots, but his client, the Reid's had a plan attached to their property that they would not be able to do easily based on all the rules incorporated into the Code. Mr. Coleman thought they were getting closer, but there was no place where the City does anything to accelerate a sale to happen. Leaving it to the private section is a cop-out and does not make for a good banking possibility or a good currency exchange. Mr. Coleman recommended making other modifications at the same time they were wordsmithing.

Sydney Reid, stated that she was part owner with two other partners of the property Mr. Coleman was talking about. They would appreciate the change in the multiple because it gives more value to the property they have owned for a long time. Ms. Reid noted that the development they had planned was not going through, and the person who had the passion and ability to make a development work on the property is no longer here. Ms. Reid remarked that open space is a great option and would benefit bikers, hikers, and neighbors in the area. She struggles trying to understand how this would work because if they transfer the development rights on that property, they would still have the responsibility of maintenance and abatement of the property. Ms. Reid echoed all the comments made by Bill Coleman.

Chair Worel closed the public hearing.

Commissioners Campbell and Phillips had no further comments.

Commissioner Band liked the idea in theory; however she thought very good questions were raised with valid concerns. Director Eddington explained that when the City first looked at TDRs in 2011 there was a discussion regarding multipliers, bonuses, etc. The issue is that some land is more valuable than other land, which can make the transfer difficult. The Staff initially recommended density bonuses to help accommodate the difference. Director Eddington stated that at the time the City Council recommended removing the multipliers and simplifying the TDR process. He noted that it was a dull tool at this point. However, there was also a discussion about whether the City wanted a role in being a public bank with a website identifying those selling and those interested in buying. The City Council decided at that time not to be involved. Director Eddington stated that it is

a very difficult endeavor without some of those components. He believed that equaling the bonuses or making it more equitable lot for lot helps a little, but it does put the onus on the private property owner. Director Eddington stated that he has seen TDRs work effectively, not only in Washington but also in New York. He has also seen them work in rural districts and other areas. However, it is complex and it does require a bank or a central place where people can understand who is buying and selling. Director Eddington remarked that at the time both the City Council and the Planning Commission were concerned about facilitating development. If it is viewed as facilitating development they may not want to do it. If viewed as controlling, shaping and guiding it may have more appeal. Director Eddington clarified that what they have now is a very simplified version of TDRs.

Commissioner Band reiterated that she liked the idea of allowing someone who has a difficult lot to develop to be able to sell their development rights to someone else who could use it in a place where development is more appropriate. However, she questioned whether cleaning up the language was an effort to clean up something that would never be used anyway.

Based on public comment, Director Eddington believed that fixing the problems would be a step in the right direction. He asked if the Planning Commission wanted the Staff to come back with a more holistic approach to TDRs and address some of the bigger questions.

Commissioner Strachan thought the tool would only work if it is looked at holistically and if they can draft an ordinance that they believe can work. If they know the current one will not work and they tweak it and send it to City Council, it accomplishes nothing. Commissioner Strachan noted that he and Chair Worel were on the Planning Commission during the last TDR discussion. However, things have changed since then and he thought the discussion should be re-opened, and some of the things that were initially rejected should be put back on the table. He stated that a bank was one item that was rejected after a long debate. He thought the bank was important to make it work, but there were also good arguments as to why that was not true. Commissioner Strachan stated that if they intend to do TDRs it needs to be done right and they need to draft a good ordinance before they send it to the City Council.

Commissioner Thimm agreed completely with Commissioner Strachan. He thought the benefits were worth the effort to make it work. He was not interested in spending time on something that was not going to work.

Commissioner Joyce agreed, but with a different conclusion. He did not have an understanding of what would make the TDRs work effectively. Trying to create a market where they were none and where buyers and sellers do not match up well, it would still not be used. Commissioner Joyce stated that if they were really talking about building a

service and being the “bank”, it would involve money, time and a commitment from the City that to this point the City Council was not interested in pursuing. He did not want the Planning Commission to spend a significant amount of time creating something that goes against what the City Council has already said. Commissioner Joyce thought it was important to know whether the City Council would be willing to accept it if they drafted something good. Another question is whether they could be convinced that the market is there if the infrastructure was in place. Without being quite confident that it would work, he did not think they should spend much time on it.

Commissioner Strachan stated that the questions and issues raised by Commissioner Joyce were raised before and the Staff has documented those discussions. He thought the only question that should be decided at this point is whether or not the City Council would look at this. Whether or not the market is there has been analyzed by the Staff. He suggested that Commissioner Joyce look at that information and decide for himself whether or not he thinks it is feasible. Commissioner Strachan believed that whether the City Council looks at it is driven by whether or not the Planning Commission thinks they should look at it. If the Planning Commission determines that it is an important tool to give to a developer, the City Council would listen to what they say and not just reject it.

Commissioner Band agreed that things may have changed since the initial discussions. In deciding whether they should look at it again, they need to consider that something may not make sense now but it may be valuable in the future.

Chair Worel pointed out that TDRs are part of the General Plan which makes her think that the City Council is interested. Director Eddington stated that the perspective on development is different now than it was during the recession. A TDR ordinance offers opportunities to buyers and sellers. He believed they would need multipliers and bonuses, and that could be challenging for people to understand. They may have to give a little more to remove density from an area where they do not want density. There was no agreement on that at both the Planning Commission and the City Council level at that time and it was a difficult challenge. If it is presented more holistically and with more Planning Commissioners in agreement it might be the right thing to do.

Commissioner Strachan stated that in addition to a mandate of the General Plan, it also gets them away from the regulatory mire and puts them into more of a planning position. Commissioner Strachan thought the Planning Commission should relook at this starting from scratch. He pointed out that the discussions are complicated and take a lot of time and they should be prepared for long meetings.

Commissioner Joyce was concerned that the TDR matter is enormous and more prone to failure than other planning issues. He like the idea of having more of a planning role, but

he was not convinced that TDRs should be in the top three of their priorities. Commissioner Joyce suggested that the Commissioners review the General Plan and together compile a list of priority items. Planner Whetstone noted that the Planners have been compiling a list and have provided Director Eddington with information about certain strategies. Director Eddington offered to provide what the planners have listed as their highest and most important strategies to see if the Commissioners have anything to add. Commissioner Strachan thought it would be a valid exercise. The Commissioners agreed.

Commissioner Strachan recommended that the Planning Commission table the discussion and continue it to a date uncertain. Commissioner Joyce thought the Staff has brought forth two obvious items this evening. One was the SOT zones that were not explicitly mentioned. The second was the issue of getting double credit for a double lot. He was not opposed to agreeing with both of those concepts independent of the bigger picture of TDRs. The Commissioners concurred.

Commissioner Strachan commented on the language about the SOT lots being more specific. He suggested that they delete the parenthetical that says, “except for the lots included in SOT 1, SOT2, SOT3”, and keep the new version language. Commissioner Campbell asked if they could fix the three orphan lots in SOT1 this evening. Planner Whetstone preferred to first do some research to find out why those lots were left out. Director Eddington believed they were part of the Alice Claim parcel, which was holistically looked at as its own parcel to be transferred in total or not. He was unsure why the parcels were left out. Planner Whetstone suggested a recommendation to the City Council for those to be a separate SOT sending zone. Director Eddington agreed that they would have to be separate. Commissioner Strachan thought they should be included in the broader discussion of whether or not to tweak the TDR ordinance more than the two changes in front of them.

MOTION: Commissioner Joyce moved to CONTINUE the public hearing for Chapter 2.24 regarding Transfer of Density Rights to March 11, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

6. <u>Chapter 9 – Non-conforming Uses and Non-complying Structures Regulations</u>

Chair Worel opened the public hearing. There were no comments. Chair Worel closed the public hearing.

MOTION: Commissioner Joyce moved to CONTINUE Chapter 9 – Non-conforming uses and non-complying structure regulations to a date uncertain. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Commissioners Worel and Strachan stated that they would be out of town on March 11th.

Assistant City Attorney McLean noted that Chair Worel's term as chairperson expires in March. The Commissioners should be prepared to elect a new Planning Commission chair at the next meeting. Since Commissioner Worel has served two years as the Chair she could not be re-elected.

The Park City Planning Commission Meeting adjourned at 10:00 p.m.

Approved by Planning Commission: _____