

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
APRIL 24, 2013

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Brooke Hontz, Stewart Gross, Adam Strachan, Jack Thomas, Charlie Wintzer

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone; Planner; Anya Grahn, Planner; Shauna Stokes, Planning Tech; Mathew Evans, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

**ROLL CALL**

Chair Worel called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except Commissioner Savage who was excused.

**ADOPTION OF MINUTES**

November 5, 2012

Director Eddington clarified that the minutes from the joint meeting with the Snyderville Basin Planning Commission on November 5, 2012 were delayed because City Council, Planning Commission and General Plan meeting minutes were a higher priority.

MOTION: Commissioner Wintzer moved to APPROVE the minutes of November 5, 2012 as written. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously. Commissioners Strachan and Thomas abstained since they were absent from that meeting.

April 10, 2012

Commissioner Hontz referred to page 17 of the Staff report, page 1 of the minutes, first line, and corrected Commissioner Hontz to read, "**Commissioner Wintzer** referred to page 23..."

Commissioner Hontz referred to page 20 of the Staff report, page 4 of the minutes, last paragraph, and noted that the name of the Commissioner making the statement had been omitted. The Commissioners recalled that Commissioner Savage had made the statement and the minutes were corrected to read, "Commissioner **Savage** assumed..."

Commissioner Hontz referred to page 22 of the Staff report, page 6 of the minutes, and questioned the second sentence of Finding of Fact #2. Director Eddington believed it was a footer that was

inadvertently copied into the Findings. The minutes were corrected to delete Planning Commission - April 10, 2013 Page 57 of 1283 from the finding.

Commissioner Hontz referred to page 23 of the Staff report, page 7 of the minutes, Finding of Fact #14, second line, and corrected the word aide to correctly read **side**.

Commissioner Hontz did not believe the Findings of Fact in the minutes regarding 343 Park Avenue matched the findings that were in the April 10, 2012 Staff report. As an example, in Finding #14, she did not think the maximum footprint allowed for Lot 1 of 1,200.68 was for the same property. Commissioner Hontz also questioned whether the lot numbers were accurate in Finding of Fact #16.

Commissioner Hontz suggested that the minutes be tabled until the next meeting pending verification and further corrections.

MOTION: Commissioner Wintzer moved to CONTINUE the minutes of April 10, 2012 to the next meeting pending verification of the corrected minutes. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Hontz was concerned that the positive recommendation of the plat amendment for 343 Park Avenue had been forwarded to the City Council with the incorrect Findings of Fact, Conclusions of Law and Conditions of Approval. Planner Whetstone replied that 343 Park Avenue had not yet gone to the City Council.

Director Eddington explained that in the past when a property is noticed for the Planning Commission, as a public courtesy it is also noticed for the City Council meeting. The noticing has been two weeks out. Therefore, if the Planning Commission meets on Wednesday, it goes before the City Council two weeks and one day later. On that time frame, if there is an issue with the minutes the Staff would not have that information until 24 hours prior to the City Council meeting. To address that issue, the Staff was proposing to extend the initial notice to three weeks out, which would allow time for the Planning Commission minutes to be approved or corrected before going to the City Council. If the minutes are not approved, the City Council hearing would be continued.

Commissioner Hontz asked when 343 Park Avenue was scheduled to go the City Council. Planner Whetstone replied that it was scheduled for May 2<sup>nd</sup>. Planner Whetstone noted that minor corrections had been made to the April 10<sup>th</sup> minutes and she was unsure what the issue was and why the minutes were incorrect.

Commissioner Strachan noted that the square footage reflected in Finding of Fact #14 was different from what was approved. Planner Whetstone explained that Finding #14 pertained to Lot 1, the new lot, and the 1200.68 square feet was based on the lot size. Commissioner Wintzer stated that he has never seen square footage ending with .68. Planner Whetstone clarified that it follows a formula and that it does end with .68. The number could be rounded if it would make the Commissioners more comfortable. Planner Whetstone pulled up the April 10<sup>th</sup> Staff report to show that 1200.68 square feet was the number reflected in Finding #14.

Director Eddington clarified that the first sentence in Finding #14 was based on a footprint formula. The square footage was not the realistic footprint but rather what could be; and the formula could result in a decimal place.

The Commissioners and Planner Whetstone reviewed and compared the Findings, Conclusions and Conditions in the minutes to the ones in the April 10<sup>th</sup> Staff report.

Commissioner Strachan was satisfied that the Findings of Fact, Conclusions of Law and Conditions of Approval were consistent with the changes made at the last meeting. He was prepared to approve the minutes this evening with the corrections to pages 17, 20, 22 and 23 of the Staff report as stated by Commissioner Hontz earlier in the discussion.

MOTION: Commissioner Strachan moved to APPROVE the minutes of April 10, 2013 as corrected. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

### **Public Input**

There were no comments.

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

Commissioner Thomas disclosed that a project on the agenda this evening is located across the street from another project in which he has a financial interest. He did not believe it would affect his ability to objectively participate in the discussion and decision this evening.

Director Eddington reported that in addition to extending the noticing date for projects, the Planning Department was working with Mary May to make sure the Staff receives the minutes by Wednesday afternoon to allow time to for the Staff to review them. Director Eddington stated that if the Findings, Conclusions and Conditions are modified from the original Staff report during a meeting, the Project Planner would send Mary a full set of the modified Findings, Conclusions and Conditions in word format so she could cut and paste them into the minutes instead of having to re-type them. If they are no changes, the Planner would let Mary know that as well.

### **REGULAR AGENDA – Discussion, Public Hearing and Possible Action**

#### **1. 59 Silver Strike Trail – Amendment to Record of Survey (Application #PL-13-01828)**

Planner Whetstone provided the Planning Commission with copies of a revised sheet 2 of the amended plat, as well as a copy of accurate information for Unit 4 to replace what was in the Staff report. Planner Whetstone explained that she had the correct information when the Staff report was written, however, there was not an electronic version of the corrected sheet and the old one was inadvertently placed in the packet.

Planner Whetstone reported that 59 Silver Strike Trail is an amendment to the record of survey, and an amendment to the Amended, Consolidated and Restated plat of the Belles at Empire Pass showing all the Belles units. She noted that this project is within the layers of the Flagstaff Annexation area, the Empire Pass MPD, the Silver Strike Subdivision, and this condominium plat. The final requirement is that once a unit is built or substantially constructed to accurately measure exactly what is built, they would know what is private and what limited common or common space is for each unit. The final step is this amended record of survey plat that has to memorialize exactly what is there, and to specifically define the square footage on each plat. Planner Whetstone stated that the Silver Strike subdivision, like the previous ones, require no more than 5,000 square feet floor area, not including basements or 600 square feet for a garage. It also only allows 45 unit equivalents for this project or 90,000 square feet. Basements are included in that number. In order to track everything accurately, each plat is individually recorded.

Planner Whetstone summarized that this was a condominium plat that memorializes the as-built conditions of Unit 4. She clarified that a portion of Unit 4 encroaches on what was believed to be an easement; however, it is actually identified on the plat as a possible future trail easement. Prior to sending this to the City Council, Planner Whetstone recommended that the easement be redrawn so Unit 4 is not shown as not encroaching. Planner Whetstone stated that it is a private future easement within this development for ski-through, but it is not yet an easement. It is only a possible future easement.

Commissioner Strachan thought Unit 5 was showing as encroaching. Planner Whetstone replied that Unit 5 was shown as clipping the easement, but in reality Unit 5 does not encroach.

Commissioner Hontz asked for an explanation of the double-hatched area shown on the drawing. Planner Whetstone replied that it was limited common area specific to Unit 4. Commissioner Hontz stated that if the potential easement was ever a viable ski trail, Units 3, 2 and 1 would always have to cross the road. She was comfortable having it as a condition, but she did not think it was smart to approve something that goes across the ski trail.

Commissioner Strachan pointed out that it was a private easement for the development and he was not interested in involving the City. Commissioner Wintzer understood that the developer who submitted the application owns the easement, in which case he was building on his own easement. Planner Whetstone replied that this was correct.

Commissioner Hontz read the last sentence under the Analysis on page 45 of the Staff report, "The five units platted to date, 1,2,5,9 and 12 utilize 14.633 unit equivalents". She understood that this application was for Unit 4. She then referred to the table on page 46 of the Staff report, and noted that the total of all platted units to date references units 1, 2, 4, 9 and 12, which are different units, but with the same platted unit equivalents. Planner Whetstone clarified that the table was correct in specifying 1, 2, 4, 9 and 12 because unit 5 was the next item on the agenda.

Commissioner Hontz pointed out that the text assumes that Unit 4 would be platted. Therefore, the platted to date was inaccurate because Units 4 and 5 were not platted yet. The total of all platted

units to date should be the total of 1, 2, 9 and 12. Planner Whetstone would revise Finding of Fact #18 to accurately reflect the correct units and totals.

Commissioner Strachan asked for the difference between the as-built conditions and what was platted. Planner Whetstone explained that when it was Christopher Homes, the condominium units were all depicted like Unit 3. When that Unit 3 was sold the owner thought his entire lot was private, even though the subdivision specified that once built only the unit was the private area and the remainder of the area is either common or limited common area. It was a controversial issue and the developer decided to identify approximate building pads and make it clear that once the unit is built then that actual building area becomes the private area. Commissioner Strachan asked about the final square footage on Unit 4. Planner Whetstone replied that the total square footage was 5,623.3, including the basement. Commissioner Strachan wanted to know what it was supposed to be originally. Planner Cattan stated that there were no specified limits on each one, and they just have a building pad identified on the underlying plat. Director Eddington remarked that they draw down from the 90,000 square feet total as each unit is built.

The Staff recommended that the Planning Commission conduct a public hearing and forward a POSITIVE Recommendation to the City Council on the Third Supplemental Plat for Constructed Units at Belles, located at 59 Silver Strike Trail, with the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Planner Whetstone reported that she had not received any public input to date.

Denna Fleming, the listing agent representing the applicant, stated that the Dagwood Single Family six lot subdivision owned by the Rothman's is behind Unit 4. Many years ago she was approached by Talisker, because she was representing the Rothman's, to make sure everyone was fine with the easement because all the property lines come right to that easement. When Talisker sold the property to Christopher Homes there was an agreement and it was all cleaned up. If the Commissioners had questions, Ms. Fleming was certain they could research historical data to find the answers.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Thomas moved to forward a POSITIVE recommendation to the City Council for the Third Supplemental Plat for Constructed Units at Belles, at 59 Silver Strike Trail, with the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance and as amended. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 59 Silver Strike Trail

1. The property, Unit 4 of the Amended, Consolidated, and Restated Condominium Plat of The Belles at Empire Pass and associated common area, is located at 59 Silver Strike Trail. The property is located on portions of Lot 2 of the Silver Strike subdivision and is within Pod A of the Flagstaff Mountain Development, in an area known as the Village at Empire Pass.
2. The property is located within the RD –MPD zoning district and is subject to the Flagstaff Mountain Development Agreement and Village at Empire Pass MPD.
3. The City Council approved the Flagstaff Mountain Development Agreement and Annexation Resolution 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development Agreement sets forth maximum densities, location of densities, and developer-offered amenities.
4. On July 28, 2004, the Planning Commission approved a Master Planned Development (MPD) for the Village at Empire Pass, aka Pod A. The MPD identified the area of the proposed condominium plat as the location for 18 PUD –style detached single family homes and duplexes.
5. On June 29, 2006, the City Council approved the Silver Strike Subdivision creating two lots of record. Unit 4 is located on Lot 2 of the Silver Strike Subdivision.
6. On August 17, 2007, the City Council approved 4 units on Lot 2 as the Christopher Homes at Empire Pass Phase I condominium plat. The plat was recorded at Summit County on October 3, 2007.
7. On November 29, 2007, the City Council approved the first amended Christopher Homes at Empire Pass Phase II condominium plat creating an additional 4 units on Lot 2. The plat was recorded at Summit County on February 20, 2008.
8. On April 23, 2008, the City Council approved two more condominium units on Lot 1 of the Silver Strike subdivision as Christopher Homes at Empire Pass Phase III condominium plat. The plat was recorded at Summit County on December 1, 2008.
9. On August 28, 2008, the City Council approved the Christopher Homes at Empire Pass Phase IV plat for eight additional condominium units on Lots 1 and 2, specifically units 5/6, 7/8, 13/14, and 17/18 in duplex configurations. The plat was recorded at Summit County on November 19, 2008.
10. March 24, 2011, the City Council approved the Amended, Consolidated, and Restated Condominium Plat of The Belles at Empire Pass amending, consolidating, and restating the previously recorded Christopher Homes at Empire Pass condominium plats Phases I, II, III, and IV. Also on March 24, 2011, the City Council approved the First Supplemental Plat for Constructed Units 1, 2, and 12 of the Belles at Empire Pass Condominiums. These plats were recorded November 28, 2011.

11. On June 28, 2012, the City Council approved the Second Supplemental Plat for Constructed Unit 9. This plat was recorded on November 20, 2012.
12. On February 5, 2013, the Planning Department received a complete application for the Third Supplemental Plat for Constructed Unit 4.
13. The purpose of the supplemental plat is to describe and document the as-built conditions and the UE calculations for constructed Unit 4 at the Belles Condominiums prior to issuance of a certificate of occupancy and to identify private, limited common and common area for this unit.
14. The supplemental plat complies with the conditions of approval of the underlying plats, namely the Silver Strike subdivision plat and the Amended, Consolidated, and Restated Condominium plat of The Belles at Empire Pass. The plat is consistent with the development pattern envisioned by the Village at Empire Pass MPD and the 14 Technical Reports of the MPD and the Flagstaff Development Agreement.
15. Unit 4 is located on Lot 2 of the Silver Strike subdivision plat.
16. The approved maximum house size is 5,000 square feet of Gross Floor Area, as defined by the LMC. Gross Floor Area exempts basement areas below final grade and 600 square feet of garage area. Unit 4 contains 4,811 sf Gross Floor Area.
17. The Flagstaff Development Agreement requires calculation of unit equivalents (UE) for all Belles units, in addition to the maximum house size. The UE formula includes all interior square footage "calculated from the inside surfaces of the interior boundary wall of each completed unit, excluding all structural walls and components, as well as all shafts, ducts, flues, pipes, conduits and the wall enclosing such facilities. Unit Equivalent floor area includes all basement areas. Also excluded from the UE square footage are garage space up to 600 square feet per unit and all space designated as non-habitable on this plat." Within the Flagstaff Development Agreement one residential unit equivalent equals 2,000 sf.
18. Unit 4 contains a total of 5,629.3 square feet and utilizes 2.815 UE. The total UE for units 1, 2, 4, 9, and 12 is 14.633 Unit Equivalents of the 45 total UE allocated for the Belles at Empire Pass.
19. As conditioned, this supplemental plat is consistent with the approved Flagstaff Development Agreement, the Village at Empire Pass MPD, and the conditions of approval of the Silver Strike Subdivision.
20. The findings in the analysis section are incorporated herein.

Conclusions of Law – 59 Silver Strike Trail

1. There is good cause for this supplemental plat as it memorializes the as-built conditions for Unit 4.
2. The supplemental plat is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed supplemental plat.
4. Approval of the supplemental plat, subject to the conditions of approval stated below, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 59 Silver Strike Trail

1. The City Attorney and City Engineer will review and approve the final form of the supplemental plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
  2. The applicant will record the plat at Summit County within one year from the date of City Council approval. If recordation has not occurred within the one year timeframe, this approval 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.
  3. All conditions of approval of the Village at Empire Pass Master Planned Development, the Silver Strike Subdivision plat, and the Amended, Consolidated, and Restated Condominium Plat of The Belles at Empire Pass shall continue to apply.
  4. As a condition precedent to issuance of a final certificate of occupancy for Unit 4, the supplemental plat shall be recorded at Summit County.
  5. A note shall be added to the plat prior to recordation stating the following, “At the time of resurfacing of Silver Strike Trail, the Master Association shall be responsible to adjust wastewater manholes to grade according to Snyderville Basin Water Reclamation District Standards”.
  6. The size and UE shall be reflected on the plat as they are to reflect the actual size and UE of the Unit.
2. **77 Silver Strike Trail – Amendment to Record of Survey**  
**(Application PL-13-01829)**

Commissioner Hontz addressed the same issues as in the prior item, 59 Silver Strike Trail. Finding of Fact 18 should be revised. The same changes to the body of the Staff report should be made on

page 63 and page 64 of the 77 Silver Strike Trail Staff report, in terms of which units add up to which number. Commissioner Hontz stated that Finding 18 should be revised to reflect that the UEs for Units 1, 2, 4, 5, 6, 9 and 12 is 18.567. The words "to date" should be removed.

Planner Whetstone noted that this item was a similar plat amendment to memorialize the units that are under construction for the duplex, which is actually units 5 & 6, located at 77 and 83 Silver Strike Trail.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Thomas moved to forward a POSITIVE recommendation to the City Council for the Fourth Supplemental plat for Constructed Units at the Belles at Empire Pass, Units 5 and 6, based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance and as amended. Commissioner Winter seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 77 Silver Strike Trail

1. The property, Units 5 and 6 of the Amended, Consolidated, and Restated Condominium Plat of The Belles at Empire Pass and associated common area, are located at 77 and 83 Silver Strike Trail. The property is located on portions of Lot 2 of the Silver Strike subdivision and is within Pod A of the Flagstaff Mountain Development, in an area known as the Village at Empire Pass.
2. The property is located within the RD –MPD zoning district and is subject to the Flagstaff Mountain Development Agreement and Village of Empire Pass MPD.
3. The City Council approved the Flagstaff Mountain Development Agreement and Annexation Resolution 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development Agreement sets forth maximum densities, location of densities, and developer-offered amenities.
4. On July 28, 2004, the Planning Commission approved a Master Planned Development (MPD) for the Village at Empire Pass, aka Pod A. The MPD identified the area of the

proposed condominium plat as the location for 18 PUD –style detached single family homes and duplexes.

5. On June 29, 2006, the City Council approved the Silver Strike Subdivision creating two lots of record. Units 5 and 6 are located on Lot 2 of the Silver Strike Subdivision.
6. On August 17, 2007, the City Council approved 4 units on Lot 2 as the Christopher Homes at Empire Pass Phase I condominium plat. The plat was recorded at Summit County on October 3, 2007.
7. On November 29, 2007, the City Council approved the first amended Christopher Homes at Empire Pass Phase II condominium plat creating an additional 4 units on Lot 2. The plat was recorded at Summit County on February 20, 2008.
8. On April 23, 2008, the City Council approved two more condominium units on Lot 1 of the Silver Strike subdivision as Christopher Homes at Empire Pass Phase III condominium plat. The plat was recorded at Summit County on December 1, 2008.
9. On August 28, 2008, the City Council approved the Christopher Homes at Empire Pass Phase IV plat for eight additional condominium units on Lots 1 and 2, specifically units 5/6, 7/8, 13/14, and 17/18 in duplex configurations. The plat was recorded at Summit County on November 19, 2008.
10. March 24, 2011, the City Council approved the Amended, Consolidated, and Restated Condominium Plat of The Belles at Empire Pass amending, consolidating, and restating the previously recorded Christopher Homes at Empire Pass condominium plats Phases I, II, III, and IV. Also on March 24, 2011, the City Council approved the First Supplemental Plat for Constructed Units 1, 2, and 12 of the Belles at Empire Pass Condominiums. These plats were recorded November 28, 2011.
11. On June 28, 2012, the City Council approved the Second Supplemental Plat for Constructed Unit 9. This plat was recorded on November 20, 2012. The Third Supplemental Plat for Constructed Unit 4 was submitted concurrently with this Fourth Supplemental Plat and is being reviewed at this same meeting.
12. On February 5, 2013, the Planning Department received a complete application for the Fourth Supplemental Plat for Constructed Units 5 and 6.
13. The purpose of the supplemental plat is to describe and document the as-built conditions and the UE calculations for constructed Units 5 and 6 at the Belles Condominiums prior to issuance of a certificate of occupancy and to identify private, limited common and common area for this unit.
14. The supplemental plat complies with the conditions of approval of the underlying plats, namely the Silver Strike subdivision plat and the Amended, Consolidated, and Restated Condominium plat of The Belles at Empire Pass. The plat is consistent with the

development pattern envisioned by the Village at Empire Pass MPD and the 14 Technical Reports of the MPD and the Flagstaff Development Agreement.

15. Units 5 and 6 are located on Lot 2 of the Silver Strike subdivision plat.
16. The approved maximum house size is 5,000 square feet of Gross Floor Area, as defined by the LMC. Gross Floor Area exempts basement areas below final grade and 600 square feet of garage area. Unit 5 contains 4,194 sf Gross Floor Area and Unit 6 contains 3,673.5 sf Gross Floor Area.
17. The Flagstaff Development Agreement requires calculation of unit equivalents (UE) for all Belles units, in addition to the maximum house size. The UE formula includes all interior square footage "calculated from the inside surfaces of the interior boundary wall of each completed unit, excluding all structural walls and components, as well as all shafts, ducts, flues, pipes, conduits and the wall enclosing such facilities. Unit Equivalent floor area includes all basement areas. Also excluded from the UE square footage are garage space up to 600 square feet per unit and all space designated as non-habitable on this plat." Within the Flagstaff Development Agreement one residential unit equivalent equals 2,000 sf.
18. Unit 5 contains a total of 4,194 square feet and utilizes 2.097 UE. Unit 6 contains a total of 3,673.5 square feet and utilizes 1.837 UE. The total UE for units 1, 2, 4, 5, 6, 9, and 12 is 18.567 Unit Equivalents of the 45 total UE allocated for the Belles at Empire Pass.
19. As conditioned, this supplemental plat is consistent with the approved Flagstaff Development Agreement, the Village at Empire Pass MPD, and the conditions of approval of the Silver Strike Subdivision.
20. The findings in the analysis section are incorporated herein.

#### Conclusions of Law – 77 Silver Strike Trail

1. There is good cause for this supplemental plat as it memorializes the as-built conditions for Units 5 and 6.
2. The supplemental plat is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed supplemental plat.
4. Approval of the supplemental plat, subject to the conditions of approval stated below, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 77 Silver Strike Trail

1. The City Attorney and City Engineer will review and approve the final form of the supplemental plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at Summit County within one year from the date of City Council approval. If recordation has not occurred within the one year timeframe, this approval 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.
3. All conditions of approval of the Village at Empire Pass Master Planned Development, the Silver Strike Subdivision plat, and the Amended, Consolidated, and Restated Condominium Plat of The Belles at Empire Pass shall continue to apply.
4. As a condition precedent to issuance of a final certificate of occupancy for Units 5 and 6, the supplemental plat shall be recorded at Summit County.
5. A note shall be added to the plat prior to recordation stating the following, “At the time of resurfacing of Silver Strike Trail, the Master Association shall be responsible to adjust wastewater manholes to grade according to Snyderville Basin Water Reclamation District Standards”.
6. The size and UE shall be reflected on the plat as they are to reflect the actual size and UE of the Unit.

**3. 9100 Marsac Avenue, Montage – Conditional Use Permit for Outdoor Events  
(Application PL-13-01845)**

Planning Technician, Shauna Stokes, reviewed the request for a conditional use permit for proposed temporary structures to be located within the existing Montage Deer Valley property longer than 14 days and more than five times per year. The property is located in the residential development district (RD) and is within the Empire Pass Master Planned Development. The application requires a conditional use permit review by the Planning Commission. The applicant proposes to have temporary structures up to 15 times per year, of which four may be allowed for a maximum period of 60 days.

The Staff recommended that the Planning Commission consider approving the conditional use permit application in accordance with the Findings of Facts, Conclusions of Law and Conditions of Approval outlined in the Staff report.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Director Eddington noted that pages 80 through 83 of the Staff report contained the fifteen criteria for the CUP. The Staff had reviewed the criteria and found that there were no unmitigated impacts.

Commissioner Hontz stated that she has attended events at the Montage. Very few people live in the vicinity and she did not have an issue with any of the mitigation measures. However, if they approve this CUP and later on there are complaints about traffic and noise, she wanted to know how that would be addressed. Ms. Stokes replied that a condition of approval could be added to address her concern. She had checked with Max Papp, as well as Code Enforcement and Building, and no complaints were found for any of the events in that area. Commissioner Hontz believed it was broader than noise issues. It should be addressed as nuisance issues.

Director Eddington stated that in the past the Planning Commission has added a condition of approval to address noise, nuisance, parking and other issues. One that came to mind was the event CUP for the Yard. The condition of approval would say that if the City receives three complaints, the CUP would come back to the Planning Commission for re-review.

Commissioner Hontz recalled a previous event where cars were parked on both sides of the street on Marsac leading up to the Montage. However, based on the letter from the Montage that was included in the Staff report, there appears to be ample parking in addition to the buses. Commissioner Hontz could see where it could become a nuisance in the future as more residents move into that area. In her opinion, there was no reason for people to park on Marsac if there are 593 parking spaces at the Montage. People who attend a Montage event should either park in the parking garage or take the bus. She would also like to add a condition of approval to address parking.

Commissioner Wintzer was less concerned with the events at the Montage and more concerned that allowing the CUP would increase traffic on Marsac. He recalled that the primary issue when the Montage was approved was the issue of using Marsac to reach the Montage. If people within the Montage attend the events it would not be a problem. However, if the events attract people from other places it would create a traffic issue for Marsac and that needed to be addressed.

Andrew Godaire, representing the applicant, explained that the purpose for requesting the CUP was that the Montage hosts several events throughout the summer, including weddings and conferences that require additional space. A tent would be erected on one of the three lawns or on the terrace. He noted that in the past the Montage has requested a CUP for each individual event. At the recommendation of the Planning Department, they were requested to apply for a conditional use permit that would be a blanket permit to avoid having to permit each event. Mr. Godaire stated that there would be no parking on Marsac. The Montage hosted a very large outdoor concert over the summer and they were able to fit all the cars on their property. No one attending the concert had parked on Marsac. As an added measure they had barricaded off that road.

Commissioner Wintzer clarified that his comment was more about noting that these events would not increase the traffic on Marsac so the City would have something to fall back on if it becomes a problem in the future.

Commissioner Thomas questioned how they could put a guarantee on no increased traffic and monitor it. Mr. Godaire recommended that if any complaints arise during an event, the Montage would hold a meeting afterwards to review such complaints and make recommendations for future uses.

Commissioner Hontz suggested altering Condition of Approval #5 to state that, "The Conditional Use permit shall not violate the City noise **or nuisance** ordinance. Any violation of the City noise **or nuisance** ordinance may result in the CUP becoming void." She was unsure whether traffic would be considered a nuisance.

Commissioner Hontz stated that since it was not a problem to keep people from parking on Marsac, she requesting adding Condition #7, "No parking shall be allowed on Marsac Avenue." Commissioner Thomas thought that was a practical solution. If all the cars do not fit in the parking structure, the Montage would have to run shuttles. Director Eddington pointed out that the City encourages people to include in their event advertising the ability to utilize the bus service, because the bus goes up Marsac for summer events.

Ms. Stokes understood that this conditional use permit would not cover larger events. Large scale events would fall under the Events Department and require a different permit. Planner Whetstone noted that the City Council approves those requests.

Commissioner Strachan favored adding Condition #7 and revising Condition #5.

Assistant City Attorney McLean asked Mr. Godaire to clarify the request for 15 times per year, and only be allowed for a maximum of 60 days. She asked if the Montage intended to have four tents up for 60 days. Mr. Godaire replied that it was not the intent; however, last Fall a conference client requested to have four yurts temporarily erected for their duration and they were up for consecutive 45 days. It occurred during a slow time of year for the whole town and they would like to encourage that type of business in the future.

Commissioner Gross thought it was a terrific idea because it allows the Montage the ability to market without having to go through the CUP process for each event. He questioned the square footage of the tents. For example, having a 20,000 square foot tent up for four months could be overbearing.

Commissioner Gross asked which day was the single busiest day. He was told that it was February 9, 2013, as stated in the letter from the Montage. Commissioner Gross was not opposed to having an extremely large tent up for a few days to accommodate a wedding or a conference, but he would not like to see a large tent up for four months. Mr. Godaire pointed out that the Montage would not like it either because in the end they would have to replace the lawn. Commissioner Gross did not want to limit the Montage from doing business and he did not have a suggestion to address his concern. Mr. Godaire stated that if they ever encounter a situation where a larger temporary structure is necessary for a long duration, he would be willing to apply for a separate conditional use permit for that use.

Commissioner Gross was comfortable limiting this CUP to any temporary structure over 5,000 square feet for no longer than 20 days. Commissioner Hontz suggested adding Condition 8 to read, "Any temporary structure over 5,000 square feet for longer than 20 days shall be required to apply for a Special Events Permit." The Commissioners concurred.

Commissioner Wintzer asked if there were certain requirements that would trigger a Special Event Permit. Ms. Stokes stated that she had asked Max Papp but he did not give her specifics. She understood that it would be an event large enough to have to mitigate traffic and involve the police for safety.

MOTION: Commissioner Hontz moved to APPROVE the conditional use permit application for temporary structures within the Montage Deer Valley, in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval as amended; revising Condition #5 adding the language regarding nuisance; and adding Condition #7 prohibiting parking on Marsac Avenue; and Condition #8 limiting temporary structures over 5,000 square feet shall not exceed twenty (20) days. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

#### Findings – 9100 Marsac Avenue - Montage

1. On February 21, the City received a complete application for a CUP for temporary structures to be located within the Montage Deer Valley up to fifteen (15) times per year of which four (4) may be allowed for a maximum of sixty (60) days.
2. Temporary structures require a CUP in the RD Zone.
3. No additional signs or lighting are proposed with this application.
4. In 2012, the hotel pulled five (5) separate Administrative CUPs for temporary structures.
5. Within the Land Management Code (LMC) section 15-4-16(A)(7) a temporary structure may only be installed for a duration longer than fourteen (14) days and for more than five (5) times a year with an Administrative CUP and the Planning Commission must approve a CUP for any longer duration or greater frequency consistent with CUP criteria in LMC section 15-1-10(E) and the criteria for temporary structures in LMC section 15-4-16(C).
6. The applicant is requesting that the Planning Commission consider approving a CUP to allow the applicant to install temporary structures up to fifteen (15) times per year of which four (4) may be allowed for a maximum of sixty (60) days, due to the higher frequency of weddings and outdoor parties. There may be occasions when more than one temporary structure is installed for an activity.
7. The Montage Deer Valley has six (6) locations for temporary structures: The Grand Lawn (19,953 sq. ft.), Compass Lawn (6,481 sq. ft.), Mountain Lawn (5,513 sq. ft.), Front Lawn (13,573 sq. ft.), Vista Terrace (2,133 sq. ft.), and the Grand Terrace (6,678 sq. ft. See Exhibit B
8. This application is reviewed under Land Management Code Section 15-1-10 (E) and Section 15-4-16(C).
9. The Montage Deer Valley may be accessed via Marsac Avenue. People using the temporary structures would have to abide by the same parking restrictions as other hotel guests.

10. According to a recent parking analysis, there are 593 parking spaces. The applicant conducted a parking study on the busiest day of the year where occupancy was 100% and found 48% usage of the parking lot. They estimate that the addition of temporary structures at maximum capacity and all guests arriving from off-site would diminish the parking by an additional 17%. Therefore, parking would be at 65% of total parking capacity. See Exhibit A.
11. The property was posted and notice letters were mailed to property owners within 300' of the property. Legal notice was published in the Park Record.
12. The project has access from Marsac Avenue.
13. The property is located within the Residential Development as part of the Empire Pass Master Planned Development (RD-MPD).
14. The Findings in the Analysis Section are incorporated herein.

#### Conclusions of Law – 9100 Marsac Avenue – Montage

1. The Use, as conditioned complies with all requirements of the Land Management Code, Section 15-1-10.
2. The Use, as conditioned complies with the Empire Pass Master Planned Development.
3. The Use, as conditioned is consistent with the Park City General Plan.
4. The Use, as conditioned is compatible with surrounding structures in use, scale, mass, and circulation.
5. The effects of any differences in use or scale have been mitigated through careful planning.
6. The Application complies with all requirements outlined in the applicable sections of the Land Management Code, specifically Sections 15-1-10 review criteria for Conditional Use Permits and 15-4-16(C) review criteria for temporary structures.

#### Conditions of Approval – 9100 Marsac Avenue – Montage

1. All temporary structures require a permit issued by the Building Department. All temporary structures must be inspected by the Building Department prior to occupancy. The Building Department will inspect circulation, emergency access, and all other applicable public safety measures.
2. Prior to installing a temporary structure, the Planning Department must sign off on a building permit and record the date within the CUP application folder.
3. A maximum of fifteen (15) events which include temporary structures per year are allowed for a maximum of 60 days.

4. The maximum duration of a temporary structure is fourteen (14) days, with the exception of four (4) temporary structures per year having a maximum duration of sixty (60) days.
5. The use shall not violate the City's Health, Nuisance, or Noise Ordinances. Any violation of this Ordinance may result in the CUP becoming void.
6. Exterior signage must be approved by the Planning Department consistent with the City Municipal Code. All exterior lighting must be approved by the Planning Department and comply with the Land Management Code.
7. No parking shall be allowed on Marsac Avenue.
8. Any temporary structure that exceeds 5,000 feet shall not exceed twenty (20) days and will require a Special Events Permit.

4. **206 Grant Avenue Plat Amendment**  
**(Application PL-13-01819)**

Planner Mathew Evans noted that the Planning Commission had reviewed the plat amendment for 206 Grant Avenue at their last meeting on April 10<sup>th</sup>. The Planning Commission continued the item and directed the Staff to make changes to the Findings of Fact and Conditions of Approval. The Staff had made the requested changes as noted in the Staff report as follows:

- Remove Finding of Fact #4, which did not pertain.
- Changes to the language in Finding of Fact #12, which was now number 11.
- Remove Finding of Fact #14, which was the good cause language, and move it to the Conclusions of Law as Conclusion #4.
- Replace Condition of Approval #3 with the following language. "Approval of an HDDR application is a condition precedent to the issuance of a building permit for construction on the lot."
- Replace Condition of Approval #4 with the following language: "Approval of Street Slope CUP application is a condition precedent to the issuance of a building permit for any structure in excess of 1,000 square feet."
- Replace Condition of Approval #5 with the following language. "Modified 13-D sprinklers may be required for new construction as required by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation."

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended in the Staff report.

Chair Worel referred to the April 10<sup>th</sup> minutes on Page 26 of the Staff report and noted that the wording in the discussion for the conditions of approval was different than the changes reflected in the Staff report. Planner Evans stated that he had listened to the recording and prepared the Staff report before the written minutes were received. Chair Worel asked if the minutes were incorrect. Planner Evans was unprepared to address that question because he had not read the minutes.

Commissioner Hontz stated that based on what she recalled saying, the revised Condition of Approval #4 was still missing language related to the slope, as reflected in the minutes on page 26 of the Staff report. Commissioner Hontz read the revised Condition #4, "Approval of Street Slope CUP application is a condition precedent to the issuance of a building permit for any structure in excess of 1,000 square feet". She believed it was inaccurate because the slope has to be over 30%.

Commissioner Hontz read from the LMC, "A steep slope conditional use permit is required for any new construction over 1,000 square feet of floor area and for any driveways/access improvement if the area of construction improvement is a 30% or greater slope for a minimum horizontal measured from 15 feet. She stated that at a minimum, Condition #4 must reference the slope.

Commissioner Strachan recalled that the Planning Commission had discussed removing the reference to the 30% slope requirement.

Chair Worel referred to the revised Condition #5 and asked if "may" or "shall" was the appropriate word related to the Modified 15-D sprinklers, based on their discussion at the last meeting. Commissioner Strachan noted that the minutes state that "13-D may be required". He believed the minutes reflected the new conditions in the Staff report.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Hontz corrected Street Slopes to read Steep Slopes in Condition of Approval #4.

MOTION: Commissioner Wintzer moved to forward a POSITIVE Recommendation to the City Council for 206 Grant Avenue according to the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 206 Grant Avenue

1. The property is located at 206 Grant Avenue within the Historic Residential (HR-2 Subzone “B”) District.
2. The property is vacant and is not shown on the Historic Sites inventory as a significant site and there are no structures located on the property other than the 206 Swede Alley Stairs.
3. The applicants are requesting to combine two partial Old Town lots into one buildable Lot for the purpose of future development on the property. The applicant has previously contemplated either a garage to serve their existing home on Sandridge Avenue or a small home on the property, both of which are allowed uses within the HR-2 District
4. The amended plat will create one new 2,257 square foot lot.
5. Currently the property is comprised of a portion of Lots 21 and 22, Block 72 of the Millsite Addition to Park City Plat. Neither portion meets the minimum lot size requirements alone.
6. The property is triangular in shape, and due to required setbacks, has a limited building pad available.
7. Any development on the site will require a Historic District Design Review (HDDR) prior to the issuance of a building permit.
8. Any development on the property in excess of 1,000 square feet will require a separate Steep Slope Conditional Use Permit (CUP) if proposed on areas of 30% or greater slope.
9. The lots by themselves are substandard and not developable unless combined with other properties.
10. The proposed lot meets/exceeds the minimum lot size established in the HR-2 District.
11. Potential development on the property is limited by required setbacks and the shape of the lot, which will limit the achievable building pad to approximately 600 square feet, and a conceivable building area of approximately 500 square feet (+/- based on typical building form constraints).
12. The wide-width and unusual configuration of the lot requires by Code a greater side yard setback than what is typical with a lot of this size. The staircase easement is within the side yard easement (ten feet required, whereas easement is seven feet). The shape of the lot will likely dictate that the developed area be on the opposite side of the lot from the staircase.

13. There are no known issues related to the ability to provide required utilities to the property. Water and sewer are readily available to the property.

14. There is a recorded easement for parking and access to the benefit of 210 Grant Avenue on the north property line that is entirely within the north side-yard setback (encroachment is approximately four feet, setback is five feet) that is shown on the plat. There are no other known encroachments to be resolved.

15. The property is located within the Soils Disposal Ordinance Area.

#### Conclusions of Law – 206 Grant Avenue

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.
5. There is Good Cause to approve the proposed plat amendment as the plat does not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements. The proposed plat, when recorded, will provide the City with snow storage easements, as well as memorialize the staircase easement for public Planning pedestrian connectivity between the Sandridge Avenue and Swede Alley residential areas and Main Street.

#### Conditions of Approval – 206 Grant Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Approval of an HDDR application is a condition precedent to the issuance of a

building permit for construction on the lot.

4. Approval of Steep Slope CUP application is a condition precedent to the issuance of a building permit for any structure in excess of 1,000 square feet.

5. Modified 13-D sprinklers may be required for new construction as required by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation.

6. A 10 foot wide public snow storage easement will be provided along the frontage of the property.

7. Any soil removed from the property during excavation is required to be properly disposed of at an approved site to accept contaminated soils.

**5. 30 Sampson Avenue – Ratification of Findings for a Steep Slope CUP (Application PL-12-01487)**

Commissioner Wintzer disclosed that he has a business relationship with applicant's representative, Wade Budge, but that association would not influence his decision on this project.

Planner Evans remarked that this item was ratification of the Findings that the Planning Commission had made regarding 30 Sampson Avenue at their meeting on April 10, 2012. The Staff report contained a summary of the issues discussed at the April 10<sup>th</sup> meeting. The discussion items were incorporated into the Findings of Fact and Conclusions of Law for denial as directed in the action taken by the Planning Commission.

Planner Evans reported that since the last meeting, the Staff sought a second opinion from the Building Department for the purpose of clarification on the proposed deck from the elevator building to the main house. Based on conversations with the Chief Building Official, the Staff recommended a change to the Findings of Fact. A new Finding of Fact #39 would state, "The Chief Building Official has recently reviewed the proposed plans submitted by the applicant and has determined that the proposed attached deck from the elevator to the top floor of the home constitutes a connection of the two buildings, just as a roof structure or a breezeway between two buildings would also be considered a connection between the two buildings. Therefore, under the Building Code it would be considered one structure."

Planner Evans indicated minor changes to the next Findings of Fact that discusses the fact that this appears to be a five-story building based on the structures being connected.

Chair Worel noted that the Recommendation in the Staff report on page 105 incorrectly states denial for a conditional use permit for a nightly rental request at 30 Sampson Avenue. Planner Evans concurred that it was incorrect and that the application was for a Steep Slope CUP.

Wade Budge, representing the applicant, remarked that the opinion of the Chief Building Official reflected in Finding of Fact #39 was a major new development. When the application was submitted over a year ago, the applicant had certain understandings, which were reflected in the April 10, 2012 Staff report, that the building complied with the story requirement. When the application was reviewed in DRT, they were informed that it was reviewed as two separate structures. Mr. Budge pointed out that the facts the entire application was based upon have been changed by this new determination by the Chief Building Official. Mr. Budge noted that he only learned of this development today, and the project architect was out of town. He requested that the Planning Commission postpone action this evening to allow the applicant the opportunity to address the issue. Mr. Budge clarified that when the application was submitted, they understood that it met the Building Code Standard. He requested time to review the application and possibly modify it.

Mr. Budge believed the Staff report reflected the conclusions that were made at the DRT level and the Staff level. He noted that the denial was based on the thought that this was two structures. However, if the building is now viewed as one structure, he was interested in hearing feedback from the Planning Commission regarding the structure and how they would like it to look. Mr. Budge did not want to go forward to the City Council with an application that did not meet a very clear three-story requirement.

Chair Worel asked if Mr. Budge was asking to withdraw this application. Mr. Budge stated that he was not asking to withdraw. He was asking that the Planning Commission postpone their action until the applicant can sort through the developments. He stated that if the applicant is unable to convince the Building Official that the prior determination was correct, they may modify their design.

Commissioner Hontz remarked that this was not a new development for the Planning Commission and she thought it was interesting that it took the Building Department several months to agree with the Planning Commission. Commissioner Hontz stated that she came prepared this evening to go through each finding and describe why the project does not meet the Code and the Historic District Guidelines. She was willing to continue that process, but she would not provide feedback on a design that does not exist. Mr. Budge understood her position. He was only requesting the ability to consult with the Building Department and the project architect. He was not demanding feedback.

Commissioner Wintzer was comfortable granting Mr. Budge his request. He agreed that there was no reason to further discuss a project that may not be built. Commissioner Wintzer noted that the minutes from previous meetings talks about the design and that the Planning Commission would like to see in terms of a smaller, more compatible structure. Mr. Budge stated that the applicant would review the December 2012 Work Session Minutes.

Commissioner Thomas asked about process. Assistant City Attorney McLean stated that based on her review of the earlier Staff report, the Staff had informed the applicant differently than the Chief Building Official's interpretation. Commissioner Thomas asked if Mr. Budge's request was reasonable in terms of pulling an agenda item. Commissioner Hontz understood that the applicant had pulled the rip-cord and asked the Planning Commission to make a decision. Mr. Budge replied that they had not pulled the rip-cord. Commissioner Strachan thought that had occurred at the last meeting. As reflected in the April 10<sup>th</sup> minutes, the applicant was asked whether they wanted to come back or if they wanted the Planning Commission to take action that evening. Mr. Budge

clarified that he had asked the Commissioners to make a decision, but he did not pull the rip-cord because that needed to be requested in writing. Commissioner Strachan clarified that he was referring to the question of whether the applicant wanted the Planning Commission to continue the item or vote on a decision. The applicant chose to have a vote.

Mr. Budge clarified that his decision to request a vote at the last meeting was based on the understanding from Staff that there were two structures compliant with the three-story requirement. That interpretation has now changed. Commissioner Strachan pointed out that the Planning Commission also told him that it was one structure that exceeded the three-story requirement. Mr. Budge stated that until he received the revised Finding #39 this evening, no one had ever cited the standards from the IBC. He noted that Finding #39 relies on facts that the applicant had never seen.

Assistant City Attorney McLean stated that from the standpoint of due process, the Planning Commission could continue this item and allow the applicant to meet with the Chief Building Official to only consider Finding #39. A second alternative would be to remove Finding #39 from the Findings of Fact and vote on ratification this evening. She noted that the Chief Building Official was in the building and available to answer their questions directly.

Commissioner Wintzer felt it was fair to continue the application and allow the applicant the opportunity to work through it.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Thomas moved to CONTINUE the conditional use permit regarding 30 Samson Avenue to a date uncertain. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Winter believed the Planning Commission would encounter this issue of connected buildings again and he asked the Chief Building Official to provide a general definition with drawings. Chad Groot, the Chief Building Official, stated that he would come back with a full explanation of different examples.

The Planning Commission adjourned the regular meeting and moved into work session to discuss Municipal Outdoor Lighting. The work session discussion can be found in the Work Session Minutes of April 24, 2013.

The Park City Planning Commission meeting adjourned at 8:10 p.m.

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