

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
DECEMBER 8, 2010

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Richard Luskin, Dick Peek, Julia Pettit, Mick Savage, Adam Strachan

EX OFFICIO:

Planning Director, Thomas Eddington; Kayla Sintz, Planner; Katie Cattan, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

I. ROLL CALL

Chair Wintzer called the meeting to order at 6:30 p.m. and noted that all Commissioners were present.

II. ADOPTION OF MINUTES OF NOVEMBER 10, 2010

Commissioner Strachan clarified for the record, a date discrepancy between the minutes and the agenda. The minutes were correctly dated November 10, 2010. The agenda incorrectly showed the date as November 11, 2010. Commissioner Pettit noted that the cover sheets for the work session notes and the minutes also said November 11th. She suggested that the date be corrected if the cover sheets become part of the public record.

MOTION: Commissioner Strachan moved to APPROVE the minutes of November 10, 2010. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

III. PUBLIC COMMUNICATIONS

Roger Durst, representing the Historic Preservation Board, reported that the HPB Board members have been very concerned about the vulnerability of the Historic Districts and preservation of those districts. The HPB has talked about having a representative from their board attend Planning Commission meetings, particularly for projects that closely correlate with with matters within the HPB. Mr. Durst emphasized that the HPB did not intend to render an opinion; however, they want to be informed and believe there is an important relationship between the functions that both the Planning Commission and the HPB are called on to perform. As a trial for the next three or four months, a representative from the HPB will attend Planning Commission meetings and report back to their Board.

Chair Wintzer suggested a joint work session with the Planning Commission and the HPB to begin a dialogue on some of their mutual concerns. Mr. Durst strongly favored a joint work session with the Planning Commission.

IV. STAFF/COMMISSIONER'S COMMUNICATIONS & DISCLOSURES

Planning Director Thomas Eddington reminded the Planning Commission that a special meeting was scheduled for December 15th at 5:30 to review Land Management Code revisions.

Director Eddington thanked the Commissioners for attending the joint meeting with the Snyderville Basin Planning Commission the prior evening. The Staff would like to continue these joint meetings to discuss regional planning. The next joint meeting may be scheduled in February.

Commissioner Hontz thanked Director Eddington and the Staff for arranging the joint meeting. She found it very helpful and she appreciated the efforts that everyone contributed. Commissioner Pettit concurred.

Commissioner Pettit stated that she would not be able to attend the December 15th meeting.

Commissioner Pettit asked if it would be beneficial for a representative from the Planning Commission to attend Historic Preservation Board meetings. In the context of the General Plan rewrite and the section regarding historic preservation, she thought it would be helpful to better understand what the HPB is doing so they could recommend changes to the City Council in terms of what the HPB could do to help in recognizing the goals and objectives of the General Plan.

Chair Wintzer requested that the Staff schedule a joint work session with the HPB as soon as possible. He suggested that a liaison to the HPB could be discussed at that time to see how connected they need to be. Chair Wintzer felt a timely joint meeting was important because they have neglected the opportunity for both bodies to work closely together.

Planner Kirsten Whetstone referred to the memorandum contained in the Staff report, regarding the Silver Star Parking and Traffic Update Study. She noted that when the Spiro Tunnel Master Planned Development and CUP were approved for the mixed use Silver Star restore development, a condition of approval required an annual review of the overall traffic and parking related to the development for three consecutive years. Planner Whetstone noted that the 2009-2010 Study is the first of the three reports. The Staff reviewed the report and for the next update they would like to see monitored parking at specific times in both the winter and the summer.

Chair Wintzer asked Rory Murphy, the applicant, if the project is over parked or under parked, according to the Code. Mr. Murphy replied that the project is over parked. Chair Wintzer asked Mr. Murphy how the parking requirement fits the project needs.

Mr. Murphy stated that the project has more underground parking than they would ever use. He noted that with the exception of two or three families, Silver Star has no permanent residents. Everyone either takes a shuttle or they use one rental car. For that reason they always have an abundance of underground parking. Mr. Murphy remarked that the surface parking is tight due to

the variety of user groups. There are times during the year when it is necessary to have a monitor, particularly during Christmas and Sundance. During Christmas week they have an actual person monitoring the parking.

Chair Wintzer stated that he asked the question because the Planning Commission would be addressing parking requirements as they go through the General Plan. He noted that a general idea among the Planning Commission is to have less parking to reduce the number of cars. Based on Mr. Murphy's comments, he suggested that it may be possible to at least reduce the amount of underground parking. Mr. Murphy was unsure about other projects or future projects, but for Silver Star, the parking is not needed.

CONTINUATION(S) AND PUBLIC HEARING

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

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

MOTION: Commissioner Pettit moved to CONTINUE the Park City Heights - Master Planned to January 12, 2010. Commissioner Peek seconded the motion.

CONSENT AGENDA

1. 9100 Marsac Avenue - Amendment to Record of Survey
(Application PL-10-01082)

Chair Wintzer pointed out that it would be helpful on condominium plats if the Staff report would indicate that the plans are the same as what was approved. This would alleviate the concern of whether or not the plan had changed.

Commissioner Peek suggested having an issue statement in the Staff report for all matters briefly summarizing the issue for discussion. Planner Whetstone noted that many times the Staff report begins with a history and background of the application. However, this particular condominium plat for the Montage was an amendment to the one originally submitted. The Staff report outlined the specific amendments.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the amendment to the record of survey at 9100 Marsac Avenue, based on the Findings

of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Luskin seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 9100 Marsac Avenue

1. The property is located at 9100 Marsac Avenue, Lot C of the Parcel B-2 Empire Village Subdivision.
2. The Hotel and Residences at Empire Canyon Resort record of survey plat is located in the Residential Development zoning district as part of the Flagstaff Mountain Master Planned Development (RD-MPD).
3. The City Council approved the Flagstaff Mountain Development Agreement/Annexation Resolution 99-30 on June 24, 2999. 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. The City Council approved an amendment to the Development Agreement on February 1, 2007, that increased the allowable density by 80 Unit Equivalents, including the 192-room Montage Hotel.
5. The Planning Commission approved the B-2 Master Planned Development on March 14, 2007. The Montage is Phase 1, while a second, residential project will be Phase II.
6. The City Council approved the Parcel B-2 Empire Village Subdivision on March 29, 2007.
7. The Hotel and Residences at Empire Canyon Resort record of survey plat is for a 174 room hotel with an additional 84 condominiums utilizing a total of 182 Unit Equivalents. In addition, there is 59,765 square feet of Commercial Space (59.8 Commercial UEs) and approximately 15,000 square feet of meeting/conference space and lounge areas (up to 39,000 square feet of 5% of building allowed.) Total square footage, excluding the garage, is approximately 780,173 square feet. For those elements that were approved by the MPD and are not currently within the project (total rooms, units, commercial space and Unit Equivalents), the applicant retains the vested rights and these may be added in the future following the appropriate review and approval processes.
8. The City Council approved the Hotel and Residences at Empire Canyon Resort record of survey plat on June 18, 2009 and the plat was recorded at Summit County on January 20, 2010.
9. On October 15, 2010 a complete application was submitted to the Planning Department for amendments to the Hotel and residences at Empire Canyon Resort record of survey plat. The proposed amendments to document recorded easements on Page 1, renumber Units 1040 to 1042, 1042 to 1040, 1041 to 1043, and 1043 to 1041 on Page 11 and to record a 9

square foot reduction in floor area for Unit 740 on Page 8, are consistent with the recorded Hotel and Residences at Empire Canyon Resort record of survey and are consistent with the approved Master Planned Development and Conditional Use permit for Pod B-2.

10. On September 10, 2010 an access easement for JSSD was recorded at Summit County and on July 1, 2010 a Rocky Mountain Power underground right-of-way easement was recorded at Summit County. These easements have been added to the cover sheet of the amended plat.
11. The plat amendments do not change the purchase agreements.
12. Ten Employee Housing Units (EHUs) totaling 6,235 square feet (7.8 AUEs) are provided within the hotel. The EHU units are platted as private space and are proposed to be owned by the Montage, although this is not a requirement. The plat amendments do not change the employee housing agreements.
13. Five ADA units are provided, three owned by the hotel and two within the for sale units. All five are platted as Private and count towards the unit counts and UEs. The plat amendment removes ADA designation from Unit 821 and designates Unit 1021 as an ADA unit. Unit 1021 is on Level 6 which is two stories directly above Unit 821 in the same configuration. There are no other changes to the number or sizes of the ADA units.
14. Parking is provided at less than 75% of the Code requirement consistent with the Development Agreement. No change to parking is proposed with the plat amendments.

Conclusions of Law - 9100 Marsac Avenue

1. There is good cause for this record of survey.
2. The record of survey is consistent with the Park City Land Management Code and applicable State law regarding condominium plats and with the approved Master Planned Development and Conditional Use Permit for the Montage Resort and Spa at Pod B-2.
3. Neither the public nor any person will be materially injured by the proposed record of survey.
4. Approval of the record of survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval - 9100 Marsac Avenue

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

2. The applicant will record the record of survey plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. All conditions of approval of the Montage Resort Master Planned Development and the Parcel B-2 Empire Village Subdivision plat shall continue to apply.
4. All conditions of approval of the Hotel and Residences at Empire Canyon Resort record of survey plat shall continue to apply.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

5. 8680 Empire Avenue - Plat Amendment
(Application PL-09-00861)

Planner Whetstone reviewed the application for a plat amendment for a plat called the Village at Empire Pass, Phase I Subdivision plat. She noted that minor changes to the subdivision plat were outlined on page 58 in the Staff report. The proposed amendments were: 1) Identify parking easements that parking exists for Shooting Star and for area residents; 2) Identify a recorded private trail easement; 3) Removes the lot line between Lot 9 and the Village Way private road; 4) Increases Lot 9 from 61,030 square feet to 65,956 square feet.

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

Commissioner Pettit noted in the Staff report that two additional applications have been filed but they were on hold until February. She asked if there was a relationship between those two applications and the one being reviewed this evening.

Dave Smith, representing the applicant, replied that there was no correlation. The application this evening cleans up the plat. Phase 2 of the Tower Club residences is a separate application processed under the MPD and the CUP.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Mr. Smith referred to condition of approval #5 and the statement that the water system for Lot 9 would be maintained by the Master HOA. He clarified that the Lot 9 water system would be maintained by the Lot 9 Sub Association. Planner Whetstone revised condition of approval #5 to reflect that change.

Commissioner Savage referred to letters from homeowners included in the Staff report. He asked Planner Whetstone to explain the issues raised and why the Planning Staff did not feel those issues needed to be explicitly addressed. Planner Whetstone stated that she had spoken with both homeowners and their concerns related more to future residential structures.

MOTION: Commissioner Peek moved to forward a POSITIVE recommendation to the City Council for the first amendment to the Village at Empire Pass Phase I Subdivision, Lot 9 based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - Village at Empire Pass - Lot 9

1. The Village at Empire Pass Phase I Plat is located in the RD-MPD zoning district.
2. The City Council approved the Development Agreement for Flagstaff Mountain Development Agreement/Annexation Resolution No. 99-30 on June 24, 1999. The Development Agreement sets forth maximum project densities, location of densities, and developer-offered amenities.
3. The Flagstaff Mountain Annexation is approximately 1,655 acres. Mixed-use development is limited to approximately 147 acres in four (4) development areas identified as Pods A, B-1, B-2 and D. The remainder of the annexation area is to be retained as passive and/or recreational open space.
4. A maintenance agreement addressing snow removal and maintenance of the water system exists between Park City Municipal Corporation and the Village at Empire Pass Master Homeowners Association.
5. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass, aka Pod A, including the Empire (now Tower) Club building and residential units.
6. On September 30, 2004 the City Council approved the Village at Empire Pass Phase I subdivision plat creating two (2) parcels with eleven (11) lots and the plat was recorded at Summit County on November 24, 2004.
7. On April 13, 2005 the Planning Commission approved a CUP for the Empire (now Tower) Club located on Lot 9.
8. On February 13, 2008, the Planning Commission approved a CUP for the residential component of the Empire Club (ie. Phase 2) and the name changed to the Tower Club. Phase 2 includes 25 units (38.9 UEs) and one 650 sf accessible ADA unit platted as common.

9. On October 21, 2010, the Planning Department received a complete application for a plat amendment to amend the Village at Empire Pass Phase I subdivision plat. The amendments include the following: a) move a lot line between Lot 9 and the Village Way private road to expand Lot 9 and decrease the area of private road for Village Way previously used for the temporary shuttle stop until the permanent shuttle stop was constructed near the entrance to the Empire Club on Lot 9, and 2) memorializing recorded easements. Parking pull out for Shooting Star will remain.
10. With the re-plat between Lot 9 (Tower Club) and the private right-of-way, the Tower Club residential building will comply with all setback requirements.
11. Re-platting of the boundary was a condition of approval of the February 11, 2009 CUP extension approval.
12. The plat amendment does not create any non-conforming situations.

Conclusions of Law - Village at Empire Pass - Lot 9

1. There is good cause for this amended subdivision plat.
2. The amended subdivision plat is consistent with the Flagstaff Annexation and Development Agreement, the Village at Empire Pass Master Plan Development, the Village at Empire Pass Phase I Subdivision plat, the Park City Land Management Code, the General Plan and applicable State law regarding Subdivision Plats.
3. Neither the public nor any person will be materially injured by the proposed amended subdivision plat.
4. Approval of the amended subdivision plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval - Village at Empire Pass - Lot 9

1. All conditions of approval of the Flagstaff Annexation and Development Agreement and the Village Empire Pass Master Planned Development, and the Village Empire Pass Phase I subdivision plat continue to apply. All subsequent applications and approvals are subject to the Technical Reports as approved or amended.
2. The City Attorney and City Engineer will review and approve the final form and content of the amended Subdivision plat for compliance with State law, the Land Management Code, and the conditions of approval prior to recordation of the plat.

3. The applicant will record the subdivision plat 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 and the plat will be void.
 4. The final plat shall contain a note that Village Way is a private road.
 5. A note on the plat shall state that the maintenance of the water system is the private responsibility of the Lot 9 Sub Association.
 6. The plat amendment does not approve any changes to any Conditional Use or Master Planned Development approvals on the property.
2. 1555 Lower Iron Horse Loop Road - Master Planned Development
(Application #PL-10-00899)

Planner Katie Cattan reviewed the application for a master planned development located at 1555 Lower Iron Horse Loop Road, within the light industrial zone. Planner Cattan outlined the concerns expressed at the last meeting and explained how those concerns had been addressed. The interior of the building was changed, the residential units were decreased to four, one of which is an affordable unit, and there is significantly more office space. There is underground parking under the structure, as well as interior parking on the first story for a total of 91 parking spaces.

Planner Cattan recalled a discussion regarding facade variation and facade lengths. Craig Elliott, representing the applicant, had prepared a model showing how the facade was modified. At the last meeting, the Planning Commission was concerned with how the new tunnel across Bonanza would work with the design. The applicants had addressed that issue in the model.

Planner Cattan stated that the major concern during the last meeting was the perpendicular parking on the south side of the building that comes off of Lower Iron Horse Drive. Prior to that, the City Engineer had asked for a 5 foot buffer behind the parking and a proposed material change. She reported that Matt Cassel, the City Engineer, believes that five foot area is essential for making the parking spots work safely in terms of visibility around Iron Horse towards the condos. Planner Cattan noted that within the setback requirements the Planning Commission is allowed to decrease the setback requirement. She and Planner Mauer met with Craig Elliott and asked if the project could be shifted five feet to the north. This would allow for adequate sidewalks between the parking and the building, rather than having people walk behind them within that five foot buffer. Planner Cattan clarified that the building was shifted five feet, however, the shift was not reflected in the model.

Planner Cattan stated that another issue of pedestrian circulation was the discussion of the two bridges. She pointed out that one bridge connects from the Rail Trail directly to this project. With the Walkability Analysis, the City identified an area closer to the condominiums located behind or to the east of this project. There has been a board across the stream and the City intends to put in a pedestrian bridge. The Sustainability Department felt it was not appropriate to put a bridge between the two locations, but each should have their own due to the soils and existing erosion issues.

Planner Cattan remarked that the distance between the two proposed bridges is approximately 320 feet. The Staff believes both pedestrian bridges would be utilized for each project. She noted that page 139 of the Staff report showed the layout of the two bridges.

Craig Elliott reviewed the model and reiterated that it did not show the five foot building shift. He stated that the original intent was to use a separate material to break up the parking. In meetings with the City Engineer and the Planning Staff, a concern was that people would use that area for a sidewalk. The City Engineer preferred a 23 feet stall versus an 18 foot stall with space in back. Therefore, the space was removed and the building was pushed five feet to the north, which allows for a nice sidewalk and rooms across the inside face of the building, and connects to the closes point of the neighboring parcels.

Mr. Elliott commented on a number of revisions that occurred since the last meeting. He pointed out that the model showed the tunnel and the stair connection. He noted that originally parking was sited along the perimeter on the corner. That parking was removed and another parking level was created underground. That would reduce the amount of on-street parking and provide direct access into commercial spaces on the first floor. Mr. Elliott stated that conceptually, the revision created a unique solution and it took the parking off the area with the most concern for safety. Mr. Elliott noted that the building was also revised by removing a portion of the building that was raised at the rear. Further discussions occurred with potential tenants and the mix of use between residential and commercial had increased. Mr. Elliott noted that they previously talked about mixed use and how that might change in the future. Using the model, Mr. Elliott pointed out the primary conceptual changes to the project.

Chair Wintzer pointed out that the hill was twice or three times the height of the building next to it. He wanted the Commissioners to understand that the back part is set up against the hill. Mr. Elliott agreed and indicated the highest portion of the building and how it moves up the road.

Mr. Elliott presented the site plan showing the property boundaries and setbacks. He noted that the red dash line was the 25 foot setback of the master planned development. Master planned developments are allowed to set back to the adjoining properties, the setbacks that are in the existing zone, or abutting properties. He pointed out two different setbacks. One is a light industrial and the other is general commercial, which is an adjacent zone. He believed both setbacks on that side were ten feet, and they were still 20 feet from the property line. The closest property is Rail Central. Mr. Elliott believed the Rail Trail has a 100 foot right-of-way. Therefore, the building would be a 120 away from the closest private property with development. He felt that improving the site access and the sidewalk connections was a good choice in providing access, and it is allowed in the MPD under Planning Commission discretion.

Mr. Elliott presented the volume analysis. He noted that the setbacks in blue showed the setback variations required for an MPD. The yellow on the bottom left showed the building volume as proposed. The bottom one showed the two merged together. Mr. Elliott remarked that the goal was to demonstrate that they were under the requirements for building mass and volume.

Mr. Elliott walked through the floor plans to show how mixed use works and what they did with the residential versus the commercial units. He also showed how they planned to meet the affordable housing obligation for the project.

Chair Wintzer asked Mr. Elliott to review the materials in the colored elevations. Mr. Elliott explained that each color represents a different material form. The materials included a series of timbers and structural elements that are used to screen the vertical. The entry point had primary glazing and a metal canopy. Metal mesh with screen inside was used as a shading device on the south facing glazing. He indicated glass in the bridge, which is similar to Rail Central on the other side of the Rail Trail. Mr. Elliott pointed out areas where horizontal composite siding was proposed. He explained that the architectural approach is to have a series of layers to create variety and depth to the building and try to accentuate each form of the building.

Planner Jacquy Mauer added a condition of approval #14 to state, "Per Section 15-3-9 of the LMC, the project must provide 10% of the required off-street parking spaces for the temporary storage of bicycles that equals nine parking spaces". The applicant was comfortable with adding condition of approval #14 as stated.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Commissioner Savage liked the project as proposed.

Chair Wintzer commented on the location of the bridge that would be constructed by the City. He felt it was important for the trail to link both Lower Iron Horse and Upper Iron Horse and for the City Council to invest in a set of stairs going up to Upper Iron Horse. If they move the bridge over and put it along the edge of the 1555 Iron Horse property and add a sidewalk, people could walk across and go up a set of stairs to the Upper Iron Horse area.

Commissioner Peek concurred that it would be beneficial to bring the pedestrian demand down the hill from the condos to the Rail Trail. Mr. Elliott clarified that the applicants have encouraged that connection, however, they have no control over that property. Director Eddington offered to take their suggestion to the City Council.

Commissioner Pettit asked if there would be an issue with the Army Corp of Engineers if the bridge was moved as suggested by Chair Wintzer. Planner Mauer replied that the Army Corp of Engineers were aware of both bridges and were comfortable with the proposed bridge locations. Any change would need to be approved by the Army Corp of Engineers. Director Eddington explained that the City may also need to deal with the Army Corp of Engineers with regard to the plaza at the intersection of the Rail Trail and Bonanza, since it may change with this project.

Planner Cattan noted that a question was raised regarding condition of approval #5 and whether each individual sign would need its own permit. Condition of approval #5 states, "All exterior signs

require a separate sign permit. Application for sign permit shall be made to the Planning Department prior to installation of any temporary or permanent signs.” Planner Cattan clarified that sign applications would go through the normal process. Because there will be multiple tenants, the owner would apply for a master sign plan for the development and as individual tenants come in, they need to pull a sign permit for each tenant. Commissioner Pettit clarified that sign permits are Code required under an administrative process. Planner Cattan replied that this was correct. It was added as a condition to indicate that any signs proposed or shown on the plans are not approved and must go through the proper process.

Chair Wintzer referred to condition of approval #10, which states, “must have a construction mitigation plan.” He asked if the condition should state that “the road must be open”, to make sure that during construction the road going out is open. Mr. Elliott remarked that an easement requires them to leave the road open. He was not opposed to adding that language as a condition on the construction mitigation plan. Chair Wintzer requested that the language be added in the construction mitigation plan.

Commissioner Hontz liked the changes and believed they significantly enhance the project. However, she was having difficulty grasping a feel for the materials and felt that portions of the building appeared to be cold and prison-like versus a colorful industrial facility and mixed use building. She liked the concept and hoped the end product would be warmer and more friendly.

Planner Cattan referred to the condition of approval #13 and changed “staging plan” to phasing plan”.

Planner Cattan read the proposed changes to the conditions of approval:

- Condition of Approval #10 - Add, “During construction the road must be open to the development to the east with approval of the City Engineer and the Fire Marshal.”
- Condition of Approval #13 - Change “staging” to “phasing.”
- Add Condition of Approval #14, “Per Section 15-3-9 of the LMC, the project must provide 10% of the required off-street parking spaces for the temporary storage of bicycles. This equals 9 bicycle parking spaces.”

MOTION: Commissioner Pettit moved to APPROVE the Iron Horse Mixed Use Master Planned Development for 1555 Lower Iron Horse Loop Road, in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 1555 Iron Horse Loop

1. The Iron Horse Mixed Use Building Master Planned Development is located at 1555 Iron Horse Loop Road. The lot consists of 1.474 acres.
2. The property is located in the Light Industrial (LI) zoning district. The maximum Building Height in the Light Industrial (LI) zoning district is 39 feet, is 30 feet. The application includes a height exception request for an additional 19.5 feet for the rear portion of the building. The front portion of the building is under zone height at 24 feet, the center portion of the building is an average four feet over zone height at 34 feet, and the rear portion of the building ranges from 9 to 19.5 feet over the zone height. The application complies with the height exception requirements of LMC Section 15-6-5(F)(1-5) as stated within the analysis section of the report.
3. The total proposed building footprint is 19,184 sf and gross square footage is 54,814 sf.
4. This property is Lot 1 of the Iron Horse Industrial Subdivision Plat.
5. The maximum Building Height in the Light Industrial (LI) zoning district is 39 feet, is 30 feet. The application includes a height exception request for an additional 19.5 feet for the rear portion of the building. The front portion of the building is under zone height at 24 feet, the center portion of the building is an average four feet over zone height at 34 feet, and the rear portion of the building ranges from 9 to 19.5 feet over the zone height. The application complies with the height exception requirements of LMC Section 15-6-5(F)(1-5) as stated within the analysis section of the report.
6. The master planned development process is required for any residential project larger than ten units or new commercial projects greater than 10,000 square feet gross floor area. The MPD is necessary for the Iron Horse Mixed Use Building since the new commercial area is greater than 10,000 square feet.
7. The building ranges from two to four stories above ground with a single story below ground.
8. The Planning Commission has reviewed this application during a pre-application work session on August 26, 2009 and during a work session and regular agenda on April 28, 2010. No public input was received during either meeting. The Planning Commission reviewed the application on December 8, 2010 on the regular agenda. The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record.
9. The proposed density does not exceed the maximum density of the Light Industrial (LI) zone. Within the LI zone, density is the resulting mass of the setbacks, height and open space.
10. The applicant is requesting a decrease in the north side yard setback from twenty-five feet to twenty-feet. This change complies with the requirements of the LMC for building Code, Fire Code, density, mass, scale, spacing and open space.

11. This is a redevelopment project, so a minimum of 30 percent open space could be allowed by the Planning Commission in exchange for project enhancements. The applicant is asking for a reduction in the open space requirement from 60 percent to 45 percent. The project enhancements include a public transit improvement and improved pedestrian circulation.
12. The applicant has provided a total of 91 parking spaces. The required parking for the site is 87.17 spaces per the LMC with the currently proposed uses.
13. The City Engineer and the Planning Director will allow the parking configuration as it is now being proposed with the recommendation that the space between the edge of the private road and the proposed parking stalls are maximized and speeds be reduced to ten (10) to fifteen (14) miles per hour.
14. The MPD was designed to take into consideration the characteristics of the Site upon which it is proposed to be placed. The project was designed to fit the Site, not the Site modified to fit the project.
15. The MPS is not located within the Sensitive Lands Overlay zoning district.
16. The MPD is located within the Park City Soils Ordinance boundary.
17. The site is located or in proximity of a listed CERCLIS site known as the Old Park City Dump - UTD988078606. The CERCLIS listing identifies sites that are considered contaminated, therefore needing remediation and/or further testing under Superfund.
18. There is an underground fuel storage tank at the CFN facility that will be removed. The removal of an underground storage tank triggers a UDEQ-UST permit and work plan.
19. A portion of the property is within a FEMA regulated Zone of AE according to a 1996 FIRM map.
20. The proposed bridge may trigger the need for a DNR Stream Alteration Permit. If there is an encroachment into the riparian zone of Silver Creek, an Army Corp General Permit may be required.
21. The project is required to provide 6.14 unit equivalents of affordable housing. One unit equivalent of affordable housing is equal to 900 square feet. There is a single affordable housing apartment measuring 1,124 sf proposed within the MPD. The applicant's remaining affordable housing requirement (4,402 sf) will be met using all 24 units from the adjacent Rail Central Development (4,403 sf). At the present time, these units are not deed restricted. The applicant will deed restrict the units to comply with the 2007 Housing Resolution. The future rents will comply with the 2007 Housing Resolution. Twenty-five units of affordable housing will be created by this application.

22. The four residential units included in the MPD do not create the demand of a child care center.
23. The Analysis section of this staff report is incorporated herein.

Conclusions of Law - 1555 Iron Horse Loop Road

1. The MPD, as conditioned, complies with all the requirements of the Land Management Code.
2. The MPD, as conditioned, meets the minimum requirements of Section 15-6-5 of this Code.
3. The MPD, as conditioned, is consistent with the Park City General Plan.
4. The MPD, as conditioned, provides the highest value of open space, as determined by the Planning Commission.
5. The MPD, as conditioned, strengthens and enhances the resort character of Park City.
6. The MPD, as conditioned, compliments the natural features on the Site and preserves significant features or vegetation to the extent possible.
7. The MPD, as conditioned, is Compatible in use, scale and mass with adjacent properties, and promotes neighborhood compatibility.
8. I The MPD provides amenities to the community so that there is no net loss of community amenities.
9. The MPD, as conditioned, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.
10. The MPD is not subject to the Sensitive Lands Requirements of the Land Management Code. The project has been designed to place Development on the most developable land and lease visually obtrusive portions of the Site.
11. The MPD, as conditioned, promotes the use of non-vehicular forms of transportation through design and by providing trail connections and an easement for a bus pull-off area.
12. The MPD has been noticed and public hearing held in accordance with this Code.

Conditions of Approval - 1555 Iron Horse Loop Road

1. All standard conditions of approval apply to this MPD.

2. All applicable conditions of approval of the Ironhorse Industrial Subdivision shall continue to apply to this MPD.
3. A building permit issued by the Park City Building Department is required prior to any construction.
4. All exterior lights must conform to the City lighting ordinance. Parking lot and security lighting shall be minimal and approved by Planning Staff prior to issuance of a certificate of occupancy.
5. All exterior signs require a separate sign permit. Application for a sign permit shall be made to the Planning Department prior to installation of any temporary or permanent signs.
6. Upon receipt of a building permit, Planning Staff will review the final landscape plan to ensure that Landscaping consists primarily of drought tolerant species, lawn or turf will be limited to a maximum of fifty percent of the area not covered by buildings and other hard surfaces and no more than seventy-five percent of the above area may be irrigated, landscape and streetscape will use native rock and boulders, and lighting must meet the requirements of the Land Management Code.
7. Exterior building materials and final design details must be in substantial compliance with the elevations and material details exhibits and photos reviewed by the Planning Commission on December 8, 2010 and shall be approved by Staff prior to building permit issuance.
8. The final building plans, parking lot details, and landscaping and construction details for the project shall meet substantial compliance with the drawings reviewed by the Planning Commission on December 8, 2010.
9. The City Engineer prior to Building Permit issuance must approve utility, storm water systems and grading plans, including all public improvements.
10. Staff must approve the Construction Mitigation Plan to issuance of any building permits and shall include appropriate contact information as required. Signs posted on site will indicate emergency contacts. During construction the road must be open to the development to the east with approval of the City Engineer and the Fire Marshal.
11. A limit of disturbance area will be identified during the building permit review. Limits of disturbance fencing shall be required, including silt fencing or other means of controlling erosion and protecting the adjacent stream.
12. All applicable Environmental regulations must be adhered to during the development of the site. The Park City Environmental Specialist must approve the mitigation plan and all environmental permits required for the site.

13. A development agreement must be approved by the Planning Commission within six months of the Planning Commission approval. Following the development agreement, a building permit must be approved within two years of the development agreement. The development agreement may include a phasing plan.
14. Per Section 15-3-9 of the LMC, the project must provide 10% of the required off-street parking spaces for the temporary storage of bicycles. This equals 9 bicycle parking spaces.
3. 1502 Seasons Drive - Extension of Conditional Use Permit
(Application #PL-10-01086)

Director Thomas Eddington reviewed the request for a one year extension of a CUP for 1502 Seasons Drive. He noted that the Planning Commission previously reviewed the CUP during several meetings with regards to architectural design. At that time the neighbor across the street expressed concerns with the height. The height of the building was reduced and the Planning Commission approved the CUP on November 11, 2009.

Director Eddington stated that the request was a formal one year extension. He handed out correspondence from the attorney representing the neighbor across the street, indicating support for a one year extension, but stating that they would challenge a subsequent one year extension.

Director Eddington referred to pages 335 and 336 of the Staff report, and noted that when a CUP extension is requested, the Staff makes sure that no interim changes to the LMC would impact the extension. He pointed out that Criteria #3 indicates that the Planning Commission changed the steep slope criteria in the LMC and one section encourages common driveways, parking areas, and side access to garages. Director Eddington stated that Planner Whetstone had reviewed the proposed house design and it does include two bays that are turned to the side, which provides side access. Therefore, the existing layout would meet the new LMC criteria.

Director Eddington noted that the property is not in the HR-1 zone; therefore, the height issue regarding the three story limitation would not apply. The design was reviewed for compliance with the requirements of the RD zone.

Commissioner Pettit struggled with the fact of the steep slope criteria being applied in the RD zone. Director Eddington clarified that this particular lot had a special criterion put on the plat that required it to meet the Steep Slope criteria.

Director Eddington referred to criteria on page 336 that talks about the garage being subordinate to the design. He noted that the garage was lowered per Planning Commission recommendation and it is subordinate to the design.

Commissioner Pettit understood that the Planning Commission was allowed to grant up to a one year extension per Code, but they could not grant anything longer than one year. Director Eddington explained that the Planning Commission can only grant an extension up to twelve months, but the applicant could come back in a year and request another one year extension.

Chair Wintzer clarified that nothing in the Code prevents the Planning Commission from granting multiple one-year extensions for the same CUP as long as they are one year apart. Director Eddington answered yes.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

MOTION: Commissioner Peek moved to APPROVE a one-year extension of the Conditional Use Permit for 1502 Seasons Drive in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval contained in the Staff report. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 1502 Seasons Drive

1. The property consists of Lot 21 of the April Mountain Subdivision and is located at 1502 Seasons Drive.
2. The zoning is Residential Development (RD-MPD) subject to the April Mountain MPD (approved June 12, 2002). The April Mountain Development Agreement and April Mountain Subdivision plat (recorded on October 29, 2002) that requires approval of a conditional use permit for development on Lot 21, with HR-1 and HRL Steep Slope review criteria used as additional review criteria.
3. The approved subdivision plat created Lot 21 with lot restrictions for Height, Setbacks, Limits of Disturbance area, total building zone area, and platted ROS (reserved open space) consistent with the April Mountain MPD.
4. No construction is proposed within the platted ROS area.
5. Lot 21 is 35,711 square feet (0.82 acres) in lot area consistent with the MPD. A maximum building zone area of 14,965 sf is allowed within the 20,000 sf allowed limits of disturbance area. A 13,095 sf building zone area is proposed within a 19,988 sf limits of disturbance area. The proposed building pad fits entirely within the approximate building pad shown on the April Mountain subdivision plat.
6. Access to the lot is from Seasons Drive per the MPD and plat.
7. Under the current LMC, the minimum front yard setback is 15 feet, subject to the locations of platted reserved open space (ROS). Applicant proposes 15' to 50' front setbacks in compliance with the plat and MPD.

8. Under the current LMC, the minimum rear yard setback is 15 feet, subject to the location of platted reserved open space (ROS). Applicant proposes 27' to 50' rear setbacks in compliance with the plat and MPD.
9. Under the current LMC, the minimum side yard setback is 12 feet, subject to the location of platted reserved open space (ROS). Applicant proposes 27' to 46' west side setbacks and 90' to 125' for east side setbacks in compliance with the plat and MPD.
10. The April Mountain MPD and subdivision plat notes restrict Lot 21 to a maximum building total height of 19'. The applicant proposes a maximum building height of 19' with portions of the house less than 19' in compliance with the MPD and the RD zone height requirements.
11. Parking is required at a rate of two parking spaces per house. The applicant proposes 4 parking spaces within garages.
12. The applicant proposes a 10,000 sf house, including the basement and floor areas. The building footprint is approximately 7,000 sf. There are no plat restrictions on total building floor area. The plat restricts location of the footprint within a designated building zone. House sizes in the April Mountain subdivision range from 5,000 to 8,000 sf and are a function of building zone, setbacks and building height.
13. Massing requirements of the MPD are met in that the Floor Area directly above the lowest floor level does not exceed 85% of the Floor Area of the floor template directly beneath it, whether such lowest floor is finished, unfinished, or crawl space. Floor area of the top or intermediate floor templates does not exceed 65% of the area of the floor templates directly beneath them. Floor Area calculations will be provided with the building permit plans and verified prior to the building permit issuance.
14. The highest ridge of the central massing is at elevation 7463'0". The port-cochere roof peak is at 7462'0" and the northern garage roof peak is at 7461'0". The two-story elements on the south elevation are at elevation 7451'0". No portion of the house exceeds the 19' limit, a 14' height restriction from the zone height.
15. The central massing of the dwelling steps down in height and reduces in bulk as it reaches the edges of the Dwelling to blend the building mass into the natural setting.
16. The applicant provided dimensions of each exterior wall plane demonstrating that there are no wall planes at or greater than 30' without a minimum break of 3'.
17. The applicant provided a visual analysis from the Stew Pot and across the valley demonstrating that the proposed dwelling mitigates and reduces visibility of the dwelling from the Stew Pot. The house is situated below the grade of the road and lower on the ridge than the houses on the uphill side of the road, as viewed from both the Stew Pot and from across the valley.

18. The applicant proposes to use the USBC Green Building Standards for residential construction, utilizing passive solar heating, active solar water heating (including solar heating for the driveway snow melt and pool), photo voltaic solar cells for electricity generation, a 1,000 sf green planted roof, and a clay rammed earth north wall among other sustainable construction items.
19. The findings in the Analysis section of the November 11, 2009 staff report and the December 8, 2010 staff report and exhibits are incorporated herein.
20. On May 27, July 8, August 12 and November 11, 2009, the Planning Commission conducted public hearings on the Conditional Use permit application.
21. On November 11, 2009, the Planning Commission approved the CUP for a single family house at 1502 Seasons Drive with an expiration date of one year from the date of approval unless a building permit had been issued prior to this date.
22. On October 20, 2010, the Planning Department received a request for a one year extension of the approval for the 1502 Seasons Drive CUP for a single family house.
23. There has been no changes in circumstance that would result in unmitigated impacts.
24. The applicant stipulates to the conditions of approval.
25. On December 8, 2010, the Planning Commission conducted a public hearing on the extension request application.

Conclusions of Law - 1502 Seasons Drive

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically Section 15-1-10 and Sections 15-2.21-6(B) and Section 15-2.2-6(B).
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval - 1502 Seasons Drive

1. All Standard Project Conditions shall apply.
2. All applicable conditions of approval of the April Mountain MPD and April Mountain Subdivision plat continue to apply.

3. City approval of a construction mitigation plan is a condition precedent to the issuance of any buildings permits. Chain link construction mitigation fencing along the ROS areas may be necessary to prevent disturbance of these areas during construction of the house.
4. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
5. A final landscape plan consistent with the April Mountain Master Planned Development and the April Mountain Subdivision plat shall be submitted for review and approval by the City Planning Department and/or City landscape architect, prior to building permit issuance. Lawn shall be a minor component of the overall landscape plan. No more than 25% of the water demanding area shall be planted in high water demand lawn (such as Kentucky blue grass). An additional 5% of the water demanding area may be planted in drought tolerant lawn species (such as Blue Grama, Smooth Brome, Tall Fescue, Buffalo Grass, Creeping Red Fescue, Perennial Ryegrass, or Alpine Bluegrass).
6. No building permits shall be issued for the house unless and until the building plans are reviewed and approved by the Planning Department staff for compliance with the building plans reviewed by the Planning Commission on November 11, 2009 and specifically reviewed for compliance with the 19 foot height limit. All exterior finishes and landscaping shall be approved prior to installation and shall be consistent with the plans reviewed by the Planning Commission. The Planning Director may approve minor changes, excluding materials, height and massing. No single exterior wall plane shall measure more than thirty feet in length (30') before a change in depth of at least three feet. Building massing shall be verified prior to the issuance of a building permit for compliance with the April Mountain MPD and these conditions of approval.
7. As part of the building permit review process, the applicant shall submit a certified topographical survey (one foot contours) of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges. The platted height restriction is 19' from existing grade.
8. Prior to the issuance of a building permit, the applicant shall, if deemed necessary by the Chief Building Official based on the geo-technical report, submit a detailed shoring plan with calculations that have been prepared, stamped and signed by a licensed structural engineer as required by the Building Department.
9. All exterior lighting shall be shown on the final building plans and shall conform to requirements of the City's lighting ordinance and shall be minimal and subdued in nature. No signs may be installed without approval of a sign permit and in compliance with the City's Sign Code.

10. This approval will expire on November 11, 2011 unless a complete building permit application has been submitted to the City Building Department and a building permit has been issued by this date.

4. 1440 Empire Avenue - Conditional Use Permit
(PL-10-01086)

Planner Kayla Sintz reported that on December 9, 2009 the Planning Commission approved a CUP for a multi-use dwelling in the RC zone. The project approval was appealed to the City Council and the appeal was granted in part and denied in part. The CUP was remanded back to the Planning Commission with direction to relook at two specific items only. The first is the height, scale mass and bulk of the rear of the building shall be further modified and considered under the standard in LMC 15-1-10(E)(8). The second is further design changes with consideration for enduring that the proposed development transitions to and complements the existing historic structure to the east shall be reviewed and/or further conditioned.

Planner Sintz stated that on May 12, 2010 the applicant came back with a modified design per the remand. At that time the Planning Commission asked if the applicant would consider moving the entire building forward, closer to Empire Avenue. Based on that request, the applicants had returned with another modified design. The building is now three stories above ground with 6 two-bedroom units and 3 four-bedroom units for a total of 9 units. The proposal includes complete underground parking. The driveway is configured to the north of the property and meets the minimum driveway width. The driveway is accessed from the back. The design has a flat roof and meets the zone height of 35 feet. Planner Sintz pointed out that the applicant could have taken advantage of an allowed height exception, but instead proposes roof mounted solar collectors on the southwest side.

Planner Sintz stated that the applicants accommodated the required landscaping. They oriented the driveway and pedestrian access to the north, away from the property owners to the south. The landscape plan keeps the level of the parking lights above the roofline of the property below.

Planner Sintz reported that the City Engineer recommended that the applicant consider bumping out the drive to increase the turning radius to better accommodate two-way traffic. The applicant had provided an alternate driveway width expansion, which was shown as a red dash line on the plan. She noted that the expansion is allowed under the Code for rear yard exceptions dealing with parking area. Planner Sintz remarked that the Planning Staff had mixed feelings about expanding the driveway width because it modifies the grade and compromises the vegetation.

Planner Sintz compared previous designs with the currently proposed design and identified the difference between the plans. She noted that the parking lot layout meets all the minimum requirements for parking. There is additional distance from stall #1 to provide for additional back out space.

Craig Elliott, representing the applicant, reviewed the submittal provided to the Planning Commission. He noted that the first sheet documents the code analysis to clearly identify where the project meets the criteria and the dimensions, etc. He noted that the scheme presented this evening meets all the criteria previously discussed.

Mr. Elliott explained that the applicants looked at the plan in relationship to the single family home to the south. He pointed out that if they were to build a single family home next to that home, they would be allowed to be within three feet of the property line. The requirements for the building proposed is ten feet. Mr. Elliott noted that the face of the elevator shaft on the corner is approximately 20 feet from the property line, adjacent to the house to the south. He stated that they tried to improve the distance to maintain open space and view shed. Mr. Elliott stated that they also tried to put the quiet portions of the residential units on the side that faces the single family to the south.

Mr. Elliott reviewed the floor plans and unit design elevations. He noted that there is a garage door to hide the parking. There is no outdoor parking or noise. They felt it was important to put the driveway on the north side away from the single family to protect it from as much interaction as possible.

Mr. Elliott noted that the main floor enters off of Empire Avenue. He indicated the entry point and lobby space and explained the design layout. He believed the layout was relatively efficient. Each bedroom has a deck with enclosed storage. Mr. Elliott indicated the location of the mechanical and electric spaces. Each floor has the same floor plan with the exception of the entry level on the main floor.

Mr. Elliott stated that the building perimeter was broken up significantly, meeting the Code requirements. He was pleased with how the texture of buildings come together. Mr. Elliott reviewed renderings to show how they stepped the masses and used a mixture of materials to create some relief. He noted that the previous designs did not have exterior balconies for the units and they believe it is an added benefit to the project. The top elevation is along Empire Avenue and the lower elevation is the south, facing the residential single family. He explained how they tried to minimize exposure into the bedroom windows that face the building. The balcony area is behind the house itself.

Mr. Elliott indicated the red dashed line that showed the previously proposed building and how it was moved 26 inches away from its previous location. It is now over 30 feet from the rear property line and the height was lowered to address shadow concerns raised at the last meeting. Mr. Elliott noted that the section also showed the relationship of the change and the height exception for slope roofs that they chose not to use. They also addressed issues of snow shedding.

Mr. Elliott stated that the materials will be a combination of horizontal composite siding, traditional frame windows and a timber element for the balconies that create the relief forms. Steel siding is proposed on the vertical of the circulation patterns.

Mr. Elliott presented computerized, animated shadow studies for the summer solstice and the winter solstice.

Chair Wintzer opened the public hearing.

Bruce Baird, an attorney representing the neighbors, requested permission to speak longer than 3-5 minutes because he was representing multiple owners.

At the request of Chair Wintzer, Planner Sintz read the remand from the City Council as written on page 148 of the Staff report.

Mr. Baird stated that because the plans were changed at the request of the Planning Commission, the Planning Commission should look at the entire issue of compatibility with adjacent structures. He intended to offer testimony on all the issues. Mr. Baird distributed a packet of materials he had prepared, as well as a letter from Planning Consultant, Doug Wheelwright, and letters from other involved and experienced parties. Mr. Baird stated that he was prohibited from giving a full presentation because the applicant deliberately refused to give them copies of the revised plan until he pointed out to the City Attorney that his clients were entitled to a copy of the plan. He noted that he eventually obtained the plans slightly before Thanksgiving, which gave them limited time prior to this meeting.

Mr. Baird did not believe the plan addressed accurate storm water drainage, off-street loading and trash removal. He also believes the plans violate the City zone code with the retaining wall as proposed. The sidewalk area was also inappropriate. Mr. Baird remarked that most inappropriate was the purpose of the Recreational Commercial District. He quoted Section 15-2-16(1), sub (h) and (i) of the Land Management Code, "Promoting development of buildings with designs that reflect traditional Park City architectural patterns, character and site designs". He recalled from the work session discussion on Park City Heights, that Commissioner Strachan indicated a building that would make you look for the nearest strip mall. He recalled that Mr. Luskin called the building "Frank Lloyd wrong". Commissioner Hontz did not favor the building either. Mr. Baird suggested that the elevation presented for this project was significantly worse than the Park City heights elevation that the Commissioners had not liked.

Mr. Baird presented a slide showing what the neighborhood actually looks like and how they tried to make the houses look roughly the same mass as Mr. Elliott's design. He indicated the single family houses on the east side of Empire and explained how he tried to contrast them with the design of the project. Mr. Baird felt it was impossible to pretend that the proposed design and materials promotes and reflects the traditional architectural pattern and character of the site design and relates to the mining and historic architectural character of the City. Mr. Baird believed the project violates the General Plan in a number of ways. There is a requirement to transition to density from the west side of Empire to the east side of Empire. He remarked that the project does not provide a transition density and in reality the density is higher. Mr. Baird pointed out that the proposed density is the most that would fit on the parcel and literally utilizes every exception. It also violates the anti-clustering requirement for affordable housing in Article 9 of the General Plan, which says the burden of affordable housing should not be disproportionate to one area. Mr. Baird noted that there are at least three affordable housing units within a short radius of this area.

Mr. Baird remarked that page 6 of his letter addressed the specifics of the review characteristics required under the analysis and compatibility. He pointed out that compatibility is a defined term. Based on that definition, he did not believe the size and location of this site was appropriate for the amount of density and the size of the project proposed. Mr. Baird presented a slide comparing the south facade of the original design with the revised design. He remarked that screening was nearly impossible with only ten feet and that the project looks directly into the Olsen's backyard. He believed the revised design was more intrusive than the original design.

Mr. Baird stated that Section 9 of the Code talks about usable open space. He pointed out that there is landscaped open space but no usable open space in this project. He read the requirement for compatibility with surrounding structures in mass, scale, size and architectural detailing. Mr. Baird did not believe anyone could claim that the proposed design is compatible with the architectural design of the surrounding houses. Mr. Baird commented on other issues regarding noise and vibration, deliveries, and service vehicles. He felt it was inappropriate to approve this project because it violates the LMC and the General Plan, specifically in terms of compatibility and the due process rights of his clients.

Commissioner Luskin asked if the Planning Commission was in a position to render any type of decision related to due process. Assistant City Attorney McLean stated that the remand is specific to the items directed by the City Council. The Planning Commission needed to analyze whether the design is substantially the same. If they believe a design change affects one of the other criteria, that could be examined. Ms. McLean was not concerned that due process rights were denied. Mr. Baird and his clients were made aware of the revised plans over five weeks ago and they were provided to them prior to Thanksgiving.

Commissioner Pettit was disturbed about being given a letter and a large packet the night of the public hearing. She stated that the basis upon which this was remanded back to the Planning Commission led them to ask additional questions in terms of orientation of the building to alleviate some of the concerns with respect to the project. She was not in a position this evening to comment on the revised design without having gone through the process juxtaposing each of the criteria in the original approval and whether this design meets that criteria. Commissioner Pettit was in a quandary about how to move forward because the revised design was not included in the Staff report.

Chair Wintzer requested that they continue with the public hearing before making further comment.

Doug Wheelwright, a land planner by profession, stated that he had attended the City Council hearing in February. He had reviewed all the plans and was surprised that the Staff report only dealt with the remand issues. Mr. Wheelwright stated that because a new plan was presented, it should require a review under the new criteria. In his opinion, the only similarity between the two plans is the same property, the same owner, and the same number of units and parking spaces. Everything else has changed. Mr. Wheelwright commented on the building height issue. He noted that the plans were careful to note all the heights from the existing grade at the building setback. On the east and north side the finished grade is approximately 2 feet lower. He understood that under the existing ordinance the contour of the land establishes the upper envelope of the structure being built. However, he did not think it made sense to then dig down a full story. Mr. Wheelwright

explained why he believes the building exceeds the height on the north and the east side of the building. He noted that there is only one foot of floor space allocated to each of the levels. He was unsure how you could build a flat roof and only have one foot of roof structure thickness, including the membrane. Anything above that one foot, even without the interpretation for finished grade, increases the height above the maximum. Mr. Wheelwright suggested that the Chief Building Official should look at this closely because it is an integral part of the plan. Mr. Wheelwright remarked that storm drains is a real concern because everything is directed towards the northeast corner of the property. The Staff report says that storm water retention may be necessary. He was unsure about the City's practice regarding retaining, but typically it is a ten year storm. The 50 year, 100 year and 500 year are all overflow. Mr. Wheelwright echoed Mr. Baird's comments regarding use and compatibility.

Rick Margolis stated that he lives two doors away from the proposed project. Mr. Margolis stated that when the homes were built the property next to the Olsen's property was an unusable sliver of land with a larger unusable piece of land next to it. When this project was originally proposed, the neighbors tried to oppose it based on the lot line consolidation. He remarked that consolidating the lots has resulted in a building too large for the neighborhood that violates the General Plan. Without the lot line adjustment, the project would have been much smaller. Mr. Margolis pointed out that the project was remanded back to the Planning Commission based on the scale, massing and transition to the site. He noted that the concept of transitioning the size comes from the designation of resort based housing in the General Plan. The requirement in the LMC is that a development permit cannot be approved unless it is consistent with the General Plan. One requirement of the General Plan deals specifically with properties east of Empire. The General Plan specifically says it must be resort bed base and low density residential. Mr. Margolis recalled past discussions about the fact that other properties east of Empire are larger, and this is true. However, there is not one piece of property east of Empire that has been permitted or developed since 1997, when the General Plan was adopted, as anything but single family homes. The larger projects in the area were developed prior to 1997.

Mr. Margolis noted that there has been conversations in the past and testimony in the record regarding affordable housing, including Planning Commission notes, Staff reports and City Council Staff reports. He stated that for the first time the term "affordable housing" did not appear in the Staff report because they all know this project is an apartment building and not an affordable housing project. Mr. Margolis referred to comments at the last meeting from Commissioner Strachan and other commissioners that although this project does not comply with the General Plan with respect to low density residential, it does comply with specific sections because it is affordable housing. It balances out and the affordable housing works. Mr. Margolis reiterated that the affordable housing component is gone, which is a major change from what the Planning Commission approved and what the City Council reviewed on that approval. Without affordable housing there is no balance and the project does not comply with the General Plan as required by LMC Section 15-1-10D, which states that the City shall not issue a conditional use permit unless the Planning Commission concludes that the use is consistent with the Park City General Plan. The General Plan requires that all development on the east of Empire be low density residential.

David Olsen, a resident at 1430 Empire, was concerned about an issue raised by Commissioner Pettit regarding the timing of the materials given to the Planning Commission. He pointed out that the minutes from the May meeting reflect that he had asked for dialogue with the developer to avoid troubling the Commissioners on smaller matters. That did not occur and after several months they received notice of revised plans. On behalf of the neighbors, Mr. Baird requested copies of the revised plans but were denied. On the Tuesday before Thanksgiving they were provided with a copy, which gave them three days to review the plans and submit their comments. He felt it was unfair that the applicant had ten months to revise the plans and the neighbors were given 3-1/2 days to review them and make comment. Mr. Olsen did not want to inconvenience the Commissioners by presenting materials late, but under the circumstances, he did not believe it was a justified statement to say they had plenty of time to submit their response. Three and a half days is not enough time for a proper analysis.

Mr. Olsen stated that he and his wife had two major concerns. The original plan did not have windows on their side and was somewhat respectful of the neighbors next door. The original plan did not have balconies on the side that looks into their home. Mr. Olsen pointed out that the revised plan shows three levels of balconies that look directly into their rear windows. He commented on the criteria for mitigation and believes the only mitigation is to eliminate the windows and balconies on that side of the building. Mr. Olsen remarked that the original plan aligned the building so the project and their home were parallel. The revised plan skews the building at an angle and the view is more direct into their home and visa versa. Mr. Olsen remarked that the density is too much and helps the developer, not the neighbors. In the spirit of fairness he requested more cooperation and dialogue.

Diane Newland, a resident at 1455, the house directly below the project, thanked the Planning Commission for asking the developer to shift the building and to make major changes. She recognized that the applicant tried to meet their request, however, there are still a few problems. Ms. Newland stated that the driveway coming along the side and the back with a garage door is fairly close to her property. She would be impacted by the lights from the driveway and the noise from the garage door opening and closing. Ms. Newland noted that lights for the driveway were not shown in the plan. She wanted to know the type of lights proposed to understand how significant she would be impacted, particularly since her bedroom is at the back of the house. Ms. Newland commented on snow storage. The photos presented showed snow storage on the southeast corner. She pointed out that when the snow is plowed they will either need to pull the snow from the driveway out onto Empire, or it would be pushed down to the snow storage. She believes that would be a problem. If they do the five foot setback from her property line, as requested by the City Engineer, when they come around the corner she was unsure how they could keep large amounts of snow from spilling over into her property. In addition, when the snow storage area is filled and begins to melt, the runoff will come down on her property. She noted that when snow comes off the roof it goes down to the lowest point, which would also impact her property. Ms. Newland appreciated that the developer moved the building forward and away from her home. However, she understood that Park City was trying to get away from the '70 style boxy looking buildings that already exist in her neighborhood. She thought the buildings were supposed to look more historical and not like Laguna Beach or Malibu with new-age boxy buildings. She believed the developer could better design the building architecturally. Ms. Newland commented on the affordable housing component. She noted that the project is labeled affordable housing and in the beginning the

developer was going in that direction. She noted that Planner Sintz informed her that it is not an affordable housing project, but if it is, that would put three affordable housing units within 300 feet of her house. That is a lot to put in one small area and she believed the affordable housing should be dispersed. Ms. Newland mentioned potential future affordable housing in close proximity and she was feeling bombarded by affordable housing projects.

Rosemary Olsen, a resident at 1430 Empire, next to the proposed property, stated that when they purchased their home they looked at all the surrounding property. They understood that something would be built on that property, but they were told that under the General Plan it would be a duplex, a tri-plex or a single family home, but a large project could not possibly be built. Now someone is trying to build something other than what they were told was allowed. Ms. Olsen noted that based on the remand from the City Council, the Planning Commission asked the developer to push the building forward. By pushing the building forward the structure and the driveway now covers the entire property. Ms. Olsen remarked that in their drawings the developer made her house look the same level as the proposed building. She stated that the elevator is built on her side and she has the burden of the elevator right at her entrance and at her master bedroom. Ms. Olsen pointed out that the drawings do not show that exhaust vents for the parking were also placed on her side of the building. Snow does not melt on the northern side in Park City and they now have a 35 foot wall at her entrance. Her roof does not stand a chance of having any snow melt. Ms. Olsen summarized that by shifting the building, she and her husband have the burden of the elevator, the exhaust, and the windows and balconies looking directly into her home. Essentially 50% of her house is burdened by this building and she has no privacy. Ms. Olsen remarked that the project is too large and it covers every inch of that property. It is a burden on the people behind in the historic structures, it is a great burden on her side, and it does not transition. Ms. Olsen felt there must be some type of due process under the remand. The neighbors should have the right to discuss this building in full as a taxpayers and homeowners.

Chair Wintzer pointed out that Ms. Olsen was exercising her right to discuss the structure by making comment during this public hearing.

Ms. Olsen argued that they should be given more time because this project will affect them for a lifetime and she was only given ten minutes to speak.

Bruce Baird pointed out that the letter he submitted from Mr. Merrill points out the historical construction dates and the type of housing for the east side of Empire before and after the master plan. Mr. Baird stated that once the Planning Commission closes the public hearing, it is a matter of due process to close it to both sides.

Ruth Meintsma, a resident at 305 Woodside spoke to the sensitivity to the historic on Woodside on the east side of 1440 Empire and she believed the improvements were monumental. Ms. Meintsma stated that the setback of 20+ feet significantly separates 1440 Empire from the historic and it also eliminates the looming wall aspect of the previous plan and opens the sky to the next story. She remarked that the snow release proposed in the original plan would have compromised the landscape that is critical to the adjoining properties. In addition, the snow release would have moved down hill with weight, compromising the historic property. Ms. Meintsma remarked that the

new floor plan with windows that overlook the historic changed the exposure to only half of the east side of the building having exposed residential activity. That half exposure is three private decks that would add warmth to the building rather than a cold wall. Ms. Meintsma felt the reduction in mass from the historic point of view was notable.

Ms. Meintsma commented on the environmental improvements of the revised plan. The flat roof and underground parking reduces much of the need for snow removal. It also helps maintain the landscaping by minimizing snow release from the roof. The flat roof also facilitates the placement of solar panels that allows the panels to be positioned to the greatest solar collection advantage. Ms. Meintsma believed that taking the parking area off of Empire benefits the community. This is a transitional area and revising the plan at a huge effort and cost to the developer shows that the process works.

Chair Wintzer closed the public hearing.

Commissioner Savage stated that from what he read in reviewing the application and the response to the remand, the applicant came back with a revised plan that addresses many of the constraints and issues raised by the Planning Commission. While he was empathetic to the comments and concerns of the neighbors, this application falls within the parameters of what is allowed for this piece of property. It is unfortunate that the neighbors dislike the project proposed for the site, but the property owner has the right to develop his property within certain allowances. The burden was on the neighbor to understand what could be developed prior to purchasing their home. Based on his understanding of the information provided, Commissioner Savage was inclined to move forward with approving the project as presented this evening.

Commissioner Luskin stated that the Planning Commission was presented with a number of issues this evening. He understood the reason for the last minute timing, but in looking at all the issues, he believed most, if not all, were outside of the Planning Commission purview. He pointed out that the parameters of the remand were very narrow. Commissioner Luskin was sympathetic to the testimony given this evening and the concerns expressed by the neighbors. He also complimented the applicant for doing a good job of complying with the recommendations that the Planning Commission and the City Council provided in the remand. Commissioner Luskin noted that based on the remand he could look at height, scale, mass and bulk. He was comfortable with moving forward with approval on the basis of the revisions made by the applicant. He was also comfortable with the design changes related to transition to the historic site. However, he was not prepared to say that the design changes compliment the existing historic structure.

Commissioner Luskin noted that several issues were raised and he was bothered by the General Plan/density comments. Large projects already exist in that area and when he drives through he does not sense any incompatibility. Commissioner Luskin stated that regardless of whether or not the other issues raised are credible, the Planning Commission could not address them based on the remand. He thought the efforts of the applicant should be complimented and appreciated by everyone concerned. Commissioner Luskin believed the applicant had complied with what they were asked to do.

Commissioner Hontz stated that based on the remand and her previous comments on the project, she felt the revised plan was an excellent solution. She did not support the solution by the City engineer to widen the driveway to access the garage. She believed that would be a tight corner and uncomfortable to drive, which would encourage people to pull in slower. Commissioner Hontz believed the applicant had responded to previous concerns as evidenced by the underground parking and the shadows on the historic structure. However, in light of the dramatic changes that occurred to make this work, she felt the design specific to visual compatibility with the surrounding structure on the east side of Empire did not impress her as much as she would like. She was not happy with the materials and thought it gave the structure a cold feeling. Commissioner Hontz liked the design solution in terms of responding to the remand, but she was unsure if she could find it compatible with the surrounding structures.

Commissioner Pettit agreed with Commissioner Hontz in terms of identifying the core of the dilemma. The point of the remand was to resolve the issues that were raised relating to the impacts on the historic home from this project. Commissioner Pettit agreed that the revised design solution addressed those issues. However, due to the changes and the lack of opportunity to do the analysis with the original criteria, she was conflicted on whether they could move forward with a completely different project than what was originally approved and what the City Council saw on appeal without additional analysis.

Chair Wintzer understood what the City Council said in their remand, but when the applicant comes back with an entirely different project, the Planning Commission should have the opportunity to go back and relook at the project for compatibility with the neighborhood. They also have the ability to look at the project in terms of materials and other matters that were not covered in the remand. If the applicant had only changed the back of the building the Planning Commission would have been restrained by the remand. Since a new design was presented, he agreed that the Planning Commission should take the time to review the plan and do the analysis.

Chair Wintzer thought the public had asked good questions about snow plow equipment, snow storage, and storm drainage. Those were technical questions and he would like to hear the answers. Chair Wintzer stated that he would like to know the plan and location for garbage collection, the landscaping in back, and whether a snow plow could go around the building without pushing the snow into the wrong areas. He felt the Planning Commission needed additional time to review the issues before taking action.

Commissioner Peek concurred with Chair Wintzer. He believed the revised plan mitigates the remand concerns, but the changes created new issues. He was concerned about site drainage and the exhaust fans. Commissioner Peek pointed out that the uses on the south side of 1440 Empire Avenue and on the north side of the adjacent residential use are for sleeping. He felt this was a compatible use with the adjacent property. Regarding mass and scale, Commissioner Peek identified several structures that were much larger and more massive than the building proposed. In general he found the revised project to be acceptable, but he felt the newly created impacts should be reviewed and conditioned.

Commissioner Strachan reluctantly agreed that this was a new project that required a new CUP analysis. He believed the analysis would satisfy the Planning Commission and in the end the

applicant would be glad it was done. Commissioner Strachan remarked that no applicant should go through what this applicant has gone through many times over and at a costly price. It is unfair but he felt it was the best decision.

Chair Wintzer understood that the Commissioners were leaning towards a continuance and he requested that they provide direction to the Staff and the applicant. He noted that the project should go through the CUP criteria. Based on Commissioner Hontz's comment regarding the elevations, Chair Wintzer requested that the applicant re-look at the building elevations.

Commissioner Luskin pointed out that the applicant acted on direction from the Planning Commission and revised the plan to address their concerns. He was uncomfortable requiring the applicant to go through another CUP analysis when the plan was changed at their direction. He questioned whether following the recommended direction was tantamount to a new project. In his opinion, the project may look different but the applicant was only responding to their comments.

Chair Wintzer agreed with Commissioner Luskin, however, he could not say that the plan meets all the criteria without going through the analysis because the building had changed.

Planner Sintz stated that the Staff had done the analysis on the revised design and determined that it did meet the CUP criteria. She agreed with Commissioner Luskin that the design presented this evening was not a new project, even though the massing and the architectural materials have changed. The changes were made to address comments and concerns raised by the Planning Commission and the result was a better design that mitigates the impacts. Planner Sintz stated that the Planning Commission could further condition the approval to address their concerns.

Director Eddington stated that if the Planning Commission believes there are issues relative to the two criteria in the remand, they should be specific for the applicant. If the Planning Commission needs significant analysis, that can be provided by Staff. He concurred that the project was only changed as a result of direction and recommendations by the Planning Commission and the City Council. In his opinion the project is not completely new and that the intent of the project and the layout are relatively the same. The mass and scale have changed and the building was moved forward. He advised the Planning Commission to focus on those two criteria if they require further analysis.

Commissioner Hontz stated that even though the changes were made at their direction, the end result is different and needs its own analysis. Commissioner Hontz liked the changes and she believed this was the process working.

Commissioner Strachan referred to page 149 versus page 189 of the Staff report and compared the bullet points on each page. He noted that the project looks the same on the surface but there was a significant difference in the floor to area ratio. He also pointed out a difference in the number of units and the side and rear yard setbacks. Commissioner Strachan remarked that Criteria 15-1-2 asks the Planning Commission to assess every project, including this one, for emergency vehicle access, internal vehicular and pedestrian circulation, signs and lights, control of delivery and service vehicles, etc. He did not believe the Planning Commission could honestly say that they looked at this particular project with those criteria in mind.

Commissioner Savage pointed out that the Staff had analyzed the project against the criteria and found that it complies. He trusted the Staff and had no interest in micro-managing their work. If the Staff does the analysis and says it complies, he has no reason not to trust them unless someone points out specific issues. Commissioner Strachan stated that the Planning Commission has the obligation to apply the criteria of the LMC and the CUP. They should not leave it up to the Staff. Commissioner Savage asked if Commissioner Strachan was suggesting that the Commissioners could not rely on the Staff recommendation as to whether a project is or is not compliant. Commissioner Strachan replied that the Staff only makes a recommendation and the Planning Commission has the obligation to decide for themselves. The Staff recommendation is not binding. Commissioner Peek pointed out that there have been projects in the past where the Planning Commission disagreed with the Staff recommendation. Commissioner Strachan reiterated that the job of the Planning Commission is to go through and look at the Staff analysis.

Commissioner Savage remarked that the applicants have gone above and beyond to meet the requirements from the last meeting and the primary issues of the remand have been addressed in a positive fashion. If the Commissioners have other issues they should have that discussion, but he was not in favor of opening up the project to a full CUP approval.

Commissioner Strachan pointed out that the direction from the Planning Commission was to move the building to the east, which was a suggested micro-change. However, in addition to moving the building to the east, they added underground parking, changed the floor to area ratio, changed the number of units. They did more than just respond to a micro-concern.

Chair Wintzer felt it was in the best interest of the applicant to continue this item and allow the Planning Commission time to review the information provide this evening and to allow the Staff time to respond to that information. He noted that the Planning Commission has the obligation to try to move forward in the most expedient way possible.

Assistant City Attorney McLean recommended that the analysis be limited to the changes in the design. If a part of the design remained the same as the original approval, that should not be open to analysis. The analysis should be restricted to the remand issues, as well as any design changes and how the design changes impact the criteria. Chair Wintzer believed that was fair.

Craig Elliott stated that the minutes from the last meeting indicate that he told the Planning Commission that he would have to completely redesign the project to accommodate the request to move the project to the front of the lot. He was happy to come back in a month and review the project for compliance with the CUP criteria. He was very confident that it would meet the criteria, just like all the previous designs. Mr. Elliott remarked that subjective decision about design are different and the subjective decision on the CUP is its relationship to historic projects, which is what the City Council remanded back. Mr. Elliott was confident that the subjective decision has already been met. He was not opposed to confirming that the new design meets all the requirements of the conditional use permit, but he wanted it done quickly. They are approaching the construction season and he still needed to draw up the plans and apply for a building permit. The applicant originally thought the project would be built last spring and would already be occupied.

Mr. Elliott thanked the owner of the property for allowing them to redesign the building. This is an affordable housing project and there is no room for overhead and profit or for anything to go wrong in a project. It took significant effort and resources to redesign the project.

Mr. Elliott presented a materials board for their review. Commissioner Hontz remarked that the materials board helped a lot. She still thought the colors and materials were too bland and she wanted to see something more interesting.

Planner Sintz stated that the Staff could provide the requested analysis for the December 15th meeting. Assistant City Attorney McLean clarified that the Planning Commission was not requesting a change to the project. The reason for the continuance was to get a full analysis through the CUP criteria based on changed design elements.

Commissioner Strachan noted that criteria one of the remand was that the height, scale, mass and bulk of the rear of the building shall be further modified and considered under the standard in LMC 15-1-10(E)(8). He believed the Planning Commission could give the applicant a definitive answer on whether or not that criteria has been met.

Commissioner Strachan felt the modified rear of the building complies with Criteria one of the remand. Commissioner Peek thought the revised building complies with Criteria 1 and 2 of the remand. Commissioners Hontz, Luskin, Pettit, and Savage agreed that the building complies with Criteria 1 and 2 of the remand. Commissioner Strachan found compliance with Criteria 2 as well.

Chair Wintzer summarized that the issues for the next meeting would be compliance with the CUP criteria and tweaking the architectural detail as suggested by Commissioner Hontz.

MOTION: Commissioner Peek moved to CONTINUE 1440 Empire Avenue-CUP to December 15, 2010 with the direction provided to the Staff and the applicant. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 9:40 p.m.

Approved by Planning Commission: _____