

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
SANTY AUDITORIUM
PARK CITY LIBRARY
AUGUST 10, 2016

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Melissa Band, Preston Campbell, Steve Joyce, John Phillips, Laura Suesser, Doug Thimm

EX OFFICIO:

Planning Director, Bruce Erickson; Kirsten Whetstone, Planner; Francisco Astorga, Planner; Makena Hawley, Planning Tech, Polly Samuels McLean, Assistant City Attorney; Jody Burnett, Outside Counsel

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REGULAR MEETING

ROLL CALL

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

ADOPTION OF MINUTES

July 13, 2016

MOTION: Commissioner Phillips moved to APPROVE the minutes of July 13, 2016 as written. Commissioner Joyce seconded the motion.

VOTE: The motion passed. Commissioner Thimm abstained since he was absent from the July 13th meeting.

July 27, 2016

MOTION: Commissioner Joyce moved to APPROVE the minutes of July 27, 2016 as written. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Director Bruce Erickson informed the Planning Commission that their decision on the Alice Claim CUP for the wall had been appealed and it would go before the City Council. It is a 45-day period and the Staff was working on the appeal.

Director Erickson had emailed the Commissioners earlier that day requesting input on the site visit to Treasure Hill on September 14th.

Chair Strachan believed there was value in flying balloons. When the Treasure Hill project came before the Planning Commission seven years ago, balloons were flown and he thought it was helpful in getting an idea of the heights associated with the project.

Commissioner Joyce liked the idea of the balloons, but he thought this was different because some of the questions regarding the CUP related to excavation and the amount of dirt that would be removed. He suggested stakes and a corresponding map telling how high it would be above the ground and the depth of the excavation. Director Erickson remarked that the Staff had that same thought. He would convey that direction to the applicant and he and Planner Astorga would work an adequate number and the locations to give the Planning Commission the best idea; recognizing that the balloons will not be 100% accurate.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. Treasure Hill Conditional Use Permit, Creole Gulch and Town Life Mid-Station Sites – Sweeney Properties Master Plan. (Application PL-08099370)

Planner Astorga presented a slide that was provided by the applicant in a previous year. The letters corresponded with the published Staff Report dated August 10, 2016, pages 126-129.

Planner Astorga stated that page 123 of the Staff report was a summary of P-16 that was prepared by the applicant. However, he believed it was difficult to understand the current proposal from P-16 or the summary. Planner Astorga noted that pages 126-129 of the Staff report was a simple breakdown of P-16. He intended to focus more on individual buildings and identify commercial, support commercial, residential, circulation and common space so the Commissioners can discuss each specific building. Planner Astorga stated that as they move forward he would like to continue to use the outline on pages 126-129, as well adding graphics, to help everyone understand exactly what was being proposed. He thought the breakdown would be extremely helpful and much clearer than what the applicant had provided on P-16.

Planner Astorga noted that he had spent a considerable amount of time reviewing the Woodruff Analysis, which is a combination of the site plan that was part of the original 1985/1986 approval. One sheet was labeled site plan, and another sheet had five cross sections. One was a horizontal component and the other was a vertical component. The two together create a 3-D mass and scale. Planner Astorga stated that the applicant had submitted their specific numbers which was included as an Exhibit in the Staff. The numbers are only an estimate and the Staff verified the numbers and found them to be accurate. Planner Astorga received additional information dated July 22nd, and there have been a number of meetings and phone calls regarding that specific analysis. He stated that the Staff was comfortable with putting the horizontal component next to the vertical component. Planner Astorga reminded the Planning Commission that the master plan did not approve a specific square foot, other than the unit equivalents of 197 residential and 19 support commercial.

Planner Astorga referred to Exhibit W, which was presented to the Planning Commission at the July 13th meeting, where they received backup documentation of similar hotels that were approved, such as the Montage, St. Regis, and the Sky Lodge. At the time the information was compiled a Master Planned Development was approved at the Yarrow, as well as the Marriott Mountainside. Planner Astorga noted that the backup documentation supports the accuracy of the numbers in Exhibit W. The parking calculation was not part of the original Exhibit W; however, it was added at the request of the Planning Commission at the last meeting. Planner Astorga had also added two approved Main Street projects to Exhibit W; 205 and 203 Main Street.

Planner Astorga referred to a comment that the former Mayor, Dana Williams, had made at the last public hearing regarding the benefit of seeing a specific work product. The Staff had met with Mr. Williams to confirm the information he was referencing, and that information was provided on page 141 of the Staff report.

Planner Astorga stated that the Staff report also talks about the 5% support commercial, beginning on page 130. He was prepared to answer questions on this topic if necessary; however, he thought it was best to let the applicant give their presentation first.

Chair Strachan requested that Planner Astorga walk through the horizontal versus vertical application on the Woodruff drawings. Planner Astorga reviewed the drawings on page 155 of the Staff report, which was part of the original approval. As indicated by the applicant at a previous meeting, the white marks were erasure marks on the mylar as the heights were amended during the MPD process. Planner Astorga referred to Sheet 17 on page 152 of the Staff report, and noted that the straight line going through the high rise component of each building corresponds with the specific vertical component. The Exhibit

on page 166 of the Staff report showed the results of adding the two components together. He estimated a total of 875,000 square feet.

Chair Strachan asked if page 168 was an overlay of the proposed Treasure project against the Woodruff drawing. Planner Astorga answered yes. It was an exhibit prepared by the applicant and believed they would address it in their presentation. Planner Astorga anticipated spending additional time reviewing this Exhibit when they review the physical components of the site, the mass and volume, and specific compatibility.

Shawn Ferrin, representing the applicant, stated that he was part of the working team with MPE on the conditional use permit application for Treasure Hill. Mr. Ferrin remarked that this was the third public hearing on Treasure Hill in the current consideration of the CUP application. In the past there were many other public hearings on Treasure Hill, but this was the final push.

Mr. Ferrin introduced others on the team, including the applicants and the project architect. Mr. Ferrin thanks the Staff and the Planning Commission for their efforts in reviewing the CUP application.

Mr. Ferrin stated that as requested by the Planning Commission at the last meeting, and as agreed to by the applicant, the presentation this evening would focus on square footage calculations and volume for Treasure Hill. He noted that the Staff report contained information with respect to support commercial, as well as information with respect to the General Plan; however, he was not prepared to discuss that this evening. The team did have an opinion on those issues, and they would be ready to with oral statements and a presentation when directed by the Planning Commission. Mr. Ferrin commented on the support commercial issue; and he believed the disagreement between MPE and Staff was only a difference of 30,000 square feet.

Mr. Ferrin commented on the standards of review. He stated that square footage and volume touch upon many of the standards of review that were contained in the MPD approval. In standards 2, 3 and 4, and CUP Criteria 1,4,5,7,8,11 and 15, square footage and volume touch on all those aspects across the board. Mr. Ferrin believed that was an important point because as they go through the process with the Staff and the Planning Commission, MPE needs to touch upon all the elements necessary to make sure the application is complete, and that the Planning Commission fully understands the application.

Mr. Ferrin assumed the Planning Commission had read the executive summary and the position statement that was provided. He stated that the presentations were simply an overview of the important aspects that MPE wanted the Planning Commission as they

consider the CUP application. The executive summary and the position statements were critical to fully understanding the entitlements and the evolution of the design of Treasure Hill. Mr. Ferrin stated that the applicant was keeping a list of all the questions and issues raised by the Planning Commission and the public. They intend to prepare answers to each of those questions and respond to each issue at the appropriate time when the meeting agenda dictates the specific topic for discussion.

Mr. Ferrin stated that the presentation this even would focus on four topics. It would demonstrate that at the time of the 1986 MPD approval, Park City knew that it was approving a large scale development. It would show the evolution of the design of Treasure Hill that occurred through the application of the 2003 LMC at the direction of the Staff and Planning Commission, and the resulting impact on square footage and volume of Treasure Hill. Mr. Ferrin intended to show how the square footage and volume of Treasure Hill compares to other large scale developments approved by Park City, including the allocation of back of house square footage. At the end of the presentation a sketch-up would show the Woodruff plan overlaid by the 2009 CUP application with several variations.

Mr. Ferrin stated that Treasure Hill has a long a complex history; and even though many in the public and certain members of the Planning Commission may not like Treasure Hill, that history and the resulting entitlements and historic directives from Staff and the Planning Commission could not be ignored in evaluating and approving the CUP application.

On the first topic, Mr. Ferrin explained why he believed that Park City knew that Treasure Hill was a large scale development. He remarked that after the Treasure Hill MPD was approved the Staff report was updated with comments and became a 1985/1986 Staff report. Mr. Ferrin stated that the 1985/1986 Staff report brings the MPD approval into context and is critical to understanding and evaluating the CUP application. In granting the MPD approval, Park City and the public knew that Treasure Hill was a large scale development. The Planning Commission, City Council and the Staff knew that Treasure Hill was larger than any prior commercial/residential development that had been approved. Mr. Ferrin believed that Park City knew that Treasure Hill would involve the construction of significant buildings of significant scale and height, typical to what was proposed in the CUP application. Service and parking areas were required to be located underneath the development, and that ski runs would be put on top. Park City knew that the total gross square footage expected for the project would be in the range of 1 million square feet. Mr. Ferrin stated that Park City also knew that the development was directly adjacent to the Historic District, commonly referred to as Old Town.

Mr. Ferrin reviewed the site plan for Treasure Hill. The green line represented the boundary line of the Sweeney master plan area. The red line represented the building areas, comprised of 11.5 acre. He indicated the ski runs that come down on both sides of the project to an area where they meet and provide ski access down to Old Town.

Mr. Ferrin commented on open space and the protection of Treasure Hill. He stated that out of 119.5 acres, only about 3% of the entire hillside portion is developed with buildings. He pointed to the rooftops of Treasure Hill compared to the existing rooftops, and stated that the buildings were the same dimensions, the same widths, and the same lengths.

Mr. Ferrin thought it was important to understand that the MPD approval required that access be off Lowell and Empire. He explained that the critical point of elevation is getting off of Lowell and Empire and getting on to the site. He identified the entrance into the project, which goes into parking. Critical to the elevation point is access for emergency service vehicles. He explained the planned emergency vehicle access as required by the fire code. Ambulances could come in through the entrance, go under the project, and reach the bottom of every elevator shaft in the project. Mr. Ferrin remarked that the access point sets the baseline for where the development has to start. Mr. Ferrin indicated the Cabriolet, a non-motorized vehicle access between the town and the project.

Mr. Ferrin stated that the access and emergency vehicle circulation under Treasure Hill was designed with input and was approved by Park City before MPE submitted its application for a conditional use permit. MPE relied about that written agreement with Park City to go forward with its design of that project. That design and the approval are literally the foundation on which Treasure Hill is built, the subsequent design, and in many respects it is the driver of the volume located within Treasure Hill.

Mr. Ferrin summarized what Park City knew when it approved the MPD in 1986. The 1985/1986 Staff report describes the significant size and large scale of Treasure Hill, and the critical design and development considerations that were implemented at that time to mitigate the size and scale. He noted that those descriptions were contained at length on pages 2 and 3 of the position statement provided by the applicant. Mr. Ferrin stated that the 1985/1986 Staff report describes Treasure Hill as a high-rise concept, with direction from the Staff and Planning Commission to “cluster the bulk of the development into Creole Gulch”. The Staff report noted that the “cluster approach, although highly visible from certain points, does not impose massive structures in the most prominent areas. Instead, the tallest buildings have been tucked into Creole Gulch”. Mr. Ferrin stated that the Staff report also talks about Treasure Hill’s massiveness and large skyscraper type buildings. Mr. Ferrin emphasized that this was how Park City perceived Treasure Hill when it was approved in 1986.

Mr. Ferrin stated that prior to the approval, numerous design concepts for submitted and evaluated by Staff, the Planning Commission and the public. He read from the Staff report, "a variety of development concepts were submitted during the course of reviewing the proposed master plan. A total of eight distinct approaches to the development of the hillside were evaluated. The Staff, Planning Commission and general public have all favored the cluster of development as opposed to spreading it out. Several of the alternatives prepared in response to specific concerns expressed relative to the scale and mass of building necessary to accommodate the density proposed. The latest concept developed represents a refined vision of the cluster approach originally submitted". Mr. Ferrin remarked that the clustering concept was the City's brain child. It was approved after considering all the ramifications and analyzing a total of eight mountainside alternatives. Mr. Ferrin pointed out that the 1985/1986 Staff report also notes that various iterations submitted for review demonstrated the trade-offs between height and site coverage. Mr. Ferrin emphasized that Park City knew that the project was next to, and that it would impact Old Town. The Staff report demonstrates that Park City understood the scale, mass and size of Treasure Hill, and that it was a concern in 1986. The Staff report also demonstrates that those concerns were carefully and thoughtfully considered and addressed, including requiring MPE to incorporate certain design requirements and development restrictions. With an informed understanding of its size, mass and scale, Park City approved the MPD for Treasure Hill for a development of the size, mass and scale of the Treasure Hill development that is part of the CUP application.

Mr. Ferrin stated that understanding the history of Treasure Hill and the approvals, no one could claim that the Park City Staff, Planning Commission, City Council and the public did not understand and anticipate that at some point in the future Treasure Hill would be a large scale development immediately adjacent to Old Town. After much deliberation and consideration, Park City approved the MPD in 1986 because they believed it was in the best interest of the City. Mr. Ferrin remarked that individuals may choose to criticize that decision, but the approval granted to MPE cannot be taken away and it cannot be undone.

Regarding the second topic, Mr. Ferrin stated that the configuration of Treasure Hill has evolved since the 1986 MPD approval, and that evolution is important. He remarked that from 2004 to 2009 when the CUP was initially processed and reviewed, the project was primarily driven by the 2003 LMC and by the direction of Staff and the Planning Commission. Even though the process evolved, the process did not affect fundamental changes to the scale, mass and size. Mr. Ferrin stated that the process resulted in shifting mass around and decreased floor to floor height in the residential component. Meeting room and support commercial space was developed using percentages confirmed in writing by Staff on more than one occasion, and in full compliance with the 2003 LMC. Mr. Ferrin noted that employee housing was added, and parking services and circulation revisions were implemented. He pointed out that overall, with that evolution of the

Treasure Hill Design, additional square footage was added both above grade and below grade, and modest volume changes were incorporated above ground and there were volume increases underground. Mr. Ferrin stated that the project was also dropped a few feet further into Creole Gulch in order to do more to reduce the scale along Lowell and Empire.

As a follow up to their presentation last month, Mr. Ferrin commented on the square footage of Treasure Hill as contemplated under the MPD approval and the CUP application. He compared the square footage of Treasure Hill to the square footage of other large scale developments in Park City. Mr. Ferrin stated that in 1986 the MPD approval granted approximately 413,000 net square feet. The exact square footage was not fixed and it depended on many factors, including unit configuration. As shown at the last public hearing, the Woodruff drawings used for the development of the building zones and height limitations, and attached to the MPD approval, contemplated about 875,000 square feet. Mr. Ferrin noted that as stated earlier, Planner Astorga had confirmed the numbers submitted by MPE's architect. Mr. Ferrin pointed out that when the MPD approval was granted in 1986, the Woodruff drawings were conceptual in nature. Had the concept of the Woodruff drawings worked its way through the LMC, the Treasure Hill development would have grown even more. MPE's architect estimated that the size would be nearly 1 million square feet. Mr. Ferrin stated that a concept plan, detailed sketches, and refined development is the process that occurs for every project. Mr. Ferrin noted that the calculations permitted under the LMC, the 2004 CUP application contemplated upwards of 850,000 gross square feet. This calculation was based upon the agreement between MPE and the Staff that each residential UE is equal to 2,000 square feet, and each commercial UE is equal to 1,000 square feet. Without that agreement, the square footage and volume of Treasure Hill could be even greater.

Mr. Ferrin outlined the progression of Treasure Hill through the CUP process between 2004 and 2009, which led to a total of 1,016,877 square feet. He noted that the square footage was reduced based upon an agreement with Staff to take out the mine exhibition. Under the current application the gross square footage is 1,008,808. Mr. Ferrin stated that as detailed in their presentation last month and in their position statement, the square footage included in the CUP application fully complies with the 2003 LMC, and the additional square footage, sometimes referred to as back of house, is contemplated and permitted under the LMC. Mr. Ferrin clarified that additional square footage for meeting space and support commercial is authorized by the LMC but limited up to 5% of the floor area. He emphasized that the 2009 application complies with those 5% requirements, even if all of the floor area related to commercial space and meeting space is not included in that calculation. He stated that MPE was not double-dipping in making its calculations of square footage.

On the third topic, Mr. Ferrin stated that the Treasure Hill square footage was reasonable, compatible and comparable with other developments. In response to the question raised at the last public hearing by several Planning Commissioners regarding the square footage included in the CUP application, Mr. Ferrin remarked that the additional back of house square footage is reasonable. It is reasonable in the context of what is required to make Treasure Hill a functionally developed and profitably operating development. This was borne out by the review and vetting process that MPE went through by hiring a 5-star hotel operating and maintenance company to review the plans. Mr. Ferrin believed it was reasonable in the context of what Park City has permitted for other developments. The July 8, 2016 Staff report included Exhibit W, which is an analysis of the square footage permitted at the Montage, St. Regis and in other developments. He noted that MPE's architect and land planner had completed a similar analysis based upon the plats of record for Montage and for St. Regis, and for the 2009 application. Mr. Ferrin pointed out that there were small discrepancies between the Staff analysis and the applicant's analysis. The applicant intended to work with the Staff to resolve those discrepancies.

Mr. Ferrin referred to comments made at the last public hearing that it was not appropriate to compare Treasure Hill to the Montage and St. Regis because Treasure Hill is located adjacent to Old Town. He reminded the Planning Commission that Outside Counsel to the City addressed this issue in a separate letter when he said that the compatibility issue for Treasure Hill was decided when the MPD approval was granted in 1986. Mr. Ferrin reviewed the analysis that MPE's architect and land planner had prepared comparing the three projects. He referred to a color coded chart that identified the back of house in orange, meeting space in yellow, commercial space in green, and residential in blue. Mr. Ferrin noted that the gross floor area of the Montage was 780,000 square feet. The gross floor area of the St. Regis was 416,000 square feet. The gross floor areas proposed for Treasure Hill is 775,000 square feet. In terms of the back of house comparisons, Montage has 341,000+ square feet. He thought it was important to note that the percentage of the total square footage for Montage is 43.8%. The St. Regis is 47%. Treasure Hill back of house is 40%. Mr. Ferrin pointed out that Treasure Hill has less back of house than either Montage or St. Regis.

Mr. Ferrin commented on the meeting space and noted that proportionally Treasure Hill is almost equal at 2% for Montage, 1.5% for St. Regis, and 2.1% for Treasure Hill. He stated proportionally the 6.7% commercial space at Treasure Hill is less than the 7.5% for Montage and slightly more than the 4.5% at St. Regis. Mr. Ferrin noted that Treasure Hill has proportionally more residential space than either the Montage or St. Regis.

Mr. Ferrin stated that overall, proportionately, Treasure Hill is modestly more efficient than comparable examples when it comes to back of house, meeting space, and commercial space. He reviewed a comparison of Montage and Treasure Hill, including the parking.

Treasure Hill had more residential, less commercial space, less parking, and less back of house. Like Exhibit W, Mr. Ferrin thought the comparisons helped to show how Park City has treated other applicants of similar developments. Based upon approvals that Park City has given for similar development projects, Mr. Ferrin stated that the square footage included in the CUP application for Treasure Hill, including back of house, is clearly reasonable and should be approved.

Mr. Ferrin commented on volume. In addition to providing additional information on square footage, Director Erickson had also requested that the applicant address the volume of Treasure Hill. Mr. Ferrin noted that there was no mention of volume restrictions within the Estate Zone in the 1985 LMC, the 2003 LMC, or in the MPD approval. He did not believe it was a specific factor to be considered in reviewing the CUP. However, in an effort to respond to the Planning Director's request, the applicant had provided an analysis of the volume of Treasure Hill. Mr. Ferrin stated that volume is a function of a building's horizontal and vertical limits and the floor to floor heights. It is the same analysis that Planner Francisco had done with the Woodruff drawings. Mr. Ferrin remarked that an increase in volume means an increase in construction costs. A developer is initially disincentivized from increasing or maximizing volume.

Mr. Ferrin stated that the Treasure Hill volume is primarily a function of the UEs, vehicular access, the topography of the land, and the different types of spatial uses reasonably required for the project. In thinking about volume, the specified function or use that goes on in a space dictates the floor height of that space. Mr. Ferrin noted that industry standards are a very important factor. For any project, an evaluation of floor heights requires an evaluation of parking, lobby heights, commercial space, meeting heights, and residential floor heights. In terms of parking and circulation, types and sizes of cars, service trucks, and emergency vehicles are considered in the analysis of the floor to floor heights. Mr. Ferrin stated that industry standards require 16' floor heights for service and fire trucks, and 14' floor heights are required for ambulances and accessibility vehicles. It leaves room for drop downs and transfer beams, ventilation, and lighting. He believed their numbers were conservative. Mr. Ferrin noted that industry standards indicate that 19' to 24' heights are commercial. The industry standards for commercial spaces indicates that 12' to 25' floor heights typical. Meeting space heights depend on the size of the meeting space area and the nature of the function. Industry standards show that 12' to 30' heights are typical. Industry standards for residential space indicate that 10'6" floor to floor heights are typical. Mr. Ferrin stated that Treasure Hill's floor to floor heights in all of those categories fall within those standards, and in some cases on the lower end of the industry standards.

Mr. Ferrin noted that David Eldridge, the project architect, had performed a detailed numerical and visual analysis of Treasure Hill's volume. The analysis was included in the

Staff report and he was certain that it would be closely reviewed by Planner Astorga. Mr. Ferrin explained how the architect had calculated the square footage and uses for each space in Treasure Hill to perform the analysis. He pointed out that the numbers were approximate and the final heights would vary somewhat once the architectural construction documents are prepared. Mr. Ferrin stated that also included in the Staff report was a volumetric plan that Mr. Eldridge had prepared showing the floor to floor heights of each level within Treasure Hill. The pink and orange colors represented the taller floor to floor heights. Green, yellow and blue represented the shorter floor to floor heights. Mr. Ferrin stated that most of the higher elevation floors are below re-established grade. He reviewed the analysis to show the volume heights by percentage above grade. He pointed out that floor heights of 10.5' or less comprise 60.3% of the above grade volume of Treasure Hill. Floor heights of 24 feet or more comprise 2.1% of the gross square footage above grade of Treasure Hill. Mr. Ferrin stated that 55% of the entire project has floor to floor or floor to roof heights less than 12'. He remarked that 80% of that area has floor to floor or floor to roof heights of 10'6" or less. Mr. Ferrin stated that 60.3% of the above grade gross area of the project has floor to floor heights less than 10'6", and all of the above grade spaces with floor to floor or floor to roof heights 14' or more are commercial spaces, ballrooms, meeting rooms or public lobbies.

Mr. Ferrin stated that Mr. Eldridge had done an analysis of the plats of record for Montage and St. Regis. Montage has floor to floor heights of 11' for residential areas, which is approximately half a foot taller than the floor heights for Treasure Hill. Montage has floor to floor heights of 19 to 21 feet for public spaces; similar to the floor heights for Treasure Hill. The St. Regis has floor to floor heights of 10'6" to 11' for residential; and floor to floor heights of 23 feet for public spaces, which are generally in line with Treasure Hill.

Mr. Ferrin stated that based on the detailed volumetric analysis, including floor heights of projects that Park City has previously approved, the volume of Treasure Hill is in line with industry standards and is reasonable and should be approved by the Planning Commission. He remarked that another important factor to consider in evaluating the volume of Treasure Hill is the location of the volume within the development, and the fact that it was driven by the desire to mitigate height. He referred to comments in the Staff report for the MPD approval, such as cluster the bulk and tuck it into Creole Gulch. He noted that mitigating height was a key consideration in the MPD approval and very early in the design process. Mr. Ferrin pointed out that placing the development further in Creole Gulch also subjected other essential development constraints, such a fire and safety, ski operations, and excavation. He stated that following the critical directive to mitigate height by locating and developing Treasure Hill in Creole Gulch, MPE initially had to insure that the project worked from a fire and safety perspective. After thoroughly evaluating the in the Gulch design concept, MPE and the City entered into a written agreement, a fire protection plan, in early 2004. The City was represented by the Chief Building Official and Fire

Marshall. Mr. Ferrin stated that the fire protection plan, including the access points talked about on the site plan, the required excavation, and the location of ski improvements, insured that emergency vehicles and fire trucks could access all of Treasure Hill. Mr. Ferrin noted that the fire protection plan was signed before the 2004 CUP application was filed. The fire protection plan dictated where scale, mass, size and corresponding volume could be located and how it could be designed. That signed agreement set the foundation for the project. Mr. Ferrin stated that the fire protection plan and the CUP application in 2004 was the basis for a 2006 agreement between MPE and Park City regarding ski runs, ski lifts, and the operation of responsibilities between the owner of Treasure Hill and the operator of the resort. This agreement allowed for excellent skiing experience and it was required to make it all work. Mr. Ferrin stated that the fundamental directive in the MPD to mitigate height by locating and developing Treasure Hill in the Gulch, while respecting the essential requirements for fire and safety and good skiing, resulted in additional excavation and the cliffscape concept. He emphasized that excavation and cliffscape construction mitigates height. Mr. Ferrin noted that almost all the cliffscapes will be obscured from the town's view based upon the buildings that will be built, and based upon the anticipated landscaping.

Mr. Ferrin presented the sketch-up plan, which showed the 2009 application buildings and an overlay of the Woodruff plans, from two different perspectives.

Mr. Ferrin stated that in 1986 Park City carefully evaluated the application of the Sweeney Plan, and the Staff report and Minutes from those meetings clearly reflect that Park City knew it was approving a large scale development with large skyscraper type buildings, and clustered and tucked into Creole Gulch. While 30 years later the community may not like that approval it cannot be undone. Attacking the CUP application on grounds that it does not comply with the MPD are unfounded and without merit. Mr. Ferrin remarked that the 20 year evolution of the design of Treasure Hill that occurred through the application of the LMC and from the directions from Staff and the Planning Commission is typical of what occurs for the development of any project. As the Planning Commission noted in the meeting last month, there is no point in building a project that is a white elephant. Mr. Ferrin believed that could happen if Treasure Hill is not approved with its full density. In conclusion, Mr. Ferrin stated that Treasure Hill has a very complex history and the Planning Commission is required to evaluate and approve MPE's CUP application in the context of that history.

Planner Astorga pointed out that in the applicant's comparison between the Woodruff drawings and the current proposal, they showed the grade as it would relate to the proposal and not to the Woodruff analysis.

Chair Strachan wanted the applicant to come back with an explanation of which version of the 5% rule they believe applies. Whether it is the version from the 1985 Code or from another Code version. Mr. Ferrin offered to provide that information at the next meeting.

Chair Strachan opened the public hearing.

Brian Van Hecke, representing THINC, the Treasure Hill Impact Neighborhood Coalition, stated that he is an Old Town resident at 1101 Empire Avenue. Mr. Van Hecke noted that approximately 500 members are involved with THINC. He noted that at the last meeting he presented a photos showing what the City was like when the Treasure Hill development received approval on the MPD in 1985. Continuing with that theme, one of the Commissioners requested details on what the Planning Commission and the City Council was thinking when they approved the MPD. Based on that request, Mr. Van Hecke contacted some of the former Commissioners and Council members and some were present to speak this evening and provide that insight. He introduced Brad Olch and Ron Whaley from the 1986 Planning Commission, as well as Jim Doilney and Ann MacQuoid from the 1986 City Council.

Jim Doilney stated that it was his very specific memory that the 3-2 vote for approval that occurred in 1986 would have changed to a denial if the more than 412,808 square feet had been included in the written agreement. It was based on 16 square feet per residential unit equivalents, or 258 units, as well as 19 commercial unit equivalents. Mr. Doilney believed that references to other projects are irrelevant and a waste of the public's time. He thought the references to comments by the Outside Counsel to the City, Jody Burnett, were the ones that were written in the agreement and the 1986 LMC. Mr. Doilney did not understand why the Staff and the applicant was referencing Codes in subsequent years. He stated that references to various conversations, Staff efforts and Planning Commission meetings are irrelevant unless they were blessed by the City Council. Mr. Doilney remarked that the schematic 1986 drawings were interesting; however, the written words in the LMC should be their guide. Mr. Doilney presented to two articles that appeared in the Park Record in 1986 showing that the Sweeney project was approved by a 3-2 vote. He noted that Jim Santy was the swing vote, and he truly believed that Mr. Santy would have cast a different vote if he had known the amount of square footage proposed today. Mr. Doilney showed another headline from the Park Record, Sweeney Project Prompts Spirited Density Debate. He stated that there was never a question about how much square footage was allowed. He never saw the drawings during those discussions and they were not part of the written agreement. Mr. Doilney reiterated that discussions by Planning Commissions and Staff are irrelevant, because entitlements cannot be established without a City Council vote.

Brad Olch, former mayor of Park City, stated that he was Chairman of the Planning Commission during the MPD process. Mr. Olch stated that in 1985-1986, the infrastructure of the town at that time was very limited. The Planning Commission was presented with a proposal and the question was whether they should spread the density across the entire hillside, or cluster the density in Creole Gulch. He noted that it was so long ago that half of the Commissioners from that time were no longer here. Mr. Olch stated that the vote was split and he broke the tie with an approval to cluster the development in Creole Gulch. At that time he felt the proposal of the 400,000+ feet was a stretch, and he was unsure whether the developer could actually make it work. Mr. Olch hoped that the current Planning Commission, with the help of a very experienced Planning Director, would carefully consider this proposal. He could not imagine that any type of traffic survey would justify anywhere near the types of densities that Treasure Hill was proposing today. Mr. Olch stated that drawings were never submitted. When the Planning Commission voted, they saw a sketch on a screen of a couple of high rise buildings that would have an incredible impact on Park City. In looking at the current proposal, which is 2-1/2 times what was approved, he believes the project as proposed would have negative lasting impacts on Park City; and Park City would never be the same. Mr. Olch urged the Planning Commission, and ultimately the City Council, to not be afraid to say no, and to see what happens. It has been over 30 years, but the Sweeney's have an approval and they should build the project as it was approved by the Planning Commission and the City Council in 1985 and 1986.

Ann MacQuoid stated that she and her husband and daughter moved to Park City in 1980 from California and became full-time residents. Like Mr. Doilney, Mr. Olch, and many others, her family has a deep and abiding love for Park City. They moved here specifically because it was Park City. Ms. MacQuoid stated that she was fortunate to be elected to the City Council in 1985 and she ran for office and served for four years because she cared very deeply for the City. She remarked that the heart and soul of Park City always was, and still is, Main Street and the Historic District. Everyone worked hard for years and years to become designated as the National Historic District and to maintain and uphold the standards of that kind of historic town that people want to come to. They are more than just a ski resort. Park City is a real town. Ms. MacQuoid noted that in 1986 she voted in favor of the project and Mr. Doilney voted against it, but the 3-2 vote resulted after months and months of review. The Planning Commission forwarded their approval in December of 1985, but the City Council do not vote for approval until October 16th, 1986. Mr. MacQuoid stated that even though she voted in favor with clarifications. She had said that nowhere did this approval guarantee the longevity of the approval of the project. The approved MPD and its density, was hotly contested. Mr. Doilney had suggested 158 UEs, and Kristen Rogers, another Council member, had suggested 170 unit equivalents. Ms. MacQuoid pointed out that in 1986 a unit equivalent was 1600 square feet. She stated that the unit equivalents and the conditional master plan approval, was conditioned on very

specific elements. Ms. MacQuoid remarked that the fact that other plans were proposed in 2006 and 2009 have nothing to do with what was approved in 1986. She explained that the reason and intent for approving the master planned development was to save 110 acres as recreational open space. As soon as this approval was granted that 100 acres became recreational open space. She recalled that one plan presented at that time showed 400+ homes across Treasure Hill, and it was too much. The Planning Department suggested that one of the guidelines for historic communities was not only to avoid replicative architecture, but also to cluster development where possible. In addition to saving the 110 acres, the further intent was to save the character and the nature of the Historic District, Old Town, and ultimately Park City. She pointed out that height was also very important, and the meetings minutes reflect that her amendment to the approval that was passed down from the Planning Commission was to reduce the Creole Gulch height to 75 feet from 95 feet. She stated that at the time the overall average building height was less than 45 feet for the entire development. To further clarify, Ms. MacQuoid noted that the Council actually specified how tall the buildings could be based on sea level. As currently proposed she believed the tallest building in the development would be over 100 feet. Mr. MacQuoid stated that this conditional MPD approval was not for a hotel. The approval was for residential development with five percent support commercial. She read from the minutes how support commercial was defined. "All support commercial shall be oriented and provide convenient service to those residing within the project, and not designed to serve off-site or attract customers from other areas."

Brian Van Hecke thanked Brad Olch, Jim Doilney, and Ann MacQuoid for providing some perspective on what was decided upon in 1985 and 1986. He hoped it was helpful to the Planning Commission and gave everyone a better understanding of what Park City was like back then. Mr. Van Hecke thought it was important to remember that the MPD was approved by the City Council in 1986. He believed the community struggled with understanding the full scale and scope of this project. Mr. Van Hecke had taken a picture of the notice that was posted at the entrance of Treasure Hill, which was barely visible. THINC was taking try to educate the community on this large and important project, and he asked that the Planning Department provide a larger notice on the property with an actual image of how this development will look. Mr. Van Hecke felt like the applicant, the newspaper and others were trying to hide the fact of what this development would look like as currently proposed.

Mr. Van Hecke noted that the applicant started their presentation with a picture of Old Town with trees hiding the proposed development. Mr. Van Hecke presented his own slides showing Treasure Hill undeveloped as it exists today, compared to the development being proposed, and the impacts it could have on Old Town and all of Park City. Mr. Van Hecke asked Mike and Pat Sweeney if this was the legacy they wanted to leave to Park City, because the vast majority of the community would disagree with that. Mr. Van Hecke

commented on the amount of excavation. He believed the scars would be visible and permanent and could not be covered with landscaping. Mr. Van Hecke understood that the next meeting would include a site visit, and the Planning Commission had requested balloons to get a sense of height and visibility. He noted that many other communities require story poles for large developments, where poles are erected and orange tape is put up to show what the actual development would be like. Mr. Van Hecke agreed with the idea of a site visit, and suggested that they ask the applicant for something more accurate than balloons. He personally proposed story poles.

Mr. Van Hecke showed a slide of the Woodruff drawings that were included in the MPD proposal in 1985/1986. Another slide showed a blown-up version of one of the buildings that was presented by the applicant at the last meeting. The applicant used that version to calculate numbers and demonstrate that they were supposedly entitled to that much density. Mr. Van Hecke explained why he thought the drawing should be inadmissible. He stated that in 1985/1986, the Woodruff drawings were never intended to be used to determine the actual square footage of the project. Mr. Van Hecke stated that the comparison to the St. Regis and Montage was not relevant because those projects did not exist when the Treasure Hill project was approved in 1985 and 1986. He noted that the MPD was not based on the St. Regis and Montage. It was a decision that the Planning Commission and the City Council wrestled with to try to save open space. Mr. Van Hecke emphasized that the Treasure Hill project should be reviewed based on the 1985 LMC, which was in effect when the MPD was approved, basically allows 5% for back of house. If the applicant wants to make a comparison, the closest would be the Yarrow, which opened in 1978.

Mr. Van Hecke read language from the Staff report. "Staff finds that any support commercial over 5% of the total floor area within specific hotels must count toward the Master Plan 19 UEs. The Staff position is that even if the Planning Commission were to agree with the applicant, any support commercial above the 19 UEs is not vested, and would be subject to a full-blown, new compatibility and MPD, CUP review." He further read, "Additional support commercial space causes additional impacts; such as impacts to mass and building size, traffic, greater water usage, etc. Staff recommends that rather than focusing on the calculation method, the Planning Commission should focus on the impacts of additional support commercial and the levels of mitigation". Mr. Van Hecke pointed out that despite what the applicant claims, 1 million square feet was not approved in 1985/1985. He believed it was either an inaccurate calculation or it was a lie.

Christine Holt stated that she and her husband own a condominium at 920 Lowell Avenue, right about where the access road would go into this development. They purchased their property in 2002. They live in Logan half time and Park City half time. Ms. Holt thought the "human face" was the missing component in these discussions. People live in this

neighborhood and they have to contend with the impacts and the changes to their neighborhood. She and her husband love that it is a beautiful, quiet and peaceful place. Mr. Ferrin had asked that they think of the history of the last 30 years, and she believed he was right. Thirty years ago that neighborhood was not the same neighborhood it is today. People can no longer walk on the street in the winter, there are no sidewalks, and there is barely room for one car to drive up there. She questioned how they could have this type of development and still maintain any quality of life for the people who live there. Ms. Holt thought it was important for the Planning Commission to hear from people who actually live in that neighborhood; and that it would not be the kind of place they want to live if the development is approved as proposed. She asked the Planning Commission to think about the impacts to the people in the neighborhood.

Patricia Crafton, a property owner and part-time resident on Lowell Avenue, stated that earlier this year, the residents of Lowell Avenue filed a petition in the Neighborhood Traffic Management Program. Based on pre-Treasure development, that road is not meeting existing Codes for fire and safety, particularly with regard to pedestrian access, and also just allowing two lane traffic. From the standpoint of meeting the legal requirements for fire, safety, traffic, and the ability of the road and infrastructure to even handle the excavation construction, as well as additional traffic requirements of this development, she was unsure how as a community they could address volume and density without addressing the issue of an idea based on conditions set in 1986 for Lowell and Empire Avenue to handle this project. Mr. Crafton understood that as part of the petition process, a consultant would be hired to study Lowell Avenue as to whether it could even sustain the current use and pedestrian traffic on that road, and how it would overlay with the development, which she assumed needed to meet certain standards for access, traffic and other safety conditions.

Chair Strachan informed Ms. Crafton that the Planning Commission would be discussing specific elements of the project, and several meetings would be dedicated to the issues of traffic and infrastructure. He suggested that she monitor the agenda on the City's website because all of the questions she raised would be explored in future meetings.

Charles Stormont, stated that he is with the law firm of Fabian Vancott and represents THINC and its members who have a profound concern about the impact of the Treasure Hill proposal and the CUP application before the Planning Commission. Mr. Stormont noted that he had summarized his comments from the last public hearing in a letter that was submitted to the Planning Commission. He encouraged the Commissioners to read his letter. The letter was dated July 22nd, and he understood that it was published on the website. Mr. Stormont noted that his letter and the comments made at the last meeting expressed their concern about treating these as vested rights. He did not intend to repeat

his comments, but he still maintained and reiterated those concerns. He understood at this time that they were being treated as vested and he intended to address them accordingly.

Mr. Stormont noted that the applicant had submitted a letter dated August 5th, which was included as page 173 in the Staff report. His comments this evening would respond to a number of items stated in the August 5th letter, and point out their disagreements and why they think the LMC and the approval process shows that their positions are not supportable under the appropriate Code and MPD approval that exists. Mr. Stormont pointed out that in the letter the applicant asserts the MPD approval provides rights to the applicant and imposes obligations upon the City. In response, Mr. Stormont emphasized that the MPD approval also imposes obligations upon the applicant. He asked the Planning Commission to ensure that the obligations of the MPD approval are followed and enforced.

Mr. Stormont stated that the 1985 revised Staff report that was eventually incorporated into the approval was predicated upon the terms and conditions set forth in the Staff report, and that "The applicant was bound by and obligated for the conformance of a variety of items, including conformance with the approved Master Plan". It also noted that "the approved densities were attached as an exhibit and shall be limited to the maximums identified thereon". Mr. Stormont commented on the argument presented by the applicant that they are entitled to certain square footage right and certain accessory uses pursuant to the 2003. He strongly suggested that the MPD approval makes it very clear that while the review process occurs under the process set forth in that Code, the limitations set forth in the actual approval must also be complied with. He believed the Staff had made that clear in the Staff report, and THINC agrees with that approach.

Mr. Stormont referred to the letter submitted by the applicant. On Page 3, Section 2.1 the applicant states that although conceptual in nature, the Woodruff drawings show specific building footprints, floor elevations, and other details that reveal the general size of the development contemplated by the parties. Mr. Stormont stated that at the July 13th, 2016 meeting, MPE demonstrated that the Woodruff drawings contemplate a development of about 875,000 square feet. He pointed out that the idea of a conceptual drawing could somehow lead to the vesting of specific square footage amounts was inconsistent, and that inconsistency needs to be reconciled. He hoped to provide information to help reconcile that as they move forward this evening. Mr. Stormont noted that he had spoken with Planner Astorga about those drawings and where the derivation of 875,000 square feet appears to come from. Based on the horizontal and vertical view, there were gaps that could not be filled in and the derivation of the 875,000 square feet cannot be established. He suggested that the 875,000 square feet claimed is not supportable and it was not approved.

Mr. Stormont noted that the applicant had come forward with additional details and additional drawings that were not part of what was approved in the mid-1980's. As such, they cannot establish the foundation for additional vested rights.

Mr. Stormont presented a few slides to help emphasize his point. The first was the most recent diagrams that were presented by the applicant. On the right was a zoomed in portion from the original schematics. He indicated the claimed square footages with respect to the buildings at the center of the project on the easternmost edge underneath the ski lifts. Mr. Stormont zoomed in on the Woodruff drawings to show that the UEs were written in on top of each of the structures. Three UEs on the north building and 2-1/2 on the south building. He pointed out the difference in the square footages between the current proposal and what was anticipated with the Woodruff drawings. Mr. Stormont stated that with respect to the two buildings, the analysis of square footage and measurements all fit within the UEs that actually appear on the Woodruff drawings. They comply with the 5% that is provided for in Section 10.12 of the 1985 LMC.

Mr. Stormont presented a slide of Building C. He referred to Exhibit Y and noted that the claimed square footage for Building C was 154,406 square feet. In looking at the original Woodruff drawings, it describes 87 units on the north side, and 79 units on the south side. It then goes through the math and explicitly describes Building C as having 88,000 square feet, using a 2,000 square foot number which was different from the 1600 square feet that the former Planning Commission and Council Members described. Mr. Stormont stated that even adding 5% under Section 10.2, the maximum amount of square footage that could possibly have been contemplated on the Woodruff drawing for this building is 92,400 square feet. There was an increase of almost 60% in the claims now being presented and proposed by the applicant. Mr. Stormont thought that discrepancy was difficult to comprehend and understands. He strongly suggested that the actual Woodruff drawings, the actual square footages, and the actual units described are what is vested.

Mr. Stormont noted from the Staff report that the original master plan exhibits did not quantify overall total square footage. It also states that no additional support commercial units were shown on these exhibits. He agreed with the statements in the Staff report and it shows that the square footage claims on what are admittedly conceptual drawings are not supportable. Mr. Stormont showed another slide of a zoomed out version of one of the original Woodruff drawings, which showed the unit equivalents that were provided for each of the sites. The total was 197 residential unit equivalents and 19 support commercial. Mr. Stormont reviewed another slide of the Woodruff drawings that had specific mentions of square footage and unit equivalents for five of the buildings. He noted that this site plan specifically mentioned 347,500 square feet and 173.75 UEs. He asked how it could be that within the remaining 23.25 residential unit equivalents and 19 commercial unit equivalents, that they could possibly explain the discrepancy between the 413,000 square

feet to the 875,000 that is now claimed. He questioned how somewhere in the 23.25 residential unit equivalents and 19 commercial unit equivalents that they more than doubled the square footage of the project. Mr. Stormont implored the Planning Commission and the Staff to carefully review the gaps in the plan relative to what was actually shown on the Woodruff drawings. He also encouraged the Planning Commission to examine what was actually approved, as suggested by Mr. Olch. Mr. Stormont stated that a concept drawing made 30 years ago compared to the effort to bring new information to the table to extrapolate square footage that contradicts the actual square footage that is expressly stated on the Woodruff drawings, is simply not proper.

Mr. Stormont understood that the Staff had reviewed the square footage calculations that were made based on the two site plans compared side by side and the various levels that were involved. He also understood that the Staff agrees with the analysis; however, THINC disagrees. He suggested an alternative for consideration in the event that the Planning Commission was inclined to view the drawings as somehow vesting 875,000 square feet. They know the square footage includes 394,000 square feet of residential and 19,000 square feet of commercial. It is possible to come up with another 5% of support commercial as provided for in Section 10.12 of the 1985 LMC. Mr. Stormont stated that there are two categories within the 1985 LMC, and the remaining several hundred thousand square feet must fit within, and can only fit within, if they are to give the MPD approval any significance. Those are circulation spaces outside of units. From the Staff report they see that there are tens of thousands of other types of accessory uses that could not possibly have been vested by the 1985 master planned development approval. Mr. Stormont implored the Commissioners to ask what type of square footage could possibly have been within the 875,000 square feet. The 1985 LMC indicates that the current application includes tens of thousands of square feet that do not fit within those categories and are not vested rights. Therefore, they should count as a substantive amendment to the MPD and should be evaluated accordingly under the Code.

Mr. Stormont again read from Page 3, Section 2.1 of the applicant's letters, "Had the Woodruff drawings actually been developed under the 2003 LMC, the eventual floor area would have been closer to 1 million square feet one additional accessory uses were added to the base design. THINC disagrees with that contention. Mr. Stormont had presented his argument last month and it still stands. He believed it emphasizes the vast substantive change that the current application represents over what was actually approved, and suggests that a different process needed to be followed.

Mr. Stormont read from the next paragraph on page 3 of the applicant's letter. "The Woodruff drawings define in part the correct contractual rights of MPE and the contractual obligations of the City, and the Woodruff drawings set forth the parties mutual understanding about the size, scale and volume of the approved development". Mr.

Stormont took issue with the idea that it provides rights to the applicant and imposes obligations on the City; because it clearly imposes obligations on the applicant as well. Mr. Stormont referred to Section 2.2 of the applicant's letters, and commented on a discussion about various findings that were made in connection with the 1985 and 1986 MPD approval; and he agreed that those were accurate quotations of the approval documents. However, on one hand the applicant admits that the CUP application exceeds their own contention as to the square footage provided for in the MPD approval, yet they are trying to take findings for what was actually approved and apply them to a different concept. Mr. Stormont remarked that taking the findings from 1985 and 1986 and applying them to the concurrent proposal was not proper. The projects are different and all the issues are different; therefore, what was found about massing and clustering in 1985 and 1986 is irrelevant to the current proposal. Mr. Stormont did not believe it was fair or proper to permit the applicant to rely on those statements when their current proposal is significantly different and much larger than what was actually approved.

Mr. Stormont noted that Section 3 of the applicant's letter generally deals with the 2003 versus the 1985 LMC in terms of support commercial and meeting space. He had addressed that issue in his letter dated July 22nd, and he referred the Planning Commission to his letter to avoid repeating their position.

Mr. Stormont referred to a specific item in Section 3.4 of the applicant's letter where they attempt to explain that the increase in square footage that exists in the current application is a function of the applicant responding to a request by Staff and the Planning Commission for more detail. He read, "The increase and square footage of the project from the preliminary 2004 estimates to the current more detailed refinements was the result of understanding the practical and logistical needs of the project, and the inclusion of additional uses that are vested under the 2003 LMC. Mr. Stormont stated that the rights that were vested by the MPD approval guarantee certain things; but the not guarantee a profitable hotel development or additional square footage that the applicant believes is required to make the development function properly. He noted that if the development cannot be built within what was provided for by the LMC and the approval that was granted, the project should not be built.

Mr. Stormont stated that Section 4 of the applicant's letter discusses volume. It recites portions of Jody Burnett's 2009 letter and findings of the revised Staff report from 1985. However, again, the applicant ignores the fact that the expanded nature of the current proposal makes those findings irrelevant to the current application. He noted that the claims in terms of needed volume are problems building on problems. By proposing additional square footage that was not approved and by expanding commercial beyond what was provided for in the Code, Mr. Stormont believed the applicant was exacerbating the volume issues with their proposal. He remarked that expanding the square footage

improperly should not entitle the applicant to expanded volume. He noted that compatibility of mass and scale are expressly required, and volume is a component of mass and scale.

Mr. Stormont referred to page 132 of the Staff report which was an image of the exhibit to the revised Staff report that lays out the maximum densities that were approved as part of the original MPD in the mid-1980s. He read, "maximum commercial space not to exceed FAR of 1:1". Mr. Stormont was unsure whether there was enough information to determine whether or not the commercial floor area ratio exceeds 1:1. However, it was not his expertise and he requested that the Staff look into it. Mr. Stormont pointed out that it would be additional grounds to deny the pending application. Mr. Stormont commented on the discussions about what constitutes above grade and below grade square footage. From the information he has studied, he was unable to determine what is actually above grade before construction versus after construction; as well as with the excavation proposed under the current, how much might have been below grade before excavation is now above grade. He believed this issue needed to be carefully studied at the appropriate time.

Mr. Stormont remarked that the expansion of density and the expansion of square footage that is being requested by the current application presents a number of big issues. He presented a slide of the rendering that the applicant provided at the last meeting showing and noted that there was significant excavation behind the buildings. He suggested that the reasons and rationale do not carry much weight because the excavation required to move the building into the mountain has a profound impact on the open space, which was a critical part for why the MPD was approved. Instead of open space that blends into the buildings, the open space now leads into retaining wall and cliffs. Mr. Stormont noted that John Stafsholt was prepared to comment on the excavation related to this proposal.

Mr. Stormont stated that the vast expansion of this project over what was actually approved in 1986 results in tremendous massing that is far in excess of what was contemplated by the Planning Commission and the City Council at the time this was approved. He noted that Mr. Ferrin had said that in 1986 the City Council approved massive, high-rise project that involved clustering. Mr. Stormont pointed out that the project currently proposed is completely different from what was approved. It is a much more massive project with higher high rise buildings, and it is more spread out than clustered, and the massing is much more extensive. If this is the project the applicant intends to build, then it needs to go through an MPD amendment process.

Mr. Stormont thanked the Staff for their excellent work because the detail they provide is invaluable and impressive. He also thanked the Planning Commission for their service to the public. He also thanked the Sweeney's and Mr. Ferrin for coming forward with so

detailed information. Mr. Stormont believed this was open government at its best. Recognizing that there was disagreement between the parties, he was confident that this public process would result in a fair and appropriate resolution by the Planning Commission.

John Stafsholt, a resident at 633 Woodside, stated that a critical issue from the 1985 Staff report was that Treasure Hill is in Historic Old Town Park City. He read from the 1985 approval, "Hillside property is by far the largest area within the proposed Master Plan. Hillside properties involve over 123 acres zoned HR-1 and Estate". This is the land being talked about and it is HR-1 in its history and it is part of Old Town. He noted that almost all of the density comes from 15 acres of HR-1 zoned properties. Mr. Stafsholt thought it was important to understand that all of the Mid-Station and Creole Gulch zoning is historic; either HR-1 or Estate. Mr. Stafsholt further read, "Treasure Hill is in the District and it must be compatible with the scale already established in the District in 1985. The overall scale and massiveness of the project has been a primary concern located within the Historic District. It is important for the project design to be compatible with the scale already established. At the time of submittal, the CUP must comply with the adopted Codes and ordinance at that time". Mr. Stafsholt pointed out that this not only includes the LMC, but also the Historic District Design Guidelines and the PC General Plan. That was the intent of the MPD as explained by earlier speakers who were involved in the 1985 and 1986 approvals. Mr. Stafsholt thought it was important to note that the most restrictive document governs. Treasure Hill is in the Historic District and it must be compatible with the scale already established. Mr. Stafsholt further read, a "At the time of project review and approval, all building shall be reviewed for conformance with the Historic District Design Guidelines and related architectural requirements". To his knowledge, no one has ever reviewed this against the Historic District Design Guidelines because it would never pass. Mr. Stafsholt stated that the City Council called up Treasure Hill in 1986 and lowered the heights allowed. The continually hear from the applicant that "a deal is a deal". If that is the case, why does Treasure keep coming back larger and larger each time. He asked why the Creole Gulch buildings that have a maximum height of 75 feet were submitted with 13 stories and over 140 feet if a deal is a deal. For that same reason, he questioned by the Mid-Station buildings with a maximum height of 45 feet were submitted at over 90 feet.

Mr. Stafsholt referred to the Woodruff drawings and noted that there was no foundation and it was not cutting away the hillside. The buildings were working with the natural grade of the MPD site because it was required in LMC 15-6-7, "The project shall be designed to fit the site, not the site modified to fit the project". Mr. Stafsholt referred to the currently proposed project and pointed out the cuts that were not in the original conceptual drawings that the MPD was approved under. He believed that was making the site fit the project. Mr. Stafsholt believed that the additions of all the area and the massing and scale should require a completely new MPD for review. Mr. Stafsholt reviewed additional slides showing

significant cuts in various places on the site. He did not believe the project conformed to the site in any way. He noted that the applicant has said this was only 11.5 acres; however, it is 11.5 acres in Old Town and every trees, bush, and blade of grass will be gone. The entire 11.5 acres would be devoid of all greenery and excavated down at least 20 feet; and 100 feet or more in some places.

Mr. Stafsholt read from the 1985 Staff report, "If and when the Planning Commission grants additional height to a site specific analysis, the additional building height for the specific project will not necessarily be considered for a different or modified project on the same site". He stated that based on that language, the applicant did not necessarily have the right to the height they were claiming. Mr. Stafsholt noted that MPEs site plan calls for an estimated 960,000 cubic yards of excavation. The average dump truck is 12 cubic yards, which equates to 80,000 dump truck loads traveling through Old Town. That is over 300 trucks per day for 20 years. Mr. Stafsholt stated that the applicant plans to keep all the dirt onsite, but he questioned how that could be done when there are four mining sites within the boundaries, and three have elevated levels of lead and arsenic, and the required and approved soils remediation plan is not in place. Mr. Stafsholt pointed out that the Montage excavation was smaller than Treasure and their expected excavation was 50,000 cubic yards. In addition, Montage had extensive geo-technical work done before any building or excavation. A geo-technical evaluation has never been done on Treasure Hill.

Mr. Stafsholt noted that Treasure is in the Spiro Water protection zone, as evidenced by a letter from Park City Municipal Corporation on August 28, 2006. He read, "In addition, the City would consider such placement within the Creole Mine Shaft as a potential pollution source for the Spiro Drinking Water Protection Zone. This is prohibited under PCMC's Drinking Water Protection Plan Ordinance in 13-1-28". Mr. Stafsholt stated that this issue came up because the applicant plans to fill the Creole Mine with the toxic waste. However, the Creole Mine is in Spiro Drinking Water protection zone and the City has already prohibited that.

Chair Strachan asked Mr. Stafsholt to submit the drawings he presented this evening to Planner Astorga so they could be included in the record.

Mr. Stafsholt had questions for the applicant to respond to at the next meeting. The applicant has stated that the evolution of the square footage and the volume increases were required by ordinance. Mr. Stafsholt requested that the application provide the written evidence of that ordinance. Secondly, the applicant stated that the fire access predated the MPD project design. Mr. Stafsholt requested the written evidence that shows there was fire access before the design. Lastly, the applicant has stated that the Staff approved meeting space, circulation and back of house to match the 875,000 square feet, and he wanted to see the written evidence of that approval. Mr. Stafsholt stated that the

applicant repeatedly states that the volumetric were reduced through excavation. However, when the height elevation from sea level is set and the excavation is increased, it adds to the volumetrics.

Rich Wyman echoed the comments of everyone who spoke before him. He has lived in Park City for over 25 years. He was not in Park City in 1985 but he definitely would have fought against this project if he had been. Mr. Wyman stated that in the 1990s he was one of the co-founders of CARG, Citizens Allied for Responsible Growth, and that group fought hard against the Flagstaff development which later became Empire. If the public who spoke this evening had been actively involved back then, they might not have a Montage. Mr. Wyman commented on one difference between Flagstaff and the Treasure Hill project is that during Flagstaff Hank Rothwell and Rory Murphy, representatives of the Mining Company, proposed a certain development and over the course of five or six years they compromised and met with the community in good faith. He thought that was lacking with the Sweeney's and their representatives. During the Flagstaff process there was good will, charity, humanity, honor and reasonableness. In the end the Mining Company revised their proposal to less than half of what was originally proposed. Mr. Wyman believed they were seeing the exact opposite with the Treasure Hill group. This project keeps getting bigger and bigger and the proposal is completely unreasonable and should be denied. Mr. Wyman felt strongly that the Code that applied when the MPD was approved in 1986 should apply to the Treasure Hill development. He thought this applicant was being unreasonable and should be denied.

Annie Lou Estarda stated that she and her husband own property adjacent to the Treasure property on the north side. Ms. Estarda commented on the Woodruff drawings. Before she and her husband built their house in 1989 they went to the Planning Department to find out what would be developed on the hill beside them. At that time there was no mention of Woodruff drawings. She stated that when the Sweeney's came to the City with their proposal, either she, her husband, or someone from their family attended every Planning Commission meeting that dealt with Treasure; and until last month the Woodruff drawings were never mentioned. She and her husband met with the Kirsten Whetstone, Katie Cattan and Patrick Putt and they were assured that they had every document that the City had related to Treasure, but there were no Woodruff drawings. Ms. Estarda noted that the former Council members confirmed that the Woodruff drawings were not part of the original approval, and she strongly urged that the Woodruff drawings no longer be a basis for any discussion about Treasure Hill because they are irrelevant. All the discussion should be based on the original approvals and on the relevant Codes. Ms. Estarda echoed what others before have stated, that it seems totally inappropriate to compare approvals made in 1986 with those that were done two decades later for the Montage and the St. Regis. She pointed out that during the last discussions on Treasure, the City hired architect Craig Elliott to create a design that incorporated all of the approved square footage, but in a

design that would be more appropriate for Old Town and the neighborhood. Mr. Elliott came up with a design that was completely on the south side of the town lift and crept up the mountain in a way where there were no seven story hotels. The design was replicated in a 3-D model, which was shown at a public open, and it was viewed more favorably by the neighbors and the community than what the developers were proposing at that time. Ms. Estrada thought it would be fruitful for the Planning Commission to see Mr. Elliott's design if the model was still around.

Angela Mosketa stated that she and Sarah Barry are co-founders of Future Park City, which is a civic engagement initiative that was very vocal in regards to the Vail Trademark issue. Ms. Mosketa stated that development is inevitable and necessary if the community is going to be sustainable. However, executed without conscience or control, it will set a dangerous precedent and harm future generations of Parkites. On the other hand, if it is managed responsible, she believes it can help to address various issues that the community is dealing with, including transportation, affordable housing economic growth, carbon neutrality and more. Ms. Mosketa stated that while the scale of Treasure Hill is unprecedented for Old Town, so is the confusion and lack of a universally accepted foundation for evaluations surroundings this decades long debate. She stated that in conversations with City leaders past and present, Old Town residents think Park City and the Sweeney's have yielded vastly different interpretations of Code, history and impact. Having professionally consulted on both side of large scale real estate debates in the past, she was not convinced that anyone involved in the 2016 dialogue has a full grasp of the pros or cons of the current proposal put forth for Treasure Hill. As a result, Future Park City will not be taking a position on Treasure Hill at this stage. All they wished to advocate for at this time was that the various parties involved, including the City, put forth ore effective presentations of information and honest disclosures, and that everyone, specifically the Planning Commission, consider outcomes objectively. Ms. Mosketa suggested that some questions to consider is to how ensure the best long-term results for the business community, the residents, the roads, and the environments. At what point do they compromise short-term inconveniences for long-term quality of life gains. And most controversially, how can each side of the debate inform the other.

Ed Breshan, an Old Town resident for ten years, agreed with John Stafsholt. The more he gets involved in this project and the more he reads about it, he has not come across one thing that the developers put forth that comes anywhere near complying with the intent nor the actual documents regarding this project. Everything is completely out of scale and he not seen any mitigation of any of the issues that comes close to what the Park City Planning Commission approved in 1985. He agreed that the applicant is not willing to compromise and they are trying to use scare tactics to get what they want. He implored the Planning Commission to do the right thing. The fact that this proposal is in the Historic District should nullify it without question.

Chair Strachan closed the public hearing.

Chair Strachan called for Planning Commission comments with the understanding that they were only focusing on specific items this evening.

Commissioner Band read from the minutes of the October 16th, 1986 City Council meeting, "Jim Doilney stated for the record that if approved the Council is more value than presently there. He continued that a 20-year approval is creating rights never granted before, and memorializing densities that will probably not be achievable". Commissioner Band noted that in that same meeting Ann MacQuoid stated, "She felt there never could have been in excess of 400 units building on the hillside, and whether it is feasible is moot. The trade-out for 110 acres of recreation open space zoning on the vegetated hillside is a valid proposal". Commissioner Band stated that on page 178 of the Staff report, the applicant cites that same meeting as proof that the City Council understood how large these building would be. However, she read it differently. The comments from the minutes lead her to believe that the City Council was not only approving something that they thought would never be built, but they had serious doubts that it could ever be built at all. Commissioner Band stated that over the years, whenever she hears Treasure talked about she often hears comments that it was a project people thought would never be built, and it was the best way to get what they wanted. Commissioner Band noted that the Planning Commission was looking at a proposal that is much larger than what was originally envisioned, and it was obvious that the City Council had doubts about it in 1986.

On the top of 5% support space, Commissioner agreed with the Staff findings that any support commercial over 5% of the total floor area must count towards the Master Plan unit equivalents. She pointed out that the language actually states, "Within a hotel up to 5% of the total floor area may be dedicated". That was written in the letter from Jody Burnett and she has seen it written other places. She noted that instead of asking for up to 5% of back of house, the applicant was asking for 5% of commercial space and an additional 5% of meeting space. She thought there could be some argument as to whether the mitigation conditions exist to even warrant the full 5% that would be allowed. Commissioner Band had not seen any plans for mitigation; and instead, everything in the application pushes the envelope in every way. She did not believe digging huge holes to mitigation height was mitigation; and digging has its own issues that need to be mitigated.

Commissioner Band stated that the current LMC, as well as the 1998 and 2004 Code and General Plan address compatibility, consistency, scale, and preservation numerous times in the statement of purpose, conditional review process, standards for review, large scale MPD and general criteria for review. Contrary to what the applicant keeps saying, LMC Section 1.2 of the Conditional Review Process not only allows the Planning Commission to

deny the CUP if the effects cannot be mitigated, it commands them to deny it under those circumstances.

In terms of the applicant's presentation, Commissioner Band thought the evolution was interesting, particularly the comment that, "with the direction from Staff and the Planning Commission, the applicant made the changes that were presented today". Commissioner Band read from the Staff report of September 23, 2009, Criteria 15. "Within and adjoining the site impacts on environmentally sensitive lands, slope retention and appropriateness of the proposed structure to the topography of the site, the proposed design requires a very large excavation and re-grading of the entire site. The project is located on the mountain side on steep topography. The impacts to the slope and existing topography are substantial and unmitigated. The project as designed will create a very large hole. The project does not step with the natural topography of the site. As discussed previously, the Staff finds the project as designed is not in compliance with the concept approved by the City Council during the 1986 master plan approval". Commissioner Band had several instances from the Staff report that shows the Staff did not agree with the applicant's findings, much less the changes that occurred.

Jody Burnett thought they were covering a number of issues that neither the Staff nor the applicant had provided input on. He suggested that the Commissioners focus their comments on the density, massing and volume issue. Chair Strachan agreed. He believed they were getting closer to concluding the density discussion in the next one or two meetings. When they finally reach the point of an end motion on the CUP, Chair Strachan wanted to have clean note of the Commissioners' comments even though they occurred several months earlier.

Commissioner Band read language from the 2009 Staff report regarding density. "197 units, any additional support commercial above the 19 UEs is not vested. The applicant currently has 49 of 5,139 support commercial meeting space proposed above the 19 UEs. The proposed support commercial exceeds the 1985 LMC maximum allowance". She thought that language also contradicts the applicant's statement that the evolution of the current proposal came from Staff direction.

Commissioner Joyce agreed with the comment heard during the public hearing about there being a tremendous amount of confusion over what is vested and what is not, what counts and what does not. He understood that a lot of incorrect information was presented this evening and people hear what they want to hear. Commissioner Joyce tried to clarify for himself what he thought was actual. He thought the challenge is that the process between an MPD and the LMC was not specific. There is a set of approvals for UEs, and there was an approval for a site plan the back of house space. Commissioner Joyce thought it was unclear as to how much space is accounted for. He believed what was explicitly vested is

197 UEs of residential and 19 UEs of commercial to be placed on approximately 11 acres divided by Mid Station and Creole Gulch. In addition, there are height and elevation restrictions. Commissioner Joyce did not believe it was clear about digging down. The height was measured from the existing grade, which leaves the issue of whether or not the applicant can build higher if they dig down 50 feet. Commissioner Joyce noted that what is not specific is a building height; or height above ground and total elevation above sea level. Part of the explicit agreement is that everything will go through the Historic District Design Review.

Commissioner Joyce believed they had reached agreement that the 1985 General Plan and LMC Code applies; and that the 2003 LMC applies for the conditional use permit. However, he thought they kept leaving out the fact, "and its applied now". When looking at traffic, soil mitigation and other items, it applies to what occurs now; and not how it was in previous years. For example, the 2003 LMC applies to present day traffic.

Commissioner Joyce noted that they heard several times this evening that the Woodruff drawings were not part of the original MPD. He clarified that the Woodruff drawings were attached as an exhibit to the MPD and; therefore, are part of the MPD. He stated that the Woodruff drawings, combined with the 1985 meeting minutes from the Planning Commission meetings, gives a general thought process of the mass and scale. He thought it was clear that the City recognized that something large would be built there. Commissioner Joyce pointed out that the approved UEs did not include parking and circulation. In his mind, circulation includes hallways, lobbies, public restrooms, stairways, elevators and other items that, by Code, are not included in the number of UEs, in support commercial, and in the other meeting room space. Commissioner Joyce pointed out that per the Code, many things are considered "other" which allows the flexibility to add square footage.

Commissioner Joyce commented on things are not vested. He did not care about the 2004 application proposal because it was never reviewed by the Planning Commission and it was never approved by the City Council. In his mind it does not exist. The same applied to the 2009 application. Commissioner Joyce emphasized that the only one he cares about is the 2016 proposal currently being reviewed. All of the comparisons of how things changed or the claim of having agreements with the Planning Commission and Staff are irrelevant because it never resulted in an approved CUP.

Commissioner Joyce referred to page 166 of the Staff report. He noted that there were two sets of buildings on the upper and lower parts of the page. He asked the applicant for an on-the-spot answer of how many square feet were in the upper buildings, and how much was above ground and how much was below ground. The applicant was not able to answer without looking it up. Commissioner Joyce remarked that in their presentation the

applicant implied that somehow the Planning Commission and the City Council knew they were approving 870,000 square feet by looking at the same Woodruff drawing that was on page 166. Commissioner Joyce stated that he went through all the discussions, all the minutes and all the documentation he could find, and there is nothing in the MPD process or anywhere else that goes beyond the UEs that were specified. Commissioner Joyce thought it was ludicrous how the applicant tried to justify the number of square feet proposed. Commissioner Joyce remarked that the Woodruff concept was a hypothetical drawing that was used to get an idea of what was being done. He pointed out that the applicant spent a lot of time this evening tying back to that 870,000 square feet, and he was stunned that they would do that.

Commissioner Joyce noted that there was nothing vested for commercial space, meeting space and other things. They can have the discussion about what the CUP process would allow, but that is not part of the MPD. It is part of a discussion about additional space that has to be mitigated. There are no firm Code limits, but it all has to be mitigated. Every time support commercial is added it impacts the number of employees, deliveries and other issues.

Commissioner Joyce commented on the design. He noted that the applicant has a set of UEs that are vested, and there is a hypothetical drawing with a conceptual idea that was part of the MPD approval. However, the actual design proposed is very different from the concept, and that will be a discussion item for several meetings. Commissioner Joyce was trying to differentiate what the applicant has a right to build versus that which is open for CUP discussion and approval. If it starts to deviate too far from what was approved, it raises the question of whether they need re-open the MPD.

Commissioner Joyce stated that the fire access was something new that was presented this evening. He noted that the applicant implied that the fire access drove many of the other decisions. Commissioner Joyce read through the fire access agreement. It was ten pages long, and nine of the pages were things like providing snow melt, large enough hoses, etc. It has nothing to do with the unique requirements. Commissioner Joyce noted that there is a drawing on page 10 that is similar to what the applicant showed in their presentation. A lot of the discussions the applicant had with the former Building Official and the Fire Department were necessary, but the excavation cuts and moving buildings around were apparently done before the CUP process was started. He questioned their claim that it was done because the Planning Commission directed them to do it as part of the CUP process, because the drawing on an approved fire document that shifted a number of buildings to where they are today, before they entered the CUP process. Commissioner Joyce did not buy into the applicant's claim that it was driven by direction from the Planning Commission because those excavation cuts were done before they entered the CUP process. Commissioner Joyce reiterated Commissioner Band's request

for the applicant to show the changes in the Code and the direction from the Staff and the Planning Commission that drove them to the current proposal. He wanted to see a time line because the applicant presented clear evidence that they had a proposal that already had those changes, yet they had not talked to the Planning Commission.

Commissioner Joyce stated that the comparisons with the Montage and the St. Regis were helpful, and showed that the current proposal was fairly in line with both the Montage and St. Regis. Commissioner Joyce clarified that he was not trying to unravel or change the MPD agreement. The Planning Commission was focused on the CUP process, which means mitigating the impacts of the CUP. He believed mitigating the impacts would be challenging for the applicant because of the building site and being tucked into a residential environment. When they start to dig up toxic dirt it will impact the people who live a hundred yards away; and that was not a factor at the Montage or the St. Regis. When they talk about mass and scale compatibility, the Montage is next to the Empire ski lodge. The St. Regis is tucked behind a hill and it sits next to the base of the funicular. In comparison, Treasure Hill sits right on top of Old Town.

Commissioner Joyce thought there needed to be significant discussion regarding the 5% commercial support. He did not agree with the applicant's hypothesis. He referred to page 158 of the Staff report and read, when a hotel or nightly rental condominium project up to 5% of the total floor area may be dedicated to support commercial uses without the use of a UE for commercial space". Based on his interpretation, the applicant could not just add square footage to the agreed to building. The language never says they can be additive with this space. Commissioner Joyce stated that independent of anything else, the applicant has to mitigate the impacts. If they add support commercial space they have to mitigate the impacts of what was added. Commissioner Joyce was unsure how the applicant could make such a firm and unusual statement about these being the maximums for this project, and then feel comfortable adding 5% more. He would delve into that further when the Planning Commission has that discussion.

Commissioner Joyce referred to page 167 of the Staff report and stated that when they start to talk about digging down to add space, which is an interesting way to avoid the height restriction, the picture the applicant showed of the ski run was that this plan and the Code basically require having to walk up a hill. The current proposal chops off the hill and he explained why their own design exacerbates it because they have to cut everything flat to accommodate a plaza, two pools and a ski run coming into the same area. Parking and some of the accessory space is then put underneath. Commissioner Joyce pointed out that this was not the design that was agreed to it does not meet Code. He was unsure how to tie it explicitly to space. He did not believe they could execute anything resembling the plan without digging down deep, or breaking the height restriction. Commissioner Joyce could see major impacts with the revised design. Every time the applicant adds more

space the mitigation becomes harder. It really shows up in this area because they not only added space but they also changed the design.

Commissioner Joyce noticed in the meeting minutes of 1985 that when 34 UEs were moved from the Mid Station side to the Creole Gulch side, Woodruff himself said that it maxed out the density on the Creole Gulch side. He was giving advice on the balance between what went on each side as they looked at alternatives. Woodruff believed it was maxed out and the applicant added an additional 150,000 square feet. Commissioner Joyce stated that the Commissioners were trying to interpret what everyone agreed to in 1985 since they do not have perfect records. He intended to discuss that further at the appropriate time.

Commissioner Joyce stated that the City struggles with reducing traffic, and reducing traffic is reducing parking. He wanted to know if they were able to reduce the parking from what it is in the current plan, if it would potentially reduce parking levels, excavation and building height and square footage. He asked if that issue was worth exploring or if the applicant was set on the proposed parking spaces. He was told that it might be an appropriate conversation for another day. It was a rhetorical question and the applicant would need to look into it.

Commissioner Joyce stated that when Mr. Ferrin went through his summaries he found a lot of things to be questionable. A lot of items were driven based on the assumption that the Woodruff plan and the square footages were golden and, therefore, when they started looking at derivatives from that, that too must apply, because they were applying the 2003 CUP. Commissioner Joyce asked the applicant to go back and see how many assumptions were built off of that. He would discount anything that starts that way because he disagrees with that premise.

Commissioner Joyce commented on building heights. He noted that approximately 45% of the building floors are over 12 feet, and 31% above grade is over 12 feet. He referred to Mr. Ferrin's statement that because these floor heights are effectively required by Park City, they are necessary and reasonable. Commissioner Joyce request further information. As he read through the fire plan there was very little that talked about the need for a 24' high rooms. Commissioner Joyce referred to another comment that "excavation and cliffscape construction mitigates height. He could see that much of the design was built around that idea, but in his opinion, digging down does not mitigate the visibility of the building, and it certainly does not mitigate the impacts of construction traffic. Commissioner Joyce stated that if the applicant could demonstrate how digging 30' down and building a 100' building makes the 100' building appear smaller, he would like them to share it.

Commissioner Thimm agreed with all the comments made by Commissioner Joyce and Commissioner Band. He believed that everyone acknowledges that something significant was approved. The Sweeney Properties Master Plan Density exhibit on page 132 outlines clear approvals that are in place. He agreed with Commissioner Joyce that they were looking at a 2016 submission for this conditional use, as well as the 1985/1986 approvals. Commissioner Thimm referred to an exhibit that was presented this evening that showed footprint comparisons between some Main Street buildings and buildings proposed in the 2016 submission. The applicant suggested that the buildings were similar. Commissioner Thimm stated that the volumes in the Main Street buildings were four to six stories, as opposed to the 14 level buildings in Treasure Hill. He understood they were not talking about grading this evening, but in talking about building mass and how it can be achieved, and in looking at the Woodruff plan that was part of the earlier submission, those buildings use their mass and the grade of the hillside and they honor the land instead of excavating it out. Commissioner Thimm did not believe the massing proposed was even close to what was contemplated in the Woodruff drawings.

With regards to square footage, the areas derived and the back of house areas, Commissioner Thimm noted that mitigation needs to be considered for back of house uses. Those issues need to be addressed as part of the additional square footage and where the square footage comes from. Commissioner Thimm commented on the different square footage numbers that have been mentioned. There appeared to be agreement between Staff and the applicant on the 870,000 square feet, but he wanted to know about the remaining 150,000 square feet and how that is calculated into the formula. In terms of building mass and building area, Commissioner Thimm did not believe there was full agreement on how these buildings are landing and how the mass was dealing with what is required by the LMC. The Planning Commission has no choice but to look at what the governing LMC is telling them. Commissioner Thimm noted that the Staff report asked whether or not the Commissioners agreed with the interpretation of the 5% back of house. He agreed with the Staff's finding as outlined in the Staff report.

Commissioner Suesser stated that she had tried to calculate the exact number of the approved density in 1985. She calculated 197 UEs of residential, 19 UEs of support commercial, plus 5% of the total hotel floor areas, plus the approved parking of 203,695 square feet, and came up with 628,346 square feet of approved density, which was less than some of the density numbers found in the current Staff report. Commissioner Suesser believed that was the maximum density approved in 1985, subject to the applicant being able to mitigate any adverse impacts attributed to that density. In her opinion, anything proposed beyond that amount is beyond the applicant's vested rights. Commissioner Suesser thought the CUP should be conditioned on what the Planning Commission approved in 1985. She stated that if the applicant wants the Planning Commission to consider an increase to the vested density, mainly an increase to the

approved support commercial space and parking; and/or if they want the Commissioners to apply the provisions of the 2008/2009 LMC, they would need to apply for an amendment to the MPD.

Commissioner Suesser thought the comparisons to some of the larger scale projects were helpful in getting a sense of the scale of this project, but it does not provide guidance on what was actually approved in 1985 or the vested density. She liked the idea of the story poles for the site visit at the next meeting. She thought it would give them a better sense of the scale of the development. Commissioner Suesser also liked the suggestion to bring back the model from 2009 because it could be very helpful.

Commissioner Campbell referred to page 132 and noted that there were a number of hand written notes changing the maximum heights. He preferred to look at real numbers rather than ones that might have changed; however, he was most curious where it said under the commercial, "maximum space not to exceed a FAR of 1:1. He requested that the Staff provide more information regarding that calculation at the next meeting. Commissioner Campbell suggested that there may be different definitions of a FAR and he asked that the Staff provide the legal LMC definition of the Floor Area Ratio. Commissioner Campbell noted that when he Googled the definition it said that the gross building floor area is everything within the exterior walls. In his opinion that was no longer open to interpretation. He wanted something in writing in that says it is within the exterior walls and a definitive calculation. Planner Astorga offered to look into it for the next meeting.

Commissioner Campbell stated that story poles are expensive. If they want the applicant to do story poles, he suggested that a more reasonable approach would be to do one or two of the larger buildings instead of the entire project.

Planner Astorga did not believe the noted regarding the FAR applied to this site. He recalled that it applies to the Coalition East and West, which is not part of this Conditional Use Permit. However, he would confirm that for the next meeting. Planner Astorga explained that the Master Plan approved more than just the Treasure Hill site. The Coalition East and West is the Town Lift project. Commissioner Campbell asked Planner Astorga to do the research to see whether the Floor Area Ratio was included for Treasure Hill.

Commissioner Phillips stated that story poles work great but like balloons, it provides limited information. He was hesitant to make the applicant go through the amount of work to put up story poles because there are better ways to illustrate what they need to see. Commissioner Phillips commented on the number of times this evening that everyone on both sides of the argument keep referring to the Woodruff drawings on page 166 of the Staff report. He believed the information on that page gives them a better idea than

standing under a balloon or a story pole. Commissioner Phillips stated that the drawings could be used in many different ways. One way would be to super impose it on to Google Earth in 3-D so people could scroll around and see it from any perspective. Commissioner Phillips stated that the average person gets more information from 3-D visuals and he would like to see more that throughout the process. It is new technology that presents a clearer picture, and they should utilize the technologies at their disposal. Commissioner Phillips stated that he works with Google Sketch-Up and he fully understands what can be done with it and the power of presentation that it has. He noted that Google Sketch-Up is free and simple for people to navigate, and it is the most powerful tool available to visualize these buildings. He reiterated his request to super impose the Woodruff drawings on to Google Earth in 3-D.

Commissioner Phillips referred to the sketch-up model presented by the applicant, and requested that they add a layer with existing grade to toggle that layer and create more scenes. He noted that they have the cut in the sketch-up model but he would like the ability to turn that layer on and off to see how it how it relates to existing grade.

Commissioner Phillips agreed with all the comments of his fellow Commissioners. He thanked the applicant, the public, and the Staff for their involvement. He acknowledged the right to develop this property and that the MPD is for a very large project. However, comparing this project to other buildings does nothing except give some form of reference. Commissioner Phillips pointed out that the Montage and the St. Regis did not have the same mitigating factors as the Treasure Hill project.

Commissioner Phillips generally agreed with the Staff report regarding the square footage calculation, and he was open to more discussion on the issue. He remarked that just because a calculation allows a maximum square footage it does not mean the applicant has the given right to build the maximum unless all of the impacts can be mitigated. Commissioner Phillips wanted to be part of the process and to give input in a back and forth discussion because the applicant has the right to build a substantial project that is probably larger than what anyone wants. However, years ago a group of people made a decision that people today may not agree with, but they have to live by that decision. Commissioner Phillips wanted to work with the applicant because he could see some positives to this development.

Commissioner Phillips stated that for him personally grading is the biggest issue. Square footage is important but it has to fit inside an envelope. The envelope was designed for a purpose and it has height and width. He suggested that digging may not have been contemplated in 1985 and 1986 because people were not building houses on the sides of hills like they do today. Commissioner Phillips explained his concerns with the grading and the intent of the Code. He remarked that for residential buildings there is a maximum

deviation from grade of four feet. He assumed it may not be written in the Code for commercial because very little commercial is on a steep hillside. Commissioner Phillips asked if that was the intent of the Code, whether there should also be a maximum deviation from grade for commercial.

Planner Astorga explained that the 4-foot deviation rule in the HR-1 zone started in 2009. However, this project is being reviewed under the 2003/2004 50th Edition of the LMC. He noted that the restriction is only in the HR-1 zone because they do not get requests to dig down in other areas. Planner Astorga clarified that the Staff had not reviewed the mass, scale, volumetrics compatibility. They focused on side. He assumed they would start looking at the physical aspect, which includes excavation and how it relates to the volumetrics, mass and scale, because those criteria are tied together. Commissioner Phillips intended to discuss grade further at the appropriate time.

Chair Strachan agreed with Commissioner Suesser's square footage calculation and the formula she used to achieve that calculation. He also agreed with the majority of the comments made by Commissioner Joyce. Chair Strachan was primarily concerned that they were bordering on re-opening the MPD. Without a firm answer on the 5% rule and which Code the applicant was trying to invoke; and no firm answer on what the additions could mean in terms of the impacts from the original MPD, he believed they were moving closer to potentially re-opening the MPD. Chair Strachan clarified that he was not interested in moving in that direction, but he wanted the applicant to be aware that it could be a possibility in terms of the density.

Chair Strachan stated that the compatibility may have been decided with the 1985 MPD, mitigation of the impacts with regard to compatibility was not decided. He believed that would be a problem for the applicant. As they move forward and look to the next meeting, he will be looking closely at the mitigation of the impacts associated with the excavation, as well as the mitigation of the impacts in terms of the way it relates to compatibility.

Chair Strachan stated that whatever number the Planning Commission arrives at for final square footage, it will come before discussion of the mitigation. Therefore, once the square footage is determined, the applicant will have to mitigate the impacts of that square footage. Chair Strachan did not believe it was entirely accurate to say it is a firm 1.1 million. He suggested that it would be an X- number of square footage minus what needs to be deducted for mitigating the impacts they know are created by this project. Chair Strachan agreed with Commission Phillips in terms of it being a give and take. As the Commissioners analyze the impacts, it would not be suitable answer to say that it would not change the 1 million plus requested square footage.

Chair Strachan thought it was time to bring the density discussion to an end. He thought they were getting close but they needed at least one more meeting to give the applicant time to respond to specific questions that were asked this evening. Chair Strachan asked the Commissioners to begin preparing their own findings on the square footage they calculate. He noted that the Planning Commission may not agree on the final square footage, but they need to come up with the numbers in order to begin discussing how the impacts are mitigated and work down from those numbers.

Mr. Burnett recommended that the Planning Commission reach a point where they understand the applicant's position and the Staff's position on the density issue. However, he was unsure on any of the issues whether a consensus or vote by the Planning Commission would be helpful unless or until they discuss the other components of the CUP process. Mr. Burnett thought it was a matter of understanding the position and having enough information to move to the next topic. At the end of the process they would come back for a global decision that addresses all of the issues.

Chair Strachan agreed with Mr. Burnett. However, he personally better understands things by going through the calculations and coming up with the number that he thinks is the vested right. He clarified that he was not asking for an up or down vote on the number of vested square footage, but he would like the Planning Commission to be able to say that it either is or is not 1 million square feet; and if it is not, then why. In his opinion, the Commissioners would not be able to say why unless they came up with their own calculation.

Mr. Burnett stated that for back of house, that conclusion may be dependent on other CUP criteria. Chair Strachan agreed. He was not saying the calculated number was set in stone, but it would be used as a keystone by each Commissioner as they discuss other issues such as parking and traffic.

Mr. Burnett thought they needed to give the Staff and the applicant clear direction this evening. A site visit was scheduled for the next meeting on September 14th. The applicant would have the opportunity to respond to both public comments and the Commissioners questions and comments. He believed the applicant would also want to provide input on the support commercial issue.

Mr. Ferrin assumed they would only be responding to the comments that directly relate to density, volumetrics, square footage and support commercial. Mr. Burnett replied that this was correct. The observations that were made on other issues would be addressed at a later time.

Planner Astorga noted that there is a specific mitigating criteria that addresses volumetrics; however, the Staff has not looked into it. He believed it would be the next one to mitigate. Planner Astorga clarified that the Staff was dealing with numbers, density, Criteria 1, which is the size and location of the project. He had not included any of the volumetrics and that would be addressed with excavation, compatibility, massing, etc.

Chair Strachan stated that the Planning Commission needed to look at a full analysis of the volumetrics at the next meeting. After that they would have some catharsis as to where they stand on density and volume in order to move forward.

Mr. Ferrin thought the site visit would be helpful, but he was unsure how informative it would be in terms of the specific square footage. Chair Strachan remarked that he was thinking it would take a site visit plus another meeting to bring it all together. Mr. Ferrin stated that depending on what the Staff report says with respect to volumetrics, they may want the opportunity to respond. He stated that they would be prepared to wrap up their part with respect to square footage and support commercial; and to respond to the specific questions raised this evening that specifically address square footage.

MOTION: Commissioner Thimm moved to CONTINUE the Treasure Hill Conditional Use Permit to September 14, 2016. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

2. **3776 Rising Star Lane – Zone change from Recreation Open Space (ROS) Zone to Estate (E) Zone. In order to accommodate the proposed building pad the zone line delineating between two zoning districts is proposed to be moved with a Zone Change from Recreation Open Space (ROS) zone to Estate (E) zone. (Application PL-16-03156)**
3. **3776 Rising Star Lane – Plat Amendment application to make an alteration to the existing building envelope and to address open space at the front of the existing lot. (Application PL-16-03051)**

The Planning Commission reviewed these two items together.

Planning Tech, Makena Hawley, noted that the zoning and the plat were similar. The plat was changing the building envelope and removing the lot lines of a remnant parcel that was in the plat. The Zoning Map followed the Guidelines and changed the Estate zone to ROS and portions of the ROS to Estate zoning. Ms. Makena noted that the resulting net change in square footage was 9 square feet.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council on the plat amendment and the zone change, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the Staff report.

Commissioner Joyce referred to page 231 of the Staff report, and thought it was unusual zoning because he has never seen a zone around a house. Planner Hawley agreed that it might be unusual, but it was intentionally done through the entire Morning Star Estates Plat. She explained that when it was originally annexed, it was intended to be a large amount of recreation open space and specific building lots that could not touch anything around them.

Chair Strachan recalled from previous plat amendments in Morning Star that the Planning Commission amended the plats to conform to as-built conditions. Commissioner Joyce asked if it was done by rezoning. Chair Strachan replied that it was not rezoning, but it changed what was recreational open space and what was not before the plats changed. He explained that everything not within the plat is recreational open space. When the plat was moved it changed the amount of recreational open space.

Planner Hawley noted that the portion changing from Estate to ROS has not been touched and it will continue to be untouched.

Commissioner Thimm assumed it was an attempt to make the smallest change possible to the existing plat, and getting only what was needed for a change in the building. He thought it made sense.

Chair Strachan opened the public hearing on the zone change and the plat amendment.

There were no comments

Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council regarding the zoning map amendment request for 3776 Rising Star Lane, based on the Findings of Fact and Conclusions of Law as found in the draft ordinance. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

Assistant City Attorney McLean noted that the recommendation is also subject to the amended zoning map, which is an exhibit to the ordinance. Planner Hawley stated that she had not included the amended zoning map because it was not ready when the Staff report was prepared. Ms. McLean explained that she had informed the Staff that the zoning map needed to be attached to the ordinance since it was what the Planning Commission as adopting as part of the zoning map.

Commissioner Phillips amended his motion to be subject to the Exhibit of the amended zoning map. Commissioner Campbell accepted the amendment.

VOTE: The motion passed unanimously.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for the Morning Star Estates First Amended Subdivision plat amendment amending Lots 9 and 10, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the draft ordinance. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Zoning Map Amendment

1. The property is located at 3776 Rising Star Lane.
2. The property is located in two Zoning Districts a 65,467.6 square foot buildable 1. The property is located at 3776 Rising Star Lane.
3. The subject property consists of Lot 10 of the Morning Star Estates Subdivision.
4. Lot 10 is currently under construction for a single family dwelling with the building permit BD-15-22064 approved on 10/23/15.
5. The Morning Star Estate subdivision contains other similar lots with E regulated buildable areas surrounded by ROS zoning designations.
6. The access to the site is through the E zone off Rising Star Lane.
7. The allowed/conditional use differences lay within the amount and type of development allowed. Single family homes are allowed within the Estate Zone.
8. The ROS District lists Conservation Activity as the only allowed use.

9. The E District lists Conservation Activity as an allowed use in addition to low density development.

10. 3,474 square feet will be changed from ROS to E and 3,483 square feet will be changed from E to ROS with an overall net change of 9 square feet difference added to ROS.

11. The requested Zoning Map Amendment from ROS to E and E to ROS is appropriate in that the same amount of buildable area will remain and the same amount of open space will be protected with an addition of 9 square feet. The E zone that is being changed to ROS is also undisturbed and will not require revegetation.

12. The proposed Zoning Map Amendment directs complimentary development into an existing neighborhood.

13. The same amount of buildable area will remain and the same amount of open space will be protected with an addition of 9 square feet.

Conclusions of Law – Zoning Map Amendment

1. There is Good Cause for this Zoning Map Amendment.
2. The Zoning Map Amendment request is consistent with the Park City General Plan and the Park City Land Management Code.
3. The Zoning Map Amendment is consistent with applicable State law.
4. Neither the public nor any person will be materially injured by the proposed Zoning Map Amendment.
5. Approval of the Zoning Map Amendment does not adversely affect the health, safety and welfare of the citizens of Park City.

Findings of Fact – Plat Amendment

1. The property is located at 3776 and 3800 Rising Star Lane.
2. The property is comprised of two zones, a buildable area designated as Estate Zone and a non-buildable area designated as Recreation Open Space Zone.
3. The Morning Star Estate subdivision consists of similar lots with E regulated buildable areas surrounded by ROS zoning designations.
4. The subject property consists of Lots 9 and 10, of the Morning Star Estates Subdivision and “Exception Parcel 3”.

5. The access to the site is through the E zone off Rising Star Lane.
6. The Morning Star Estates Subdivision consists of buildable pads within the Estate zone and all the building pads in the subdivision are surrounded by Recreation Open Space.
7. Lot 9 contains a single-family dwelling, built in 1995.
8. Lot 10 has a single family dwelling under construction, approved under building permit BD-15-22064 on 10/23/15.
9. In March 1993, the City Council approved the Morning Star Estates Subdivision which created 12 lots on 178.36 acres, four (4) "exception" parcels and one (1) Water Tank parcel.
10. The proposed Plat Amendment application is a request to reconfigure the platted building pad of Lot 10. Both owners of Lots 9 and 10 are requesting the removal of existing lot lines of "exception parcel 3" which crosses onto both lots and to add a lot line continuing between the two lots reaching the road (Rising Star Lane).
11. A single-family dwelling is an allowed use in the Estate District.
12. The minimum lot area for a single-family dwelling is 3 acres.
13. Existing Lot 9 contains 9.579 acres. The addition of the "Exception Parcel 3" proposes an increase to the lot totaling 9.618 acres.
14. Existing Lot 10 contains 11.543 acres. The addition of the "Exception Parcel 3" proposes an increase to the lot totaling 11.863.
15. The proposed lots meet the minimum lot area for single-family dwellings within the E District.
16. The plat amendment does not create additional density on the platted lots.
17. The minimum lot width allowed in the E District one hundred feet (100'). The width of Lot 9 is approximately 219 feet at the lowest width (due to oddly shaped lots).

18. The width of Lot 10 is approximately 320 feet at the lowest width (due to oddly shaped lots).
19. The proposed lots meet the minimum lot width required in the E District.
20. The E District does not restrict the Building Footprint.
21. The property owner of Lot 10 is also requesting a Zone Change concurrent with this application.
22. The proposed Plat Amendment directs complimentary development into an existing neighborhood.
23. The portion of land proposed to change from E to ROS has not been developed previously and still contains undisturbed native grasses and shrubs.

Conclusions of Law – Plat Amendment

1. There is Good Cause for this Plat Amendment.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding Subdivisions.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – Plat Amendment

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. All Conditions of Approval of the existing plat continue to apply.
4. Fire sprinklers shall be required for all new construction or substantial

renovations, as determined by the Park City Building Department during building permit review.

5. A ten-foot public snow storage easement will be required along the front property line.

4. **Land Management Code (LMC) amendments - Various administrative and substantive amendments to the Park City Development Code. Chapter 1- regarding procedures, appeals, noticing, and standards of review; Chapter 2- common wall development process (in HR-1, HR-2, and CT Districts), clarification of building height requirements (horizontal stepping and overall height) for Historic Structures and Sites; Chapter 5- landscape and lighting requirements; Chapter 6- require inventory and report on mine sites for MPD applications; Chapter 11- historic preservation Criteria for designating sites; Chapter 15- related definitions (Billboard, Historic Structures Report, Qualified Historic Preservation Professional, Glare, and others); and various Chapters to provide consistency between Chapters. (Application PL-16-03115)**

5. **Land Management Code (LMC) amendments - Various administrative and substantive amendments to the LMC in order to comply with changes made in the State Code. Chapter 1- regarding procedures, noticing, and other requirements; Chapter 7- effect of vacation, alteration, or amendment of plats; procedures, requirements and review of plat amendments; Chapter 7.1 modifications to public improvements required for a subdivision; Chapter 15 – related definitions. (Application PL-16-03115)**

Planner Kirsten Whetstone noted that the majority of the Commissioners reviewed these LMC amendments on June 22nd, and they were continued for further discussion when all the Commissioners were present.

Planner Whetstone stated that the amendments involve six chapter. The amendments to Chapter one, the general provisions and notice appeals vesting exactions, are amendments to comply with State Code. The second part was the standard of review for conditional use permits regarding the General Plan, and putting it as one of the review criteria.

Planner Whetstone stated that the amendments for Chapter Two related to the zoning districts. One change was in the CT, Community Transition Zone, to allow attached structures with a common wall party wall to be separately owned without a condominium

plat. The same amendment is proposed in the historic residential zones; but only if duplexes or triplexes are allowed in the zone.

Planner Whetstone noted that the Chapter 6, Master Planned Developments, was the third chapter being amended. One amendment is the standard of review for Master Planned Developments as related to the General Plan, and moving it from a required finding to one of the review criteria. The second amendment to Chapter 6 are the inclusion of requirements for historic sites map and the inventory of historic structures and sites, as well as a historic structures report. The fourth chapter being amended was Chapter 7, Subdivisions. The amendments to 7 and 7.1 were compliance with changes to the State Code. Chapter 11 was the next chapter being amended, which is Historic Preservation. The amendment is a clarification of criteria for designating sites to the Park City Historic Sites Inventory. Chapter 15 were definitions related to these amendments. The definitions were for Essential Historical Form, Historic Structures report, Qualified Historic Preservation Professional, and the Utah Public Notice website.

Planner Whetstone noted that Chapter 5 was included in the agenda, which is the architectural chapter and addresses lighting and landscaping. The Staff requested that the Planning Commission continue Chapter 5 to a date uncertain.

The Staff requested that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council.

Chair Strachan referred to Chapter 15 and asked if the only changes were those required by State Statute. Assistant City Attorney McLean explained that the City is more restrictive than State Code. Currently, the State Code does not require any published notice other than on the Utah Public Notice website. However, the City has additional requirements within the Code that are greater than the State requirement. Ms. McLean clarified that most of the proposed changes in Chapter 15 were due to the fact that the State Code changed with regards to zoning, noticing, and LMC noticing. She gave examples of some definitions that were verbatim out of the State Code. The language regarding appeals was more of a reflection of consistency by Staff.

Chair Strachan noted that the City previously amended the appeals portion of the Code based on the roles of the Board of Adjustment and the HPB, and duplicative reviews. He asked why it was being done again. Assistant City Attorney McLean replied that it was an effort to clean up the language and remove duplicative references. She clarified that there were no substantive changes from what was already approved regarding appeal rights. It extends the noticing from 7 days to 14 days across the board and cleans up the Code for better clarification.

Chair Strachan opened the public hearing.

Ruth Meintsma, a resident at 305 Woodside Avenue, commented on the duplex common wall where two separate structures are attached. Ms. Meintsma assumed they would primarily be single lot structures, and noted that by being attached with a common wall, the 3-foot side yard becomes a 6-foot side yard on each side. She stated that a 6-foot side yard is a nice side yard on a structure in Old Town; whereas, a 3-foot side yard is mostly dead space. With a 6-foot side yard the closest structure 9-feet away. Ms. Meintsma referred to a comment in the Staff report that the Planning Commission may consider increasing the exterior side yards. However, with a 6-foot side yard the structure would be 19-feet wide. She did not think it was reasonable to make the side yard greater. Ms. Meintsma pointed out that the footprint on two individual structures with a common wall is 844 square feet. If it is not a common wall but it is still a duplex, it becomes one structure with two parts and the footprint is reduced by 169 square feet. If it is not a common wall it actually becomes a smaller structure. Ms. Meintsma stated that if it really is two individual structures with a common wall, the side yard should not be reduced and should remain at 6-feet to keep the structure from being narrower than 19-feet. She suggested that the structures might need a smaller footprint as opposed to a smaller side yard.

Chair Strachan closed the public hearing.

Planner Whetstone indicated the proposed redline language for that particular situation on page 330 of the Staff report. It was the same language in the HR-L, HR-1, the RC section for single family duplex lots, and the HR-2. If lots are combined in any of the above-mentioned zones, a duplex requires a conditional use permit. Planner Whetstone read, "The Planning Commission made consider increasing side yards during the required conditional use permit review for the use to mitigate potential impacts on adjacent property". It also talks about how all the side yard exceptions apply. The Planning Commission may also consider decreasing the building footprint during the conditional use permit review. She pointed out that some of these are existing duplexes that sit on two lots, and others could be new duplex structures on two lots that are built with a common wall. Planner Whetstone remarked that the intent was that the side yards would be based on the underlying lots. On a 25' lot the side yard would be 3' and 3'. The Planning Commission could increase that setback depending on the design of the lot because there is a set footprint based on the lot. Depending on the neighborhood or a specific situation, the side yard may also be decreased.

Commissioner Campbell asked for an explanation of Exhibit G on page 513 of the Staff report. Planner Whetstone replied that it was the minutes from the June 22nd Planning Commission meeting. The header was missing to reflect that they were the minutes from that meeting, and she assumed the header was cut off when the packet was printed. She

reiterated that two Commissioners were not present on June 22nd and the Planning Commission continued these LMC amendments until they could be reviewed by the full Commission. Also, some of the amendments needed further clarification and description of the background and the consequences. She had included the minutes from the previous meeting so the Planning Commission could recall the details of that discussion. Planner Whetstone would make sure the heading was back on before this goes to the City Council.

Commissioner Suesser referred to Chapter 15-1-10-E-16, regarding the conditional use review process and the language, "The use is consistent with the Park City General Plan as amended. She noted that it was removed from the first section and moved to subsection 16. Commissioner Suesser understood from the language that if the Planning Commission does not find that the conditional use as proposed is consistent with the General Plan, that alone could not justify denial. She was told that was correct.

Chair Strachan explained that the old Code used to say that the Planning Commission had to find compliance with the General Plan. The problem is that the General Plan is both sword and shield. Everyone can find something in the General Plan that supports their position or undermines it. There was no way to find compliance with the General Plan, and the General Plan itself is not a binding documents, therefore, the Planning Commission would have problems during a CUP review when the application ran afoul of certain provisions in the General Plan.

Commissioner Joyce had the same question and he was unsure how to address it. He felt like it had no teeth and was completely ambiguous. Assistant City Attorney McLean stated that the change was suggested by the City Attorney's Office because the Legal Department has litigated these situations. If compliance with the General Plan is the only reason the Planning Commission needs for denial, it would be difficult to defend in court. Luckily, the City was on the opposite side of that argument in the case of 1440 Empire Avenue, which went to the court of appeals on the subdivision, and the CUP was litigated in district court. That issue came up and the plaintiffs argued that it was not consistent with the General Plan because it was a transition zone. The courts found that General Plans by statute are advisory. The General Plan is meant to be big picture rather than have findings related to a specific approval. Ms. McLean stated that because the General Plan is such a vast document it is difficult to say whether or not an application complies. She clarified that the General Plan is an important document that helps lead policy, but it should not be part of an approval, and especially administrative approvals.

Commissioner Joyce questioned why it was even included in the LMC. Commissioner Suesser was comfortable including the language because it adds to the weight of the other criteria. Chair Strachan and Commissioner Band concurred. Commissioner Band noted

that the State Ombudsman told them that the General Plan is a guiding document and questioned whether it should even be referenced in the LMC. Chair Strachan thought the State Ombudsman's comment was conflicting because they are required by State Statute to have a General Plan, but then they cannot rely on it.

Chair Strachan agreed that the language was vague, but the Code is not always cut and dry. Commissioner Suesser reiterated her preference to keep the language in the Code.

Commissioner Thimm referred to page 286, Item #3, historic structures are allowed to not comply with building height and footprint. He thought there was already language in the LMC about pre-existing conditions and non-conformance for historic buildings. Planner Whetstone explained that the current language exempts historic structures from setbacks and parking, but it does not address building footprint. The proposed change clarifies footprint and height for existing historic structures. Commissioner Thimm was satisfied with the included language.

Commissioner Joyce referred to page 289 of the Staff report, where it talks about requiring a historic structures report as part of the MPD. He thought it sounded big and involved, particularly when he saw it defined in the definitions section. Commissioner Joyce stated that the Planning Commission was already tagged with being bureaucratic at times, and he cited example of MPDs where a historic structures report would be irrelevant. He thought it sounded expensive, and it was unclear what would be included. Commissioner Joyce was concerned that they were adding a large piece to an MPD process that was already convoluted, without a condition to say it is relevant.

Planner Whetstone stated that if it was as piece of land that has one or two small structures, the extent of that report would be simple and inexpensive. However, if those structures are in need of preservation, it is important to show they intend to preserve them.

Commissioner Joyce did not dispute those scenarios. However, the definition of a historic structures report asks for things that are not relevant. Planner Whetstone replied that it is relevant because if someone wants to do an MPD and the property contains historic structures, part of the good cause of the MPD should be to preserve those historic structures. In order to do that they would need to know the existing conditions of what is there and how they intend to preserve it.

Commissioner Thimm thought there was value in doing this and creating a mechanism to protect historic structures. There are gives and gets that go with an MPD and it is important for people to understand if there is heritage on their property and having that mechanism is a good thing. Commissioner Campbell agreed. However, he asked if there was a mechanism to make the process easier. Director Erickson stated that at a minimum it was

important to identify the fact that there are sites inside the property when someone come in for an MPD. Once that is done, the Planning Commission could have the discretion to waive the historic sites report for good cause. It would give the Planning Commission an "off-ramp" to waive the report. Chair Strachan thought the Planning Director or the HPB should have the mechanism to waive the historic sites report. Director Erickson stated that the Staff would craft criteria under which the Planning Director could do it. If the Planning Commission preferred that it go to the HPB, they could create criteria for that body.

Commissioner Campbell clarified that he liked the idea of the historic structures report and he was not suggesting that they change it. However, he would like the Staff to compile a list of names or places that the applicants could reference to get the report done.

Commissioner Joyce stated that he is reluctant to add rules that react to one or two, but affects everyone. However, since the majority of the Commissioners supported it he suggested that they leave the amendment as proposed; and if they hear complaints that it is extraneous, they could add the "off-ramp" criteria. The Commissioner concurred.

Commissioner Campbell understood that the government body that was listed to view the criteria did not license or insure the ones conducting the report. He thought it was something that could be open to abuse. Director Erickson clarified that the report needs to be done by a qualified professional. Commissioner Campbell asked if they were licensed and insured. Director Erickson answered no. Commissioner Campbell stated that they were asking the professional to do part of the enforcement for the City by certifying that there are or are not structures on the property. He thought some developers would pay decent money to get the report whitewashed to say there were no historic structures. Director Erickson agreed that it was a possibility. Chair Strachan thought it was a problem throughout the Code. People could pay off engineers or others to get the result they want. Commissioner Campbell stated that one way to avoid that problem would be for the City to have an approved list. Chair Strachan was hesitant to create a monopoly on who would get the business. Director Erickson clarified that the City was not asking for certification. They were only asking that the structures be identified. Commissioner Campbell was comfortable leaving it the way it was, but he wanted the Commissioners think about it for a later discussion.

Commissioner Joyce referred to page 294 of the Staff report regarding notification. He read, "The Planning Commission shall hold a public hearing on all amendments to the LMC". Notice of the hearings...mailing notice to each affected entity." He was unsure how they would decide who was affected by and LMC change, because he believed it affects everyone. Assistant City Attorney replied that "affected entity" is a defined term in the Code, and it was also in the definition section. The definition was taken directly from State Code. It tends to be school districts, sewer districts, and similar types of entities.

Commissioner Joyce stated that the Planning Commission was considering Code changes that would potentially affect everyone who does something in Park City. He asked if everyone would be notified by mail. Ms. McLean answered no. She explained that they would mail notice to each affected entity as defined by the Code and the specific definition. However, another section in the State Code says that if for some reason notice is not published in the newspaper and not posted on the Utah Public Notice website, they have the ability to mail notice to owners directly.

Commissioner Joyce pointed out that they were making an LMC change on notifications and that affects everyone who does anything with the Planning Department. Ms. McLean referred to the definition and noted that "Affected Entity" was capitalized. It also talks about "owners" who are affected. She clarified that those two are not the same. She suggested the idea of distinguishing the two to make it clearer. Ms. McLean stated that "affected Entity" capitalized is a very specific group.

Commissioner Joyce remarked that it was under the heading of "Land Management Code Amendments". If they are making an LMC amendment on notification, he wanted to know who would be the affected entity of such a change. Chair Strachan replied that affected entity was defined in the Code. Commissioner Joyce held his position that a change to the LMC affects everyone.

Commissioner Campbell noted that the definition of Affected Entity says "A county, municipality or local district". He pointed out that it is not an individual, which should address Commissioner Joyce's objection. Assistant City Attorney McLean read the definition as it was taken from the State Code. "Affected Entity means, County, Municipality, Local District, Special Service District, School District, interlocal cooperation entity, specified public utility, property owner, property owners' association, or the Utah Department of Transportation, if the entity, service or facilities are likely to require expansion or significant modification because of the intended use of land. The Entity has filed with the municipality a copy of the entities general or long range plan, or the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with the requirements imposed under this Chapter." Ms. McLean stated that if the land owner filed something with the City, the City would send them a notice.

Chair Strachan believed the point was that the definition specifically says property owner. Assistant City Attorney McLean clarified that this change was not creating anything new. The intent of the change is to comply with State law and match the language.

Commissioner Joyce stated that when they add language to the LMC it is important to know what it means and to actually execute it. He wanted to make sure that the

notification would properly occur and that it would not come back on the City if they do not send a mailed notification to everyone. Chair Strachan thought Commissioner Joyce made a good point. The second sentence of subparagraph 4, because it does not define "affected", could mean everyone. Ms. McLean stated that she had recommended adding the language because she could see a circumstance where something was not noticed. However, the City does not have to follow the language in the State Code.

The Planning Commission and Ms. McLean discussed the language. The question was whether subparagraphs 1, 2, 3, 4 all applied. Commissioner Joyce thought the language as written meant they could skip 2 and 3 but they could not skip 4. Ms. McLean stated that the difference is that Affected Entity includes all the groups identified in the definition. It can include a property owner if A, B, or C applies in Subsection 1 of the Code. It does not mean a notice must be sent to everyone in the city. Subsections 2 and 3, talk about owners who are affected. Notices could be mailed to owners who are affected if it is not posted on the Public Notice website or published in the paper.

Assistant city Attorney McLean suggested removing that language to avoid confusion because the City always publishes on the Public Notice website. Chair Strachan agreed that it should be removed. He pointed out that if they do not do subsections 2 or 3 and they choose which owners are directly affected and should get a mailed notice, someone will come to a meeting and say they were directly affected and did not receive a notice. Commissioner Joyce thought it could be argued that everyone in town lives within 300 feet of an LMC change.

The Planning Commission agreed to keep the first phrase in subparagraph 4, "mailing notice to each affected entity", and strike everything after that. Ms. McLean offered to review the amendments and strike it from other areas where it appears, as well as from the notice matrix. The motion could be to remove the language wherever it appears and she and Planner Whetstone would make sure it is removed before this goes to the City Council.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the LMC Amendments to Chapters 1, 2, 6, 7, 11, 15 as described in the Staff report and as amended this evening. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Campbell moved to CONTINUE LMC Amendments to Chapter 5 to a date uncertain. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

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The Park City Planning Commission Meeting adjourned at 11:00 p.m.

Approved by Planning Commission: _____