

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
DECEMBER 15, 2010

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Richard Luskin, Dick Peek, Mick Savage

EX OFFICIO:

Planning Director, Thomas Eddington; Kayla Sintz, Planner; Kirsten Whetstone Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

I. ROLL CALL

Chair Wintzer called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except Commissioners Pettit and Strachan, who were excused.

II. PUBLIC COMMUNICATIONS

There was no comment.

III. STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planner Kayla Sintz reported that the HDDR Review for 647 Park Avenue would be discussed at the City Council work session the following evening at 4:40 p.m. The Planning Commission was invited to attend.

Planner Sintz stated that the Planning Commission had received a handout pertaining to information compiled for the General Plan, which included documented and deed restricted affordable housing within the City boundaries. One side of the handout contained the number of deed restricted units at each location. Chair Wintzer asked if these were built units or approved units. Planner Sintz replied that the units were already built, however, the information was pertinent to some of the applications being discussed.

Chair Wintzer disclosed that he owns property within a potential receiving zone of the TDRs.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

3. 1440 Empire Avenue - Conditional Use Permit
(Application PL-09-00725)

Planner Kayla Sintz reviewed the application was for a conditional use permit for a multi-use dwelling at 1440 Empire Avenue in the RC zone. On December 8, 2010, the Planning Commission

reviewed a modified design for 1440 Empire Avenue, at which time the Planning Commission requested an analysis to determine whether the modifications met the CUP criteria.

Planner Sintz reviewed the discussion points from the December 8th meeting, as outlined in the Staff report. On the first point, the Planning Commission had agreed that the new design met the City Council remand items 1 and 2. On the second point, the Planning Commission had agreed that the new project location, located at the front of the lots towards Empire Avenue, was more appropriate than previous designs for the size and location in the RC zone. On the third point, the Planning Commission had agreed that the underground parking structure was an overall enhancement to the site over previous designs. On the fourth point, which related to a recommendation by the City Engineer to increase the width of the driveway at the rear of the lot, the majority of Commissioners did not favor the width increase. The fifth point was a request to accentuate some of the architectural materials proposed.

Planner Sintz stated that on December 8th, the Planning Commission also directed the Staff to come back with a criteria review of the CUP. That analysis was included in the Staff report. Planner Sintz referred to Criteria 7 - Fencing, screening and landscaping to separate the use from adjoining uses, and requested discussion regarding adding additional landscaping for mitigation along the south property line side yard setback, between the structure and the contemporary home to the south.

Planner Sintz also request additional discussion on Criteria 8 - Building Mass, bulk and orientation, and location of buildings on the site, including orientation of buildings on the adjoining lots. She noted that the Staff report outlined some of the mitigating factors in relation to Criteria 8. Those included 1) no height exception is utilized; 2) reduced building shadowing on adjacent properties with the new proposed flat roof; 3) Increased landscape buffering; 4) sensitive placement of material of interior building elements; 5) No exterior storage closets proposed on south facade decks; 6) Building placement increasing side yard setback. Planner Sintz indicated the point of the minimum side yard setback at 10 feet and noted that the setback increases along the south building elevation because the building is not placed square on the lot. The setback goes from 16.5 to 15 feet at different locations.

Planner Sintz referred to Criteria 11 - Physical design and compatibility with surrounding structures in mass, scale, style, design and architectural detailing. She stated that the Staff found compliance with LMC 15-5 - Architectural review, as well as with a multiple variety of architectural styles found in the RC zone.

Planner Sintz referred to 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. She noted that the property is not within the Sensitive Lands Overlay, however, there has been discussion and public input was given in regards to storm water management. The Staff spoke with the City Engineer regarding this issue and the City Engineer did not see significant challenges in terms of storm water management. He believed the project could adequately meet the concerns typical in that area. In response to public input, the Staff recommended adding Conditions of Approval #3 and #12. Condition #3 requires a site drainage plan, which is normally required by the City Engineer. Condition #12 requires that the architect submit a drawing showing

compliance with the retaining walls. The condition indicates that site retaining walls are measured from Final Grade.

Craig Elliott and Steve Bremmer, representing the applicant, reviewed the revised site plan and the modifications that were made in response to recommendations at the last meeting. Mr. Elliott indicated how the retaining area was revised to create a planting buffer in between the rock and the retaining wall. To address concerns regarding snow plows, he pointed out that a wooden guard was added to keep snow from being pushed over the edge. Mr. Elliott explained how the sidewalks were revised on the front in response to the discussion regarding access. A terrace area was created in the front of the building as a gathering space at the entrance.

Mr. Elliott noted that part of the discussion at the last meeting related to changing the architectural character to create a better structure. He noted that the canopy was extended out to accentuate the entry point. He reviewed the elevations to show how more detail was added to the windows and the timber elements were brought through the rest of the building. He indicated how the materials for the trim, the window patterns, and the cornice tie in together. The intent was to blend materials with the pallet that exists on the street. They used warmer tones to improve the appearance of the structure. Mr. Elliott clarified that the materials were the same, but the colors were different.

Chair Wintzer opened the public hearing.

Bruce Baird, representing the neighbors, stated that they had not had enough time to respond to the proposed changes and only received the plans that day. He disagreed with the Staff's comment that the original plans were compliant with the LMC and believed that was evident in the changes that were made. As an example, the retaining wall was changed, but only because he had previously pointed out that the plans did not comply with the Code identified on the front page of the plans. Mr. Baird believed that consideration of these plans today would be premature and arbitrary and capricious for several reasons. He referred to Criteria #15 and asked how the Planning Commission could be certain that if approved, there would be 100% retention for the hardscaped, non-roof surface. He stated that 100% for historical flows can be a massive volume when talking about the amount of snow that could fall in this area. Fixing those issues may require changes in design and materials and may require an increase in specs. Mr. Baird believed that minor fixes to the architecture were still not compliant with Criteria 8 and 11. He remarked that the landscaping would not sufficiently stop the visual impacts of the decks. Mr. Baird stated that compliance with the General Plan is the most important finding the Planning Commission must make before issuing a conditional use permit. He noted that the General Plan recognizes high density on the west. The General Plan recognizes that it is not sustainable to move that high of density all the way down the hillside. That is why the General Plan specifically makes the east side of Empire Avenue low density, residential and transitional. He stated that he and the neighbors continue to believe that a project that packs every unit possible on to the site is not low density. He explained why he did not believe it was possible for the Planning Commission to make that finding. For those reasons he request additional time to consider other issues that may have been missed and to respond to the changes presented at this meeting. Without the necessary time for further consideration, Mr. Baird requested that the Planning Commission reject this CUP application because it does not comply with Criteria 8, 11, 7 and 15, and it does not comply with the General Plan.

David Olsen, a resident at 1430 Empire Avenue, pointed out that no balconies were proposed on the original design. The balconies shown in the revised design do not have storage units and he assumed the two-bedroom units would have no storage at all. Therefore, the outside balconies would be used for storage, which presents another problem in addition to privacy issues. Mr. Olsen pointed out that the visual impacts could not be mitigated with the landscaping because the impacts go up three floors. Trees have no leaves in the winter and it would take at least ten years before the trees would grow tall enough. Mr. Olsen concurred with Mr. Baird's comments. He requested that the Planning Commission require the applicant to put the balcony space inside and use it as storage space for the units. The balconies were not necessary in the earlier design and they are not necessary now. Mr. Olsen stated that the balconies look directly into his windows and he would appreciate any relief to allow he and his wife some privacy.

Diane Newland, a resident at 1455 Woodside Avenue, directly below the project, stated that she is not a developer and she knows nothing about architecture or buildings. However, she knows that Park City is trying to instill a better look to the overall community and keep the Old Town concept. Ms. Newland remarked that the building proposed is an ugly, square building that has no character and looks like an old building from the 1970's and 1980's. She thought the General Plan specified that the City wanted to get away from those types of buildings. Ms. Newland noted that Mr. Elliott had not mentioned lighting and a drainage plan. She requested that the Planning Commission postpone taking action this evening since two of the Commissioners were absent, and Mr. Margolis was unable to attend to make comment. A postponement would also allow the neighbors to look at the plan in more depth and to obtain additional input from the community. Ms. Newland understood that the old fire station on Park Avenue was intended as affordable housing, but the plan was turned down due to an outcry from the neighbors. She asked if this was correct.

Planner Sintz replied that it was not an affordable proposal and the project has not been discussed. A formal application has not been submitted.

Ms. Newland stated that if affordable housing is proposed at the Fire Station, that would be in addition to affordable housing proposed on Park Avenue, across the street from her house. With the Deer Valley employee housing above her home, this project would make the fourth affordable housing project within a small area. She felt the Planning Commission needed to consider this component. This project is not being proposed as affordable housing, but she understood that the developer could come back at a later time and request affordable housing. She was confused as to whether or not this project is affordable housing and she gets conflicting answers whenever she asks the question. Ms. Newland requested that someone make that distinction to clarify what this project is and what it can be in the future.

Chair Wintzer closed the public hearing.

Chair Wintzer understood that they were affordable housing units, but not deed restricted. Planner Sintz replied that this was correct. The units are attainable rental housing. In the future the deed restriction could be changed, which would then make them affordable housing. Currently the units are rental affordable housing. Planner Sintz stated that this was addressed in Condition of Approval #10.

Chair Wintzer asked Mr. Elliott to address storm drainage retention. Mr. Elliott stated that the process is typical through the Building Department and requires a civil engineer to quantify storage run off. Mr. Elliott noted that the site has been used for snow storage and it handled a significant amount of snow in recent winters. With development, there will be less snow on that property that what has occurred in the past.

Mr. Elliott stated that the previous retaining did meet the criteria. They are continually trying to make it a better project and that was the objective when they stepped the retaining wall.

Ms. Newland requested an answer on the concentration of affordable housing within close proximity of her home.

Chair Wintzer re-opened the public hearing to allow Ms. Newland the opportunity to clarify her question.

Ms. Newland understood that there was not supposed to be a concentration of affordable housing in one area.

Director Eddington presented a map showing that there was very little affordable housing in that area. She indicated the clustering of orange dots and pointed out the areas that had the least amount of deed-restricted affordable housing. He clarified that there is a difference between deed restricted units and units that are priced at an affordable rate. Based on the map, Chair Wintzer could only see eight deed-restricted units in that area. Planner Sintz replied that this was correct. There is only one deed-restricted project within that area.

Ms. Newland pressed for an answer and clarified that she was extremely concerned because she lives directly below this project. She reiterated her concern that there could potentially be four affordable projects in her area.

Chair Wintzer asked Director Eddington if the General Plan addressed concentration of affordable housing. Director Eddington stated that the City tries to disperse affordable housing throughout the community. However, he did not believe the City's deed-restricted affordable housing has been concentrated in any one place. He thought Ms. Newland might be referring to private housing.

Ms. Newland agreed that the affordable housing projects she referenced were not City projects. She believed they were developers trying to place affordable housing in that location to offset their obligation in a large project. She asked if this developer could come back and offset this project. Planner Sintz answered yes and reiterated that the process was addressed as a Condition of Approval. Director Eddington explained that private developers could have provided housing that in area, but it is not deed-restricted housing and it is not required to meet the City ordinance for affordable housing. Director Eddington offered to provide Ms. Newland with a copy of the affordable housing ordinance.

Chair Wintzer closed the public hearing.

Planner Sintz reported on an email she received from Rick Margolis and noted that all the Commissioners had received a hard copy.

Planner Sintz referred to the comment that lighting had not been addressed and noted that Condition of Approval #11 was added to address lighting. In addition, moving the parking underneath the building significantly reduces the exterior light requirements.

Commissioner Hontz understood that a plan addressing pre-development flows is required by State law, and she questioned why it was included as a condition of approval. Planner Sintz replied that the condition was an effort to respond to public input by clarifying the process. Commissioner Hontz wanted to know the process if the project is designed and for whatever reason it cannot accommodate pre-development flows. Planner Sintz stated that it would need to be an extenuating circumstance to supercede any possible engineering scenario. She could not recall a time when that situation ever occurred.

Mr. Elliott stated that he has done a lot of detention work and there are many ways to deal with specific situations. If one solution does not work they can find another solution. Mr. Elliott stated that in this project they are splitting the flows. The building will be designed to be detained to the front face as requested by the City Engineer, and the surface lot that is not under the building will be detained in the rear.

Commissioner Hontz wanted to know what would happen if a solution could not be found and some part of the design needed to be changed. Just because it has not happened yet, does not mean it could not happen. Planner Sintz was unsure if there was an established process and offered to add a condition to address Commissioner Hontz concern if the design is changed.

Commissioner Savage asked if there were issues related to the application specifically pertaining to comments about the decks interfering with privacy. He asked if there was any question about the compliance of this application with respect to that issue. Planner Sintz stated that nothing in the Code would address that issue. She remarked that the building siting and its relationship to the different building elements occurring in other areas of the structure is the reason why the Staff recommended adding additional landscape buffering. She thought the project architect did a good job explaining the interior building elements, why the decks were placed where they were, a description of how the building works as a whole, and how they tried to mitigate the impacts with the adjacent property. She found that his explanation was accurate and acceptable.

Mr. Elliott referred to public comment regarding storage and pointed out that every unit has storage associated with it.

MOTION: Commissioner Savage moved to APPROVE the conditional use permit for 1440 Empire Avenue pursuant to the remand and in according with the Findings of Fact, Conclusions of Law and Conditions of Approval incorporated in the Staff report. Commissioner Luskin seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 1440 Empire Avenue

1. The subject property is at 1440 Empire Avenue, Park City, Utah.

2. The subject property was approved as 1440 Empire Avenue Replat by City Council on February 25, 2010, but has yet to be recorded.
3. The subject property is 12,882.62 square feet or 0.295 acres.
4. The property is located in the Recreation Commercial (RC) District.
5. A Multi-unit Dwelling is permitted under a Conditional Use Permit within the RC zone.
6. A parking area or structure with 5 or more spaces is permitted under a Conditional Use Permit within the RC zone.
7. The Planning Commission approved a Conditional Use Permit (CUP) for a Multi-Unit Dwelling and a Parking Area of Structure with 5 or more spaces at this location on December 9, 2009, which contained eight (8) two-bedroom units and two (2) four-bedroom units, with surface parking occurring towards the front of the parcel off of Empire Avenue.
8. The CUP was appealed by adjacent owners David and Rosemary Olsen, Rick Margolis, and Dianne and Bill Newland on December 21, 2009.
9. On February 25, 2010 the Cit Council heard the appeal. In part, remanding it back to the Planning Commission for further review of just these two items: (1) the height, scale, mass and bulk of the rear of the building shall be further modified and considered under the standard in LMC 15-1-10(E)(8); and (2) further design changes with consideration for ensuring that the proposed development transitions to and complements the existing historic structure to the east shall be reviewed and/or further conditioned.
10. On March 4, 2010 the City Council ratified the Remand.
11. On May 12, 2010 the applicant's attended a work session with the Planning Commission which proposed changes to the rear facade, modifying roof forms, height and materials.
12. On September 10, 2010 the applicant submitted modified CUP drawings for a Multi-Unit Dwelling. The drawings were supplemented on September 16, 2010 and December 1, 2020. (Hereinafter, December 1, 2010 design).
13. The December 1, 2010 design has moved the building away from the historic property on Woodside Avenue an additional 20'-6" from the rear setback, locating it closer to Empire Avenue and placing it at the front yard setback. Such modifications to building site placement and building height reduction addressed remand items 1 and 2.
14. The current design dated December 1, 2010 meets the February 25, 2010 City Council Remand items 1 and 2 as referenced in Finding of Fact #9 and #13.

15. The site allows a Floor Area Ratio (FAR) of 1.0 totaling 12, 882.62 square feet. The proposed project complies with the FAR and is 12,874 square feet. Underground parking garages are not calculated in the FAR.
16. The Multi-Unit Dwelling contains 4 total stories, 3 stories above ground and a parking garage below grade.
17. The proposed project contains (9) units; (6) two-bedroom units and (3) four-bedroom units.
18. The Multi-Unit Dwelling is required to have twelve (12) parking spaces. 12 spaces are provided in an underground parking garage. A parking area of five (5) or more parking spaces is a Conditional Use in the Recreation Commercial (RC) District. Parking is proposed in an underground parking garage.
19. The proposed design has been reviewed against and meets LMC 15-5 Architectural Review. The proposed design is compatible with the variety of architectural styles found in the RC zone.
20. Conditional Use Permit review criteria #1 Size and location of the site; criteria #2 Traffic considerations; criteria Utility capacity; criteria #6 Internal vehicular and pedestrian circulation system; criteria #9 Usable Open Space; criteria #12 Noise, vibration, odors, steam, or other mechanical factors that might affect people and property off-site; criteria #13 Control of delivery and service vehicles, loading and unloading zones, and screening of trash pickup areas; criteria #14 Expected ownership and management of the project; criteria #15 Environmentally sensitive lands, slope retention, and appropriateness of the structure to the topography of the site; are unchanged from original approval or cause no measurable change and have no unmitigated impacts.
21. Conditional Use Permit review criteria #4 Emergency vehicle access; is improved by the new design allowing direct access to three sides of the structure. Emergency vehicles will access the site directly from Empire Avenue or through driveway on north and east of proposed building.
22. Conditional Use Permit review criteria #5 Location and amount of off street parking; improved by the new design and mitigated through 12 parking spaces in underground parking garage and driveway to north of property.
23. Conditional Use Permit review criteria #7 Fencing, screening and landscaping to separate the use from adjoining uses has been mitigated by landscaping on all sides of the property, with intensive landscaping at the east parking drive setback adjacent to the historic property and south property side yard setback adjacent to contemporary single family home.
24. Conditional Use Permit review criteria #8 Building mass, bulk and orientation and the location of buildings on the site; including orientation to buildings on adjoining lots has been mitigated with a reduction in height from the previous design in not utilizing height

exceptions, reduced building shadowing on adjacent properties, increased landscape buffering, placement of interior and exterior building uses, reduction of decks on south building facade, elimination of exterior storage closets on south building facade decks, building placement tapering side yard setback along south building face.

25. Conditional Use Permit review criteria #10 has no unmitigated impacts. The new design of an underground parking garage has eliminated the surface parking area's lighting requirements previously required.
26. Conditional Use Permit review criteria #11 Physical design and compatibility with surrounding structures in mass, scale, style, design and architectural detailing; meets LMC 15-5 Architectural Review and is compatible with the variety of structure styles and sizes found in the RC zone.
27. The Findings in the Analysis section of this report are incorporated herein.

Conclusions of Law - 1440 Empire Avenue

1. The application satisfies all Conditional Use Permit review criteria for a Multi-Unit Dwelling and a Park Area Structure with five (5) or more spaces as established by the LMC's Conditional Use Review process [Section 15-1-10(E) (1-15)].
2. The application complies with all requirements of this LMC.
3. The use will be compatible with surrounding structures in use, scale, mass and circulation.
4. The use is consistent with the Park City General Plan, as amended; and
5. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval - 1440 Empire Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. Measures to protect existing vegetation shall be included in the Construction Mitigation Plan (CMP).
3. A Site Drainage Plan will be submitted prior to building permit issuance for City Engineer Approval. Such Site Drainage Plan will include (1) roof run-off to go to a detention pond that discharges out to Empire Avenue (2) the drive and garage drainage will go to a retention basin that does not discharge off site (3) Post discharge will be equal to or less than pre-development discharge.

4. City Engineer review and approval of all appropriate grading, utility installation and public improvements for compliance with City standard, to include driveway and parking garage layout is a condition precedent to building permit issuance. A shoring plan is required prior to excavation.
5. A landscape plan is required with the building permit. Changes to an approved plan must be reviewed and approved prior to landscape installation.
6. This approval will expire on December 15, 2011 if a building permit has not been issued.
7. Recordation of 1440 Empire Avenue Replat is required prior to building permit issuance.
8. Modified 13-D fire sprinkler system will be required.
9. Any significant modification of approved unit layout as shown on drawings date stamped September 10, 2010, September 19, 2010 and December 1, 2010, which changes bedroom configuration or unit size, requiring modification to required parking, will require amendment to Conditional Use Permit.
10. If the Multi-Unit Dwelling is used to fulfill a future affordable housing obligation, then the project must meet the deed restriction and requirements of the Affordable Housing resolution in effect at the time of the obligation.
11. All driveway lighting must be zero cut-off at property line and shall not exceed the minimum lighting level required by the Building Code. All lighting must meet the Lighting Ordinance and be downward directed and shielded. Light fixture cut sheets shall be reviewed by the Planning Department for approval prior to installation.
12. Retaining walls in the rear yard setback shall not exceed six feet (6') in height measured from Final Grade per LMC 15-4-2. Applicant shall submit a modified Site Plan sheet CUP-001 reflecting such change prior to building permit issuance.
2. Land Management Code - Consideration of an additional chapter titled Chapter 2.24 Transfer of Development Rights Overlay Zone
(Application #PL-10-01104)

Planner Katie Cattan requested discussion from the Planning Commission on a proposal to add a section to the LMC regarding Transfer of Development Rights (TDR). She referred to the zoning map and indicated the Treasure Hill lots, the Alice Claim area and the Ridge Avenue lots as sending areas. Bonanza Park as the only receiving overlay zone proposed. The Staff had drafted an ordinance for consideration, understanding that the ordinance could change in the future to amend the zoning map and include additional sending and receiving areas.

Planner Cattan requested input on two main questions. The first was to identify the boundaries of the receiving zone. The second was whether the Planning Commission was comfortable with

sending up to one million square feet to the receiving area. She presented a sketch up document of the Bonanza Park receiving zone showing 100 foot setbacks for the Frontage Protection Zone, 20 foot setbacks for front yards, and 10 foot setbacks for side and rear yards. She noted that it did not show the 30% open space. Planner Cattan stated that including the 30% open space the total square footage at complete buildout of the area would be approximately 4 million square feet. Planner Cattan remarked that she had not included the area near Public Works. If they were to include the portion across from Iron Horse Drive, the number would be 5.18 million square feet.

Commissioner Savage requested clarification of the numbers in terms of boundaries. Director Eddington stated that the model showed the first phases of potential re-development in Bonanza Park, which is Iron Horse and everything south. Planner Cattan clarified that the areas identified in red were areas that could be developed, which is 4.1 million square feet. She remarked that the Staff had not calculated the Snow Park area.

Commissioner Savage asked if 1.36 million represented 100% of transferable density from the three sending zones. Planner Cattan indicated the estimated sending, which was up to 512 units. For those units being 2,000 square feet each, the million square feet would be transferred to this area. Dividing 4.1 million by 3, to represent 3 stories, it would be 1.3 square feet per floor at maximum build out. She explained that it would be comparable to adding one story at maximum build out. Planner Cattan stated that it was unlikely that maximum buildout would look like the map presented.

Planner Cattan presented a map that included the area across the street from Bonanza and the area across the street from Iron Horse.

Planner Cattan requested discussion on the comfort level of sending a million square feet to the Bonanza Park area. She noted that the recommended transfer rate was 1 per 1 for the sending OT areas and 2 per 1 for Treasure Hill. Planner Cattan stated that the draft ordinance was included in the Staff report and emphasized that it was drafted for discussion purposes only. The ordinance was not a recommendation from Staff.

Chair Wintzer stated that if 5.8 million square feet could be developed in Bonanza Park now, he was uncomfortable adding an additional 25% to the overall potential plan for that area. He was also unsure whether the community was comfortable with adding extra density without fully understanding what could occur in the Bonanza Park area. Chair Wintzer was concerned that in five years they could experience the same problems in this neighborhood that they have now with Treasure Hill.

Commissioner Hontz asked if Planner Cattan had looked at the greater area near Dan's to see how the entire area from Zion's Bank to the Post Office was approved. Planner Cattan stated that she had not yet researched all the details, but that was her intention. She stated that if it was approved as an MPD, they could look into amending the MPD. Commissioner Hontz also commented on areas on the west side of Park Avenue that should be considered.

Commissioner Hontz thanked the Staff for their work and felt they were getting closer to a solution every meeting. She felt it was important to understand exactly what they are doing when identifying

sending and receiving areas, because the model does not work if units are located where everyone already has what they want. Commissioner Hontz suggested that a physical model would help with this exercise and for their General Plan discussions.

Planner Cattan asked Commissioner Hontz for more specifics. Commissioner Hontz suggested that they start with current conditions to provide a concept of what can be done right here and right now. At that point, they could probably envision two additional stories to represent three stories. Commissioner Hontz asked if the Staff had spoken with people in the sending and receiving zones to hear their thoughts. Planner Cattan stated that she had spoken with a people in the sending zones who looked forward to the process and hoped it would worked. With the exception of one email, she had not heard feedback from people in the receiving zones. Commissioner Hontz understood that feelings could change by the end of the process, but she hoped that people inside the receiving zone would at least consider the option at this point.

Commissioner Hontz was interested in seeing the boundaries enlarged, particularly if there is an opportunity for re-development in some of the areas along Highway 224, Park Avenue, and Empire that need to be enhanced. She suggested Park Avenue up to Miners Hospital and areas between Park Avenue and Empire. She was not opposed to looking at enlarging the boundaries to Prospector. Commissioner Hontz reiterated the importance of knowing what they have before identifying specific boundaries.

Commissioner Peek liked the idea of expanding the receiving zone based on the topography. He suggested that Prospector, with the stepping up of the Rail Trail and the hillside beyond, may be an appropriate area for more density. Based on what currently exists, he was interested in knowing what could be done. Commissioner Peek also wanted to see a transition of transferred density stepping down to the other zones beyond Prospector as a residential zone. He did not believe excessive height was appropriate. Commissioner Peek favored upper Old Town and similar areas as sending zones because it is beneficial to transfer density where infrastructure exists or is easily installed. He was unsure about Treasure Hill. He thought it would be helpful to see graphics that demonstrate the type of density and to know whether the buyers and sellers of those rights can make the deal.

Commissioner Luskin wanted to know what is currently in the receiving zones and he needed more than a two-dimensional picture to understand what exists. He felt it would be helpful to have a three-dimensional model of what exists now to see where they can go from there. Commissioner Luskin was comfortable with the sending zones because he already knows what they look like.

Commissioner Peek stated that it would be important to understand how diluted the 1 million square feet of transferred density would be if the boundaries were changed to include Prospector and Dan's.

Commissioner Savage stated that TDR is an important decision and worthy of deep consideration. He felt the Planning Commission was in the situation of having to push for a decision prior to a deadline, without the opportunity for an in-depth review of the implications. Commissioner Savage asked if it was possible to talk about the minimum requirements for this ordinance to meet the

deadline, and then work from that to categorize the decisions necessary to establish the ordinance. Personally he had concerns with putting in place the opportunity for a huge transfer of density to take place between Treasure Mountain and Bonanza Park. While there is a tremendous sense of desire to move the density off of Treasure Mountain, he did not see the appetite for pulling density into Bonanza Park above and beyond what is already there. Commissioner Savage did not believe the economics could work in their favor unless there was a holding place for those development rights on an interim basis. His willingness to support the TDRs was predicated on the idea of talking about the minimum acceptable obligations, as opposed to quickly instilling a mechanism to solve a current situation without taking into consideration the full context of the entire community and a review of the General Plan.

Chair Wintzer commented on various scenarios where the mountain views would be lost if density is transferred to certain areas. He was concerned about losing Park City's identity by spreading density. He believed this was an important General Plan question to protect the view corridors. Chair Wintzer pointed out that the community knows the impacts of tourist related uses in town, but they do not know the traffic impacts of new, big commercial. He was concerned about creating additional city-wide traffic impacts by moving density. Before the Planning Commission talks about putting density anywhere, they need to understand the impacts. Chair Wintzer referred to the General Plan items he handed out at the last meeting, and noted that the issues have been discussed over years of re-writing the General Plan. He worried about losing some of those General Plan items by moving too quickly on the TDRs. Chair Wintzer agreed that TDR is an important tool, but he also agreed with Commissioner Peek that if they bring too much density into one area it might lose its importance. Chair Wintzer felt that sending and receiving zones needed more study before they could decide whether the impacts would meet the General Plan and other requirements.

Planner Cattan stated that if the Planning Commission wanted the tool on the table but they were not comfortable with the numbers, they could start with a smaller number. She noted that PCMR and Deer Valley were taken off the table because they are MPDs. She agreed that the issue right now was more about getting the tool on the table.

Chair Wintzer suggested that the Staff could start with a smaller model. He noted that the 1996 General Plan talks about having a TDR in process. Chair Wintzer felt the City was to blame for not working on TDRs over the past ten years. He did not think they should quickly make a decision now without thinking it through. It runs the risk of creating the same problems they have now in a different location.

Planner Cattan stated that the Planning Commission could put caps on a master plan of how much density can be sent from a sending zone.

Chair Wintzer reiterated that a physical model is an important tool that the Commissioners need to see. With their low level of expertise, it needs to be a three-dimensional model. Planner Sintz understood from the comments that if the Staff did a computer model, they would need to include enough adjacent areas to understand the scale differences. Also, if they document the existing building heights in the zone, they should include layers showing the existing heights,

what the current zone would allow, and an additional layer to show what an increase would look like. Chair Wintzer noted that the Staff could accomplish the same thing with a physical model by adding cubes to one floor height. Planner Sintz pointed out that if they wanted to manipulate it, a computer model may be easier. She did not disagree that a physical model is a great tool.

Commissioner Luskin was comfortable with either model as long as it could be used and modified. Commissioner Luskin remarked that TDRs are not unfettered development rights and they would still have control over what it looks like. He believed they were heading in the right direction and assumed there were more areas to explore. Commissioner Luskin suggested that the City work with the County to possibly use County areas as receiving zones.

Commissioner Savage noted that there was a proponent in the City who was anxious to push the TDR. While he was comfortable with the idea of TDRs, Commissioner Savage stressed the importance for the Planning Commission to understand all the issues from the standpoint of both developers and those on the other side of the equation, particularly regarding the negative attributes of TDRs. He noted that page 15 of the Staff report states that, "TDRs can be utilized to protect these challenging areas and direct development to more appropriate sites". He wanted to understand the degree to which TDRs become a tool that the City can use to direct development.

Director Eddington clarified that it is not a tool that the City necessarily uses. It is a tool that could be used by a willing buyer and seller. The properties they are looking at are privately owned and have private development rights. This tool allows them to consider transferring some of their densities to an area that the Planning Commission and the City Council believe might be a better location for development. Director Eddington pointed out that the City does not own property rights. Commissioner Savage felt the matter was loaded with explosive potential and he wanted to make sure they were not setting up the City for future problems. Clarity is important and he did not believe there was clarity at this point.

Commissioner Peek commented on something he heard in the media regarding resistance to Summit County's TDR ordinance. Planner Cattan offered to provide the Commissioners with copies of a report that came out from the legislature the day before. The report talks about different TDRs that have been set up for Utah. The main element is that a TDR needs to be set up before it can work. Director Eddington clarified that the County did not have explicitly defined receiving and sending zones. He noted that currently the County does not have a TDR ordinance.

Planner Sintz reported that a legislative audit committee was assigned and she had attended to hear that discussion. It was a review recommending that the committee responsible for oversight look at more administrative review criteria. Summit County was used as a poor example because they lacked defined terms and values were not pre-established. They also looked at West Valley, Weber County and two other communities as good examples because they had clear criteria. Planner Sintz understood that the committee was recommending a possible modification to require that jurisdictions using this type of TDR have more refined measures.

Commissioner Peek asked if the opportunity for the City to get involved and possibly expedite or favor one transfer versus another would be discouraged. Planner Cattan understood that the intent is to have more transparency in the process so the expectations are clear.

Assistant City Attorney McLean had not read the full report, however, she believed that what the Staff was proposing in the draft ordinance would meet the recommendations of the audit in terms of predictability, placing a conservation easements, and clearly defining sending and receiving zones. She explained that Summit County did not call their process a TDR. They instead used the term SPA, which are special planning areas, and within that they allowed density bonuses. The County negotiated transfers on a case by case basis, which led to a number of complaints and feelings of unpredictability for both the community and the developers. That practice led to the audit. Ms. McLean was comfortable saying that the way the proposed City ordinance was drafted is consistent with the process suggested by the audit.

Chair Wintzer opened the public hearing.

Mike Sweeney, a partner on the Treasure Hill project, stated that when the Treasure project was approved, it was approved based on the fact that they had the Town Lift coming down. At that time an agreement between the Huntsman's, the Sweeney's and the Park City Mountain Resort created the Town Lift. In that agreement, whatever density was on the hillside was required to serve the Town Lift and the base of the Park City Mountain Resort. Mr. Sweeney pointed out that if the density is moved off the Treasure Hill site, it would negatively affect PCMR and it would impact the agreements they personally have with PCMR and with Huntsman, the previous landowner. Mr. Sweeney remarked that this agreement was how they were able to create Lower Main Street from Heber down. It started in 1981 and was amended many times until the City approved the Town Lift. Mr. Sweeney stated that PCMR does not want to see the density moved off of their property because it would take business and money away from the Resort.

Mr. Sweeney commented on Main Street as a potential receiving zone, since it has the ability to accept some of that density. The current density he would like to see on Main Street is hot pillows and hot beds. Providing ways for tourists to stay on Main Street augments a better economic engine for Park City. He was not interested in residential or secondary homes. It is all about people spending money on Main Street.

Jason Gyllenskog stated that he is involved in development projects on Ridge Avenue. He felt the Bonanza Park area was too limited for a receiving zone. He preferred to see the receiving zones expanded and increased in number.

Chair Wintzer asked if Mr. Gyllenskog had suggestions for receiving zones that have not been discussed.

Mr. Gyllenskog replied that he had not taken the time to identify specific receiving zones. However, at the last meeting two other receiving zones were mentioned. He believed the system would be more viable with more receiving zones. At this point they are limiting that viability with only one receiving zone.

Harry Reed thought the comments made by the Commissioners made sense, particularly Chair Wintzer's comment about fixing a problem in one area and creating a future problem in another area. Mr. Reed also agreed with Mike Sweeney, that if they lose density on the Treasure Mountain project, it would be nice to re-create it in other places on Main Street to help keep Main Street healthy. Mr. Reed suggested that Deer Valley be considered as a receiving zone because they have the area to spread the density.

Michael Barille, stated that he was the Summit County Planning Director during the time when some of the audit subjects were in place. He offered to share his experience to help the City learn from both the good and the bad experiences that occurred in the County. Mr. Barille thought the Staff had done a good job with the direction they were taking. He encouraged the City to start with bite-sizes chunks and then slowly expand to other areas. They have willing participants, which is a benefit, and he thought TDR is a good tool for both the City and the developers. Mr. Barille understood that the City was only trying to create a pending ordinance, without necessarily having an ordinance in effect. He felt it was important to keep that in perspective. Mr. Barille remarked that the issues are difficult, and they should try to avoid paralysis through analysis. They will not be able to make good or bad decisions without trying something that allows the private sector the opportunity to participate. Once they get started, he encouraged the Commissioners to go back and tweak parts of the ordinance as appropriate. Mr. Barille was happy that the Planning Commission was thinking critically about sending areas in terms of preservation value, view sheds, conservation value, etc. If they want the ordinance to be used, they also need to look at it from the viewpoint of the private sector developer. Mr. Barille referred to the analysis and the amount of density that could go into the Bonanza Park area. He was unclear whether that was based on a one to one transfer or whether it took into account the recommendation for a two to one transfer. If they are analyzing a potential receiving zone and it is not a one to one transfer, they would obviously end up with more density than they would otherwise. Mr. Barille volunteered his time to help with this process when appropriate.

Chair Wintzer asked if the model was based on a one to one or two to one transfer. Planner Cattan replied that it was one to one for Old Town and two to one other areas. The overall one million was based on two to one transfer.

Neal Krasnick, replied that when something happens in one part of town it affects what happens in other parts of town. He believed the Planning Commission had a conundrum in trying to satisfy the problem with transferring density rights. Mr. Krasnick stated that Park City is fine the way it is and he could not understand why they need to make changes. He asked if the density or the commercial is so bad that Park City is failing. He believed the Planning Commission was only talking about this because someone has requested this change. He could not understand why it was even being considered.

Mary Wintzer, a property owner in the Iron Horse District, commended the Planning Commission for taking on this large issue, which she believed was driven by the community's fear of the Sweeney project. Ms. Wintzer concurred with Commissioner Savage regarding the need for clarity. She believed that height and view corridors are extremely important and it would be sad if they created

another problem in the middle of town. Ms. Wintzer recalled that the City spent \$60,000 on Visioning where the people said overwhelming that they wanted a small town feel. Ms. Wintzer thanked the Planning Commission for taking their time and for not rushing into a decision. She urged them to add as many protections as possible and to align them with the General Plan. If they do not have those protections, people will push the envelope and things could slip through the cracks during the actual building process. Ms. Wintzer believed that taking adequate time now would create a much better picture down the road.

Chair Wintzer closed the public hearing.

Planner Cattan heard interest from Commissioner Hontz to look at the Park Avenue condominiums. Commissioner Hontz clarified that her reference to Park Avenue was based on her desire to re-visit other potential receiving zones. She understood the intent to simplify the process at this point for the sake of establishing a pending ordinance. Once the pending ordinance is established, the Planning Commission can work on the details to make sure they have appropriately studied sending and receiving zones. That would include considering Main Street as a receiving zone, as well as Park City Heights, Park City Mountain Resort, and Deer Valley Snow Park. If they re-draw the lines of Bonanza Park and include across the street on the other side of Park Avenue, that particular zone would need to be handled completely different. Commissioner Hontz stated that personally she did not believe the lines drawn worked right now, even as a starting point. She felt it was important to re-draw the lines now and add another receiving zone.

Planner Cattan re-drew the lines to extend across Iron Horse, across Bonanza and Park Avenue. She offered to include additional development areas for the next meeting. She agreed with Commissioner Hontz's comments about development being different for Park Avenue.

Commissioner Peek commented on potential condominium projects that would be lost with the proposed plan. The density is good and the projects are ripe for redevelopment within a couple of decades. However, the question is whether they want something new and more compact in those areas. He suggested that a development similar to Hotel Park City adjacent structures would be appropriate.

Director Eddington believed that the commercial development at Snow Creek was an MPD and they would need to re-open the MPD look at the parameters set by the Planning Commission at that time. He stated that one reason for initially looking at Bonanza Park was to create critical mass and potential pedestrian streets. In addition, the area has potential for re-development. Director Eddington noted that the Planning Commission has started to address transportation issues and other matters beyond a more comprehensive standpoint. The Staff was looking from the old General Plan that talked about TDRs, as well as opportunities for creating critical mass that could potentially support alternative transportation modes that may connect that area to PCMR, Deer Valley and possibly the Park and Ride. That was how the Staff initially started to look at the Bonanza Park area. He was cautious about losing sight of those reasons. However, he agreed that it was worth looking at Snow Creek and some of the surrounding areas. He clarified that the proposed areas were only suggestions by Staff as potential redevelopment areas. They were not

opposed to considering other areas if the Planning Commission was not comfortable with their suggestions.

Director Eddington stated that the Staff would look at other areas and bring back the modeling. The Planning Commission could move forward from that point.

Commissioner Savage asked if there was a way the Staff could identify potential receiving zone areas that have the desire to be a receiving zone. Director Eddington noted that the Staff presented some of those areas at the last meeting and the Planning Commission requested that they keep it more simplified. Commissioner Savage clarified that his question was asking whether Snow Park or PCMR wanted the density. From the comments he has heard, he believes that Bonanza Park does not want the density and they are not economically motivated to obtain more density than what they are entitled to. For that reason, Commissioner Savage did not think they would be solving any meaningful property issues by designating Bonanza Park as a receiving zone.

Director Eddington stated that people have expressed interest for putting the density in Bonanza Park. He reiterated that the Staff was not suggesting that it would change the market by offering TDRs. The best hope is to stimulate the market and encourage re-development in that area. Director Eddington noted that density is already vested in Snow Park and PCMR, but there has not been a demand or desire to build out that density. For that reason, he was unprepared to answer Commissioner Savage's question.

Commissioner Peek asked if there was a time limitation for a pending ordinance. Assistant City Attorney McLean remarked that the pending ordinance would not have effect because no one is vested in it. Typically, the pending ordinance doctrine is putting people on hold so they cannot develop while the ordinance is being considered, and that has a six month limit under State and City Code. Ms. McLean stated that this was not applicable in this case, because it is a zoning ordinance and no one is being stopped from doing anything they cannot do currently.

Commissioner Peek clarified that the purpose for the ordinance was to pre-empt legislature action. Ms. McLean stated that the legislative session begins the third week in January and goes through the beginning of March. In reading the audit, she felt comfortable that if the legislature further restricts TDRs based on the audit, the draft ordinance would fall under any additional legislature. However, if the legislature were to say that all new TDR programs may not exist, the City would not have the ability to use that tool if they have not passed a prior ordinance.

In terms of timeline, Ms. McLean believed the comments this evening were valid. However, the flip side to wanting more information is the legislature deadline, as well as Treasure Hill and the expiration of the MOU. The City's bonding season is June, which is another timing reality. If the Planning Commission needed significant information that would take several months to provide, she recommended that they forward a negative recommendation to the City Council and let them make the final determination.

Commissioner Savage disagreed with Ms. McLean's recommendation. He felt it was inappropriate for the Planning Commission to make a negative recommendation solely to meet a deadline. He

believed the appropriate behavior would be to make a reasoned decision and if the deadline passes during that process, they would have to live with it. He was not willing to abdicate their responsibility to the City Council as a consequence of a deadline.

Assistant City Attorney McLean clarified that if the Planning Commission needs something concrete, such as the model or a discussion on expanding receiving zones, that is positive feedback and the Staff should accommodate their request as soon as possible to help them make a decision. On the other hand, if the response is to think about the idea of TDRs for a long period of time to absorb it all, they would be denying the City Council the opportunity to move forward because they cannot take action without a recommendation from the Planning Commission.

Commissioner Savage asked if the Planning Commission needed to forward a recommendation on a particular time frame. Ms. McLean answered no. Commissioner Savage wanted it clear that if the City has an objective associated with making sure this ordinance is on the books, they need to define a minimum amount of acceptable criteria so the Planning Commission could evaluate TDRs within the context of that criteria, rather than allowing it to take on a life of its own.

Planner Cattan felt she was receiving mixed direction because she was given a list of additional areas to consider, which is contrary to direction given by Commissioner Savage. Commissioner Savage clarified that in his opinion, it is not about trying to define the best sending and receiving zones. It is trying to identify the minimum receiving and sending zones so the Planning Commission could approve a pending ordinance for the record, but that allows them the flexibility to come back after the ordinance has been established to work out details in a thoughtful fashion that is consistent with the General Plan. The intent is to establish the tool, but not to establish the privilege of any particular receiving or sending zone. He was not interested in turning over the responsibility for making that decision to the City Council. It is the job of the Planning Commission and he wants to do it effectively.

Commissioner Luskin disagreed with Commissioner Savage. He was open to having expanded receiving zones because once they have the tool, the receiving zones enter the free market theory and someone needs to be receptive to working the deal. Commissioner Luskin pointed out that the City designates the zone, but the market place creates the zone. He did not favor minimizing the receiving zones. He believed TDR is a good tool and they need several places to transfer density.

Commissioner Savage agreed with Commissioner Luskin and suggested that the Planning Commission either agree on something small as a starting point, or agree that everything is a receiving zone. He felt the question was how to reconcile those two positions.

Commissioner Luskin asked if they could create the tool without sending or receiving zones. He was told that it was not possible for the ordinance. Chair Wintzer felt that the tool without the receiving or sending zones would not resolve anything. They need to incentivize the zone to be a receiving or sending zone to encourage conversations between private individuals.

Commissioner Peek suggested that they broaden the receiving zones and increase the boundaries, and then narrow the sending zones to avoid creating huge impacts at the start. He believed there

was significant benefit for Old Town sending zones, based on the density that could occur in Old Town. That would put an active ordinance on the books and the Planning Commission could tweak it over time. Commissioner Peek was willing to proceed with a minimal ordinance specifying broad receiving zones and narrow sending zones. He pointed out that there are benefits to all sending zones. However, further study needs to be done on the impacts to the receiving zones.

Assistant City Attorney McLean asked if there was consensus by the majority of the Planning Commission for the Staff to come back with those few Old Town sending zones and to keep Bonanza Park as a receiving zone, or whether they wanted the Staff to come with a more expansive receiving zone.

Chair Wintzer noted that two Commissioners were absent this evening and he felt their comments were important. He asked if the Staff could look at expanding the receiving zones, as well as shrinking it down, and come back with an analysis on both options for the full Commission to discuss.

Planner Cattan stated that she could create more receiving areas, but if one developer takes in 50 of the units and adds an extra 100,000 square feet, the question is whether or not four stories would be acceptable and fit within the "small town feel". She pointed out that they need to begin thinking of the master plan. Currently, Bonanza Park is a wonderful area, but it is difficult in terms of moving through it. As a planner, she believed the Staff could do a good job of showing how it could work.

Chair Wintzer noted that the community has been consistent on pushing back against increasing size and mass. Before he could feel comfortable about putting significant density in any area, he would need to see what it looked like.

Planner Cattan summarized that the Staff would come back with a computer model, due to the short time frame, and she would look into extending the boundaries.

Commissioner Savage requested clarification on why an MPD is problematic as being a receiving zone. Planner Cattan explained that typically an MPD has associated development agreements and other legal documents that need to be looked at before it could be identified it as a receiving zone. She pointed out that Bonanza Park does not have an overall master plan, therefore, they are able to work with the zoning to increase the density.

MOTION: Commissioner Hontz moved to CONTINUE LMC consideration adding Chapter 2.24, Transfer of Development Rights Overlay Zone, to January 12, 2011. Commissioner Peek seconded the motion.

VOTE: The motion passed unanimously.

3. Land Management Code - Amendments to Chapter 1, General Provisions; Chapter 2, 16, RC Zone; Chapter 3, Off-Street Parking; Chapter 5, Architectural Review; Chapter 6, Master Planned Development; Chapter 7, Subdivision Procedure including requirements for identification of Physical Mine Hazards during Mater Planned

Development, Conditional Use Permit, and Subdivision application review; Chapter 11, Historic Preservation; Chapter 15, Definitions (Application #PL-10-01103)

Planner Whetstone reported that these amendments address the bi-annual review of the Park City Land Management Code. The objective this evening was to review the amendments, conduct a public hearing, and continue the public hearing and discussion to January 12, 2011. This would allow the Planning Commission time to read the proposed amendments before taking action. Planner Whetstone noted that the amendments address planning and zoning issues that have come up over the past six months. The amendments are primarily administrative, however, there are some significant changes proposed. As the Commissioners read through the redlined documents, she encouraged them to email any comments or questions prior to the January 12th meeting.

Planner Whetstone stated that a primary amendment was a requirement identify further design and recognize physical design hazards for MPD, CUP and subdivision applications.

Commissioner Savage requested that Planner Whetstone identify the reason why the Staff was suggesting each proposed change.

Planner Whetstone noted that the amendment came from the Legal Department because Physical Mine Hazards have never been addressed. The amendment defines a physical mine hazard and addresses mitigation during MPD, CUP and subdivision reviews.

Assistant City Attorney Polly Samuels McLean explained that the reason for the amendment is to require developers to inform the City if they know that mine hazards exist on the property. This allows the City to track the mine hazards and to make sure they are appropriately mitigated. The best way to accomplish this is through the subdivision process and the MPD process.

Commissioner Luskin asked if this could be accomplished through ordinance to address all the mine hazards collectively. He noted that Park City addresses traffic and other environmental issues in a piecemeal fashion, whereas other states have an environmental impact statement that covers all the environmental issues of concern. He asked if Park City could enact an ordinance that would apply to all projects and avoid the piecemeal approach.

Ms. McLean pointed out that the City already requires an environmental impact study for the Sensitive Lands Overlay Zone. She recalled that the MPD Section of the LMC has its own requirement for larger projects. Currently environmental impact studies are not required for small subdivisions or anything lesser than an MPD. If the Planning Commission would prefer an overall environmental impact statement, the Staff could look into it.

Planner Whetstone read the proposed change to conditional use permit review criteria 15, which states, "Within and adjoining the Site impacts on Environmentally Sensitive Lands, Physical Mines Hazards, Slope retention, and appropriateness of the proposed structures to the topography of the site." She noted that physical mines hazards was added to the language. All of the criteria are required for any CUP, including smaller projects, but they may not apply to a CUP for a bar,

restaurant or other uses within a structure. She stated that the physical mine hazard language is recommended for the Master Plan Development section and as a review criteria for larger subdivision plats.

Assistant City Attorney McLean requested that the Planning Commission provide direction on whether or not they generally favor the policy of addressing physical mine hazards. She also wanted to know if there was consensus from the Planning Commission for more specific environmental requirements for all development within the City, or whether they feel the current requirement is enough. That feedback would help the Staff provide the correct information for the next meeting.

Commissioner Luskin clarified that his idea of a hazard mitigation plan could include water or other elements. He asked if they should itemize the areas that need to be covered. Ms. McLean stated that a physical mine hazard is defined as a shaft, tunnel, portal, any opening or structure related to mining activity. She did not believe that would include water sources. Ms. McLean explained that the proposed amendment identifies a mine hazard for City knowledge and data, but it does not address mitigation. Once the hazard is identified, mitigation can be addressed at the City or State level. The intent at this point is to get an inventory of physical mine hazards. Planner Whetstone offered to provide additional review to address Commissioner Luskin's concern, however she recommended that it not become part of these amendments since this was an annual review of previously approved amendments.

Chair Wintzer clarified that the purpose of the amendment was to require property owners to identify a physical mine hazard and notify the City. Commissioner Savage thought the purpose was also to make sure there would be a mitigation plan associated with any application. Ms. McLean remarked that the proposed language relates to inventory. Planner Whetstone noted that mitigation is addressed in the MPD section in that a physical mine hazard mitigation plan is required.

Chair Wintzer felt it was important to have the inventory and he was comfortable starting with the proposed amendment. He was not opposed to discussing the ideas presented by Commissioner Luskin at some point in the future. The Commissioners concurred.

Planner Whetstone reviewed the proposed amendment to Chapter 1, Notice Requirements, and explained that the amendment clarifies the existing language. For the next meeting, she would present a review of the State Code regarding new language on alternatives to publishing notice. Planner Whetstone stated that the proposed amendment clarifies the City's current noticing process, as well as adds notification requirements for time extensions of approvals, MPDs, lot-line adjustments plats and plat amendments.

Assistant City Attorney McLean noted that currently the City requires every application to be published in the newspaper. State Code does not make that requirement and she asked if the Planning Commission would support the idea of publishing notice on the City website instead of in the newspaper.

Chair Wintzer remarked that most people read the newspaper and word spreads around. He was uncertain whether people would check the website. Planner Whetstone pointed out that many people read the newspaper online. They could put a notice in the legal section of the newspaper stating that legal notifications are now available on the Park City website. Planner Whetstone stated that the agendas would continue to be published in the newspaper.

Commissioner Peek stated that historically legal notices have been published in the newspaper and people have come expect it. He did not favor changing the policy and thought it should continue as a local courtesy.

Commissioner Hontz favored noticing electronically versus being published in the newspaper. Ms. McLean stated that E-Notify Me is a link on the website. If people sign up, they will receive an email every time there is a new posting on the website.

Commissioner Savage felt the City should continue the existing practice. He was willing to consider a transition plan, but he did not believe the current process should be discontinued without an effective transition plan. Chair Wintzer concurred and encouraged the Staff to come back next year with a proposed transition plan.

Planner Whetstone reviewed the proposed amendments for Inactive Applications in Chapter 1. She noted that parts of the Code did not correspond and the change allows the Planning Director to formally terminate an application that has been inactive for six months or longer. Planner Whetstone noted that currently one LMC section says "Planning Commission" and another section says "Planning Director". The change is recommended to correctly say, "Planning Director" in all sections. The Commissioners were comfortable with the proposed amendment.

Planner Whetstone stated that currently the Planning Commission has the ability to grant a one-year extension of a conditional use permit and MPD. The proposed amendment would allow the Planning Director the ability to grant a one year extension if the application had not changed in any way. The Planning Commission would still have the ability to grant an additional one-year extension if one is requested.

Commissioner Peek clarified that currently the window of opportunity is two years and the amendment would make it three. Ms. McLean replied that this was correct. She noted that there were two questions to the policy issue. One was whether the Planning Commission wanted to allow the Planning Director the ability to grant a one-year extension without the Planning Commission. The second part is whether the Planning Commission wanted to change the policy of extending a CUP from two years to three years.

Commissioner Luskin felt that allowing the Planning Director to grant a one-year extension would close the door on the public input process. Planner Whetstone remarked that the same noticing policy is recommended with the proposed amendment. Ms. McLean remarked that the current standard of review is quite low and the Planning Commission could say that a one-year extension is enough. However, under the current market conditions, she believed many applicants would argue

that one year was not enough. Ms. McLean pointed out that this was a policy decision for the Planning Commission to recommend.

Commissioner Savage supported the amendment because he has faith in the Planning Director to make that review. In addition, it would allow the Planning Commission time to address more important issues. Chair Wintzer commented on the Staff time involved to write up a Staff report for a one-year extension. He noted that 90% of the extensions are quick and simple and he favored a shortened process that would limit the extension requests to one.

Director Eddington clarified that Chair Wintzer was suggesting that the first extension request could be granted by the Planning Director and there would be no option for a second or third request. Planner Whetstone pointed out that the Code is currently silent on the number of allowed extension requests. That language would need to be added if the Planning Commission intended to restrict the number.

Commissioner Peek was comfortable with a one-year extension. He concurred with Commissioner Luskin about placing extension requests on the Consent Agenda to allow the opportunity for public input. Chair Wintzer reiterated that a Consent Agenda item requires a Staff report. Planner Whetstone stated that if there is public input and someone wants to appeal the Planning Director's decision, that appeal would come before the Planning Commission. Director Eddington remarked that if the Staff received public input on an extension request, the application could be sent directly to the Planning Commission. Commissioner Luskin preferred that approach. Commissioner Peek pointed out that if the Planning Director grants an extension and it is appealed, the appeal would come before the Planning Commission.

Assistant City Attorney McLean was uncomfortable leaving the language vague. She preferred to add language stating that if the decision by the Planning Director is appealed, it would be reviewed de novo and without any deference to the Planning Director. She stated that per an existing provision in the Code, if someone provides input to the Planning Director, they would have standing to appeal his decision. Staff agreed to draft additional language for the next meeting.

Planner Whetstone reviewed the proposed amendment to Chapter 2.16 relating to the RC zone. She explained that a section in the RC zone pertains to Old Town lots and the standards have always been the same as the HR-1 in terms of heights, setbacks, and lot line requirements for single family and duplex development. She pointed out that the HR-1, HR-L and HR-2 zones were previously amended, however, the RC zone still refers to height exceptions in the HR-1 zone and includes other inconsistencies. The proposed amendment would only change the RC zone section that applies to single family and duplex development to make it consistent with the recently approved HR-1 zone amendments. The Commissioners were comfortable with the amendment as proposed.

Planner Whetstone stated that the second part of the amendment in the RC zone is to allow and define an amenities club in the RC zone as an administrative conditional use permit for a membership up to one-and-a-half times of the unit equivalent. As an example, a nightly rental condominium development or a hotel with 50 unit equivalents could allow a membership amenities

club up to 75 members, as an administrative conditional use permit. Members would be allowed to use the amenities of the hotel or the nightly rental condominium. Planner Whetstone noted that this amendment was suggested because the St. Regis has a substantial spa in the hotel, as well as a restaurant and bar. When the hotel is not busy, especially during the off seasons, the amenities are still open. This amendment would allow the hotel to create an amenities club so the public could purchase a membership and use the amenities.

Chair Wintzer clarified that a new facility would not be built. The amendment would allow a change in use from private to public or public to private. Commissioner Savage understood that the amendment would allow the hotel to sell memberships to the public to use the hotel amenities. Assistant City Attorney McLean replied that the amendment would allow a new use within the Code to allow for such clubs in the RC zone. Chair Wintzer stated that it would not add additional density or size to the project. It would only change the use within the existing building. Ms. McLean replied that this was correct. Members would be using the facilities as well as the hotel guests.

Chair Wintzer noted that occasionally a project comes before the Planning Commission where they specifically prohibit attracting outside business. He asked how that would be reviewed in this process. Ms. McLean stated that this amendment would allow for the additional use of those support commercial uses. As proposed, the language includes about an administrative approval if the membership is less than 1.5 members per UE. Anything over 1.5 members per UE would go to the Planning Commission for a Conditional Use Permit. Planner Whetstone pointed out that in either case, the request would be reviewed against the same 15 criteria in Chapter 1 for Conditional Use Permits and would require public notice.

Commissioner Peek clarified that this amendment would take away the ability for the Planning Commission to place a condition of approval on a project to prohibit outside users. Chair Wintzer favored the amendment, except in instances where they place a condition of approval that prohibits attracting outside users. Ms. McLean stated that the way the Code defines support commercial allowance, it is to serve the needs of the residents or users of that Development and not person drawn from off-site. The intent of this amendment is to allow existing facilities to be used year-round, but particularly during the off-season, by a limited number of members. Ms. McLean stated that the St. Regis Hotel suggested the possibility of an Amenities Club the last time they came before the Planning Commission. The neighbors are interested in using the facilities, but because it is support commercial, it is unclear whether it can be open to the public. She believed this was an expansion of what was already granted.

Commissioner Hontz felt they needed to work on the definition and take adequate time to consider this particular amendment. She liked the concept when applied specifically to the St. Regis Hotel, but she was uncomfortable making it available to all projects. She could think of several places where a Membership Club could get out of hand and she needed additional time to think about the impacts.

Chair Wintzer suggested that it could be allowed as a conditional use permit, which would allow the Planning Commission the opportunity to review what was originally approved and to discuss traffic and other impacts. The Commissioners concurred.

Planner Whetstone clarified that this amendment would only apply in the RC zone, which is St. Regis (the upper building) and the Resort Center and Hotel Park City. Commissioner Savage understood that the St. Regis would have the benefit of a membership club but the Montage would not because of the different zoning. Ms. McLean replied that this was correct.

Assistant City Attorney McLean summarized that the Planning Commission would consider a membership amenities club as a conditional use permit. She asked if the Planning Commission wanted it limited to the RC zone. Commissioner Savage asked if there was a reason for limiting it to one zone. If the objective is to enhance the economic basis to justify full year employees, he was unsure why they should not make it available to any hotel with those facilities. Ms. McLean explained that the amendment was drafted in response to a request by the St. Regis Hotel to provide this amenity to people who want it. The Planning Commission could look at expanding beyond the RC zone. Commissioner Savage suggested that they consider it as a conditional use rather than change the Code. Ms. McLean pointed out that currently this concept of an amenities club is not a defined use within the City. She had recommended that the Staff change the Code to allow for this use because it was not contemplated in the Code. The Code currently reads that unless it is a listed use, the use is prohibited.

Commissioner Savage recommended that if they choose to allow it in the RC zone, they should allow it for any zone where similar types of facilities or businesses would be located. He did not want to preclude someone from having an advantage that someone else was given only because they are in a different zone.

Commissioner Hontz disagreed with Commissioner Savage and felt that would be opening Pandora's box. She was not comfortable with the definition as currently written and believed it left too much open to interpretation. She was not willing to expand it to other zones at this point without an in-depth analysis of why areas are specifically zoned as they are, the difference between commercial and support commercial, etc.

Ms. McLean recommended that the Planning Commission open the public hearing before further discussing the matter.

Chair Wintzer opened the public hearing.

Tom Bennett, attorney for the St. Regis developer, suggested that if the amendment for an amenities club was allowed for a hotel and not for nightly rentals, that would substantially limit the scope. That would take in the Montage, the St. Regis, Sky Lodge, Hotel Park City and other hotels where it is already being done.

Chair Wintzer agreed that it was an important distinction, but it would not quantify the situation of a project with a condition of approval that prohibits people other than guests from using the facilities. He stressed the importance of allowing the neighbors surrounding a project to have input.

Mr. Bennett remarked that the name "hotel" invites the public to the facility. For that reason he believes it is impossible to have that kind of restriction on a hotel.

Chair Wintzer pointed out that the Planning Commission has previously placed that restriction on a hotel. Commissioner Hontz noted that some of the uses are commercial uses and others are support commercial. She understood the reason for the concept, but she was concerned about potential ramifications if they include more than just the RC zone. Commissioner Hontz agreed that removing nightly rentals was a key factor and she appreciated that suggestion. Planner Whetstone concurred and offered to do additional analysis.

Mr. Bennett commented on extending the approval to a CUP. He anticipated a number of applications due to current economic conditions, and for that reason he suggested that they allow the Planning Director to review and approve amenities clubs as an administrative conditional use. He felt this would make the process easier for everyone.

Neal Krasnick, a resident of Old Town, was opposed to allowing nightly rental condominiums the ability to call a hot tub or sauna a spa and to sell memberships and create more funds for the HOA by calling it an amenities club. He did not favor the idea of every hotel in town becoming a spa so they could sell memberships. Hotels have amenities for their guests who pay to stay there and the amenities should not be for everyone in town. Mr. Krasnick believed the City could run into revenue trouble if they allow this amendment. He thought the language should be worded differently to prevent the St. Regis from drawing people from the newly re-designed Racquet Club.

Commissioner Peek commented on issues they would encounter if they expanded the amenities club memberships to other zones. He cited the Washington Inn School swimming pool as an example.

Commissioner Savage stated that if the St. Regis wants to provide membership opportunities for the community to use their facilities, that would be a benefit to the community and to the employee base. He believed the concept at that level makes a lot of sense. Commissioner Savage agreed that they need to find a way to address nightly rentals and places such as the Washington Inn School so they do not create situations where the concept is abused. He also thought they needed to find a solution that would not cause unfair treatment to operations outside of the RC zone.

Chair Wintzer felt there was consensus to re-look at this amendment to address the concerns raised by the Commissioners.

Planner Whetstone reviewed the amendment in Chapter 5 - Architectural. She noted that aluminum and vinyl siding are prohibited materials with an exemption. She noted that the Planning Department received a request from Prospector Village and Prospector Park for the ability to repair synthetic stone in areas where it already exists. Planner Whetstone clarified that the amendment would not allow synthetic stone as an allowed material, but it would have an exemption similar to aluminum and vinyl siding, where the Planning Director could allow it in certain cases.

Chair Wintzer clarified that the amendment would give permission for people to fix what is already there, but they could not expand the material to other portions of the structure. Planner Whetstone

explained that if adjacent or surrounding homes have used the synthetic stone product, a neighbor would be allowed to go to the Planning Director with a request to use the material. Chair Wintzer asked if the amendment would allow the use of synthetic stone. Planner Whetstone replied that it would only be allowed in areas where synthetic stone is the predominant material.

Director Eddington stated that currently the owner would have to come before the Planning Commission for permission to use the material. This amendment would allow the owner to go to the Planning Director first. Director Eddington remarked that there is an existing exception for Park Meadow, Prospector Village and Prospector Park. Beyond that, there are very few areas where synthetic stone would be allowed.

Chair Wintzer was not opposed to the amendment as long as they were not increasing the use of the material overall. Director Eddington explained that the same criteria would apply. If it is not a recognized material in a close proximity in the neighborhood, it would not be allowed. The Commissioners were comfortable with this amendment.

Planner Whetstone stated that the next amendment would clarify design requirements for solar panels and skylights.

Chair Wintzer reported that Craig Elliott pointed out that the language limited the area to 25% of the roof area. Mr. Elliott indicated that the 25% was sufficient for skylights but it was unrealistic for solar panels. Director Eddington had received the same note from Mr. Elliott. He clarified that the Staff had talked about a 25% limitation for both solar panels and skylights. Mr. Elliott recommended that they allow a larger percentage for solar panels to encourage the installation of solar panels. Director Eddington offered to look into the matter and determine a more appropriate percentage.

Commissioner Peek asked how that would affect the historic district design guidelines. Director Eddington replied that in the Historic Districts it would require a Historic District Design Review and they would probably put limitations, depending on the side of the street. Solar panels would not be allowed on a primary facade. He noted that the LMC addresses this issue in Chapter 11, the HPB section. Planner Whetstone pointed out that the LMC does not refer to the specific requirements outlined for solar panels in the Design Review. Director Eddington stated that the Historic Design Review guidelines are more restrictive than the Code and the LMC specifies that the more restrictive applies. Commissioner Peek suggested adding a footnote regarding the design guidelines and percentage of coverage. Planner Whetstone agreed.

Planner Whetstone noted that the amendment also addresses required architectural elements and better materials for trash and recycling enclosures. Truck doors and pedestrian doors would be required. Commissioner Peek recommended specifying "pedestrian door" in the language.

Planner Whetstone reviewed the amendment in Chapter 6, MPD Review Process and Requirements. The amendment would make an exception for master planned development if they are already subject to an annexation agreement that complies with the General Plan. It would not eliminate the review of the General Plan for the master planned development. Commissioner Savage clarified that this amendment would eliminate a redundant step. Director Eddington replied

that it would eliminate the step only if the MPD has gone through an annexation process. The Planning Commission supported this amendment.

Planner Whetstone reviewed the amendment to allow Master Planned Development extensions up to two years. The standard of review is similar to a conditional use permit if nothing has changed. The amendment would allow an extension up to two years. Director Eddington clarified that currently MPDs have a two year time line and that could be extended to two additional years.

Assistant City Attorney McLean asked if the Planning Commission wanted the standard to be similar to the CUP extension or if it should be a greater standard. Commissioner Hontz preferred a higher standard of review. Ms. McLean stated that another alternative would be to re-open the MPD. Director Eddington suggested that the review standard could be a set of site circumstances within the surrounding neighborhood if the neighborhood has changed since the original approval.

Commissioner Savage pointed out that if an MPD has been approved and a neighbor decides to develop his property or remodel his home, it becomes a buyer beware situation. That person should have done their due diligence and before doing something contrary to the MPD. Commissioner Hontz clarified that the extension would not depend on one individual neighbor. It would be looking at whether the neighborhood and/or the community has shifted in a different direction since the MPD was approved and the MPD no longer fits. Commissioner Savage stated that if the MPD is consistent with the General Plan and the LMC, a change in neighborhood should not be a factor. Director Eddington remarked that Commissioner Hontz and Commissioner Savage were both correct and the Planning Commission would be able to discuss that issue when the MPD comes back.

Chair Wintzer requested that Planner Whetstone draft appropriate language for the next meeting.

Planner Whetstone noted that an amendment was added clarifying requirements for recycling facilities and mandatory recycling programs for commercial, multi-family and single family MPDs. Commissioner Savage wanted to know how that relates to the infrastructure that exists within the community to support the recycling effort. Planner Whetstone stated that there is a bigger recycling facility definition in the Code. In this case it was left as a recycling facility, which is generally a couple of bins in the parking garage of a multi-family condominium project for recycling. Director Eddington stated that this would allow the Planning Commission the ability to review it as part of an MPD. They worked it in with the recycling center and tied it into similar language being utilized by the County.

Chair Wintzer favored the idea. Commissioner Peek noted that language includes a paragraph stating, "shall include curbside". Planner Whetstone replied that curbside only pertains to single family. Commissioner Peek noted that curbside is also mentioned in the multi-family section. If the project has a recycling facility, there would be no need for curbside recycling. Planner Whetstone offered to re-write the language for better clarification.

Planner Whetstone referred to Chapter 7 regarding time extensions for Subdivisions. Assistant City Attorney McLean noted that the Code is silent on extension of plats. She stated that generally

ordinances allow a one year period that expire and people can apply for an extension. The process has been unclear and the proposed amendment suggests that the request goes to the Planning Director and then to the City Council, bypassing the Planning Commission. Commissioner Peek clarified that the amendment was only for unrecorded plats. Ms. McLean answered yes.

Assistant City Attorney McLean referred to page 128 of the Staff report and requested input on the criteria for reviewing subdivisions. She noted that the Planning Commission had requested more concrete language for evaluating whether or not to grant a subdivision. She noted that letter (c) on page 128 says, "Particular attention will be given to the arrangement, location and width of streets...". Ms. McLean asked the Planning Commission to think about other pertinent criteria that should be added. She noted that the definition of good cause was part of the review, however, that definition is intentionally general.

Chair Wintzer commented on the amount of information presented and recommended that the Planning Commission continue with the remaining amendments at the next meeting. He requested that the Staff present fewer amendments at each meeting to allow the Planning Commission sufficient time for discussion.

Planner Whetstone remarked that Chapter 7 was a cut and paste of the preliminary plat procedure. She noted that the Chapter has never addressed the review process for a final subdivision plat. She requested that the Planning Commission read that information and provide comments at the next meeting. Chapter 11 talks about term limits. The remainder of the information provided were definitions, most of which had been discussed already.

Commissioner Savage asked about the motivation for removing term limits. Director Eddington stated that there are no term limits for the Board of Adjustment or the Planning Commission, but there are limits for the HPB. Commissioner Peek favored removing the term limits. Chair Wintzer concurred.

City Council Member Alex Butwinski was not opposed to removing the term limit, however he wanted it clear that some Boards and Commissions do have term limits so that should not be the basis for removing the term limits for the HPB. Director Eddington clarified that the HPB is the only Board addressed in the LMC that has a term limit. Commissioner Peek believed that knowledge gained through a long tenure benefits the City.

Assistant City Attorney McLean referred to the definitions and requested that the Planning Commission look at the Good Cause language. They already talked about the Amenities Clubs and Physical Mine Hazards. She noted that they also propose to add a definition of Subdivision to include the creation of one lot. Director Eddington suggested that the Planning Commission look at the definitions for floor area and story. He noted that the proposed definitions are more consistent with the Building Codes.

Director Eddington stated that if the Planning Commissioners email any comments or suggestions to him or Planner Whetstone, they will try to address it prior to the next meeting.

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The Park City Planning Commission meeting adjourned at 9:05 p.m.

Approved by Planning Commission: _____