

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JANUARY 11, 2011

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Jack Thomas, Mick Savage, Adam Strachan

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Planner; Matthew Evans, Polly Samuels
McLean, Assistant City Attorney

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REGULAR MEETING

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 Worel who were excused.

ADOPTION OF MINUTES – December 14, 2011

MOTION: Commissioner Hontz moved to APPROVE the minutes of December 14, 2011. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planner Whetstone referred to a memo provided to the Planning Commission, which was an update of the parking and traffic situation for the Deer Crest Hotel CUP, St. Regis Resort at Deer Valley. On May 11th, 2005 the Planning Commission approved an amended conditional use permit for the Deer Crest Hotel. One of the conditions required an updated planning and traffic study to be presented to the Planning Commission. Planner Whetstone read the condition, "A one year review of parking and traffic situation one year after certificates of occupancy are issued for the hotel shall be conducted by the Staff and presented to the Planning Commission. Modifications to the parking and/or traffic plan may results from the review. Further annual reviews may be required". Planner Whetstone noted that the condition also addresses changes to unit configurations or forms of ownership if any were made. She clarified that changes had not been made.

Planner Whetstone explained that the Staff had not conducted the review because Hales engineering had provided an updated traffic report. However, the Staff called dispatch to find out if there had been any complaints or issues related to traffic or parking situations. There were no complaints recorded with the police department with respect to the St. Regis Hotel.

Planner Whetstone remarked that the Certificates of Occupancy were issued in July and the study was dated August 26, 2011. The study included traffic and parking in the low season, as well as the high season during Christmas and Sundance. The study concluded that during the busiest time periods, the parking data showed that less than 50% of the available parking capacity was utilized. The peak winter seasonal average daily traffic volumes on Deer Hollow Road, which was a concern at the time of the Deer Crest Settlement Agreement, showed approximately 440 vehicles per day, which, is below the road capacity of 1,200 to 2,000 vehicles per day. The numbers were consistent with the previous traffic report.

Planner Whetstone stated that there were no revisions to the approved parking and traffic plans that were required to make sure the CUP was mitigating the impacts.

The Staff concurred with the conclusions, and since there were no recorded complaints with the police department, the St. Regis Resort was in compliance with their approved conditional use permit. This review completes the traffic review requirements, unless there is a change to unit configuration or ownership. The Staff would not recommend additional review; however, the Planning Commission had the discretion to make that request. Planner Whetstone pointed out that if an issue is raised with any conditional use, the Staff has the ability to review it to see if the impacts are mitigated to meet the requirements of the conditional use permit. If that occurred, the applicant would need to remedy the situation.

Chair Wintzer felt it was time for Park City to revisit the parking requirements to find out why the City requires twice the parking that is being used. If the City is trying to be more environmentally friendly, he suggested the possibility of reducing the parking requirement to encourage the use of public transportation. The amount of parking may remain the same but the number of parking stalls could be reduced.

Commissioner Thomas concurred with Chair Winters. He also found the traffic and parking update satisfactory.

Commissioner Strachan was concerned that people going to the St. Regis were parking in Deer Valley's parking lots. He recalled that it was an issue throughout the process and he was unsure if anything had been done to keep that from occurring. Commission Strachan agreed with the suggestion to revisit the parking requirements, and he felt they should also revisit the design. The St. Regis has all the parking it needs, but it is in the wrong place and people cannot find it or access it easily. Therefore, they park in Deer Valley lots.

Tom Bennett, representing the St. Regis, understood Commissioner Strachan's concern. He believed a large part of the problem is that people prefer to park in Deer Valley's lot and walk up to avoid tipping the valet. He was unsure how that could be monitored, unless Deer Valley chose to enforce it more strictly.

Commissioner Thomas disclosed that he would be recusing himself from the North Silver Lake discussion due to his design involvement with the project.

Director Thomas Eddington reminded the Planning Commission of the joint City Council/Planning Commission meeting from 5:30 to 7:00 p.m. the following evening to discuss the Bonanza Park plan.

Director Thomas Eddington reported that the Council visioning originally scheduled for February 3rd and 4th had been changed to February 9th and 10th. He would send a reminder email to the Planning Commission and include the time the Planning Commission is scheduled on the agenda. Chair Wintzer had a previous obligation and he was unsure if he would be able to attend.

Chair Wintzer stated that a previous planning commissioner, Steve Deckert, had passed away. Chair Wintzer remarked that Mr. Deckert was a great Planning Commissioner and a great member of the community. Chair Wintzer outlined a number of major accomplishments that Mr. Deckert had achieved in Park City, which spanned the history of Park City's growth. He did it as a planner, as well as two terms as a planning commissioner.

On behalf of the Planning Commission, Chair Wintzer thanked the Staff for their work on the General Plan for Bonanza Park. It was an incredible job and the entire Staff spent many hours. As a thank you, the Planning Commission presented the Staff with a card and a gift card for lunch.

Chair Wintzer also thanked Commissioner Thomas for his efforts and involvement working with the Staff to complete the General Plan for Bonanza Park. He was certain the end result showed the talent that Commissioner Thomas had contributed.

CONTINUATION(S) – Discussion, Public Hearing and Possible Action

Land Management Code – Amendments to Chapter 10 for Special Exceptions and Chapter 15 for Definitions of Special Exceptions. (Application #PL-11-01418)

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

MOTION: Commissioner Thomas moved to CONTINUE the LMC Amendments to February 22, 2012. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **60 Sampson Avenue – Conditional Use Permit (Application #PL-11-01369)**

Planner Matt Evans stated that it has been several years since Park City approved a nightly rental application. Nightly rentals are conditional uses in some of the residential zones in the City. The property at 60 Sampson Avenue is located in the HRL zone, which requires a conditional use permit for nightly rentals in the zone, per LMC Chapter 15-2.1-2.

Planner Evans noted that the Staff report outlined a number of criteria for review when considering a conditional use permit. He pointed out there was not a separate set of criteria for considering a nightly rental use.

Planner Evans reviewed the request for a conditional use permit for a home located at 60 Sampson Avenue. He presented slides showing an aerial view and the reviewed the zone designation. The structure is a 3,800 square foot single family home, and includes an oversized one-car garage and a driveway area leading to the garage. One of the criteria requires that the nightly rental can provide two off-street parking spaces.

Planner Evans stated that the home at 60 Sampson Avenue is located on the Historic Homes Inventory. A permit was pulled in 2007 for a remodel and the project was recently completed. A 2,000 square foot addition was added to the home. The number of bedrooms and bathrooms show that the house is a substantial size. The applicant would like to rent the home for nightly rentals, which is allowed under a conditional use permit, as long as the rental period does not exceed 30 days.

Planner Evans reviewed the list of criteria for considering nightly rentals as outlined in the Staff report. Criteria 2 addressed traffic considerations. Currently the home is used as a second residence for the owner. The Staff recognized that traffic impacts from a nightly rental would be greater than those associated with a single family dwelling. However, since the criteria is not specific to nightly rental, it does not ask the Staff analysis to make extra considerations for that use. Criteria 5 addressed off-street parking. Due to the driveway, by definition it would meet the requirement for two off-street parking spaces.

The Staff recommended that the Planning Commission approve the conditional use permit for a nightly rental based on the findings of fact, conclusions of law, and conditions of approval as indicated in the Staff report.

Planner Evans reviewed the conditions of approval outlined in the Staff report.

Jan Maltby, the applicant/owner stated that they have owned the house since 2004 and never planned to rent it. She was born and raised in Utah and even though it is their second home, she considers it home because her whole family lives in Salt Lake. Ms. Maltby remarked that renting was not their first choice but life changes made the decision. She wanted the neighbors to understand that they would be very careful about who they rent to because it is their home.

Chair Wintzer opened the public hearing.

Carol Sletta, a resident at 135 Sampson, stated that she lives two doors down and across the street from 60 Sampson. Ms. Sletta remarked that within the last ten days their neighborhood had been turned up-side-down. She was unsure whether several people were renting or whether it was one family in the neighborhood; but taxis come and go, fireworks are set off late at night, trash overflows the trash cans. Ms. Sletta suspected that the disruption was caused by nightly renters. She had called Shelly Hatch in the License Department to ask who had permits for nightly rentals in the neighborhood, and Ms. Hatch told her no one on Sampson Avenue had a nightly rental license. Ms. Sletta stated that people drive too fast. Those who live there and know the neighborhood make it a point to slow down. With all the taxis and traffic, the situation would be much worse if there was snow this winter. She was concerned about losing the neighborhood to people who do not live there or care about the community. When she first moved to Sampson in 1979 nightly rentals were not allowed. Later an ordinance was passed to allow nightly rentals in the neighborhood, and it was done without notice to the neighbors. Ms. Sletta believed the neighborhood needs to remain a neighborhood and a safe place in Park City.

John Phillips, a resident on Norfolk agreed with all the comments made by Carol Sletta. He had also noticed excessive activity in the neighborhood and it was very apparent that many people were occupying one house. Mr. Phillips believed that Ms. Maltby would screen her renters; however, the neighbors adjacent to his home rent their house on occasion and even though they try to screen their renters, many times the renters were deceptive. Based on the location and the quaintness of their small neighbor, he was concerned that a nightly rental would create a large impact to the rest of the neighborhood. Mr. Phillips was also concerned about parking and traffic. With a 3800 square foot four bedroom home, he could envision a large number of people in the house.

Jimmy Weinberg, a resident at 201 Upper Norfolk, stated he is a former city employee who is now retired. He worked in the parking department and for the public works department. In that neighborhood the streets are extremely narrow. During his time with the City, they prided themselves on trying to create neighborhoods. He believed that a nightly rental would be a detriment to the neighborhood on Upper Norfolk. Mr. Weinberg referred to condition of approval #5, which spoke about the inclement weather and the difficulty of trying to reach the residence and the possibility of having to park at the China Bridge parking structure. He noted that there are three sets of steps and over 250 stairs from China Bridge to Upper Norfolk. Sampson Avenue is extremely narrow and two vehicles cannot pass. Mr. Weinberg urged the Planning Commission to consider all the impacts and to remember what the City is trying to create in town. He did not want to take rights away from the owner, but he felt the request was inappropriate for the street.

Ruth Meintsman, a resident at 305 Woodside, stated that her neighborhood on Woodside is mostly nightly rentals and she wanted to comment on the impacts. Ms. Meintsma understood that Park City thrives on nightly rentals and it is great that people can come to Park City for a short stay and have a good time. However, there are serious impacts. She lives across the street from a four bedroom nightly rental. That house has a garage and one parking spot in the driveway, but usually there are always three vehicles and those cars are always in motion. She believed it was due to the fact that visitors do not understand the logistics of Old Town and how to get around without a vehicle.

Ms. Meintsma stated that trash was also an incredible problem. Typically on a three day rental stay the trash can is filled double and it remains on the street for most of the week until the trash is picked up on Thursday. Ms. Meintsma suggested that the only way that type of impact could be mitigated would be through intense communication between the owners and the renters, as well as the neighborhood. As an example, the owner could compile a list of email addresses and use that as a way to inform the neighbors of the name of the renters, how long they would be staying, and the number of people expected to occupy the house. This would enable the neighbors to introduce themselves and help the renters to understand the logistics of Old Town. Ms. Meintsma believed that would help resolve the current miscommunication with nightly rentals and solve many of the problems.

John Phillips stated that he lives next door to a duplex that has been used for nightly rentals for years. There have been no problems, but they have a huge parking lot and it is not located on Sampson, which is more narrow than his road. He clarified that he was not opposed to nightly rentals in the neighborhood, but he was concerned with nightly rentals in that particular area.

Chair Wintzer closed the public hearing.

Chair Wintzer stated that the HRL zone was created for his neighborhood 35 years ago for the purpose of creating a neighborhood for primary residents. They did not want nightly rentals or duplexes. When the HRL zone moved across the canyon, everything that his neighborhood did not want was put into a conditional use. Chair Wintzer believed that nightly rentals takes away from a neighborhood and changes the nature of that neighborhood. He was unsure what could be done now since it is a conditional use in the zone per the LMC. Chair Wintzer personally thought the Planning Commission should look at changing the requirements in the LMC, even though it would not apply to this application.

Commissioner Hontz appreciated the public input this evening because it validates the negative impacts she sees and lives with every day as an Old Town resident. Commissioner acknowledged that some of the impacts were from long-term rentals as well as nightly rentals, and she believed that some of the nightly rental impacts could be mitigated. In order to support the requested CUP, she would need to have public health, safety and welfare concerns addressed, along with criteria 2,4,5 and 14, which relate to on-site parking and access. She noted that many homes in Old Town have garages and parking pads, however, renters are locked out of the garages because the owners store their personal belongings in the garage. Many renters who do have garage access prefer to park on the street rather than take the time to open the garage. Commissioner Hontz appreciated that Planner Evans had pointed out that parking is not allowed on Sampson, but that does not always deter renters. It is a huge impact to the residents to have to call the City to enforce illegal parking and an additional impact to the City to enforce it.

Commissioner Hontz pointed out that 60 Sampson is a large home. The renters could most likely have more than two vehicles and there is not room on the site to accommodate more than two. She did not believe the suggestion to park at China Bridge was a reasonable solution. Commissioner Hontz noted that this winter is abnormal weather because snow is the normal for Park City. She wants snow in Park City and slippery and hard to drive roads. She could not understand why the City would create more problems that would need to be resolved in the future by allowing nightly

renters in that area. Commissioner Hontz remarked that Sampson Avenue is the most challenging street in Old Town for access and size. She thought they might be able to meet the requirements to allow the conditional use permit, but she questioned whether it was worth it in terms of approving this type of use. She also questioned whether the CUP could be rescinded if there were consistent problems.

Assistant City Attorney, Polly Samuels McLean, clarified that a conditional use is an allowed use as long as the impacts can be mitigated. She asked if Commissioner Hontz was concerned that the impacts could not be mitigated in this location due to the lack of parking and other constraints.

Commissioner Hontz replied that she would be comfortable with the CUP if someone could convince her that the impacts could be mitigated. She believed some of the impacts could be addressed through the rental agreement; however, if the impacts were not mitigated, the burden would fall on the neighbors to resolve it. She was also concerned that if the conditions are not met and the impacts are not mitigated, it would take additional time to rescind the CUP.

Assistant City Attorney McLean pointed out that the legal criteria is whether or not the impacts can be mitigated. She understood that Commissioner Hontz was saying that if the impacts were difficult to enforce, they could not be mitigated. Commissioner Hontz replied that it was her concern, but she was willing to listen to other Commissioners if they could find a way to resolve that issue.

Commissioner Hontz stated that trash is a problem throughout Old Town with nightly rentals. She concurred with Ms. Meintsma that the property management company cleans the day after trash pickup, and the trash sits there for a week. Trash on the street erodes the experience for both residents and guests.

Commissioner Thomas understood that the concern was who would rent the house and assumptions on the number of people who would occupy the house. More occupants create more trash and more parking issues. He pointed out that the Planning Commission could not control that aspect, which is similar to the fact that they could not control who purchases a house or who rents it long term. He noted that an owner or long-term renter with a large family generates a lot of cars and a lot of trash, but that is completely allowed and acceptable. He could not see much difference between that occurring with a long-term renter versus a short-term renter. Commissioner Thomas remarked that the HRL zone was created to accept these conditional uses. He believed the impacts could be mitigated the same as with the normal community.

Commissioner Hontz remarked that the difference is that if someone lives there long-term, it is easier for a neighbor to talk to them face to face regarding a problem. It is more difficult to talk to someone renting short-term because they are leaving soon and do not care to address the problem. Commissioner Hontz appreciated Commissioner Thomas' comments, but she believed there was a significant difference between the two.

Commissioner Thomas still thought they were making assumptions on who would be renting the house. He was comfortable with the conditions and believed the impacts could be mitigated. Commissioner Thomas thought the issues begged a conversation on re-evaluating some of the

zones in terms of conditional uses and allowed uses. However, the Code is clear for this application and he was not opposed to the requested CUP.

Commissioner Savage concurred with Commissioner Thomas. Based on the comments this evening, he found nothing that would cause him to think that the impacts associated with nightly rentals would be materially different than the impacts that exist from the people who already use the house. Commissioner Savage noted that the Staff analysis indicates that there are no unmitigated impacts and he had not heard anything to make him think otherwise. Based on legal advice, if that is the case, the Planning Commission has an obligation to approve the application.

Commissioner Strachan stated that he heard evidence of unmitigated impacts from three separate people who have nightly rentals in their neighborhoods. He did not believe a rental agreement was an effective tool to mitigate the impacts because the landlord has no incentive to enforce the rental agreement. Once the landlord receives the money he is often an absentee party. Commissioner Strachan remarked that a CUP is infinite and once it is granted it cannot be taken away. They could assume that the impacts of a nightly rental are the same as the impacts of a primary resident family, but if that assumption is wrong, they cannot rescind the CUP. Commissioner Strachan pointed out that it only takes three or four instances of disagreeable and uncooperative nightly renters to make the impacts different than the impacts created by a permanent resident. He could not find the ability to mitigate the impacts of nightly rentals in this application.

Commissioner Strachan believed the LMC should be amended to only allow nightly rentals on the streets that immediately surround Main Street.

Chair Wintzer remarked that Condition of Approval #5 regarding the China Bridge was unrealistic and it could not be enforced. If the street is so difficult that it requires that type of a condition, it indicates that the impact was unmitigated.

Ms. Maltby remarked that the house could also be accessed from King Road, which would address concerns regarding emergency vehicles. There is no parking but there is direct access to the house. King Road is a two lane road and much wider than Sampson. Ms. Maltby stated that she has owned the house since 2004 and has never had a problem accessing the house due to bad weather. Chair Wintzer replied that the difference was that Ms. Maltby had a four-wheel drive vehicle and had lived in Park City long enough to understand the road and weather conditions.

MOTION: Commissioner Strachan moved to DENY the conditional use permit application for nightly rentals at 60 Sampson Avenue. Commissioner Hontz seconded the motion.

VOTE: The motion passed 3-2. Commissioners Hontz, Strachan and Wintzer voted in favor of the motion. Commissioners Thomas and Savage voted against the motion.

Ms. Maltby asked if she had any recourse against their decision. Chair Wintzer advised Ms. Maltby that she was entitled to the appeal process and her project planner could explain the details.

**2. North Silver Lake, Lot 2B – Extension of Conditional Use Permit
(Application #PL-11-01392)**

Commissioner Thomas recused himself from this item and left the room.

Planner Evans reviewed the request for a one-year extension of the conditional use permit for the North Silver Lake Lot 2B Subdivision. The original CUP was approved on July 8, 2008 for the North Silver Lake Lodge. The first one-year extension of that CUP was granted by the Planning Director and that decision was appealed to the Planning Commission and then to the City Council. On July 20th, 2011 the City Council upheld the decision by the Planning Commission to uphold the Planning Director's decision to grant the extension. Planner Evans pointed out that the appeal process actually gave the extension 20 additional days and that extension was set to expire on July 21, 2012. If this request for a second extension is granted, the CUP would expire on July 21, 2013.

Planner Evans noted that the Staff report identified the appropriate sections in the LMC that allows a conditional use permit to receive two extensions; one from the Planning Director and a second from the Planning Commission, as long as the conditional use permit meets specific criteria. The first criteria was no change in circumstance that would result in unmitigated impacts. The second criteria was that the extension would not result in finding of non-compliance with the Park City General Plan or the Land Management Code in effect at the time of the extension request. Planner Evans pointed out that there have been no Code changes and no physical changes to the property, other than the landscaping that the applicant was required to do as a condition of the CUP.

Planner Evans noted that the Staff report mentioned that the applicant was required to bond to fill in the hole on the property. Attached to the Staff report was the original Staff report from the June 24th, 2010 meeting where the conditions specify that the financial guarantees included re-vegetation of the perimeter enhancement capping of new disturbances and previous disturbances and clean up of all staging areas on site. Planner Evans clarified that the requirement was not to fill in the actual area that was excavated but to actually cap it. The required work was done and the condition was met. In addition, the landscaping that was required on the perimeter was installed and it has grown substantially.

The Staff recommended approval of the one-year extension to the Conditional use permit. Chair Wintzer asked if the grass seed came up. Planner Evans replied that it had been inspected. He did not believe all the seed came up, but the expectation was that another growing season would produce additional growth. Planner Evans stated that the Staff has been talking with the applicant regarding the bond issue and the applicant is willing to keep a certain amount in the bond to ensure that the area is re-vegetated as required.

Doug Clyde, representing the applicant, stated that the Building Department had inspected the vegetation in the early Fall and determined that there was sufficient growth to consider the site re-vegetated.

Planner Evans reported that written public comment was received and provided to the Planning Commission. The Planning Commission has also been provided with a copy of the time line to address noticing questions raised by the public. Planner Evans stated that on the day the property was to be noticed, he noticed North Silver Lake at 60 Sampson and immediately realized his

mistake. For that reason, both North Silver Lake and 60 Sampson Avenue were continued to this meeting and both properties were re-noticed properly.

Planner Evans stated that the property owners were mailed two notices. One was for the first meeting, where both items were continued. Second notices were sent to the same group of individuals for this meeting.

Chair Wintzer opened the public hearing.

Bob Dillon, an attorney with Jones Waldo, stated that he was representing 29 surrounding neighbors and several HOAs. Mr. Dillon is also a resident in the American Flag Subdivision. Regarding noticing, he had checked the website last week to see if there would be a Planning Commission meeting this week. The website showed the meeting as tentative, and he did not think the Planning Commission would be meeting. He only found out about this meeting yesterday. Mr. Dillon stated that he does not receive courtesy notices, even though he has been involved with the North Silver Lake process. He would appreciate a courtesy notice for future meetings.

Mr. Dillon remarked that the people he represents did not oppose the requested extension. However, that does not mean they like the project. They have always felt that it was incompatible with the surrounding development and it was too large. They have made a point of arguing that compatibility includes construction. To wait 25 years to build a project after all the surrounding properties and neighborhoods have been built out questions the compatibility issue. However, it is critical to complete the project in a timely manner once it is started and to do it in a way that does not unduly burden the surrounding neighborhoods. Mr. Dillon clarified that completion and timing were his clients' main focus.

Mr. Dillon reiterated that his clients did not intend to oppose the CUP extension, but there were points in the Staff report that he wanted to address. He referred to Finding of Fact #8 and questioned the wording. Mr. Dillon objected to the second sentence in Condition of Approval #2, "Continuing construction and validity of building permits is at the discretion of the Chief Building Official and Planning Director". He believed that it was inappropriate to say that the Chief Building Official and the Planning Director have the discretion to determine the validity of their own actions. Mr. Dillon recommended striking that sentence from the condition of approval and replacing it with language stating, "Any subdivision of land, issuance of building permits and construction of structures or improvements must be done in compliance with the Park City Land Management Code".

Mr. Dillon stated that in connection with the appeal that Lisa Wilson did last year, an applicant filed for a building permit to build one unit. That application for a building permit triggered neighborhood discussions with the developer and their contractor. Mr. Dillon wanted it clear that his clients understand that these are developers who are doing what developers do. They had good conversation in the process and the neighbors were able to meet the contractor. Mr. Dillon believed that the Planning Commission had punted the phasing plan to the Building Department when permits are pulled, rather than review it themselves. Mr. Dillon stated that after several neighborhood meetings, the decision made by the Chief Building Official, Chad Root, resulted in a phasing plan that would reduce the time frame for the entire development to seven years after

issuance of the first building permit. An exception was given to the perimeter houses, which were not subject to the seven year time frame. Mr. Dillon remarked that the neighbors did not love the seven year period, but felt it was better than the 25 year period.

Mr. Dillon reiterated the request to complete the project once it is started so the neighbors are not forced to live with a half-built project.

A homeowner at 19 Grosvnor Court, supported the comments made by Bob Dillon. They realize that there is going to be development and the main issues are density and timing. He supported the concept of developing the property quickly as opposed to dragging it over a long period of time. He believed there should be some restrictions on how long the individual houses can continue to be phased into this project. He clarified that he was speaking for himself, but he has spoken with many other property owners who share his views.

Lisa Wilson, a full-time resident of North Silver Lake, stated that people were not noticed for this meeting. She learned about this meeting yesterday. She saw Bob Dillon around 4:30 p.m. and found that he was unaware of the meeting until she told him. She spoke with others who had not received a courtesy notice, including Tom Boone, the person who has been instrumental in keeping the neighbors informed and helping to pay for legal counsel.

Ms. Wilson thanked the developer for putting in the vegetation. The front looks much better and the trees were growing and blocked the Deer Valley pit. Mr. Wilson had concerns as to whether this project actually meets the Land Management Code and the Deer Valley Master Plan. She filed a complaint with the State of Utah Department of Commerce and they issued an advisory opinion. In that opinion, according to the lead attorney for property rights, there is a 3.02 acre TDR for Belmont. Ms. Wilson stated that the conditional use permit says there is 3.7 acres. She explained how the acreage was calculated to reach that number.

Chair Wintzer informed Ms. Wilson that the extension of the conditional use permit was the issue for discussion and comment. He clarified that the history of the CUP and whether or not the original decision was right was not relevant and had already gone through the appropriate appeal process. He asked Ms. Wilson to focus her comments on the CUP extension that the Planning Commission would be voting on this evening.

Ms. Wilson asked if the City made an error in their decision if that no longer mattered. Chair Wintzer replied that it was not an issue for the Planning Commission because it was not the decision they were being asked to make this evening. The Planning Commission would only be voting on whether or not to extend the CUP. Chair Wintzer clarified that the question of the original decision had been addressed through the appeal process.

Ms. Wilson noted that the TDR uses four acres of Deer Valley Resort land, and of that land approximately 2 acres is ski run. She pulled up the property tax record and found that the property tax for the open space parcel is \$55.76. That helps build 74 units.

Mr. Wintzer again asked Ms. Wilson to focus her comments on extending the CUP.

Ms. Wilson found it odd that such a large parcel has virtually no property tax. She was curious to know if there were records of TDR sales and how much a TDR sold for. Chair Wintzer stated that the Planning Commission was not prepared to answer that question and recommended that Ms. Wilson ask her City Council representative.

Ms. Wilson agreed that the developer has a right to build on the property, but she felt the project was much too large. She found it curious that people were not noticed, that the Planning Commission meeting was not posted on the event calendar, and that the primary person in charge of coordinating opposition to the project did not receive a notice.

Chair Wintzer asked if Assistant City Attorney McLean was comfortable with the noticing process for this project. Ms. McLean replied that she was satisfied with the process based on what the Staff provided and put into the Record. It was posted properly and published and she was comfortable that it was done within the proper requirements.

Chair Wintzer closed the public hearing.

Richard Lichtenstein, representative for the applicant, stated that he had had a number of conversations with Mr. Boone over the last several months, and he was remiss in telling Mr. Boone that the December meeting had been moved to January. Mr. Lichtenstein stated that if courtesy notices do not go out from the City, he would endeavor to reach out to Mr. Boone and his representative in the future. He noted that the owners are committed to build this project. They are as committed today as they were before to work with the neighbors as they have over the last three or four years, and more specifically last year. They understand the challenge of building an infill project with existing homes and they will continue to work with the neighbors to mitigate the impacts as they get closer to pulling a building permit.

Mr. Lichtenstein commented on the pit itself and the trees that were planted. Once the snow melts in the Spring they intend to make sure that the trees that were planted are living and that the vegetation planted in the pit is growing.

MOTION: Commissioner Savage made a motion to APPROVE the North Silver Lake Conditional Use Permit Extension to July 21, 2013 in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report.

Commissioner Strachan was prepared to second the motion but thought they should first discuss amendments to the Findings of Fact and Conditions of Approval. Commissioner Strachan thought Finding #8 was a typo and should be eliminated completely. Commissioner Hontz agreed that the existing language should be removed, but it should be replaced with appropriate language. She believed that finding of fact #8 for this application should be the same language as finding of fact #7 in the previous approval.

Commissioner Strachan asked if the findings were for this extension only or whether the findings from the original CUP and first extension needed to be included. Assistant City Attorney McLean replied that the conditions of approval of the prior CUPs were incorporated. Commissioner Strachan pointed out that the findings of fact from the previous approvals were already on record

and since they were not making changes, those findings did not have to be re-stated for this application. Commissioner Hontz was comfortable with that explanation and agreed with deleting finding #8.

Commissioner Strachan referred to Condition of Approval #2 and understood that the intent of the condition was to say that the CUP extension automatically expires if a building permit is not issued. If a building permit is issued, once construction begins the extension stops. He was told this was correct. Commissioner Strachan suggested that they revise Condition #2 to read, "This approval will expire July 21, 2013, 12 months from the first extension of the CUP". The remainder of the language regarding the building permit was deleted since it is already addressed in the Code.

It was noted that deleting Findings of Fact #8 would change the number of Findings and the numbering should be revised.

AMENDED MOTION: Commissioner Savage amended his motion to incorporate the deletion of Finding of Fact #8 and the revised Condition of Approval #2 as stated. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously. Commissioner Thomas was recused.

Findings of Fact – North Silver Lake, Lot 2B

1. The subject property is at 7101 North Silver Lake Drive. This property is also known as Lot 2B of the North Silver Lake Subdivision.
2. The proposed development is located within the Deer Valley Master Plan Development.
3. Within the Deer Valley Master Plan, the North Silver Lake Subdivision Lot 2B is permitted a density of 54 residential units and 14,525 square feet of commercial and support space.
4. The North Silver Lake Subdivision Lot 2B is 5.96 acres in area.
5. The Deer Valley Master Planned Development (MPD) requires that all developments are subject to the conditions and requirements of the Park City Design Guidelines, the Deer Valley Design Guidelines, and the conditional use review of the LMC Chapter 15-1-10.
6. The property is located in the Residential Development zoning district (RD) and complies with the Residential Development ordinance.
7. The property is within the Sensitive Lands Overlay Zone and complies with the Sensitive Lands Ordinance.
8. The Planning Commission held public hearings on the original CUP on August 13, 2008, October 22, 2008, February 25, 2009, May 27, 2009, and July 8, 2009 and approved the CUP on July 8, 2009.

9. The Planning Commission approval of the CUP was appealed to the City Council and on November 12, 2009, the City Council remanded the Conditional Use Permit back to the Planning Commission with three specific items to be addressed within the order.
10. The Planning Commission approved the revised Conditional Use Permit on April 28, 2010.
11. The revised CUP was appealed to the City Council and on July 1, 2010 the City Council approved the North Silver Lake Lot 2B Conditional Use Permit.
12. On March 17, 2011 the Planning Department received a complete application for an extension of the Conditional Use Permit. The extension request was submitted prior to the expiration of Conditional Use Permit. On April 28, 2011 the Planning Director approved the one year extension to July 1, 2012.
13. An appeal of the Planning Director's approval was heard on June 8, 2011 by the Planning Commission. The Planning Commission voted to uphold the Planning Director's decision to grant the extension of time as requested by the applicant.
14. The Planning Commission's decision was appealed to the City Council and on July 21, 2011 the City Council voted to uphold the Planning Commission's decision and approve the extension until July 21, 2012.
15. Within the July 1, 2010 approval, Condition of Approval #18 states, "A bond shall be collected at the time of Conditional Use Permit Approval to ensure that the existing impacts of the site will be repaired at the time of CUP expiration or extension. At such time, the existing rock area of the site shall be capped with soil and re-vegetated and new landscaping along the perimeter entrance shall screen the view into the project. If a building permit is issued within one year, this bond shall be released." This condition was met prior to the first extension request and the applicant has since capped the roc area with soil and has re-vegetated the area with new landscaping along the perimeter entrance as required.
16. The Building Department collected a bond to ensure that the existing impacts of the site will be repaired at the time of CUP extension. The landscape plan includes re-vegetating the disturbed area including top soil and native grasses, planting eighteen (18') new trees that vary in height from 10 to 12 feet, and installing an irrigation system for the establishment of the grass and ongoing watering of the new trees. This work has been completed and the Building Department has released the bond.
17. On October 27, 2011 the applicant submitted a request for an additional one year extension of the Conditional Use Permit to which is currently set to expire on July 1, 2012. The new extension will expire on July 21, 2013.
18. The Conditional Use Permit Criteria within LMC Section 15-1-10 has not changed since the July 1, 2010 City Council approval.

19. The Conditional Use Permit application for North Silver Lake Lot 2B has not changed since the July 1, 2010 City Council Approval. There are no changes in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or Land Management Code.
20. There have been no changes to the application or the approved plans since the first extension of time was granted on June 8, 2011 by the Planning Commission (and upheld by the City Council on July 21, 2011).

Conclusions of Law – North Silver Lake, Lot 2B

1. The application is consistent with the Deer Valley Master Planned Development and the park City land Management Code, particularly Section 15-1-10, Conditional Use Permits.
2. There are no changes in circumstance that would result in an unmitigated impact or that would result in a finding of non-compliance with the Park City General Plan or Land Management Code.

Conditions of Approval – North Silver Lake, Lot 2B

1. All conditions of approval of the City Council's July 21, 2011 order continue to apply.
2. This approval will expired July 21, 2013, 12 months from the first extension of the CUP.
3. Approval is based on plans reviewed by the City Council on June 24, 2010. Building Permit plans must substantially comply with the reviewed and approved plans. Any substantial deviation from this plan must be reviewed by the Planning Commission.

Commissioner Hontz commented on noticing. She believed the City did a good job of accomplishing the legal noticing requirements; however, she thought it was important to make sure that the people who are interested and want to attend meetings are made aware in a way that goes beyond the legal parameters.

Assistant City Attorney McLean informed the public in attendance that the City has e-notify and it is simple to sign up on the website. E-notify enables those who sign up to get all the Planning Commission agendas and it reminds people that the Planning Commission is meeting. Director Eddington remarked that e-notify users are also noticed for City Council, Planning Commission, Historic Preservation Board, and Board of Adjustment meetings if they sign up. Ms. McLean clarified that e-notify would not substitute the current courtesy notice process, but it is another source of information.

Ms. Wilson noted that e-notify is not posted until Friday, which leave little time to prepare if there is an item on the agenda. She asked if there was some way to obtain the agendas more in advance. Ms. McLean remarked that Park City notices more in advance that what the State law requires. The

legal notice is published in the Park Record two weeks prior to the meeting. The actual agenda for the meeting is posted on e-notify on Friday with the Staff report for the Planning Commission meeting on Wednesday. Ms. McLean stated that the packet is not prepared until Friday, which makes it difficult to provide the information sooner. The Staff could have an internal discussion to see if there were other ways to publish the legal notice.

The Planning Commission adjourned the regular meeting and moved into work session for legal training.

The Park City Planning Commission meeting adjourned at 7:15 p.m.

Approved by Planning Commission: _____