PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
AUGUST 21, 2008

Present: **Mayor Dana Williams; Council members Candace Erickson; Roger Harlan; Jim Hier; Joe Kernan; and Liza Simpson**

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Ken Fisher, Recreation Manager; Diane Foster, Environmental Affairs Manager; and Crystal Ward, Sustainability Project Coordinator

Dave Nicholas, IBI Group

1. Council questions/comments. Liza Simpson reported on business conducted at the Historic Preservation Board meeting and Candace Erickson discussed results of a report on impaired driving arrests conducted by the Park City Prevention Awareness Coalition. She also addressed projects contemplated at the Farm and shared discussions from the Envision Utah meeting on planning for growth and population. Roger Harlan noted that he and Council member Hier attended the Transportation Summit and he commended Kent Cashel for organizing the productive session. He spoke about the good working relationship between the City and UDOT and a program to encourage school children to walk and/or bike to school. Mr. Harlan referred to the outstanding membership on the Art Advisory Board. Jim Hier interjected that the Summit Land Conservancy Trust met; the organization received a $150,000 agricultural protection grant to acquire easements in the east side of the county. PCMR agreed to donate one of its ski days to SLCT two or three years out.

Mayor Williams reported that he was contacted by the Conference of Mayors this week asking for support of an amendment to the International Building Code committee to achieve a 30% increase in the efficiency of buildings. Park City joined the effort based on the recommendation of our Chief Building Official. He discussed meeting with an individual on new technology converting diesel engines to propane and pointed out that the City's buses are only getting four miles to the gallon. The $2,500 conversion per engine more than doubles mileage to 11 or 12 miles to the gallon and eliminates black smoke emissions from diesel vehicles. He spoke about the honor of introducing the Chinese acrobats at Deer Valley. The Mayor stated that he and Council member Simpson met with the Leadership Class about banning plastic bags and he indicated that a lot more research needs to be done before pursuing this project, especially an associated ordinance banning plastic bags. There are voluntary programs that may be more effective.

2. Creekside Park conceptual plan. Ken Fisher referred to the staff report. He relayed that last year RAB was directed to develop a master plan for a neighborhood park off of Holiday Ranch Road at the old sewer treatment plant site. Staff presented the conceptual designs to the neighborhood at an open house in April and that input has been incorporated into the revised schematics. Public comments are included in the packet.

Dave Nicholas expressed IBI's excitement about working on a project promoting a legacy of connected and complimentary neighborhood parks throughout the community. RAB communicated the vision and goals for the project early in the process which are consistent with other neighborhood parks but this particular park is unique because of its potential to demonstrate and exemplify the adventurous spirit and character of the town. He added that some constraints of the site are unique including the fire station construction, wetlands, hillsides, well protection zone, and existing dirt park. However, there are also opportunities with these challenges such as including an educational component on water and leveraging the dirt park. Capitalizing on natural assets, providing passive inactive recreation and including innovative recreational ideas are among the goals so that future programs can be accommodated. The hillside will continue to be utilized during the winter for sledding and restrooms and parking are contemplated. He stated that they are working with the Fire District to obtain trail easements to ensure connections and in this case, lower and upper loop systems have been designed. One is hard-surfaced; the other is half soft and half hard-surfaced; there is a 360° view from the location which is amazing. Mr. Nicholas stated that the vision, goals and concept plan were presented to the neighborhood and there was good input which is reflected in the master plan.

He pointed out the radial pattern delineating the 100 foot protection zone around the wellhead and the opportunity to provide an educational element about water in this area. Providing play for all ages on a year-round basis is a strategy for Creekside Park and a gas fire pit, rest rooms, and shelter area for sledding are proposed. Mayor Williams asked if managing reservations would be necessary for use of the fire pit and shelter. Ken Fisher explained that there would probably be a set scheduled controlled by the City. He acknowledged receiving many questions on this element and referred to the operation of fire pit at The Canyons. Mayor Williams also expressed concerns about promoting sustainable practices and including a fire pit may not be perceived as green. Mr. Nicholas understood the focus on sustainability and addressed the possibility of using solar and constructing a green roof as demonstrations for the public. The Mayor suggested that rather than using a fire pit for heat to consider installing benches heated by solar. Discussion ensued about potential parking conflicts with the Fire District operations. Jim Hier asked for cost information for the fire pit adding that he is probably not in favor of it because of operation and maintenance concerns.

Liza Simpson questioned the high cost estimates for benches and bike racks and Mr. Nicholas pointed out that the racks can accommodate up to ten bikes. The Mayor relayed a story from Charleston, South Carolina where the public was able to *test* a variety of surfaces as part of the selection process of the material. He voiced his support of the elements of the project and its sensitivity to the neighborhood. Liza Simpson also complimented the design but could not support the fire pit. Roger Harlan was pleased to see the inclusion of the sledding hill and suggested that rather than using natural gas for the fire pit to provide recycled wood which could be stored at the site. There was no support from other members. Joe Kernan expressed that he is not totally against the fire pit because it forces people to interact but likes the idea of the heated benches which may have the same effect. He stated that he also likes the non-linear design of the park. Ken Fisher added that warming barrels could be used for special events with the permission of the Building Department.

3. Municipal carbon footprint report. Crystal Ward discussed contracting with the Environmental Performance Group of Salt Lake City in May to assess our carbon inventory baseline assessment for the years 1990 to 2007 which was completed on August 1. The project ranked high in the environmental strategic plan for 2007 and the data collection will be helpful in preparing the community carbon footprint. In 2005, the Mayor signed the U S Mayors' Climate Protection Agreement which set a goal of meeting the Kyoto Protocol of 7% reductions below 1990 levels. ICLEI is an organization bringing together local governments to work on ways to meet these goals by formulating an action plan and Park City is a member.

Ms. Ward continued to explain that a carbon inventory is the same as a carbon footprint, which measures the tons of greenhouse gases emitted. It is not the same as an ecological footprint which measures water, food and land use consumption by population. Carbon footprint strictly deals with measuring gases emitted in the atmosphere. She explained that data collection was rigorous but met international standard requirements. Three sources were researched as opposed to two mandatory sources and six gases were measured in the inventory. Direct sources of greenhouse gases come from heating and cooling buildings, fuel emissions from the City fleet and the public transit system. Indirect greenhouse gases include electricity which is in its own category because Park city does not produce electricity but consumes it. Group 3, other indirect sources, relates to an extra effort to measure business travel, employee commutes, and solid and recycling programs.

In 2007, PCMC emitted 17,003 tons of CO^2 equivalents while in 1990, emissions totaled 8,001 tons. The top three contributors are transportation, solid waste and energy consumption; discussion ensued relating to developing bio-diesel numbers for comparison purposes. Diane Foster explained that the ISO calculates diesel usage from tail pipe emissions and bio-diesel would be included in an ecological footprint. She referred to an illustration showing information by department and noted that the Water Department emits the most carbon because of its distribution and pumping demands and City transit is the next highest contributor because of fuel emissions. In order to gather 1990 information to compare with 2007, well known facts like square footage owned by the City was a helpful variable to use in calculations. Fleet inventory numbers were available and used for 1990 and 2007 comparisons and employee commuter assumptions were based on the number of employees in respective years.

Ms. Ward noted that the carbon footprint difference between 1990 and 2007 represents a 112% increase which is mainly due to growth. The number of employees has increased by 85% from 1990, the population increased by 79% and the county has experienced even a greater rate of growth. The Kyoto Protocol calls for a 7% reduction of emissions from 1990 levels by 2012 and it is likely that most communities who have signed on will not be able to meet that goal, especially communities impacted by growth. In 2009, the Kyoto Protocol which has been in place since 2003 will be re-evaluated in Copenhagen. Ms. Ward described the difficulty in benchmarking carbon footprints because there is no standard methodology for comparison purposes; staff chose the most rigorous and transparent approach available which is the ISO14000. She reiterated that this application requires researching two groups and Park City opted to explore a third; other cities may not. Often conversion factors are generalized and assumptions are not always relevant to local conditions. However, it is not impossible to compare data like percentages of similar emission sources and Ms. Ward illustrated a table comparing carbon inventories for Park City and Salt Lake City. Fugitive gases or escaped emissions from broken appliances were described. She discussed numbers in the Sale Lake comparison and data collected in other resort communities.

She explained that the look of one ton of CO^2 would be 4.5 inches thick spread out across a football field 45 yards wide by 120 yards long and adding 17,003 layers, Park City's carbon footprint would be 6,336 feet high. The Johnson Controls project is estimated to reduce greenhouse gas emissions in the City by 13.5% by March 2009 which is significant. It is felt that the Marsac Building and Racquet Club renovations and a new fuel monitoring program will result in energy efficiencies. Ms. Ward explained the idea of creating a green team in each department and consistently monitoring emissions. The Mayor acknowledged that meeting the Kyoto Protocol may be unlikely because of growth, but efficiencies can still be achieved.

4. Environmental Sustainability Plan update. Diane Foster referred to her staff report requesting direction from Council on establishing measurable objectives, enacting regulations, and/or providing financial incentive programs. Top priorities identified by Council members included increased recycling at City facilities and on Main Street and energy conservation within municipal facilities where energy audits were conducted. She explained that the Wasatch Back Environmental Alliance was dormant for about ten months but has since been reinitiated. She reported that Crystal Ward serves as a non-voting member and the group is community-operated and has its own advisory board. The City's role is participatory and other members include 25 non-profit, for-profit and/or governmental organizations. Ms. Foster advised that the Board of Adjustment reviewed and approved a special exception permit for two wind towers at Quinns Junction and IHC has expressed interest in constructing a tower as well. Promoting community education and creating partnerships is a focus of staff and an informational flyer will be mailed to citizens early next month. Staff will be recommending an award of contract to Council on the production of a community carbon footprint next week and she explained the RFP process.

Ms. Foster clarified that the prior environmental plan was a combination of goals and projects and staff is recommending that Council establish policies. Accordingly, projects can be categorized under each policy objective. She pointed out the variety of national, state and local approaches and spoke about the U S Mayors' Conference on Climate Change, T Bone Pickens plan for wind power, and Al Gore's initiative to eliminate dependence on fossil fuel produced electricity. Growth has significantly affected targets set by some cities. Salt Lake City announced revised goals of reaching 20% below 2005 levels by 2020 and by 2007 had already cut greenhouse emissions by 1/3rd on a municipal level. In response to a question from Liza Simpson, Ms. Foster distinguished between community and municipal projects and explained reaching goals. With regard to establishing a plan and setting numbers, it is often possible to reach 10% to 15% the first year but after that it becomes a lot more challenging. She asked if members preferred setting large numbers, increments or some combination thereof, and explained the concept of establishing a goal *from the bottom up* so that the plan is created by departments. It is already known that there will be an energy increase with water because of demands coming on line.

Mayor Williams acknowledged that many cities affected by growth will not be able to meet the high standards of the Kyoto Accord. He felt confident that with Johnson Controls and bio-fuel, the City could reach as much as an 18% reduction from 2006 by March 2009. He encouraged setting realistic and achievable goals and prefers the *bottom up* approach charging departments to set their own goals. Joe Kernan supported measuring from 2006 numbers and the *bottom up* approach in the short term. He expressed uncertainty about the City's ability to meet the standards of the Kyoto Accord by 2012 and would like more data before setting large goals. Roger Harlan hoped there may be another tier of *low hanging fruit* efficiencies and believed that wind power has significant potential in reducing carbon emissions. Ms. Foster explained that less challenging projects exist like the recently introduced fuel usage report and emphasized that now that fuel is being measured it can be managed. She felt that the best ideas will come from associated departments. Rocky Mountain Power is very concerned at the rate of growth in the region but if the population conserves, it may eliminate the need to build additional power plants.

Mayor Williams pointed out the higher pricing of kilowatts in the nation which provides incentives to explore alternate energy sources for those facing higher electricity costs.

Liza Simpson stated her support of the *bottom up* idea which also creates a sense of ownership among employees who may arrive at the best solutions. Jim Hier agreed that departmental objectives and plans make the most sense. Water is identified as the highest contributor to carbon emissions because of infrastructure demands and water is a very limited resource; Mr. Hier suggested it may be prudent to focus on both objectives at the same time. Financial incentives can be considered in the context of landscaping and associated irrigation improvements which will reduce water consumption and the carbon footprint. Discussion ensued on staff collecting and entering data on the ICLEI software.

Candace Erickson advised selecting employees who are committed to the sustainability effort to serve on environmental teams as opposed to automatically appointing department heads. Diane Foster agreed that the most successful programs are headed by invested individuals. Ms. Erickson pointed out that not all of the City's achievements are acknowledged as complete in the staff report. Diane Foster believed Council direction to be pursuing a *bottom up* approach, implementing operational efficiencies, and focusing on a municipal level both on carbon and water. She stated that she will return to Council in 12 weeks with an updated environmental strategic plan. Joe Kernan suggested outlining long and short term objectives.

Ms. Foster responded that this brings up the question of the timing of setting long term community goals which could be a process involving the public. Mayor Williams agreed that community buy-in is important. Joe Kernan interjected that he believes people are changing and are looking at sustainable practices as more of a responsibility even though it costs more. With regard to regulating practices by enacting ordinances, the Mayor felt it is worth exploring for certain issues but felt that there is potential buy-in from the public without *using the stick*. Regulating efficiencies may be more appropriate for MPDs and redevelopment projects. He stated that he wants to be very careful about legislation that may divide the community or pose liability to the City. Liza Simpson explained that initially the Leadership Class supported passing an ordinance banning all disposable bags, plastic and paper, but through research, learned that an outright ban wasn't the way to effect the change that they wanted to see happen. She felt that there may be instances were the Council should be in a regulatory role but others where the law is not going to achieve the intended outcome. Joe Kernan stated that he agrees with the Mayor's and Council member Simpson's comments. He encouraged focusing on actions that will have a big impact and didn't feel that banning plastic bags is as effective as other projects. Candace Erickson did not support government regulation and believed that peer pressure is much more effective in changing people's habits, especially in Park City, although she feels plastic bags contribute to landfill problems. She felt that there needs to be a public education component and would rather approach change that way. She encouraged pursuing financial assistance on federal and state levels for environmental programs and promoting house energy audits which has a financial incentive component. The Mayor pointed out that there may be projects in the future that the City may find worthwhile in regulating. The two grocery stores in town probably produce as much as 50% of the plastic bags here and there are voluntary programs that offset the cost of cloth bags.

Jim Hier suggested that all ordinance reviews contain an environmental impact analysis and financial incentives like fee waivers could be applied for as a part of the MPD review for projects incorporating environmental efficiencies. He described the difficulties Murray City experienced in enforcing an ordinance. Joe Kernan felt that incentives should be tied to water conservation, specifically irrigation. He is supportive of exploring higher water rates and limiting the area of allowable turf rather than requiring low flow toilets, for instance.

Diane Foster understood Council consensus on regulation to be that members support educational and advocacy components rather than passing laws. There is the possibility of exploring water conservation pieces which may be incorporated in the code. The Mayor summarized that Council is supportive of reviewing measurable objectives, but wary of regulatory requirements and financial incentives. Ms. Foster understood that Council is not interested in pursuing specific projects like banning plastic bags at this point, and the Mayor suggested that this detail be addressed at the Visioning Session in January. In the meantime, he suggested it would be productive to meet with Rocky Mountain Power about cost-sharing or grant opportunities.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
AUGUST 21, 2008

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Library and Education Center on Thursday, August 21 2008. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Jeff Schoenbacher, Environmental Specialist; Kent Cashel, Deputy Public Works Director; Katie Cattan, Planner; Phyllis Robinson, Public Affairs Manager; Gary Hill, Planning Manager; Kirsten Whetstone, Planner; and Brooks Robinson, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Joe Kernan disclosed that Talisker is among his recycling customers.

III PUBLIC INPUT *(Any matter of City business not scheduled on agenda)*

None.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF JULY 31, 2008 AND AUGUST 8, 2008

Joe Kernan disclosed that he will be abstaining from voting on the minutes of July 31 as he was not in attendance Roger Harlan, "I move approval of the work session notes and minutes of the meetings of July 31 and August 8, 2008". Candace Erickson seconded. Motion carried.

	07/31	08/08
Candace Erickson	Aye	Aye
Roger Harlan	Aye	Aye
Jim Hier	Aye	Aye
Joe Kernan	Abstention	Aye
Liza Simpson	Aye	Aye

V RESIGNATIONS AND APPOINTMENTS

Appointment of Police Chief Wade Carpenter as Deputy Fire Marshal of Park City, Utah – Jim Hier, "I move we formally appoint Police Chief Wade Carpenter as Deputy Fire Marshal". Liza Simpson seconded. Motion unanimously carried.

VI NEW BUSINESS *(New items with presentations and/or anticipated detailed discussions)*

1. Consideration of an Ordinance to approve an amendment to the 7447 Royal Street Amendment to the Record of Survey Plat – The Mayor opened the public hearing and hearing no input requested a motion to continue. Joe Kernan, "I move we move the 7447 Royal Street amendment record of survey plat item to a date uncertain". Roger Harlan seconded. Motion unanimously carried.

2. Consideration of a Professional Services Contract for the Bio-cell project in the amount of $350,000 in a form approved by the City Attorney – Jeff Schoenbacher explained that as part of the remediation plan for the Silver Creek Tailings site, the Prospector Drain is the final remedial measure. Staff has been working with the EPA to develop a plan for treating the water for heavy metals. With their assistance, staff created a test anaerobic treatment unit which has been operated and monitored since June 2004. Due to the success of the pilot, design work on the full scale treatment facility was coordinated, completed and approved by the EPA through the Upper Silver Creek Watershed Group. The Mayor commended Mr. Schoenbacher on his work on this project which was an alternative solution to disturbing wetlands. Liza Simpson expressed her surprise by the wide range in bid amounts submitted by two contractors. Jeff Shoenbacher explained that this is somewhat new technology, not something local businesses may be familiar with, and the bid that staff is supporting is in line with other specialists. The Mayor invited public input; there was none.

Joe Kernan, "I move approval of construction contract for the Bio-cell project". Liza Simpson seconded. Motion unanimously carried.

3. Consideration of a Construction Agreement for the Richardson Flats Road construction with DC Transport and Excavating Inc. in an amount not to exceed $452,377 in a form approved by the City Attorney – Kent Cashel explained that this represents the City's portion of the project relating to the Park and Ride. This section runs east from the entrance to the Wasatch County line. The procurement was conducted in compliance with all federal guidelines. The land represents the City's match, there is no cash, and staff believes the bid is a good contract for the City which is below the engineer's estimate. There was discussion about maintaining the use of the property as a park and ride and the cost of asphalt. Roger Harlan, "I move approval of a construction agreement for the Richardson Flats Road with DC Transport and Excavating Inc in an amount not to exceed $452,377". Joe Kernan seconded. Motion unanimously carried.

VII OLD BUSINESS *(Continued public hearings)*

Consideration of an Ordinance annexing approximately 286.64 acres of property located at the southwest corner of the SR248 and US40 interchange in the Quinn's

Junction area, known as the Park City Heights Annexation, into the corporate limits of Park City, Utah, and amending the Official Zoning Map of Park city to zone the property in the Community Transition Zoning District (CT) – Gary Hill explained that a final water agreement is not available for review at this point. He stated that the base density for market units is 148 and the maximum density is 1:1 to be determined through the MPD process. Park City Heights will have an on-site affordable housing obligation of 20% of the total number of market units. Twenty eight IHC units or 44.78 AUEs will be transferred to the site and neither the PC Heights units nor the IHC units would be counted in the density. He stated that Talisker's 16 units or 20 AUEs relating to The Montage would not be counted as part of the density. The balance of Talisker's affordable housing requirement after the on-mountain requirement is removed, would be counted as density above and beyond the 148 units. Gary Hill again confirmed the latter statement with members.

Jim Hier didn't feel that Talisker's requirement affects the 148 market unit number because it stands on its own but could be adjusted during the MPD process. In response to Jim Hier's additional comments, Gary Hill explained that subtracting Talisker's on-mountain requirement, leaves a balance of 74.75 AUEs. Subtracting the eight Prospector AUEs and the 13.75 Marsac Avenue AUEs, leaves a balance of 52.45 AUEs. He stated that staff understood that if Talisker were to build units in town as opposed to Quinns Junction, those units could be replaced at Quinns with *attainable units*. The intent was that the attainable units would incentivize building affordable units in town. Jim Hier pointed out that *attainable* needs to be defined. The development of units at Quinns Junction up to 74.45 units would not count as affordable housing but would be priced below market.

Candace Erickson disagreed. She stated that she is not excited about allowing more units at Quinns and increasing existing traffic problems. She is concerned about the density and felt that once the 74.45 units are built, the affordable housing requirement is met. The attainable units should not be added to the mix. Jim Hier suggested subtracting the 13.75 Marsac units from the 74.45 AUEs and not count the eight Prospector units because they could be put back on the market to be sold as relatively affordable housing stock. These eight units could be replaced with units at Quinns Junction, resulting in a total of 60 AUEs. Ms. Erickson stated that she has no problem with this suggestion.

David Smith, Esq. explained that Talisker has not received final approval on the Marsac MPD or the steep slope CUP. Jim Hier suggested leaving this option open. Mr. Smith added that the objective of the attainable housing is to provide more options in the market. Phyllis Robinson pointed out that affordable is tied to 80% of area median income in terms of price; attainable would probably fall at around 120% of the median income and/or tied more closely to a revised housing resolution. David Smith stated that Talisker will defer to the City.

Tom Bakaly stated that Council can cap the affordable housing at Quinns rather than setting an incentive creating attainable housing. He is concerned that Talisker's entire requirement will be met at Quinns rather than building affordable housing in town. Joe Kernan felt that attainable housing is a good trade-off. Candace Erickson stated that she does not want the project to grow significantly beyond the base density and what is required. Jim Hier believed the 74.45 number accomplishes this but is willing to reduce it further to 64 AUEs. He felt it important to be clear. David Smith stated that delays would be impactful; they are aggressively moving on the Marsac Project and the Daly Project will be submitted tomorrow. In response to a question from Liza Simpson, Mr. Smith advised that Marsac constitutes 10 single family units for about 15 AUEs and Daly proposes three duplexes for about eight AUEs, if approved. Jim Hier believed that if the approvals are not granted, at least 10 AUEs could be accommodated at Quinns Junction. Mr. Smith agreed it is conceivable but not practical because the site has to be designed as a whole.

Joe Kernan pointed out that the housing will not create traffic because it is already generated by people driving from Kamas or Heber. He understood the desire to keep density down but felt the more important goal here is to provide needed affordable housing or attainable units and he didn't think it should be counted against maximum density.

Candace Erickson reiterated her position that the units built in town should be deducted from the 74.45 AUEs affordable housing requirement to minimize the density at Quinns. She believes that 13 units will create 26 more cars on the road. Roger Harlan felt that *attainable* should be defined by dollar amount rather than formula. Phyllis Robinson stated that if Council is supportive of attainable units at PC Heights, she will work with the applicant to create a program which will return to Council for review and approval. Mayor Williams pointed out that capping appreciation on affordable housing may limit the owner's ability to move on to new housing. Attainable housing will still be a subsidized housing product. Ms. Erickson clarified that she would still like attainable housing defined and provided for as an option in the affordable housing resolution and Ms. Robinson noted that staff will be returning to Council with recommendations to revise the housing resolution with a defined ratio to calculate attainable housing units.

Jim Hier recommended defining AUEs in the annexation agreement itself as opposed to referencing the Flagstaff Development Agreement; all other units are set forth. He again suggested that 10 to 15 units be subtracted from the 74.45 AUEs and as an option, should the Marsac Avenue and Daly Avenue applications be denied, to reopen the MPD to allow for greater density. In response to a question from the Mayor, Council member Hier clarified that AUEs would be capped at 60 to 65. Mark Harrington affirmed that those could not be counted toward the 158 AUEs. Mr. Hier explained for the benefit of Joe Kernan, that those units built in town would be at least equal to 10 to 15 AUEs. He felt this addresses Ms. Erickson's concern about density at Quinns but he is comfortable with the 74.45 AUE number which he feels is workable, and agrees with Mr. Kernan analysis about commuter traffic. He indicated that he could make a motion to cap the AUEs at 74.45 and anything that gets approved in town can substitute attainable housing within that 74.45 requirement. Further, the affordable housing unit would be required to meet the 800 square foot requirement outlined in the housing resolution. David Smith stated that Talisker is very concerned about meeting deadlines because of unanticipated delays. Candace Erickson felt there should not be an ability to transfer affordable housing credits to another developer. Jim Hier agreed that these properties can not satisfy any other development's affordable housing requirement. Mayor Williams reiterated Mr. Hier's proposal for density. Liza Simpson stated that she is more comfortable taking 10 units off the table. Joe Kernan agreed with Mr. Hier's position while Roger Harlan agreed with Ms. Erickson and favored the reduction in density. The Mayor acknowledged the majority's support of capping AUEs at 54.45 for the purpose of facilitating 10 or more units of affordable housing built in town. Liza Simpson pointed out that in consideration of the 23 AUEs currently being processed for in-town housing, 10 is a good number. David Smith asked members if they are willing to consider moving the deadline next summer in the event these applications are not approved. In the short term, Mr. Hier did not view defining a cap as a problem since 15 could be built at Quinns first, meeting the upcoming obligation next summer. Of the 74.45 units, eight will be satisfied with the Prospector units so Talisker only has two more units that are being impacted. The Mayor stated that the majority favors decreasing the number to 64.45 which is an incentive to build in town. Mark Harrington questioned the strength of the incentive because Talisker may want to fulfill its obligation immediately at Quinns which is dependent on Talisker's goals for the attainable housing. The Mayor reiterated that the majority supports a reduction to 64.45.

Gary Hill asked members if they are comfortable swapping out affordable for attainable for anything that gets built in town above and beyond the 64.45. The Mayor requested clarification. Mr. Hill explained that if they build an additional 20 affordable units in town, they could convert 20 of the 64 AUEs to attainable. Liza Simpson requested that the agreement is clear that these are built units not purchased. The Mayor expressed that it was never the intent of the City to encourage purchasing existing housing stock and the Prospector purchase was a unique situation.

Mark Harrington understood the maximum density for Boyer-Plum market rate units is 148 with the ability under a modified MPD if they meet criteria in (a), (b), (j) and (k) to obtain higher density not to exceed 1:1. Additionally, approximately 20% of 148 calculates to about 30 AUEs which is added on for affordable housing to meet the Park

City Heights requirement. The IHC project adds 44.70 AUEs, 28 AUEs for The Montage, and up to 64 Flagstaff AUEs are available for the attainable swap-out option. The Mayor opened the public hearing; with no pubic input, he requested a motion to continue to September 11, 2008. Joe Kernan, "I move we continue the Park City Heights Annexation to September 11". Jim Hier seconded. Motion unanimously carried.

VIII APPEALS

1. Continuation of consideration of an appeal of the Planning Commission's approval of a Master Plan Development application on July 9, 2008 for the Snow Creek Cottages, located at 2060 Park Avenue – Mark Harrington explained that the hearing was closed on August 7, 2008 and the purpose of the meeting is for members to deliberate and make a decision. On August 7, the Council requested two additional items from staff regarding a wildlife report and creating an additional condition of approval with regard to the final permit requirement relating to the engineering of the detention ponds. He advised allowing the appellant an opportunity to address staff's findings on those issues but not to reopen the hearing entirely. The Mayor disclosed that members received a letter today from Jones Waldo and Holbrook, representing the appellants. Members also received an email from Rich Wyman with a copy of the appellant's wildlife study. Candace Erickson stated that she received an email requesting her presence at a balloon flight for the purpose of measuring height on the site. Liza Simpson acknowledged an email from Kim Page and David Young and she responded to them that she is unable to discuss the project because it is under appeal.

Planner Katie Cattan explained that Council asked that staff return with more information on two issues including the submission of a completed wildlife report as outlined in the LMC's sensitive lands overlay zone and also an additional condition of approval clarifying the final permit requirement regarding the engineering of the proposed detention pond. Subsection (a) requires that a wildlife habitat map and report be prepared by a qualified professional which she stated occurred. She detailed the required elements of the report. With regard to Subsection (b) wildlife corridors, Ms. Cattan quoted the report stating that the area is not considered a critical movement corridor because of the extent of human development in the immediate project vicinity precludes the movements of many wildlife species throughout the project area. The natural character of the project area may attract larger wildlife that wander into nearby developed areas into the project area which is surrounded by development on three sides and major roads to the north and east potentially increasing the opportunity for human wildlife conflicts in an urban environment.

She stated that Subsection (c) of the Code addresses the existence of special habitat features including key nesting sites, feeding areas, calving or production areas, use areas for migrant song birds and grass land birds, fox and coyote dens, deer and elk concentrations, areas as identified by the Utah Division of Wildlife, and areas of high terrestrial or aquatic insect diversity. Ms. Cattan explained that the habitat features are explained in Section 3 of the report and the biologist summarizes that although the project area may receive occasional use by non-residential wildlife for foraging, roosting, perching or watering, the occurrences by these non-residential species would be incidental in the project area which is not critical to the survival of these species in the greater Park City area. Subsection (d) addresses areas inhabited by or frequently utilized by any species identified by the state or federal agencies as threatened or endangered and the findings of the study found that the proposed project will have no effect on any threatened or endangered species or its habitat and will not impact the sensitive species. Ms. Cattan continued to explain that Subsection (e) the general ecological functions provided by the site and its features was discussed throughout the report. Subsection (f) relates to potential impacts on the existing wildlife species that would result from the proposed movement and the biologist found that impacts to wildlife from the construction of the proposed development are expected to be minimal as the proposed development would occur outside the riparian vegetation and wetlands where there is typically more productivity and a higher density and diversity of wildlife species.

Ms. Cattan stated that Council requested that staff return with an additional condition of approval clarifying the final permit requirements regarding the engineering of the proposed detention ponds. She referred to one of the attachments in the staff report which is the MPD findings of fact, conclusions of law, and conditions of approval. Condition of Approval No. 5 was modified, “The applicant shall provide the design and analysis of the proposed detention ponds to the City Engineer prior to issuance of building permits. The LOMAR is required by FEMA standards if the flood elevations changes one foot or greater. If the change in the flood elevation is less than one foot, the LOMAR is not required under the FEMA standards”. Two additional conditions of approval were added as a result of the study, “A signage plan approved by the Planning Department shall be implemented to protect the riparian areas and wetlands”, and Condition No. 16, “A noxious weed control plan approved by the Planning Department shall be implemented to mitigate and prevent the spread of noxious weeds on the property”. Staff requests that the City Council consider reversing in part, through adding a condition of approval and affirming in part, the Planning Commission’s approval of the Snow Creek Cottages MPD.

Anthony Rampton, legal counsel for appellants, stated that without information about what is behind the report, it is difficult to comment. The report is to a large degree conclusionary and taken from public information about the populations of wildlife in the area and established there are no threatened or endangered species through the Department of Wildlife and Resources and concluded that it is not going to have an effect upon existing wildlife. He needs to know more about where this information is coming from. There is nothing in the report that gives any information about where that stuff is coming from. They (biologists) spent one day in August on site. This is not a site specific study but a regional study because they are using regional information. They have no way of determining seasonal fluctuations in wildlife and once again the study relies almost entirely on the regional studies of wildlife and statewide determinations of threatened and endangered species and draws conclusions. His overall concerns are that it is not site specific and where is the information coming from; is it site specific? They took general information and made general conclusions. There is nothing in the report about how they monitored wildlife. They didn't. Mr. Rampton reiterated his comments and stated that the LMC requires some site specific monitoring and there is no evidence this was done. We're not dealing with endangered species but wildlife that comes down from the hills of Park City and he asked if Council wants to preserve this. This is an important piece of property. He can't determine from the report what is happening on this piece of property. It was a quick and dirty study and is not helpful.

On the question of the detention ponds, the Windrift Condominiums are downgrade from the property and the problem is not surface water but ground water. He has not seen a hydrological study and its relationship with residences surrounding the property. Detention ponds are fine for controlling run-off but the LMC requires that a hydrological study is completed showing the relationship between the wetlands and the ground water that flows toward Windrift. Those condominiums are already pumping water from crawl spaces because of the huge ground water problem. The development may make it worse but there is no study. Mr. Rampton stated that the Council is not there in making a decision on this project. There is a need for affordable housing but does Council want to sacrifice a wetlands meadow which can not be replaced for 13 units of affordable housing. He doesn't see how Council can approve this because of its policy on open space. He referred to Council goals discussed earlier and the Mayor cautioned Mr. Rampton to stay within the parameters of the appeal.

Architect Craig Elliott, Elliott Work Group representing the applicant, stated that although he is not an attorney he has spent the last 10 years working with the LMC document. He stated that the LMC has been consistently applied to the project and a pre-application MPD was filed for review of compliance with the General Plan. He pointed out that the wildlife study points out the surrounding development and the state highway and the wetlands are being dealt with appropriately. The applicant is consistently following the MPD process and if criteria are not met, the project will not proceed. With regard to the hydrology study, the engineering phase will begin now that the density has been determined.

Jim Hier explained that the wildlife study was requested by Council to address criteria detailed in the LMC. The study was completed by a qualified wildlife expert accordingly and he is comfortable that it satisfies the requirements of the Code. With regard to the hydrological study, it can not be performed until the site plan and density are determined during the MPD process and building permits are conditioned upon the submission of the engineering study subsequent to the MPD process. He stated that the City has answered outstanding issues with regard to the approval of the MPD by the Planning Commission. Liza Simpson and Roger Harlan agreed. Joe Kernan relayed that he believes the applicant has met all requirements under the Code. Candace Erickson believed that the City has adequately addressed all of the considerations brought up in the appeal. Jim Hier, "I move that the appeal is denied in part and granted in part. The MPD is approved with the amended findings and conditions of approval as attached in the staff exhibit and as presented by Katie Cattan". Liza Simpson seconded. Motion unanimously carried.

2. Consideration of an appeal of the Planning Commission's denial on June 25, 2008 of a Steep Slope Conditional Use Permit for 158 Ridge Avenue, 162 Ridge Avenue and 166 Ridge Avenue – Mark Harrington explained that the matter is a quasi-judicial appeal and by ordinance Council hears factual issues de novo and is able to take testimony from appellants, staff and if desired, the public. The issues raised on appeal are pretty broad; the Council is deciding whether the Planning Commission was correct in its application of the Code and recommended denial of steep slope CUPs for these properties. Staff rendered a different recommendation and Commissioner Dick Peek is in attendance in the event members have questions about the Planning Commission's proceedings. All members stated that they did not engage in ex parte communications.

Brooks Robinson stated that these three applications were initially placed on the Consent Agenda and the Planning Commission removed all three items by unanimous vote to discuss the merits of the applications. Also by unanimous decision, the Planning Commission directed staff to prepare findings for denial for each application based on lack of compliance and mitigation with CUP Criteria Nos. 1, 2, 4, 5, 6, 7, 8 and 10 and looked at how those relate to the purpose clauses of the HRL Zone in which the property is located. He referred to Subsection (e), encourage construction of historically compatible structures that contribute to the character and scale of the Historic District in maintaining existing residential neighborhoods.

Mr. Robinson stated that the ability to create large houses was based on manipulating grade by adding retaining walls on the downhill corners, which in effect, buries the lowest story from the front facing wall, which does not count toward gross floor area. The remaining three stories contribute about 1,800 square feet apiece to the houses capped at just over 3,000 square feet which appears on the plat. He continued to explain that the ability to grant a height exception for the buildings is limited to the garage and entry elevation. The gross floor area was capped at 143% of the footprint and the plat further restricted the location of the houses at the front setback and a 30 foot no-build area was established on the slope to the east dropping down toward the Daly Avenue residences. The buildings must be in substantial compliance with conceptual footprints and distances in particular from that east property line. Mr. Robinson explained that for instance, the Commission found that one of the buildings was not in substantial compliance and directed the applicant to push the building back five feet. There was discussion at the meeting about the garage dimensions not being compliant but Mr. Robinson clarified that it was. He relayed that Council's alternatives include upholding the Planning Commission's decision, overturning the decision in part or in whole, or remanding it to the Commission based on new information received tonight.

Jonathan DeGray, Architect for the King Ridge Project, explained that the plat denotes several design constraints in terms of the building, including limiting square footage to 3,030 of gross living area. There is the 30 foot non-encroachment area as well as the additional setbacks for all three lots from the east property line, a 20 foot deep restriction on garages, as well as all of the underlying requirements of the LMC steep slope CUP. It was a challenge to arrive at a compliant design and part of the process was working with staff for a period of time. The initial staff report reflected the hard work and effort invested in the final design. He relayed that a couple of issues related to the four levels at the east elevation, but Mr. DeGray stated that there are three levels and a roof as illustrated on the model. The roof is broken up with dormers and windows to create some interest. If the dormers and other elements are eliminated, the simple roof form over three levels becomes apparent. He pointed out that the side elevation is most noticeable from the trolley turn-around and the lower level is only visible from Prospect Ridge or American Flag and not Daly Avenue. If the structures were pulled back and the square footage reduced, the design would still have a similar look. The applicant is requesting an exception for the garage in Building 1 because of the distance required to push this building further back into the lot. The other two buildings generally comply except for the dormer elements taking advantage of the height exception. The buildings themselves fully comply with the zone and don't require exceptions. From Ridge Avenue, the buildings are perceived as two stories and from Sampson Avenue one story.

Doug Matsumori, attorney for applicant, stated that he is not going to speak at length since most of their arguments are summarized in the submissions to Council. In particular, he submitted a written explanation of why they are objecting to the findings and conclusions adopted by the Planning Commission. He summarized that in the minutes of the hearing that Commissioner Petit had drawn a distinction between the plat amendment and the CUP processes, which is correct. However, she then went on to say that one of the things they needed to do using the CUP criteria was to decide whether they have tools to mitigate some of the impacts that are being caused by the proposal. He stated that he thought about this quite a bit in terms of the context in which the application was processed. He referred to the introduction of the steep slope ordinance which is specific, “development on steep slopes must be environmentally sensitive to hillside areas, carefully planned to mitigate adverse affects on neighboring land and improvements, and consistent with Historic District Design Guidelines”. In looking through the findings and conclusions made by the Commission, there is a lot of reference to the four story appearance of these buildings. He understood that, but the legal issue is whether the design is consistent with Historic District Design Guidelines which doesn’t address four stories, volume or visual mass.

Therefore, that particular statement is irrelevant but he looked at other issues that might be implicated. Criteria one requires that the development is located and designed to reduce visual and environmental impacts of the structure. Mr. Matsumori stated that staff concluded that the design does reduce visual impact which is important because he doesn’t know of any other factual findings available to the Commission to make a denial. The Planning Commission found that the house is not compatible with the Historic District in size and scale which is not addressed in the criteria and it is their view that the Commission’s conclusion was irrelevant with regard to criteria and should not be considered as a finding; the decision should be reversed. The other issue of concern is Criteria No. 8 where it states, “The maximum volume of any structure is a function of the lot size, building height, setbacks and provisions set forth in the LMC. The Planning Director and Planning Commission may further limit volume of a proposed structure to minimize its visual mass and/or mitigate differences in scale between a proposed structure and an existing structure”.

Mr. Matsumori referred to minimizing visual mass but the Planning Commission concluded that this is a four story building which is not relevant to the issue. He referred back to the conclusions drawn by staff when they considered this issue and they basically concluded that this project was consistent. Mr. Matsumori stated that he finds nothing in the Guidelines or ordinance criteria that prohibit four stories and this kind of design is prevalent in the Historic District. He doesn’t understand how a denial can be based on this finding and there are similar objections to other findings which do not address criteria in terms of the conclusions drawn.

Dick Peek, Planning Commissioner, stated that the stepping forward of the landscape retaining structure is something the Commission had not seen before. He explained that the LMC clearly states that 20 feet is the maximum depth for the garage, including the exterior walls and these were his two issues. The Mayor invited public input.

Steve Deckert, Daly Avenue resident, read the first sentence of the LMC definition of compatibility, “Characteristics of different uses or designs that integrate with and relate to one another to maintain and/or enhance the context of the surrounding area or neighborhood". He felt that 16,000 square feet of building on three postage stamp lots does not contribute to the context of his neighborhood in any way. The applicants got their lots approved and now they're *going for it* and they want everything they can get out of it. The Council charges the Planning Commission with a very difficult task and that is to weigh the needs of the neighborhood and the applicant, but the Commission has never been empowered to make sure that a developer doesn't *shoot his foot off*. If they paid too much for the land and have to have this much density, it is their problem. As a former Planning Commissioner and Board of Adjustment member, he believes the LMC is purposely filled with grey areas to allow the Commission to make interpretations and to weigh the needs of everyone. It concerns him that the applicant's attorney would suggest that the recommendations by the Planning Commission are frustrating. He shows an inherent lack of understanding advocacy planning at its very best.

Carlene Riley, 84 Daly Avenue, stated that her residence is just below the second house. The applicants have been given a year and a half to get this right and it seems like every time they come back, they're pushing for more. It is a very steep lot and the houses will be visible from Deer Valley because of the size of the project. She encouraged Council to remand the project to the Planning Commission. The lot is too steep to walk and 22 trees will be cut down; it's too big.

David Olson, 96 Daly Avenue, agreed with the comments made by Steve Deckert and Carlene Riley and expressed concerns about the impact it will have on his condominium environmentally and visually. He challenged the statement that these houses are not going to be visually impactful.

Sean Marquardt, agent for applicant, relayed that they met with the neighbors which resulted in the 30 foot easement for an increased setback between the Daly Doubles which is a massive six story building. Mitigating the grade change took some time to achieve. He pointed out the four or five level buildings on Rossi Hill and in Deer Valley. The design is largely a result of the topography.

Doug Matsumori clarified that he never said there won't be a visual impact but in terms of the requirements of the steep slope CUP, the visual impact has been mitigated.

Mark Harrington suggested that the Council review and compare representations of the project at the subdivision stage in October 2007 with current elevations. He acknowledged that the drawings may not be very detailed but may be relevant in addressing the above ground massing. Jim Hier referred to comments from Commissioner Peek about non-compliance with the garage depth and asked if this is identified in the findings. Mr. Robinson noted that it is not because the discussion with the Planning Commission was based on the detailed plans of the interior dimensions which is addressed by the LMC. The requirement on the plat related to a minimum garage depth of 20 feet which was reflected in the plans. The Planning Commission meeting packet included a drawing with a 23 foot exterior dimension. Mr. DeGray pointed out that 23 feet is incorrect; 21 feet is the maximum it would be. Mr. Hier asked if the height was based on the extension and Brooks Robinson explained that the plat requirement limited the height of the garage to18 feet. Jonathan DeGray reiterated that the garage interior depth is 20 feet and 21 feet with the exterior walls. Mr. Hier asked if compatibility is defined only through the specific vantage points identified in the Code and Mr. Robinson emphasized that compatibility is defined by all of the criteria. In response to a question from Roger Harlan regarding increased square footage, Mr. DeGray explained that the 3,030 square feet as defined on the plat is gross living space and does not include the basement for an additional 1,800 square feet and the basement is allowed to daylight. Of the total approximate 5,000 square feet, about 40% to 50% is underground which is compliant with the requirements of the plat but is not something that typically occurs in the HRL Zone.

Jim Hier pointed out that two days is not enough time for him to adequately evaluate all of the appeal materials and suggested that this matter be continued. The City Attorney added that it would also be beneficial for members to review the subdivision drawings. Mr. Hier felt it would be helpful to have statistical data with regard to the neighborhood, specifically the size of other dwellings in the area, including square footage and number of floors. Mr. Robinson responded that this information was provided at the plat stage and can easily be distributed again. In response to questions from Joe Kernan, Mr. DeGray explained that even if the square footage was reduced by some 1,000 square feet, the look of the above ground structure would still be three or four stories. Candace Erickson asked about the vegetation on the site and Mr. Robinson relayed that most of the trees are located on neighboring property and Mr. DeGray reminded members of the 30 foot protection easement. Liza Simpson, "<u>I move we continue the appeal to September 18</u>". Joe Kernan seconded. <u>Motion unanimously carried</u>.

IX ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

X ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3:30 p.m. Members in attendance were Mayor Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe

Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Diane Foster, Environmental Affairs Manager; Gary Hill, Planning Manager; Mat Cassel, City Engineer; Myles Rademan, Public Affairs Specialist; Tom Daley, Deputy City Attorney; and Mark Harrington, City Attorney. Liza Simpson, "I move to close the meeting to discuss property". Joe Kernan seconded. Motion carried unanimously. The meeting opened at approximately 4 p.m. Joe Kernan, "I move to open the meeting". Liza Simpson seconded. Motion unanimously carried.

The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

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Janet M. Scott, City Recorder