

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
AUGUST 7, 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; Gary Hill, Planning Manager; Kent Cashel, Deputy Public Works Director; Thomas Eddington, Planning Director; Dina Blais, Historic Preservation Consultant; Brian Anderson, Parking Manager; and Pace Erickson, Operations Manager

Historic Preservation Board: Gary Kimball, Ken Martz, Sara Werbelow, Mark Huber, Puggy Holmgren, and Todd Ford

Planning Commission: Julia Pettit, Evan Russack, Charlie Wintzer, Dick Peek, and Adam Strachan

1. Council questions/comments. Candace Erickson reported on the monthly Recreation Advisory Board meeting and discussed the RFP process for the Racquet Club. She pointed out the large segment of the population served in the community by the Recreation Department's outreach program. The dog park is planned to open in October and the Board will be addressing Council on the 21st on Creekside Park.

Roger Harlan spoke about the School Board meeting and relayed that members are pleased with the new crossing light installed on SR248. Roger Harlan pointed out that the configuration of the booths at the Arts Festival seemed to help circulation on the street. Joe Kernan commented on the Deer Valley Drive pipe line project and the conflicts with pedestrians and bicyclists who still chose to use it during construction. Members felt it would be wise to discourage use of Deer Valley Drive during this time and provide information to the public regarding alternative routes. Liza Simpson complimented the variety of departments responsible for working the Arts Festival and also thanked staff for a water tour. Jim Hier reported on an events committee meeting. Candace Erickson interjected that she has received good feedback on the bike racks the City has been installing throughout town.

The Mayor stated that for the first time the Marsalis Mosquito has been found in every trap in Summit County this year. He and staff continue to meet with Rocky Mountain Power on renewable energy projects and IHC about the partnering on installing wind turbines at Quinns.

2. Quarterly goal update. The Mayor asked for an update on the Park and Ride. Kent Cashel explained the status of the project which has been delayed by environmental and County approvals. There was discussion about exploring a solar grid system for lighting at the parking lot. There were no changes to the goals.

3. Joint Planning Commission/Historic preservation Board work session – Historic District Guidelines. Gary Hill displayed a chart illustrating the process of creating a historic contributory building inventory, the adoption of the Historic District Guidelines and enacting the temporary zoning ordinance on demolitions. Staff is in the process of obtaining a recommendation from the HPB on the Guidelines and based on prior direction, submitted the Design Guidelines to the Planning Commission for review of compatibility with the Land Management Code. The recommendation from the Planning Commission would be forwarded to the City Council for consideration and adoption. If there are changes to the Guidelines because of LMC amendments, staff recommends remanding the Guidelines to the HPB for final review. Members concurred with the process.

Mr. Hill commented on Council direction to create an inventory of historic *contributory* buildings and noted that passage of a TZO would provide staff with a period of six months to formulate a process and methodology for developing the inventory. Staff will return to Council within a month with a strategy to move forward with an inventory as soon as possible. Members were comfortable with this approach.

Gary Hill referred to the many meetings on the draft Historic District Guidelines. A public hearing was held before the HPB on June 2, 2008, two open houses were conducted and another one is planned for design professionals on August 25. The Planning Commission review resulted in recommended amendments to the LMC, including historic structures not located in the historic districts. There are about 14 or 15 buildings outside of the historic districts and the direction has been that the Guidelines would apply to all buildings regardless of their location. Currently, these structures are unregulated. All members agreed to proceed with an amendment to regulate this type of historic stock.

Dina Blais addressed historic reconstructions and furthering the City's preservation goals. She explained that often at the time of application, the condition of materials are unknown and making decisions on the fly in the middle of a project were problematic and confusing to the applicant, staff and the neighborhood. The goal is to increase the amount of information provided to the City by the applicant and provide tools for decisions on reconstruction when materials are deteriorated and unsafe. Ms. Blais noted that the staff report provides a definition of reconstruction in the LMC and the Guidelines. Preservation reconstruction is usually used for buildings that no longer exist but there is some kind of photographic evidence or a portion of a historic element left. The recommendation is an adaptation of that approach which would be decided upon early in the process. One standard allowing reconstruction is based on 70% of the material being defective, unsafe, or missing. Joe Kernan pointed out that that this approach would be a less expensive way to renovate a historic structure. Dina Blais

explained that the HPB did not favor the 70% and preferred looking at standards for different elements of a building. The Building and Engineering Departments were asked to recommend an objective way to evaluate an application to allow the owner to reconstruct and Liza Simpson felt their involvement is critical. Commissioner Dick Peek recommended an intermediary step and Ms. Blais believed the intermediary steps would follow standard preservation policy which would include repairs. If an historic element can not be repaired, it would have to be replaced in-kind as needed, as opposed to the removal of an entire wall, for instance. It is important to retain as much of the historic material as possible and this seems like a reasonable approach. In response to a comment from Adam Strachan, Ms. Blais explained that if the material can be repaired on a portion of a wall, then the portion has to be replaced but not the entire wall. Joe Kernan pointed out that neglect of properties could cause a structure to meet the reconstruction threshold resulting in replacing large elements. Ms. Blais advised that a provision addressing demolition by neglect could be added to the LMC which was supported by Commissioner Adam Strachan. There was discussion about circumstances where moving a historic building is acceptable which is usually associated with lot lines and plat amendments. With regard to reconstructions, Dina Blais emphasized that the documentation on the structure to be removed must be thorough in terms of the details of the exterior, size and scale. Any proposed additions would have to follow the Design Guidelines so that they are compatible and buildings remain on the inventory.

Adam Strachan pointed out that replaced portions may not deteriorate as quickly as the original materials and the owner may request that the entire element be replaced now rather than in the future. Ms. Blais felt that is a weak argument; if good maintenance practices are followed, the materials should last. She explained that any substitute materials introduced must be shown to not cause further deterioration of the historic materials and related provisions are included in the Building Code. There was discussion about whether or not to include this information in the Design Guidelines and Charlie Wintzer believed that it may not have to be included in the Guidelines or the code but recommended that construction practices be made available to architects and contractors. Gary Hill added that it is the intent to formulate a more thorough and uniform preservation plan earlier in the process and this may be the time to introduce information on building approaches. The success of the panelization of the Whiskey Distillery was reported.

Gary Hill stated that there are many interpretations of what height means and referred to illustrations of historic properties. In the Historic District, the LMC restricts height to 27 feet from grade to the top of the roof. On uphill slopes, the building can step up the grade of the hill. He also addressed examples of height for flat vertical walls. Some people gauge appropriate heights relative to heights adjacent to the structure. He asked the group if there are concerns about height of buildings so that solutions aren't

sought without fully understanding the problem. Evan Russack suggested eliminating height exceptions altogether, but the Mayor believed that the heights of adjacent buildings should be taken into account to ensure compatibility. Charlie Wintzer stated that heights of buildings are not as impactful as the mass of structures; articulation of buildings relieves the visual mass but many designs are cube-like to maximize square footage. Mark Huber expressed concerns that eliminating the height exception may be too strict. Jim Hier felt that height limitations on uphill and flat lots are clear but downhill lots are very different. Charlie Wintzer interjected that there are some lots in town that are unbuildable. Jim Hier reiterated that downhill lots are the issue. Mark Huber agreed and discussed applying different regulations for flat, uphill and downhill lots. Julia Pettit stated that she perceives a problem with height in the Historic District and believes that where a building sits on the property and its relationship to adjacent buildings are important to consider. The Mayor agreed that uphill, downhill and flat lots need to be distinguished in the code. Jim Hier pointed out that uphill and flat lots are measured the same. Todd Ford suggested that the building be set back enough so the 27 foot height minimizes the visual impact from the street. Mr. Huber noted that another way to measure would be to evaluate height and mass from the primary right-of-way and visual height from cross canyon. Ken Martz emphasized that the Design Guidelines include a compatibility clause. Owning a vacant lot is a huge advantage. He is not convinced there should be a 27 foot height limitation because height should be based on compatibility with the immediate area which would make the Design Guidelines easier to apply. Joe Kernan agreed with Mr. Ford's suggested of meeting setbacks and Mr. Martz added that 27 feet should not be a given and terrain and adjacent houses should be considered. Candace Erickson acknowledged the benefits of articulating and stepping a structure. She pointed out that with regard to basing height on compatibility, the new owner of the smaller building could construct an addition in the future, however, there may be a combination of workable solutions that incorporate compatibility. Charlie Wintzer agreed that there could be a calculation of a maximum of 27 feet and an average of adjacent heights but there should be incentives for properties to fit within neighborhoods. The Mayor acknowledged consensus of the groups on the importance of compatibility with existing structures and invited the audience to comment. Liza Simpson voiced her support of Todd Ford's suggestion with regard to mitigating height impacts by applying appropriate setbacks.

Ruth Gezelius, Prospect Avenue resident, commented on the massive structures built in Old Town over the years on combined lots and the tall and flat looking homes on single lots. She encouraged providing flexibility and encouraging variation in designs. The large homes on the hillside and the homes built to the 33 foot height are incompatible in Old Town. Lot combinations have been positive because historically not all homes were built on a single lot or at the same height and variation makes for a more interesting neighborhood. Establishing greater setbacks on lots wider than 25 feet has really helped.

Don Bloxom, designer, criticized the illustrations as being too out of date to be relevant because the examples were constructed under prior codes. He described the process for designing a pitched roof with a 27 foot limitation. He explained that the need to create the height exception was to accommodate construction on steep downhill lots.

Architect Craig Elliott, through use of a white board, drew the downhill lot scenario from the street with the 27 foot height limitation and pointed out that installing a parking space, required under the code, is not possible. There are questions dealing with height, zoning requirements, and the way people live. Uphill and downhill sites need to be approached differently. He illustrated that the mass for a pitched roof at 30 feet is the same as for a flat roof at 27 feet which may be another reason to provide flexibility in designing a roof in context. Mr. Elliott encouraged looking at the LMC issues causing conflicts.

Kevin King, architect, describe a house on a downhill lot served by a horizontal driveway and argued that a higher house with a pitched roof presents less mass to the viewer on the street than a 27 foot height with a flat roof. He favors measuring from the mid-point of the roof and setting a reasonable height limit.

Gary Hill understood that the issues include context and the looming front façade of some structures. Evan Russack felt that neighborhood compatibility, mass and scale and roof pitch are the three big issues. Mark Huber added that including a garage in the design is also an issue.

Peter Barnes, designer, stated that when the height was decreased from 33 feet to 27 feet in 1995, he, an associate and an attorney met with staff, including City Attorney Jodi Hoffman about the legality of the 27 feet. At that meeting, he explained that once the other requirements like parking and setbacks are applied, it became obvious that the 27 foot height limit is legally indefensible. Ms. Hoffman stated at the meeting that there is no minimum roof pitch in Old Town, the Design Guidelines are just guidelines, and there is no legal requirement to do any of those things. He continued to explain that height exceptions up to 40 feet were granted in order to provide required parking. If 40 feet was considered a reasonable exception to achieve the parking requirement and the other criteria of the LMC, then the 27 foot number may have been totally wrong. Mr. Barnes suggested that for the pedestrian experience a one, two or three story building from the street in a dense urban environment is reasonable. Three stories on steep downhill lots are probably not recommended but three stories on uphill lots are fine. Height is a very complicated issue and it has been studied many times by many people. He encouraged contextual discussions. There are two story historic homes straddled by four story condominiums and he suggested that if a structure is within a story of the

adjacent building, it is within the neighborhood context. There should be examples of current buildings if the discussion is on the current code.

Gary Knudson, property owner, relayed that setting a height limit at 27 feet sets the roof pitch for the entire house. Mixing roof pitches does not look historical.

John Stafsholt, 633 Woodside Avenue, stated that there is a flat roof garage being built on Woodside.

Gary Knudson pointed out that there are many attractive two story historic homes and architects should have some flexibility with design and these should be allowed.

Gary Hill thanked everyone for their input and stated that there will be more meetings on this topic. He relayed that at the first design professional meeting, parking was an expressed concern. Two parking spaces are required for new construction and in many cases owners don't want two parking spots. Parking affects circulation especially in the winter and snow storage is diminishing as Old Town lots are developed. There was discussion at the design professional meeting about removing the two parking space requirement and the consequences. There probably is not one solution and in reality the answer may be in setting priorities. Historic buildings do not have to provide parking.

Jim Hier suggested creating an inventory of unbuilt lots so that impacts can be fully assessed. The Mayor believed that this requirement changed the streetscapes in Old Town. Candace Erickson added that there isn't adequate street parking on upper Woodside Avenue now and snow removal last year was extremely difficult because of parked cars. She knows very few people who do not own a car and providing a parking lot is not practical. Julia Pettit recommended examining uses which drive the parking demand. Dick Peek felt that assigned parking may encourage people to maintain the space by keeping it clear. As a Park Avenue resident, Ken Martz spoke about the difficult process of obtaining parking permits, managing on-street parking, and using the China Bridge Parking Garage during snow emergencies. Todd Ford suggested providing a waiver for the two parking space requirement for new construction and deed restrict the property to one car. Puggy Holmgren pointed out that monthly rentals significantly contribute to the parking problem when all tenants receive parking permits. Charlie Wintzer pointed out that eliminating a parking space may have the result of adding square footage to a structure. Joe Kernan questioned whether providing a parking lot would increase the number of cars in Old Town. Julia Petit suggested limiting the number of permits per address and providing a lot.

Parking Manager Brian Anderson acknowledged that Old Town parking permits is a challenging program to administer. Staff limits the number of permits per residence and

currently a household can obtain up to five permits, if qualified. There is a process for requests beyond two permits. When paid parking was implemented, protecting Old Town from spill-over from the paid parking area was a priority. Old Town residents and nightly rental properties are the only ones allowed to park in the area and sometimes there are abuses. Discussion ensued about inspecting permitted addresses to assess the parking situation. If parking can be accommodated on site, permits are not issued. Joe Kernan agreed with Ms. Pettit's suggestion of limiting permits and providing alternative parking.

Don Bloxom pointed out that the unbuilt streets in Old Town provide unused space where a parking structure could be built. If the City restricts the number of cars in a new home, the City decides who gets to live there. These are homes that real people live in. It's the only neighborhood in the City that doesn't have a HOA. He encouraged avoiding steps to force more cars on the street and not passing legislation that can not be enforced. No owner will agree to a one car deed restriction. Roger Harlan felt that the option should still be available for the home owner to evaluate.

Beth Fratkin, Old Town resident, agreed with Mr. Harlan that the owner should be able to determine how many parking spaces are needed. She explained that the two car parking requirement applies to Sandridge Avenue where there are 80 municipally owned parking spaces ten feet from the street. That regulation makes no sense in this particular circumstance and there may be others. There should be some flexibility.

Peter Barnes spoke about allowing cars to intrude in the City's right-of-way by eight feet which was allowed in the past. This would help to accommodate a two car garage and get the cars off the street.

Pace Erickson, Operations Manager, explained that two car garages contribute to the snow storage issue. It limits the area for storage and the double width of snow that the home owner removes usually ends up in the street creating a traffic problem. Parked cars represent the biggest challenge for removing snow. There was discussion about allowing residents to park overnight in the structure during snow emergencies or when particular streets are cleared.

Ruth Gezelius commented on tandem garages which are not ideal but are better than no parking. Households not only have cars but toys and equipment and the storage dilemma is not unique to Old Town. The City should not compromise on the parking requirement because Old Town is at maximum density.

Dina Blais noted that at the February 27, 2008 joint City Council Planning Commission meeting, the concept of the volunteer peer review was introduced. The Design Guidelines draft does not contain this option because the details were not formulated.

The design community felt strongly that it should not be part of the public process. Staff recommends not including the volunteer peer review process as part of the formal design review process and there are suggestions from the Planning Commission and HPB to solve associated concerns. One is involving the applicant and the Building and Planning Departments earlier in the process together with the added requirement for more information from the applicant at the beginning of the process. Liza Simpson recalled the suggestion of appointing a design professional for a year to sit on the review team. Ms. Blais responded that the HPB did discuss this and it is a possibility. However, if a group of professionals is organized members can weigh in at public meetings. Council agreed not to include the volunteer peer review.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
AUGUST 7, 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 7 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; Gary Hill, Planning Manager; Francisco Astorga, Planner; Sharon Bauman, Deputy City Recorder; and Katie Cattan, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

None.

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

1. Planning process – Beth Fratkin, resident, felt that the average citizen finds it difficult to understand the permitting process and how to comment on projects. The Planning Department is willing to help architects, designers and new property owners understand the process but there is no advocate for the citizens. This should be part of the responsibility of the planning staff. The public should be able to make an appointment with staff to work through issues so that the process doesn't become too adversarial or the project is appealed. It's helpful for citizens to know what rights they have and what rights they don't have. She stated her support of the Snow Creek Cottages Project.

2. Affordable housing cash award grant program and Snow Creek Cottages costs - Nancy Salomon stated that last week she addressed the costs of the Snow Cottages Project and obtained current cost information from the City as suggested. The estimate for construction of the project is \$4.5 million and including land value, totals \$9 million. This equates to \$700,000 per house for 13 houses. Buyers will pay somewhere in the low \$200,000s and the difference between the sales price and the true cost is about \$6.25 million. This is money the City is sinking into a project that will never be seen again. If the \$6.25 million was distributed, 62 families could receive \$100,000 (or over 100 at \$50,000) each to get into existing housing now. This is potentially ten times the number of people that could be helped as compared to the 13 households eating up all of that money. This kind of plan has been used successfully in other communities. As a side benefit, the real estate market is extremely slow and by doing this, 60 to 120 families could be put into a position of being home buyers. It is a win-win situation that Council should consider. She emphasized that they are not opposed to affordable housing, but want to get the most out of affordable housing dollars.

She stated that she doesn't understand how the City has gotten to this point in the development process. Many things have changed from the original concept; the

number of units is fewer, the cost per unit higher, and the buildings are taller. Now is the time to take a step back and look objectively at this project. Does it make sense financially? Does it give you the most bang for the buck in tackling the affordable housing needs in Park City? Does it help the most people possible and hurt the fewest? Does it do the best possible job in meeting citizens' priorities for both open space and affordable housing? As responsible stewards of Park City's resources, she asked Council to answer these questions before proceeding with this project.

Jim Hier stated that the land is only valuable if the City sells it. He added that there are only two houses for sale under \$500,000 and are priced at \$499,000. One is 700 square foot Park Avenue remodel and the other is a house in Prospector. Giving someone \$100,000 to buy a house to live in Park City is not realistic.

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

1. Consideration of a Temporary Land Use regulation pursuant to U.C.A. Section 10-9A-504 prohibiting the demolition of any building more than 50 years old for a period not to exceed six months, pending the completion of Land Management Code and Historic District Guidelines amendments regarding the regulation of buildings of historic significance and potential amendments to the Historic Building Inventory – Gary Hill, Planning Manager, explained that over the last several months historic preservation has been a focus and the question of historic homes not listed as *significant* in the inventory has become a topic of concern. Discussions have included the creation of a *contributory* list and tonight a temporary zoning ordinance is before Council to prohibit the demolition of buildings over 50 years old. The moratorium on the demolition of buildings would be in effect for six months and it is the burden of the home owner to verify the age of the building. The TZO would apply to any structure that has not submitted a complete application for demolition as of yesterday. Mr. Hill pointed out that if approved, this legislation will not apply to permits for approved disassembly preservation methods such as panelization or reconstruction projects and applies to demolitions only. Mr. Hill stated that issued demolition permits will not be affected by adoption of the TZO. He believed that four have recently been issued.

Mr. Hill also requested direction on an amendment to the Land Management Code to eliminate height exceptions, institute a floor area ratio maximum, and eliminate the basement exception. These amendments could be noticed for the next available meeting. Jim Hier emphasized that there is no recommendation with regard to what the floor area ratio would be or what the substitute for the height exception would be, and Gary Hill explained that staff is looking for direction to create a draft ordinance. Mr. Hier was supportive at looking at revisions but felt they should be reviewed by the Planning Commission first which is the normal process. Mark Harrington explained that

staff felt there may interest in extending the TZO to include steep slope permits as an intermediary step. Mr. Hier reiterated that the floor area ratio is completely undefined and it is unclear what the Council would be restricting which makes him uncomfortable. Mr. Harrington explained that staff is not advocating the expansion of the TZO, but responding to requests from Council members about additional tools to address concerns in Old Town. For the benefit of Joe Kernan, Gary Hill explained the status of applications. Liza Simpson felt that eliminating the basement exception is unclear and agreed with Mr. Hier. She expressed support of eliminating the height exception but felt the amendment can not move forward without the FAR in place. Candace Erickson expressed that it would have been helpful for her to hear the Planning Commission's opinion on the scope of the TZO during work session before making a decision. The City Attorney explained that state code is deliberately written to expedite adoption of temporary zoning ordinances because of the large number of associated applications that follow hoping to vest. The statute specifically exempts the Planning Commission process for that reason.

Jim Hier expressed concern about proceeding without public input or little public input tonight; there was limited noticing. He shares the same concern on the TZO on demolitions and suggested continuing the ordinance to the next meeting so there is more notice to the public. Ms. Erickson felt that continuing for two weeks is too long and Mr. Hier explained his concern of unanticipated consequences if more input is not sought. Liza Simpson stated that she is comfortable moving ahead with the TZO on demolitions. The Mayor opened the public hearing.

John Stafsholt, 633 Woodside Avenue, read a petition regarding creating a contributory list of historic homes and prohibiting demolitions. He obtained 185 signatures in three days. He discussed the demolition of 637 Woodside Avenue. He read the purpose statement of the HR-1 Zone including preserving present land uses in character, encouraging the preservation of historic structures, and encouraging construction of historically compatible structures. Demolition of 637 Woodside and other historic buildings is contrary to the stated purpose of the zone. He encouraged passing the TZO tonight because waiting may result in losing more historic buildings and he stated that 637 Woodside was demolished today.

Mark Kosack, attorney, stated that he is here on his own behalf although he has clients in Old Town. He is extremely concerned about using the TZO as a tool for historic preservation. State law provides that this process can be used if there is a finding of compelling countervailing public interest. This language comes from the 1982 Western Land Equities Case heard by the Utah Supreme Court dealing with vesting rights when there is a change in law after application. He discussed fundamental rights and providing due process before a decision is made and thanked Council for the opportunity to speak because the statute does not require a public hearing. The Council

is dealing in the realm of constitutional rights. In the Western Equities Land Case, compelling and countervailing public interest is described as things that seriously threaten public health, safety, and welfare and he cautioned elected officials not to change the direction of predecessors. Mr. Kosack suggested imagining substituting land rights with freedom of speech and/or freedom to assemble and if members still feel comfortable proceeding, then the initiative has probably met the test. Legally opposing this action is not an option because six months is not enough time to obtain a finding from a judge so the Council has absolute authority. He urged Council to exercise it judiciously.

Craig Elliott, architect, disclosed that he has a contract with the City for some other work and is not representing the City in his comments here. He suggested that the FAR and the basement exception be explored further by staff and not included in the TZO.

Mark Blue, resident, expressed his disappointment that 637 Woodside was demolished today which was intentional because of this pending ordinance. The owner should have noticed the neighbors. It happened so fast.

Deb Stafsholt, resident, encouraged Council to look at scale of new construction and in consideration of the Angel Inn fire, building code regulations are also important to consider.

Gordon Duffin, owner of Total Mountain Management, stated that he is under contract for the 637 Woodside Avenue project. He obtained a demolition permit approximately five weeks ago and the demolition has been scheduled for some time. Contrary to accusations made, the permit was obtained properly.

Sandra Morrison, Pak City Historical Society, expressed her support of the TZO and referred to discussions of expanding it beyond 50 years to include the ski era. The A-frame houses represent the City's ski history which is as important as our mining history. There are about nine or ten A-frames remaining in Old Town. This would affect structures built in the early 1960s.

John Stafsholt stated that his home was built in 1883 but is not listed on the significant inventory. He could easily apply and receive a demolition permit; it is not a difficult process.

Liza Simpson felt that Ms. Morrison's comment is valid and recommended that 1962 be designated as the benchmark year. Dina Blais explained that the emergence of the ski industry took place in 1962 with the opening of Treasure Mountain. This would only affect one A-frame on the top of Park Avenue. In response to a question from Roger Harlan about potential liability exposure with adoption of a TZO, Ms. Blais disclosed that

she is not an attorney, but understands that preservation has been established as a compelling interest by municipalities. She is aware of cities using TZO's in Utah and across the country which halt building activities until the municipality has a chance to formulate policies and code amendments. She is not aware of any negative consequences.

Mark Kosack stated that he did not find application of this type of ordinance for preservation during his research efforts. Mark Harrington noted that the City has used this mechanism twice. He agreed with Mr. Kosack that these actions aren't challenged because it is temporary and it is almost impossible to get arguments through court in time. With regard to constitutional rights, property rights are a little different and can be described as a *bundle of rights*. A temporary interference of property rights, as long as it meets state statute standards, is acceptable and legal. The City Attorney felt confident that preserving historic structures is a compelling interest and he believes Council has the authority to proceed.

Liza Simpson, "I move we adopt an ordinance adopting a temporary zoning regulation which will prohibit the demolition of any building built before 1962 for a period not to exceed six months." Joe Kernan seconded. Motion carried.

Candace Erickson	Aye
Roger Harlan	Aye
Jim Hier	Nay
Joe Kernan	Aye
Liza Simpson	Aye

Mr. Hier directed staff and the Planning Commission to explore an analysis of properties on steep slopes, floor area ratio, and the height and basement exceptions. Members acknowledged that the remand would not invoke the TZO and agreed with the direction.

2. Consideration of an Ordinance approving 460 Swede Alley condominium conversion – This application is recommended to be continued because a recommendation has not been rendered by the Planning Commission. The Mayor opened the public hearing. With no comments from the audience, Jim Hier, "I move to continue the consideration of an Ordinance approving 460 Swede Alley condominium conversion to August 28, 2008". Roger Harlan seconded. Motion unanimously carried.

3. Consideration of an Ordinance to approve the Amended Gateway Estates Replat Subdivision located at 408 and 412 Deer Valley Loop Road – Planner Francisco Astorga explained that the request is to combine two vacant lots into three lots of record to facilitate construction of three single family homes. The development will also require an approved steep slope CUP as well as historic design review. The owner has

volunteered to add a note on the plat prohibiting duplexes and he explained the potential for the construction of four units on the two vacant lots. He is also willing to limit the footprint to the same area designated in the previous approval. The Planning Commission reviewed the application on June 11, July 9 and July 23, 2008 and staff recommends approval based on the ordinance.

Candace Erickson thanked the owner for agreeing not to build to the maximum. She referred to Mr. Brophy's concern expressed weeks ago, about snow shed issues. Through examination and discussion of the plat map, it was unclear what Mr. Brophy's issues were, but Mr. Astorga indicated that he will check further into snow shedding and storage on the property. Jim Hier, "I move we approve the amended Gateway Estates Subdivision based on the findings of fact, conclusions of law, and conditions of approval as found in the draft ordinance". Candace Erickson seconded. Motion unanimously carried.

4. Consideration of a consultant lobbying services contract in the amount of \$84,000 in a form approved by the City Attorney – Sharon Bauman explained that the recommendation is to enter into a base contract with James C. Barker, Esq. in the amount of \$84,000 for consulting services for 30 hours per month plus a \$5,000 annual expense retainer. Excess hours must be approved by the City before he proceeds with additional work. The City Manager, Water Fund, and Transportation Budgets will share the cost of the contract and the term is for one year with two additional renewals. She described the RFP process where only one response was received. Mr. Barker has served as the City's consultant in DC since 2001 to secure funding for Park City. Over the last three years, he has assisted the City in obtaining \$375,000 for the Prospect Avenue water and sewer project, \$187,000 for the Snyderville Basin interconnect study, \$5.4 million in FTA appropriations, and \$30 million relating to the Water Resources Development Act. The Mayor interjected that this contract is well spent money and invited public input. There was none. Joe Kernan, "I move we approve the lobby services contract in the amount of \$84,000, as written in the staff report". Roger Harlan seconded. Motion unanimously carried.

V APPEAL

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 – Appellants Carole Casten, Lisa Rudy, Randi Tonessen, Nancy Solomon, Conrad Elliott, Howard Anderson, Lori Clark, and Marcia Griffiths – The Mayor suggested that testimony be limited to the appeal points and Council members agreed. Jim Hier felt that restricting comments to the appeal is appropriate but if there are other issues relating to the project, they can be brought later on the agenda under *Additional Discussion*. Joe Kernan believed that appeal comments may be difficult for the public to distinguish and suggested limiting the length of input and the Mayor stated that he is not

inclined to limit the length of comments and supported Mr. Hier's suggestion which was agreeable to other members. Mayor Williams clarified the appeal process. Planner Cattan will introduce the appeal, followed by a presentation by the appellants, a presentation from the applicant, and public input based on the points of the appeal; the hearing will then be closed and members will deliberate.

Katie Cattan explained that the City is the applicant for the Snow Creek Cottages Project consisting of 13 detached single family homes. The number of units triggers the requirement for an approved master plan development because more than ten homes are proposed. The application was reviewed by the Planning Commission on July 9, 2008 and the MPD was approved unanimously. On July 18, 2008, the City Recorder received a letter appealing the approval listing six reasons for the appeal including the specific provisions of law.

She relayed that the first point deals with the sensitive lands analysis, how it was applied by staff, and whether or not it was applied correctly. The appellants allege that Condition No. 15 failed to meet the SLO requirement of Sections (a), (b), (c), (e) and (f) of the LMC. Ms. Cattan explained that the Planning Commission added Condition of Approval No. 15 at the meeting which requires a complete wildlife habitat study be completed prior to issuance of a building permit. The study must identify the presence of threatened endangered and sensitive species in the immediate site. The appellants question whether or not the SLO was applied correctly with regard to the condition.

Ms. Cattan continued to explain that during the initial review, staff upheld the 50 foot setbacks within the SLO for wetlands. Planning staff also checked with the Department of Natural Resources who indicated it has no concerns about threatened or endangered wildlife species on the site in a preliminary letter. The applicant has contracted with an independent firm to perform a complete wildlife study on the site and the scope is described within Attachment A of the staff report, which fulfills the requirement of the SLO as well as Condition of Approval No. 15 for the MPD. This study must be completed prior to issuance of a building permit. She noted that if any species of concern is identified in the analysis, the applicant is required to adhere with the SLO's regulations for wildlife and wildlife habitat protection.

With regard to the appeal points relating to wetland and downstream issues, Ms. Cattan explained that Condition of Approval No. 4 requires that the Army Corps of Engineers approve a wetland mitigation plan prior to issuance of a building permit. Condition No. 5 specifies that the City may require that a line of map requirement (LOMAR) be completed prior to issuance of a building permit. A LOMAR requires an engineering hydrology study to determine the design of the detention ponds and the potential impacts of the project on the flood boundaries. The findings of these studies will determine whether or not a LOMAR will be required. A wetlands analysis and mitigation

plan will be created by Evergreen Engineering which must be approved by the Army Corps of Engineers. At this stage ground water and run-off will be examined to determine whether the LOMAR will take effect. She emphasized that the studies can not be performed until there is some concept of the scope of the project which is defined during the MDP process. Conditions must be met prior to building permit issuance.

Ms. Cattan explained that the City Council may affirm the Planning Commission's decision to approve the Snow Creek Cottages MPD as conditioned or amended; the Council may reverse the decision and deny the MPD and direct staff to draft findings for the decision; or the Council may continue the discussion of the appeal. Staff recommends that the City Council review the appeal and consider affirming the Planning Commission's decision to approve the Snow Creek Cottages MPD as conditioned.

Jim Hier disclosed that he had a brief conversation with appellant Lisa Rudy on the Snow Creek Cottages Project on Sunday which focused on the overall value of the project not the particulars of the appeal. The Mayor invited the appellants to comment.

Conrad Elliott, appellant and resident of 10 Windrift Lane, believed this appeal is taking place under highly unusual circumstances. He suggested a scenario where a private developer proposes to build a MPD in the middle of wetlands and the neighbors object for a number of reasons. The buildings are too tall and violate City code, the developer declines to conduct a thorough wildlife study, and construction of the project may cause flooding to adjacent homes. Despite expressed concerns, the Planning Commission approves the development. The neighbors appeal the Commission's decision but learn that the appeal will be heard by the board of directors of the development company. He alleged that this is the same situation he and his fellow appellants are faced with tonight. The applicant is the City and the everyone on the appeal board is a paid City official and several Council members have publicly expressed their support for this project. He wondered if they can receive a fair and impartial consideration of the appeal and read from the City's Officials Handbook regarding hearings. Mr. Elliott stated that the appellants know they will not receive an impartial hearing but want to discuss two possible solutions. Any person sitting in judgment of this appeal who has received money or compensation from Park City Municipal Corporation or any of the members who have publicly expressed support for Snow Creek Cottages should recuse himself or herself from this hearing.

Conrad Elliott emphasized that the Council should provide another impartial decision-maker to hear the appeal at a later date. Another option is to set aside tonight's appeal and discuss the issues with them and attempt to arrive at a satisfactory conclusion. They are not asking to overturn the Planning Commission's approval; they are asking that three conditions be added to the approval: (1) require the wildlife study as specified

in the LMC, (2) require the engineering study specifically addressing water impacts to Windrift Condominiums, and (3) reduce the height of the buildings.

He continued that the staff report claims that the planning staff decides which SLO's regulations may apply to the site. The appellants believe that the staff has misinterpreted the LMC. Neither the staff nor the Planning Commission can select which parts of the wildlife study the applicant needs to do. Either the study is relevant to the property as the Commission deemed or it is not. The LMC makes no provision for a partial wildlife study.

The Mayor pointed out that none of Mr. Elliott's comments relate to the points of the appeal but focused on the question of the authority of the City Council. He acknowledged that this hearing is unique because the City is the applicant but encouraged the appellants to address the points of the appeal which is what Council members need to hear to determine if the Planning Commission erred in its decision to approve the MPD.

Mark Harrington stated that this situation actually happens all of the time and is not unique. Obviously, in any given year there are a number of development activities that result from normal municipal government's function. The Council is obligated to wear many hats and sometimes roles overlap. It is important to note that when they do overlap, there is full disclosure as there has been this evening. The Council is obligated by law to view the applicant as the City's Sustainability Department and appropriately judge the appeal based solely on the LMC issues raised and not any other policy perspective that the City may have. Mr. Harrington admitted that this is a very hard thing for the public to accept. Hiring an independent body is not a practice of jurisdictions because it is practically impossible to implement. In fact, most jurisdictions exempt themselves from the appeal process altogether. He emphasized that the City must go through the process like anyone else and ultimately, is accountable by judicial standards. The City Council has been trained on LMC issues and public comment has intentionally been limited so other considerations are not introduced. The Council's decision is limited to interpretation of the code.

Mr. Elliott suggested the dismissal of any Council member that made public remarks in support of the Snow Creek Cottages Project. Mr. Harrington stated that the Council as a majority has supported a policy in pursuing this housing project if it complies with the LMC. He did not agree that this is grounds for dismissal of this body to review the appeal nor would he require additional disclosure. He felt it safe to say that all members on the Council support affordable housing and to some degree some sort of project on this parcel at some point, but this does not preclude them from objectively applying the standards to the facts of this project. The Council has overturned municipal projects in the past and the law requires that members be impartial in

applying the facts to the law to the particular aspects of this application regardless of their overall policy perspective. Conrad Elliott stated that he thinks it's humanly impossible for members to be impartial once they have made up their minds. Mr. Harrington stated that if any member can not hear the appeal in an impartial manner he or she needs to recuse themselves because of personal bias.

Candace Erickson interjected that the three additional conditions suggested by the appellants may be worth addressing rather than going through the formal appeal process. The City Attorney explained that the Council always has the ability to continue a matter and direct staff to further work with the property owners. Additionally, the state encourages the use of the dispute resolution process through the private property rights ombudsman. Candace Erickson stated that she has issues with the wildlife study. Roger Harlan expressed concern about the safety of downstream residents regarding flooding. Joe Kernan pointed out that discussions may result in changes to the project which may result in a better product. Mr. Elliott indicated that these comments are encouraging because the appellants have felt that the Council is very closed minded about any of their concerns.

Ms. Simpson pointed out that members were not allowed to talk with appellants about the project because of the appeal and it is important to recognize that no matter how much Council members support a concept, they must fairly judge the process to make sure it was conducted properly. She felt confident that all members on Council can do that because we want to do things right. Jim Hier agreed. Serving as a member of the Planning Commission for five years and the City Council for six years has provided him with a good understanding of the LMC. He believes the Council has gone out of its way in many instances to ensure that the City follows the same process as any other developer would be required to follow. He felt confident that members can address the issues impartially. He stated that he feels strongly about affordable housing and housing on that site, but not necessarily the number of units and/or the height. Mayor Williams relayed that the Council has been looking at this parcel for housing for four years based on analyzing the uses for all City-owned property. Maintaining economic diversity is a goal of the Council and he believes the Snow Creek Cottages is a good project. One of the reasons for the height was to accommodate solar panels and he feels the height will not affect views from the neighborhoods.

Nancy Salomon read a quote from a story in the *Park Record* indicating that Mayor Williams expects the City Council to keep the Planning Commission's approval in tact. The Mayor encouraged her to read this statement in context. He explained that the story relates to the night the appellants asked Council to call-up the Commission's decision. When members were polled, they unanimously agreed to support the Planning Commission's decision and to not call up the MPD approval. He stated that since the appeal has been scheduled, he has not discussed it with anyone. Mark

Harrington described the call-up process for the benefit of the appellants and reiterated the Mayor's explanation.

Appellant Howard Anderson stated that he feels the parties are making some progress. The only outstanding issue is the height and this is the first discussion the neighbors have had with the City about this. The City never called them about the project but maybe issues can be worked out. The Mayor stated that he does not believe that they are on opposite sides and the goal of the hearing is determine what is fair and correct. He emphasized that the City has conducted open houses and many public meetings on the Snow Creek Cottages Project. Mr. Anderson stated that a charette was held for the public but the plans changed dramatically, specifically the height from one and a half stories to three stories.

The Mayor believed that everyone agrees about the wildlife study. Jim Hier cautioned speaking for all members because the appeal has not been discussed at all. Mark Harrington stated that all members feel they are unbiased enough to proceed to hear the appeal which addresses the first point. The next question relates to consensus to stay the appeal pending further discussions with the appellants; presentations could proceed and this question could be revisited later in the meeting.

Carol Casten, appellant, noted that the staff report prepared for the Planning Commission meeting states that a condition of approval regarding the mitigation of downstream impacts was added when in fact, it had not. The downstream residents, particularly Windrift, already experience flooding issues that have worsened over time. Flooding began following the construction of the Saddle View Office Park. With each project, the crawl space flooding has worsened. The downstream residents have repeatedly asked for assurances that the proposal development will not adversely affect them. The Planning Commission, however, did not require that the City conduct an engineering study and they want to make sure that is done. The Planning Commission did not require the applicant to complete a LOMAR. In refusing to perform such a study, the City is saying that it doesn't care about damage to adjacent properties. The appellants request a meeting with the engineer before the planning and implementation of the study so that neighborhood concerns are addressed and they don't understand the City's reluctance.

Nancy Salomon stated that no consideration has been given to the visual impacts because of the height. The original design was for one and a half story cottages and there isn't anything cottage-like about 37 foot structures above grade at nearly a full three stories. The LMC requires evaluation of visual impacts when evaluating a height exception and she argued that this project will affect Windrift's views. The staff report claims that Windrift is situated at a higher elevation than the proposed project which is clearly not the case. It is downstream and must be lower. The staff report claims that a

variation in roof pitches is a justification for allowing the height exception but it is conceivable to put the same roof structure on a lower building. The LMC requires that a MPD project compliment the natural features of the site. This is a low-scaled environment of streams, wetlands, low vegetation, an open meadow and a few aspen trees in one corner. These tall skinny houses will tower over the natural landscape where one and a half cottages would not. The LMC requires that the MPD be compatible with the neighborhood. She challenged members to find the same situation in any other part of Park City. The recent soil studies discovered water just below the surface and she wondered if the project would have to be raised from natural grade. The current design of nearly three full stories is not the most energy efficient design and Ms. Salomon believed that the cottage design would be 20% more efficient and pointed out that one unit must be ADA compliant. The appellants understand the reason for minimizing the footprint but felt their arguments are valid to consider to lower the height of the buildings. She stated that appellants prefer 60% open space with the original design over the 70% open space with taller buildings because there still is a lot of open space around the project. She reiterated her arguments in summary form.

Lisa Rudy stated that the design team assured the Planning Commission that the detention ponds would be dry most of the time and would not present a health and safety problem. Given the high water table there is no way to provide assurances to residents without the results of the soils engineering studies. The water situation at Windrift needs to be thoroughly assessed before any permits are issued.

Craig Elliott, architect representing the applicant, displayed a model of the project area, including the Snow Creek Cottages, Windrift Condominiums, and the Saddle View buildings. He stated that the Council has always been impartial when evaluating his projects in the past and understood that the neighbors are not opposed to affordable housing but opposed to any development on the site. In 1993 the Snow Creek Crossing large scale MPD was approved and through the process, densities, parking requirements, and uses were determined. This particular parcel was part of the MPD as well as the post office and police facility parcels. At that time, the parcel was designated as housing and zoned appropriately. When the original MPD was reviewed, the Planning Commission asked for further information which included application of the SLO. The wetlands were identified as sensitive areas, which will be protected and a 50 foot buffer from the edge of the wetlands will be retained as required by the ordinance. Based on the criteria of the ordinance there were no further restrictions on the residential or commercial portions of the MPD and this determination was followed. The state was contacted and responded at that time. He emphasized that the wildlife study has been contracted and a preliminary letter has been rendered. Mr. Elliott emphasized that requirements like the habitat study and zoning for the parcel have been consistently applied through reviews.

Craig Elliott explained that the hydrology study which will determine how much water is being moved through the channel will be conducted. This requirement is the same standard for the City as it would be for any applicant. In order to conduct an engineering study, which is a condition of approval, the project scope has to be defined. Additionally, a review and approval of the Army Corps of Engineers is required and there have been no exceptions granted to the City with regard to requirements. The original MPD assigned large portions of open space in addition to the required open space generated within projects. This results in a huge percentage of open space in the general area. During the Planning Commission review of the Snow Creek Cottages MPD, comments were received from Commission members and neighbors about reducing the footprint on the site. The initial application was essentially two stories which resulted in 60% open space but he was directed to reduce the amount of impervious materials on the site which could alter run-off from the project. The 40% lot coverage was redesigned to 30% by creating a more efficient two and a half to three story design. The impervious surface coverage was reduced by 25% which is significant and is encouraged with green building practices.

The MPD process provides for an exception for building height and there are six criteria of which one does not apply because it relates to the HR-1 Zone. The project met every condition and submitted site sections for the Commission and public to review; a solar study was also completed. The building square footage or amount of volume was not increased and Mr. Elliott emphasized that only 32% of the allowed density is proposed and single family detached buildings seemed to be the best fit for the site and the neighborhood. An aerial survey was submitted to illustrate that distances from the wetlands exceed zoning requirements. Although the project may be located in a view shed toward the meadow, it will not be in the direct view shed of Windrift or Saddle View because of the orientation of the structures and existing vegetation. He discussed possible additional landscaping efforts to screen the project. The project will be ADA compliant and he discussed installing an elevator in one of the houses which is common in Park City. The buildings are extremely efficient.

Architect Craig Elliott addressed the LOMAR issues and believed they will be filing one but he did not feel the boundaries of the flood plan have changed. The design of the detention basins is intended to allow the project and property to perform as it has historically and the MPD agreement specifies that these studies be conducted. Flows will not increase based on the application of common engineering practices and local, state and federal regulations. The design takes into account all of the issues raised. He described access to the project for the benefit of Carol Casten and answered other questions from the appellants regarding the detention basins.

Candace Erickson relayed that it is her observation when walking the site that only two units will be slightly impacted with regard to the height of the project because Windrift's

windows are oriented to the west. The potential results of the hydrology analysis and flooding were discussed. In response to a question from Mr. Hier, Katie Cattan explained that a MPD is required for projects over 10 units. The Mayor invited public input.

Appellant Carol Casten pointed out that the letter on wildlife clearly disclosed that it wasn't a report and a complete wildlife report should be produced. The Mayor again invited the audience to speak.

Sheila Haloff-Berry, Windrift resident, stated that the ponds are not causing flooding in units because as development proceeded in the area over the years, flooding in crawl spaces increased.

Tina Smith, Park Avenue resident, stated that she prefers keeping the parcel as open space because of the wildlife but is encouraged by the studies that will be completed. She was not allowed to build beyond 27 feet in Old Town to accommodate solar panels and which is not fair. She felt that the height of 37 feet is significant.

Rich Wyman, resident, relayed that he is both an affordable housing and an open space advocate. He stated that the evidence presented seems to negate the concerns of wetland encroachment or flooding. There is a lot of fear about the unknown and the residents are afraid of what may happen if 13 houses are built which results in the NIMBY syndrome. He emphasized that this project is not actually in their backyards; the Saddle View Condos are at least 190 feet away and Windrift 124 feet away. The appellants are grasping at things to fight the project like water and wildlife and the appellants carry the burden of proof in proving that the Planning Commission erred in its decision. The staff report indicates that the Army Corps of Engineers determined that the wetlands and flooding are not issues. The Department of Natural Resources found that there is no concern or threat to existing wildlife. Mr. Wyman emphasized that this is not a sensitive land because it is already surrounded by development, buildings and roads. The Windrift and Saddle View Condos were built in the flood plain in the wetlands and are high in density. The appellants' condos would never be approved by today's high standards under which the Snow Creek Cottages exceed. The original MPD required 60% open space and the current project has over 70% open space. This is in addition to almost 20 acres of open space already set aside in the subdivision, totaling over 25.5 acres of open space. The project has a maximum allowable density of 40 units but the applicant is requesting only 13 units. With regard to the height exception, the precedent has been set; Aspen Villas was approved with a height exception in the 1990s. The planning staff has stated that views from Windrift and Saddle View will not be impacted and the project is also out of view of SR224. It is not on a hill or ridge, but surrounded by other buildings and it is an ideal location for housing because it is within walking distance to shopping, thereby cutting down on vehicular

traffic. He stated that 15 years ago he as the Chair for the Coalition of Resident Renters, he was one of the first affordable housing advocates. When asked by a member of the Leadership Class why citizens should pay for affordable housing, he responded that when a community decides it needs something it pays for it. .like a new police station, City Hall, schools, roads or other structures and he emphasized that people are more important than people and roads. Affordable housing benefits this entire community by providing housing for school teachers, police officers, fire fighters, City Hall employees, local business owners and their employees. All of us can live here thanks to projects like this. Mr. Wyman encouraged Council members to follow staff's recommendation based on the conclusions of law and to affirm the Planning Commission's determination. Approving this project will complete the Snow Creek Subdivision protecting over 25.5 acres of open space while providing 13 beautiful units of housing for the people who live and work here. It is a project to be proud of now and well into the future.

Judy Hale, long term resident, stated that she has been attending meetings and is objecting because she feels the parcel is the last piece of open space of its type within the City limits. It is not in her backyard but in the backyard of her community. This is like putting homes in the middle of Swaner Preserve. The project will forever change that part of our community. Even though Mr. Hier stated that there is no land value there, there are open space dollars available for this property and this money could be used to assist people in obtaining homes in the greater Park City area. She is also concerned about water.

Glen McConkey, resident, stated that she lived in Park City in 1963 and 1964 and explained that the area looked very much like a brushy desert meadow not wetlands. The Park Meadows Golf Course *rearranged* the water system to accommodate the development in Park Meadows many years ago and now we have to deal with the consequences.

Bob Becker, resident of Saddle View for ten years, stated that they are very supportive of low income housing which is needed in Park City. He lives in Unit 3 on the lowest level and his views will be obstructed with the proposed height. The letter from the Field Ecology Office recommended that the City postpone its decision for at least a year. The wetlands are fragile and he pointed out that the wildlife habitat will be destroyed. Cities should adhere to higher standards and set a positive example to the community. In this case, he feels the City is lowering its standards and requirements below what would be approved for other applicants.

Kyra Ryan stated that she is hopeful that all of the issues raised can be addressed. As an employer and resident, she is very supportive of this project.

Alan Schueler, Old Town resident, relayed that this is the first person he has heard in favor of affordable housing in all of the meetings he has attended over the past 11 years. His concern with the project and the government as a whole is that citizens should not have to pay for it and have it in their neighborhoods. Affordable housing is not clearly defined as a government role and it has usurped everything else going on in the City. It doesn't matter what the neighborhood thinks and this is very frustrating.

Teri Orr relayed that this project is kind of in her backyard, about a mile. When she first moved into her Park Meadows house in 1980, there was no wildlife around the neighborhood. Development on the hillsides forced wildlife down into residential areas and she suspects that many of the critters spotted in the Snow Creek area didn't really make the same pathway decades ago. The locations they're in now are the result of the different kinds of growth that has occurred. In 1980, the older homes in Park Meadows were the affordable housing at the time and there simply wasn't much else available in Park City. She manages ten employees of which only two live within the City limits. Ms. Orr apologized to the Council for not more affordable housing advocates speaking out sooner, but encouraged proceeding with a terrific project. She applauded all of the work done to try and make the project compatible.

Kyle MacArthur, Silver Meadows affordable housing resident, stated that he was on a waiting list for six years before he finally got into a unit. He hates to see affordable housing projects delayed because they are needed sooner rather than later.

Katie Mollaly, Silver Star affordable housing resident, stated that she appreciates everyone's concerns which are valid but trusts that the Council will conduct studies to thoroughly evaluate the site. This is an important project that should proceed for the betterment of the community. Workers make Park City what it is and people should speak up on this topic more often.

Jenni Smith, Park City Mountain Resort, thanked Council for handling these hard decisions. She agreed with Teri, Kyra and Kate and would love to see this project happen on the site, understanding there are concerns. She felt these issues could be worked through and supports affordable housing on this site.

Mark Blue stated that the City requires all these studies to build something but not that much to rip something down.

Patricia Stokes, resident, commended the work performed on the project and petitioned the Council to allow the project to proceed. Diversity in Park City will help preserve the fabric of the community. This is a critical project.

Greta Andreni, resident, stated that the average resident has two or three jobs in order

to be able to afford to live in Park City. She supports affordable housing and at the same time is committed to the environment. She feels confident that the Council will consider and mitigate any environmental impacts.

Carol Casten announced to the audience that the appellants have presented a plan for affordable housing that will help many more than 13 families. Their analyses could reach out to 60 to 100 families depending on the allocations of money. They would be happy to meet with anyone to share their concept. Their plan is win-win and will allow anyone to apply for housing not just 13 lucky households and the meadow could be preserved forever.

Nancy Salomon felt that deed restricted property is a permanent trap for buyers because they can not build equity. Their plan gets around this because the owners participate in the appreciation of their own property.

Kyle MacArthur added that he loves his affordable housing neighborhood and does not feel trapped.

With no further comments, the Mayor closed public input.

Jim Hier believed that the wildlife habitat study should have accompanied the original application and the applicant's failure to include the study was in error. He suggested continuing the appeal until the study is received. Katie Cattan explained that the wildlife biologist will address all of the requirements of the SLO analysis within the LMC as well as meet the requirements of Condition of Approval No. 15, stating that a wildlife habitat study must be completed prior to the issuance of the building permit. A preliminary letter was sent by the biologist, confirming the site review and that a report will follow. Mr. Hier stated that the LMC requires the report at the time of application and asked when it would be available so that the condition is addressed before rendering a decision on the project. Craig Elliott believed the final study may take a month and Tom Bakaly pointed out that focusing on the elements outlined in the LMC may simplify the analysis. Jim Hier stated that the report should address Subsections (a) through (f) as written in the LMC. A mitigation plan, if required, does not need to be produced at this time. Katie Cattan felt that the letter may have sufficed if submitted with the application and a full study may not have been pursued. Members agreed that the wildlife analysis should address the specific criteria included in the LMC.

The Mayor announced that the appeal will be continued. Jim Hier explained that the MPD process determines the scope of the project first before a hydrology study can be performed. It is appropriate that it be conducted prior to issuance of building permits. He suggested that the engineering report address the detention ponds. If needed, the LOMAR should be completed. Members agreed.

With regard to height, Roger Harlan felt the trade-off of a smaller footprint is compelling. Candace Erickson stated she has not made up her mind about the height but doesn't believe the Planning Commission erred in its determination. Joe Kernan agreed and felt all criteria was met. Liza Simpson also agreed. Jim Hier stated that the Planning Commission did not err but the Council may want to revisit the height.

Mark Harrington contemplated returning to Council with two sets of recommendations and findings. If the additional information from the wildlife biologist meets the criteria in the Code, he anticipates recommended findings and facts for granting the appeal in part and denying the appeal in part with revised conditions of approval that address any issues raised in the wildlife study or relating to other conditions for Items 2 and 3 in terms of the hydrology and the LOMAR. If the wildlife study comes back with substantive issues, the appeal would be granted in part and denied in part, but probably with findings to remand it to the Planning Commission to address the wildlife issues prior to moving forward. The other option is presenting the information to Council who would decide at that meeting how the findings should be drafted.

Jim Hier did not favor remanding the project to the Planning Commission even if there are significant issues identified in the studies and preferred that Council review the information and make a determination. Liza Simpson, "I move we continue the appeal of the Planning Commission's approval of the MPD application for the Snow Creek Cottages until the 21st of August". Joe Kernan seconded. Motion unanimously carried.

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

The Mayor invited any general comments on affordable housing.

Glen McConkey felt that the affordable housing program in Park City is absolutely terrific and it should be in our back yards.

VII 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 2 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; and Mark Harrington, City Attorney; Diane Foster, Environmental Manager; Bob Richer, Summit County Commissioner; Myles Rademan, Public Affairs Manager; and Chris Donaldson. Roger

Page 19
City Council Meeting
August 7, 2008

Harlan, "I move to close the meeting to discuss property and personnel". Liza Simpson seconded. Motion carried unanimously. The meeting opened at approximately 3:30 p.m. Roger Harlan, "I move to open the meeting". Jim Hier 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

Janet M. Scott, City Recorder