

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
APRIL 21, 2021

COMMISSIONERS IN ATTENDANCE:

Chair John Phillips, John Kenworthy, Sarah Hall, Laura Suesser, Doug Thimm, Christin Van Dine

EX OFFICIO: Gretchen Milliken, Planning Director; Brendan Conboy, Planner; Mark Harrington, City Attorney; Jessica Nelson, Planning Analyst

The Planning Commission meeting was conducted virtually via Zoom.

The public was able to submit eComments during the meeting.

NOTICE OF ELECTRONIC MEETING & HOW TO COMMENT VIRTUALLY:

Chair Phillips read the Public Notice for Electronic Meetings and Exhibit A: Determination of Substantial Health and Safety Risk.

This meeting will be an electronic meeting without an anchor location as permitted by Utah Code Open and Public Meetings Act section 52-4-207(4) as amended June 18, 2020, and Park City Resolution 18-2020, adopted March 19, 2020. The written determination of a substantial health and safety risk, required by Utah Code section 52-4-207(4), is attached as Exhibit A. Planning Commission members will connect electronically. Public comments will be accepted virtually as described below.

To comment virtually, raise your hand on Zoom. Written comments submitted before or during the meeting date will be entered into the public record but not read aloud. For more information on participating virtually and to listen live, please go to www.parkcity.org/public-meetings

Exhibit A: Determination of Substantial Health and Safety Risk

The Commission Chair has determined that conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. Utah Code section 52-4-207(4) requires this determination and the facts upon which it is based, which include:

- Statewide COVID cases and hospitalizations remain high.
- Based on metrics established by the statewide COVID-19 Transmission Index, Summit County moved to the High-Risk designation on October 22, 2020; and

- Park City is a resort community continually hosting visitors from areas which may be experiencing rapid COVID-19 spread.

This determination is valid for 30 days and is set to expire on May 14, 2021.

Dated: April 21, 2021.

ROLL CALL

Chair Phillips called the meeting to order at 5:30 p.m. and noted that all Commissioners were present.

PUBLIC COMMUNICATIONS

No hands were raised on Zoom and no eComments were submitted.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Chair Phillips urged the Commissioners to use their video feed when speaking if possible. He felt that seeing faces was more natural and provided a more person to person connection.

Planning Analyst, Jessica Nelson, pointed out that the public does not have the ability to use their video for the meetings unless she promotes them to panelist. In some cases, including this evening, some people have requested to be promoted during the public hearing so they can share their screens for a presentation. She tries to accommodate those requests if possible. Chair Phillips understood the difficulty with seeing all the speakers who make comments during the public hearing and thanked Ms. Nelson for the clarification.

Ms. Nelson noted that Commissioner Kenworthy had asked about the meeting format and when the Planning Commission would return to in-person meetings. She noted that a work session is scheduled for the May 12th Planning Commission meeting to discuss how to move forward. City Attorney Harrington noted that the City Council would be discussing the matter generally at their meeting on April 29th. If the Commissioners would like to provide input to the Council, they should convey their comments to Mayor Beerman either prior to or at that meeting.

Commissioner Suesser clarified that the work session discussion on May 12th would still be virtual and not an in-person meeting. Chair Phillips replied that she was correct.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

7.A. Park City Mountain Resort Base Parking Lots - MPD Modification - Replace Expired Exhibit D of the DA, the 1998 PCMR Base Area Master Plan Study Concept Master Plan, With a New Master Plan, Known as the Park City Base Area Lot Redevelopment Master Plan Study. The Planning Commission will conduct a Work Session from 5:30-8:30 PM, followed by a public hearing from 8:30-10:00 PM, with a focus on the applicant's requested exceptions to Setbacks, Building Height and required Parking, in accordance with the MPD, and applicable LMC and General Plan criteria. (Application PL-20-04475)

Chair Phillips commented on the length of the last meeting and how some of the Commissioners were not able to make all their comments due to the late hour. Before moving to the topic for this evening, he intended to make some of his comments regarding the last meeting and encouraged the other Commissioners to take a few minutes to do the same if they still had comments on transportation.

Chair Phillips stated that as he was looking at the project and the presentations given, the bus transit center did not satisfy what he expected. The information was not clear, and they did not have the ability to see that it would actually function properly. Chair Phillips felt the same way about the shuttle transit and passenger parking.

Chair Phillips noted that at the end of the last meeting Robert Schmidt asked questions about process moving forward. He asked if Mr. Schmidt wanted to continue that discussion before moving to the presentations for this evening.

Robert Schmidt, representing PEG Development, stated that his question was about anticipated timing and process as they move towards a conclusion and a vote. He assumed it would be a lengthy discussion and was unsure whether time would allow that discussion tonight. Chair Phillips stated that the Planning Commission and the Staff are aware of his comments and they can address it at a later time.

Commissioner Kenworthy appreciated Chair Phillips mentioning how time ran out on the transportation discussion last month. Commissioner Kenworthy had the east-west connections in his notes, which included 13th, 14th, 15th Street. He noted that it was talked about months ago, but he had never seen a study. Commissioner Kenworthy emphasized that he wants that study now in this process rather than pushing it off to a CUP. He noted that the General Plan calls for it multiple times. Commissioner Kenworthy pointed out that they only have one chance to get this right and many of the parking studies done many years ago translate into the General Plan. He read from the General Plan, "There are many components to successful connectivity. The new area

plan should not preclude transportation alternatives to assist in the east-west connection". Commissioner Kenworthy noted that those streets, especially 14th and 15th Street are connector roads. They are not considered in the studies as neighborhoods, and they are being left out of a comprehensive study of the transportation loops and the area plans. Commissioner Kenworthy stated that these things have been critical to studies that were paid for and they are sitting like neon signs in the General Plan, but they have not been addressed. He hoped that AECOM will take the time and do the work to come up with solutions. Commissioner Kenworthy emphasized the importance of doing the study.

Commissioner Suesser stated that while the Planning Commission seemed unanimous on keeping the bus drop-off in its current location, she thought it was necessarily conditioned on the engineering and whether the bus turnaround fits there. Commissioner Suesser recalled that the Planning Commission asked the applicant for the engineering report demonstrating that the turnaround fits and works in that location, and how much space is required. She believed the requested information was still outstanding. Commissioner Suesser wanted that point clarified because it was assumed that the bus drop-off location would remain, when in fact, it still needed to be engineered. Commissioner Suesser agreed that the general public drop-off that the applicant proposed is less than what currently exists, and it is inadequate. The shuttle drop-off is also less than what they have currently at the Resort and also inadequate. She thought the circulation plans were critical to any further discussion regarding setbacks and other issues being addressed this evening. Commissioner Suesser did not believe the Commissioners have what they need to make good decisions on this plan going forward. It will be difficult to make any determinations until they see and understand the circulation plan.

Chair Phillips commented on the bus turnaround. He noted that in the design the bus no longer takes the full loop because of one-way traffic. He asked if they had looked at the possibility of having one bus every 20 minutes go through the full loop to service the outer perimeter of the project.

Robert Schmidt responded to the comments regarding the bus stop. He stated that the materials provided for that conversation included preliminary engineering drawings, bus turn radiuses for every bus stop position, and cross sections showing what the grade across the transit center would be. He stated that PEG was comfortable that the transit center was capable of being fully functional and accommodate the buses that are currently being used by the City. Mr. Schmidt pointed out that the City Engineer has requested additional information and PEG was working on providing that information. However, currently, he believed the applicant had provided substantive information demonstrating that the location does work.

Regarding the shuttle location, Mr. Schmidt stated that the current condition accommodates eight shuttles, and they showed eight shuttles still being accommodated. He was confident that the shuttle plan is sufficient and meets the needs for the area.

Chair Phillips thought the additional information requested by the City Engineer might be the missing information the Commissioners need.

Commissioner Thimm stated that he looked at the engineering provided by the applicant for the last meeting, and he agreed that it did have the turning radius. He was unsure whether the space allocations were agreed upon with the City's consultant, AECOM. Commissioner Thimm noted that towards the end of the meeting the Planning Commission discussed the need for the applicant to address all of AECOM's commentary. He believed the Planning Commission was looking for consensus between the applicant and the City/City's Consultant on a good workable solution in terms of lane width, sidewalk width, pathway widths, number of lanes, and how signalization is working. Commissioner Thimm thought it was extremely important and to some degree it will infer some of the setbacks and carry to other discussions. There is a caveat to the discussion this evening that they need to keep in mind as things move forward. If adjustments are made based upon circulation, it might require a fresh look at some of the circulation paths. They might be generally understood, but some components need to play into the whole composition.

Chair Phillips moved on to the topics scheduled for this evening.

Planner Alex Ananth stated that the discussion this evening will focus on the applicant's requested exceptions to Setbacks, Building Height, and required Parking. The Planning Commission will conduct a Work Session from 5:30-8:30 p.m., followed by a public hearing from 8:30-10:00 p.m. The next meeting on this project was scheduled for May 19th.

Planner Ananth stated that she had slides that might help with the discussion on setback, height, and parking; however, she preferred to let the applicant give their presentation first before showing her slides.

Robert Schmidt, representing PEG Development, stated that the team was prepared to talk about architecture, setbacks, building height, and parking. He appreciated the format and the opportunity to have more in-depth discussion as they go through their presentation.

Mr. Schmidt noted that Emir Tursic from HKS Architects would be doing the presentation this evening. Robert McConnell, legal counsel for PEG, was also on the line, as well as Kristen Williams and Stan Kozlowski, consultants with the team.

Mr. Schmidt reported that several adjustments were made since they last talked about architecture, setbacks, and building height. They were prepared to talk about setbacks and the justification for their exception request, as well as building height and the justification for the requested building height. Mr. Schmidt welcomed the Commissioner's comments throughout the presentation.

Emir Tursic reviewed the design updates since the January meeting based on comments expressed by the Planning Commission and the community, specifically on Parcels D and E. He intended to focus on the setback exception criteria and compliance and the building height exception criteria and compliance. He was also prepared to demonstrate how the current design complies with the current LMC while maintaining the general spirit of the 1998 plan.

Mr. Tursic noted that there were no major changes to Parcel B since January; however, the articulation of Parcel B along Empire Avenue had changed where the massing was significantly reduced to relate to the building across the street. They also introduced a pedestrian connection that was part of the original master plan by carving out the top level of parking and created a 14th Street corridor that connects 14th Street with the Resort and the future bus stop. It also helped reduce the massing of the elevation. They created a large aperture along Empire and divided the massing into three different components. Mr. Tursic presented renderings shown at the last meeting looking at the Resort from 14th Street perspective and the public space created. Also looking at it from the opposite side which would now be the arrival and the pedestrian connection to the bus transit stop area.

Mr. Tursic stated that at the end of the last presentation some of the Commissioners and the community members expressed concerns about the elevation of Parcel D, specifically on Empire. Taking those comments into consideration, they had a work session with the Planning Department to look at how they could improve not only the articulation of that particular facade, but also the entire arrival point and improved pedestrian connectivity.

Mr. Tursic showed Parcel D to orient the Commissioners. He pointed out that the elevation they would be looking at was along Empire. He stated that they always looked at this as a very important arrival point to the Resort. It will create a sense of arrival and a sense of identity and create a mountain view corridor. Mr. Tursic presented a rough sketch-up rendering from the January meeting as a reminder of the

design and the concerns expressed at that time. He recalled that Commissioner Thimm had rightfully called the facade stark. Mr. Tursic agreed that the parking garage entrance and a loading dock was not very inviting. In conversations with the Planning Department, there were some concerns about a wall that created a barrier rather than being an inviting public space. Based on those comments, they looked at it more holistically in terms of how it could be improved. Mr. Tursic stated that after working with the landscape architect, the primary change was where the grade transition takes place. Rather than having a retaining wall, the grade transition was pushed further into the site and the street level elevation was continued on the corner of Silver King and Empire Avenue to create a more open and inviting open space. Mr. Tursic presented a rendering and explained how that plays into the overall mountain view corridor and the connection. He indicated a landscaped friendly space that allows people coming up to use the public open space to get to the Resort itself.

Mr. Tursic remarked that the elevation was revised completely and regrading the area allowed more height and more open clear glass for the retail in the corner. They pulled the glass further to the back and introduced additional fenestration in the stair tower to create a "front of the building" look since it will be one of the first impressions of the Resort that people will see. Mr. Tursic clarified that these were the major changes to Parcel D in response to the comments from the last meeting.

Commissioner Thimm asked if the height had changed at that end of the building or if it was the same height as the January presentation. Mr. Tursic replied that it was the same height shown in the January presentation.

Commissioner Kenworthy asked about the setbacks. Mr. Tursic replied that the setbacks remained the same as well. Commissioner Kenworthy asked Mr. Tursic to identify the setbacks on both sides. Mr. Tursic noted that setbacks would be part of his presentation. In response to Commissioner Kenworthy, he indicated the only portion of the Building D that encroaches beyond 25'. The rest would be at 25'. Commissioner Kenworthy asked the reason for encroaching the 25' setback on the one side. Mr. Tursic stated that it was a function of the siting and the program of the building. The building was positioned to align with the mountain view corridor, which is why it was pushed back to create the open space. As a result, the building slightly shifted beyond the 25' setback.

Commissioner Van Dine asked if any thought was given to moving the loading docks to a different location on the building, such as the back side, with the curb cut farther away from the intersection. Mr. Tursic replied that the options were limited given the access to the building. The only other option would be to put a loading dock on the opposite side, which would be right off Lowell and where there is already a parking garage

entrance. In addition, rather than introducing another loading dock along Lowell where there is already the Resort and hotel loading dock for Parcel C, they thought it was more appropriate to put it on the other side to mitigate traffic congestion and number of deliveries. Mr. Tursic clarified that there is no other access to this building because the condo building is right next to right.

Chair Phillips asked if Mr. Tursic had a plan view of the garage level. Mr. Tursic stated that it was not in his presentation, but if one of his team members would pull it up and send it to him, they could come back to it.

Commissioner Suesser asked if Mr. Tursic had other views of the building from the south side and the west side. Mr. Tursic did not have those views in his presentation this evening. He recalled presenting elevations of the south facades in his October presentation, and they could pull those up as well. It may have slightly changed but not drastically. Mr. Tursic pointed out that an entire floor from Parcel D was relocated to Parcel C to reduce the height of the building and to relate more to the adjacent context. He also offered to pull up elevations of that building from the November presentation if Commissioners wanted to see it. Commissioner Suesser noticed a building pad to the south of the building in the most recent plans that she had not seen previously. She asked if the area south of the building was part of Building D. Mr. Tursic answered no. There is a 25' fire truck access but they do not own anything beyond that property line. Commissioner Suesser clarified that there is another garage entrance to Building D coming off of Lowell; but that Mr. Tursic did not think that was an appropriate location for the loading dock given the loading dock in Building C.

Commissioner Suesser remarked that the picture shown with the nice tree between the garage and the loading dock looked nice, but she was concerned that it would still look too stark as a main entrance to the Resort area. Mr. Tursic stated that the intent is to buffer as much as possible through landscaping. There will be an overhead door and he believed there were options to make it look better. However, the door also needs to be durable. Mr. Tursic offered to look at other ways to buffer. He pointed out that what was showing was only their intent. A fully developed landscaping design would come with the conditional use permit. The idea is to use landscaping to buffer as much as possible, especially at the arrival point.

Mr. Tursic presented Parcel E. He noted that in previous presentations the Commissioners and the public expressed concern about the height on Parcel E and how it was different from the original design. Taking their comments into consideration, they relooked at Parcel E and made major improvements. Mr. Tursic stated that they studied the original 1998 volumetric that was approved. He explained that when they talk about volumetrics that are talking about the building envelopes that were approved

in 1998 for the previous design. Mr. Tursic stated that for this presentation, anything shown in a reddish color was the actual occupiable space. The yellow square on the top was the roof volume. The area below in blue was the area that the 1998 plan did not take into account as part of the building height. Mr. Tursic remarked that it is basically the difference between the datum that was established, which for the most part coincided with the ground elevation, and the natural grade.

Mr. Tursic presented the plan that was approved in 1998. He stated that one of the major differences between this design and what PEG has presented is that the original design had what they called a one-story building. However, taking into account the additional volume below, it is really a two-story building along Silver King, and it stepped up as it was going towards the plaza. Mr. Tursic noted that the team looked at how they could achieve something very similar. They had a good work session with the Planning Department and presented a couple of different options. They eventually came up with a new massing of the building that is basically a three-story volume along Silver King, and then steps back significantly before it grows to a six-story structure. Mr. Tursic stated that the volume was transferred on to the plaza rather than having it on the street side. He overlaid the two plans to show that the current design was more compatible, specifically along Silver King. Mr. Tursic noted that the original master plan proposed the Lowell realignment and Parcel E was a much larger parcel with a much larger density and allowable area. He pointed out that the PEG plan was dealing with a much smaller parcel.

Mr. Tursic commented on the articulation that was done to help the Planning Commission understand what the building would look like using the same material pallet on other buildings. They created a three-story high base with a big terrace, which created a lot of space along Silver King. The residential units were pushed back towards the mountain and the plaza. Mr. Tursic thought it significantly improved the massing and it allowed them to stay more in line with the original 1998 master plan.

Chair Phillips thought it would be helpful to compare what they were seeing now to what they saw when this process started. Mr. Tursic did not have that comparison for this meeting; however, he would compile the requested information for a future meeting. There have been several iterations since the beginning that he could overlay to show how the massing has evolved.

Chair Phillips commented on the new volumetrics presented this evening and he agreed that it was more fitting to the site than the 1998 volumetrics in general.

Planner Ananth pointed out that the applicant took some of the mass away from the facade that abuts the Snowflower condominiums and the number of stories adjacent to Snowflower did not seem as high.

Mr. Tursic moved to his presentation on setbacks. He previously created visual diagrams to help everyone visualize and understand the extent of the setbacks and the building heights, and how they relate to the 1998 plan. Mr. Tursic stated that the intent this evening was to quantify to help them understand the number of setbacks and in what area, the average setback, and how they relate to the overall plan. He remarked that per the LMC, master planned developments are supposed to provide a 25' setback. The Planning Commission has the authority to decrease the parameter setback to the base zone setback, which is 20' in this case. Mr. Tursic stated that specific language in the LMC states that the reduction can be granted by the Planning Commission if it is necessary to provide desired architectural interest and variation. Mr. Tursic believed that was the only relevant portion of the Setback Exception in Section 15-6-5 of the LMC. He suggested that the word "necessary" might not be the most appropriate or descriptive word in this context because it can be interpreted or misinterpreted in different ways. He noted that the language is "necessary to provide desired architectural interest and variation". It does not say necessary to make the project feasible, necessary to make the project have more or less density. The language specifically talks about desired architectural interest and variation. Mr. Tursic clarified that the team interprets the meaning of "necessary" for the result that it is creating in this context.

Mr. Tursic presented three-dimensional drawings from previous presentations. He noted that they basically created an imaginary 25' setback line and extruded it three-dimensionally in an effort to help everyone understand how much of the proposed design encroaches beyond the 25' setback. On Empire, the entrances to the town homes protrude beyond 25' going up to 20' setbacks, which was primarily done to create architectural variation and interest. He pointed to a portion of employee housing that also protrudes beyond 25', as well as a portion of the residential units on Levels 1 through 4 on Shadow Ridge. Mr. Tursic stated that looking at it from the opposite side on Lowell and Manor, no setback exceptions were being requested for Manor Way. However, portions of the building along Lowell go up to 20' setbacks and they were requesting that exception.

Mr. Tursic acknowledged that the diagrams are helpful but not always easy to understand. For that reason, they developed simplified setback diagrams for this parcel to help people better understand the portions of the building. He noted that everything highlighted in red were portions of the building at a 20' setback. Everything shown in a

yellow color would be at the 25' setback. He indicated other portions of the building that exceeded the required 15' setback.

Mr. Tursic commented on the definition of setback exceptions. He thought it was important to introduce vertical and horizontal elements, not only to create architectural variation and interest, but more importantly to reduce the perceived sense of scale. Mr. Tursic presented an iteration of the same diagram without the 20' setback exception. He noted that if everything was at 25', the buildings would be perceived taller and longer than what they are actually. He pointed out that this is where architectural interest and variation comes into play. It is used to reduce the perceived scale of the building to avoid the look and feel of a warehouse wall. He presented a drawing of the same elevation on Empire showing what the building would look like if everything was at the 25' setback. He did not believe it was the desired look nor the intent of the Land Management Code or the 1998 Master Plan. Mr. Tursic did the same comparisons along Lowell. He reiterated that the applicant was not requesting a setback exception along Manor Way.

Mr. Tursic stated that even with the requested 20' setback exceptions, they went through each elevation and each floor and calculated the average setback. It is a complicated equation because it needs to be done for each facade and each level, and the length of level varies. Mr. Tursic reported that even with the requested setback exceptions, with the exception of Shadow Ridge where they still meet the MPD required 25' setback, they exceed it on all other elevations. The setback along Empire is 32.35', along Manor it is 28', and 31.12' feet along Lowell.

Planner Ananth asked if the average setback accounts for length and building height or just the length. Mr. Tursic replied that it counts for building floor. He stated that in looking at the articulation, each level will be recessed at a different level. Each level might have a different height as well as a different length. For example, a top level at 33' is significantly shorter than the first three levels, which is why they account for all of that in the average setback calculation.

Chair Phillips understood that Mr. Tursic was calculating the total length of all the floor plates combined with where they are setback to determine the average setback. Mr. Tursic replied that he was correct.

Commissioner Suesser referred to the building that was proposed on Parcel B in 1998. She noted that it was four separate buildings, and it did not have the large interior courtyard that was currently being proposed. She asked Mr. Tursic to show the building with the courtyard. She asked if it was configured more like the proposed buildings on Lot B in 1998 whether they would need the setback exception. Commissioner Suesser

suggested reducing the size of the courtyard so the building can be set back properly from the street. Mr. Tursic noted that the 1998 plan requested setback exceptions on all four elevation, including Manor. He explained that there is no room to push the building back any further because of the garage levels. The garage is already at the absolute minimum in terms of the required circulation and the depth of the spaces behind the building.

Commissioner Suesser commented on circulation. She noted that AECOM recommended, and the 1998 Development Agreement required, a 15' trail around Parcel B. She wanted to know how a 15' trail fits within a 20' setback with landscaping. Mr. Schmidt pointed out that the trail does not all fall behind the right-of-way. Typically, a public sidewalk would fall within the right-of-way, not behind the right-of-way line. In this case, a 15' trail may need a few more feet behind the right-of-way line, and PEG was willing to grant a public sidewalk access easement for the areas that need the additional few feet to accommodate the wider pathway. Mr. Schmidt noted that last month they showed a 12' pathway around Parcel B, which is the standard size for a multi-use pathway. However, if the desire is to have a 15' pathway they could accommodate the additional 3'.

Commissioner Suesser asked for clarification on how much of the trail would be in the public right-of-way versus Parcel B. Commissioner Thimm asked if Mr. Schmidt knew the dimension from the back face of curb to the right-of-way line along there for the existing road. Mr. Schmidt replied that there is just under 11' from the back of curb to the right-of-way line on the west side of Empire Avenue.

Planner Ananth asked Mr. Tursic to walk through the average setback on Empire Avenue. She thought the Empire Avenue setback was 25' for the townhouses with some at 20' for the protrusion, and the corner has a greater setback. Planner Ananth wanted to know how Mr. Tursic calculated the high average when most of the facade appears to be between 20 and 25 feet. Mr. Tursic pointed to a corner that was well beyond 25' because it turns the corner and creates open space. He offered to provide a drawing to demonstrate how they justified the calculations. Planner Ananth clarified that the average setback is 32' because of the employee housing building being setback further. Mr. Tursic answered yes.

Chair Phillips did not believe they could hold this up to the Code because there are no average setbacks in the Code. However, from his standpoint, instead of taking the average of the entire height of the building he thought it should be the average on street level. Chair Phillips remarked that going up to the other levels with setbacks and the 35' side being taller than the rest skews the numbers.

Mr. Schmidt stated that the purpose of presenting this was to give the Planning Commission a sense of the strict interpretation of the Code and the variation they were proposing. The question is whether or not the Planning Commission wants to grant the exception. If the Commissioners choose not to grant it, the applicant will adhere to what is left in the Code.

Mr. Schmidt asked to have their legal Counsel, Robert McConnell, address the interpretation of that section of the Code from a legal perspective.

Robert McConnell noted that Mr. Tursic had already spoken to the specific language of the Code and the Planning Commission's ability to grant the exception if it is necessary to provide desired architectural interest and variation. Mr. McConnell stated that when interpreting a provision, the ordinance needs to be construed so all parts are relevant and meaningful. They are required to construe each part or section in connection with the whole and with every other part or section. Mr. McConnell recognized that as a land use authority, the Planning Commission was required to follow the Code and enforce the ordinances as written. As they review the provisions, the Commissioners should not interpret the terms of the ordinance to foreclose the power to grant the exception. Mr. McConnell clarified that the Planning Commission is given the authority to determine whether an exception is warranted, and the ordinance should not be read in way that results in no circumstance where an exception cannot or should not be granted. He stated that if they were to treat their authority as being applicable only in the context of an absolute necessity, it is difficult to imagine a circumstance where such absolute necessary exists. Mr. McConnell remarked that if they ignore all the other factors and apply the exception in isolation, it will always be possible to scrap the project or reduce the footprint of the applicable building and thereby eliminate the absolute necessity for a setback exception. He stated that from the applicant's perspective, that result is inconsistent with the wholistic and harmonious reading of the land use code in general and the power to grant the setback exceptions specifically.

Mr. McConnell recognized that it is a difficult determination in some respects because they were looking at it in the context of an amendment/approval of a plan. They were being asked to evaluate a variety of concerns, many of which are competing. Those concerns arise from the requirements of the land use code, an existing set of development entitlements, guidance of the City's General Plan, and the articulated vision of a more denser village core and destination resort. Mr. McConnell noted that all these factors go into their evaluation. He encouraged the Commissioners to read the ordinance wholistically so the ability to grant the exception is recognized and it is not interpreted as being impossible to ever grant an exception. Mr. McConnell did not believe the Planning Commission would have been given the power to grant the exception if it was never intended to be exercised.

Chair Phillips understood that the underlying zone is a 20' setback; however, because this project is over 2 acres, there is an additional setback. Mr. McConnell replied that it was a little different from Chair Phillip's understanding. The Code requires a 25' perimeter setback for an MPD. The Planning Commission is allowed to grant an exception to take it down to the required setback in the underlying zone, which in this case is 20'. Chair Phillips clarified that the underlying zone is a 20' setback. Mr. McConnell replied that is 20' for a front yard setback. Chair Phillips stated that because the size is over 2 acres, it goes back to the 25' setback. He agreed with Mr. McConnell's comment that the Planning Commission has the ability to grant exceptions and it was put into the Code for a reason.

Chair Phillips stated that in a future meeting he would like to see the setbacks of the neighboring properties to look at both sides of the street and how it all fits in context of the overall street. Planner Ananth stated that she asked the applicant to give a sense of the distance to the nearest residential abutters, and she included in her presentation for this evening. For example, along Shadow Ridge, the buildings are separated by approximately 100'. Chair Phillips was interested in seeing that information in her presentation.

Commissioner Suesser agreed that it would be helpful to see Empire Avenue and the relation of the residential homes to this building. She was also interested in seeing the separation on Lowell between this building and condos. Commissioner Suesser asked Mr. Tursic to pull up the picture showing the corner of Lowell and Manor with the setbacks indicated.

Planning Director Milliken reported that in their last meeting with the applicant, the Planning Department discussed creating street cross sections to really understand what the roadway looks like in relationship to the buildings on both sides. The applicant did not have time to pull those together for this meeting, but it has been discussed.

Mr. Tursic pulled up the slide Commissioner Suesser requested. Commissioner Suesser thought it was important to understand how the setback exception might impact the circulation going on around the building. She thought it would be helpful if they could depict the crossing and the sidewalk. Commissioner Suesser thought it was unrealistic to have a 20' setback from the property line with a trail going around the building and a crossing over to the Resort.

Mr. Schmidt stated that when four or five different consultants are working simultaneously in different programs, sometimes all the information is not transferred across. He explained that in the case of the trail and the turnaround, the correct

1998 approval. Commission Thimm remarked that acknowledging some areas where a lessened setback was allowed is an important precedent as they continue through the process.

Planner Ananth reviewed a drawing of Parcel B from the 1998 plan. She indicated portions where the building hits the 20' setback line on all of the different streetscapes. Mr. Schmidt referred to Commissioner Suesser's comment that the 1998 plan called for four different buildings. He agreed that the plan labels four different buildings; however, in practice when they are massed together, it has the appearance of two buildings. Mr. Schmidt noted that the massing was large, particularly along Empire Avenue. Planner Ananth pointed out that the buildings were still on top of a parking deck and did not go all the way down to the existing streetscape elevation. Chair Phillips agreed that in looking at the 1998 plan the building was labeled 1, 2, 3 and 4, but it was actually one building with the masses broken up into what appears to be two buildings.

Director Milliken thought it would be helpful for the Planning Commission if Mr. Tursic could identify the different setbacks and explain why a particular setback was chosen. Chair Phillips agreed that the knowing the reasoning behind each setback or elevation would be helpful in reaching a decision.

The Commissioners discussed whether they wanted Mr. Tursic to walk through justification for the setbacks this evening or address it in a future meeting. Commissioner Suesser recalled requesting additional information on distances to adjacent buildings that they were still waiting on. They were also waiting to hear from the City Engineer on the bus turnaround. Commissioner Suesser did not believe the Planning Commission was ready to weigh in on the setbacks without a lot of caveats. Commissioner Kenworthy preferred to wait for the additional information before making a determination. He was very concerned about the Lowell Avenue setback and he wanted to see all the transportation elements on the actual slide, as well as the perspective from the buildings to the south and the buildings to the west. Commissioner Van Dine also wanted to see the additional information related to the surrounding buildings and transportation. Commissioner Hall concurred that it was better to allow the applicant the opportunity to give a full presentation. Commissioner Thimm agreed on hearing a full presentation once they have all the requested information, including the slides from Planner Ananth regarding the abutting buildings. He thought it was better to have a full presentation with all the information and determine if additional questions need to be answered before giving direction.

Planner Ananth presented the 1998 plan on a parcel-by-parcel basis showing the setbacks. At Lowell Avenue, Empire, Manor Way, and Shadow Ridge the the setback was waived to 20'. She presented a slide showing the facades where the applicant was

seeking setback exceptions. On Parcel B they were looking for an exception on Lowell, Shadow Ridge, and Empire. Another slide showed the distance to the nearest abutter. On Shadow Ridge, there is approximately 100' between the facade of Shadow Ridge and the applicant's building. On Empire there is approximately 65' across the street to the setback of the buildings on Empire and the applicant's building. On Manor Way the next building is set back pretty far, and the distance is over 100'. At the closest corner there is approximately 100' from building facade to building facade. Commissioner Suesser did not think that was the closest corner. She wanted to know the distance from the applicant's proposed building to Lowell because she thought it was half the distance. Planner Ananth thought it was comparable.

Mr. Schmidt stated that any feedback from the Planning Commission would be helpful in terms of whether or not there was any sentiment towards granting exceptions.

Chair Phillips referred to the corner of Building D that was discussed earlier in the presentation. He was hoping to see a plan view of the garage level or main level on that particular elevation. Chair Phillips did not see the corner of a building being as much of a problem as a whole facade. He noted that the end of the building is on the entry corridor and the way the building is angled opens up the corridor, but it also directs the garage doors directly towards the traffic coming into the resort. He recognized that the applicant worked on mitigating that impact through architectural elements and landscape design and they were asking for a setback exception on that one corner. Chair Phillips asked if it was possible to clip that corner and make the larger loading garage door perpendicular to the road, turning it away from the prominent view entering the Resort. He suggested that if it could be done, they might not need the setback exception because they were only asking for an exception on the corner of the building.

Mr. Schmidt provided clarification on the corner where the exception was being requested. He explained that it was driven more as a function of the building being square and the property line is not square.

Following up on Chair Phillip's question, Director Milliken asked if it was possible to slightly tilt one or both of the entrances to the parking garage, so people are not looking straight at a garage door as they drive up. Chair Phillips asked for the requested exception on that particular corner. Mr. Tursic recalled that it was 5'. Chair Phillips suggested that if Mr. Tursic could rework that end of the building and reorient the doors, they might be able to eliminate or reduce the setback exception. Mr. Schmidt did not believe it would reduce the need for the exception because it clips a corner that is not related to those entrances. He thought making the doors perpendicular to Empire Avenue was doable, although it would add a little more mass to the building.

Commissioner Van Dine preferred to have a garage door hidden by trees versus seeing more massing and part of a building. She did not believe pulling the building out further would look any better driving up to the Resort. Mr. Tursic stated that making the door perpendicular would require a larger encroachment unless they cut into the garage. Chair Phillips stated that after looking at the garage layout, he could see the stall. He was initially looking at reconfiguring that end of the garage, but he could now see the difficulty in making that change. Mr. Tursic suggested the possibility of a subtle shift and reorient the garage door to make it less visible to those arriving at the Resort. He would look into it further.

In response to an earlier question, Mr. Tursic pointed out that part of the reason why the loading dock was on that side was due to the grading. He noted that the retail space was at the same elevation as the loading dock and the street itself. If they put it on the opposite side on Level 1, it would be above the main retail level.

Commissioner Van Dine asked for the distance on Empire from that corner to the nearest buildings. Planner Ananth replied that it was approximately 80' from the corner where the parking stall is located to the nearest abutter. Commissioner Suesser asked for the length of the loading dock. She pointed out that the loading dock at the Marriott on Lowell involves trucks being in the middle of Lowell for extended periods of time. She asked if they should anticipate the same at that corner of Empire. Mr. Tursic noted that there is queuing space to the setback line and the property line, and the loading dock is behind. He assumed smaller trucks would be using the dock rather than larger trucks, but that would actually depend on the type of retail, which has not yet been determined.

Chair Phillips asked if the Commissioners were prepared to give the applicant any indication of what they were thinking in terms of setbacks. Commissioner Suesser pointed out that they had only looked at two buildings.

Commissioner Suesser understood that the LMC requires that a building to have architectural variation and asked for clarification. Planner Ananth replied that Section 15-5, the Architectural Code, has required variation within larger buildings. Commissioner Suesser asked if all the buildings in this project would qualify to meet that requirement. Planner Ananth answered yes. Commissioner Suesser remarked that when an applicant says a setback exception is necessary for architectural variation, the other option is not a flat face building because they would be allowed to do that under the LMC. They would be required to provide variation. Commissioner Suesser clarified that applicants ask for the exception because they believe it will enhance the building and achieve architectural variation without reducing any of their square footage or density. Planner Ananth stated that any structure greater than 60' in length must

show some facade variation. Commissioner Suesser reiterated that a flat face building under the 25' setback is not an option that would be approved because it does not comply with the LMC. Planner Ananth agreed. Mr. Tursic disagreed. He stated that the Section of the Code Commissioner Suesser referred to requires a single 15' recess every 165', which this facade provides. Mr. Tursic clarified that the Code was asking for single vertical recess. It was not asking to step the building the way the applicant was proposing. Planner Ananth did not disagree with Mr. Tursic; however, if they show a building at the CUP process that does not have enough facade variation, it would likely be a problem even if the volume was approved because the Planning Commission would expect variation.

Commissioner Suesser pointed out that the Code allows an exception only if it is necessary to provide architectural variation. Robert McConnell noted that the language states, "if it necessary to provide desired architectural variation". The distinction they were making was the difference between desired and required. Mr. McConnell believed they were all on the same page in terms of the desire to have that difference. The struggle was whether or not they wanted to grant the exception. Chair Phillips remarked that three is a Code minimum, which the applicant could follow and get through the process. However, what they were proposing at this point was beyond the Code minimum, which is good cause for asking for certain exceptions. Chair Phillips believed they were all right in some aspect. The question is whether the Planning Commission believes that the exceptions being requested have good cause and if they agree with it.

Chair Phillips believed they could provide Mr. Schmidt with an idea of where the Commissioners were leaning on granting the exceptions once they have all the information that was requested. Without going through every setback exception, he personally could see some areas where an exception might be appropriate, and other areas where he had reservations about granting an exception. Chair Phillips stated that he was open to considering an exception on a corner of a building where it would not reduce the public pathways. He was less favorable towards allowing an exception in the pinch point areas and if the exception creates a reduction of the public pathways. Chair Phillips remarked that setback exceptions are not just for architectural variation or other specific reasons. They need to look at everything as a whole when considering the exception. Chair Phillips believed the Commissioners would be able to provide the answer Mr. Schmidt was looking for after they have the opportunity to go through and evaluate each setback exception individually.

Mr. Tursic continued with the setback presentation. He indicated a small encroachment on Parcel C. Mr. Tursic stated that the setbacks on the remainder of Parcel C exceed the 25' required setback. On Parcel D there is a small corner that protrudes into the 20'

setback looking from Lowell, and also on the opposite corner on Empire. This is due to the orientation of the building in trying to create the public space and open the mountain view. Mr. Tursic stated that they were well within the setback on Silver King, with the exception of the small ground level area. There is also encroachment on the mountain side. He was unsure whether facing the mountain would be considered a perimeter or internal setback and he looked for guidance from the Planning Staff. Planner Ananth viewed it as an internal setback rather than a perimeter setback, but she would confirm that with the Planning Director and the City Attorney.

Commissioner Suesser noted that there is supposed to be a connecting walkway from Silver King to the Resort and she was concerned that it would be impacted by the setback exception. It was difficult to know because the slide presented did not show a pathway connecting to the plaza and up to the Resort. Chair Phillips stated that he was struggling to find the architectural variation that this particular setback would achieve or whether it would only extend the length of the building. He clarified that his comment speaks to the justification of granting a setback exception for architectural variation.

Commissioner Thimm asked Planner Ananth to clarify her interpretation on the back property line. Planner Ananth stated that in her view it is an internal setback because it abuts a parcel that the applicant is allowed to count towards their open space. Based on her interpretation, Commissioner Thimm understood that the setback would be at 20' rather than 25'. Planner Ananth answered yes. Commissioner Thimm stated that the veil shown in yellow would come out and everything in white would become veiled in yellow. Mr. Tursic agreed. If this was looked at as an internal setback, they would not need to seek an exception. Commissioner Thimm thought it was important to have that interpretation clear.

Commissioner Thimm provided input on the setbacks. In reviewing the Code and looking at the Empire phase of Building B, he believed the the adjustments to 20' fell within the interpreted reason for the Code that allows a reduction to 20' in creating the scale of the building. Commissioner Thimm stated that along Empire Avenue and looking at what is directly across the street to the east, he thought the 20' setback makes in that area. Along Shadow Ridge, he did not believe the articulation required would be of the level proposed. Commissioner Thimm stated that along Shadow Ridge, scaling the buildings such that from the sidewalk level the buildings are not perceived as being so tall is articulation that provides variation and scale. Commissioner Thimm had concerns with Building B along Lowell. He did not believe they were achieving architectural variation at the ground plane and he questioned whether reducing the setback is actually achieving the goal that is outlined by the Code. Commissioner Thimm stated that he would have a hard time making a finding that that architectural variation is needed.

Chair Phillips agreed with all of Commissioner Thimm's comments. He had the same thoughts on Building B, as long as those exceptions do not inhibit the ability to have the required public pathway. Commissioner Thimm concurred.

Robert McConnell asked for the width of the public pathway the Commissioners wanted to see along Building B. Commissioner Suesser replied that both AECOM and the 1998 Development Agreement recommended 15 feet. Chair Phillips explained that the Planning Commission was basically amending the 1998 DA and improvements would be their reasoning for making the amendment.

Commissioner Suesser stated that she would reserve her comments and decision on the setbacks until they have all the information. Commissioner Kenworthy stated that he was waiting for a comprehensive view before making a determination of compliance. He wanted to see the effects on the transit, height, open space, etc. all put together.

Chair Phillips stated that he was also hesitant to provide feedback on each building at this point which is why his earlier comments were broad. He did not want to give a false indication to the applicant that he agrees with something when he does not have all the information to actually make a decision. However, if the applicant understands that any feedback is in the context of what is in front of them versus what they need for a final conclusion, he was comfortable providing preliminary information.

Mr. Schmidt understood the format and the conditions by which the Commissioners were giving feedback. He remarked that any feedback is helpful because it lets the applicant know where things stand. Chair Phillips asked if Mr. Schmidt wanted the Commissioners to comment on each building, understanding that their comments were only intended to help the applicant come back with better information. Mr. Schmidt thought that would be helpful.

Mr. Tursic stated that the only encroachment on Building C is to the right of Lowell Avenue. It is a short portion that encroaches into the 25' setback. He believed that was the only setback exception on Parcel C. Planner Ananth asked if that was for another loading dock area. Mr. Tursic answered yes.

Chair Phillips understood that a setback exemption needs to be for architectural articulation. If that is the case, he did not see how allowing this exception would provide what the Code requires for the Commissioners to reach that determination. Chair Phillips stated that at this point he would not be in favor of granting the setback exception.

Mr. McConnell believed this was another example where they need to understand what constitutes an internal versus an external setback. He thought this was directly across the street from another portion of their project. Commissioner Thimm asked if it was a public right-of-way. Mr. McConnell answered yes. Planner Ananth clarified that she has not viewed this setback as internal. Commissioner Thimm believed that when the setback is on the public-right-of-way it does not become internal. Mr. McConnell did not believe the Code provided much guidance in an MPD on how to determine internal perimeters. Commissioner Thimm stated that in his 40 years of experience, if it is on a public right-of-way, it is not an internal line. He also agreed with the comments by Chair Phillips.

Mr. Schmidt understood this setback was for loading dock access and that it was a retaining wall and not part of the building. He asked if it would qualify as a building or site improvement. Planner Ananth replied that a retaining wall is typically a structure, and it would count.

Commissioner Suesser agreed with the comments by Chair Phillips and Commissioner Thimm.

Mr. Tursic remarked that Parcel E was already discussed and pending verification, it was not considered a perimeter setback and an exception was not necessary.

Mr. Tursic commented on two exceptions on Parcel D at the corner on Empire, as well as the corner on Lowell, which was already discussed.

Mr. Tursic pointed to the only exceptions on Parcel B at the corners of Lowell and Empire, which were previously discussed.

Commissioner Suesser challenged that the section on the west side of Building E was internal because it abuts public space, public right-of-way, and they have discussed a public route through there as a connecting area. It is open space that has been allocated within this project. She emphasized the need to confirm it because she did not agree that it was internal. Planner Ananth stated that she would confirm it for the next meeting. Commissioner Thimm agreed that it needs to be determined. It is important to get the correct interpretation to know if it was even an issue. Chair Phillips stated that if it is determined that the setback is 20' there would be no discussion. If it is determined through analysis that it is a 25' setback, he could not see the architectural articulation achieved by granting an exception.

Mr. Tursic indicated the corners on Parcel D at Lowell and Empire that poke into the 20' setback. Chair Phillips believed he could consider the exception because it is important for creating the view shed. However, he was unsure if the Code was specific on what they could consider in making a determination and whether it conflicts with creating view corridors.

Mr. Schmidt suggested that they look at the building holistically and consider that the setback is necessary in order to keep the architectural variation integral. Chair Phillips agreed.

Commissioner Suesser questioned how they could access the architectural articulations without seeing an image of the facade. Mr. Tursic showed a rendering of the facade that was shown in his presentation last year. Commissioner Suesser asked if it still the current plan. Mr. Tursic believed the only change since this was presented is that the top level of the Building was removed. The articulation of the building itself has not changed. He noted that the top level of Parcel D was moved to Parcel C after their presentation last year.

Planner Ananth asked if the building could be narrowed 10' to get away from the 5' setbacks on each end. Chair Phillips thought the garage bay could be moved back; however, it would create a flat plane on the backside of the building. He anticipated that if the exception is not allowed, they could end up with a flat facade on all four levels.

Commissioner Thimm stated that there were still height issues at that end of the building that needed to be addressed. In terms of making a finding with respect to necessary architectural articulation, he thought it would be difficult to make a legitimate finding for the garage extending into the setback. Commissioner Suesser agreed. A loading dock and a garage coming into the setback is not an appropriate reason for granting an exception.

Mr. Schmidt explained why he believed the other setback exceptions on Parcel D were necessary to provide the necessary architectural variation. Commissioner Thimm understood why the area with the windows could be looked at as part of the architectural variation and articulation. Based on the Code, he did not believe they could make a finding to allow exception for the stairway. Commissioners Suesser, Van Dine, and Phillips agreed.

Mr. Tursic walked through the building height presentation. He noted that they looked at the building heights in the same way as the setbacks, beginning with LMC Section 15-6-5, which outlines six different requirements for the building height exception. The first requirement is transfer of development credits which is the first requirement

applicable to this project. The second requirement is that the buildings have been positioned in such a way to minimize visual impacts on adjacent structures, as well as potential problems on neighboring properties caused by shadows, loss of solar access, and loss of air circulation. Mr. Tursic noted that the applicant submitted solar studies to the Planning Staff, and they were also included in this presentation. Other requirements include adequate landscape and buffering from adjacent properties, increased setbacks and separation from adjacent projects and properties, the additional building height must result in more open space than what is required. The last requirement is that the building height is designed in a manner that provides transition in roof elements in compliance with Chapter 15-5.

Mr. Tursic remarked that the additional density granted on Parcels B, C, D, and E came from the 1998 Development Agreement where 11.4 acres, which is basically the current First Time Lift and Magic Carpet runs, were designated as an open space requirement. Mr. Tursic pointed out that all the density from that parcel was granted to adjacent parcels B, C, D, and E. In addition, it also counts as part of the open space when doing the open space calculation required by the Land Management Code.

Chair Phillips noted that Parcel A was left out of the big picture of the original 1998 Development Agreement. Chair Phillips clarified that all of the open space is not credited towards B, C, D and E and he wanted to know how much of the open space is allocated to Parcel A. Mr. Schmidt did not have an immediate answer and offered to check.

Mr. Tursic presented a table showing the density that was approved for each parcel with the 1998 Development Plan. It also defined each use. Mr. Tursic stated that typically there is a residential use, residential support and commercial accessory use, and resort accessory and retail commercial use. Mr. Tursic noted that per the 1998 Agreement, Parcel B was allowed to build up to 323,000 square feet; Parcel C 192,000 square feet; Parcel D 102,000 square feet; and Parcel E 187,000 square feet for a total of 800,000 square feet.

Mr. Tursic stated that per the current design, the buildable area was significantly less on each parcel with the exception of Parcel C. They were proposing a development of 240,000 square feet on Parcel D, which is approximately 26% less than what was approved in the original Master Plan. Parcel C was slightly larger by 10% or 20,000 square feet, primarily due to the different uses being proposed. Mr. Tursic stated that the original Master Plan contemplated a condo or residential building, and PEG was proposing a hotel. A hotel requires a lot more support, back of house, and public space than a residential building, which results in the difference of 48,000 versus 16,000 square feet. Mr. Tursic pointed out that Parcel C is the only parcel that exceeds the

total allowable area. The buildable area on Parcel D was 22% less at approximately 80,000 square feet. Parcel E is 35% less, which is a function of the reduced parcel. Mr. Tursic stated that in total, the PEG development is 19% smaller in terms of the allowable area. The difference is 650,000 versus 800,000 square feet.

Mr. Tursic recalled comments about adjacent properties being 35'. He remarked that in this particular case, with transfer of density from the open space and ski area to the adjacent parking lots, it is not possible to build 654,000 square feet within a 35' height. If they did, it would be one huge mass of building without any open space, which would not meet the requirements.

Mr. Tursic noted that building siting and massing has been discussed in terms of how it compares to the original master plan. He stated that while they need to meet all the current LMC requirements, they are also evaluating the project and comparing it to the original 1998 plan. Mr. Tursic pointed out that the building height in the 1998 plan was measured differently that it is under the current standards. The main difference is that it was not measured from natural grade but by the established datum which was a ground level elevation. Mr. Tursic presented a color-coded slide showing the point where the measurement was from all the way up to the ridgeline. He noted that everything shown in blue was unaccounted in the building height that was quoted in the 1998 plan. Mr. Tursic believed this was important to understand, because as they compare building to building heights it is not apples to apples unless they compare sea level elevations.

Commissioner Suesser referred to the blue area, which was the garage space. She asked if they were digging down as far as what was anticipated in 1998 or if it was too expensive to build a larger garage underground. She wanted to know if the 1998 plan had a much garage and parking above ground as the current plan. Mr. Tursic replied that this project was going quite a bit deeper than the original 1998 plan. He presented the section through the Parcel B parking levels. He explained what he believed was deceiving in the previous design. On Lowell Avenue, all three parking levels were below grade. As it starts coming onto Empire Avenue, the way the sections are drawn it appears to be below grade. However, in reality the schematic section indicates that it was a berm. Landscaping was brought up higher to conceal the garage level. Commissioner Suesser thought that made sense because there is a significant change in elevation from Empire to Lowell. Based on Mr. Tursic's explanation, Commissioner Suesser understood that everything on Lowell was below ground, and there was no above ground parking on the Lowell level.

Mr. Schmidt noted that Mr. Tursic was showing the north-south section. He pulled up the east-west section across Parcel B showing Lowell Avenue on the left side of the page and Empire Avenue on the right side of the page. Mr. Schmidt pointed to the

street elevation on the left and noted that coming straight off the street elevation was a section of the garage above grade from the street elevation. He drew a straight line from that corner down to the other corner, and where the garage intersects the line, the floor of the garage is actually above the elevation of Empire Avenue.

Commissioner Suesser wanted to know why what Mr. Schmidt showed was different from what Mr. Tursic had shown. From Mr. Tursic's diagram it looked like all the garages were below grade. Mr. Schmidt reiterated that it was a north-south elevation from Manor to Shadow Ridge. The diagram he showed was an east-west section. Mr. Schmidt thought it was clearly evident that the floor of the garage was above grade.

Commissioner Kenworthy asked Mr. Tursic if sea level was the benchmark for all the heights in the application. Mr. Tursic answered yes. It is how they intended to present it them, and it was how they were submitted to the Staff. Mr. Tursic explained that they were calling the top of ridge as a sea level elevation. Commissioner Kenworthy asked Planner Ananth if her heights were benchmarked off of sea level. Planner Ananth stated that related to building heights she was going off the roof peak to the datum, not the sea level elevation. However, she corrected that for her presentation this evening using Mr. Tursic's sea level benchmark for a more apples to apples comparison. Commissioner Kenworthy asked if that update was different from what was in the Staff report. Planner Ananth answered yes. Fact #3 related to building height was different. Commissioner Kenworthy asked whether the heights presented this evening were in line with the MPD from 1998. Planner Ananth stated that in the height comparison, she compared the 1998 peak height to the 2021 peak height. The difference on Parcel B at the peak is that the new plan is about 2' taller to the roof peak than the 1998 plan. It is most different on Parcel C because the applicant shifts density and height. Parcel E is the same height at the peak. Parcel D is a couple feet taller. Planner Ananth recommended that the Planning Commission focus less on the specifics and look more at the volume and massing comparisons. She thought volume and massing was the most helpful way to look at the difference when Mr. Tursic compares the 1998 buildings with the current buildings.

Commissioner Kenworthy stated that he was looking at the differences which were 0, 4 and 2. He understood that even with the slight difference of 0, 4, and 2, he would notice a big difference when he sees the massing. Planner Ananth thought the difference was in the massing more so than the height, with the exception of Parcel C, as part of the criteria the Commissioners need to evaluate. Planner Ananth stated that for the most part, the heights are fairly comparable, but they are different. For example, at the corner of Shadow Ridge and Manor Way on Parcel B, the 1998 plan was lower at that corner than it is in the 2021 proposal. However, the townhouses on Empire are

significantly lower than the 1998 plan. She urged the Planning Commission to take more wholistic view.

Commissioner Kenworthy was pleased that Mr. Tursic explained the density transfer because they do get a lot of 35' question about the Land Management Code. He stated that in those years they did transfer the density, which definitely affected the heights throughout this project. Planner Ananth agreed that there was no way this project could be built at 35' heights and come close to the density that was granted in 1998.

Chair Phillips noted that the volumetric illustrations were presented earlier this evening showing how the applicant worked with the Planning Staff on shifting the volumetrics. Mr. Tursic stated that he intended to go through each parcel and give an overview of the changes to refresh everyone's mind. Commissioner Kenworthy asked Planner Ananth to point out the massing differences as they go through it.

On Parcel B, Mr. Tursic presented a perspective from the corner of Empire and Shadow Ridge showing what the original 1998 Master Plan approved. It was a cluster of four buildings that created a monolithic appearance on Empire. There was a lot of mass in the center of the building compared to what is proposed today. Mr. Tursic pointed out that in some instances the currently proposed buildings are taller than what was envisioned in 1998, but in other instances some of the current buildings are much shorter. He explained the differences and why the volume in their plan was taller in some areas and shorter in others.

Mr. Tursic explained how the buildings height was measured. For example, as it is measured today, they took the tallest ridge elevation of the Shadow Ridge volume and measured from the lowest point, which achieved a build height of 75' from the lowest natural point to the tallest point of the ridge. Mr. Tursic stated that translating that into sea level elevation, the height equates to 6999. He pointed out that the original plan at its tallest location along Shadow Ridge was 7013. Comparing the tallest portion of the volume along Shadow Ridge versus the current proposal, the proposed plan is 4' shorter.

Commissioner Thimm questioned the math. If they were comparing 6999 to 7013 the difference would be 14'. Mr. Tursic stated that his team would verify the numbers to determine if the difference is 14' or if the 7013 is actually 7003.

Mr. Tursic believed that using sea level elevation to define the top of the ridge was the best approach because the natural grade changes so much that it is difficult to track its lowest and highest point. For the purpose of this presentation, he wanted to give everyone a sense of the proposed building height; however, he wanted to translate it to

a sea level elevation that could be compared to the 1998 plan to understand the differences.

Chair Phillips noted that in 1998 the datum line was the basis for measuring height. That was the logic and that is the height they are left with. Mr. Schmidt stated that measuring from the datum line was a common tactic in the 1990s because the surveying was more rudimentary, and contours were drawn by hand. They did not have the sophisticated technology of today. He remarked that in 1998 the elevation was set at 41 and they took a flat plane and extended it all the way across the site to determine ground zero as the point to measure from. Mr. Schmidt stated that if they do that today, they are left with an area shown in blue that was not counted in 1998. He explained that there needs to be a building because it cannot just float like it does on paper. Mr. Schmidt pointed out that under the LMC they need to count the blue area, but when comparing to 1998 they go back to the datum and count from the datum. He stated that PEG Development had chosen to translate from the datum to sea level elevation for the purposes of this application and for comparison.

Chair Phillips recalled this in a previous discussion because the Planning Commission wanted to make sure they had something clear to work with in working with the elevation. He believed that more important than looking at where the measurements come from is how it compares to the highest point of the measurements from 1998 versus where they are in actual height. Chair Phillips pointed out that in the end they are comparing the top of the buildings but setting forth a different means of putting on the record what they were agreeing to. Mr. Schmidt stated that they were putting the comparison in the same terms. The areas shown in yellow, red, and blue is as it was drawn in 1998; however, the discrepancy is that the area in blue was not counted in 1998 but it must be counted today.

Chair Phillips asked Mr. Schmidt if PEG was coming to the Planning Commission today with a CUP on the existing development agreement, what was shown on the slide is what they would have to work with. Mr. Schmidt answered yes. They would go back to the 6941 contour and measure all the heights off of that contour. He pointed out that they would need to build the area shown in blue because the building needs to be on the ground. He remarked that for whatever reason, it was a gap in the 1998 plan that was never pointed out and never clarified.

Mr. Tursic showed the approved volumetric diagram from 1998 that were drawn by hand and basically defined the same heights and building envelope. He noted that the diagram acknowledges that the heights referenced are measured from established datum 6941 for two building, and on the opposite side it was measure from 6951 because the grade was higher. Mr. Tursic stated that in order to help with an apples to

apples comparison and to help understand how the PEG project design compares to the original design, they took the same information that was approved in the 1998 plan and extruded it digitally to come up with the diagrams presented. Mr. Tursic clarified that the intent was not to indicate what was or was not parking. They only wanted to point out that in 1998 the building height was measured from 6951 at one corner and 6941 at the other corners, and everything down below was not part of the building height measurement.

Commissioner Kenworthy understood that what was being presented today were lower building heights and more massing. He asked if Planner Ananth agreed with Mr. Tursic after having analyzed it herself. Planner Ananth replied that she did agree.

Mr. Tursic stated that part of why they think it is important to define their building heights as sea level elevations rather than building heights, because at that point everyone understands the maximum allowed building height. It is also easier to compare it to the 1998 plan because it is difficult to figure out the building heights in actual feet based on the information provided in the 1998 plan. They can only measure it from the datum that was established to figure out the sea level elevation.

Mr. Tursic presented a comparison showing the building height measured from natural grade at 87' which translates to 7029 feet sea level elevation. They then compared that against the 1998 sea level elevation, which was 7027. In that specific location, the new plan is 2' taller than the original plan. Mr. Tursic stated that for the townhomes, the height is 6979 and approximately 43' above grade. The original plan was much taller at 1717, resulting in a 38' difference in that area. Mr. Tursic stated that they created the original plan three-dimensionally to see the overlay as opposed to just providing different metrics, numbers, and elevations. With the overlays it is easy to quickly point out whether the proposed buildings are taller, shorter, or the same height.

Chair Phillips asked if the Commissioners wanted to do a straw poll on each building, similar to what they did with setbacks. If they did, he suggested making their comments as they go through each building.

Commissioner Kenworthy wanted Planner Ananth show the slide of the updated comparison she was redlining. Commissioner Kenworthy asked if these were the differentials they would be amending if they choose to amend the MPD. Planner Ananth answered yes, those were the differentials between the peaks. She noted that there was variation throughout the parcel from the highest point to the highest point.

Commissioner Thimm thought it was extremely important to look at what this means to this site, and then to the adjacent streets and properties across the street as the project

goes up and down all the way around the site, in addition to number of feet up. Commissioner Van Dine wanted to see that as well in relation to the surrounding buildings. Commissioner Thimm clarified that he was asking for a street section that is cut and goes all the way through the street and shows the buildings on either side of the street, whether they are existing or proposed by this application. Commissioner Kenworthy stated that it was exactly what he was looking for when he asked for a more comprehensive view during the setback discussion.

Chair Phillips was concerned about time since there was a significant amount of presentation and discussion left and they still needed to open a public hearing. Planner Ananth noted that the meeting needed to end at 10:00 p.m. because of scheduled server maintenance. She suggested the possibility of postponing the parking discussion to the next meeting. Commissioner Thimm favored postponing the parking. Chair Phillips stated that the Planning Commission would continue with the building heights, take public input, and continue the parking discussion to the next meeting.

Commissioner Kenworthy pointed out that the benchmark heights that the City was now confirming were different than what was presented in the Staff report. He thought that contributed to some confusion and he was glad they were finally all in agreement on the benchmarks. Planner Ananth clarified that the slide she showed was an update to the facts for building height. Commissioner Kenworthy understood and just wanted to make sure it was on the record.

Chair Phillips pointed out the discrepancy at the beginning of the building height presentation regarding the 7013 versus 7003. He wanted to make sure that the other numbers followed by 70 are correct. Chair Phillips asked for confirmation on the accuracy of all the numbers.

Mr. Schmidt requested that the Commissioners continue providing their comments building by building. Commissioner Suesser asked if the applicant could address how they were meeting each of the building height exception criteria. Chair Phillips noted that he has continually asked for shadow studies and he was hoping to see those in the presentation this evening. Mr. Tursic stated that if Planning Commission wanted him to demonstrate compliance with each requirement, he preferred that they hold their comments until the end rather than building by building.

Mr. Tursic stated that they were presenting a lot of information and clarifying a lot of information that was previously presented primarily because it is very complicated, and because they only meet every three months. This presentation is different because they actually called out the maximum building heights and submitted them to Staff for confirmation and comparison. He acknowledged that there was a typo on the overall

building diagram that was provided to Planner Ananth. The correct number was 1713 in that location at the tallest point and the typo was 4' rather than 14'. He clarified that all the other numbers are accurate as compared to the original plan. He had enlarged everything so they could look at each parcel individually rather than looking at the entire site and zooming in and out.

Mr. Tursic continued with his building height presentation and identified the changes that have transpired over the past year working with the Staff and responding to the Planning Commission and the community. He reiterated that for Parcel B the building height on Lowell is 2' higher than the 1998 plan and 38' lower on Empire.

Mr. Tursic reviewed the approved volumetric of Parcel C from Lowell Avenue. He noted that Parcel C had a different configuration in the 1998 plan because of the proposed realignment of Lowell. He presented the tallest elevation, which was the entire floor of the units that were transferred from Parcel D to Parcel C against the mountain in the spirit of the original master plan, so the tallest portions of the building and density were against the mountain and not against adjacent streets or properties or residential neighborhoods. Mr. Tursic presented the same parcel from the opposite side on the south facade. He noted that in looking at the overlay of the proposed building heights, the current heights are comparable along the south elevation. However, they were quite a bit higher due to the additional floor that was transferred from Parcel D to Parcel C. Mr. Tursic stated that the proposed ridge on the south end was at 6996, which is equivalent to the tallest portion of the original master plan. Essentially both plans are at a 67' height measured from the lowest point of natural grade. Based on their calculations, the PEG plan is 17' taller at the peak, again due to the transfer of the additional story. The buildings were also taller along the wing facing the plaza because of the different configuration he had mentioned.

Mr. Tursic reviewed Parcel E and the approved volumetric from Lowell Avenue. The datum the approved building heights were measured from was 6895. He noted that the overlay fits well within the existing envelope because an entire floor of the building was moved to Parcel C. Mr. Tursic stated that Parcel D from the Empire perspective is pretty much the same with minor differences. The 1998 plan had more mass intruding into the public space. PEG thought it was important to keep the space open and generous and the mass was kept in the back. In terms of the building height, the current plan is 4' taller on the back portion of the building and the front portion of the building fronting Lowell is 1' lower. Based on the massing diagrams and the actual elevations, Mr. Tursic believed the building height was comparable to the 1998 plan.

Mr. Tursic stated that the most difference was on Parcel E in terms of the footprint itself. They were using a much smaller footprint than the original master plan, however, based

on the redesigned massing presented earlier in the evening, they were able to fit the building within the approved envelope specifically in relation to the adjacent condominium and Silver King. Mr. Tursic pointed out that some of the mass was transferred to the plaza and closer to the mountain where it did not abut another residential property. Mr. Tursic stated that in looking at the building height comparison, the maximum height along Silver King is 4' lower than the original master plan. The other wing facing the plaza was at the same elevation. Both buildings are 83' and 84'.

Mr. Tursic presented a diagram showing the top level maximum building height in feet and sea level elevation for each component of the building. He noted that Planner Ananth also had this diagram, and she could share it with the Commissioners if they wanted more time to review it. Mr. Tursic presented a diagram showing the distances from the adjacent properties.

Mr. Tursic presented solar studies and explained how the studies were done. He stated that they typically do solar studies for the most extreme conditions. They looked at the four seasons and four different times of the day.

Commissioner Suesser recalled a public comment that the building heights and configurations used for these studies were not consistent with the most current plans. Mr. Tursic replied that the most current plans were used for the studies. The only exception was Parcel E because that parcel was recently changed. He offered to rerun the study for Parcel E.

Chair Phillips noted that all the slides in Mr. Tursic's presentation were provided to the Staff and the Planning Commission would have it at their disposal as well. Mr. Tursic stated that they were submitted two weeks ago so Planner Ananth would have time to analyze them and include them in her report.

Mr. Tursic reviewed the solar studies for each season and time of day. He noted that the winter solstice was the worst case scenario for casting shadows.

Mr. Tursic noted that the next requirement is landscaping and buffering from adjacent properties. A complete landscape plan will be provided as a part of each CUP. He pointed to very large open landscaped areas designated as public spaces. There were also additional areas for landscaping against adjacent properties and spaces. He emphasized that the landscaping would be further refined with the conditional use permit for each parcel, but landscaping is a requirement for the building height variance.

Mr. Tursic stated that the last requirement is open space. The LMC defines two basic requirements. One is the minimum amount of 60%. The second is that a building

height variance requires that the development exceed the minimum amount of open space. He noted that the requirement also talks about the type of spaces. During this process they should be discussing what kind of spaces are appropriate. Mr. Tursic outlined the public spaces on each parcel.

Commissioner Thimm referred to the overall site plan with the building heights. He stated that in looking at the overall plan the heights were significantly lower than the 1998 approval in areas adjacent to existing buildings. He believed that was a major improvement in terms of what the experience on that street will be, especially for the people who live on the east side of Empire Avenue. Commissioner Thimm remarked that moving some of the height to another area was better for the neighborhood fabric. He believed there were some gives and gets. Commissioner Thimm noted that early on in this process they talked about moving density or square footage to Building C up against the mountain and the large open space, and away from the lower scale neighborhood. He thought that was a great give and get. Commissioner Thimm commented on the new configuration of Parcel E. He felt they were becoming more sympathetic with the adjacent neighborhood and area to the north and the experience of the street by stepping the north edge of the building. He thought that was another improvement. Commissioner Thimm stated that if this was about gives and gets, he was still concerned about the east end of Building D and found it problematic. In terms of gives and gets and the additional height being requested through an exception, he thought it was important to address the neighborhood to the east and to the north and look more closely at the height of the building. He suggested that the applicant step the building to make it more congruous with what was happening on the east and the north and makes a strong statement as people enter into the centerpiece of the resort.

Commissioner Van Dine agreed with Commissioner Thimm. Her issues mostly relate to Building D where they were putting the taller building across from lower buildings. Commissioner Van Dine thought they had done a much better job with Building B putting the density up against the mountain and keeping the townhouses across from smaller buildings. She thought the shadow studies were good and showed that huge shadows would not be cast on the neighboring buildings. Commissioner Van referred to an earlier discussion about the comparison heights of the buildings and she would like to see the comparison of buildings across the north and south sides of Building B and surrounding adjacent areas.

Commissioner Suesser stated that her biggest concern was with Building C. Due to the transfer of density the building is 13' feet higher than what was anticipated in the 1998 plan and she believed that impacts the way this Building C fits in. It is so big and so tall it looks out of proportion. She noted that in the 1998 plan the density was spread out and it was significantly smaller.

Commissioner Suesser stated that in terms of the criteria for a height exception, she did not think adequate landscaping had been provided for the Commissioners to evaluate whether or not Criteria #3 was met. Open space was another issue because she could not narrow down how the open space was calculated. Commissioner Suesser remarked that it would be helpful to have that clarity in order to address Criteria #5. She did not hear Mr. Tursic address Criteria #4, which are the increased setbacks for each of the building height exceptions requested. She did not believe that criteria were met for Building B. Commissioner Suesser stressed the importance of carefully assessing each of the criteria in considering these exceptions.

Commissioner Hall echoed the comments of her fellow Commissioners. The explanation of Criteria 4 in terms of the increase in setbacks is important and she echoed Commissioner Suesser's concern.

Commissioner Kenworthy agreed with Commissioner Thimm. He thought the focus of the entry point on the eastern side of Building D needs work. Commissioner Kenworthy referred to Building B and stated that the issues related to transit in that area needs a deep dive before they can discuss the setbacks.

Chair Phillips agreed with the other Commissioners. He thought Commissioner Thimm did a great job explaining the gives and gets, as well as identifying that the end of Building D needed to be reworked. Chair Phillips looked forward to getting the additional information that was discussed earlier.

Chair Phillips opened the public hearing.

The following people raised their hand on Zoom to comment.

Nikki Deforge, representing RRAD, commented on the requested building height variances. She noted that the zone allows 35'. The previous request by PEG was 85' and now it is up to 103', which is 300% above what is permitted in the zone and significantly higher than what was permitted in the 1998 Development Agreement. Ms. Deforge stated that she was disappointed to see how much time was spent comparing the building heights currently being requested with what was previously approved because legally speaking, it is almost entirely irrelevant. Ms. Deforge remarked that all six factors under the LMC must be met before the Planning Commission can even consider granting a height variance, much less what the variance should be. She thought they were putting the cart before the horse by ignoring the factors and looking at what was previously approved. If it is remotely consistent, there seems to be a misunderstanding that that is a basis for granting the variances. Ms. Deforge stated

that it is not a basis, and if the variances are granted on that basis, it would be the easiest appeal. She clarified that they do not want that remedy. They only want a project that complies with the LMC. They want to make sure that the criteria are clear and considered and that findings are made that match the criteria. Ms. Deforge emphasized that all the criteria must be met. If even one is not met the Planning Commission cannot grant the variance even if they like the plans or it is consistent with what was previously approved. This is a new request, and it must meet all the requirements under the current LMC. Ms. Deforge noted that the burden is on the developer to establish that all the requirements are met.

Ms. Deforge reviewed each of the criteria:

1. Increase in height cannot increase square footage or volume over what is allowed under the zone or from transfer of credits. She noted that what is proposed clearly exceeds what is under the zone by 300%. Ms. Deforge stated that it is based on square footage, not overall massing or previously approved heights. She noted that the transfer of credits for the square footage was granted in exchange for other "stuff" in the DA. The question is whether the developer should get what they got under the old plan without having to comply with any of the conditions that were imposed in exchange for the gives or entitlements. Ms. Deforge remarked that there were requirements about not being able to transfer density from parcel to parcel. There were requirements about stepping, underground parking, and other things that are being wiped away as though they never existed. Instead, they were looking in isolation at one thing under the DA or one thing under the old MPD to make sure the applicant gets all the square footage and all the density so heights can be increased based on that square footage. She stated that it is not a "wholistic approach" which is a term that has been used a lot and, in some cases, misused in connection with some of the criteria this evening.

2. The Buildings need to be positioned to minimize the visual impacts on adjacent structures with mitigations for shadows, loss of solar, etc. Ms. Deforge stated that no showing was made that this factor is met, and no mitigation has been offered. She agreed that stepping is one way to mitigate the impacts, and the stepping required in the DA in exchange for building height increases is significantly more than what this applicant is providing. Ms. Deforge remarked that most of these buildings on many sides have no stepping at all and certainly not enough to justify the 300% increase in the height. She pointed out where the shadow studies do not match the current plans. Ms. Deforge thought the shadow studies need to show the actual building heights in the current plans to make sure they match up. There is no way to know what the shadow studies presented were based on, and without seeing more specifics they all assume it is accurate. Ms. Deforge stated that a lot of changes are occurring on many different fronts and they cannot just rely on one picture and one slide. They need the backup for

what is being shown to make sure that everyone is looking at the correct numbers and the most current plans. She stated that RRAD was particularly concerned about a seven-story building across from the homes on Empire, Lowell, and Manor Way. The shadows cast from that building will be significant and they need to look at this more carefully.

3. Adequate landscaping and buffering from adjacent properties. Ms. Deforge strongly disagreed with the statement that the Planning Commission does not need to look at the plans until the CUP process. That might be the case without the height variance requirement, but where there is a criterion that specifically requires making a finding that there is adequate landscaping and buffering from adjacent properties, the Commissioners cannot make that finding based on the hope that the applicant will submit adequate plans in the future at the CUP phase. Ms. Deforge emphasized that landscaping plans need to be submitted now in order to make the requisite finding.

4. Increase setbacks and separation from adjacent projects. Ms. Deforge noted that the developer wants to triple the maximum heights while reducing setbacks in some places, and in most places just maintaining the 25' perimeter setback that is required. She did not believe either of those things justify an increased height variance. Ms. Deforge stated that this is not a project analysis. They cannot look at the entire project and say that the average setback in one area is increased; therefore, this factor has been met. She stated that the average setback calculation is absolutely irrelevant to this factor. To the extent they were given those calculations to support a finding under this requirement is legally insufficient. Ms. Deforge reiterated her previous comment that the average setback calculation is not accurate as it is based on upper floors and a variety of other things that are relevant. If any part of the building facade on any side goes to a 20' setback, that is the setback. The developer does not get to claim an increased setback based on a higher level. Whether they look at it as an average setback or to see whether the building on one side has an increased setback is not relevant to the upper floors. They need to look at what is closest to the property line. Ms. Deforge emphasized that this needs to be a building by building and facade by facade analysis. The requirement is the separation from the adjacent project. She stated that the reason for this requirement is because the height increase impacts the adjacent property and the neighbors. The way to mitigate that height increase is by requiring an increased setback on that facade.

5. This requirement addresses building heights and they still needed additional information to confirm whether the exception could be granted.

6. This requirement requires compliance with the guidelines. She noted that they do not have that information or the vantage points.

Regarding the setback reduction, Ms. Deforge stated that the idea that the City uses the term “necessary” in its Code, but they cannot read it as being necessary and require necessity is ridiculous. The idea of looking at the project holistically would leave the word “necessary” right out of the statute. In listening to a number of the comments, she believed that was already happening. Ms. Deforge stated that if they can justify the corner of a loading dock as being entitled to the reduction and being necessary by looking at the building as a whole, they would be able to justify everything under that interpretation. Ms. Deforge emphasized that they cannot leave “necessary” out of the requirement.

Ms. Deforge stated that they also cannot reduce setbacks in order to enable compliance with something that is already required by the LMC. She referred to a question by Commissioner Suesser regarding facade variation. Ms. Deforge thought it was false that the developer could build a 100-story building with no facade variation as long as they can do it within the setbacks. It goes back to the increased setbacks issues, and the buffering and stepping that is required from adjacent properties. Monolithic facades will not meet the requirements of the height variances under the LMC. She stated that that “boogeyman” scenario was not possible under the LMC when requesting height reductions.

Deb Rentfrow noted that Ms. Deforge already talked about what factors into the review and that only the LMC is relevant. She stated that 35’ is the maximum height and the Code does not grandfather in heights from expired exhibits from MPDs. Regarding square footage and density, Ms. Rentfrow stated that granted density does not mean required density. If the applicant is granted a certain amount of square feet, it does not mean they need to build to that square footage. They can actually build less. She updated her figures to the new numbers and noted that Parcel C was over square footage by 20,120 square feet. Building B has the potential to change due to proposed site circulation issues. Ms. Rentfrow thought it would be premature to make a determination of square footage and density criteria being met. Regarding minimizing visual impacts, Ms. Rentfrow noted that the buildings range from 71’ to 103’. She commented on the sea level conversation that came up this evening and noted that Mr. Tursic’s slide on each building from grade level still shows 103’ on Parcel C. While some other table might show 87’, 103’ is the maximum peak height for Parcel C and 71’ is the maximum peak height for Parcel D. Ms. Rentfrow remarked that the buildings in the adjacent areas range from 25’ to 60’. There is a significant change in the grade throughout which adds to the visual impact on low-lying neighbors.

Ms. Rentfrow presented a slide she had prepared. She lives in this area and she went to the corner and did her best to approximate the view that PEG was doing on the right-

hand side at 15th, Empire, and Silver King. She had drawn a red line according to what the mountain truly looks like and her red line was the ridgeline. Ms. Rentfrow stated that if you copy and paste the ridgeline onto PEG's picture, they show mountains where there are no mountains. She believed PEG had presented very misleading photos. Ms. Rentfrow explained how she tried to approximate Parcel E. She pointed out the terrain park, a couple of runs, and Eagle Lift. She noted that the applicant's slide for Parcel E showed the buildings placed in a way where all this mountain is visible, but also, to the northwest they show a huge mountain with runs that do not exist. Mr. Rentfrow stated that the building heights are way over what they are supposed to be. The views are lost and walls are being created. She pointed out that the Silver King condos will not have a north view or a west view. Ms. Rentfrow stated that no landscaping has been provided and that criteria cannot wait until the CUP process. The increased setbacks have no relevancy whatsoever and the applicant was requesting reduced setbacks. The additional open space has insufficient and inaccurate data, so it is questionable as to whether or not it is true. They have not seen a vantage point or elevation of every single building without veils or something over it, so people can actually see the architecture and building design on every end of every single building to determine whether or not there is good transition and roof elements and interesting design. Ms. Rentfrow stated that the perimeter setbacks being requested is not based on an average. It should not matter what a previous MPD or exhibit showed since it has expired. The current Code requires increased setbacks when requesting building height. Regarding the shadow studies, Ms. Rentfrow noted that Mr. Tursic said the sun was behind the mountain at 4:00 p.m. and that is incorrect. The lifts run until 4:30. She sits outside at her house with sun until 4:45 or 5:00 p.m.

Commissioner Suesser asked Ms. Rentfrow to submit her slides for their review.

John Stafsholt thanked all the Commissioners for their diligent work and efforts as representatives of the citizens of Park City. He stated that most people have other things they would rather be doing, but nothing is more important than this project review for the town and the future quality of life for the residents. Mr. Stafsholt stated that as representatives of the Park City citizenry, he urged all the Commissioner to ask themselves how this project benefits their community and the community they represent. He remarked that it does not benefit the community in its current design. It is designed for the developer to maximize profits while virtually ignoring the 1998 Development Agreement and Land Management Code. The developer has said repeatedly that the current project and the original DA are not apples to apples. Mr. Stafsholt pointed out that it is only because their plan shows their desired "oranges" that are not related to the actual vested densities, which are the original "apples". Mr. Stafsholt stated that 650,000 plus square feet is very possible with approved setbacks and heights. He asked the Planning Commission to consider using the developer's

idea, which has been repeated over and over this evening, about using a firm height based upon height above mean sea level. This would ensure compliance and a more compatible overall project. The submittal is extremely premature, and their submitted drawings continue to state, "not to scale". Mr. Stafsholt asked how any approval even be contemplated if the drawings are not to scale. Mr. Stafsholt stated that architectural impact and interest is an LMC requirement for exceptions. The requested exceptions for height and setbacks are without required architectural interest. More importantly, the heights do not meet any of the six required LMC requirements for the Planning Commission to legally approve any variances. Common sense says increased volume, increased height, increased mass, and increased scale are only for the developer to increase the projects square footage and projected profits. He thought the Planning Commission should ask why any of these exceptions are necessary because the answer is very simple. They cannot obfuscate like the developer is trying to do, because the developer does not want to follow the 1998 Development Agreement and the Land Management Code. He stated that the square footage is easily achievable by digging down for all the parking. The developer does not want to excavate for one reason. They want to increase their profits. The previous DA requires all parking to be underground and it does not allow transfers of parking or square footage. There is no legal reason to allow height exceptions or setback exceptions. Parking transfer or square foot transfers cannot be allowed. Mr. Stafsholt stated that this project is nowhere near approval. Design approval would be extremely premature. So much more information is required, and previous questions remain ignored and unanswered. Mr. Stafsholt remarked that denial of the currently submitted plans is the only legally supportable decision the Planning Commission can make. He asked them to remember that it is the developer's burden to follow the law and meet the Land Management Code. It is the burden the Planning Commission has accepted to enforce the law in the Land Management Code. Without them as the citizen representatives, the citizens will carry the burden of a poorly designed maximized project for future generations to bear.

Deborah Hickey thought it was very important for the Planning Commission to do their duty and support the Park City Land Management Code because everyone has invested heavily in it. She believed the points that Ms. Deforge pointed out clarifies what is important. Ms. Hickey agreed with all the previous speakers. As a local person living in the area and the impact from all the heights and setbacks, she was concerned about anything being approved without first meeting the LMC. Ms. Hickey thought the Planning Commission needed to verify the method of measurement from sea level. She also recommended that they verify the shadow studies because like Ms. Rentfrow, she lives there, and she sees the daylight every day. Ms. Hickey remarked that the open space areas are a sliver of what is currently at the base area. She thinks Shadow Ridge and Silver King are being ignored. Those structures are never involved in any of the diagrams displayed. The map never shows Three Kings or the corresponding

buildings and their heights next to it. Ms. Hickey stated that Shadow Ridge and Silver King are two of the most important buildings in town, and there is private ownership in each of them. She did not think the Commissioners could agree to 103' of height blocking the entire mountain from everyone's view, including the general public who come to enjoy this beautiful space at the base area of Park City. Ms. Hickey noted that nothing was resolved in the previous traffic meeting. If they do not address traffic first nothing should be approved to be built because no one can get to places and it is frustrating. They will lose the view ambiance and people will go elsewhere to places that are easier to reach and enjoy. Ms. Hickey hoped the Commissioners would respect all their efforts and the expense they were expending and strongly accept what Ms. Deforge has suggested as absolute fact. She referred to the developer's comment that a lot of the public comment is repetitive and stated that they were being repetitive because the answers have not come forth and they are tired of waiting for all the information and descriptions on building heights, setbacks, shadows, traffic, etc. Ms. Hickey thanked the Planning Commission for all their efforts and for doing a good job.

Doug Lee thanked the Commissioners, the applicant, and the Planning Staff for all their hard work. He supported all the comments said by RRAD and his neighbors. Mr. Lee commented on setbacks. He thought it was impossible to have these important discussions without seeing the floor plans for every level. He noted that the only time they saw a full set of plans for Building B they found numerous examples of floors in Building B that were beyond the 20' setback, much less the 25' setback. Mr. Lee thought it was especially important to see the below grade levels because they are not allowed to go beyond the setback line below grade. Secondly, he strongly objects to the way the volumetric comparisons were being shown in the height diagrams. By showing the 1998 plan roof lines with a green box exaggerates and amplifies how those buildings would really look. He believed that to have an apples to apples comparison to 1998, they need to have it one way or the other; either all peak roofs or all rectangular roofs. Lastly, Mr. Lee stated that RRAD has done number of studies to analyze the PEG perspective drawings in the packet. He noted that pages 15, 25, and 61 that shows Building E, B and C, are very misleading. The bulk of the mountain behind the building was photoshopped. RRAD believes that the scale of the buildings is artificial. Mr. Lee explained that RRAD used their own method of properly scaling the building and the buildings take up all of the view of the mountain. Mr. Lee directed everyone to the view of the 14th Street corridor on page 8 where for many meetings PEG has shown a view of the mountain, but the view of the mountain is photoshopped. In the RRAD analysis, there is no view of the mountain through the 14th Street corridor. Again, he felt very strongly that PEG needs to be held to a higher standard in terms of what they present to the public. Mr. Lee thanked the Planning Commission for their time and efforts.

Steve McComb stated that he is the owner of the Baja Cantina. He noted that the Baja Cantina exists because the Park City Yacht Club, which is the restaurant before him, did not survive the construction of the condos below. He hoped history does not repeat itself with this project. Mr. McComb thought it was ironic that Park City is the name of the town, but they have no parking. He asked for the amount of parking required by the International Building Code for a project of this size.

Chair Phillips informed Mr. McComb that the Planning Commission does not engage in a back and forth discussion during the public hearing, and he assured him that the Commissioners were listening and will take his comments into consideration.

Mr. McComb was certain it was more than 1200 parking spots. He has exchanged emails with Vail regarding parking and on that issue, he does not believe that Baja Cantina has not been treated fairly. Mr. McComb understood that there is supposedly going to be a parking management agreement and he questioned whether the agreement exists. He stated that Vail manages the parking so badly now. There are no carpool spaces for shared parking, no service contractor parking, no longer any short-term parking for anyone who wants to pick up a To Go order or have a quick lunch. Mr. McComb noted that PEG is proposing affordable housing for 200 onsite even though they anticipate 800 employees. They are adding to the parking demand but not adding to the parking. Mr. McComb stated that the Baja Cantina would be happy to pay for some form of affordable parking for its employees during the busy winter season, but the only offer they had from Vail was to pay for busing from the high school, and that failed. He stated that remote parking does not seem to be working wherever it is tried. This season he only had one employee that lived in the City limits. She allowed other employees to park at her house and carpool in. Mr. McComb remarked that there needs to be a better solution for long-term businesses. He has had the parking lot to service his business for 38 years, but when PEG develops it and puts up a gate to get in, he assumes he will have no access to parking. Mr. McComb stated that the proposed parking proposal is not even close to what is needed. He appreciated the Planning Commission's efforts.

Chair Phillips encouraged Mr. McComb to attend the meeting when they discuss parking because they value his input.

Sherie Harding suggested not blindly accepting without confirmation the recent interpretation by the applicant that the 1998 datum is a conversion based on sea level. They should not denigrate the work done in 1998. Ms. Harding stated that these proposed heights and monolithic buildings were not intended in 1998. It is in order to find out who did the survey work in 1998 and what exactly were the assumptions

regarding datum in 1998. Those professionals still exist. She noted that PEG gained about 30' of height based on their own interpretation of the 1998 datum.

Lisa Paul agreed with what the Commissioners were concerned about seeing. She agreed with RRAD, Ms. Rentfrow, and the other speakers this evening. On Building D, Ms. Paul was concerned about the height near the neighborhood. She was also concerned about the parking garage entrance. She did not think it was a great location with 15th Street and going into traffic. If the applicant keeps the garage entrances in that location, she wanted to know how they intend to do to make it attractive for the neighboring buildings. Ms. Paul remarked that Silver King and those buildings will be dwarfed by the buildings. As people come in, it needs to look like it conforms and look well. She thought the heights were too much. Ms. Paul wanted to see the actual heights of the existing buildings along with PEG's buildings. She understood that a site visit was done a long time ago with balloons flying, but she was sick and could not attend. Ms. Paul asked for another site visit with balloons. She believed seeing it in person instead of all the diagrams would be helpful in getting a better idea of the height. Ms. Paul was unsure how they could determine anything with the buildings until they do traffic and parking. She agreed with others who said the shadow studies are not correct because the sun lasts longer than what the applicant had shown. Ms. Paul thanked everyone for their work.

Jerry Weiderg stated that he lives at Shadow Ridge. He thanked the Commissioners for all they were doing. He found their comments to be very thoughtful. Mr. Weiderg hoped the Planning Commission understood that people do live at Shadow Ridge. It is not just a hotel where people come and go. The residents at Shadow Ridge are very concerned about the height and the volume of Parcel B, especially the part that faces Shadow Ridge. If this is built as projected, it will feel like they are living in Manhattan with no view, no light, and no air. It was very concerning. Mr. Weiderg commented on the entrance to the parking garage that is being planned directly across from the entrance of Shadow Ridge. They would like to know if an air quality study was done. Inevitably there is going to be a backup of cars going into that garage and that will affect the air quality of the entire Shadow Ridge hotel, as well as the apartments above the garage. He urged the Planning Commission to make sure that such an air quality study is done so everyone's health and safety is protected in terms of air quality. Along with that, people at Shadow Ridge think a sidewalk should be built on Shadow Ridge Road on their side of the building, as well as on Lowell Avenue, because pedestrian traffic will increase exponentially and there is no sidewalk. He wondered if the developer has taken that into consideration along with all their plans. Mr. Weiderg thanked the Commissioners for all they do and for giving the public the chance to express their opinions.

Nancy Lazenby stated that he had prepared comments for this evening, however, in an effort to conserve time she would only speak to a couple of bullet points that she found important this evening. Ms. Lazenby agreed with Ms. Deforge. The building heights of 1998 have expired. Although it is fun to overlay and compare the 1998 heights with the PEG proposal, it does not have any relevance. She noted that PEG was granted the density from 1998, which has nothing to do with height. They can get density by going wider or deeper, but they do not necessarily need to go higher. Ms. Lazenby agreed with Doug Lee that the massing diagrams that PEG is using are quite deceptive. They are using big blocks to show the heights from 1998, but in looking at the 1998 drawings, the building may have been 85' but it might have must been one little peak of one little building. It was not a giant block shown in the massing drawings. Ms. Lazenby pointed out that overlaying the big blocks is deceptive because in 1998 there was a lot more stepping, and the buildings were not as monolithic. The buildings from 1998 did not look like giant blocks. She stated that when comparing, the Lowell side of parcel B looks like one giant building, but that is not what was proposed. Ms. Lazenby stated that a realistic picture of Lowell Avenue with the 87' building all the way across the entire Parcel B is important. The bus transit center is there, as well as a shuttle turnaround and the pedestrian crossing; however, none of that is shown in PEG's drawing. All they show in PEG's drawing is a building in a beautiful green field. That is very deceptive. Ms. Lazenby pointed out that last month AECOM said it might be necessary to cut into Parcel B to get a few more feet for the turnaround for the shuttle. She stated that if they need to cut into Parcel B, the developer was asking for reduced setbacks and there is a giant 87' building in the front. There are many things down there with more to come and none of that is being shown in the pictures. Ms. Lazenby thought all the drawings presented this evening were deceiving. Not one drawing showed the existing buildings and the proposed massive structure towering over them. Ms. Lazenby referred to another comment by Commissioner Suesser asking about the parking below Parcel B. She understood that Mr. Tursic had said their plan goes lower than in 1998. She agreed this was true, but it was only lower by one floor, and PEG has doubled the number of parking spots in that parcel. She believed it was 400 parking spots in 1998 and there are 800 parking spots proposed now. Ms. Lazenby pointed out that this is why the courtyard is there now, but it was not there in 1998. They cannot push in the condos on Lowell Avenue because there is a parking structure behind it. There was no parking structure behind it in 1998 because they did not have 800 parking spots. Ms. Lazenby agreed with Lisa Paul about another balloon study. The last onsite balloon study was in July 2020. The buildings have significantly changed since then and the building heights and building footprints have all changed. To have another balloon study now that the Resort is closed would be extremely beneficial for everyone. She pointed out that there are a lot of questions about the accuracy of the diagrams and the pictures, and it was important to see what it looks like from the site with balloons flying. Ms. Lazenby thanked the Planning Commission for their efforts. They

all love Park City, and they are all fighting for the same cause.

Chair Phillips closed the public hearing.

Commissioner Suesser asked for the location of the health clinic and the emergency access in the current proposal. She noted that there are a lot of ambulances regularly and she wanted to know where it fits into the plans. Mr. Schmidt replied that those uses are in Parcel E, essentially in its current location. It will be moved temporarily while they build Parcel E, and it will go back into the same building. Access into the clinic is from the plaza level. Access for ambulances will be in the drive-up access at street level at the porte cochere.

Chair Phillips stated that he does visualizations and the imposing of things in the background, and it is very difficult to do. He noted that most of the presentation this evening was about the buildings themselves and the applicant needs to elevate the views to give the perspective on what they are looking at. Chair Phillips thought it would be helpful to have a discussion on the actual views and the corridors to get the human perspective from a few locations. He thought a perspective from the entry at eye level would be a key area. Chair Phillips pointed out that a lot of the buildings will block the mountain, but that is the reality of development. With all the work that has gone into the view corridor, which is one of the gets, it is important to get a real human perspective of what it will look like.

The Planning Commission Meeting adjourned at 10:15 p.m.

Approved by Planning Commission: _____