

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 17, 2008**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, April 17, 2008.

Closed Session

3:30 p.m. Property

Work Session

5:00 p.m. Council questions/comments

5:10 p.m. Update on the 9 Hillside Avenue Project P. 5 - 42

(a) Public input

5:50 p.m. Break

Regular Meeting

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Resolution proclaiming the Mayor's and City Council's appreciation of 1st Lieutenant Cody James Wheaton's patriotic commitment to serve our Country

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

**IV WORK SESSION NOTES AND MINUTES OF MEETING OF MARCH 27, 2008
AND APRIL 3, 2008**

P. 43 - 68

V CONSENT AGENDA (*Items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon under "Additional Discussion – Agenda Items"*)

1. Consideration of approving a Resolution proclaiming the Mayor's and City Council's appreciation of 1st Lieutenant Cody James Wheaton's patriotic commitment to serve our Country

P. 69 - 70

2. Consideration of approving a Resolution acknowledging the 40th anniversary of the Fair Housing Act and proclaiming April 2008 as Fair Housing Month in Park City, Utah

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

1. Consideration of approving a Master Festival License for A Day at the Races– to be held on May 10, 2008 and approval of a partial street closure of Main Street between Heber and 9th Street – Men of McPolin P. 72 - 78

(a) Public hearing

(b) Action

2. Consideration of approval of an Ordinance approving the request to amend zone change conditions of approval located at 1615 Park Avenue, Park City, Utah

(a) Public hearing

P. 79 - 96

(b) Action

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting.

Posted: 04/14/08

See www.parkcity.org

Note: This future meeting schedule is TENTATIVE and subject to change.
PARK CITY COUNCIL TENTATIVE MEETING SCHEDULE

April 2008

- 24 Eden update
Update on 2008 Sundance Racquet Club operations
SR248 Corridor Plan – work 30 min and public hearing
Planning Commission stipend - work
PC Heights Annexation
Ordinance – Silver Strike Trail, Christopher Homes plat amendment – BR
Ordinance – Banner Court, Pod A Village @ Empire Pass condo conversion BR
MFL – Friday Skate Series – amplified music – 5/16 and 5/30 – 5 p.m. to 7:30 p.m. – Park City Recreation Department - JB
Use Agreement with Real Salt Lake - JW

May 2008

- 1 **Roger gone**
“The Yard” operation on Kearns Blvd – 2008 Film Festival - work
Presentation of budget - work
Resolution setting forth a strategic plan for field use at the Park City Ice Arena
MFL – Utah State Firemen’s Parade – Main Street – June 12, 2008 – RR
MFL – Savor the Summit (aka Taste of Park City) June 20 and 21, 2008 – Main Street closure and use of City Park
MFL – Wasatch Back Relay – June 21, 2008 – Quinns Junction
SR248 Corridor Plan – public hearing and action
3 *Move to Miners and Library and Education Center for meetings*
8 **No meeting**
15 Ordinance approving a plat amendment for 154 McHenry Avenue, Park City, Utah
Ordinance – 313 Daly Avenue plat amendment – FA
Ordinance – 430 Main Street plat amendment – KW
MFL – The Bro Down Showdown to be held May 31, 2008 at the Park City Skate Park with amplification – Bomb the Beehive LLC
22
29

June 2008

- 5
12
19
26 Ordinance approving the Knoll Estates (aka Deer Valley Club Estates) Lots 17 and 18 Amended Subdivision Plat, located at 7888 Aster Lane, Park City, Utah

Pending Items:

Amendment to the Water Agreement between the City and Talisker Corp.
Affordable housing resolution

Update on water supply and demand
Consideration of an amendment to the Burbs LLC Annexation Agreement/Affordable
Housing
Resolution - Trails Master Plan
Carrying capacity/market analysis survey
Wild land interface issues

City Council Staff Report



Subject: 9 Hillside Avenue
Author: Brooks T. Robinson
Date: April 17, 2008
Type of Item: Informational – Work Session

Background

On March 27, 2008, the City Council received public input regarding the reconstruction of a historic shed and the reconstruction and addition to the historic house located at 9 Hillside Avenue. Council directed staff to return with a summary of the project's permit history and compliance.

On August 15, 2005, the Historic Preservation Board heard an appeal of the Planning Director's approval of a design review for proposed remodel, restoration, and additions to the historic structures located at 9 Hillside Avenue. The Board upheld the Director's decision in part and granted the appeal in part. The decision was based on revised plans submitted August 10, 2005, and had more to do with the stone wall on the west than on the historic barn. The plans submitted August 10, 2005, are considered the approved design review plans for the property. On August 7, 2006, the Board granted a one year extension of the design review although neither the Land Management Code nor the Board approval stipulates a time frame or length of approval.

The primary issue, as staff understands it, is the reconstruction of the Polish Barn located adjacent to Prospect Street. The Condition of Approval from the Historic Preservation Board that is pertinent to this discussion is #1 which reads:

The final building plans and construction details for the project shall reflect substantial compliance with the revised drawings dated August 10, 2005. Included with the building permit shall be a plan detailing the method of historic house and barn restoration. The barn shall not be demolished. Any changes, modifications, or deviations from the approved design shall be reviewed and approved by the Planning Director prior to their construction. Any formal request for design modifications submitted during construction may result in a stop-work order by the Chief Building Official until the modifications are approved.

The approved design called for the barn to remain in its historic location with the roof and exterior walls brought up to current building codes (See Exhibits A and B, existing conditions site plan). The floor of the barn was non-existent and the dirt sloped with the land several feet from south to north. A new concrete floor was approved at the same elevation as the bottom of the barn door (7203') and new living area is created under this floor elevation. The existing roof elevation of 7220'-4" is the original elevation of the roof and is noted on the plans.

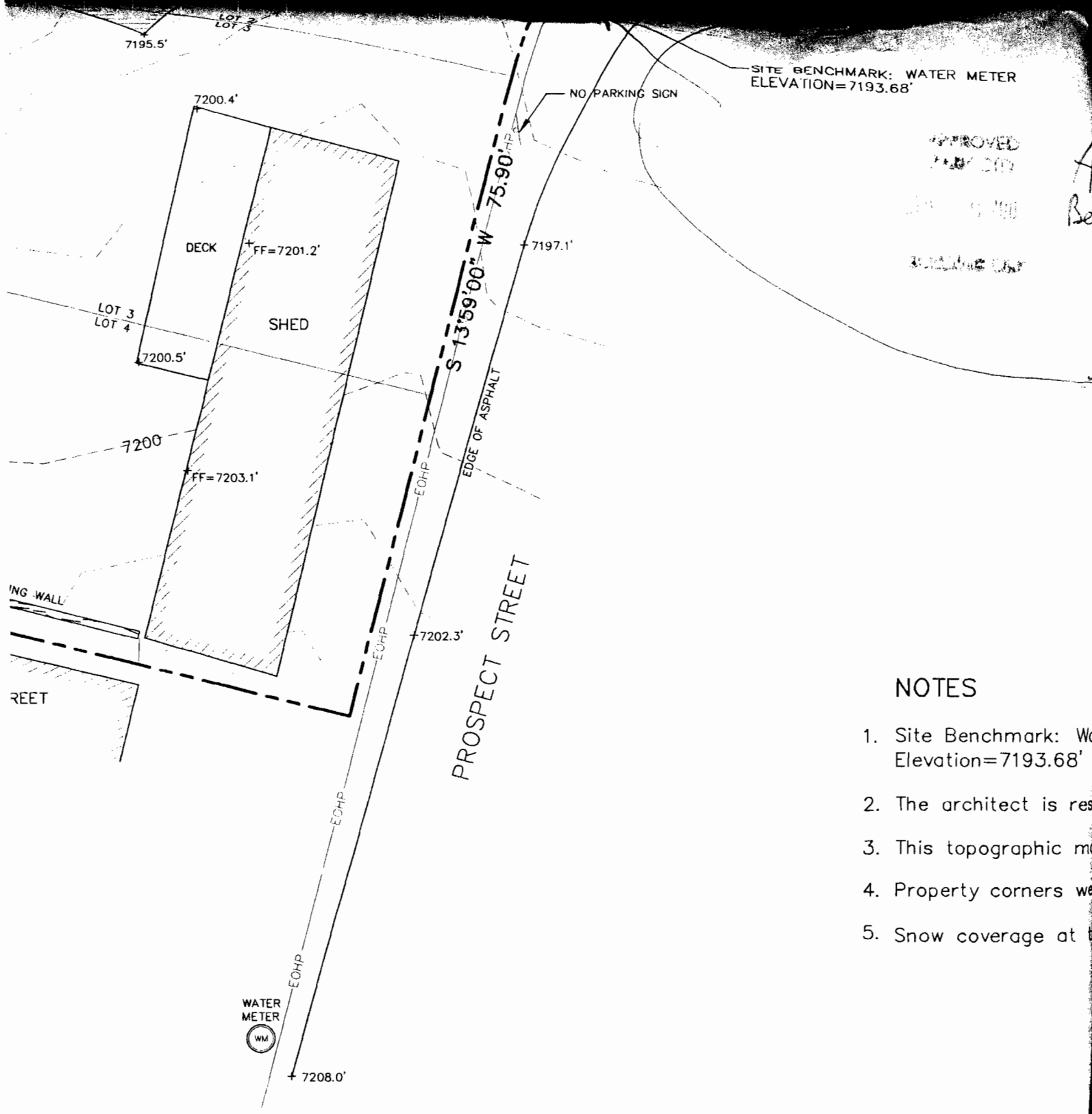
On February 10, 2006, the architect of record, David White, submitted a letter and documentation from two house movers that the barn could not be moved in its present condition. The architect recommended, and staff approved, the disassembly of the north and south gable end panels. The side panels were in such a poor condition that some boards may be re-used, but the entire panels could not. The end panels and boards from the side panels have been stored off-site for two years as the construction has proceeded. The Historic Preservation Board was updated on this preservation plan on April 3, 2006, and agreed with staff's determination.

On March 20, 2007, the Planning staff approved the Building Department's issuance of a footing and foundation permit (issued March 26, 2007) as being consistent with the plans approved by the Historic Preservation Board. On May 11, 2007, Planning staff approved an amendment to the foundation to the barn. This amendment moved the barn approximately four feet to the north in order to save a large lilac that was a concern of the immediate neighbor to the south (Exhibit C). The floor elevation (7203') and the roof ridge elevation (7220'-4") did not change. A full Building Permit was issued on August 7, 2007. On March 17, 2008, the approved building plans were revised to reflect the original 12:17 roof pitch of the barn (Exhibit D). No changes in elevations (floor or roof height) occur with this amendment. The only substantive change in the barn was at the request of the neighbor to save a lilac bush. From a visual perspective, moving the barn four feet to the north would create the appearance of a taller structure as more of the end wall is exposed on the downhill side.

Both previous to and subsequent to the public input with the City Council, the Building Department has conducted inspections and found the building in compliance with the approved plans.

Exhibits

- Exhibit A – Existing Conditions site plan
- Exhibit B – Proposed house with floor and ridge elevations of barn (shed)
- Exhibit C – Revised site plan to save lilac
- Exhibit D – Revised elevations showing actual roof pitch
- Exhibit E – Photo of original barn
- Exhibit F – Staff Report from HPB June 27, 2005 (minutes not available)
- Exhibit G - Staff Report and Minutes from HPB August 15, 2005
- Exhibit H – Minutes from HPB meeting of April 3, 2006



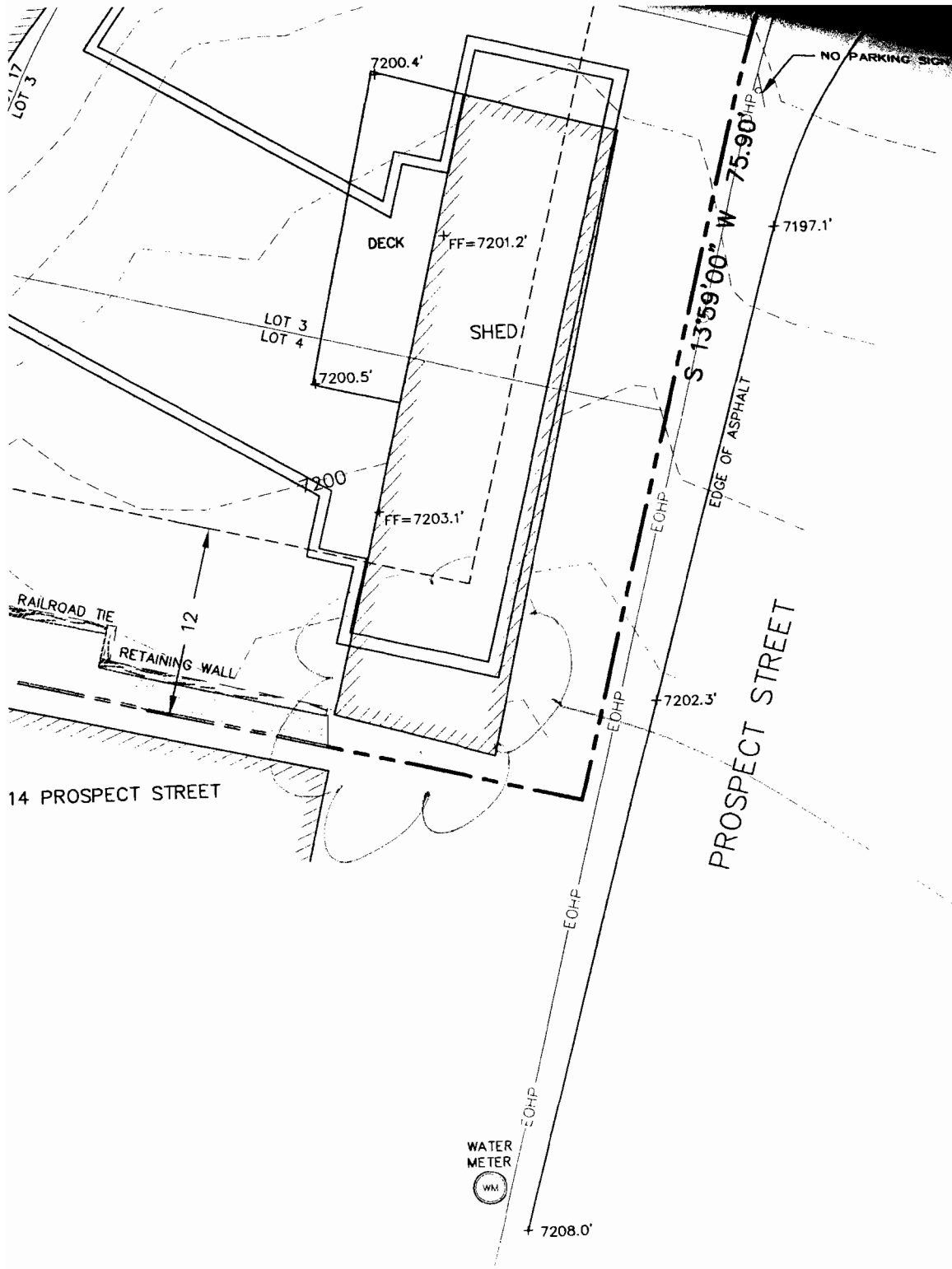
NOTES

1. Site Benchmark: Water Meter Elevation=7193.68'
2. The architect is responsible for the design of the building.
3. This topographic map was prepared by the engineer.
4. Property corners were located by the engineer.
5. Snow coverage at the time of the survey was approximately 12 inches.

(435) 649-9467

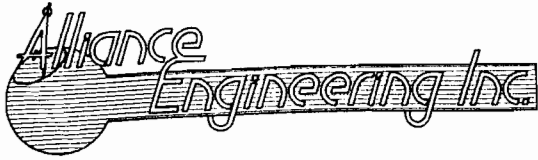
Alliance
Engineering Inc.

STAFF:
MARTY MORRISON
CODY STEPHENS
MARSHALL KING
MICHAEL BENKOW



DATE 5.

(435) 649-9467



Alliance Engineering Inc.

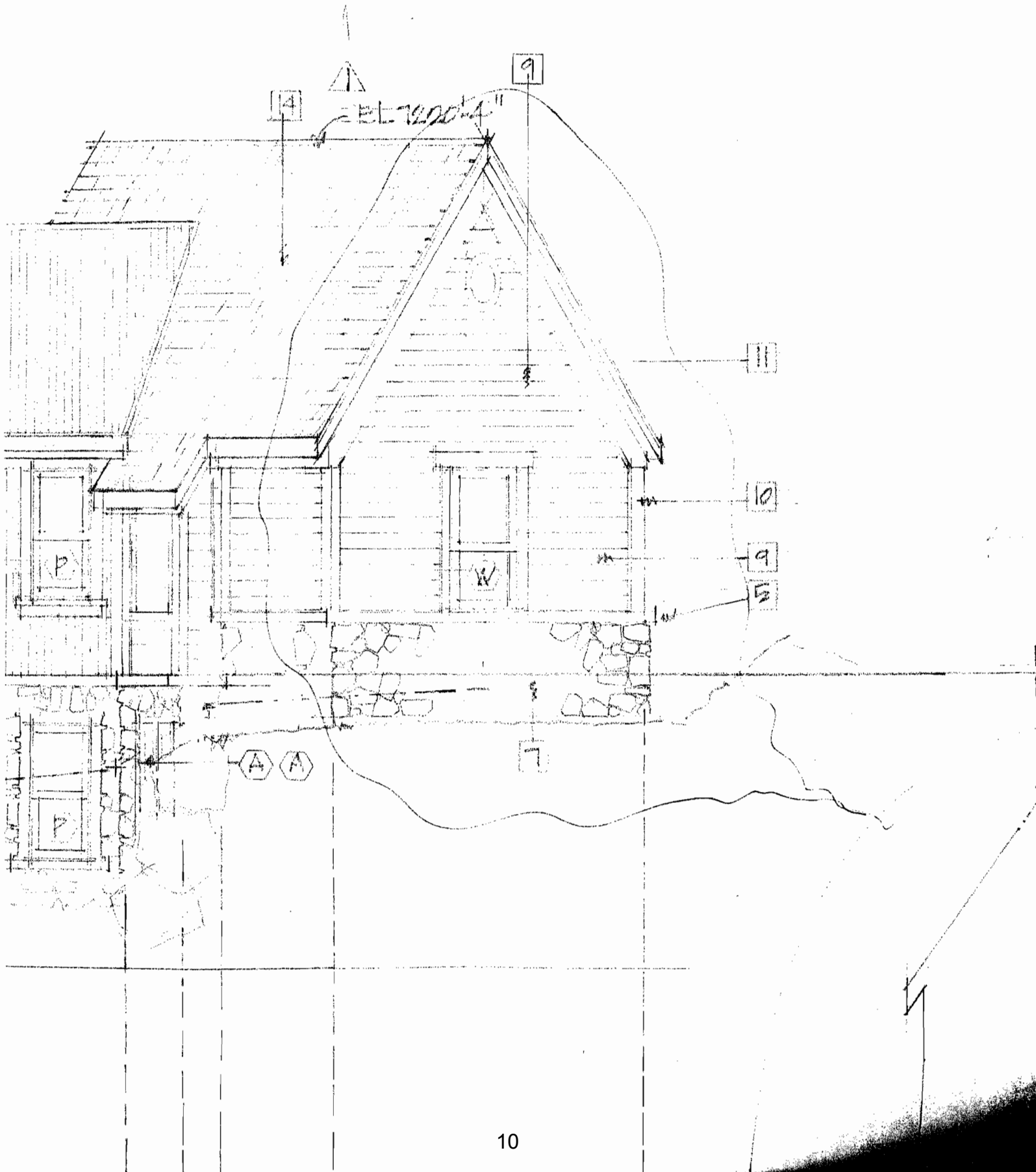
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MAR
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CONSULTING ENGINEERS LAND PLANNERS SURVEYORS

323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

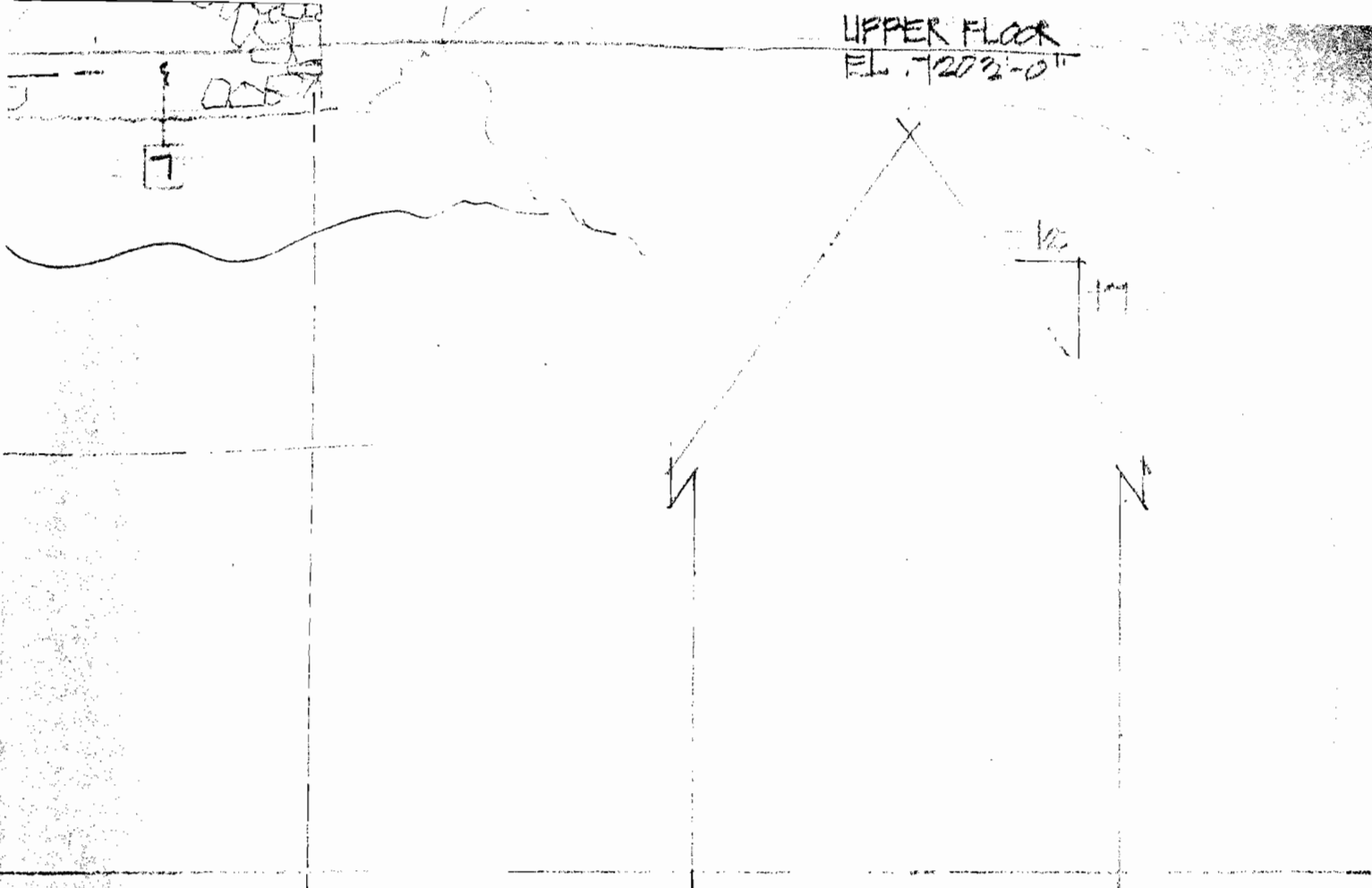
DATE

26. Heavy timber column and beam.
 27. 8" conc. foundation wall. See str
 28. See interior finish schedule for fl



UPPER FLOOR

EL. 7202'-0"



GABLE END-SHEP

EXISTING SHAPE

VAL = 120"

REVISION

OK - as existed

KAW

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5/17/08

[Handwritten notes]

3/17/08 KAW

RECEIVED
PARK CITY MUNICIPAL CORP

MAR 17 2008

BUILDING DE



Historic Preservation Board Staff Report



Planning Department

SUBJECT: 9 Hillside Avenue
DATE: June 27, 2005
TYPE OF ITEM: Appeal of Planning Director's Approval of a Design Review of the proposed remodel, restoration, and additions to the historic structures at 9 Hillside Avenue.

Summary Recommendations:

Staff recommends the Historic Preservation Board discuss the issues on appeal, consider testimony from appellants and applicant's representatives, and affirm the Planning Director's decision to approve the Historic Design Review for the proposed remodel, restoration, and additions to the historic structures at 9 Hillside Avenue.

Topic:

Project Name: 9 Hillside Avenue
Applicant: Steve Stanton
Appellant: Thomas and Livier McGee
Appellant: Alan Schueler and Denise Kent
Location: 9 Hillside Avenue
Zoning: HR-1 (Historic Residential)
Adjacent Land Uses: Residential, Sandridge parking lot
Date of Appeal: April 11, 2005
Project Planner: Kirsten A. Whetstone

Background:

The appellant is requesting that the Historic Preservation Board review a decision made by the Planning Director to approve the historic Design Guideline review application for the property located at 9 Hillside Avenue. The design review is for a proposed remodel, restoration, and additions to the house and barn located on this property (Exhibit A).

In addition to the historic design review application relevant to this appeal, on April 7, 2005, the applicant received City Council approval of a plat amendment to combine 6 old town lots into one platted lot, known as the Stanton Subdivision. The plat approval was not appealed, and the appeal period has lapsed. Recordation of the plat is a condition precedent to issuance of a building permit for this project.

On April 1, 2005, Staff conducted a review of the plans for compliance with the Historic District Design Guidelines, and made a preliminary conclusion that they complied (Exhibit B).

LMC section 15-2.2-8(B) states:

"When the Planning Department determines that proposed development plans comply with the Historic District Design Guidelines, the staff shall post the property and

provide written notice to owners immediately adjacent to the Property, directly abutting the property and across public streets and/or rights-of-way.

The Notice shall state that the Planning Department staff has made a preliminary determination finding that the proposed plans comply with the Historic District Design Guidelines.”

The required ten-day notice was sent to the adjacent property owners on April 1, 2005. The appellants filed an appeal of the project on April 11, within the requisite time period.

Historic Preservation Board Authority

Section 15-11-11(D) (2) of the Land Management Code (LMC), states,

“Any director decision may be appealed to the HPB. Appeal requests shall be submitted to the Planning Department within 10 days of the Director’s decision . . . The scope of appeal shall be the same as the scope of review by the Director”

Requirements for form of such an appeal are provided at Section 15-11-11(D) (1):

“In those cases the Director (or Board) shall either approve, with conditions, or disapprove the proposal based on written findings, conclusions of law, and conditions of approval, if any, supporting the decision, and shall provide the Owner and/or applicant with a copy” (Parenthesis added).

The Historic Preservation Board will review the Planning Director’s decision applying a “correctness” standard of review: in other words, did the Planning Director err in his decision. The appeal carries the burden of proving that an error has been made.

In making its decision, the Board has the following options:

- Affirm the Planning Director’s decision, wholly or in part;
- Reverse the Planning Director’s decision, wholly or in part;
- Modify the Planning Director’s decision.

ANALYSIS

In the two letters of appeal, the appellants list several appeal points (see Exhibits C and D) relating to the project that they feel warrant attention by the Board. An adjacent neighbor submitted a letter outlining his concerns, but this letter was submitted after the appeal period ended (Exhibit E). The appellants are requesting that the Historic Preservation Board rule that the Planning Director erred in his decision to approve the historic design application for the home at 9 Hillside Woodside Avenue.

Below is staff’s analysis of the points discussed in the applicant’s appeal. Staff responses are in italics.

Appeal from Thomas and Livier McGee of 14 Prospect Avenue (Exhibit C)

Appeal Point #1

The plans violate LMC Section 15-2.2-1 regarding the purpose of the HR-1 District.

The issues raised in this appeal point do not pertain to staff's application of the Historic District Design Guidelines to the Historic District Design application submitted on July 15, 2003, revised on June 28, 2004, April 12, 2005, and May 5, 2005. To the extent that Appeal Point #1 raises issues pertaining to the subdivision plat or general issues with the Land Management Code, those issues on appeal should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

As an aside, staff believes that the proposed restoration of the historic barn and house located at 9 Hillside Avenue does not violate the purpose sections of the HR-1 District in that two important historic structures are restored, the present residential land use and character of the historic house is preserved, and the addition connecting the structures and the use of the barn for living space are factors that contribute to the preservation of these structures.

Appeal Point #2

The plans violate LMC Section 15-2.21-1, 15-2.21-3, and 15-2.21-4- Sensitive Lands Overlay.

The property is not located within the boundaries of the Sensitive Lands Overlay and review of SLO issues is not within the HPB's authority. Accordingly, those issues on appeal related to the Sensitive Lands Overlay District should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

Appeal Point #3

The plans violate section 15-5.1 Architectural Review, Policy and Purpose, regarding "As a community dependent upon the tourism industry, the atmosphere and aesthetic features of the community take on an economic value for the residents and Property Owners of Park City."

To the extent that Appeal Point #3 raises issues pertaining to the Architectural Review section of the LMC or general issues with the Land Management Code, this issue on appeal should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

Appeal Point #4

The plans violate Sections 15-7-2, 15-7.3-2, 15-7.3-11 – regarding subdivision regulations.

The application for Historic District Design Review is independent of the subdivision regulations and therefore this section does not apply to this Design Review appeal. The Stanton Subdivision to combine the 6 lots into one lot of record was approved by the City Council on April 7, 2005. The subdivision approval was not appealed and the appeal period has lapsed and therefore those issues on appeal related to the LMC-Subdivision Ordinance should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

Appeal Point #5

The plans violate “criteria” 48, 71, 72, and 73 of the Historic Design Guidelines, as well as the “Objectives of the Guidelines” as follows “Park City recognizes the historic district as a special place to be protected as a community resource, because its history is an important part of our heritage and because its unusual character creates the identity of Park City today. The district is enjoyed by residents and visitors.

It is the intent of these guidelines to assure that the district is preserved for future enjoyment. The scale of the buildings, their materials, and their site relationship are examples of the specific characteristics that were analyzed and from which the guidelines were developed.” The appellant continues with an allegation that the proposed plans violate the following statements: “To encourage the retention of the visual and historic integrity of the district.” And “To protect property values by managing changes so they reinforce the assets of the district... the value of individual historic structures, and groups of historic buildings will thus be strengthened.”

Regarding “criterion” 48, to retain the similarity of materials on a lot where clusters of existing buildings occur by retaining the matching siding materials.

Staff reviewed the proposed plans for compliance with all of the applicable Historic Design Review guidelines and finds that the plans comply with the applicable guidelines. Please see the staff report of May 9, 2005 for a detailed review of each guideline.

Exterior materials of the barn and house are different, currently. The barn is unpainted, wide vertical barn wood (with areas of a narrow lap siding) and the house is horizontal lap siding. Therefore there is not a “similarity of materials on a lot where clusters of existing buildings occur” to be maintained.

Materials proposed for the connector addition (cor-ten steel and standing seam metal roof) are different from the materials proposed for the house (8” cedar lap) and barn (6” cedar lap) structures. These materials are not prohibited by the guidelines for new construction and have been use successfully on other contemporary construction in the District. Staff finds that the proposed addition is clearly subordinate to the existing house and barn, allows for a functional use of the barn, is set back 26’ from the front façade of the barn and house and is located towards the interior of the site.

Staff finds the plans comply with Guideline #48 in that the proposed materials retain a similarity of materials for the two historic structures and the use of different materials for the addition allows the historic structures to stand out from the new construction.

Regarding guideline #71, maintain typical size and shape of historic facades.

The primarily historic facades, facing the streets will maintain the historic size and shape. Non-historic shed additions will be removed from the east façade to restore the original entrance on the east façade to its approximate location. The non-historic closed in porch on the west elevation will be removed and the open porch will be restored.

Staff finds that the plans comply with Guideline #71 in that the connection addition is set back

26' from the front façade and is located towards the interior of the site and that the typical size and shape of historic facades are maintained. Other minor additions are attached to those facades that are least visible from the street. The size and shape of the barn, above grade is maintained.

Regarding guideline #72, maintain typical spacing pattern of street facades.

The spacing pattern of street facades will not change with the addition. The new connector addition is located in the interior of the site within allowed setbacks. The proposed plans and new construction comply with all required setbacks.

Staff finds that the plans comply with Guideline #72 in that the property is an irregularly shaped lot bordered on three sides by streets. The existing house and barn are not situated in a typical old town pattern on 25' wide by 75' deep lots with 6' of space between structures and therefore the existing spacing is not typical of the historic district. There is greater spacing between the addition and the adjacent house due to the greater size of this lot and its irregular shape.

Regarding guideline #73, maintain typical roof orientations. Ridges set perpendicular to the street minimize the mass of roof materials visible from the street.

The property is an irregularly shaped lot, bordered on three sides by streets. The existing house and barn are not situated in a typical old town pattern on 25' wide by 75' deep lots. The existing roof ridge of the barn runs parallel to Prospect, the existing roof ridge of the main house (the most historic portion) runs perpendicular to Hillside and at an angle to the other two streets. The connector addition is setback about 26' from the north façade and has a 15' section of roof ridge that runs horizontal to the north property line (which is perpendicular to Prospect and Hillside Avenues). This roof ridge is subordinate to the main ridges and differentiates the addition from the historic structures. Staff finds that the plans do comply with Guideline #73 in that the roof orientations of the existing structures are maintained. Roof ridges are generally set perpendicular to the intersection and the mass of roof materials is minimized as viewed from the street.

Appeal Point #6

The plans violate the following sections of the Land Management Code:

- 15-2.2-1 Purpose (D) encourages Single Family Development on combinations of 25' by 75' Historic Lots.
- 15-2.2.-2 Uses (B) Conditional Uses
- 15-4-4. Secondary Living Quarters
- 15-4-5. Lockout Units
- 15-4-6. Guest Houses
- 15-4-7 Accessory Apartments

The issues raised in this appeal point do not pertain to staff's application of the Historic District Design Guidelines to the Historic District Design application submitted on July 15, 2003, revised on June 28, 2004, April 12, 2005, and May 5, 2005. To the extent that Appeal Point #6 raises issues pertaining to the Land Management Code those issues on appeal should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

As an aside, the proposal is for a single family house which is an allowed use in the HR-1 district. The applicant has not submitted an application for a conditional use permit for other uses as suggested above. The Historic Design Review is independent of the Conditional Use Permit review.

Appeal Point #7

The plans don't comply with Section 15-9-1. Purpose (regarding Non-complying structures), Section 15-9-6 Non Complying Structures (A) Repair, maintenance, alteration, and enlargement, (B) Moving, (C) Damage or Destruction of non-complying structures.

Review of the project against the LMC, specifically section 15-9 regarding non-complying structures is independent of the Historic Design Review. To the extent that Appeal Point #7 raises issues pertaining to the Section 15-9 of the Land Management Code, those issues on appeal should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

Appeal Point #8

The plans don't comply with Section 15-7.3-2 General Subdivision Requirements (E) Open Space and Section 15-7.3-11 Preservation of Natural Features and Amenities.

The application for Historic District Design Review is independent of the subdivision regulations and therefore this section does not apply to this Design Review appeal. The Stanton Subdivision to combine the 6 lots into one lot of record was approved by the City Council on April 7, 2005. The subdivision approval was not appealed and the appeal period has lapsed and therefore those issues on appeal related to the Subdivision Ordinance should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

As an aside, the Staff reviewed the plans for compliance with the setback, floor area and building footprint requirements in the HR-1 District and finds that the plans do comply. These items are reviewed for LMC compliance at the time of building permit review. The addition will occupy a portion of the lot that is currently undeveloped and open. The area of the proposed addition is within the allowable footprint for these existing platted lots. This area is not considered open space for the purpose of single family construction.

Appeal Point #9

The plans violate the following sections of the Historic District Guidelines: #48, #51, #52, #53, #54, #62, #71, #72, # 73, # 74, #79, #80, #83, #84.

Staff has reviewed the proposed plans for compliance with all of the applicable Historic Design Guidelines and finds that the plans comply with the applicable guidelines. Please see the staff report of May 9, 2005 (Exhibit B) for a detailed review of each guideline. Each of the above listed guideline is discussed in detail in the staff report. Staff finds that the plans comply with each of the Guidelines listed in appeal point #9.

Appeal Point #10

Regarding the proposal to cut into the historic wall along the west side of the property for a driveway, the plans violate the following sections of the Historic District Guidelines: #45, #56,

71, #72.

Staff has reviewed the proposed plans for compliance with all of the applicable Historic Design Review guidelines and finds that the plans comply with the applicable guidelines. Please see the staff report of May 9, 2005 for a detailed review of each guideline. The stone retaining wall will be maintained, except the 26' where the new driveway will be accessed. Allowing this modification of the approximately 165' historic wall allows the garage to be located beneath the house in the least visible area of the property, with the least impact on the historic façades. It is typical in the historic district to find stone walls with breaks in them to accommodate driveways, staircases, and entry ways. Any required repairs of this wall will be included on the building permit plans and will be verified by the Planning Department prior to beginning any work. Staff finds that the plans comply with Guidelines #45, #56, #71, and #72 regarding the cut into the wall to provide for a driveway.

Appeal Point #11

The plans violate the following sections of the LMC regarding foliage, vegetation, historic trees and shrubs, and wildlife:

15-2.2-10. Vegetation Protection

Plans are reviewed for compliance with the LMC at the time of Building Permit review. To the extent that Appeal Point #11 raises issues pertaining to the subdivision ordinance or building permit review, those issues on appeal should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

As an aside, one of the conditions of approval of the Design Review is for a landscape plan to be submitted with the building permit application. Any significant vegetation and requirements for replacement of significant vegetation will be reviewed at that time. The applicant intends to save as many of the mature trees as possible, may relocate others, and will plant additional trees as required by the Landscape Plan.

Appeal Point #12

15-2.21-1. Sensitive Area Overlay Purpose

15-2.21-3. Sensitive Area Overlay Provisions

15-2.21-4. Sensitive Area Regulations- Slope Protection

The property is not located within the boundaries of the Sensitive Lands Overlay and therefore those issues on appeal related to the Sensitive Lands Overlay District should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

Appeal Point #13

15-7.3-3. General Lot Design Requirements (B) Building Sites and (H) Limits of Disturbance/Vegetation Protection.

15-7.3-2 General Subdivision Requirements (C) Limits of Disturbance, (E) Open Space, and (J) Limits of Disturbance/Vegetation Protection.

15-7.3-11. Preservation of Natural Features and Amenities (A) General

15-7-2. Purpose (J), (K), and (L)

The application for Historic District Design Review is independent of the subdivision regulations and therefore this section does not apply to this Design Review appeal. The Stanton Subdivision to combine the 6 lots into one lot of record was approved by the City Council on April 7, 2005. The subdivision approval was not appealed and the appeal period

has lapsed and therefore those issues on appeal related to the Subdivision Ordinance should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

Appeal Point #14

15-2.2.-3 Lot and Site Requirements (J) Snow Release. The appellant also alleges that a significant amount of snow sheds off of their adjacent house and lands on the southern portion of 9 Hillside.

Snow shedding is addressed at the time of the subdivision plat or at the time of the building permit and appropriate snow shed easements are obtained, if possible from adjacent property owners. To the extent that Appeal Point #14 raises issues pertaining to the subdivision ordinance or building permit review, those issues on appeal should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

As an aside, the snow shedding from 9 Hillside onto adjacent properties would be the primary concern, not the reverse which is an existing condition. The proposed design and setbacks do not create new snow shedding issues onto adjacent properties for the historic restorations or the new additions.

Appeal Point #15

15-2.21-3 (7), (B), (2) Soil Investigation Report.

Soils issues are addressed at the time of the subdivision plat or building permit review, specifically addressed in item G-14 of the Standard Building Review check list. The property is not located within the Prospector Soils Ordinance. To the extent that Appeal Point #15 raises issues pertaining to the subdivision ordinance or building permit review, those issues on appeal should be dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.

Appeal from Alan Schueler and Denise Kent-9 Prospect Avenue (Exhibit D)

This appellant has four general concerns with the proposal, namely, 1) Destruction of the stone wall, 2) Eliminating the visual unity of building clusters on individual sites, 3) Alteration of the front façade and main entrance, and 4) Replacing the shed with a house. (Staff comments are in italics.)

Appeal Point #1

Historic District Guideline #45 calls for "Maintaining the Line of Stone Retaining Walls Along the Street". "The stone retaining walls are an important asset of the historic district." The appellant claims "the wall partially on the subject property may be a unique asset to Park City's historic district, as it appears to be the last remaining stamp mill foundation in town." And further claims that "demolishing a 30 foot section of this wall to install a garage could hardly be considered historic preservation." This appellant is also concerned that "it could lead to further deterioration of the remaining wall, and ... future appeal to knock down even more when the owner realizes the proposed garage is too restrictive to drive in and out."

Staff finds that the plans comply with Guideline #45 in that a portion of the rock wall abutting Hillside Avenue that is to be removed in order to facilitate the construction of a driveway is approximately 26' and that about 137 feet of the 165' long stone wall will be maintained. From

a historic preservation standpoint, it is beneficial to locate the access and the double garage to the house from Hillside, as the historic front entrance to the house faced Prospect Avenue.

Staff finds that this remaining wall will continue to provide historic character and the removal of 17% of the wall in a less visible area will not significantly detract from the historic nature of this sector of Old Town.

The proposed location of the driveway and garage is appropriate as it allows the garage to be located below the existing house, away from the historic main entrance, allowing for significant preservation of the historic character of the house. Staff finds that considering the complexity of this project, (i.e. restoration of a historic home, restoration of a historic barn, and incorporated on site parking, on an irregular shaped lot), the applicant has met the intent of the Historic District Design Guidelines, while providing maximum benefits to the City with regard to our historic preservation initiatives. Staff finds that the proposed design is in conformance with Guideline #45.

Appeal Point #2

Guideline #48 calls for maintenance of visual unity of building clusters on individual sites. The appellant claims that the house and shed as they are currently situated present a charming view from any part of Old Town; a view that has been unchanged for over 100 years. The proposal of nearly doubling the height of the shed, and turning it into a multi-story, multi-bedroom, multi-bathroom house makes the property unrecognizable. The sheds of our town are an important portion of our historic buildings, and were never intended to be houses. Turning the town's sheds into large houses would ruin the integrity of Old Town.

Furthermore, the proposal eliminates visual unity of buildings on individual sites. The buildings would become one building, connected by an enormous enclosed stairway. The enclosure with its giant glass panels and high visibility is ugly and inappropriate. None of our historic residences looked like that.

Design Guideline #48 refers to the exterior finish of multiple buildings on a site and states the following: "Retain the similarity of materials on a lot where clusters of existing buildings occur by retaining the matching siding."

Exterior materials of the barn and house are different currently. The barn is unpainted, wide vertical barn wood (with areas of a narrow lap siding) and the house is horizontal lap siding. Therefore there is not a "similarity of materials on a lot where clusters of existing buildings occur" to be maintained.

Materials proposed for the connector addition (cor-ten steel and standing seam metal roof) are different from the materials proposed for the house (8" cedar lap) and barn (6" cedar lap) structures, which are similar to each other. These materials are not prohibited by the guidelines for new construction and have been used successfully on other contemporary construction in the District. Staff finds that the proposed addition is clearly subordinate to the existing house and barn, allows for a functional use of the barn, is set back 26' from the front façade of the barn and house and is located towards the interior of the site. Staff finds that the design complies with Guideline #48 in that the proposed materials for the two historic

structures do retain a similarity of materials and the use of different materials for the addition allows the historic structures to visually stand out from the new construction.

Appeal Point #3

Historic Guideline #49 says to locate additions so as not to alter the front façade. Adding a deck, a new front door, and the enormous enclosed stairway to the front façade will drastically alter it. Guideline #54 also says to maintain the original position of main entrances. The proposal seems to change the location of the front door.

Guideline #49 states: Locate additions to original houses so they do not alter the front facade. Additions should be designed so they do not obscure the size and shape of the original house. One option is to set back the addition on the lot so it does not affect the building's front.

Staff finds that the plans comply with Guideline #49 in that the additions are located so as not to alter the front façade. The design is sensitive to scale, height and mass of the existing house and barn. Additions to the house and barn are located interior to the site, behind the existing house as viewed from Hillside, behind the existing barn as viewed from Prospect. The addition is located about 45' back from the front property line. The additions are set back from the front façade. A non-historic lean-to addition, visible from the Prospect and Hillside intersection, is being removed and replaced with a smaller, more historically compatible addition. The addition is also not visible from Main Street, as it is located behind the west façade that is clearly visible from upper Main.

Guideline #54 states: Maintain the original position of main entrances. Typically, the primary entrance faces the street and is framed by a porch.

Staff finds that the plans comply with Guideline #54 in that the existing front door will be restored to close to its original position, orientation, and function. The original front door was on the east side of the house and has since been obscured by non-historic lean-to and shed additions. The main entrance to the house will be located on the east side of the house.

Appeal Point #4

The proposed new house seems to be in conflict with many of the residential renovation guidelines, but I'm not sure if they apply to the shed, since bats and mice have been the only residents. The fact of the matter is, the shed will be disassembled and removed. Little of it can be re-used in the construction of the new house. This seems to be in conflict with the intent of the historic district and amounts to historic demolition.

There is a condition of approval that the method of restoration of both the house and barn shall be submitted with the building permit to be approved by the Planning Department prior to issuance of a building permit. Staff and the applicant have met regarding restoration of the barn. The barn is to be restored intact. Staff has not approved the barn for demolition.

Comments received from Peter J. Marth (April 14, 2005) - 27 Hillside Avenue (Exhibit E)

Appeals of the Historic District Design Review for 9 Hillside (found to be in preliminary compliance with the Design Guidelines on April 1, 2005), were required by April 11, 2005. The input was received from Mr. Marth on April 14th, 2005, and therefore Mr.

Marth will not be addressed as an official appellant, but rather a concerned resident. All comments received from Mr. Marth are nonetheless addressed in the following paragraphs.

The first matter addressed by Mr. Marth is concerning the final signed easement referencing the rock wall, which, according to Mr. Marth, defines the lot of 27 Hillside Avenue. This issue is independent of the Design Review, however Mr. Marsh requests that final recording of the re-plat does not occur until a final signed easement is received by Mr. Marth from Mr. Stanton (#1). The resident also opposes Staff's conclusion that the removal of a portion of the stone wall along Prospect Avenue is appropriate, considering the language of the Historic District Design Guidelines as it relates to the maintenance of historic walls (#2). A final concern relates to the relocation of the main entrance of the house (#3).

1. This resident is concerned about the easements for the rock wall. Encroachment easements for the rock wall, which is located on the 9 Hillside property, have been provided for the benefit of the wall, on the Stanton Subdivision plat. These easements will be a matter of record upon recordation of the Stanton Subdivision plat. Staff has included a condition of approval that the subdivision plat shall be recorded prior to issuance of a building permit for new construction. There are not separate signed easements. This issue is outside of the Historic Preservation Board's jurisdiction and authority.

2. This resident disagrees with the removal of the historic rock wall portion to the west of the house to allow access underneath the house. The resident alleges that removing 40' of the last intact historic rock wall in Old Town goes against the desire to protect these remaining structures. He further alleges that changing the entrance of the historic home violates the Historic District Guidelines.

The portion of the rock wall abutting Hillside that is to be removed in order to facilitate the construction of a driveway is approximately 26 feet. From a historic preservation standpoint, it is beneficial to locate the access and the double garage to the house from Hillside, as the historic front entrance to the house faced Prospect Avenue. The proposed location of the driveway and garage is appropriate as it allows the garage to be located below the existing house, away from the historic main entrance, allowing for significant preservation of the historic character of the house. Staff finds that considering the complexity of this project, (i.e. restoration of a historic home, restoration of a historic barn, and incorporated on site parking, on an irregular shaped lot), the applicant has met the intent of the Historic District Design Guidelines, while providing maximum benefits to the City with regard to our historic preservation initiatives.

About 137 feet of the existing (165' long) stone wall, predominately along Hillside will remain. This represents approximately 83% of the total wall. Staff finds that this remaining wall will continue to provide historic character and the removal of 17% of the wall in a less visible area will not significantly detract from the historic nature of this sector of Old Town. Staff finds that the proposed design is in conformance with Guideline #45.

3. The resident believes that changing the location of the front entrance violates the Historic District Design Guidelines.

It is correct that the Historic District Design Guidelines (Guideline #54) specifically requires the maintenance of the main entrance area of the historic house. Historically, the main entrance of the house was facing Prospect Street, close to the location of the proposed new main entrance. Staff finds that the proposed design is in conformance with Guideline #54 of the Historic District Design Guidelines.

Recommendation

Staff recommends the Historic Preservation Board review the proposal, discuss the issues on appeal, hear testimony from appellant and applicant, and affirm the Planning Director's May 9, 2005 decision to approve the Historic Design Review for the proposed addition and remodel to the historic structures at 9 Hillside Avenue according to the findings of fact, conclusions of law, and conditions of approval as stated below.

Findings of Fact

1. The existing house and barn at 9 Hillside Avenue are located within the HR-1 District.
2. This historic single family home has been significantly altered in terms of siding material, lean-to additions, modern windows and window proportions, and modern doors. The structure is a contributory structure because most of the alterations can be reversed.
3. The property is located within the Park City Historic District and is subject to review for design compatibility with the Historic District Guidelines.
4. To document compatibility with the District, a Historic District Design Review application was filed on July 15, 2003. Staff and the applicant met on several occasions to work out design issues and revise the plans. Amended plans were submitted on April 12th and May 5th, 2005. The plans have been reviewed for compliance with the Historic District Design Guidelines and were approved by the Planning Director.
5. The proposed remodel of the existing house reverses the non-historic alterations and restores both the house and barn.
6. The use of the structures (barn and house) is proposed to continue as a single family residence.
7. The property consists of 6 lots combined by the Stanton Subdivision plat amendment, approved by the City Council on April 7, 2005. The total lot area is 8,207 sq. ft. The maximum footprint is 2587.3 sq. ft. The proposed footprint is 2520 sq. ft. and does not exceed the maximum allowed footprint. These numbers will be verified prior to issuance of a building permit. The lot is not a standard 25' by 75' dimensioned old town lot.
8. There are existing encroachments onto the lot, consisting of a deck and a stone wall. The plat amendment includes two separate easements to accommodate these encroachments. These easements address concerns voiced by the adjoining property owners regarding the accuracy of the existing survey. The deck encroaches from 14 Prospect Street. The stone wall is located completely on the subject property, but ownership of said wall is disputed, hence the easement. These easements will be in place, once the plat is recorded.
9. Pursuant to Utah Code Section 10-9-1001, a municipality's land use decision, including a subdivision plat, must be appealed to the district court within 30 days of the decision.
10. The required building setbacks, as identified by the Planning Director per LMC Section

15-2.2-3, are 10' minimum front from Hillside, Prospect, and Marsac and 12' from the south property line, as approved with the plat amendment on April 7, 2005. All setbacks will be verified prior to issuance of a building permit.

11. The existing barn maintains historic setbacks of 6' on the Prospect Avenue side and 2' to the south property line. The new foundation and basement area under the house and barn maintain the existing setbacks. All setbacks will be verified prior to issuance of a building permit.
12. The applicant must demonstrate with the use of a certified topographical survey that the proposed building meets the required 27 foot maximum height above existing grade prior to issuance of a building permit.
13. The lot has frontage along platted Prospect Street, Marsac Avenue, as well as Hillside Avenue
14. The proposed addition between the two historic structures is contemporary architecture that is compatible with and sympathetic to the historic structures. This addition connects the two existing structures and allows the barn to be restored and utilized for floor area. The contemporary addition is located behind the house as viewed from Hillside and behind the barn as viewed from Prospect. This addition would not be visible from upper Main Street. The addition is located 26' behind the front façade, 45' back from the property line along the Hillside/Prospect intersection and over 60' from the actual edge of pavement which is 30'-35' from the front property line. The addition is subordinate to the historic home, located behind the house and well back from the front setback line. There are 17' to 23' of separation between the addition and the adjacent house at 14 Prospect Street.
15. The proposed remodel removes non-historic add-ons, replaces non-historic modern windows with new windows in historic proportions, removes non-historic siding and replaces it with wood siding matching historic siding, replaces non-historic doors and openings with historically compatible ones. The remodel restores the front porch and restores the main entry to close to the historic location. The remodel maintains the general shape, massing, and roofline of the historic home and historic barn. The overall size, scale, massing, and form of the proposed remodel are compatible with the houses in the immediate vicinity, as well as with other single-family residences in Old Town.
16. The main exterior siding is horizontal lap siding, 6" and 8" wide, as shown in the April 12, 2005, drawings. Cor-ten siding is proposed for the addition between the house and barn. Roofing for the historic house and barn is proposed to be 50 year architectural shingle and roofing for the contemporary addition between the house and barn is proposed to be 18 gage cor-ten steel. The use of different materials for the contemporary addition differentiates the new construction from the historic structures.
17. A landscape plan is necessary to assure re-vegetation of the front and back yard areas, and any other areas disturbed by construction, including the area between the Marsac ROW and the front property line.
18. The windows will be aluminum clad, wood windows in historic proportions for the remodel. Windows proposed for the addition are also aluminum clad wood, in a more contemporary opening to provide a less solid connection between the house and barn and to differentiate new construction from historic fabric. This is an appropriate use of contemporary openings in new construction.
19. The garage door will be a carriage style, fir door in a natural finish, as shown on the drawings submitted to the planning department on April 12, 2005.

20. On April 1, 2005, the Planning Staff made a preliminary determination of compliance with the Historic District Design Guidelines. Notice of this preliminary determination of compliance was sent to the adjacent property owners and the property was posted giving notice that the design would be approved in ten days unless written appeals were received.
21. On April 11, 2005, an appeal of the determination of compliance was received by the Planning Department from Thomas and Livier McGee, adjacent property owners of 14 Prospect Avenue.
22. On April 11, 2005, an appeal of the determination of compliance was received by the Planning Department from Alan Schueler and Denise Kent of 9 Prospect Avenue.
23. On May 9, 2005, the Planning Director found the plans for the remodel, restoration, and additions to 9 Hillside to be in compliance with the Historic District Design Guidelines.
24. On June 16, 2005, notice of the appeal to the Historic Preservation Board was posted and letters were sent to the adjacent property owners. Legal notice was published in the Park Record.
25. Pursuant to LMC Sections 15-1-18 (A), 15-11-5(J), 15-11-7, and 15-11-11 (D) the Historic Preservation Board's authority to hear appeals is limited to matters concerning decisions made on Historic Design review applications.

Conclusions of Law

1. The Planning Director did not err in his May 9, 2005 decision finding that the Historic Design review application for the structures at 9 Hillside Avenue complies with all applicable Historic District Design Guidelines, including 48, 71, 72, and 73 and including 45, 51, 52, 53, 54, 56, 62, 74, 79, 80, 83, and 84.
2. All appeal issues pertaining to matters other than Historic Design review are hereby dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.
3. Appellants' request for a reversal of the Planning Director's May 9, 2005 approval is denied.

Conditions of Approval

1. The final building plans and construction details for the project shall reflect substantial compliance with the drawings dated April 12, 2005 (amended May 5, 2005) submitted and reviewed by the Planning Director on May 9, 2005. Included with the building permit shall be a plan detailing the method of historic house and barn restoration. The barn shall not be demolished. Any changes, modifications, or deviations from the approved design shall be reviewed and approved by the Planning Director prior to their construction. Any formal request for design modifications submitted during construction may result in a stop-work order by the Chief Building Official until the modifications are approved.
2. The architect and/or applicant shall be responsible for coordinating the approved architectural drawings/documents with the approved construction drawings/documents. The overall aesthetics of the approved architectural drawings/documents shall take precedence. Any discrepancies found among these documents that would cause a change in appearance to the approved architectural drawings/documents shall be reviewed and approved prior to construction. Failure to do so, or any request for changes during construction may require the issuance of a stop-work order for the entire project by the Chief Building Official until such time that the matter has been resolved.

3. The type, profile and general dimensions of the final siding materials shall be reviewed and approved by the Planning Department according to the Illustrated Building Materials Handbook, prior to the issuance of full building permit. All siding vents and penetrations shall be painted-out to match that of the adjacent siding.
4. All exterior window trim configuration, type, profile and general dimensions, etc. shall be reviewed and approved by the Planning Director according to the Illustrated Building Materials Handbook, prior to the issuance of full building permit. All exterior window trim shall be at least 3 ½ inches in width, smooth-sawn, paint-grade wood trim. All window frames shall be painted appropriately.
5. All window construction types shall be reviewed and approved by the Planning Director according to the Historic District Design Guidelines and the Illustrated Building Materials Handbook, prior to the issuance of full building permit and shall be consistent with the April 12, 2005 (May 5th amended) plans.
6. The applicant shall submit a color sample for the roof prior to installation. All roof penetrations shall be painted-out to match the color of the roof. All roof stacks shall be kept to a minimum height as required by the Uniform Building Code.
7. All exterior lighting fixtures and their locations shall be reviewed and approved by the Planning Director for compliance with the Land Management Code prior to issuance of full building permit.
8. All utility boxes, gas-fireplace vents, conduit, etc. shall be painted out to match that of the adjacent building feature.
9. A Paint Application shall be submitted for review and approved by the Planning Department prior to the issuance of full building permit. The building colors shall include a body and trim color. A third accent color may be utilized. The colors shall be complementary of each other, but provide sufficient visual contrast. The Guidelines encourage neutral earth-tone colors and hues.
10. A formal landscape plan shall be submitted and approved by the Planning Department prior to the issuance of a full building permit. A landscape plan shall be drawn at 1/4" scale. The plan shall include, but is not limited to the identification of all existing significant trees; proposed and existing plantings; planters; driveways; walkways and their materials. Non-historic landscape elements or elements which are not compatible with typical historic landscapes (such as large boulders, etc.) in the area are generally not permitted in the front yard area.
11. As a condition precedent to building permit issuance the approved Stanton Subdivision plat amendment for 9 Hillside Avenue shall be recorded at Summit County.
12. Receipt and approval of a Construction Mitigation Plan (CMP) by the Building Department is a condition precedent to issuance of a building permit.
13. All Standard conditions of approval shall apply.

EXHIBITS:

Exhibit A -Site Plan; Proposed Floor Plans, Proposed Elevations (June 2, 2004) revised on June 28, 2004, April 12, 2005 and May 5, 2005 and approved by Planning Director on May 9, 2005.

Exhibit B- Historic Design Review staff report dated May 9, 2005.

Exhibit C- Appeal from Thomas and Livier McGee- 14 Prospect Street

Exhibit D- Appeal from Alan Schueler and Denise Kent – 9 Prospect Street

Exhibit E- Letter from Peter J. Marth- 27 Hillside Avenue

Historic Preservation Board Staff Report



Planning Department

SUBJECT: 9 Hillside Avenue
DATE: August 15, 2005
TYPE OF ITEM: Appeal of Planning Director's Approval of a Design Review of the proposed remodel, restoration, and additions to the historic structures at 9 Hillside Avenue.

Summary Recommendations

Staff recommends the Historic Preservation Board discuss the issues on appeal, review the revised plans, and deny the appeals in part and grant the appeal in part in approving the plans as revised and conditioned, based on the findings of fact, conclusions of law, and conditions of approval as outlined below.

Topic

Project Name: 9 Hillside Avenue
Applicant: Steve Stanton
Appellant: Thomas and Livier McGee
Appellant: Alan Schueler and Denise Kent
Location: 9 Hillside Avenue
Zoning: HR-1 (Historic Residential)
Adjacent Land Uses: Residential, Sandridge parking lot
Date of Appeal: April 11, 2005
Project Planner: Kirsten A. Whetstone

Background

At the June 27, 2005 HPB meeting, the Board heard testimony from the appellants, applicant's representative, and the public. The Board closed the public hearing and discussed the items on appeal. After a lengthy discussion the item was continued to the July 18, 2005 HPB meeting. The applicant was asked to explore alternative locations for the garage entrance and consider changing the roofline height for the addition to the barn. On July 18, 2005, the HPB continued to discuss the proposal. The applicant declined to make revisions because he wanted the HPB to make a decision based on the plans staff had approved. After the July 18, 2005 meeting, the applicant agreed to consider revising the plans to avoid disturbing the stone wall. On August 10, 2005, the applicant submitted revised plans that locate the garage entrance beneath the north side of the house, leave the stone wall intact, and lower the roofline of the addition to be lower than the roofline of the existing barn.

Analysis

The applicant is requesting that the HPB review the revised plans. Staff has reviewed the plans and finds that they address the Board's concerns and as conditioned, are in compliance with all applicable Historic District Design Guidelines. Please refer to the staff report dated June 27, 2005, as well as the exhibits attached to that report outlining: 1) the

items on appeal; 2) the Planning Department's response to the appeals; and 3) the May 9, 2005 staff report finding compliance with the Historic District Design Guidelines.

Recommendation

Staff recommends the Historic Preservation Board review the revised plans, discuss whether the revisions address the specific issues on appeal and approve the Historic Design Review for 9 Hillside based on the findings of fact, conclusions of law, and conditions of approval as outlined in this staff report.

Findings of Fact

1. The existing house and barn at 9 Hillside Avenue are located within the HR-1 District.
2. This historic single family home has been significantly altered in terms of siding material, lean-to additions, modern windows and window proportions, and modern doors. The structure is a contributory structure because most of the alterations can be reversed. There is also an historic barn on the property.
3. The property is located within the Park City Historic District and is subject to review for design compatibility with the Historic District Guidelines.
4. To document compatibility with the District, a Historic District Design Review application was filed on July 15, 2003. Staff and the applicant met on several occasions to work out design issues and revise the plans. Amended plans were submitted on April 12th, and May 5th 2005. On June 24, 2005 the applicant submitted reductions of the approved plans. On August 10, 2005, the applicant submitted revised plans based on direction from the HPB at the June 27th and July 18th meetings.
5. The plans were reviewed for compliance with the Historic District Design Guidelines, as outlined in the May 9, 2005 staff report.
6. The Planning Director, as outlined in the May 9, 2005 staff report, finds that the plans, as revised on August 10, 2005 and conditioned herein, comply with the Historic District Design Guidelines.
7. The proposed remodel of the existing house reverses the non-historic alterations and restores both the house and barn.
8. The use of the structures (barn and house) is proposed to continue as a single family residence.
9. The revised plans relocate the garage to the north side of the property and lower the roofline of the addition so it is lower than the existing roofline of the barn.
10. Off-street parking is desirable in this location, due to the configuration of the intersecting streets and widths of Hillside, Sandridge, Marsac, and Prospect.
11. The property consists of 6 lots combined by the Stanton Subdivision plat amendment, approved by the City Council on April 7, 2005. The total lot area is 8,207 sq. ft. The maximum footprint is 2587.3 sq. ft. The proposed footprint is 2520 sq. ft. and does not exceed the maximum allowed footprint. These numbers will be verified prior to issuance of a building permit. The lot is not a standard 25' by 75' dimensioned old town lot.
12. There are existing encroachments onto the lot, consisting of a deck and a stone wall. The plat amendment includes two separate easements to accommodate these encroachments. These easements address concerns voiced by the adjoining property owners regarding the accuracy of the existing survey. The deck encroaches from 14 Prospect Street. The stone wall is located completely on the subject property, but ownership of said wall is disputed, hence the easement. These easements will be in

- place, once the plat is recorded.
13. The required building setbacks, as identified by the Planning Director per LMC Section 15-2.2-3, are 10' minimum front from Hillside, Prospect, and Marsac and 12' from the south property line, as approved with the plat amendment on April 7, 2005. All setbacks will be verified prior to issuance of a building permit.
 14. The existing barn maintains historic setbacks of 6' on the Prospect Avenue side and 2' on the south property line. The new foundation and basement area under the house and barn maintain the existing setbacks. All setbacks will be verified prior to issuance of a building permit.
 15. Plans reviewed for compliance with the Design Guidelines comply with the 27' height limitation.
 16. The lot has frontage along platted Prospect Street, Marsac Avenue, as well as Hillside Avenue
 17. The proposed connection between the two historic structures is new construction. This addition connects the two existing structures and allows the barn to be restored and utilized for floor area. The contemporary addition is located behind the house as viewed from Hillside and behind the barn as viewed from Prospect. The addition is located 26' behind the front (north facing) façade, 45' back from the property line along the Hillside/Prospect intersection and over 60' from the actual edge of pavement which is 30'-35' from the front property line. The addition is smaller in square footage and mass than the historic home, is located behind the house and a distance back from the front setback line. There are 17' to 23' of separation between the addition and the adjacent house at 14 Prospect Street. The ridgeline of the addition that connects to the barn is proposed at 7219'8" and the ridgeline of the existing barn is at 7220'4". The main ridgeline of the existing house is at 7215'3" and the ridgeline of the addition that connects to the house is proposed at 7215'0".
 18. Proposed setbacks of the connecting addition ranging from 12' to 24' are greater than the 10' and 12' that can be proposed in this district. The proposed heights for the addition (at 25' and 19' 8") are less than the 27' that can be proposed in this district. The proposed floor area is approximately 60 sf less than could be proposed in this district.
 19. The proposed remodel removes non-historic additions and non-historic architectural features, replaces non-historic modern windows with new windows in historic proportions, removes non-historic siding and replaces it with wood siding matching historic siding, replaces non-historic doors and openings with historically compatible ones. The remodel restores the front porch and restores the main entry to close to the historic location. The remodel maintains the general shape, massing, and roofline of the historic home and historic barn. The overall size, scale, massing, and form of the proposed remodel are compatible with the houses in the immediate vicinity, as well as with other single-family residences in Old Town.
 20. The main exterior siding is horizontal lap siding, 6" and 8" wide, as shown in the April 12, 2005, drawings. Cor-ten siding is proposed for the addition between the house and barn. Roofing for the historic house and barn is proposed to be 50 year architectural shingle and roofing for the contemporary addition between the house and barn is proposed to be 18 gage cor-ten steel. The use of different materials for the contemporary addition differentiates the new construction from the historic structures.
 21. A landscape plan is necessary to assure re-vegetation of the front and back yard areas, and any other areas disturbed by construction, including the area between the

- Marsac ROW and the front property line.
22. The windows will be aluminum clad, wood windows in historic proportions for the remodel. Windows proposed for the addition are also aluminum clad wood, in a more contemporary opening to provide a less solid connection between the house and barn and to differentiate new construction from historic fabric.
 23. The garage door will be a carriage style, fir door in a natural finish, as shown on the drawings submitted to the planning department on April 12, 2005. Staff will review all doors, windows, siding, trim, and architectural detailing for compliance with the approved plans and Design Guidelines prior to issuance of a full building permit.
 24. On April 1, 2005, the Planning Staff made a preliminary determination of compliance with the Historic District Design Guidelines. Notice of this preliminary determination of compliance was sent to the adjacent property owners and the property was posted giving notice that the design would be approved in ten days unless written appeals were received.
 25. On April 11, 2005, an appeal of the determination of compliance was received by the Planning Department from Thomas and Livier McGee, adjacent property owners of 14 Prospect Avenue.
 26. On April 11, 2005, an appeal of the determination of compliance was received by the Planning Department from Alan Schueler and Denise Kent of 9 Prospect Avenue.
 27. On May 9, 2005, the Planning Director found the plans for the remodel, restoration, and additions to 9 Hillside to be in compliance with the Historic District Design Guidelines.
 28. On June 16, 2005, notice of the appeal to the Historic Preservation Board was posted and letters were sent to the adjacent property owners. Legal notice was published in the Park Record.
 29. On June 27, 2005, the Historic Preservation Board heard testimony from the appellants and adjacent neighbors. The public portion of the hearing was closed and the Board continued the discussion of the appeal to the July 18, 2005 meeting.
 30. On August 10, 2005 staff received revised plans reflecting the HPB's concerns with the garage location and height of rooflines for the addition.
 31. On August 15, 2005 the Board reviewed the revised plans, dated August 10, 2005.
 32. Pursuant to LMC Sections 15-1-18 (A), 15-11-5(J), 15-11-7, and 15-11-11 (D) the Historic Preservation Board's authority to hear appeals is limited to matters concerning decisions made on Historic Design review applications.

Conclusions of Law

1. The Planning Director did not err in his May 9, 2005 decision finding that the Historic Design review application for the addition, remodel, and restoration of the structures at 9 Hillside Avenue complies with all applicable Historic District Design Guidelines, including 48, 71, 72, and 73 and including 45, 51, 52, 53, 54, 56, 62, 74, 79, 80, 83, and 84.
2. All appeal issues pertaining to matters other than Historic Design review are hereby dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.
3. Appellants' request for a reversal of the Planning Director's May 9, 2005 approval is granted in part so far as the approval herein is based on submission of revised plans (dated August 8, 2005) that address the HPB findings regarding the original plans for the stone wall and height of the ridge lines of the addition, identified at the meetings on

June 27th and July 18th.

Conditions of Approval

1. The final building plans and construction details for the project shall reflect substantial compliance with the revised drawings dated August 10, 2005. Included with the building permit shall be a plan detailing the method of historic house and barn restoration. The barn shall not be demolished. Any changes, modifications, or deviations from the approved design shall be reviewed and approved by the Planning Director prior to their construction. Any formal request for design modifications submitted during construction may result in a stop-work order by the Chief Building Official until the modifications are approved.
2. The architect and/or applicant shall be responsible for coordinating the approved architectural drawings/documents with the approved construction drawings/documents. The overall aesthetics of the approved architectural drawings/documents shall take precedence. Any discrepancies found among these documents that would cause a change in appearance to the approved architectural drawings/documents shall be reviewed and approved prior to construction. Failure to do so, or any request for changes during construction may require the issuance of a stop-work order for the entire project by the Chief Building Official until such time that the matter has been resolved.
3. The type, profile and general dimensions of the final siding materials shall be reviewed and approved by the Planning Department according to the Illustrated Building Materials Handbook, prior to the issuance of full building permit. All siding vents and penetrations shall be painted-out to match that of the adjacent siding.
4. All exterior window trim configuration, type, profile and general dimensions, etc. shall be reviewed and approved by the Planning Director according to the Illustrated Building Materials Handbook, prior to the issuance of full building permit. All exterior window trim shall be at least 3 ½ inches in width, smooth-sawn, paint-grade wood trim. All window frames shall be painted appropriately.
5. All doors and window construction details, as well as trim, corner boards, porch, stairs, deck and other architectural detailing shall be reviewed and approved by the Planning Director according to the Historic District Design Guidelines and the Illustrated Building Materials Handbook, prior to the issuance of full building permit.
6. The applicant shall submit a color sample for the roof prior to installation. All roof penetrations shall be painted-out to match the color of the roof. All roof stacks shall be kept to a minimum height as required by the Uniform Building Code.
7. All exterior lighting fixtures and their locations shall be reviewed and approved by the Planning Director for compliance with the Land Management Code prior to issuance of full building permit.
8. All utility boxes, gas-fireplace vents, conduit, etc. shall be painted out to match that of the adjacent building feature.
9. A Paint Application shall be submitted for review and approved by the Planning Department prior to the issuance of full building permit. The building colors shall include a body and trim color. A third accent color may be utilized. The colors shall be complementary of each other, but provide sufficient visual contrast. The Guidelines encourage neutral earth-tone colors and hues.
10. A formal landscape plan shall be submitted and approved by the Planning Department prior to the issuance of a full building permit. A landscape plan shall be drawn at 1/4" scale. The plan shall include, but is not limited to the identification of all existing significant

trees; proposed and existing plantings; planters; driveways; walkways and their materials. Non-historic landscape elements or elements which are not compatible with typical historic landscapes (such as large boulders, etc.) in the area are generally not permitted in the front yard area.

11. As a condition precedent to building permit issuance the approved Stanton Subdivision plat amendment for 9 Hillside Avenue shall be recorded at Summit County.
12. Receipt and approval of a Construction Mitigation Plan (CMP) by the Building Department is a condition precedent to issuance of a building permit. The Construction Mitigation Plan shall outline a detailed plan for the modification of the historic wall and shall include details relating to any necessary repairs, stabilization, and/or drainage improvements. The Plan shall also specify the use of historic materials removed from the wall for construction of the driveway retaining wall. The plan shall also identify specific details for any proposed guard rail systems that would provide additional safety for the access driveway. Any such guard rails systems would require specific approval by the City Engineer and would require encroachment permits as applicable.
13. All Standard conditions of approval shall apply.

EXHIBITS:

Exhibit A – Revised plans, dated August 10, 2005

PARK CITY MUNICIPAL CORPORATION
HISTORIC PRESERVATION BOARD
MINUTES OF AUGUST 15, 2005

BOARD MEMBERS IN ATTENDANCE: David White, Roger Durst, Gary Kimball, Mark Huber, and City Council Liaison, Marianne Cone
EX OFFICIO: David Maloney, Kristen Whetstone, Douglas Stephens, Roger Evans, ReNae Rezac

REGULAR MEETING

ROLL CALL

Chair White called the meeting to order at 12:05 p.m. and noted that all Board Members were present except for Puggy Holmgren.

PUBLIC COMMUNICATIONS

Chair White called for public comments on items not included in the regular meeting agenda. There were none.

STAFF/BOARD MEMBER COMMUNICATIONS

Chair White called for Staff/Board Member comments on items not included in the regular agenda. There were none.

Chair White disclosed a conflict of interest with 501 Woodside Avenue and 9 Hillside Avenue and stated that Board Member Huber would assume the Chair during discussion of those items.

9 Hillside Avenue

Kristen Whetstone stated that this project involves two structures; a historic home and a barn. At the June 27, 2005 Historic Preservation Board Meeting, the Board heard testimony from the appellants, applicant's representative, and the public. The Board closed the public hearing and discussed the items of appeal. After discussion the item was continued to the July 18, 2005 Historic Preservation Board meeting. The applicant was asked to explore alternative locations for the garage entrance and to consider changing the roofline height for the addition to the barn. The applicant declined to make revisions because he wanted the Historic Preservation Board to make a decision based on the plans staff had approved. After the July 18, 2005 meeting the applicant agreed to consider revising the plans to avoid disturbing the stone wall. On August 10, 2005, the applicant submitted revised plans that located the garage entrance beneath the north side of the house out toward the intersection of Marsac, Hillside, and Sandridge, left the stone wall intact, and lowered the roofline of the addition to be lower than the roofline of the existing barn. Staff reviewed the plans and found that they address the Board's concerns and are in compliance

with all applicable Historic District Design Guidelines. Staff recommended that the Historic Preservation Board discuss the issues on appeal, approve the new revised plans, and deny the appeals in part and grant the appeal in part in approving the plans as revised and conditioned, based on findings of fact, conclusions of law, and conditions of approval.

Board Member Huber, Contract Planner Douglas Stephens, and Kristen Whetstone discussed the revised plans and the changes that were made from the previous appeal, noting that the applicant wanted the new plans approved with the new changes and the attached conditions of approval, after which he would finalize the details. The City Engineer has reviewed and approved the revised plans.

Board Member Huber opened the meeting for public comment. Alan Schueler who lives at 9 Prospect Avenue across the street from the property noted that he was pleased with the process that has gone forth. He still disagrees with the design, however he did not want to stand in the way of the applicant moving forward.

Paula McGee who lives at 14 Prospect Avenue also spoke about being pleased with the process that has gone forth with this project. Ms. McGee was happy with the new plans and the only concern she had was whether the property owners would maintain the vegetation.

Kristen Whetstone stated that the findings and conditions have not changed, however, the word "materials" needed to be added to Conditions #5 in addition to the doors and details. Board Member Huber closed the meeting to public comment.

Motion: Board Member Roger Durst made a motion to deny the appeal and approve the drawings as revised including the Findings of Fact, Conclusions of Law, and Conditions of Approval. Gary Kimball seconded the motion.

Vote: The motion was passed unanimously, 5-0 in favor.

Findings of Fact- 9 Hillside Avenue

1. The existing house and barn at 9 Hillside Avenue are located within the HR1 District.
2. This historic single family home has been significantly altered in terms of siding material, lean-to additions, modern windows and window proportions, and modern doors. The structure is a contributory structure because most of the alternations can be reversed. There is also an historic barn on the property.

3. The property is located within the Park City Historic District and is subject to review for design compatibility with the Historic District Guidelines.
4. To document compatibility with the District, a Historic District Design Review application was filed on July 15, 2003. Staff and the applicant met on several occasions to work out design issues and revise the plans. Amended plans were submitted on April 12th and May 5th 2005. On June 24, 2005, the applicant submitted reductions of the approved plans. On August 10, 2005, the applicant submitted revised plans based on direction from the HPB at the June 27th and July 18th meetings.
5. The plans were reviewed for compliance with the Historic District Design Guidelines, as outlined in the May 9, 2005 staff report.
6. The Planning Director, as outlined in the May 9, 2005 staff report, finds that the plans are revised on August 10, 2005 and conditioned herein, comply with the Historic District Design Guidelines.
7. The proposed remodel of the existing house reversed the non-historic alterations and restores both the house and barn.
8. The use of the structures (barn and house) is proposed to continue as a single-family residence.
9. The revised plans relocate the garage to the north side of the property and lower the roofline of the addition so it is lower than the existing roofline of the barn.
10. Off-street parking is desirable in this location, due to the configuration of the intersecting streets and widths of Hillside, Sandridge, Marsac, and Prospect.
11. The property consists of 6 lots combined by the Stanton Subdivision plat amendment, approved by the City Council on April 7, 2005. The total lot area is 8, 207 sq. ft. The maximum footprint is 2587.3 sq. ft. The proposed footprint is 2520 sq. ft. and does not exceed the maximum allowed footprint. These numbers will be verified prior to issuance of a building permit. The lot is not a standard 25' by 75' dimensioned old town lot.
12. There are existing encroachments onto the lot, consisting of a deck and stone wall. The plat amendment includes two separate easements to accommodate these encroachments. These easements address concerns voiced by the adjoining property owners regarding the accuracy of the existing survey. The deck encroaches from 14 Prospect Street. The stone wall is located completely on the subject property, but ownership of said wall is disputed, hence the easement. These easements will be in place, once the plat is recorded.
13. The required building setbacks, as identified by the Planning Director per LMC Section 15-2.2-3, are 10' minimum front from Hillside, Prospect, and Marsac and 12' from the south property line, as approved with the plat

- amendment on April 7, 2005. All setbacks will be verified prior to issuance of a building permit.
14. The existing barn maintains historic setbacks of 6' on the Prospect Avenue side and 2' on the south property line. The new foundation and basement area under the house and barn maintain the existing setbacks. All setbacks will be verified prior to issuance of a building permit.
 15. Plans reviewed for compliance with the Design Guidelines comply with the 27' height limitation.
 16. The lot has frontage along platted Prospect Street, Marsac Avenue, as well as Hillside Avenue.
 17. The proposed connection between the two historic structures is new construction. This addition connects the two existing structures and allows the barn to be restored and utilized for floor area. The contemporary addition is located behind the house as viewed from Hillside and behind the barn as viewed from Prospect. The addition is located 26' behind the front (north facing) façade, 45' back from the property line along the Hillside/Prospect intersection and over 60' from the actual edge of pavement which is 30'-35' from the front property line. The addition is smaller in square footage and mass than the historic home, is located behind the house and a distance back from the adjacent house at 14 Prospect Street. The ridgeline of the addition that connects to the barn is proposed at 7219'8" and the ridgeline of the existing barn is at 7220'4". The main ridgeline of the existing house is at 7215'3" and the ridgeline of the addition that connects to the house is proposed at 7215'0".
 18. Proposed setbacks of the connecting addition ranging from 12' to 24' are greater than the 10' and 12' that can be proposed in this district. The proposed heights for the addition (at 25' and 19' 8") are less than the 27' that can be proposed in this district. The proposed floor area is approximately 60 sf less than could be proposed in this district.
 19. The proposed remodel removes non-historic additions and non-historic architectural features, replaces non-historic modern windows with new windows in historic proportions, removes non-historic siding and replaces it with wood siding matching historic siding, replaces non-historic doors and openings with historically compatible ones. The remodel restores the front porch and restores the main entry to close to the historic location. The remodel maintains the general shape, massing, and roofline of historic location. The overall size, scale, massing, and form of the proposed remodel are compatible with the houses in the immediate vicinity, as well as with other single-family residence in Old Town.
 20. The main exterior siding is horizontal lap siding, 6" and 8" wide, as shown in the April 12, 2005, drawings. Cor-ten siding is proposed for the addition between the house and barn. Roofing for the historic house and barn is proposed to be 50 year architectural shingle and roofing for the

- contemporary addition between the house and barn is proposed to be 18 gage cor-ten steel. The use of different materials for the contemporary addition differentiates the new construction from the historic structures.
21. A landscape plan is necessary to assure re-vegetation of the front and back yard areas, and any other areas disturbed by construction, including the area between the Marsac ROW and the front property line.
 22. The windows will be aluminum clad, wood windows in historic proportions for the remodel. Windows proposed for the addition are also aluminum clad wood, in a more contemporary opening to provide a less solid connection between the house and barn to differentiate new construction from historic fabric.
 23. The garage door will be a carriage style, fir door in a natural finish, as shown on the doors, windows, siding, trim and architectural detailing for compliance with the approved plans and Design Guidelines prior to issuance of a full building permit.
 24. On April 1, 2005, the Planning Staff made a preliminary determination of compliance with the Historic District Design Guidelines. Notice of this preliminary determination of compliance was sent to the adjacent property owners and the property was posted giving notice that the design would be approved in ten days unless written appeals were received.
 25. On April 11, 2005, an appeal of the determination of compliance was received by the Planning Department from Thomas and Livier McGee, adjacent property owners of 14 Prospect Avenue.
 26. On April 11, 2005, an appeal of the determination of compliance was received by the Planning Department from Alan Schueler and Denise Kent of 9 Prospect Avenue.
 27. On May 9, 2005, the Planning Director found the plans for the remodel, restoration, and additions to 9 Hillside to be in compliance with the Historic District Design Guidelines.
 28. On June 16, 2005, notice of the appeal to the Historic Preservation Board was posted and letters were sent to the adjacent property owners. Legal notice was published in the Park Record.
 29. On June 27, 2005, the Historic Preservation Board heard testimony from the appellants and adjacent neighbors. The public portion of the hearing was closed and the Board continued the discussion of the appeal to the July 18, 2005 meeting.
 30. On August 10, 2005 staff received revised plans reflecting the HPB's concerns with the garage location and height of rooflines for the addition.
 31. On August 15, 2005 The Board reviewed the revised plans, dated August 10, 2005.
 32. Pursuant to LMC Sections 15-1-18 (A), 15-11-5 (J), 15-11-7, and 15-11-11 (D) the Historic Preservation Board's authority to hear appeals is limited to

matters concerning decisions made on Historic Design review applications.

Conclusions of Law-9 Hillside Avenue

1. The Planning Director did not err in his May 9, 2005 decision finding that the Historic Design review application for the addition, remodel, and restoration of the structures at 9 Hillside Avenue complies with all applicable Historic District Design Guidelines, including 48, 71, 72 and 73 and including 45, 51, 52, 53, 54, 56, 62, 74, 79, 80, 83, and 84.
2. All appeal issues pertaining to matters other than Historic Design review are hereby dismissed as lying outside of the Historic Preservation Board's jurisdiction and authority.
3. Appellants' request for a reversal of the Planning Director's May 9, 2005 approval is granted in part so far as the approval herein is based on submission of revised plans (dated August 8, 2005) that address the HPB findings regarding the original plans for the stone wall and height of the ridge lines of the addition, identified at the meetings on June 27th and July 18th.

Conditions of Approval-9 Hillside Avenue

1. The final building plans and construction details for the project shall reflect substantial compliance with the revised drawings dated August 10, 2005. Included with the building permit shall be a plan detailing the method of historic house and barn restoration. The barn shall not be demolished. Any changes, modifications, or deviations from the approved design shall be reviewed and approved by the Planning Director prior to their construction. Any formal request for design modifications submitted during construction may result in a stop-work order by the Chief Building Official until the modifications are approved.
2. The architect and/or applicant shall be responsible for coordinating the approved architectural drawings/documents with the approved construction drawings/documents. The overall aesthetics of the approved architectural drawings/documents shall take precedence. Any discrepancies found among these documents that would cause a change in appearance to the approved architectural drawings/documents shall be reviewed and approved prior to construction. Failure to do so, or any request for changes during construction may require the issuance of a stop-work order for the entire project by the Chief Building Official until such time that the matter has been resolved.
3. The type, profile and general dimensions of the final siding materials shall be reviewed and by the Planning Department according to the Illustrated Building Materials Handbook, prior to the issuance of full building permit.

- All siding vents and penetrations shall be painted-out to match that of the adjacent siding.
4. All exterior window trim configuration, type, profile and general dimensions, etc. shall be reviewed and approved by the Planning Director according to the Illustrated Building Materials Handbook, prior to the issuance of full building permit. All exterior window trim shall be at least 3 ½ inches in width, smooth-sawn, paint-grade wood trim. All window frames shall be painted appropriately.
 5. All door and window construction details, as well as trim, corner boards, porch, stairs, deck and other architectural detailing and materials shall be reviewed and approved by the Planning Director according to the Historic District Design Guidelines and the Illustrated Building Materials Handbook, prior to the issuance of full building permit.
 6. The applicant shall submit a color sample for the roof prior to installation. All roof penetrations shall be painted-out to match the color of the roof. All roof stacks shall be kept to a minimum height as required by the Uniform Building Code.
 7. All exterior lighting fixtures and their locations shall be reviewed and approved by the Planning Director for compliance with the Land Management Code prior to issuance of full building permit.
 8. All utility boxes, gas-fireplace vents, conduit, etc. shall be painted-out to match that of the adjacent building feature.
 9. A Paint Application shall be submitted for review and approved by the Planning Department prior to the issuance of full building permit. The building colors shall include a body and trim color. A third accent color may be utilized. The colors shall be complementary of each other, but provide sufficient visual contrast. The Guidelines encourage neutral earth-tone colors and hues.
 10. A formal landscape plan shall be submitted and approved by the Planning Department prior to the issuance of a full building permit. A landscape plan shall be drawn at ¼" scale. The plan shall include, but is not limited to the identification of all existing significant trees; proposed and existing plantings; planters; driveways; walkways and their materials. Non-historic landscape elements or elements which are not compatible with typical historic landscapes (such as large boulders, etc.) in the area are generally not permitted in the front yard area.
 11. As a condition precedent to building permit issuance the approved Stanton Subdivision plat amendment for the 9 Hillside Avenue shall be recorded at Summit County.
 12. Receipt and approval of a Construction Mitigation Plan (CMP) by the Building Department is a condition precedent to issuance of a building permit. The Construction shall include details relating to any necessary repairs, stabilization, and/or drainage improvements. The Plan shall also

specify the use of historic materials removed from the wall for construction of the driveway retaining wall. The plan shall also identify specific details for any proposed guard rail systems that would provide additional safety for the City Engineer and would require encroachment permits as applicable.

13. All Standard conditions of approval shall apply.

The meeting adjourned at approximately 2:10 p.m.

Approved by _____
David White, Chair
Historic Preservation Board

PARK CITY MUNICIPAL CORPORATION
HISTORIC PRESERVATION BOARD
MINUTES OF APRIL 3, 2006

BOARD MEMBERS IN ATTENDANCE: Chair David White, Roger Durst, Gary Kimball, Mark Huber, Marianne Cone, Puggy Holmgren
EX OFFICIO: Doug Stephens, Kirsten Whetstone, David Maloney, Brooks Robinson and ReNae Rezac

REGULAR MEETING

ROLL CALL

Chair White called the meeting to order at 12:15 and noted that all Board Members were present.

STAFF/BOARD MEMBERS COMMUNICATION

Planner Whetstone reported that on August 15th the HPB approved the 9 Hillside design review project, which the Staff had approved and the neighbors appealed. The HPB approval was based on revisions to the original plan. Planner Whetstone noted that the plans were re-designed to eliminate the driveway under the house. The applicant resubmitted their building permit application with the modifications outlined in the conditions of approval. She noted that one condition required the applicant to submit a restoration plan, which they had done through photos and a plan sheet. Contract Planner Stephens provided an information update and reviewed the restoration plan. Planner Whetstone noted that the restoration plan will be documented and submitted with the building permit. Planner Stephens remarked that the plans are clear with regards to what the Planning Department approves and what the property owner and the contractor will need to follow as part of their building permit. A preservation bond would also be required. Planner Stephens explained that this would be a cash bond with the value set by the Building Department. This bond will remain in place until the historic structure of the house is stabilized. Planner Stephens clarified that the preservation bond is only associated with the panelization of the house and removal of materials to make sure they are re-installed appropriately. The bond is not associated with lifting the house.

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
MARCH 27, 2008**

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

Tom Bakaly, City Manager and Mark Harrington, City Attorney; Craig Sanchez, Director of Golf; and Clint Dayley, Golf and Parks Superintendent

1. Council questions/comments. Candace Erickson pointed out that the signal sequence activated during evening hours seems to be malfunctioning at Deer Valley Drive and Park Avenue; staff will explore this problem with UDOT. Jim Hier discussed the Chamber's Strategic Planning Committee meeting where updating the ten year old economic analysis for tourism was discussed. He felt it appropriate to participate in the study. The Park City Heights Annexation was continued at the Planning Commission meeting. He discussed business from other meetings he attended over the past two weeks including Ski Utah, Democratic Caucus, Talisker's affordable housing committee, HMBA, Chamber Executive Committee; Patty Limerick's leadership presentation, and the State Building Code Committee. Mr. Hier also made a presentation to the Ambassadors and updated the Council on Peace House plans to expand. Liza Simpson relayed that the Art Advisory Board has selected the art work for the police facility and noted that WALC met. She commended the Human Resources Department on its great job of organizing the police chief recruitment. Roger Harlan also commented on Ms. Limerick's entertaining presentation which was well attended. He read a list of WALC's priorities and reported on School District business. Joe Kernan pointed out the dangerous situation on the runaway truck lane on Marsac Avenue because snow has not been removed. He suggested that staff work with UDOT or Talisker about assuming maintenance for the truck lane. He spoke about a trail connection to the Park and Ride Project and Jim Hier clarified that it is being considered as part of the design. There are right-of-way and environmental issues but the committee feels that pedestrian and bicycle access to the facility is important, acknowledging that the funding has not been identified.

2. Golf Plan for 2008. Craig Sanchez stated that an increase in fees is not contemplated this year and explained that the stakeholders committee reconvened to review budget, current capital projects and preliminary discussions on a renovation project. The course is an enterprise fund, solely supported by user fees and he pointed out that the numbers in his staff report represent the fiscal year beginning July 1 and are not seasonal. He stated that revenues improved from last year at 12.8% and expenses were 11.6% under budget compared to a slight increase over last year at .07%. Rounds for the fiscal year were up, with the exception of season pass play because of the length of the playing season to November. Tracking no-shows and grandfathering season passes have also helped revenues. He relayed that other state and county courses intend on raising fees this season.

Clint Dayley noted that the mounds from the drainage project will be landscaped and the #18 tee box project will be constructed this year. Directional signs are contemplated, the restrooms will be remodeled and RAP Tax funds are being pursued. In response to a question from the Mayor, Mr. Dayley relayed that the mounds were tested and the soils are clean. He emphasized that the 45 year old course has not experienced a major overhaul and there are long-term economic benefits of providing a quality facility. The renovation will result in positive environmental benefits because of a new irrigation system, stream and water improvements to prevent erosion, and energy savings with new technology. Supporting a world-class, multi-seasonal resort is one of the City Council's priorities.

Mr. Hier expressed the importance of maintaining the quality of our golf facility and to further delay improvements would be fiscally irresponsible. Mr. Sanchez explained that the plan is to close nine holes so the work can be comprehensively performed, turning the course into a nine-hole course for a couple of years. Mr. Hier believed it would more disruptive to piecemeal an upgrade by working on a couple of holes a season. Candace Erickson felt that the restrooms should be addressed whether or not grant monies are secured. Joe Kernan pointed out that the golf facility was highly rated in the recreation survey and the scope of improvements was discussed. Craig Sanchez explained the \$2.6 million place holder in the capital projects plan and the projected \$1.2 million in foregone revenue because of the anticipated decrease in play during the renovation. Roger Harlan asked about the negative impacts of providing only nine holes of play and Mr. Sanchez felt that the long term aesthetic, economic and environmental benefits should outweigh the temporary inconvenience. The goal is to become a *greener* golf course. Dana Williams supported staff recommendations and is pleased with the direction. Craig Sanchez noted that in consideration of disruptions with the recent hotel construction, the committee is recommending a time frame of about three to five years before beginning the renovation but other projects, like the restrooms, will be addressed this year.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
MARCH 27, 2008**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, March 27, 2008. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Phyllis Robinson, Public Affairs Manager; Matt Twombly, Project Manager; Gary Hill, Budget Manager; and Max Paap, Special Events Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Joe Kernan disclosed that Talisker Corp is among his recycling customers. He also welcomed Diane Foster on the City's sustainability team. Roger Harlan stated that his daughter participated as a vendor during the 2007 Park Silly Sunday Market season.

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

1. Park City Golf Course – Resident Ruth Gezelius stated that the community is very lucky to have a municipal golf course located on the entry corridor of the City. Without this visual open space and other adjacent open space parcels, the entrance would not be nearly as attractive. Upgrades to the course is money well spent.

2. Stanton Subdivision – Alan Schueler, 9 Prospect Avenue, stated that the Planning Department has bungled this project (9 Hillside Avenue) and others that he has been associated with. As an adjacent property owner he was *sucked into* the process five years ago and in May 2005, an application for a remodel with additions at 9 Hillside Avenue was approved but appealed by residents in the neighborhood, including him, Paula McGee and Peter Marth. There are many issues, but their main concern is meeting the condition to restore the existing barn structure. All efforts to appeal this through the Historic Preservation Board were worthless and the Historic District Guidelines were dismissed. Issues relating to compliance with the Land Management Code, General Plan, Sensitive Lands Ordinance, and HR-1 zoning were ignored by the HPB and never addressed by anyone again. The proposed remodel was approved in July or August with the condition that the house and barn be restored. He understood that the house and barn were to be elevated to accommodate installing a foundation, the overall height of the buildings would not change, and the rock wall be left in tact. However these conditions were not part of the HPB's approval and the neighborhood feels it has been lied to. Those buildings have been demolished, removed by a backhoe, and thrown into a dumpster and only the end walls were saved. He emphasized that the foundation walls have not been preserved, the height of the barn is higher and he doesn't understand why staff has to fight the neighborhood every step of

the way in the process. He alleged that Planner Kirsten Whetstone ignored all input from citizens and favored the applicants who are from out of town. She was willing to permanently destroy the character of their neighborhood, take away their views, and waste five years of their lives dragging them through a fruitless process. No rule of law was ever followed. It is insulting to him to pay the staff member's salary. Mayor Williams asked Mr. Schueler to summarize as his remarks are getting too personal. Alan Schueler asked why the building permit was not revoked when the building was demolished as it is not consistent with the conditions of approval. He complained about the number of stop work orders he received in renovating his house for things like putting in a fence post, moving a piece of siding, placing rocks too close to the street, and replacing his front door. He stated that they met with HPB Chairman David White. The building should come down to a proper height and he really has a problem with staff favoring a guy from Tampa over locals. Mr. Schueler stated that he understands that an affordable housing project on Marsac Avenue may be coming on board next. They were encouraged to meet with Talisker who also prefers building housing at Quinns Junction rather than Marsac. He asked that property owners have the ability to meet with their elected officials and Talisker over this issue. If he is going to be lied to and told that his opinions or the codes don't matter, and it's going to be built anyway, he would rather hear it from Council members. Mayor Williams requested a report on this project.

Paula McGee, adjacent property owner, stated that they cited the Historic District Guidelines and LMC (at meetings) but were *shot down* time after time. She complained about exceeding the height of the historic barn which doesn't exist anymore and the fact that they are being told by staff that the new structure is not higher when it clearly is four or five feet higher. When she asked why they were not re-noticed when the property changed ownership last year, she was told by Kirsten Whetstone that the plans had not changed. She does not believe that is true because the approved plans for the shed roof height is lower or the same height as the house. She felt this whole situation is ironic as Alan Schueler has done a wonderful historic renovation on his residence but seems to get his hands slapped a lot more than other property owners.

Denise Kent, 9 Prospect Avenue, stated that there is a disconnect with the plans on file and reality. She distributed overlay photographs of the shed and the new structure to illustrate the difference in height which is not acknowledged by the planning staff. Her photos clearly show that the old and the new heights are not the same. This shows an incredible lack of understanding or perhaps a lack of math.

Peter Marth, 27 Hillside Avenue, stated that he is extremely disappointed in staff and the City in particular for letting this asset be thrown into a dumpster. He asked about the lack of oversight and stated that they went through a public process where everything was given to the applicant. They had to *fight like hell* to get what's there and within two months after Council directed staff to preserve rock walls, the applicant wanted to put a 30 foot hole in the wall for access to the garage which changes the entrance to the house which is not allowed. The project has been a complete failure because of staff and Council manages staff. He emphasized that this incredible

structure is gone because there was no oversight. Why should residents do the right thing if Council can't? This should never happen again; these are important assets to the town. Residents don't seem to matter and it's terrible.

Peter Roberts, 14 Prospect Avenue, agreed with previous comments. He reminded Council members that they are elected by and work for the people of Park City. Staff works for the Council and what get's lost is that staff has its own agenda which is *spoon fed* to the Council. He encouraged Council to grab the reins of government and manage staff. The demolition of the shed is a loss to the City which is too bad.

Peter Marth alleged that the real estate agent represented and sold the property as a vacant lot even through two historic structures sat on it. The real estate community should be part of the solution.

Jim Hier expressed his support of an analysis of the events and recalled the discussion at the Planning Commission level four or five years ago. He stated that although he is glad the neighborhood has approached Council it would have been much better sooner when there was an opportunity to save the structure. Discussion ensued between Mr. Hier and members of the audience. Candace Erickson explained how difficult it is for the Council to know what's going on in all parts of Old Town as things can change very rapidly. She encouraged the neighborhood to communicate with Council members. Peter Marth felt there should be a dedicated enforcement officer to monitor projects.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF MARCH 6, 2008 AND MARCH 13, 2008

Roger Harlan, "I move approval of the work session notes and the minutes of the meetings of March 6 and March 13, 2008". Joe Kernan seconded. Motion unanimously carried.

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

1. Consideration of approval of a construction contract to BMCI, in a form approved by the City Attorney, in the amount of \$49,999 for the Recreation Building and City Park Court lighting project – Mayor Williams noted his discussions with the sustainability staff on concerns he had with the project. He encouraged members to consider amending the City's green policy because as written because only buildings are subject to efficiency guidelines. Matt Twombly explained that the project dates back to 2006 and was identified as a high priority because of safety reasons. It is contemplated to program the volleyball court for tournament play beyond daylight hours and the lights will be programmed to turn off at 10 p.m. The lighting plan was designed by the contractor for the Recreation Building. Staff solicited bids and the lowest responsible bid is BMCI at \$49,999. Recognizing Council's commitment to sustainability, Mr. Twombly stated that staff will work with the contractor to ensure that the design is as efficient as possible. Roger Harlan pointed out that timers are not fail-safe and in some

instances, citizens have had to call to report the problem. Matt Twombly explained that the ball field lights are manually operated while these lights will be on a timer to comply with the 10 p.m. cut-off time. The Mayor invited public input.

Carey Gross, Little Bessie Avenue, asked when the lights at the Junction are turned off and Mayor clarified that this discussion deals with City Park. She then asked about time restrictions for both locations because of light pollution. Mr. Twombly explained that the softball field lights are manually turned off and as a basic rule; lighting is turned off by 10 p.m. The Mayor interjected that it is unlikely that a game would be stopped at 10 p.m. Matt Twombly explained that the policy identifies 11 p.m. as the cut-off time, and events are scheduled in City Park to end by 10 p.m. Ms. Gross asked what set timeframe contributes to light pollution, and Ms. Erickson explained that the City has an ordinance and the duration is not as impactful as the amount of light and the fixtures used.

Jim Hier, "I move that we authorize the City Manager to execute a construction contract, in a form approved by the City Attorney Office, with BCMI Electric Inc in the amount of roughly \$50,000". Roger Harlan seconded. Motion unanimously carried.

2. Consideration of consent to the Historical Society to apply for a Historic District Grant for structural improvements to 528 Main Street, Park City, Utah – Jonathan Weidenhamer explained that the Historical Society requests permission to pursue a Historic District grant to fund a project to stabilize the footings and foundations. The cost is estimated at about \$44,000 and the Historical Society will apply for half of that amount. The City, as the property owner, must provide consent so it is eligible to be reviewed by the Historic Preservation Board. He added that to staff's knowledge, there is no other City project that has applied or been awarded a grant, but based on the level of support provided in the past to the Historical Society, consent is recommended in order for the application to move forward.

Jim Hier felt that even though this is a City building, the Historical Society is funding the renovation, and it is appropriate for the Council to allow the grant application to proceed. Joe Kernan expressed concerns that approving the award may deplete the grant fund and Budget Manager Gary Hill interjected that he is pretty certain that the Historic District Grant Fund is appropriated on an on-going basis. Mark Harrington explained that analyzing the fund balance and the merits of all requests is a function of the HPB and if the request is denied, Council may want to determine if assigning additional resources is needed. Jim Hier, "I move we authorize the Park City Historical Society to proceed with the grant application and modify that just a tad before that grant is finalized, so we have the opportunity to review their deliberations and findings on it prior to the authorization of the grant". Joe Kernan seconded. Candace Erickson stated that she has no issue with the request for consent because in her mind this is a private enterprise just like any other home owner. The whole thought behind the grant program is to help underwrite the high costs of renovation. The City and the Historical Society entered into a 99 year lease and the Historical Society has to maintain the building. She hopes that the HPB views the application as a request from the Historical Society

and not from the City. The City Manager suggested that staff update Council on the status of the grant application in the event it is denied so there is an opportunity for members to call-up the decision. Jim Hier feels this direction is consistent with his prior motion. Motion unanimously carried.

3. Consideration of approval of a Purchase, Sale and Lease Agreement, in a form approved by the City Attorney, with Gordon Cummins for the acquisition of two acres located on SR248 in the amount of \$500,000 – Tom Bakaly explained that the proposal includes a real estate contract for the purchase of two acres on SR248 and a lease of the property to the seller for two years at a rate of \$24,000 per year. The two year lease-back element will offset the purchase price to \$452,000. It is recommended that the purchase is funded through the CIP until a final determination is made so allowed uses are flexible. The Mayor invited public input.

Adam Worshire asked why the City is leasing the land rather than buying it outright. Tom Bakaly reiterated that the City is purchasing the property but leasing it back to the current owner for a two year period.

Candace Erickson, “I move we approve the purchase of two acres of land from Gordon Cummins as stated in the staff report”. Roger Harlan seconded. Motion unanimously carried.

4. Consideration of request from Talisker Corp to provide up to eight affordable unit equivalents through acquisition of existing market units – Phyllis Robinson explained that the request from Talisker is to allow the fulfillment of eight affordable housing units through the acquisition of existing market rate product. The decision tonight is limited in scope to the purchase of existing units and next week, amendments to the housing phasing plan and financial guarantees will be considered by members. Option F of the housing phasing plan allows the developer to acquire and deed-restrict existing market units and places final approval on the Housing Authority which is the seated Council. She added that Talisker requested the ability to purchase 22 condominiums in one building in Prospector Square that is equivalent to approximately eight affordable unit equivalents. Acquisition of these units would bring Talisker’s AUE total to 15 which would fulfill the obligation for the initial 150 certificates of occupancy and would address the immediate deficiency. Ms. Robinson acknowledged that this proposal would not contribute to an increase in the overall number of affordable housing units, but staff supports this proposal for a few reasons. These units are for sale and within a nightly rental zone; they currently provide an affordable product but there is no guarantee this would continue. The housing obligation requires that the units be deed-restricted for a minimum term of 40 years with rent and price caps. The units range in size from 295 to 350 square feet and rent is proposed at approximately \$433 per month.

She added that priority would be given to people living and working in Park City and specifically to employees generated in the Empire Pass development area. Further preference will given to those with combined household incomes of about \$36,000; all other conditions are consistent with elements outlined in the housing resolutions

currently in place. David Smith explained that the units have been inspected by the City as well as an independent contractor hired by Talisker to ensure that the housing complies with codes. The Mayor opened the public hearing.

Ruth Gezelius, Prospect Avenue resident, complimented Talisker for introducing this proposal to the City Council. The Prospector Square units are conveniently located near bus stops for service to the grocery store and the ski resorts, which are the town's major employers. Because of the rental rates and size of the units, tenants don't have to get roommates and there is adequate storage on site.

Bob Berube, 2015 Prospector Avenue, stated that he is in constant contact with the Building Department regarding over-occupancy issues in his building. There is no storage space and he alleged that there are many issues with the Deer Valley employee housing in an adjacent building which now has a live-in monitor. He suggested that a Talisker employee live on site to control the behavior of the occupants.

Bill Hummer, 32 Prospect Avenue, explained that over the past two months the neighborhood has been meeting with Talisker to look at alternative solutions for employee housing other than Marsac Avenue. They are very encouraged by this effort and view this as reducing potential density at the Prospect Avenue/Marsac Avenue area which is very much appreciated.

John Sands, manager of Prospector HOA, agreed with Mr. Berube's comments with regard to monitoring occupancy and following the rules of the HOA, but encouraged the purchase of the units.

With no further comments, the public hearing was closed.

Candace Erickson believed the proposal is an easy buy-out for Talisker and obligations should have been met earlier. She expressed concerns about solving Talisker's problems by displacing current workers renting these units. This is not the answer. Talisker was asked to provide new housing for their employees, acknowledging that acquiring existing units is an option. Jim Hier stated that Talisker will honor existing leases and current tenants will be given preference for renewing leases. David Smith, counsel for Talisker, explained that there are several tenants who have lived there a significant amount of time and Talisker will honor the leases. Ms. Erickson clarified her position that Talisker is not creating new space for the many employees who will be hired to service associated development and she felt that new units should be constructed in future phases.

Liza Simpson suggested that the priorities probably need to be amended to identify a preference to existing tenants in the Prospector Square Condominium units and then to Talisker employees. Mr. Hier added a caveat that existing tenants will need to qualify for residency and Roger Harlan pointed out that some tenants may experience a drop in rent. He asked for assurances that the units will be adequately managed as conditioned and that the City will not assume that responsibility. Phyllis Robinson

clarified that the existing deed restrictions for other projects requires an annual certification by the developer to the City with regard to compliance with deed restrictions. There can be a rental element included and she pointed out that income is not an absolute but a preference to qualify tenants. Staff can work with the applicant to create a set of documents to respond to the City but Ms. Robinson emphasized that she would like to keep the responsibility clearly on Talisker to provide verification information.

Joe Kernan stated that he appreciates Ms. Erickson's comments about creating new affordable housing, but pointed out that the affordable housing plan provides acquisition of units as an option which he supports. He asked if a tenant would be asked to leave for exceeding the income level and Ms. Robinson explained that salary is an initial qualifier with the hope that as someone makes more income, he or she will look for other housing opportunities. Mr. Kernan emphasized that any upgrade may come at a significantly higher cost. There was discussion about the standards outlined in the 1999 housing resolution which were designed to meet complex federal regulations. Jim Hier advised that any deviations to the housing plan would require amending the Flagstaff Development Agreement. He felt the developer is aware that this request is an anomaly and the odds of approving a similar proposal are slim. He suggested dedicating joint work session time with the Planning Commission on existing affordable housing policy, how it is administered and rules and regulations outlined in the ordinance. In response to a question from Joe Kernan, Mark Harrington advised that the phasing plan contains a list of options and next week's review will address requirements for on-site housing. With regard to Option F, acquisition of market units, members may want to add language to clarify when this may or may not be acceptable to the City Council acting as the Housing Authority.

Mayor Williams stated that he understands Ms. Erickson's concerns, but pointed out that many units are being purchased and removed from affordable rental stock; simply capping rental rates is an overall improvement to the employee housing problem. He is appreciative that Talisker has acted on this initiative because in the long run, it provides more affordable housing and accomplishes goals for everyone. Liza Simpson expressed that she believes the developer understands that the possibility of this option being favorably considered again is very slim and asked for clarification on square footage and the actual affordable unit equivalent total. David Smith stated that he will have final figures from the appraiser tomorrow. There was discussion about having specific numbers but Mr. Hier felt the purpose of this session is whether the acquisition option is acceptable to the Council.

Joe Kernan, "I move we approve the request from Talisker to provide these purchased units to meet some of their requirements for affordable housing". Jim Hier seconded. Roger Harlan felt the number of units should be identified in the motion and the Mayor asked that Mr. Kernan be more specific. Joe Kernan, "I move we approve the request from Talisker as written in the staff report". Jim Hier seconded. Motion carried.

Candace Erickson

Nay

Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye
Liza Simpson	Aye

VI OLD BUSINESS (*Continued from a previous meeting*)

Consideration of approval of the third amendment to the Park Silly Sunday Market Master Festival License – Max Paap explained that this is a request to amend the Master Festival License for the Park Silly Sunday Market, as conditioned, to be held on Main Street between Heber Avenue and 9th Street on successive Sundays in June, July, August and September 2008. On February 3, 2008, the City Council reviewed and continued action on the proposed third amendment and asked that the applicants further address and provide details on an operation plan (transit and parking), the reopening of the street from 9 p.m. to 8 p.m., and the level of public safety presence required within the expanded venue. The Police Department recommends staffing the venue with officers at all times because of the size of the crowd, presence of a beer garden, amplified music, and a substantial road closure. Mr. Paap continued that the applicants and staff worked on an operation and logistics plan to load in and out the venue in a more efficient manner. PSSM worked on a sign plan to attract visitors to the south end of Main Street. The parking plan involves prohibiting parking on a portion of Park Avenue between 9th Street and Heber Avenue and creating more space for buses. Some of the parking north of 9th Street will be dedicated to vendor parking which will allow easier load in and out for the participants and will also direct market patrons further up the street. Mr. Paap stated that a transit plan was also explored. The Main Street trolley will travel in a counterclockwise pattern and passengers will be carried up the street. PSSM is still requesting hours of operation between 10 a.m. to 5 p.m. and clearing the street by 7 p.m. Alternatively, the City Manager recommends that the hours of operation be set from 10 a.m. to 4 p.m. and to reopen the street by 6 p.m. Staff feels that a two hour load-out can be accomplished by implementing the vendor parking plan and having more control of 9th Street will expedite dismantling the event. Mr. Paap emphasized that maintaining a two hour load-out will reduce staff time and return traffic flow and normal bus operations sooner. The applicants are requesting a waiver of police and building fees which are typically addressed in long term city services agreements not MFLs, but the City Manager has offered to waive half of the amount of fee waivers which is within his purview.

Jewels Harrison, applicant, stated that she would like to clarify what PSSM is bringing to the table, and the Mayor cautioned her and the audience to address only the items before Council. Ms. Harrison continued that the community elements of PSSM include sustainability featuring non-profit groups, free kid's activities and free entertainment. The vision is to grow and expand the experience of the inclusive quality of community and to create world-wide recognition of Park City, Utah as the place where local, national, and international causes are brought to light with the spirit of celebration and connectivity. Many of their goals are consistent with Council goals.]

She relayed that 41% of the time, it took them three hours or longer to clear the street and 60% of the time, it took two hours and forty five minutes or longer. This year, about 10,000 lbs of weight has to be secured; in addition 19 directional a-frame signs outside of the venue, 23 directional a-frame signs within the venue, nine large entrance signs, four weighted donation boxes, 40 tables, 120 chairs and benches, 26 canopies, six zero weigh stations and stage equipment all need to be installed. Sorting and removing around 8,000 lbs of all recycling and compost materials occur each week. Ms. Harrison believed that preparing for more guests, helping drive foot traffic up Main Street, and operating a larger venue this season will require three and a half to four hours to reopen the street. But perhaps with a well trained staff, they could have Main Street open in two hours and the entire street clean and ready for traffic in three hours. Ms. Harrison stated that they have not received any concerns from lower Main Street merchants or the HMBA on the amount of the time the street will be closed and there is access to parking that leads directly to Main Street businesses and restaurants. Max Paap stated that he attended the HMBA meeting where there was consensus to endorse the hours of 10 a.m. to 4 p.m.

Applicant Kimberly Kuehn relayed that they are working with the HMBA to collaborate with Main Street businesses to make the event a street festival. She believes that closing at 3 p.m. or 4 p.m., eliminates a segment of potential patrons; 3 p.m. is the highest attendance hour. Gaining two additional hours may attract more people to Main Street restaurants and retail stores. The total sales on Main Street in 2007 were 10% higher compared to 2006; total sales tax on Main Street in 2007 was up 16% from 2006; restaurant sales tax up 2% in 2007 compared to 2006; and lodging sales were up 1%. She spoke about solutions like cooperative advertising with merchants and incentives for lodging and dining. Ms Kuehn felt confident about a good working relationship with the HMBA. The Mayor opened the public hearing.

Jeff Ward, HMBA, stated that he agreed with some of Ms. Kuehn's comments and there is strong support of the PSSM on the street. However, he acknowledged member concerns about competition and displacement of business and as a Board, trying to find a workable solution. The original decision to keep the hours the same was revisited by the Board on Tuesday. They liked the idea of working more closely with PSSM but felt that the event should grow incrementally. The HMBA Board amended its position to advance the hours of 10 a.m. to 4 p.m.

Billy Williams, one of the owners of Butchers Chop House, stated that the impacts of PSSM have been very positive for their restaurant. Sunday business increased almost 20% on market Sundays and he felt that it is important to extend the hours if the greatest number of people are arriving at the 3 p.m. hour. This event helps them tremendously; it increases the tax base and gives people something to do in Park City on Sundays.

Sandy Geildorf, HMBA Executive Director, felt that everyone agrees that PSSM is good for Main Street from a community, cultural and social standpoint. It brings a lot of energy to the street on Sundays which was missing. The HMBA has a responsibility to

listen to its membership and to explore concerns. Last year, there was no empirical method to measure the economic impact of the market and she assured all businesses that the HMBA will work with the City and the Chamber so that good information is produced and can be analyzed. The HMBA will program the street for sidewalk sales and outdoor music to benefit upper Main Street businesses.

Lisa Christoffersen, co-owner of Christof's, stated that the operation of the PSSM was very positive for their restaurant and business increased 85% on those Sundays. She believes that most visitors walk all of Main Street and doesn't understand how the market could negatively affect upper Main Street that dramatically. She is glad the market is here.

Doug Hollanger, Park City Clothing, stated that his store on upper Main Street has been in business for 15 years and he has never had a problem with his Sunday business in the past. He believes PSSM has been good for lower Main Street but last summer was his worst season ever and if this is repeated, he will have to close on Sundays. PSSM patrons did not walk upper Main Street.

Emerson of Zona Rosa, 501 Main Street, stated that the PSSM increased the restaurant's sales on Sundays. The busiest time of day was from 3 p.m. onward and the extended hours will be better for the dinner crowd.

Rayette Belcher, Southwest Indian Traders, stated that there was a slight decrease in her business on Sundays last year. She does not want PSSM to turn into another Art Festival and suggested that vendors be split up so some can set up in the Brewpub lot if this is going to be an on-going event. She expressed her opposition to changing the hours.

Jill Christoffersen, co-owner of Christof's, emphasized that there are many events held on upper Main Street, like the Car Show and Arts Festival which do not benefit lower Main Street businesses. PSSM began on and was embraced by lower Main Street and should not be moved. A beer garden was set up in front of their restaurant which seems like it would be in direct competition with Christof's but it was actually good for their business.

Adam Worshire, 745 Quaking Aspen Court, stated that he enjoyed the PSSM which brought him to Main Street. He suggested marketing upper Main Street in the market area to unify business owners.

Beth Moon expressed her support of PSSM and felt that the level of marketing and advertising is significantly more than any other business owner does and commended the work they have done.

Anita Wolf, PSSM volunteer and Snyderville Basin resident, explained that she surveyed many visitors and residents who never ventured from the Basin into town on Sundays but were doing so in droves last summer to attend the PSSM. She felt that the

market would be a bigger attraction if the hours are extended, and the HMBA has a tremendous opportunity to harness this energy with collaborative and innovative marketing programs.

Mike Sweeney, stated there are about 400 underground parking spaces in his structure and approximately 30 parking spaces on lower Main Street that are available. There is no real reason why merchants on lower Main Street would be worried about the duration of the street closure and he felt it would be reasonable not to force a three hour restriction. He disclosed that he joined the PSSM Board in January and he believes that attracting more people to Main Street for a longer period of time are good things for the entire street and Park City.

Bruce Larrabee, mid-Main Street purveyor of art, stated he could view many of the PSSM vendors as direct competition with his craft but he doesn't have that opinion. His sales from 2006 to 2007 were up 40% but he believed the PSSM had no effect on his retail business. A two hour time limit to dismantle the street seems unrealistic and he felt more time should be allowed.

Carey Gross, first time 2008 PSSM vendor, felt that extended hours will better accommodate family outings, especially the dinner hour and supported the 10 a.m. to 5 p.m. request.

Julie Doer-Aaronson, PSSM applicant, felt that the event will improve as years go by and if the hours are extended to 5 p.m. there will be a natural flow from the market to the rest of the street. It can work for the entire street as long as there is constant communication to create unity which is absolutely possible.

Alex Gross, felt that one of the most important things in business is differentiation and right now Main Street competes with Redstone, the Outlet Stores, and the Quarry. PSSM creates competition on Main Street which is not a bad thing because it makes businesses become more innovative. If businesses owners can not tap into this opportunity, maybe they're not innovative enough.

With no further comments, the public hearing was closed.

Candace Erickson believed that the PSSM accomplished what it set out to do by bringing more people to Main Street who probably would not be there for any other reason. However, she felt that patrons did not travel to upper Main Street. She referred to Ms. Kuehn's earlier testimony and acknowledged that *average* sales grew on Main Street. Reported increases of 31% with other businesses on Main Street reporting losses indicate that a significant number of sales occurred in the PSSM event area. That means that businesses on upper Main Street who are paying high rents are not making money on Sundays. Ms. Erickson expressed concern about this but was thrilled that the HMBA is working with PSSM on marketing the whole street. She agreed with the HMBA that changing the hours should be incremental and supports the 10 a.m. to 4 p.m. recommendation, the Park Avenue parking plan, but not providing free parking in

the Brewpub lot or waiving all fees. Joe Kernan stated that the 10 a.m. to 5 p.m. operation makes sense and agreed with Jill Christoffersen's comments about many events and parking being located on upper Main Street. The Museum and Egyptian Theater are also on upper Main Street and it is not appropriate for the Council to control the festival in an effort to make it equitable. The focus should be making it as successful as possible. He did not agree with providing free parking at the Brewpub but could support the transit plan, fee waivers, and a three hour load-out. Ms. Erickson interjected that if it takes three hours to clear out the street, she doesn't have a problem with it if the merchants on lower Main Street are not concerned. Roger Harlan relayed his appreciation of the energy demonstrated by the applicants and he did not feel it is their burden to be responsible for upper Main Street, even though they have volunteered to do so. He supports the 10 a.m. to 4 p.m. duration and did not agree with providing free parking at the Brewpub or the fee waivers. He discussed and encouraged the use of the trolley. The expansion of the market area is also fine and three hours is okay to clear the street.

Liza Simpson stated that the reason she continued this at the last meeting was to encourage PSSM and the HMBA to work cooperatively together and expressed her appreciation of these efforts. She supports the 10 a.m. to 4 p.m. time with a three hour load-out. She is thrilled with the transit plan and happy with the expansion to 9th Street, but not supportive of free parking in the Brewpub lot or fee waivers. Jim Hier endorsed the 10 a.m. to 4 p.m. time, but no free parking at the Brewpub lot. It was clarified that the City Manager will waive 50% of the fees and Mr. Hier continued that he can not support waiving the remainder of the fees. He discussed the plan to restrict parking on the west side of Park Avenue and suggested limiting parking on the east side of the street for the load-in and load-out activities. The sign plan should be effective but further restricting parking on the east side will force patrons up the street and may alleviate traffic congestion. Max Paap assured members that staff will continue to explore vendor parking.

Mayor Williams summarized majority consensus to be no free parking at the Brewpub lot, no further fee waivers and amending operating hours from 10 a.m. to 4 p.m. with a three hour load-out, although he personally felt that this could be accomplished in less time. Additionally, members support a revised parking plan.

Jewels Harrison addressed the closing time and relayed that they found that the crowd dispersed at 3 p.m. and part of the solution is the trolley traveling up the street and better marketing of Main Street. Ms. Erickson stated again that incremental change is a better strategy. Ms. Harrison explained opportunities for using the market as outreach to the community, including a forum for the City Council. Roger Harlan, "I move approval of the third amendment to the Park Silly Sunday Market Master Festival License with the alterations that the Council has outlined this evening". Candace Erickson seconded. Motion carried unanimously.

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 4:30 p.m. Members in attendance were Mayor Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; and Mark Harrington, City Attorney. Roger Harlan, "I move to close the meeting to discuss litigation and property". Jim Hier seconded. Motion carried unanimously. The meeting opened at approximately 5:30 p.m. Roger Harlan, "I move to open the meeting". Joe Kernan seconded. Motion unanimously carried.

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

Prepared by Janet M. Scott

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
APRIL 3, 2008**

Present: Mayor Dana Williams; Council members Roger Harlan; Jim Hier; and Joe Kernan

**Tom Bakaly, City Manager and Mark Harrington, City Attorney;
Denise Carey, Analyst II; Jon Weidenhamer, Project Manager; and
Matt Twombly, Project Manager**

Absent: Candace Erickson and Liza Simpson

1. Council questions/comments. Mayor Williams welcomed the Vail, Colorado delegation visiting Park City and Roger Harlan reported on the Education Foundation teacher awards. Joe Kernan pointed out the generous donations made by Jim Doilney and Mike Barnes toward the award program.

2. Uses at the Farm. Denise Carey stated that the Historical Society requested to use the Farm for its brownbag lunch series in May since the program has been displaced due to the renovation. This request is consistent with criteria in the Farm Master Plan; Ms. Carey discussed the limited number of events allowed to be conducted at the Farm. Joe Kernan believed that educational, recreational and cultural events are appropriate. Council members concurred to allow the use.

3. Trails Master Plan. Jon Weidenhamer explained that trails will be discussed during the budget review, specifically walkability projects or urban type trails, to be funded with the \$15 million bond. The Trails Master Plan is a policy tool and walkability projects will now be addressed under this document. Jim Hier suggested that funding options identified in the document be significantly stream-lined and Mr. Weidenhamer agreed. Joe Kernan expressed his support of the framework and adding walkability projects completes the document. There was discussion about getting feedback from the walkability committee on its rationale to prioritize projects.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 3, 2008**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, April 3, 2008. Members in attendance were Dana Williams, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Candace Erickson was absent and excused. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Phyllis Robinson, Public Affairs Manager; and Kirsten Whetstone, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

1. Mayor and Council disclosure - Joe Kernan disclosed that Talisker is among his recycling customers. Mayor Williams stated that he will excuse himself from the discussion on Knoll Estates because the property owner is a client of Coldwell Banker where he is the managing broker.

2. Resolution acknowledging Friends of the Library – The Mayor read the Resolution into the record and presented a framed proclamation to the Friends in attendance. Roger Harlan noted that the Friends of the Library raised over \$140,000 for the Library over the years and recognizing the efforts of this group is very appropriate.

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

None.

IV CONSENT AGENDA (*Items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon under “Additional Discussion – Agenda Items”*)

1. Consideration of approving a Resolution acknowledging Friends of the Library – Staff recommends approval.

2. Consideration of approving a Service Provider Contract, in a form approved by the City Attorney, for the Police Facility Art Project in the amount of \$40,000 – Chief Lloyd Evans expressed his appreciation of the work of the Public Art Board and is very pleased with the selected artist.

Liza Simpson, “I move we approve the Consent Agenda, Items 1 and 2”. Jim Hier seconded. Motion carried.

Candace Erickson

Absent

Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye
Liza Simpson	Aye

V OLD BUSINESS (*Continued from a previous meeting*)

City Council call-up of a Planning Commission decision of February 13, 2008 regarding an amendment to the technical report for Empire Pass affordable-employee housing to be provided as required by the Flagstaff Development Agreement, as amended - Talisker Corp. – Tom Bakaly reviewed the history of the call-up action, specifically the appointment of Council members Hier and Simpson to work with the applicant on solutions since the last meeting. Phyllis Robinson explained that the call-up deals with the terms and conditions of a financial guarantee in the event of deficiency in the phasing plan for providing the required number of affordable housing units, consistent with on-mountain obligations. On February 27, 2008, Council members identified several items needing further clarification but confirmed the following. Replacing the term *construction* or *under construction* with *certificates of occupancy* and replacing the reference *to before the next density increment is permitted* to *before the next density increment is allowed*. This allowed the contractors to continue to pull building permits. She explained that the financial guarantee issue was addressed by the committee, which consisted of Council members Hier and Simpson, staff and Talisker representatives who met several times during the past six weeks. The Development Agreement provides that the affordable housing be phased with the development of the resort and the goal of the plan was is providing affordable housing units at a rate in excess of that required by the resort's development schedule in order to mitigate impacts to the community.

Ms. Robinson noted that proposed revisions to the phasing plan are identified as Appendix A in the staff report to reflect the Montage Hotel and the 2007 amendments to the Development Agreement. The last amendment to the housing plan occurred in 2001 and revised development targets. The minimum on-mountain units remains at 25%; 15% is targeted as seasonal or year-round rental units with a preference to be located within the Park City limits, and 60% of the mandatory UAs are targeted for home ownership with a preference to be located within the Park City limits. The initial rates would be set at 60% of area median income adjusted for household and unit size and rental and for sale units would be set 80% of AMI adjusted for household and unit size. These are details that were memorialized through agreements and deed restrictions but are now consolidated in one document. A status update for each of the housing options will track the number and location of the on-site AUEs and a sequencing strategy and phasing commitment will be identified. She emphasized that there are no additional options added to the phasing plan with the exception of Option K which is to look at additional opportunities, more specifically the Ontario Mine site.

Staff is looking for Council discussion on the recommendations to the amendments of the housing plan. Talisker requested that additional language be added to indicate that

the phasing plan and options in the plan are consistent with the City's General Plan and that formal affordable housing submittals be processed in a timely good faith manner. Talisker was advised that the City Council can't make a representation as to compliance with the General Plan. Mark Harrington explained that this is not recommended language; contracts should be separated from the planning process. Associated applications are subject to full code and General Plan review by the Planning Commission. David Smith explained that the intent was not to usurp the Planning Commission process, but to clarify that the options set forth in the Development Agreement are not inconsistent with the General Plan. The Development Agreement has been thoroughly reviewed by the Planning Commission and the City Council and Option K is the only new element on the table. He emphasized that Talisker would like some assurance that Option K, not the submittals, would be considered consistent with the General Plan. Mark Harrington added that the committee was comfortable with a one unit or less shortfall of square footage without penalty if the increment is fulfilled in a future phase. Jim Hier further discussed applying residual fractions to square footage obligations. The potential of the Mine Bench Property was discussed.

Ms. Robinson explained the financial guarantee recommendation that the escrow amount be 150% of the current in-lieu-of fee at the time of the deficiency, which today, would be 150% of \$160,000 or \$240,000. Talisker is requesting a fixed amount but staff is concerned that the fee reflect the current housing market trend. Staff is recommending that the escrow be funded within 45 days of notice of default by the City. This duration may also provide enough time and incentive for the developer to complete the project and she explained the potential role of the Chief Building Official in determining a completion date. The Mayor opened the public hearing.

Bill Hummer, 32 Prospect Avenue, stated that he read the staff report and one of the most glaring concerns is the fact that Talisker is willing to add 20 units and some neighborhood in Park City will bear the brunt of those additional units. He spoke about the Millsite and Marsac Avenue affordable housing sites where 15 units are proposed. He stated that this would increase the density in the Prospect Avenue area by 83%. Affordable housing should not be disproportionately built in one area of the City. He detailed the number and location of the 30 homes in his area.

Denise Kent, 9 Prospect Avenue, felt that all rules will be ignored like every other development in Park City. She referred to 9 Hillside Avenue where historic rules were not applied. She and her neighborhoods disagree with this. There are density, parking, and livability requirements and none will be considered if the Planning Department continues to behave like it has in the past. The neighborhood does not allow high density living and she asked why we would degrade and delete the Historic District.

Ruth Gezelius, Prospect Avenue, stated that once Park City is left with service workers and the wealthy, it will not be a livable community. The issue of paying decent living wages has never been addressed and the middle class is being asked to accept much of the burden of providing low income housing. It won't work because we can't build enough affordable housing. If wages do not increase, the community will not be

economically healthy and she felt that the City is on the wrong track. We will be destroying our Historic District by cramming housing. Pushing this developer to solve the problems of the economic situation in town is truly an unfair burden and extremely unfair to the areas impacted by housing that doesn't fit.

Julia Petit, Daly Avenue resident, commented on the language requested by Talisker that the options in the housing plan are consistent with the General Plan. She agreed with the City Attorney's opinion and emphasized that all proposals should go through the process like any other applicant. She objects to any reference to a finding of compliance with the General Plan which should be made by the Planning Commission and/or City Council.

Alex Butwinski, resident, agreed with Candace Erickson's previous remarks that the promise of housing does not equal built housing. He believes that the in-lieu-of fee multiplier should be 200% rather than 150% and that the funding period be set at something less than 45 days, like 15 or 30 days. Mr. Butwinski questioned a number of points in the staff report including the 18 month completion time for a project, Talisker's history of completing a market unit, and including the Chief Building Official in the completion time determination. He advised Council that his preference is Option B, to modify the request, and suggested that this matter be resolved and not continued.

With no further input, the public hearing was closed.

Mayor Williams acknowledged the concerns he is hearing from residents on Prospect and Daly Avenues and was sure that wherever the housing is built, there will be more traffic. Mr. Smith clarified information on Table 8 in the staff report and addressed the 45 day time period for funding the escrow account. He explained that these projects are being controlled and developed by merchant builders and Talisker is not *dialed into* the timing for issuance of the certificates of occupancy. With respect to the \$240,000 number, Talisker is under contract with a third party to build units on lower Marsac Avenue contingent on the approval process, but the actual cost to construct is under \$180,000 and well under \$240,000. For this reason, Talisker would prefer a fixed number. Mr. Smith felt that \$240,000 adds a cushion of funding and the City has the authority to shut anything down if there is an issue. With regard to language indicating compliance with the General Plan, Mr. Smith reiterated that the intent is not to usurp the Planning Commission process and the language would only apply to the characterization of the existing options under the Development Agreement. It is not a pre-determination of compliance relative to a specific submittal. With regard to the 18 months designated to complete a project, Talisker's concern is that if there happens to be a shortfall, it is limited to one construction season while two may be needed.

Jim Hier explained that the fee-in-lieu is the difference between market value and the sales price of the affordable unit. It reflects the market and is fairer than establishing a fixed number. He agreed that the provision involving the Chief Building Official should be deleted in its entirety because it is too subjective when the effort is to bring clarity to the document. He felt that the General Plan and due diligence language requests are

somewhat redundant and did not support their inclusion. Roger Harlan relayed that he is uncertain whether the \$240,000 is the right figure, but is convinced that it should not be lower. He felt that 15 business days, rather than 45 days is more appropriate. Liza Simpson preferred leaving the fee-in-lieu figure at \$500,000, but liked the concept of tying it to the current fee-in-lieu amount identified but at 200% in the event of default. She did not buy into the argument that Talisker would not be aware of an impending default and would be far happier with a 15 day funding period. As Talisker goes forward with building the units, she encouraged keeping in mind that Silver Star has set a high standard for affordable housing. Joe Kernan addressed the 10% established for purchased units and Mark Harrington explained that staff is recommending setting a limit as proposed by a Council member earlier and is looking for consensus. David Smith stated that Talisker does not have an issue with this and it was pointed out that types of units can be modified, if the City agrees, as housing is constructed to better compliment the housing market.

Mayor Williams stated that the proposed Marsac Avenue and Daly Avenue sites will be controversial because of the density impacts. The Mine Bench site, however, is already disturbed and it is flat and buildable.

Ms. Robinson clarified that her staff report, specifically Table 9, is a snap shot of existing options and there are no recommendations on the sites. References to Ontario Mill and Daly Avenue represent pending applications before the Planning Commission. Jim Hier pointed out that 200 AUEs are reflected on Table 9 while the obligation is actually 118.9 AUEs; the table represents possibilities and do not represent any approvals. He suggested providing Talisker with notification on certificates of occupancy as they are issued and Mr. Smith believed that if this is in place, Talisker could manage something less than 45 days. Mark Harrington believed that a reporting element could be formulated and identified. David Smith stated that 30 days is the minimum amount of time needed for Talisker to advance funding in an escrow account at a level beyond the construction costs. Mr. Hier stated that he could support 30 days. Roger Harlan described the Silver Star affordable housing component as exemplary and stated that he is not willing to compromise on the 15 working day funding period.

Dana Williams didn't feel that Silver Star and Talisker's affordable housing projects are comparable. Talisker's obligation is so much larger in scope, to the extent of requiring park and rides, and involves close to 6,000 acres of permanently deed-restricted lands. Mr. Hier agreed that the level of complexity is significantly different.

Liza Simpson agreed with Mr. Harlan on limiting the period to 15 days, while Joe Kernan supported 30 days. Dana Williams stated that he is fine with 30 days which represented the majority consensus. Members agreed to delete Paragraph 3 regarding the Chief Building Official and replaced it with a statement that if the required housing is completed within the 30 days, the requirement for meeting the obligation is satisfied through the completion of the unit and funding is not required. This would appear as the last sentence under Paragraph 2. All members agreed. With regard to the fee-in-lieu calculation, Liza Simpson and Roger Harlan believed the amount should be more than

\$240,000 while Jim Hier and Joe Kernan felt that figure is reasonable. Mayor Williams stated that he is comfortable with the 150% of the cost of construction or at today's standards, \$240,000. David Smith commented that although he requested a fixed amount earlier, Talisker is agreeable to the 150%. It was pointed out that residual fraction deficiencies would be added to the obligation of a future phase and Talisker would not be penalized.

Jim Hier, "I move to approve the proposed amendments to the Flagstaff Mountain Resort Affordable Housing Plan and adopt terms and conditions of the proposed financial guarantee with the elimination of financial guarantee Paragraph 3, the inclusion of a statement to allow the completion of an affordable housing unit within the period of performance for posting the funds to negate the requirement for posting those funds, and that in Paragraph 2, the time requirement from the notice of written default to the posting of the monies be changed from 45 days to 30 days". Mayor Williams interjected that the last issue is the 150% of in-lieu-fees and Jim Hier believed that is understood, as written (in the staff report). Liza Simpson seconded. Motion carried.

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

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

Consideration of an Ordinance approving the Knoll Estates (aka Deer Valley Club Estates) Lots 17 and 18 Amended Subdivision Plat, located at 7888 Aster Lane, Park City, Utah – At this point of the meeting the Mayor left the Council Chambers because of a conflict of interest disclosed earlier in the meeting, and Mayor Pro Tem Roger Harlan presided.

Planner Kirsten Whetstone explained that the application is a request for a plat amendment to create two lots on a parcel that was originally two lots but later combined. The Planning Commission reviewed the request and forwards a positive recommendation. She pointed out a letter to the City Council sent by Joe Tesch, counsel for the home owners association, requesting a continuance because of a pending legal matter in court. Mark Harrington advised the Council to hear the argument for the request for a continuance first. If the continuance is not granted, the merits of the application should then be heard. There was discussion about opening the public hearing on the plat amendment since it was advertised. Ms. Whetstone suggested that if the matter is continued that it be to a specific date after the court deliberations contemplated on June 19 and 20, 2008.

Joe Tesch, Esq., explained that the CC&Rs provide that no lot be subdivided. The Planning Commission was advised by Assistant City Attorney Polly McLean to follow

the Land Management Code and not the CC&Rs. He read excerpts from the Planning Commission minutes regarding not recognizing private agreements and cited examples of conflicts with declarations and the LMC resulting in exorbitant expense. In order to avoid involving the City, he is litigating the application and asking the Judge to provide a declaratory judgment to enjoin this party from proceeding. He relayed that he obtained a TRO and yesterday, the preliminary injunction hearing was held. Judge Hilder did not grant the injunction but assured the parties that the trial would be scheduled on June 19 and 20. Mr. Tesch argued that the hearing should not be held tonight; it is not a benefit to the community to grant actions in conflict with CC&Rs. This causes people grief and does not gain Council any good will.

He suggested that a process be established requiring an applicant to present a letter of consent from the HOA to the Building Department that the plans conform with associated CC&Rs before the project is allowed to proceed. He stated that although they didn't receive the injunction they received the equivalent by obtaining a quick trial date. The Council should delay review and he added that 20 of the 21 owners oppose this application. Taking action tonight may *tilt* the civil litigation. He read a quote from Steven Jury during the April 2 hearing, *"Furthermore, we went to the City Planning Commission. . .Brooks Robinson, who is the manager of the Planning Department, and reached a qualified opinion from him. . .and it is a qualified one, and he stated that barring some unforeseen unpredictable and highly unlikely set of circumstances, these lots could in fact be returned to their original condition with no harm whatsoever to the community or the surrounding environment"*. The actions of the City are respected by the court and if the subdivision is approved, it becomes Exhibit 1. He asked that this not be heard tonight and relayed that he may win and the applicant will be enjoined from proceeding.

Thomas Howard, counsel for the applicant, stated that the tone tonight is much different than when this matter was heard before the Planning Commission. Threats were made, including suing the City, and he commends this new approach. The application process has been long and complicated, beginning in September. The position taken by the City is that the LMC must be followed and all recommendations have indicated compliance with the Code. Mr. Howard remarked on Mr. Tesch's spin of the court proceedings yesterday. Originally the home owners came to the court and requested a TRO. They wanted to keep the applicant from proceeding in any fashion but the court refused to do that and issued a TRO until a more complete evidentiary hearing could be held. The restraining order was very restricted; it simply kept the applicant from proceeding with the City on the application. Yesterday, a full evidentiary hearing was held and the Judge denied any motion for a preliminary injunction and stated that it was not his intention to prohibit the City in any fashion from proceeding with its process. In all fairness, there were discussions in which Mr. Tesch expressed concerns about undoing the City's approval in the event the HOA prevails. Mr. Howard suggested that the City complete this process but not allow the plat to be recorded until the final hearing takes place in June. The issue decided by the court is very narrow and addresses whether the CC&Rs have been violated by a re-subdivision and the language is not clear. Given the history of this case and the matters presented to the court, what is constitutes a re-

subdivision is quite complicated. Judge Hilder requested additional evidence on the definition and found that if the Council proceeds, there would be no irreparable harm to the home owners since the lot is vacant. Any development could not occur before June and the Judge considered this in not granting a preliminary injunction. Mr. Tesch has suggested that it is not in the community's best interest but the property owner is a resident of the community.

Mr. Howard relayed that at this point in time, the HOA has spent approximately \$20,000 in legal fees and his client has spent approximately \$5,000. Understandably, he does not want to continue to spend more in litigation fees and would like to know if his request to subdivide is reasonable. Thomas Howard asked Council to consider the Planning Commission recommendation and provide him with a decision on the plat amendment so his client can determine whether or not to pursue further litigation. Mr. Howard explained that the court must decide if the CC&Rs are applicable and if they are clear enough. Another issue is an ancillary claim by the HOA that somewhere in time a promise was made by the previous owner, Joe Cantazero that he would let them have the land as a park forever. Depositions have to be taken and this is not an issue that would be solved by Council members. He asked that Council attach a condition to the approval that the plat not be recorded until the matter is decided by the court.

Mayor Pro Tem Harlan opened the public hearing.

Steve Jury, Coldwell Banker real estate agent, stated that he sold the lot in question. He referred to Mr. Tesch's comments about community interest when in reality it is in Joe Tesch's interest in continuing this cycle of frivolous lawsuits. He already has three strikes against him and with one more, he would be indeed out. Mr. Tesch first argued that it was not a lot and should never have been subdivided and staff found ample evidence that it is a legal lot and the Planning Commission unanimously approved the application. The next argument was that the previous owner granted a park and by the HOA's own admission there is not one piece of paper anywhere that indicates as much. Mr. Tesch then argued that the contract was an oral one, but an affidavit from the previous owner categorically denied the statement and added that he never at any time suggested or implied as much. Now, we're arguing about the CC&Rs which has nothing to do with the City. Mr. Jury insisted that a lot of money has been wasted on this.

With no further comments from the audience, the public hearing was closed.

Jim Hier relayed that the plat map in the meeting packet is not legible making it difficult to make a decision on the application. He felt that there is good cause to remove interior lot lines resulting in one lot because reducing potential density is accepted and can be accomplished administratively. On the other hand, there are very few instances when the Council has elected to subdivide a lot. It doesn't mean that it is prohibited by Code; there are a significant number of instances in Deer Valley where approved density was not built. He believes that the request is substantially different than the configuration of the original two lot parcel. He finds that this is not in the best interest of

the City as stated in the ordinance to go forward and approve the subdivision. Additionally, the General Plan suggests reducing density in Deer Valley. He reiterated that if he acted tonight, he would find no good cause to subdivide the property, although no harm would result. With regard to conflicts with CC&Rs, it has been his experience that this does not occur often and it is appropriate that the City not interfere. It is his preference to continue the matter to a date certain, especially if there is no desire for the owner to sell or develop the property in the short term. Mr. Hier also suggested remanding it to the Planning Commission to formulate findings of good cause or denial.

Liza Simpson agreed with Mr. Hier's comments and Joe Kernan preferred to delay his comments until this matter returns. Roger Harlan relayed that he personally visited the lot and takes exception to the argument that approval will result in material harm. The lot is adjacent to a t-intersection and it was his observation that the views from one or two homes above the lot would not be obstructed. Jim Hier, "I move that we continue this item to date certain, June 26, 2008. I would suggest also that should the court continue this that we hold the hearing on that date anyway and decide whether we should go forward with a decision or remand it back and not continue this so that we're at the whim of a court calendar that we have no control over". Joe Kernan seconded. Roger Harlan added that the original plat for Knoll Estates included a specific number of lots which would not increase with the approval of the subdivision. Motion carried.

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

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 4 p.m. Members in attendance were Mayor Dana Williams, Roger Harlan, Jim Hier, and Joe Kernan. Candace Erickson and Liza Simpson were excused. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Jon Weidenhamer, Project Manager; Jerry Gibbs, Public Works Director; Jason Glidden, Marketing Analyst; Pace Erickson, Operations Manager; and Karen Yocum, Recreation Coordinator. Roger Harlan, "I move to close the meeting to discuss property". Joe Kernan seconded. Motion carried. The meeting opened at approximately 4:45 p.m. Jim Hier, "I move to open the meeting". Joe Kernan seconded. Motion unanimously.

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

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

Prepared by Janet M. Scott

**RESOLUTION PROCLAIMING THE MAYOR'S AND CITY COUNCIL'S
APPRECIATION OF 1ST LIEUTENANT CODY JAMES WHEATON'S
PATRIOTIC COMMITMENT TO SERVE TO OUR COUNTRY**

WHEREAS, Park City resident Cody James Wheaton is currently deployed in Iraq, trained as an Army Ranger and serving as a Detachment Commander in the 101st Airborne Division; and

WHEREAS, it is appropriate to acknowledge local citizens of the past and present who proudly and willingly volunteer for military service to ensure a sound national defense, to provide a strong deterrent to attacks from hostile sources, and to maintain the security of our country and free people everywhere; and

WHEREAS, we gratefully acknowledge that we live in freedom today because of the many sacrifices that have been made and are being made today, by the valiant servicemen and women in the Armed Forces and their families; and

WHEREAS, we extend continuing support of these men and women in this time of uncertainty and devote our thoughts and best wishes to all military service members and their families; and

WHEREAS, the Park City community extends its hope for a prompt end to the conflicts facing our nation, and a safe and speedy return of all persons serving in the military and all United States Armed Forces members.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council deem it appropriate to recognize the Wheaton Family and urge the community to also pay tribute by extending our heartfelt appreciation to 1st Lieutenant Cody James Wheaton for his courageous service in the preservation of the heritage of freedom of our great nation.

PASSED AND ADOPTED this 17th day of April, 2008.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder





**RESOLUTION ACKNOWLEDGING THE 40TH ANNIVERSARY OF THE
FAIR HOUSING ACT AND PROCLAIMING APRIL 2008
AS FAIR HOUSING MONTH IN PARK CITY, UTAH**

WHEREAS, Title VIII of the Civil Rights Act, which guarantees fair housing for all residents of the United States, was signed into law in April 1968; and

WHEREAS, April 2008 marks the 40th anniversary of the Fair Housing Act and the Month of April is nationally recognized as Fair Housing Month and a time to reflect on and reaffirm our national commitment to the ideal that fair housing opportunity is available to everyone in the United States without regard to race, color, religion, national origin, sex, familial status and disability; and

WHEREAS, the City of Park City has committed to fully protecting and enforcing the rights of all residents of Park City to be free of unlawful discrimination and to be free to purchase, rent, finance and insure their homes without regard to their race, color, religion, sex, national origin, familial status, disability, source of income or life style preference; and

WHEREAS, the City of Park City, the Utah Labor Commission Antidiscrimination and Labor Division, The United States Department of Housing and Urban Development, the State of Utah Department of Community and Culture, Division of Housing and Community Development, the Utah Association of Realtors, the Utah Apartment Association and the Utah Housing Coalition and many other individuals and organizations are jointly committed to the principal of fair housing for all and are committed to all efforts to highlight and celebrate this 40th Anniversary of the Fair Housing Act and are fully committed to all efforts that address discrimination in our communities, support all programs that will educate the public concerning their rights to equal housing opportunity and to actively plan and participate in partnership efforts with other organizations to assure every person their right to live free of the debilitating affects of housing discrimination and to enjoy fair housing rights;

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council declare April 2008 as Fair Housing Month to celebrate and honor all efforts which guarantee our right to live free of discriminatory housing practices.

PASSED AND ADOPTED this 17th day of April, 2008.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

City Council Staff Report



Subject: Men of McPolin- “Day at the Races”
Author: Max J. Paap
Department: Sustainability- Implementation
Date: April 17, 2008
Type of Item: Administrative – Master Festival License

Summary Recommendations:

Review the Master Festival License application, conduct a public hearing, and approve the license for Day at the Races, as conditioned, on May 10, 2008 to be held on lower Main Street between Heber Avenue and 9th Street.

Description:

Topic:

Review the Master Festival License Application, submitted by Men of Mc Polin, Inc., for the Day at the Races on May 10, 2008.

Background:

The Men of McPolin submitted an application requesting a Master Festival License to hold an event to raise money in support of school programs. The event would be based around a series of “soapbox” type carts that would be built by students and parents and race on lower Main Street. This is a first year event that hopes to engage groups such as the Park City PTO, PCEF (Park City Education Foundation), and Men of McPolin to create a Park City event that provides exposure for a positive celebration that invites, inspires, and includes the entire community. The event would run from 9:00 am to 4:00 pm on Saturday, May 10, 2008.

HMBA was notified of this event at their March 25th Board meeting and the Board had no dissenting comments.

The Day at the Races is consistent with City Council’s Goals of Preservation of Park City Character and to promote Park City as a multi-seasonal resort by maintaining its status as a World Class Resort which hosts such events as this and to increase the number of events.

Analysis:

The event organizers have requested to hold their event on May 10, 2008. The event would begin at 9:00 am on lower Main Street, between Heber Avenue and 9th Street and conclude at 4:00 pm. The applicant will take the venue at 6:00 am and will open lower Main Street no later than 6:00 pm. This application is being reviewed as a Master Festival License due to the request for amplified music and use of City property.

Street Activities

Lower Main Street activities will include the race course on Main Street, the placement of a beer garden and stage near the intersection of 7th Street and Main. At the time of the original application, the applicant had not yet applied for PCMC Local Consent and a Single Event Beer License with the UDABC, since that time the applicant has applied for the necessary permits. There will also be stage placed on the street and programmed with amplified music. Various other sponsors, civic groups, and non-profits will have spaces to display information for the spectators. Near the foot bridge over Main Street will be the announcer's platform.

The applicant has indicated that the cars would start near the Heber Avenue and Main Street intersection and would run downhill to the finish area near 9th Street. The participants would run a series on heats along this course throughout the day. At this time the applicant has not tested the cars on the proposed course. Before the event the applicant, along with Park City Events Staff will temporarily close the street and conduct a test of the venue. Based upon the test results, the organization will submit a management plan. The organizers have met with PCMC staff to ensure that all events that occur will not adversely affect public safety.

Parking

Attendees of this event will be directed to the free public parking on Park Avenue, Swede Alley, and China Bridge. Additional parking will also be available in the pay parking lots at the Town Lift and the Marriott. PCMC Staff will also manage parking along Park Avenue, between 9th Street and Heber Avenue to facilitate efficient transit operations. Parking along Heber Avenue, between Main Street and Park Avenue will also be managed to ensure a safe starting area.

Department Review:

All applicable departments have reviewed Day at the Races application and their comments have been incorporated into the report.

Alternatives:**Approve the Request:**

Approve the Master Festival License allowing Day at the Races as described. This is staff's recommendation

Deny the Request:

Deny the Master Festival License, preventing the addition of Day at the Races to Park City's schedule of events.

Continue the Item:

The City Council may continue the discussion in order to receive additional information

Significant Impacts:

Park City has held many similar events to Day at the Races. The activities will be contained within described venues and will conclude by 4:00 pm.

Consequences of not taking the recommended action:

Day at the Races would not take place.

RECOMMENDATION:

Staff recommends the City Council conduct a public hearing and approve a Master Festival License for Day at the Races on May 10, 2008 based on the following Findings of Fact, Conclusions of Law and Conditions of Approval.

Findings of Fact:

1. Day at the Races will be held Saturday, May 10, 2008. The event will last from 9:00 am to 4:00 pm and will occur on Main Street, between Heber Avenue and 9th Street.
2. Parking for the anticipated crowd of 300-500 people will be accommodated in the existing public and private parking around the venue. The conduct of the Day at the Races will not substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its venue.
3. The event is oriented towards families and youth. The events associated with Day at the Races will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.
4. The event will be held on Main Street. The concentration of persons, vehicles, or animals will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health or safety services.
5. The Men of McPolin submitted their initial application in September of 2007; Park City Municipal Code (4-8-4) requires 90 day review for consideration of a Master Festival License. Men of McPolin have met that criterion.
6. No other Master Festival and Special Event Licenses have been granted for May 10, 2008. The Day at the Races will not substantially interfere with the logistics and venue for any event for which a license has already been granted and with the provision of City services in support of other such events or governmental

functions.

7. The size of the crowd and nature of the event will not create an imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
8. The applicant has been working with City Staff and applicable departments to address all event concerns. The Applicant demonstrates an ability and willingness to conduct the event pursuant to the terms and conditions of this Chapter and has not failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both.

Conclusions of Law:

1. The application is consistent with the requirements of the Park City Municipal Code, Title 4, Chapter 8.

Conditions of Approval:

1. The applicant, at its' cost, shall incorporate such measures as directed by Staff in order to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety are provided and paid for by the applicant.
2. The applicant will work with City Staff to orient the temporary stage so as to minimize sound impacts to the neighborhood and the applicant shall monitor the following:
 - (A) The program manager, or his/her designee, shall provide on-site management for each event.
 - (B) A sound technician shall provide on-site monitoring for each event with music, amplified or otherwise, and any amplified event.
 - (C) The program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty-five feet (25') in front of the stage.
 - (D) All events shall be open to the public and free of charge.
3. Applicants shall provide proof of liability insurance in the amount of two million dollars (\$2,000,000) or more as may be required by the Special Events Manager or the City Attorney's Office, and shall further name Park City Municipal Corporation as additional insured. All Applicants shall further indemnify the City from liability occurring at the event except for any claim arising out of the sole negligence or intentional torts of the City or its employees.
4. All plans for tents, stages and other temporary structures shall be submitted to the Building Department for review and permitting by May 6, 2008.
5. The applicant is responsible for a Street Closure and Pedestrian Management Plan in a form approved by the Park City Municipal Event Manager and Chief of Police.

Attachments

Exhibit A- Applicant's Summary of Activities

Exhibit A-

PARK CITY MUNICIPAL CORPORATION SPECIAL EVENT AND MASTER FESTIVAL LICENSE EVENT APPLICATION-PART I

A completed electronic copy submitted to the Special Events Department



**Special Events and Facilities
Department**
435.615.5150
specialevents@parkcity.org

APPLICATION FORM

Part I of the application form (pages 1 and 2) must be completed and submitted to the Special Events Department no less than 90 days prior to a Master Festival or no less than 60 days prior to a Special Event. Part II of the application form (pages 3-6) which are more comprehensive, must be submitted 45 days before all events. Parts I and II of the application must be sent electronically to the Special Events Department at specialevents@parkcity.org. The application will be reviewed by the Special Events Department and compared to master calendar for date availability. Applicant must schedule a meeting with City Staff 30 days prior to the event to review logistics. Granting of the permit is not guaranteed.

EVENT NAME: Men of Mcpolin "Day at the Races"

EVENT DATE(S): May 10, 2008

EVENT TIME(S): 9:00AM to 4:00PM

EVENT LOCATION(S): *Please describe in detail the exact location(s)*
Lower Main Street

ANTICIPATED ATTENDANCE: 300-500

EVENT DESCRIPTION: *Please describe in detail the activities associated with the event*

Go-Kart and Pinebox Races.

APPLICANT: *(name of organization)* Men of McPolin, Inc.

CONTACTS

Event Manager: Moe Hickey
Mailing Address: PO Box 1404, Park City, Utah 84060
Phone: 435-655-6203 Fax:
Cell Phone: 435-729-0233
E-Mail: mojo2658@yahoo.com

Assistant Event Manager: John Halsey
Mailing Address: 1391 Little Kate Road, Park City, Utah 84060
Phone: 435-615-7517 Fax:
Cell Phone: 435-659-0020
E-Mail: johnhalsey@mac.com

TYPE OF EVENT: *to be confirmed by the Special Events Department*

- ☒ **Master Festival;** *(If even one box is checked, the event is automatically a Master Festival)*
A public event which any one of the following:
☐ attraction of large crowds, (Over 500)
☒ street closure,
☐ use of City park, building or property,
☐ use of off-site parking facility,
☒ use of amplified music.
- ☐ **Special Event;**
A private or public event, which creates significant public impacts through:
☐ causes significant public impacts via disturbance, crowd, traffic/parking,
☐ disruption of the normal routine of the community or affected neighborhood,
☐ necessitates temporary business or liquor licensing
☐ event signs, visible from public property
☐ temporary structures

CITY SERVICES

- request for street closure(s)? ☒yes ☐no
if yes, then list street(s) and closure time and date: Lower Main Street 8:00AM to 4:30PM
- request for closure of or access to any public parking spaces? ☐yes ☒no
if yes, then list lot and closure times and dates:
if yes, complete and attach [Request for Special Use of Public Parking](#) form.
- request for use of any City owned bleachers? ☐yes ☒no

SALES AND FOOD VENDING

- will there be beer, wine and/or liquor sales during the event? ☒yes ☐no

if yes, have you filed a [Beer and Liquor License Application](#) with Park City Finance Department? ☐yes ☒no

if yes, have you filed a [Single Event or Temporary Beer Permit application](#) w/ UDABC? ☐yes ☒no

APPLICATION FEES

All new applications require a \$100 processing fee, all applications for returning events require a \$50 application fee, due at the time of application. Additional fees for other services, including Health Department and Fire Department, will be estimated and provided to the applicant. A final bill for services will be delivered to the applicant approximately two weeks after the event concludes. Please remit application check to:

Park City Municipal Corporation
Attn: Special Events and Facilities
P.O. Box 1480
Park City, UT 84060

INSURANCE

Park City Municipal requires proof of liability insurance in the amount of two million dollars (\$2,000,000) or more, and applicant shall further name Park City Municipal Corporation as an additional insured. This must be submitted 10 days prior to the event.

City Council Staff Report



Subject: Cole Sport, Inc. Zone Change
Author: Francisco Astorga
Date: April 17, 2008
Type of Item: Request to amend Zone Change conditions of approval

PLANNING DEPARTMENT

Summary Recommendations

Staff recommends the City Council conduct a public hearing and consider approving the request to amend conditions of approval of the October 19, 2000 zone change application based on the findings of fact, conclusions of law and conditions of approval as found in the draft ordinance (Exhibit A).

Description

Applicant: Gary E. Cole, Cole Sport, Inc.
Location: 1615 Park Avenue
Zoning: General Commercial (GC) with Frontage Protection Overlay (FPZ)
Adjacent Land Use: All Seasons Condos (RD-MPD), Park Avenue Condos (RD-MPD), and Jans (GC)
Reason for Review: A request to amend Zone Change conditions of approval requires Planning Commission review and City Council approval

Background

On January 08, 2008 the City received a completed application for the request to amend the conditions of approval of October 19, 2000 Zone Change application for Cole Sport located at 1615 Park Avenue. In the 2000 Zone Change the property was rezoned from Recreation Open Space (ROS) to General Commercial (GC) with three conditions of approval. The purpose of the zone change to GC was to make the building's current use conform to an appropriate zoning district and historic use of the property, and to allow an existing commercial use. The conditions of approval were:

1. *The setbacks of the property shall remain as follows: Park Avenue 47'; Empire Avenue 40'; Rear (west) 78'; side (north) 84'. No further expansion is allowed beyond the existing building edges.*
2. *Any future expansion in height shall meet the height requirements of the underlying zone.*
3. *In the event of damage or destruction of the existing building, any new structure would be required to meet the setbacks of the existing building as depicted on the site plan dated October 11, 2000.*

Cole Sport, Inc. is seeking to amend the above conditions of approval to allow an underground warehouse to be constructed to act as the business central shipping and receiving area supporting all of the Cole Sport stores. The conditions of approval limited the setbacks to the existing building envelope. The proposed construction includes an underground warehouse facility that meets and exceeds the GC zone setbacks of 10 feet from the west property line and 20 feet from the south property line. All existing parking will be replaced. They have proposed the following additions to the three existing levels:

- Lower Level – Underground warehouse addition below existing parking.
- Main Level – Conveyor down to warehouse and metal stairway servicing conveyor.
- Upper Level – Deck remodel to cover conveyor, one new office, and two foot overhang extension of the existing west gable.

The Planning Commission heard this application at its regularly scheduled meeting on March 26, 2008, and forwards a positive recommendation. There was no public input.

Parking

The property currently has 54 parking spots. Based on the LMC parking standards which require three spaces per 1000 square feet of net leasable floor area for minor retail, commercial space, Cole Sport, Inc. is required to provide 40 parking stalls.

Analysis

In the Land Management Code, the purpose of the General Commercial (GC) District is to:

- (A) allow a wide range of commercial and retail trades and Uses, as well as offices, Business and personal services, and limited residential uses in an Area that is convenient to transit, employment centers, resort centers, and permanent residential Areas,
- (B) allow Commercial Uses that orient away from major traffic thoroughfares to avoid strip commercial Development and traffic congestion,
- (C) protect views along the City's entry corridors,
- (D) encourage commercial Development that contributes to the positive character of the City, buffers adjacent residential neighborhoods, and maintains pedestrian Access with links to neighborhoods, and other commercial Developments,
- (E) allow new commercial Development that is Compatible with and contributes to the distinctive character of Park City, through Building materials, architectural details, color range, massing, lighting, landscaping and the relationship to Streets and pedestrian ways,
- (F) encourage architectural design that is distinct, diverse, reflects the mountain resort character of Park City, and is not repetitive of what may be found in other communities, and
- (G) encourage commercial Development that incorporates design elements

related to public outdoor space including pedestrian circulation and trails, transit facilities, plazas, pocket parks, sitting Areas, play Areas, and public art.

The Frontage Protection Zone (FPZ) is an overlay zone. The east part of the property along Park Avenue extending 100 feet from the right-of way is currently within the FPZ. According to the LMC the purpose of the FPZ is to:

- (A) preserve Park City's scenic view corridors,
- (B) preserve and enhance the rural resort character of Park City's entry corridor,
- (C) provide a significant landscaped buffer between Development and highway Uses,
- (D) minimize curb cuts, driveways and Access points to highways,
- (E) allow for future pedestrian and vehicular improvements along the highway corridors.

A structure or use within the FPZ is subject to specific review criteria, including a Conditional Use Permit reviewed by the Planning Commission. Lot and site requirements and building heights for all development activities and uses within the FPZ must be consistent with the underlying zoning district and are subject to additional requirements outlined in the LMC. Staff finds that by removing the conditions of approval the FPZ will not be affected or compromised as it was thought to be in 2000.

When the 2000 Zone Change was analyzed, the Planning Commission felt that no environmental or physical impacts existed with the ROS zoning classification; if the zoning was changed to GC, they felt that it would allow significant further development at that location and that it would compromise the Frontage Protection Zone (FPZ) on the entry corridor. According to the minutes of the October 11, 2000 Planning Commission work session (Exhibit C), to address this issue, an agreement was worked out with the applicant to include a condition of approval that there will be no further building expansion beyond the existing defined building setbacks. Staff finds that during the 2000 Zone Change staff was concerned with the possibility of significant overdevelopment and therefore took a precautionary development approach by adding specifics conditions of approval.

Staff finds good cause for the request to remove the Zone Change conditions of approval as the property will be regulated by the setbacks listed in the table below and the development standards of the GC and the Frontage Protection Overlay zone listed in the LMC. Currently staff finds that the GC zone development standards are adequate regulation for that location because the setbacks permitted in the GC are in harmony with the overall character of existing development in the vicinity of the property and will not adversely affect adjacent property.

Setbacks	2000 Zone Change condition of approval	Permitted in GC zone
Park Avenue	47' min.	20' min. (30' min. FPZ)
Empire Avenue	40' min.	20' min.
Rear (west)	78' min.	10' min.
Side (north)	84' min	10' min.

Department Review

This project was discussed at an interdepartmental review meeting. The City Engineer indicated that the property lies within the zone X flood plain. No further issues were brought up at that time.

Notice

The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record.

Public Input

No public input has been received by the time of this report.

Alternatives

- The City Council may approve the request to amend zone change conditions of approval as conditioned or amended; or
- The City Council may deny the request to amend zone change conditions of approval and direct staff to make Findings for this decision; or
- The City Council may continue the discussion on the request to amend zone change conditions of approval.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The building would remain as is and no construction could take place.

Recommendation

Staff recommends the City Council hold a public hearing for the request to amend zone change conditions of approval based on the findings of fact, conclusions of law found in the draft ordinance.

Exhibits

Exhibit A – Draft Ordinance

Exhibit B – Ordinance No. 00-56

Exhibit C – October 19, 2000 City Council Staff Report

Exhibit D – October 11, 2000 Planning Commission work session minutes

Exhibit E – October 11, 2000 Planning Commission meeting minutes

Ordinance No. 08-

**AN ORDINANCE APPROVING THE REQUEST TO AMEND ZONE CHANGE
CONDITIONS OF APPROVAL LOCATED AT 1615 PARK AVENUE, PARK CITY,
UTAH.**

WHEREAS, the owners of the property located at 1615 Park Avenue have petitioned the City Council for approval of the request to amend zone change conditions of approval; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on March 26, 2008, to receive input on the request to amend zone change conditions of approval; and

WHEREAS, the Planning Commission, on March 26, 2008, forwarded a positive recommendation to the City Council; and

WHEREAS, on April 17, 2008, the City Council held a public hearing to receive input on the request to amend Zone Change conditions of approval; and

WHEREAS, it is in the best interest of Park City, Utah to approve the request to amend zone change conditions of approval.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The request to amend zone change conditions of approval as approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The discussion in the Analysis section is incorporated herein.
2. The metes and bounds parcel where Cole Sport, Inc. is located is zoned General Commercial (GC) within the Frontage Protection Overlay Zone (FPZ).
3. Cole Sport, Inc. is a compliant structure and a conforming use.
4. The existing front setback at Park Avenue is 47'. The minimum setback allowed by the GC zone is 20'

5. The existing front setback at Empire Avenue is 40'. The minimum setback allowed by the GC zone is 20'.
6. The existing rear (west) setback is 78'. The minimum setback allowed by the GC zone is 10'.
7. The existing side (north) setback is 84'. The minimum setback allowed by the GC zone is 10'.
8. The GC and FPZ zone development standards are adequate regulation for this location.
9. The setbacks permitted in the GC are in harmony with the overall character of existing development in the vicinity of the property and will not adversely affect adjacent property.
10. Parking required at 3 spaces for each 1,000 sq. ft. of net leasable floor area.

Conclusions of Law:

1. There is good cause for this amendment to the zone change application condition of approval.
2. The amendment to the zone change application condition of approval is consistent with the Park City Land Management Code and General Plan.
3. The existent building and use meet the Purpose statement of the General Commercial (GC) zone.
4. Approval of the amendment to the zone change application conditions of approval promotes the health, safety, and welfare of the citizens of Park City.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 17th day of April, 2008.



Ordinance No. 00-56

**AN ORDINANCE APPROVING ZONING PROPERTY LOCATED AT 1615 PARK AVENUE, PARK CITY, UTAH FROM RECREATION OPEN SPACE (ROS) TO GENERAL COMMERCIAL (GC).
AND AMENDING THE ZONING MAP OF PARK CITY, UTAH.**

WHEREAS, the owner of Cole Sport, a metes and bounds parcel (Schedule A-5), located at 1615 Park Avenue has petitioned the City Council for approval of a zone change of the parcel from Recreation Open Space (ROS), to General Commercial (GC).

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on October 11, 2000, to receive input on the proposed zone changes;

WHEREAS, the Planning Commission, on October 11, 2000, forwarded a positive recommendation to the City Council; and,

WHEREAS, on October 19, 2000, the City Council held a public hearing to receive input on the proposed zone changes; and

WHEREAS, it is in the best interest of Park City, Utah to approve the zone changes.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The Cole Sport zone changes are hereby approved as shown in Exhibit A subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The discussion in the Analysis section is incorporated herein.
2. The metes and bounds parcel where Cole Sport is located is zoned ROS (Recreation Open Space).
3. Cole Sport is a Non-Complying Structure and Non-Conforming Use.
4. The owner has stipulated that the existing building setbacks will not change from the

- current configuration.
5. The existing front setback at Park Avenue is 47'. The minimum setback allowed by the GC Zone is 20'.
 6. The existing front setback at Empire Avenue is 40'. The minimum setback allowed by the GC Zone is 20'.
 7. The existing rear (west) setback is 78'. The minimum setback allowed by the GC Zone is 10'.
 8. The existing side (north) setback is 84'. The minimum setback allowed by the GC Zone is 10'.
 9. The existing GC Zone is separated only by Park Avenue and two of four properties of this properties intersection are zoned GC.

Conclusions of Law:

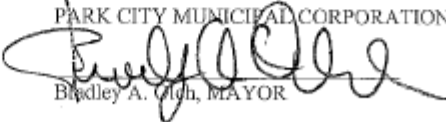
1. There is good cause for this zone change.
2. The zone change is consistent with the Park City Land Management Code and General Plan.
3. The existing building and use, and proposed use meet the Purpose statement of the GC (General Commercial) zone.
4. Approval of the zone change, subject to the conditions stated below, promotes the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The setbacks of the property shall remain as follows: Park Avenue 47'; Empire Avenue 40'; Rear (west) 78'; side (north) 84'. No further expansion is allowed beyond the existing building edges.
2. Any future expansion in height shall meet the height requirements of the underlying zone.
3. In the event of damage or destruction of the existing building, any new structure would be required to meet the setbacks of the existing building as depicted on the site plan dated October 11, 2000.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 19th day of October, 2000 .

PARK CITY MUNICIPAL CORPORATION

Bradley A. Gish, MAYOR

ATTEST:


Janet M. Scott, City Recorder



APPROVED AS TO FORM:

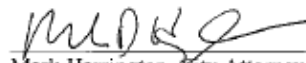

Mark Harrington, City Attorney

Exhibit C – October 19, 2000 City Council Staff Report

	
CITY COUNCIL STAFF REPORT	
DATE:	October 19, 2000
DEPARTMENT:	Planning
AUTHOR:	Jonathan Weidenhamer
TITLE:	Ordinance zoning property located at 1615 Park Avenue, Park City, Utah from Recreation Open Space (ROS) to General Commercial (GC).
TYPE OF ITEM:	Request for a Zone Change
SUMMARY RECOMMENDATIONS: Staff recommends the City Council conduct a public hearing, consider any public input, and approve the zone change request as conditioned or amended.	
DESCRIPTION	
A. Topic	
Owner	Gary Cole
Location	1615 Park Avenue
Zoning	Recreation Open Space (ROS)
Adjacent Land Uses	All Seasons Condos (RD-MPD), Park Avenue Condos (RD-MPD), and Jans (GC)
Reason for Review	Zone change requests require City Council approval.
B. Background	
On October 11, 2000, the Planning Commission approved a CUP for construction in the FPZ, and forwarded a positive recommendation to the City Council for the proposed zone change from ROS to GC. The addition of approximately 40 square feet to Cole Sport is located at the juncture of the deck and vestibule near the front entrance, at the northeastern corner of the building. It will be constructed in order to accommodate the use of retail coffee sales. The purpose of the rezone from ROS to GC is to make the building's current use conform with an appropriate zoning district and historic use of the property, and to allow the proposed commercial use. Cole Sport is located on a one acre, metes and bounds parcel on the corner of Park and Empire Avenues. It is in the Frontage Protection Zone. In 1986, this RD (Residential Development) zoned parcel was split into two pieces and rezoned. The front portion, where Cole Sport exists, was rezoned to Recreation Open Space (ROS). The rear portion, where All Seasons Condominiums exists, was rezoned to RD-MPD (Residential Development with a Master Planned Development)(Exhibit B). Density was removed from the Cole Sport site and from the golf course hotel site as part of the purchase of the golf course and subsequently reallocated to the All Seasons Condominium parcel. The intent of the original rezone of the Cole Sport parcel to ROS was to ensure that the retail use and existing structure would become non-conforming, preventing a more intensive use or development from being placed at	

this corner. This was done to protect the corner from future development and preserve the City's entry corridor. The previous zone of RD would have allowed the existing building to be replaced with condominiums which could have extended further into the Park Avenue and Empire setbacks.

In 1993, the Planning Commission approved a CUP for Gary Cole to allow construction of a building addition in the FPZ at this location. He enlarged his leasable space from 4,344 to 8,462 square feet, the actual gross square footage was increased from 8,567 to 15,608 square feet. In doing so, he added an addition to the rear (west) of the building, and filled in the "corners" or the existing roof overhangs on the main and upper levels of the building.

C. Analysis

On October 11, 2000, the Planning Commission approved a CUP for construction in the FPZ, and forwarded a positive recommendation to the City Council for the proposed zone change.

In the Land Management Code, the Purpose of the of the GC zoning district is to:

- allow a wide range of commercial and retail trades and uses, as well as offices, Business and personal services, and limited residential uses in an area that is convenient to transit, employment centers, resort centers, and permanent residential areas,
- allow commercial Uses that orient away from major traffic thoroughfares to avoid strip commercial Development and traffic congestion,
- protect views along the City's entry Corridors,
- encourage commercial Development that contributes to the positive character of the City, buffers adjacent residential neighborhoods, and maintains pedestrian Access,
- allow new commercial Development that is Compatible with and contributes to the distinctive character of Park City, through Building materials, architectural details, color range, massing, lighting, landscaping and the relationship to Streets and pedestrian ways,
- encourage architectural design that is distinct, diverse, reflects the mountain resort character of Park City, and is not repetitive of what may be found in other communities, and
- encourage commercial Development that incorporates design elements related to public outdoor space including pedestrian circulation and trails, transit facilities, plazas, pocket parks, sitting areas, play areas, and public art

The GC zone promotes a completely different pattern of development than the ROS Zone. The proposed structure and use would meet all general purposes and regulations as outlined in the LMC for the proposed zone(GC). The GC Zone is the zone of two of the four corners of the intersection the applicant's property occupies. The intent of the original rezone of this property from RD to ROS was to prevent future development and other substantial expansion at the site in order to protect the FPZ and City entry corridor. This original rezone created a non-complying structure and non-conforming use.

The original rezone referenced the possibility of something unforeseen happening to the building and provided that a replica could be erected in its place in accordance with City ordinances regarding non-conforming structures. If the zone for this parcel were to be changed to GC, similar conditions of approval shall apply. The original rezone also allowed for the existing building to remain and commercial uses to continue to occur as a non-conforming uses. Minor alterations were allowed for, providing the building would not be substantially modified, and any modification to the outside of the building would be subject to requisite codes. The ordinance that enacted the original rezone of the property, allowed for "The existing building... shall be allowed to remain and retail sales and other commercial uses shall be allowed to continue as non-conforming uses." (Exhibit C).

The overriding concern is development potential of the parcel if it were to be rezoned GC. By rezoning this property to GC, the building would be consistent with the zone on the other side of Park Avenue. It would also remedy the building's non-complying structure and non-conforming use status. Although it defeats the intent of the original rezone, with out changing the zone to GC, no additional commercial uses would be allowed at this location

Dlvpt. parameter/Zone	GC	Existing
height	40' = 35' (+ 5' exception)	42'
setbacks		
Park Avenue	20' (30' FPZ)	47'
Empire Avenue	20'	40'
Rear(west)	10'	78'
Side(north)	10'	84'

Department Review

The request has been discussed at a Staff Review Meeting, where representatives from local utility companies and City Staff were in attendance and found it to be in conformance with all requisite City development codes of which we are currently aware.

Notice

The property was posted and legal notice was also put in the Park Record. Staff has received eight phone calls, however, none expressed sentiments against the proposal. No written public input regarding the CUP or zone change has been received by the time of this report.

ALTERNATIVES

1. The Planning Commission may forward a positive recommendation to the City Council on the zone change request, or
2. The Planning Commission may forward a negative recommendation to the City Council on the zone change request, or
3. The Planning Commission can continue the discussion on the zone change request.

SIGNIFICANT IMPACTS

There are no significant environmental or fiscal impacts with the CUP or the re-zone. The property and sales tax revenue would be advantageous to the City with the possible commercial or residential expansion at this location. By changing the underlying zoning to GC, it could possibly allow significant further development at this location which could compromise the intent of the FPZ and damage a main entry corridor into the City.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION

A stipulation of the parcel's original rezone to ROS allowed for the continuation of the existing retail sales and other commercial uses. This may allow for the addition of a separate use without a Rezone.

RECOMMENDATION FOR ZONE CHANGE APPLICATION

Staff recommends that the Planning Commission open the public hearing, consider any public input and consider Staff's recommendation to approve the zone change from ROS to GC based on the following:

Findings of Fact:

1. The discussion in the Analysis section is incorporated herein.
2. The metes and bounds parcel where Cole Sport is located is zoned ROS (Recreation Open Space).
3. Cole Sport is a Non-Complying Structure and Non-Conforming Use.
4. The owner has stipulated that the existing building setbacks will not change from the current configuration.
5. The existing front setback at Park Avenue is 47'. The minimum setback allowed by the GC Zone is 20'.
6. The existing front setback at Empire Avenue is 40'. The minimum setback allowed by the GC Zone is 20'.
7. The existing rear (west) setback is 78'. The minimum setback allowed by the GC Zone is 10'.
8. The existing side (north) setback is 84'. The minimum setback allowed by the GC Zone is 10'.
9. The existing GC Zone is separated only by Park Avenue and two of four properties of this properties intersection are zoned GC.

Conclusions of Law:

1. There is good cause for this zone change.
2. The zone change is consistent with the Park City Land Management Code and General Plan.
3. The existing building and use, and proposed use meet the Purpose statement of the GC (General Commercial) zone.
4. Approval of the zone change, subject to the conditions stated below, promotes the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The setbacks of the property shall remain as follows: Park Avenue 47'; Empire Avenue 40'; Rear (west) 78'; side (north) 84'. No further expansion is allowed beyond the existing building edges.
2. Any future expansion in height shall meet the height requirements of the underlying zone.
3. In the event of damage or destruction of the existing building, any new structure would be required to meet the setbacks of the existing building as depicted on the site plan dated October 11, 2000 (ExhibitD).

EXHIBITS

Exhibit A - Location Map
Exhibit B - Current Zoning Map
Exhibit C - Original Rezone Ordinance - 8/13/87
Exhibit D - Site Plan
Exhibit E - Legal description of the property from Title Report - 9/12/00

M:\CDD\Jen\CityCouncil\Rezone\colerezone.wpd

Exhibit D – October 11, 2000 Planning Commission work session minutes

Work Session Notes
October 11, 2000
Page 8

CONF. RE. JC
WORK SESSION
DRAFT 10/12/00

Commissioner Hier asked if Carriage House had been informed. Planner Kuhlow replied that they were notified, but she has received no comment.

255 Main Street, Conditional Use Permit for telecommunications facility

Planner Kuhlow reported that this proposal is for eight wall-mounted antennas on the Treasure Mountain Inn building, with the mechanical equipment being located in the garage. She explained that she received a number of calls from the neighbors and expected that many would attend the public hearing. The neighbors are concerned about health impacts, and because Metricom is not regulated by the Federal Telecommunications Act, the Planning Commission can discuss health issues. She distributed copies of Metricom's health impacts study.

1615 Park Avenue - Conditional Use Permit for construction in the Frontage Protection Zone and an application to rezone Recreation Open Space to General Commercial

Commissioner Zimney commented on the reference to significant impacts stating that there are no environmental or physical impacts, but if the zone were changed it would allow significant further development at that location and would compromise the Frontage Protection Zone on the entry corridor. She asked for clarification of those statements. Administrator Putt explained that a rezone to GC would allow the historic use of the building and the present use of the building to operate in a manner that is not a non-conforming use. For future development of the property, uses are permitted in the GC zone that are not allowed in the current ROS zone. To address this issue, an agreement has been worked out with the applicant to include a condition of approval that there will be no further building expansion beyond the existing defined building setbacks. Another condition would also limit the building height with the current height. The objective is to avoid redevelopment and big projects, and the Staff believed that had been accomplished.

MENTION UNAN. VOTE
- COMM CONCERNS

Commissioner Hier noted that the zoning map is incorrect. Administrator Putt agreed.

Commissioner Larson did not agree with changing the zoning to ROS, and he believed the zoning should be the same as adjacent properties.

Commissioner Powers asked about the non-conforming sign. Administrator Putt replied that the Community Development Director looked behind the sign and found that the roof was modified to a shed roof and that the sign is sitting on the eave, with a small dormer added to support the sign. If the sign were to be removed, it would leave a strange crick in the roof or the roof would have to be redone. The Staff did not feel that redoing the roof was a reasonable request. The Staff recommended that Finding 12 be eliminated and that the word "existing" be deleted from Condition 5.

Commissioner Hier asked if the building infringes further into the setback than the zoning allows. Administrator Putt replied that it exceeds the required setback. Commissioner Hier asked about the distinction between this request and Adolph's. Administrator Putt explained that the distinction with Adolph's is that the area they are enclosing is within the 30-foot, no-build zone. This project is well back from the 30-foot, no-build zone but is within the 100-foot Frontage Protection Zone.

Planner Weidenhamer reported that he had not received any negative input, and the phone calls he received indicated acceptance of this construction within the FPZ. The Park Avenue Home Owners Association expressed concern about parking in the back and access to their development.

226 Marsac Avenue - Conditional Use Permit for construction on a steep slope

Exhibit E – October 11, 2000 Planning Commission meeting minutes

Planning Commission Meeting
Minutes of October 11, 2000
Page 24

COLE PL-ZONE

DRAFT RED-MTG
10/12/00

Chair O'Hara noted that the Planning Commission discussed this item during work session, specifically regarding the impacts of the wall. The renderings showing the transparent wall did not indicate the impact and, in fact, looked like an additional floor. The Planning Commission would like to see something that visually demonstrates the impacts.

Commissioner Hier felt that the east and south sides were most visible.

MOTION: Commissioner Powers moved to CONTINUE this item. Commissioner Volkman seconded the motion.

VOTE: The motion passed unanimously.

6. 1615 Park Avenue - Conditional Use Permit for construction in the Frontage Protection Zone and an application to rezone Recreation Open Space to General Commercial

Planner Weidenhamer reviewed the first proposal for a Conditional Use Permit for construction in the Frontage Protection Zone and the second proposal to rezone Recreation Open Space to General Commercial. The Staff recommended that the Planning Commission conduct a public hearing and approve the CUP and forward a positive recommendation to the City Council for the rezone according to the findings of fact, conclusions of law, and conditions of approval as amended during the work session.

Chair O'Hara opened the public hearing.

There was no comment.

Chair O'Hara closed the public hearing.

MOTION: Commissioner Larson moved to forward a POSITIVE recommendation to the City Council for the zone change from Recreation Open Space to

General Commercial and to APPROVE the conditional use permit for construction in the Frontage Protection Zone at 1615 Park Avenue with the findings of fact, conclusions of law, and conditions of approval. Commissioner Hier seconded the motion.

Commissioner Zimney noted that the original rezone from RD to ROS was to prevent future development and expansion of the site and to protect the FPZ. She asked if that protection would still exist if the rezone were granted. Administrator Putt replied that the FPZ remains unaffected by the underlying zone.

VOTE: The motion passed unanimously.

Zone Change Application

Findings of Fact - 1615 Park Avenue

1. The metes and bounds parcel where Cole Sport is located is zoned ROS (Recreation Open Space).
2. Cole Sport is a non-complying structure and non-conforming use.
3. The owner has stipulated that the existing building setbacks will not change from the current configuration.
4. The existing front setback at Park Avenue is 47'. The minimum setback allowed by the GC Zone is 20'.
5. The existing front setback at Empire Avenue is 40'. The minimum setback allowed by the GC Zone is 20'.
6. The existing rear (west) setback is 78'. The minimum setback allowed by the GC Zone is 10'.