PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
FEBRUARY 10, 2011

Present: **Mayor Dana Williams; Council members Alex Butwinski; Candace Erickson; Joe Kernan; Liza Simpson; and Cindy Matsumoto**

Tom Bakaly, City Manager; Mark Harington, City Attorney; Michael Kovacs, Assistant City Manager; Bob Kollar; Joint Venture Manager; Jon Weidenhamer, Economic Development Manager; and Matt Cassel, City Engineer

Karen Weiss, Executive Director of Tour of Utah; Matt Ripken, InterPlan

1. Council questions/comments. Cindy Matsumoto stated that the Library Board is completing its long-range plan and top priorities for next year include an upgrade of on-line catalog software and an additional .25 position for children's programs. Friends of the Library will be holding its annual luncheon on October 13, 2011. Alex Butwinski shared business addressed by the Planning Commission including transfer development rights. A positive recommendation will be forwarded to the City Council. PC Heights was reviewed as well as Design Guidelines. He has observed good use of the cleared Holiday Ranch Loop sidewalk and Ms. Erickson agreed. She commented on the recent Visioning Session and felt that most issues the City deals with are minor compared to other cities. Liza Simpson thanked staff for producing the Visioning Session. The meeting with the Historic Preservation Board and the discussion on Bonanza Park were productive and she appreciated a look back at the year. She spoke about going to the state legislature, and attending the Lodging Association, Mountainlands Community Housing Trust and co-housing meetings. Joe Kernan discussed the Visioning Session and noted that the Employee Discharge and Transfer Board is meeting. He also attended the co-housing meeting.

Mayor Williams believed that the 2011 Visioning Session was one of the better retreats. He attended the public hearing on MIDA hosted by Summit County and wholeheartedly believes that citizens make a difference. The Mayor recognized the work of lobbyist Dave Stewart on this matter. Some of the public input at the hearing was very dramatic and emotional but he expressed that members of MIDA are honorable and respectable people and are not corrupt. The negotiation team has done a really good job but MIDA chose not to accept the terms. He thanked both resorts for the phenomenal FIS event.

2. Legislative update. Michael Kovacs addressed bills having the highest impact on Park City. HB135, sales tax redistribution revisions, is so complicated that a budget analyst is needed to administer it. ULCT has pledged to fight it. SB76 may be a companion bill. HB72, school equalization, did not make it out of committee and HB65 is a multi-million redistribution bill as well. HB78, developer fees, will not penalize the City.

Mr. Kovacs explained that SB231, film enterprise zone, is currently a box car bill with no language yet. Developers in other communities have seen what is happening here and are contacting their legislators to change zoning to accommodate their projects. There is a lot of support to stop this bill. It is anticipated that other commercial uses will be requested in conjunction with the film studio.

Michael Kovacs discussed SB243, the historic areas or sites amendments, which places a one year moratorium on new historic districts. It also prohibits cities and counties from designating new historic zones or sites and restricts powers in place by May 10, 2011. The legislation is intended to provide a *cool off* period between developers and cities. This may impact the authority of our HPB and designating historic structures. Mark Harrington interjected that if the issues aren't resolved to the satisfaction of the state, there may be further legislation which is the bigger worry. Michael Kovacs pointed out the ultimate result of cities not being able to regulate historic districts. The bill includes higher thresholds for setting up historic districts.

The restaurant tax elimination is a boxcar with no language. HB203, 2009 energy code, has been unsuccessful so far in gaining support. HB70, illegal immigration enforcement act, will be amended because of input from cities including language allowing citizens to sue cities to mandate compliance which has been removed. Some of the *shall* language will be changed to *may*, giving law enforcement more powers. It is not anticipated that the senate will modify this bill significantly. Liza Simpson indicated that because cities expressed opposition to unfunded mandates a proposal was made to establish a fee for all remittance money being wired out of the country which would be collected by the state. These charges could be claimed on state income tax returns. Michael Kovacs indicated that he heard about this but hasn't seen it yet. There has been good progress on the immigration effort but the cost of the fiscal note may be misleading because it is very conservative. Ms. Simpson understood the concern is that the fiscal note was estimated at a spread of $4.5 to $11 million. The Mayor asked about testimony on the impacts of tourism with immigration bills. Mr. Kovacs believed that it is not a major consideration as tourism represents only 3% of the state's economy. Driver cards and property rights were discussed.

3. Tour of Utah preliminary fee waiver discussion. Bob Kollar explained that staff is asking for direction regarding the extent to which City staff should facilitate hosting the Tour of Utah in 2011 and the level of financial commitment toward the event. He explained that the reason this work session discussion is scheduled before a complete application has been submitted is because the Tour of Utah is hosting a press conference next week announcing its various host cities. He introduced Karen Weiss, Executive Director and pointed out that there are three noteworthy changes from 2010. The Tour of Utah has changed from the National Racing Calendar to the International Federation Calendar or USI. A USI sanctioned event includes more elite teams, high caliber riders and international media exposure. Park City could become known for high altitude training and as a competition venue. He explained that on the minus side, the costs increase. For a NRC event each team is responsible for its own travel, lodging, transportation, etc. but for a USI sanctioned event, the organizer or Tour of Utah in this case, is responsible for associated costs and as a result the host city sponsorship value increases.

Mr. Kollar stated that the cash contribution requested is $100,000 as well as providing City services and operational support. Staff has identified enthusiasts in the community to help support the success of the Tour and Michael Spencer has volunteered to form a committee to privately raise $100,000 in the private business community. Staff is in the process of analyzing operational assistance and will return to Council with a master festival license with specific costs. He recalled that last year the City contributed about $8,000 from the General Fund and the Chamber Bureau supplemented that with a $5,000 grant, totaling just over $13,000. Estimates for 2011 will probably be in the $15,000 to $25,000 range based on increased responsibilities. He suggested that the Chamber Bureau may supplement costs with another grant, there may be Joint Venture Fund money, or a grant application for a Restaurant Tax award could be pursued.

Another major change is that the course is changing. Last year a criterium was held and all of the teams were competing at one time. The course went up Main Street, down Swede Alley, down lower Main, then up Park Avenue on a continuous 90 minute loop late afternoon on a Saturday. This year the Tour is proposing that the City host the prologue which is the kick-off stage which brings some increased media coverage. A prologue differs from a criterium in that it is one rider at a time and a race against the clock. The course will probably start at Park City Mountain Resort or Cole Sport, up Park Avenue, finishing on Main Street but this is still being formulated. This would be a Tuesday late afternoon event. The number of patrons last year was somewhere between 10,000 and 12,000 and he felt that there will be a lot of interest in seeing high caliber racing. Mr. Kollar believed that international exposure of this popular sport will attract visitors.

The Mayor asked whether the Council will be approached later if there is a shortfall and Jon Weidenhamer explained that the letter of intent was not signed and the City has no obligation for the $100,000. Mr. Kollar added that a local organizing committee is in the process of signing a letter of intent with the Tour and if they fail to meet that commitment, the shortfall is between the local organizing committee and the Tour of Utah. In response to a question from the Mayor, Mr. Kollar explained that the economic impact of last year's event benefitted Main Street businesses but he doesn't have a report on it. He received primarily positive feedback from merchants but discussed improving the event this year with regard to the closure of Main Street. Candace Erickson believed that business owners will be happier with a Tuesday closure and discussed not being able to cross the street last year which caused problems. She was pleased to hear that a fund raising committee is being formed because $100,000 seems like a big reach for the benefit to the City received last year.

Alex Butwinski asked about the press conference. Bob Kollar stated that it is scheduled on February 16 and the Tour would like Park City to host understanding that the MFL has not been officially approved. As a fall back, there are other locations in Summit County that are in negotiations with the Tour of Utah in the event Main Street does not work for some reason. Race formats were detailed. Joe Kernan believed that $15,000 is well worth the benefits of hosting the Tour in Park City. Liza Simpson agreed. This is a great event that needed to be tweaked. She suggested surveying Main Street about the Tuesday event and felt that having Park City on the USI Calendar is a great opportunity.

Karen Weiss explained that the Tour of France ends and then 16 days later, those teams all come to Utah and five days later go to the Tour of Colorado. Cindy Matsumoto expressed her support of the event and Tom Bakaly clarified that the $15,000 represents a fee waiver or foregone revenue. Jon Weidenhamer spoke about the economic benefits. The Mayor confirmed unanimous support to move forward.

4. Traffic and Transportation Master Plan update. Matt Cassel explained that the purpose of the work session is to update Council members before the plan is presented to the public. A stakeholders meeting is scheduled on February 15 and a public open house on February 28 or March 1. Areas of interest are cross-sections, neighborhood connections and the gateway corridors.

Consultant Matt Ripken referred to goals discussed last October which haven't changed a whole lot and putting objectives in place that can be measured. Complete WALC streets, good internal and external circulation and improved accessibility are targets. The Council and public have said that they don't want a lot of widening of streets or losing the character of the town which means that in order to avoid congestion, it is important to get people on transit or walking, biking, or some other alternative mode. He added that there will be a *report card* for each goal and it is hoped that staff will return to Council every year or two and continue to address the status of goals. Mr. Ripken stated that the public has provided some input on street cross-sections and these will be presented again to the public. He spoke about the characteristics of collector streets with sidewalks, bike lanes, parking, etc.; the plan should be efficient but also landscaped. Neighborhood connections and gateway corridors are broad terms and he spoke about methods of avoiding controversy by presenting ideas early in the process.

Advantages and disadvantages are presented for each option so there is a balanced approach. Liza Simpson pointed out that it would be helpful to have numbers on Kearns Boulevard now that the tunnel is open. Mr. Ripken stated that the big gateway corridor is SR224. Summit County is planning on adding a HOV lane but the stretch from Park City Market to Jan's will get worse. Matt Cassel added that UDOT's long-range goal for 2021 to 2031 is to expand one lane on SR224 in both directions up to SR248 out to Kimball Junctions. Staff needs to analyze the plan to determine if it is really needed. Mr. Ripken relayed that the details for HOV lanes have not been determined.

Alex Butwinski expressed concerns about dumping thousands of cars into a residential neighborhood, acknowledging that the models are conceptual but some of the options seem unrealistic. Matt Cassel explained that there are only two ways into town and if there is a third way in, the City could consider it now knowing it is 30 years away. He believed this discussion is overdue and should have happened in 1981 when Deer Valley Resort came on line. Whether or not to consider a third access should be decided. Matt Ripken encouraged members to eliminate unrealistic proposals that should not be considered as a matter of efficiency. Mr. Butwinski personally wanted to see how good we are at reducing cars rather than accommodating more cars.

Joe Kernan stated that he appreciates these *out of the box* ideas and any information or suggestions to mitigate negative impacts to neighborhoods. He discussed the negative impacts of widening roads as a standard solution. Matt Cassel indicated that these points are well taken acknowledging that as soon as roads are widened, traffic and congestion increase. Alex Butwinski emphasized that by just providing another road into town as opposed to widening the road, will have the same result. Matt Cassel agreed and explained that this is an exercise in making sure that everything is considered. Mr. Ripken referred to discussions about eliminating some of these ideas based on goals, but taking them through the process seemed more comprehensive. He relayed that different alignment options are available with a tunnel.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
FEBRUARY 10, 2011

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, February 10, 2011. Members in attendance were Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Thomas Eddington, Planning Manager; Clint McAffee, Project Manager; Diane Foster, Sustainability Manager; and Kayla Sintz, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Comstock Tunnel - Matt Cassel reported that he is working with Bowen Construction on issues regarding the Comstock Tunnel.

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

1. Air Force Hotel and MIDA - Henry Sig, developer, stated that there is land in Summit County that can accommodate a Cosco and could qualify for EDC funding through the County's Redevelopment Agency. These properties are alternatives to avoid compromising open space and view sheds.

2. Treasure Project and Transfer of Development Rights - John Stafsholt, resident, reported that that the Planning Commission approved a TDR plan was last night and members limited the amount at Treasure to 22 unit equivalents which represents 10%. He encouraged Council to let the market decide and to not establish a limit, especially one that low. Thomas Eddington explained that the number was put in place as a beginning point and more work will be done on the ordinance.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JANUARY 13, 2011

Liza Simpson corrected the minutes to reflect her absence. Alex Butwinski, "I move we approve the minutes of January 13, as corrected". Joe Kernan seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Abstention

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

1. Consideration of a Professional Services Agreement between Park City Municipal Corporation and Water Works Engineers for engineering services related to the Phase I study for Water Quality Excursions in the Distribution System in an amount of $22,585 – Clint McAffee described the selection process and the qualifications of the vendor, pointing out that the fee is significantly lower than any one else. The Mayor invited public input; there was none. Liza Simpson, "I move that we authorize the City Manager to executive a professional services agreement in a form approved by the City Attorney with Water Works Engineering for engineering services related to Phase I Water Study for water quality excursions in the distribution system in the amount of $11,585". Alex Butwinski seconded. Motion unanimously carried.

2. Consideration of authorization to sell City-owned remnant parcels adjacent to Claimjumper Court, Park City, Utah to adjacent property owners, purchase agreements and deeds in forms approved by the City Attorney – Diane Foster explained that the City owns four remnant parcels located in the Thaynes Canyon Subdivision behind Claimjumper Court. There is no access to the parcels, the remnants are not of interest to the City, and it is recommended to sell them to adjacent property owners. Three of the affected four home owners are interested. The Mayor opened the public hearing; there were no comments from the audience. She read the options outlined in her staff report. Mark Harrington indicated that the deeds will return to Council for final approval. There was consensus to allocate sale proceeds to the open space fund. Alex Butwinski, "I move to authorize the City Manager to enter into one or more purchase agreements with the respective adjacent home owners, subject to final Council approval of individual agreements the Mayor will be authorized to executive the deeds". Liza Simpson seconded. Motion unanimously carried.

3. Consideration of an Ordinance approving the 508 Main Street Subdivision Plat Amendment located at 508 Main Street, Park City, Utah – Planner Kayla Sintz stated that the property is located in the HCB Zone and the building sits across a number of lot lines. The landmark structure on site has been previously known as Phoenix Gallery and is now operating as a restaurant named Silver. The applicant completed Historic District Design Review for exterior renovation work which included infilling a second level exterior deck. A condition of approval is recommended requiring that encroachments be recorded prior to certificate of occupancy. She explained that approval of the plat amendment will clean up lot lines, record the encroachments, etc. There is extensive exterior mechanical work on the second level and rear space that was not shown, reviewed, or approved and staff cited the work as it did not comply with Historic District Guidelines. Staff has been working with the applicant toward a complaint plan which may result in moving and relocating the mechanical if necessary. A bond has been secured and the work must be completed by May 12, 2011. In response to a question from Alex Butwinski, she explained that approval has been obtained for the HDDR but the mechanical work was not contemplated on the

application. This portion of the project will have to be reviewed and approved by staff. The timing on the TCO was used as leverage for compliance. Council member Butwinski suggested that this be a condition of approval and Mark Harrington indicated that Finding of Fact No. 10 could be modified and a condition could be added. However, there is an existing enforcement method through the TCO to secure compliance and Mr. Butwinski agreed that adding a condition may be redundant. The Mayor opened the public hearing and with no input from the audience, closed the public hearing. Joe Kernan, "I move we approve New Business Item No. 3". Cindy Matsumoto seconded. Motion unanimously carried.

4. ~~Consideration of the sale of a portion (35 acres) of unimproved property commonly known as the Triangle Parcel to the Military Development Installation Authority of Utah located outside of city limits in Section 27, Township 1 South, Range 4 East, Salt Lake Base and Meridian in Summit County east of US 40 and south of Home Depot and jointly owned with Summit County and approving the purchase of approximately 35 acres known as the Red Maple Parcel located north of SR248 in Township 2 South, Range 4 East, Salt Lake Base & Meridian for $2 million; contracts in forms approved by the City Attorney~~ **CANCELLED**

5. Consideration of an appeal of the Planning Commission's December 15, 2010 approval of a Conditional Use Permit for 1440 Empire Avenue - Applicant is John Paul DeJoria, represented by Craig Elliott AIA. Appellants are David and Rosemary Olsen, Rick Margolis, and Bill and Dianne Newland, represented by Bruce R Baird PC (quasi-judicial - no ex parte communications) – Council member Kernan disclosed that he has a business relationship with some of the properties owned by the applicant. The Mayor pointed out that the Council has the discretion to expand the scope of the appeal to accept information on other matters. All members preferred to stay within the parameters of the appeal.

Kayla Sintz stated that on February 25, 2010, the City Council heard an appeal of the approval of a conditional use permit granted on December 9, 2009. On March 4, 2010, the City Council adopted the Findings of Fact, Conclusion of Law, Conditions of Approval and Order. On May 12, 2010 the applicant presented rear façade modifications based on the remand and the Planning Commission requested that the building be moved closer to Empire Avenue. On December 8, 2010, the Planning Commission reviewed the project with the building moved accordingly and the new design included underground parking. The Commission directed staff to return with findings for approval that the project meets the direction of the City Council remand as well as an analysis of compliance of CUP criteria for redesigned elements. On December 15, 2010, the Planning Commission approved the CUP. With regard to the February 25, 2010 remand, Ms. Sintz noted that the appeal was granted in part and denied in part and limited to the following matters:

1. Height, scale, mass and bulk of the rear of the building shall be further modified and considered under the standard in LMC 15-1-10(E)(8);

2. Further design changes with consideration for ensuring that the proposed development transitions to and compliments the existing historic structure to the east shall be reviewed and/or further conditioned.

She indicated that the new design not only mitigates the rear façade massing issues but addresses other project concerns.

- Underground parking is an asset to building occupants and adjacent owners. Meeting zone height without utilizing height exceptions.
- Vehicular access and parking oriented away from concerned Empire Avenue property owners to the south.
- Reduced shadowing of historic properties to the east.
- Opening up rear yard view shed areas similar to other single family homes along Empire Avenue.
- Similar Empire Avenue building patterning of buildings located closer to front yard setbacks.

Ms. Sintz displayed a number of slides of the previously approved project and compared features to the proposed modified project design to illustrate addressed issues.

Bruce Beard, legal counsel for the appellants, explained the order of presentations from the appellants and pointed out that there are six issues. Parking is a problem and they have had concerns about it from the beginning because it is a moving target. Staff has been repeatedly told by the applicant that this new design complies with all parking requirements, but it clearly does not. He stated that it does not comply with ADA requirements requiring a 16 foot stall and when this was pointed out, dual use of a loading area was proposed at the last minute. He has never seen dual use for ADA parking and is uncertain if the Building Official would approve. The only other way to fix it is by shrinking the other stalls or to ask for a variance, which would have to be in the ballpark of 10% which is not minor. The City Engineer does not have the ability to grant variances under state law which is reserved for the Board of Adjustment. The parking does not comply in terms of the numbers. Mr. Beard stated that another problem is the lack of a parking plan to support the CUP approval. By allowing up to 48 beds without a plan, a finding can not be made that the parking is mitigated. He asked that even with an approved parking plan, will Council withdraw the CUP if there are violations and make them take the third floor off this building? He didn't think so, but that is what would have to be done to enforce the parking plan.

Mr. Beard stated that the second issue is density. The General Plan indicates that this is a transitional area to low density. There are nine units on 12,800 square feet which works out to approximately 30.5 units per acre which is not transitional to low density. He referred to Craig Elliott's letter in the meeting packet which addresses unit equivalents. Unit equivalents talks about 2,000 square feet of a multi-family unit equaling a unit equivalent and using this formula would result in 18 units per acre. The master plan code says medium density is five to eight units, then certainly low density is below five and therefore to use the unit equivalent definition is a more egregious density violation. The Council can not possibly make a finding that this is low density housing and it certainly doesn't transition. The only way the applicant can get close to the 12,000 square feet is an improper use of the lot combination ordinance which the appellants have brought suit against and the case is pending. Bruce Beard noted that the maximum square footage analysis would be approximately 8,000 square feet of livable space, not 12,000 square feet.

The fourth issue is determining that this design mitigates the impacts to the adjoining property owners. He displayed slides of the project and pointed out that the new design includes 12 windows and three decks which intrude on the privacy and utility of the Olson House nearby. There is no need for the decks except to punish the Olsons for opposing the project however they could be used for storage because there is little storage in the units. Mr. Beard stated that the decks facing the Olsons are not only an invasion of their privacy, but almost guaranteed to become storage. He asked if they are not permitted to be used for storage, how that will be enforced? If the decks were enclosed, then the units would be big enough to trigger additional parking requirements. He alleged that Mr. Elliott has cleverly tried to maximize uses and has created privacy and storage problems on these decks.

Mr. Beard stated that the fifth problem is the inappropriate nature of the mass and scale of this project in conjunction with the neighborhood. He referred to Mr. Elliott's exhibit illustrating larger buildings east of Empire Avenue. He acknowledged that those buildings are larger but all of these buildings were pre-General Plan which is the reason the General Plan was implemented. Park City wants to learn from its mistakes. These inappropriate buildings should not be used as a comparison to build equally inappropriate buildings. The buildings that have been built after the General Plan east of Empire Avenue have all been single family. Mr. Elliott also tries to show that the density of the single family homes is larger than the density of his project which Mr. Beard criticized.

Bruce Beard stated that the character of the adjacent single family homes is classic mountain architecture. The proposed project is simply inappropriate and is not compatible with regard to mass or scale and the only building that looks remotely like this is the Edelweiss House. He again spoke about the order of presentations. The Planning Commission was faced with an attempt by the applicant or staff to look at these limited issues on remand, but the Commission recognized that the complete redesign of the project would justify a complete review of all of the criteria and they walked through and looked at most of them which the appellants disagreed with. To approve this, there has to be a finding on all of the issues.

The Mayor asked for clarification on scope of review as Mr. Beard has brought up parking, density, improper use of lot combination, decks and mass/scale. Mark

Harrington agreed that the new design triggers application of the CUP criteria. Elements are still properly before Council, notwithstanding the limited scope of the appeal to the two issues put on remand. He emphasized that the lot combination is a final decision in which the Council no longer has jurisdiction over, not even for reconsideration. This issue is properly before District Court. Mr. Beard still insisted that Mr. Margolis address the lot combination.

Rick Margolis believed the history of the project is relevant with respect to a CUP which can not be issued without compliance with the General Plan and all provisions of the Land Management Code. The property included three lots and if it were not for the lot consolidation, we wouldn't be trying to cram this square peg into a round hole. He spoke about the split voting of the Planning Commission on this project and decisions are difficult because there is too much building, too little parking, and too many beds even though it complies with the Code. He stated that if the General Plan and the LMC were followed, the appeal would not be here. These three separate lots combined into one lot is the subject of a pending lawsuit and whether or not they are combined, the amount of buildable space on the property doesn't change. He stated that he testified at the lot combination meeting and warned members that consolidation would result in too much density. He suggested at the time that a condition be placed on the approval that no more can be built on one than could otherwise be built on three. Mr. Margolis stated that the purpose of the lot consolidation statute is to more easily manage land because you can't build across lot lines. You can't take buildable area from all three lots and combine the square footage which is being done with this particular application. He referred to Section 15-7-5(b) of the LMC, *the regulations are not intended to interfere with, abrogate, annul any other ordinance, rule or regulation, statute or the provision of law and where any provision of these regulations imposes restrictions different to the ones imposed by law under other rules, the most restrictive rules shall apply.* Mr. Margolis indicated that the lot consolidation rules also say specifically under 15-7-2(g) that the purpose is to provide the most beneficial relationship between uses of land, circulation of traffic, and congestion. He pointed out that if you don't know what can be built on the three separate lots before consolidation, how can a finding be made that this is the best use to most avoid congestion. Staff did an analysis and concluded that although the applicants are proposing a 12,000 square foot building, but for the lot combination, they could only build about 8,000 square feet. The building will be enlarged by 50% by merely removing lot lines which is causing the problems. If the third floor is removed, there are eight less beds with the same parking or more parking per bed, a lower profile building, less congestion on the street, and fewer impediments to traffic. He commented that all of the problems go away with the most restrictive interpretation. Staff has that analysis, dated February 25, 2010, showing 8,985 square feet not 12,882 square feet. All the problems go away by just following the Code which is one of the requirements for a CUP.

In order to obtain a CUP, Section 15-1-10(d) requires that the use is consistent with the General Plan. He detailed the origin of the General Plan to create a community vision and his neighborhood is called the resort base area which has specific requirements.

The area east of Empire Avenue is intended to provide skier bed base and is designated low density residential which is not defined but medium density residential is defined. The Code talks about medium density and apartment buildings require 15 foot rear yard setbacks. This project has a ten foot rear yard setback and is supposed to be low density residential. The General Plan addresses the need for affordable housing but not resort bed base and *encourages permanent residences and affordable housing* on lower Park Avenue. The General Plan specifically discourages affordable housing near Park City Mountain Resort and he read an excerpt, *to maintain the tourist residential bed base along Park Avenue in the vicinity of the Park City Mountain Resort.* His neighborhood is located in the RC zone east of Empire Avenue and is designated skier bed base. He referred to other large buildings in the area but they all predate the General Plan, the policy document guiding the future of Park City which is required to be followed for a CUP. It is not skier bed base, tourist base, low density residential, or affordable housing so the CUP can not be allowed. If the density requirements of the lot consolidation were followed, none of this would be an issue.

Alex Butwinski brought up the fact that Mr. Margolis is a skier and a tourist and Mr. Margolis clarified he is a second home owner. Mark Harrington clarified Mr. Butwinski's point being that single family meets whatever that definition is whether it is restricted to tourists or skiers or not. Mr. Margolis pointed out that it is skier bed base and Mr. Butwinski felt that if occupants ski, that they fit the definition of skier base.

Diane Newland, 1450 Woodside Avenue, stated that her property is directly behind and below the project. She and her husband didn't move here to develop property and she spoke about being 30 year residents of the community. The size, scope and scale of the project are not in keeping with the surrounding homes. They have been told by the City that they can only do certain things with their house because it is historic. Their house only became historic about a year ago and they are not located in the Historic District. She indicated that even though the building has been moved to the front of the lot, their 1,100 square foot home will still be in the shadows most of the day which places an adverse unmitigated impact on them. Three stories, underground parking and an eight to ten foot retaining wall will be like five stories. All drawings show a gradual slope to their house but it is not and is steep. She displayed an old plan where the back of the building is flat and huge. The City Council requested that the rear façade be reworked and the project returned to the Planning Commission. A newer plan seemed more aesthetic and historic looking but everything changed with the latest design and the project should be reviewed as a new application not just as a change. She displayed the new design with balconies and new windows and it is pretty straight in the back which is of concern to her. They will be hearing cars all night long because of the parking lot location. No one has suggested the type of lighting proposed. She is concerned about the windows and balconies, especially if they are used for storage and believes that people will throw garbage off their balconies. She felt that the building is very modern looking and pointed out the similarities with the Edelweiss House and Shadow Ridge which are big and ugly. The new design is a 70s or 80s style design. Ms. Newland presented a map of six proposed affordable housing projects located in her neighborhood and understood there should not be a concentration of affordable housing in one area of town. The 1440 Empire Avenue project was supposed to be affordable housing and she understood that two bedroom affordable housing units have to be 900 square feet.

Kayla Sintz explained that the 900 square foot requirement applies to deed-restricted affordable housing. If it is not deed-restricted it can be any size as long as it meets the minimum Building Code requirements. If it is converted to an affordable housing project, it has to meet the current affordable housing ordinance in place.

Ms. Newland expressed her preference for deed-restricted and owner-occupied affordable housing. She spoke about problems with the 1450 Woodside Avenue affordable housing because it is transient housing. She favored designating this project deed-restricted affordable housing with the 900 square foot requirement.

Rosemary Olson, appellant, referred to a newspaper article about the Mayor of Vail retiring two years early due to protests regarding affordable housing. She stated three things that concern her about the project, the integrity of Old Town and the resort, snow removal and parking. The Planning Commission asked that the applicant tweak the design and all that was done was darkening the rendering. She discussed the project in relation to their house and complained about the location of the exhaust vent and the elevator shaft on the main level wall adjacent to their house. Usually these elements are located in the middle of the building because they are noisy. Ms. Olson did not feel the project transitions and pointed out that the building in angled so that the project's windows look into their backside windows. This places a burden on them. Some of the balconies have storage, but the balcony on their side has no storage. Snow is a big issue and she questioned the feasibility of the snow removal plan which will drain into the Newland's property. The applicant has not explained how the drainage will work and she wants to know now, not later, so there isn't a burden on the Newlands or them. Currently there is a parking issue with the Snowshoe Inn which has 18 units and a parking space for each bedroom. It is always completely full and she has had to have illegally parked cars towed. The entrance to the project building comes from the street so repairmen will park along the street where there is no street parking. The Snowshoe Inn has a manager who is watching the property. Ms. Olson believed this project will turn into a dormitory with inadequate parking and the ADA parking should be accessible 24/7. She alleged that when she has had cars towed, there is retaliation. Ms. Olson stated that in reality the Snowshoe Inn is employee housing and there are major problems. She spoke at length about proposed affordable housing in the area and the impacts on the Newland property. The building is too big and intrusive. Rosemary Olson stated that at the end of the day the City Council is supposed to represent her and the neighborhood that is already paying taxes. The City Council is supposed to protect her as much as the developer and it should not be her burden to show but their burden to show. She asked if Council can guarantee that the project isn't going to be a burden on anyone. Is there a process? Who is managing this? Is there an HOA? Can you guarantee that there won't be mechanical impacts? Does this in reality represent her as equally as it does the applicant? She doesn't feel it does.

Dave Olson, adjacent property owner, believed the dialog on skier bed base is a non-issue as they are single family which is an allowed use. A finding has to be made about the increase in scale and that impacts have been mitigated on the neighborhood. Transitioning has been brought up and the project will be the highest building on the east side of Empire Avenue and the only building that has been built since the General Plan was implemented that is other than single family. The reason for that is that his builders and others were told they could not build to that density. He and his wife bought their property based on the General Plan map showing low density, knowing something would be built, but this application is not in keeping with what has been built up and down the street. Careful planning has been to maximize density. Mr. Olson pointed out that instead of designing 650 square foot units which would require more parking, the applicants are proposing 645 square feet. Instead of putting a closet inside that would take up additional space and lop off a number of units, storage is placed outside on the decks on the rear and the storage facing their homes is just there to be used. The Snowshoe Inn has bunk beds and if bunk beds were used in this project, there would be 96 beds while twin beds result in 48 beds on this narrow piece of property. Mr. Olson stated that the planning has been to minimize parking, maximize density, and to get the most bodies there of a transient nature. Although it may be desirable, it is not consistent with the General Plan and clearly represents more density and mitigation seems to be running in reverse. The applicants are treating this another way and after density is created to the max, they are doing little things to help it. He emphasized that the building is still five stories, an eight to ten foot retaining wall, a one story parking structure, and three stories. This goes back to a point made by Mr. Margolis. If maximum density was designated at 8,700 square feet, which could have been determined at the lot consolidation, we wouldn't have these problems.

Craig Elliott, Elliott Work Group representing the applicants, stated that all of the things that were brought up earlier can be responded to although they were not part of the remand. He asked members for their preference. Cindy Matsumoto asked for clarification about discussing these issues as Council voted not to expand the appeal, but the City Attorney indicated that the application has changed enough to be reviewing a whole new project. He added that most of the issues have to do with the design and the remand resulted in the design changes as opposed to the density and lot combination issues. Staff's response about the General Plan and the lot combination points were summarized and incorporated by reference to the prior arguments that staff had made, and not part of the remand. Design, parking, density, transition, mechanical, and snow removal are issues regardless of whether they relate to the rear façade. If the issues are resulting from changes to the design, those are squarely before Council on this remand. It does serve members to go through all of the elements of the CUP criteria with regard to all those issues. By way of exclusion, the lot combination, density, and General Plan issues are already incorporated. These concerns are on the record and members have not heard anything new. Alex Butwinski indicated that he has personally heard the Planning Commission proceedings and suggested that Mr. Elliott briefly explain the history of the design. He asked Mr. Elliott to comment on the difference of looking at what you see in a plan elevation versus what you see when it is actually built including building articulation.

Craig Elliott stated that after the remand, the rear of the building was redesigned. The roof form was lowered, reducing impacts in the rear, and shadow studies were conducted. Minor modifications were made upon request and the Planning Commission determined that the application met criteria. However, the Planning Commission then asked that the building be moved forward acknowledging that all of the criteria of the remand were met. He advised the Commission that the redesign will result in a significantly different building. Mr. Elliott noted that he briefly talked with a couple of the neighbors and explained some of the issues that might come up and there was support in moving the building forward. The new design returned to the Planning Commission and they have been compliant with every request from the Planning Commission or City Council. All of the parking was placed underground, the design was changed completely, the rear was lowered and moved 20 feet away from the historic building, which reduced the height and the shadowing. He pointed out that the shadow studies actually showed the buildings around the property cast more shadow on the historic structure than the proposed building. He displayed a site plan presented to the Planning Commission several years ago. The property and adjacent lots were owned by his client and the property was subdivided to allow the neighbors' houses to be built. This should be considered in context with the discussion on the plat amendment and changes to the zone. The owner created the opportunity for the neighbors, making it a unique situation. He alleged that Mr. Beard was able to quote something out of context in the Code. He read the Code, *Lot line adjustments. The Planning Director may approve a lot line adjustment between two lots without a plat amendment within the corporate limits of Park City if. . .*but he can't do it in a way that allows more to be built on the property. They didn't do that, but went through a plat amendment process. They are not trying to pull the wool over anybody's eyes, it is just a process outlined in the Code. It is just irrelevant. With regard to the low density designation in the General Plan, Mr. Elliott pointed out that it goes all the way over to the HR-1 Zone or Old Town which is considered to be low density but is twice as dense from what is being proposed. Mr. Elliott stated that they are definitely low density in the project and it's simple to figure out the calculations. They are not trying to hide anything. Applicants are allowed to go through a CUP process.

He displayed the new plan and pointed out that the whole back of the Olson House is a deck and he is concerned they will be looking into the project's decks and windows. The Olson property is only three feet away from the property line while this project has set-backs of over ten feet and in some instances 18 feet from the property line. Mr. Elliott explained the air intake mechanism used to ventilate the garage which draws the air in and pumps it out through the roof in a chase that is located in the back rear corner. You can't see it or hear it; there are no issues with that. He referred to the revisions allowing the ADA parking. The only reason the elevator is in the lower level of the building is to best serve the ADA parking stall. Mr. Elliott felt that the neighborhood houses really look more like Deer Valley houses, not Old Town houses or Park City Mountain Resort houses. In his opinion as an architect, he doesn't believe that what they have designed looks like a 70s or 80s building and everybody has opinions about architecture, scale and massing and he is not sure these neighborhood houses are appropriate in their location. He again referred to the displayed site plan. The reason the building is angled toward the neighbor's house is so it lines up with the street front, which improved the distance away from the Olson House, moving it farther away. In this zone, a single family house can be three feet away from the property line, but this building is required to be ten feet away but they went beyond that to reduce the impact to the neighbors in that location. Mr. Elliott showed slides illustrating his point and pointed out the retaining wall and vegetation proposed to create a softer look in the back. The building massing facing to it is similar in scale and scope. There is a tremendous amount of articulation, materials are contextual, and there is no garage door facing Empire Avenue. All of the parking is underground which is a major accomplishment. They are trying to provide housing for two reasons. The developer and owner are being responsible by trying to bring in their affordable housing before the development project. Mark Fischer developed 24 units in Rail-Central and never needed to dedicate them. He is trying to fulfill affordable housing requirements for future developments which is commendable. Also they are trying to build housing for people in the service industry who have no voice right now and there is a huge demand for this type of housing. Leasing big homes to a number of renters as affordable housing is not what we really want for transient affordable housing. Mountainlands Community Housing Trust or the Christian Center can easily relay the housing needs in the community. The reasons they are doing this are straight-forward.

Alex Butwinski asked about a solution for the drainage. Craig Elliott stated that they have talked with the City Engineer and they know they can solve it in a couple of ways. Currently, about 40 feet of snow is stacked on the property and with this project, there will be less snow and drainage run-off than what has been there for the last several years. Snow removal and storage impacts will be greatly reduced from what has been experienced there historically. In response to a question from Mr. Butwinski, Mr. Elliott explained that requirements are in place for lighting and since it is not technically a parking lot, lighting might not be required. If there is exterior lighting it will be bollard lighting. Mr. Butwinski asked about elevator noise and Mr. Elliott responded that there is no issue as there will be no noise problem. Cindy Matsumoto expressed her appreciation for moving the building 20 feet forward and asked if the rear wall is articulated. Mr. Elliott stated that it is quite articulated and the Code requires it. He displayed a rendering and emphasized that the building is farther away and significantly lower, consistent with the direction given through the remand. The Mayor invited public input; there was none.

Bruce Beard stated that it is hard to hide nine units and 48 people and they have never said that Mr. Elliott is trying to hide it, but trying to cram density inappropriately. Single family units are permitted but this is a CUP so the discussion about single family use is generally irrelevant with regard to density, acreage, and proximity. As a CUP, it has to meet different requirements than a permitted use and must mitigate the harm that it creates on the permitted uses. They have pointed out a number of ways in which it doesn't, including but not limited to, parking, privacy, mass, etc. They keep hearing that it's affordable housing, but it's not qualified deed-restricted affordable housing and saying your building affordable housing in advance of needing it doesn't make a lot of sense when what is being built won't qualify as affordable housing. Secondly, the people Mr. Elliott is talking about are not defined as skier bed base but employees. This is an employee housing project, not skier bed base and not affordable housing. It is not low density. Thirty units on an acre isn't low density. He relayed that the red herring is saying that the property has historically been used for snow storage and there will be less snow with this project which doesn't mean that it will not impact the property below it. This project is a square peg in a round hole and this isn't careful planning in terms of mitigating the impacts on the neighborhood but careful planning to squeeze literally every single human body you can on a space where that many people simply don't go.

Alex Butwinski recalled the Planning Commission determining that use as affordable housing is irrelevant to the application. Deed-restricting the property would occur after the completion of the project and Mr. Butwinski felt this argument is a non-issue. The City Attorney agreed. The distinction between skier bed base and employee housing was debated again. Alex Butwinski referred to Mr. Margolis' statement that all Planning Commission votes on the project were split, but pointed out that the last approval on December 15, 2010 was unanimous. Mr. Margolis explained that December 8, 2010 was the meeting he attended and he couldn't attend the last meeting. Mr. Butwinski assumed he read the minutes to prepare for the appeal and would be aware of the unanimous vote. Rick Margolis stated that he did not read the minutes and commented that at the last hearing he attended, Mark Harrington pointed out that the scope was so narrow that there wasn't much to talk about and approval was a matter of general compliance. The City Attorney confirmed that the Planning Commission vote was unanimous.

The Mayor presented options to members. He asked about the 48 tenancy number and it was explained that it represents two people per bedroom. Ms. Simpson believed that if the project application was for an affordable housing project, it could receive more density. The City Attorney explained that it would be eligible to apply for greater density, but it is not a given and the property has physical constraints so it may or may not be granted. The Mayor asked about compliance with ADA parking requirements and Kayla Sintz indicated that the parking plan complies. In response to a question from Candace Erickson, Mark Harrington explained that if the appeal is denied, the lot combination lawsuit will continue. This approval is contingent upon the plat recordation and a pending lawsuit doesn't stay the approval unless there is an injunction.

Alex Butwinski, "<u>I move to deny the appeal of the Planning Commission's December 15, 2010 approval on the conditional use permit for 1440 Empire Avenue</u>". Liza Simpson seconded. Mark Harrington asked if members have reviewed and accepted the draft findings, conclusions and conditions outlined in the staff report. Alex Butwinski stated that he has no changes. Motion unanimously carried.

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

VII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 5 p.m. Members in attendance were Mayor Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Diane Foster, Sustainability Manager; Jonathan Weidenhamer, Economic Development Manager, and Mark Harrington, City Attorney. Joe Kernan "I move to close the meeting to discuss litigation and property". Cindy Matsumoto seconded. Motion carried unanimously. The meeting opened at approximately 6 p.m. Candace Erickson, "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, City Recorder