

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
SEPTEMBER 26, 2012

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Brooke Hontz, Stewart Gross, Mick Savage, Adam Strachan, Charlie Wintzer

EX OFFICIO:

Planning Director, Thomas Eddington; Katie Cattan, Planner; Kirsten Whetstone, Planner; Francisco Astorga, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Worel called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Thomas, who was excused.

ADOPTION OF MINUTES – September 12, 2012

Chair Wintzer referred to the first page under Roll Call and replaced Chair Wintzer with Chair **Worel**, to read “Chair Worel called the meeting to order”.

Commissioner Strachan referred to page 18 of the minutes, the Conditions of Approval for 429 Woodside. Condition #4 was corrected to replace footprint with **floor area** to read, “...the maximum **floor area of 660 square feet.**” A typo in Condition #5, first sentence, was corrected from exiting to correctly read **existing**.

Commissioner Hontz referred to page 22 of the minutes, first paragraph and replaced City Council with **our Counsel**, to reflect her stated intent for review by legal counsel

MOTION: Commissioner Strachan moved to APPROVE the minutes of September 12, 2012 as corrected. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously by those in attendance on September 12, 2012. Commissioners Wintzer and Savage abstained since they were absent from that meeting.

PUBLIC INPUT

Alan Agle, a credited professional with LEED and a green building consultant, stated that a year ago he received a call from Habitat for Humanity indicating that they were doing a new build on land donated by the City. Habitat for Humanity was enthusiastic about green measures and started

with one certification. Habitat for Humanity was exemplary and the build was incredible. Mr. Agle announced that the building had achieved the Third Green Platinum Certification in the State of Utah. A small ceremony would be held the following day to place the plaque on the building. Mr. Agle stated that Habitat for Humanity not only has a strong commitment to sustainable and green building, but they also recognize it as a payback to the City for the land donation. Mr. Agle remarked that the project would need no irrigation water after the first year and it is totally xeriscaped. Runoff water will be kept on-site and out of the storm water system. He pointed out that many things go with green building, and Habitat for Humanity did it all.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington reported that the Planning Commission meeting on October 24th would begin at 5:00 p.m. The City Council has been invited to join the Planning Commission at 5:00 p.m. to hear a presentation from the Gateway Planning Group on the first draft of the Form Base Code for Bonanza Park.

Director Eddington noted that the Staff was still pursuing a date for a joint meeting with the Snyderville Basin Planning Commission.

Chair Worel announced that the Master Planned Development portion of the Land Management Code Amendments would be continued to October 24th. Anyone wishing to make comment this evening was welcome to do so; or they could hold their comments for the October 24th meeting when the Planning Commission would have that discussion.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 7700 Stein Way, Stein Eriksen Lodge – Amendment to Record of Survey (Application #PL-12-01616)

Planner Kirsten Whetstone reviewed the request for an amendment to the Stein Eriksen Lodge Record of Survey Plat. It is the Second Supplemental Sheet for all phases of a Special Sheet called the Common Area. The first Supplemental Sheet was approved in 2009 for the Spa addition.

It is an ownership issue and a designation on the record of survey plat that identifies structures in the common area. The ownership of the land would remain as Common area with the HOA. The request is to add approximately 4300 square feet of support meeting space enclosed in a structure.

The Deer Valley MPD allows 5% of the total residential square footage of 198,000 square feet to be support commercial, which is the Spa and the restaurant; and an additional 5% for support meeting space. Planner Whetstone remarked that Stein Eriksen Lodge currently has approximately 5,566 square feet of meeting space. This request would add an additional 4361 square feet for a total of 9,900+ square feet of support meeting space.

Planner Whetstone noted that significant background and history was outlined in the Staff report. The Staff had reviewed the issues relevant to plat amendments, as well as other issues such as parking and traffic. Since this is additional support meeting space to support the existing residential, the Staff determined that parking demands and traffic would not be increased.

Planner Whetstone reviewed the plat to orient the Planning Commission to the proposed changes. She indicated a proposed Porte Cochere structure that is also part of this application, that would be constructed at the front entrance. Planner Whetstone presented visuals to show how the porte cochere and meeting space would be viewed from various locations. She noted that it was not visible from most locations; and when it was, the visibility was minimal.

The Staff recommended that the Planning Commission conduct a public hearing, consider input, and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval outlined in the draft ordinance.

Russ Olsen, CEO of the Stein Eriksen Lodge, acknowledged that he has been before the Planning Commission on several occasions; but the reason is always to enhance what exists at the Lodge and to provide better service. He noted that in 2000 the Plaza was added as open space on top of the conference center, with the intent of using that outdoor facility for events for guests and groups that came to Stein Eriksen Lodge. He stated that due to uncooperative weather, they always end up moving people into space that is not always large enough for the event. Over the years they looked at alternatives and came up with a solution to enclose the open area and use it for events moving forward. It would be out of the weather and the event would not have to be moved.

Mr. Olsen envisioned the meeting space as being able to serve the existing group base who have meetings in the lower ballroom. They could be moved upstairs into the enclosed area and afforded dining opportunities. Mr. Olsen stated that the project would not generate additional traffic or parking. It would be solely to serve the existing group base in a better way than in the past. He pointed out that the porte cochere was a definite enhancement. It would protect arriving guest from weather elements and create a better arrival experience. A rendering was presented showing the enclosed meeting space and the porte cochere. Mr. Olsen stated that the project would be internal and surrounded by existing condos and residences; and it would not be visible. Construction would also be internal and would only impact the guests staying at Stein Eriksen.

Mr. Olsen hoped the Planning Commission would see the justification for this project and how it would enhance what they offer their guests and for the residents/owners.

Commissioner Gross favored the idea because he has been to Stein Eriksen during snow storms. He was concerned about buses and asked about height clearance. Mr. Olsen replied that the clearance was 15 feet and it would allow a bus to turn around underneath the porte cochere.

Commissioner Savage referred to the visuals and asked how they orchestrate a line of sight from those across the street. He asked if it was from ground level, the second story or from another point. Mr. Olsen remarked that the conference center is surrounded by existing Stein Eriksen condominium buildings. The roofline of the Lodge is higher than other Stein Eriksen buildings; however the neighbors are down lower and would not be able to see over the existing condominiums.

Planner Whetstone stated that the vantage points outlined in the LMC are measured 5 feet from ground, essentially at eye level. Commissioner Savage wanted to know what controlled the

vantage points and how the five feet is measured. Commissioner Savage clarified that his question was not related specifically to this application. He wanted a general understanding of the requirement for establishing an acceptable vantage point. Commissioner Strachan pointed out that specific vantage points are identified in the LMC. On projects such as this application, where vantage points are identified in the Code, it is typically a cross canyon view. Planner Whetstone stated that she requested that the applicant provide visuals based on calls she received from surrounding properties of Black Bear, Mount Cervin and Goldener Hirsch wanting to know how this addition would look from their properties.

Chair Worel opened the public hearing.

There was no comment.

Chair Worel closed the public hearing.

Commissioner Gross thought the proposal was a great addition.

Commissioner Hontz echoed Commission Gross. She also believed the porte cochere would add to the arrival statement and help direct the tourists. Commissioner Hontz appreciated Commissioner Savage's comments because it is important to understand where the vantage point is measured from. In looking at the visuals provided, she was comfortable with the fact that they had to go higher before they produced a visual where it could be seen.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the Stein Eriksen Lodge condominium record of survey plat, according to the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Stein Eriksen Lodge

1. The property is located at 7700 Stein Way.
2. The Stein Eriksen Lodge is located in the RD-MPD zoning district.
3. The property is subject to the Deer Valley Master Planned Development, as amended.
4. The Deer Valley Master Planned Development (11th Amended) allocates 66.75 units of density to the Stein Eriksen Lodge multi-family parcel. There are currently 65 residential units of varying sizes totally 197,858.26 square feet due to the use of unlimited size Deer Valley units when developing this parcel.
5. On August 27, 2009, the City Council approved a First Supplemental Sheet for all Phases of the Stein Eriksen Lodge Common Area reflecting improvements and addition to the spa

building, as support commercial space, within the existing platted common area. The First Supplemental Sheet was recorded on June 23, 2010.

6. On July 13, 2012, members of the Stein Eriksen Lodge Owner's Association, Inc. voted to expand the common area and enclose the Plaza Terrace and to add a Porte Cochere for the benefit of the members.
7. On July 20, 2012 the Stein Eriksen Lodge Owner's Association submitted an application for a Second Supplemental Sheet for All Phases of the Stein Eriksen Lodge condominium record of survey to reflect proposed changes to the existing platted Common area to construct 4,361 square feet of enclosed meeting space located on the 4th level of the Lodge (above the exiting large meeting room). With this addition, there would be a total of 9,927 square feet of support meeting space.
8. The area is currently used as outdoor meeting space and the proposal would enclose this area to be better utilized throughout the year.
9. The additional meeting space is proposed to be constructed primarily on the paved patio area above the existing lower level meeting rooms. An additional 3,600 sf of building footprint is proposed where the building is not proposed over existing footprint.
10. The height of the addition complies with the allowed height of 35' from existing natural grade and is 29' from existing natural grade. A Porte Cochere is also proposed to be constructed to provide protection from the weather and elements at the front entry. Exterior materials and architecture are proposed to match the existing buildings.
11. The application was deemed complete on August 3, 2012.
12. There are currently 5,565 square feet of support meeting space within the Lodge.
13. The Deer Valley MPD allows a square footage amount of support meeting space equal to 5% of the total residential floor area. A total of 9, 927 square feet of meeting space is allowed based on the 197,858.26 square feet of residential floor area.
14. The proposed Supplemental Sheet amended plat record of survey is consistent with the 11th Amended Deer Valley Mater Planned Development. The total meeting space would not exceed the allowed 5% of the total residential floor area.
15. No changes are proposed to the support commercial areas or to any residential or private area within the building or site.
16. The proposed amendment maintains a minimum of sixty percent (60%) open space, actual 61.9%.
17. There is good cause for the proposed amendment to the record of survey in that the amendment reflects proposed physical changes to the common area and includes support

meeting space consistent with the Deer Valley MPD. The enclosed meeting space will provide for more all season use of the area.

Conclusions of Law – Stein Eriksen Lodge

1. There is good cause for this amended record of survey.
2. The amended record of survey is consistent with the Park City Land Management Code, the 11th Amended Deer Valley MPD, and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed amended record of survey.
4. Approval of the amended record of survey, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – Stein Eriksen Lodge

1. The City attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The plat shall be recorded prior to issuance of a certificate of occupancy for the proposed meeting space.
4. All conditions of approval of the Deer Valley Master Planned Development (11th Amendment) shall continue to apply.
5. As common area, the meeting space is not a separate commercial unit or units, and as such may not be separately sold or deeded.
6. All required disturbance and impact fees will be calculated based on the building permit application and are required to be paid prior to issuance of a building permit.

**2. Richards/PCMC Parcel – Annexation Petition
(Application #PL-12-01482)**

Planner Kirsten Whetstone reviewed the request for an annexation of two parcels. One is the 9.74 open space parcel owned by Park City Municipal Corporation along Highway 224. The property is owned by the City but it is located in the County and under County jurisdiction. The second parcel is 13.5 acres commonly known as the Richards Farm. Planner Whetstone noted that the

application is the Richards/PCMC Annexation and the co-applicants are Frank Richards and Park City Municipal.

Planner Whetstone noted that the Planning Commission previously reviewed this application and the associated materials and exhibits. Since Commissioner Gross was not on the Planning Commission at the time, Planner Whetstone had provided him the same information to review for this meeting.

Planner Whetstone stated that the request was for ROS zoning on the City Parcel and SF, single family zoning, for the Richards parcel. The applicant was requesting a seven lot subdivision plat. Per City requirement, any large parcel annexation application must also include a master planned development. If the annexation area is less than the MPD requirement, the City requests a preliminary subdivision plat, which was submitted with this application.

Planner Whetstone presented the proposed preliminary subdivision plat. She noted that during the meeting on May 9th, the Planning Commission requested additional information on house sizes in the area, information regarding the conservation easement, wetlands delineated on the subdivision plat, and location of the building pads; taking into consideration the new required setbacks from the wetlands. Planner Whetstone clarified that a perpetual conservation easement has been provided on the City parcel with no density. The delineated wetlands were identified in orange on the preliminary subdivision plat and a dotted line 50 feet away from the red color were the required wetlands setback areas.

Planner Whetstone identified the changes made to the preliminary plat since the last meeting. One change was that Lot 1 had been reduced in size to 1.29 acres. Lots 3 and 4 were previously one single lot. The Staff would have been comfortable with the larger lot as an equestrian lot; however, the neighbors were concerned that it was not in character with existing development. The applicant was interested in having property in the area that was not horse property. Planner Whetstone remarked that another major change was the addition of Lot 7. Planner Whetstone noted that she had not received the revised preliminary site until after the packets were sent, which was why Lot 8 was not shown in the Staff report. Lot 8 was an approximately 3,000 square foot lot for an indoor riding arena. The applicant had originally talked about removing the arena; however, because it is equestrian property, he realized the arena would be an amenity. The indoor riding arena would be privately owned by the HOA as common area for the subdivision. The Staff recommended that there should be no density associated with Lot 8.

Planner Whetstone remarked that Mr. Richards had wanted the ability to further subdivide the property at a later time, not understanding that when an annexation is presented the City Council would require the density to be known at that time. If changes are made after the annexation, the annexation agreement would need to be amended. Planner Whetstone noted that Mr. Richards worked with Alliance Engineering to divide the first phase of this development. She identified the four lots that would be the first plats of the development.

Planner Whetstone requested Planning Commission input on discussion items outlined in the Staff report. No action was being requested this evening. The Staff recommended that the Planning Commission conduct a public hearing and continue the item to October 24, 2012.

Frank Richards, the applicant, introduced Steve Schuler with Alliance Engineering and Grant McFarlane, a friend and advisor. Mr. Richards commented on a letter he had sent to the Planning Commission outlining past history and his current proposal.

Mr. Richards stated that if Lot 7 is approved, he would clean up the area and remove the rolls of wire, culverts and fence gates and other items he has accumulated over the years that sit behind Mr. McDonald's lot. He also proposed to enclose Lot 7 and all the other proposed lots with white vinyl fencing similar to a farm/ranch atmosphere. Mr. Richards stated that he would also remove the pens behind the indoor arena that was used to house cattle. He would take out the old hay barn which adjoins the indoor arena to the right. It is a 35 year-old structure and still in good condition, but the road to lot 7 would go through where the hay barn is currently located. He would also remove the corrals and pens east of the hay barn and clean up that area. Mr. Richards presented photos he had taken and identified the pens and barns he would remove and the areas where they were located. He pointed out that the area would be cleaned up and the rear most lot would adjoin Lot 6. Each lot would be 3 acres.

Mr. Richards stated that he was persuaded to sell 20 acres of property to the City in 1999 because the City was anxious to maintain a view corridor coming into the Park City. He was not interested in selling at that time, but the City wanted to have control to avoid potential problems in the future. As a trade-off, the City allowed Mr. Richards to continue using the property. Mr. Richards noted that the two lots along Pay Day Drive were half acre lots, and larger than anything else in the neighborhood. The two lots on the east side of the lane were 1.25 acres. They would be horse lots and allowed two horses on each lot. Mr. Richards stated that it was the lot he lives on and the other two 3- acre lots. He was not opposed to maintaining open space and noted that a good portion of his farm has already gone into open space. The footprint on the 3-acre lots would be 5% of the total lot area, and the remainder would be open space. He was also interested in maintaining the equestrian character. Five of the lots would be eligible for horses. Mr. Richard thought the indoor arena should be retained as a place where people can ride in the winter time.

Mr. Richards thought his proposal was reasonable and met all the criteria. In addition to cleaning up the area, Mr. Richards proposes to keep the tree-lined lane and continue it back to Lot 7. He believed this proposal would be a great addition to the City.

Chair Worel noted that in the last sentence of his letter, Mr. Richards indicated that he would be happy to consider offers if someone wanted to purchase this parcel of land and maintain open space. She asked if Mr. Richards wanted to pursue a potential purchase before moving forward with the annexation.

Mr. Richards clarified that he has not had a purchase offer and he questioned whether anyone would make an offer. He noted that Aspen Springs would be the most impacted by Lot 7, and those neighbors support the proposal because it would benefit their property.

Commissioner Gross asked if the cul-de-sac road coming in off of Pay Day would be a public or private road. Mr. Richards replied that it would be a private road, but it would still be required to meet certain standards. Regarding Lot 7, Commissioner Gross assumed Mr. McDonald had been living with the existing condition for a number of years. However, the proposed building envelope

for the house appears to be right in Mr. McDonald's face. Mr. Richards pointed out that Mr. McDonald's house sits farther up. Commissioner Gross noted that currently Lots 3 and 4 were showing 9,000 square foot as the maximum building, and he asked if that was still the correct size. Planner Whetstone replied that Lots 3 and 4 would be 3,525 sf footprints and 6,150 square feet as the approximate house size. She noted that the applicant had agreed to a maximum height of 28 feet on all of the lots. Mr. Richards stated that in looking at the height of the surrounding structures each one is 28 feet plus 5 feet. He suggested that a 30-foot maximum height was reasonable, considering that it was 3-feet lower than all other structures.

Commissioner Gross commented on a for-sale sign on Pay Day next to Lot 10. Once they superimpose what a house would look like on that lot, he questioned whether the proximity of the side yards would be tight with Lot 1 and the adjacent house. Planner Whetstone explained that the lot is already in the City and it was part of another subdivision. Mr. Richards stated that Kevin McCarthy had purchased Lot 10, which was in the previous annexation and a recorded plat. Commissioner Gross clarified that his issue was with the open lot next to Lot 10. He no longer had an issue knowing that the City owns the property. Planner Whetstone pointed out that Lot 10 is part of the Thaynes Creek Phase 2 Subdivision. Mr. Gross was concerned that once a house is built on the lot, it would look tight compared to the Estate size lots that were being created for the adjacent subdivision.

Commissioner Gross appreciated the open space and believes it is a wonderful view corridor.

Steve Schuler, with Alliance Engineering, stated that the house sizes and landscaped areas in the exhibit were only to convey the approximate sizes being proposed in terms of building square footages. It was not necessarily the location of the building envelope that would be part of the plat per se.

Commissioner Gross asked about the locations of the barns. Mr. Richard stated that he spoke with Mr. Jorgensen, the owner of Lot 9 who would be affected, and he had no problems with it. His house sits up high and he likes the livestock.

Commissioner Wintzer pointed out that the Planning Commission was looking at an annexation. Questions regarding density, house size, roads, utilities, etc. should be addressed in the subdivision process rather than the annexation process. Planner Whetstone replied that this was correct. A final subdivision plat would come to the Planning Commission for a recommendation to the City Council once the property is in the City. The Planning Commission would review the final subdivision plat for conformance with the preliminary plat.

Mr. Richards noted that the CC&Rs would require that the barns remain a specific type. The barns would be uniform in style and color. He believed it would improve the appearance and the value of the properties.

Commissioner Hontz noted that the existing buildings and pasture to the west of Lot 8 were not included in the annexation. Mr. Richard replied that it belongs to his neighbors, who were present to speak at the public hearing. When Mr. Richards purchased his property in 1975, the previous owner had sold that one acre parcel to another buyer with a right-of-way coming from Pay Day

Drive over his property. Mr. Richards clarified that he had no control over the right-of-way. Planner Whetstone noted that the one acre parcel is in the City. The vacant parcel to the west of the one acre parcel is not, and it is not contiguous to this annexation.

Chair Worel opened the public hearing.

Haley McDonald spoke on behalf of her family who owns the lot adjacent to Lot 7. She thanked the Planning Commission for considering the impacts to the neighbors and for asking the right questions. She referred to the comment that Lot 7 would be in their face, and she noted that Mr. Richards had visited her family to explain the proposal. Ms. McDonald stated that her only concern is that currently the lot is vacant, but eventually there would be a house in their back yard. She was comfortable with the proposal as explained, however she wanted to make sure that it stayed the same with minimal changes because had already gone from four lots to five lots to now 7 lots. Ms. McDonald believed the current proposal was reasonable. She wanted to make sure the house would not have a reflective roof because it would reflect up into their house.

Mr. Richards stated that the HOA would have an architectural review committee to address those issues.

Ms. McDonald reiterated her concern that major changes would be made without the neighbors being aware. She asked how they would be notified if significant changes were made to this particular plat.

Commissioner Wintzer stated that this was an ongoing process. He urged Ms. McDonald to stay involved with every meeting until the project is approved. The neighbors have the responsibility to communicate with Staff to keep abreast of the process. Commissioner Wintzer remarked that it was also important for Ms. McDonald and others to continue to provide input.

Ms. McDonald appreciated the process and the fact that everyone was doing the right thing to insure minimal impacts. Mr. Richards owns the property and he should be able to develop it.

Kevin McCarthy stated that he spoke at the last public hearing. He has been a neighbor to Frank and Kathy Richards for 25 years and went was involved in a contentious process when Mr. Richards subdivided the lots on Pay Day Drive. Mr. McCarthy stated that Mr. Richards is the personification of the term 'Steward of the Land'. As Mr. Richards had mentioned, Mr. McCarthy had purchased the lot and was moving from up the canyon down to level ground. As soon as they know where the other house will be platted, his architect would work his house around it. Mr. McCarthy would be comfortable with whatever plan the City and Mr. Richards come up with.

Vicky Gabey stated that she has been a neighbor to the Richards for 37 years. She annexed into the City in the 1990's. Ms. favored the proposal. She asked the Planning Commission and Mr. Richards to remember the neighbors when planning the specifics of this project.

Chair Worel closed the public hearing.

Commissioner Hontz stated that she went through the materials the Staff supplied to Commissioner Gross, and she could not find a letter from the State verifying that there were no historic or cultural resources. She understood from the Code and in previous annexations that the City contacts the State for verification from their database, and the State provides a certified letter. That has been provided for every annexation and she would like to see it for this annexation.

Commissioner Hontz referred to the fiscal analysis and affordable housing analysis on pages 20 and 21 of the May 9th Staff report. She did not agree with the actual numbers that were used for that analysis and she believed the analysis was incorrect. However, after running numbers that she thought were more logical, her recommended change would not necessarily affect the outcome. As an example, Commissioner Hontz rejected the 50/50 split on primary versus secondary homes based on Summit County numbers. She would use the actual numbers from Aspen Springs or the adjacent neighborhoods because it would provide a better reflection of who would purchase in the area. Commissioner Hontz believed there would be less of a benefit with more primary owners than there would be with more secondary owners. Commissioner Hontz remarked that the numbers used in the data creation were not logical towards the reality of the development.

Commissioner Hontz stated that this was definitely the appropriate location for this type of development in terms of lot size and home size. It was also the exact appropriate location per the General Plan and what they were trying to accomplish with the update of the General Plan in terms of maintaining agricultural use in town. On the other hand, when the City does an annexation, particularly in this case where it would be up-zoning, the question is how this benefits the City and whether open space is enough. Commissioner Hontz believed this was an opportunity to think about additional benefits such as TDRs, better conserved open space, and/or affordable housing. It is a benefit for the land owner to go from zero to seven units, and the Planning Commission needs to find the benefits for the City.

Commissioner Wintzer was concerned about putting a fence around Lot 7. He preferred that Lot 7 appear to be more open. He thought it could be done by either reducing the size or shifting it into part of Lot 6. Commissioner Wintzer hated to see a white picket fence around some of the houses because the current appearance of the property is so nice.

Mr. Richards explained that he was only trying to get a farm feeling. He did not feel strongly about white fencing if the Planning Commission preferred a different type of fence. Commissioner Wintzer clarified that his comment was not about the type of fencing. He personally wanted a portion of Lot 7 to appear to be open space. Mr. Richards pointed out that all but 5% of the lot would be open space. Commissioner Wintzer replied that once the property is fenced it loses the appearance of being open. He thought Lot 7 was counterintuitive to the rest of the subdivision. If Lot 7 was moved further to the south, less trees would have to be removed for the road, and there would be less land disturbance and a feeling of more open space. Commissioner Wintzer thought Mr. Richards could do that and still achieve the same density and value. Commissioner Wintzer believed that Lot 7 was too big and pushes too far to the north. It needs to be more consistent with the rest of the subdivision.

Commissioner Strachan concurred with Commissioner Wintzer. He believed the development worked in this location and the annexation was worthwhile. Commissioner Strachan stated that as

part of the annexation process the Planning Commission makes a recommendation to the City Council regarding the zoning. He felt the zoning should be Estate rather than Single Family. It would not upset the proposed development and it would not reduce the number of homes. He read the purposes of the Estate zone and thought they fit perfectly with this proposal; as opposed to the purpose statements of the Single Family zone. The Estate zone is a better fit and it also protects the corridor in the future when Mr. Richards passes and another person owns the property.

Mr. Richard understood that the density was approved with the plat. Commissioner Strachan replied that owners can request a plat amendment that could be approved by a future Planning Commission if it is allowed in the zone. He explained how that might be avoided if the property was zoned Estate.

Commissioner Wintzer questioned whether the Estate zone would work because Mr. Richards would only be allowed four units under the zoning requirements. He suggested that the Planning Commission address the issue through the annexation agreement.

Mr. Richards stated that zoning was not an issue as long as he could achieve seven units.

Commissioner Savage pointed out that this was a co-application with the City related to annexation of the open space, and Mr. Richards has rights to utilize the open space for grazing. He wanted to know what would happen to those rights as a consequence of development. He asked if the right would go into the HOA or remain with the single lot Mr. Richards would continue to own.

Mr. Richards and the Commissioners discussed different scenarios that could occur. Planner Whetstone stated that in her research she found an agreement between Summit Land Conservancy, who holds the deed restriction, and the City. There appears to be a separate agreement that allows Mr. Richards to utilize that property and it had to do with the special warranty deed. Planner Whetstone pointed out that because the agreement regarding what occurs on the property is between the City and Summit Lands Conservancy, they need to find the agreement that allows Mr. Richards to use and maintain the property to see if it can be assigned to an HOA, and whether the restriction agreement between the City and Summit Lands Conservancy needs to be amended. Planner Whetstone would research the matter. Commissioner Wintzer understood from the comments that the main goal is to maintain the same use on the public land.

Commissioner Gross understood that when the City purchased the land, they also purchased water rights from Mr. Richard. Mr. Richards stated that he gave the City seven acre feet and they purchased three additional for a total of 10 acre feet of water. Mr. Richards uses the water to irrigate the property. He has approximately 20 acre feet associated with his 13-1/2 acres. He proposes to sell 2 acre feet to each lot.

Planner Whetstone summarized that the Planning Commission would like to relocate the building pad on Lot 7. Mr. Richards was comfortable with that request. Planner Whetstone asked if the Planning Commission had issues with dividing Lot 3, which was a horse lot, into two lots along Pay Day Drive. The Commissioners had no issue with dividing Lot 3.

Mr. Richards referred to the Staff recommendation to continue this item to October 24th and noted that he would not be able to attend that meeting.

MOTION: Commissioner Savage moved to CONTINUE the Richards/PCMC Annexation and Zoning until November 14, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

3. **Land Management Code Amendments – Chapter 1-General Provision and Procedures; Chapter 2-Zoning; Chapter 3-Off Street parking; Chapter 4-Supplemental Regulations; Chapter 5-Architecture Review; Chapter 6-Master Planned Development; Chapter 7-Subdivisions, Chapter 8-Annexation; Chapter 10-Board of Adjustment; Chapter 11-Historic Preservation; Chapter 12-Planning Commission; Chapter 15-Definitions. (Application #PL-12-01631)**

Chair Worel requested that Planner Whetstone review the LMC items that were recommended be continued this evening.

Planner Whetstone stated that the Staff noticed a number of additional changes beyond the analysis and redlined changes in the Staff report, and recommended that those items be continued for further analysis. The 22 items to be continued were outlined on page 79 of the Staff report. Planner Whetstone noted that the items were publicly noticed and they would be continued to the meeting on October 24th.

Planner Whetstone stated that the amendment to Chapter 6 regarding MPDs in the Historic District was redlined in the Staff report per the discussion from the last meeting. However, the Planning Commission had requested a history on MPDs, and since the Staff was still compiling that information they recommended continuing that discussion to October 24th. Planner Whetstone also recommended that the Planning Commission continue items 3, 5 and 7 in the Analysis Section to October 24th.

Commissioner Wintzer suggested that the motion to continue identify the amendments by Chapter as listed on page 80 of the Staff report. Chair Worel clarified that Chapters 2, 6, 7 and 15 would be continued. Commissioner Hontz noted that some items under those chapters were not recommended to be continued. However, she was not prepared to move forward with them this evening and would be comfortable if they were continued as well.

Chair Worel opened the public hearing on the items to be continued.

Chris Schaefer, a property owner in condominiums on Main Street, commented on MPDs in the Historic District, particularly as it pertains to the Kimball Arts Center application. Mr. Schaefer stated that the concept of a master planned development assumes a large area that is going to be developed, possibly multi-use and possibly crossing boundary lines. He noted that the proposed Kimball building does not meet criteria because it is a single building on a single lot within a single zone. He only became aware of the changes that day and had not had time to read and understand the proposed changes. Mr. Schaefer stated that as a property owner and a citizen he was concerned that the Kimball, by applying for master planned development status for their project, was trying to make a run around the Planning Commission. He hoped the proposed

changes would not permit that. The reason for a master planned development does not match the construction of one building in one zone on one lot. He was unsure what changes were being proposed, but he hoped they could prevent that from occurring.

Coleen Webb an owner in the Town Lift condos stated that her building is next to the Kimball Arts Center. She is a part-time resident in Park City and it is difficult to always attend meetings when a subject of interest is being discussed. She tries to attend as often as she can. Ms. Webb stated that she would not be in town on October 24th. She is on the Board of the Town Lift Condominiums HOA. Last week the Board members and residents met with Robin and others from the Kimball Arts Center to express their concerns and the impacts that would be created for the residents living next to the Kimball Arts Center, and what an expansion under an MPD would do to their property. Ms. Webb also had concerns with how a project that size would affect the look and feel of Old Town if the MPD goes through. Ms. Webb was comforted when she saw the concern the Planning Commission had for the neighbors when discussing the Stein Eriksen project and the Richards annexation. As a neighbor to the Kimball and a resident of Old Town, she hoped the Planning Commission continues to be that detailed and that interested in what the change of allowing an MPD could do on Main Street. It is more than a white fence or one house in your face impact. It impacts the Historic District and those who live there and abide by the 84 page guidelines of the Historic Preservation Board. Ms. Webb was not opposed to amending the LMC to make them better over time, but it is important to understand the circumstances as to why they were put in place to protect the Historic District. Ms. Webb stated that everyone respects the Kimball and the HOA and owners want the Kimball Arts Center to expand. They would like the property improved and the programs expanded. They have been great neighbors and have worked together many times with the Kimball Arts Center; but the issues that an MPD would allow has caused them great concern. She asked the Planning Commission to consider the impacts that would be created by allowing MPDs in a community that is so dedicated to keeping the District historic. Changing the LMC for a one-time project would hurt what the rest have tried to maintain and the rules they have lived by in Old Town.

Chair Worel closed the public hearing.

Commissioner Hontz thought the Planning Commission should discuss some of the issues in the Chapters that would be continued to give the Staff direction for the next meeting.

Building Height Measurement and Story Definition

Commissioner Hontz found the exhibits in the Staff report to be helpful, but she had expected additional information based on the discussion at the last meeting. She wanted to see an exercise on a variety of unbuilt lots in Old Town, both downhill and uphill, that maxes out the heights using stories as an example to see what the mass and scale and height would do. She wanted an idea of worst case scenario. Commissioner Hontz remarked that they look at the existing built environment in analyzing the definition and the application. They overlook what type of development could occur on the existing vacant lots. She recalled a recent application where the applicant was asked to do that exercise and he was unable to show that he could build a house on the lot. Commissioner Hontz pointed out that based on the proposed language a house could not be built on a 40% slope.

She believed the analysis was important to make sure they would not make all the vacant lots in Old Town undevelopable.

Planner Francisco Astorga stated that the Staff could provide the variety of examples on unbuilt lots. However, there are a number of lots that are not listed as Landmark or Significant status, and could potentially be demolished and rebuilt. Planner Astorga proposed to come back with the information requested as well as other scenarios he had created for massing and volume on various slopes. He believed they could create specific worst case scenarios. Director Eddington thought that the Planning Commission would be able to see how different aspects of the Code work in each scenario depending on the location of the slope.

MOTION: Commissioner Hontz moved to CONTINUE the LMC amendments for Chapter 2-Zoning Districts; Chapter 6-MPDs; Chapter 7-Subdivisions; and Chapter 15-Definitions as identified in the Staff report to October 24, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission discussed the remaining LMC amendments outlined in the Staff report.

Amendment to require a building permit for driveways, parking areas, patios and other non-bearing construction that create impervious areas.

Planner Whetstone noted that the Planning Commission discussed this change at the last meeting. The Staff had recommended a building permit for all flat work in all zones. Requiring a building permit would ensure that all LMC requirements are met. Currently a building permit is not required and it is difficult to know when flat work is being done and whether it meets the requirements.

City Engineer, Matt Cassel, stated that the amendment allows the City to be proactive on an issue they have struggled with for years. When someone calls to ask if his neighbor has a permit for a patio or driveway, they have to inform that person that a permit was not required. The City then has to follow up to make sure the work was done within the requirements and many times they find Code violations. The intent is to communicate with people before work is started. He used 170 Daly Avenue as an example. They were fortunate enough to catch it before the driveway was poured; otherwise, the owner would have a new driveway that accessed at the intersection. Mr. Cassel explained that it would be a simple permitting process. The owner would be required to pay a minimal fee and have their plans reviewed for Code compliance before starting any work.

Chief Building Official, Chad Root, stated that another factor is to provide guidance for the homeowners who do the work themselves in an effort to reduce the number of neighbor issues. If a permit is required City-wide, the City has control over types of materials, size, and encroachment issues. Mr. Root pointed out that most jurisdictions outside of Utah regulate all flatwork and driveway work. Utah has a State Adopted Code that adopts the minimum standards, and the minimum standards cannot be exceeded. The proposed LMC amendment would provide a mechanism around the provision in the State Building Code and allow the ability to regulate driveways and flatwork in Park City.

Chair Worel asked if this was a City-wide issue and not just in the Historic District. Mr. Root replied that it was City-wide. The majority of complaints to the Building Department come from the Meadows.

Commissioner Savage asked how many of the complaints are legitimate. Mr. Root stated that nearly every complaint has been legitimate. Commissioner Savage asked if the amendment would eliminate the complaints. Mr. Root replied that it would give the Building Department the control to issue a stop work order on a project until they made sure everything was in compliance. City Engineer Cassel noted that it would also allow the City to look at the plat to make sure open space or landscaping requirements were not being violated. Commissioner Savage clarified that currently, anyone who does a project without a building permit, since one is not required, is responsible for making sure their implementation is consistent with all the Code requirements. Requiring a building permit would be preventative maintenance from having to resolve so many issues.

Commissioner Savage asked if a building permit would be required if he wanted to put in a 4 'x 5' concrete slab outside his back door for his trash cans. Mr. Root was unsure how language addresses that type of situation. Planner Astorga stated that the Staff had not proposed a minimum standard but it could be discussed.

Chief Building Official Root stated that another reason for looking at building permits is to address problems in the soils districts where people haul the soils away and the City has no knowledge because there was no permit.

Commissioner Hontz believed the requirement would remedy some situations in the Historic District where owners pull the landscaping and leave it without pouring concrete or laying dirt. The building permit would allow the City to review the plat to see if that space was approved as landscaping. It would also provide a record of improvements that are made over time.

Commissioner Wintzer concurred and commented on several circumstances in Old Town that would not have occurred if this permit process had been in place. He strongly supported the permit process. Director Eddington clarified that the same situations occur in Prospector, the Meadows and everywhere else in the City. Without a proactive measure it is challenging to deal with people once they have done the work and expended the money.

Commissioner Wintzer asked if the permitting process would require inspections or whether it was just a matter of obtain a permit and signing off the plans. Planner Astorga stated that the Staff was working on a preliminary process where the owner would apply for an over-the-counter permit and the Planning Department would check the plan for specific requirements. They were also looking at the first inspection once the forms are in place, and final inspection before the file is closed. The Staff was internally working with the Planning Department to determine who would do the inspections.

Commissioner Savage asked about the cost for a permit. Planner Astorga stated that most building fees are based on the valuation of the work. The fee would be minimal and determined by the Building Department. Chief Building Official Root explained that based on the scale of value of

work, the last driveway permit was a \$32 fee. Mr. Root stated that if a slab or driveway has rebar, it is required by Code to have a permit. He noted that some of the contractors eliminate the rebar to bypass the permit. The building permit fee depends on the amount taking place and they go off the contractor's valuation.

Chair Worel opened the public hearing.

Ruth Meintsma was happy to see this discussion because in Old Town she sees constant paving where there should not be paving. She stated that on the uphill wall of Woodside is approximately 10 feet of City easement. When someone has a project and a lot plan that shows paving and landscaping they put it in, but in many instances the 10 feet from the lot line to the Woodside wall is paved for private parking. Ms. Meintsma noted that much of this work occurs on weekends when no one is around. She wanted to know how they would address weekend projects if a building permit is required and the project is completed by Monday.

Chief Building Official Root stated that the City recently hired a new Code Enforcement Officer to work weekends primarily to catch weekend projects that take place. If someone works without a permit the fee would be doubled. Before the fees begin there would be an outreach to the Homebuilders Association, contractors, and real estate agents to notify everyone of the policy change.

Director Eddington understood that if the policy is codified and a building permit is required, the flatwork would have to be removed if it does not meet Code. Mr. Root replied that this was correct. The City currently does not have that enforcement ability without a permit.

Chair Worel closed the public hearing.

Commissioner Wintzer reiterated his support. Commissioner Strachan stated that he would change his opinion from the last meeting and support it for all zones. However, he did not believe a double permit fee was enough penalty to deter people from violating the requirement. If the policy is put in place for a building permit, the penalty should be to remove any work that was not approved by the Planning Department, particularly in Old Town where it matters most.

Building Official Root explained that the double fee would apply to those who had a plan approved by the Planning Department but did not obtain a building permit or deviated from the approved plans. Any work that was not approved by the Planning Department would need to come out.

Director Eddington recommended that the Planning Commission continue this item to October 24th to allow the Staff time to rework some of the language based on the discussion this evening, including adding some of the landscaping architecture language.

MOTION: Commissioner Hontz moved to CONTINUE the proposed LMC amendment requiring a building permit for flatwork to October 24, 2012. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously.

Planner Whetstone recommended that the Planning Commission continue the amendment addressing fences and walls until October 24th and discuss everything at the same time.

MOTION: Commissioner Strachan moved to CONTINUE the item regarding fences and walls to October 24, 2012. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Removal of "Special Exceptions" that are currently reviewed by the Board of Adjustment.

The Staff recommended removing the entire LMC Section 15-10-8, Special Exceptions for the reasons identified in the Analysis on page 84 of the Staff report. The only other change would be the renumbering of the variances.

The Staff recommended that the Planning Commission review the proposed language and forward a positive recommendation to the City Council on the proposed changes.

Chair Worel opened the public hearing.

There was no comment.

Chair Worel closed the public hearing.

Commissioner Hontz stated that as the liaison to the Board of Adjustment she felt it was best to move this amendment forward.

MOTION: Commissioner Wintzer moved to forward a POSITIVE recommendation to the City Council to remove Sections 15-10-3 and 15-10-8, Special Exceptions, from the Code. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Streamline Review Process

Planner Astorga had prepared a color coded flow chart to address the Historic District Design Review Appeal process. He noted that the items in Black and Red identified the current process. The Black was an approval with no issues. The Red showed the three types of appeals allowed per Code. An appeal of the Staff determination would be heard by the HPB. An appeal of the HPB determination would go to the Board of Adjustment. Appeal of the BOA decision would go to Third District Court.

Planner Astorga noted that the Green color represented the proposed change in the Staff report where it starts as a typical HDDR application which they would call a streamlined design review. If the design review is not contested it would follow the same process as an approval under the current Code. A neighboring property owner or the applicant, could contest the review. If it is contested it would automatically go to the HPB and the HPB could approve it for a building permit. If the HPB determination is appealed, it would go to the Board of Adjustment and their

determination could be appealed to the Third District Court. Director Eddington noted that the Green flow line clarifies the process and meets State Code.

Planner Astorga introduced an alternative process identified in Blue that would follow the traditional approach. If contested it would go to the HPB and then to Third District Court. The alternative process would remove the Board of Adjustment from the appeal process. Planner Astorga requested input from the Planning Commission on whether the alternative was better than the contested review where it would go to HPB, not on appeal, but simply contested. It would be called a formal review.

Commissioner Strachan asked for clarification on the "streamlined approved (BP) shown on the flow chart. Planner Astorga replied that it would be an approval with no issues and the applicant could apply for a building permit.

Assistant City Attorney McLean clarified that the process also applies to Administrative CUPs. She stated that either process being proposed was legal.

Commissioner Hontz understood that a CUP would go to the Planning Commission and not the HPB. Ms. McLean replied that this was correct. Commissioner Hontz asked if it would then go to the Board of Adjustment or the City Council. Ms. McLean replied that it would go to the City Council.

Assistant City Attorney McLean referred to the alternative process in Blue and stated that the first level of review did not have to be Staff. It would also be legal to designate it to be the HPB. Currently, under the Staff review there is no public hearing process. It is a streamline process because the Staff reviews it and makes written comment. Under the contested version, someone could contest it and ask for formal consideration and it would go directly to the HPB. In the alternative process, the Planning Commission would need to decide the breadth of the initial review and whether it should be a public hearing and whether the Staff should review it or the HPB. If they establish the land use authority, the question is who should be the appeal authority. The Staff was proposing that it be the HPB, with Staff doing the initial review.

Planner Astorga clarified that the Staff does not hold an official meeting but they do notify property owners within a hundred feet and provide a period of 14 days to allow the public to look at the plans and share their thoughts.

Based on his understanding of the process, Commissioner Savage wanted to know the downside of favoring the alternative process in Blue. Ms. McLean stated that the initial review under the blue process would not be a streamlined review and there would be no public hearing at the initial review. Commissioner Hontz noted that there never is public input unless it is appealed. Commissioner Savage pointed out that public is noticed and has the opportunity to submit comment. Commissioner Hontz pointed out that many owners live in California or Florida. She was told that addresses are on file for out-of-state owners and they are sent letters. Director Eddington stated that owners are notified when the application is received and they are notified when a final decision is made. Commissioner Hontz felt it was more powerful when someone takes the time to attend in person and make their comments versus sending a letter.

Commissioner Strachan clarified that Assistant City Attorney McLean was proposing the process in Green. Ms. McLean stated that under the process identified in Green, the applicant would have the ability to expedite the process and request that it go straight to the HPB for formal review. If the application was uncontested it would be approved by Staff.

Chair Worel opened the public hearing.

Jeff Love, a resident at 615 Woodside, passed out pages he copied from the design guidelines, along with pages of the actual court ruling by Judge Kelly. He believed it would shed light on the situation. Mr. Love was amazed at what was not being discussed in the conversation. He stated that the catalyst for the proposed change to the LMC was a lawsuit that he filed against the City and Judge Kelly in Third District ruled in his favor. He had three arguments in court and the ruling states that Park City's Land Management Code violates State law in respects to the appeal process.

Commissioner Wintzer informed Mr. Love that the Planning Commission was trying to correct the process to meet State Code.

Mr. Love believed the ruling from Judge Kelly was an important part of the process. He referred to LUDMA, the Municipal Land Use Development and Management Act. In the ruling it states that LUDMA governs how a municipality such as Park City may regulate land use within its jurisdiction. He also read Conclusions of Law 50 and 51 in the ruling, which talks about how appeal authorities should be established and how LUDMA delineates the scope of the appeal authority and that the City cannot require an adversely affected party to pursue excessive appeals. Mr. Love also read from page 13 of the ruling which stated that the Court concluded that the petition, Mr. Love, was subjected to an illegal procedure because he was required to pursue successive appeals due to the successive appeal provisions found in the Park City Land Management Code. Those provisions are illegal because they violate the LUDMA provisions.

Mr. Love stated that the change proposed by Park City Legal is to essentially change the name of the Historic Preservation Board appeal from "appeal" to "formal consideration". Mr. Love stated that Judge Kelly did not rule that the name of the process was illegal. He rules that the process was illegal. In his opinion, changing the name of one meeting does not make it legal. He believes that Park City Legal is playing a semantics game and creating a loophole for themselves to make something determined to be illegal, legal.

Mr. Love stated that if the Planning Commission recommends the proposed change to the City Council and they adopt it, it would make a mockery of Third District Court and Judge Kelly. If it is adopted by the City Council, Mr. Love guaranteed that it would be challenged in court. Mr. Loves stated that the way to make the process legal is to eliminate one of the two appeals. He personally felt it was logical to eliminate the Board of Adjustment. If there is an issue with a historic design application and it is appealed, the HPB is the Board that should hear it because they are more qualified to hear the appeal. Mr. Love thought the flow chart was a perfect example to support his comments. The only difference between the red and the green was the words "contested review".

Mr. Love asked the Planning Commission to do the right thing and interpret what has occurred and correct the LMC the way it should be corrected.

Ruth Meintsma, 305 Woodside, understood that the 14 day period was after the HDDR when the public could offer their comment. If someone has a different opinion from the Staff review they would be able to contest it and ask to have the HPB review it. Ms. Meintsma believed that was a necessary step and she did not consider it an appeal. The Historic Preservation Board has a particular purview on looking at historic and it makes sense to have that group look at it according to the comments and opinion of the citizen. Ms. Meintsma liked the fact that an applicant would have the choice to request a review by the HPB to streamlined the process. She stated that people in the neighborhood have more insight and information than the Staff. Being able to contest an application and provide input is a benefit for the citizens. She believed this was an incredible addition to the process.

Chair Worel closed the public hearing.

Commissioner Strachan asked if there was anything in the Code that makes the applicant go through the Green process, or if they could always elect to go through the Blue process. Planner Astorga stated that the Blue is an alternative process. Commissioner Strachan understood that the Blue was an alternative process, but he wanted to know if anything in the Code would make an applicant go through the Green only and never the Blue. Planner Astorga replied that as proposed, the applicant would go through the Green process every time. They could never go through the Blue because it is a separate alternative with different language.

Commissioner Savage understood that if they come out of a design review application and the neighbors have an issue, it would be a contested review with the HPB. If they come out of a design review application and there is an issue between the Planning Department and the applicant, the applicant could appeal the Staff decision. If they come out of the design review and no one has surfaced an issue, it is a streamlined approval. Planner Astorga replied that this was correct. Commissioner Savage clarified that a contested review under the HPB is not an appeal. It is the process used to resolve the difference of opinion between the Planning Department and the neighbor. Therefore the Green is not a three appeal process. It is a mechanism by which a neighbor's issue can be addressed by the Historic Preservation Board.

Commissioner Strachan pointed out that if the HPB rules in favor of the applicant and the neighbor has the same issue, the neighbor has the right to appeal and the applicant goes through the process again.

Commissioner Gross questioned how the language read in Section 15-11-12 on page 128 of the Staff report regarding the Historic District or Historic Site Design Review. Planner Whetstone understood his concern and changed the language to read, "...if the application is uncontested the Planning Department shall approve, approve with conditions or deny all historic design review applications involving an Allowed Use...."

Commissioner Hontz was unable to find the definition of an Administrative CUP. Assistant City Attorney McLean explained that Administrative CUP is defined under each zone in the Code.

Commissioner Hontz stated that in order to feel comfortable with the Administrative CUP process, she would have to research each zone.

Commissioner Savage asked if the alternative process in Blue would resolve Mr. Love's contention. Mr. Love answered yes. Commissioner Savage understood that Mr. Love's motive was to eliminate one step in the current process. Mr. Love stated that his motive was that the City's appeal process violates State law. Commissioner Savage asked if Mr. Love had any other objectives regarding the process, other than to make sure that the City process is consistent with the ruling by Judge Kelly. Mr. Love stated that his objective was to follow the Planning Commission process because he did not like what the Park City Legal Department was proposing and he wanted to make sure the appeal process was changed correctly.

Commissioner Savage wanted to know the reasons why the Planning Commission should not choose the process identified in Blue. Ms. McLean stated that the major policy difference was that the Staff would do the initial review with no opportunity for a public hearing process. The Green process would require a public hearing for every application. Commissioner Savage asked if a public hearing could be held by the Staff or if it would require participation from the HBP review or another Board. Planner Whetstone replied that the Staff could hold a public hearing.

Commissioner Savage clarified that along with public notice, the Staff could announce a public hearing at a certain time and date and anyone who wanted to participate in a public hearing could attend. Commissioner Strachan stated that a public hearing could be a step in the design review application. The public hearing would become part of the Blue process. Commissioner Savage explained that if the application is approved by the Planning Staff subject to public input, it would be the end of the process. If the Planning Department denies the application, the applicant would have the option to appeal and it would go to the HPB. If the HPB supports the Staff's decision, the applicant would have the right to appeal that decision to Third District Court. Commissioner Savage believed that would resolve Mr. Love's issue and the City would have a rapid and efficient process. Commissioner Strachan concurred. Planner Whetstone pointed out that an added benefit is that the Board of Adjustment would not be involved in design review.

Director Eddington noted that the process suggested by Commissioner Savage was similar to the current process with the exception of removing the Board of Adjustment and adding a public hearing to the Staff review. The Staff would draft appropriate language for the next meeting.

Planner Cattan asked if Staff reports would be required for the public hearing. Commissioner Savage recommended that the Staff do nothing more than what they currently for a design review, except notice a public hearing and make the information available on the website.

Commissioner Hontz asked if any of the Commissioners were interested in having the Staff go through the zones and list the uses this would affect. Director Eddington stated that he would have someone go through the zones and list the Administrative CUPs.

MOTION: Commissioner Strachan moved to CONTINUE the streamlined review and appeals process discussion in Chapters 1, 5, 10 and 11 of the Land Management Code to October 24, 2012. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Chair Worel noted that two items were scheduled for work session this evening.

Given the late hour and the amount of time the Planning Commission and Staff would like to give to the General Plan, Director Eddington proposed that the Planning Commission schedule a special work session/informational meeting to hear the presentation and discuss the General Plan. The Planning Commission agreed to meet on Tuesday, October 16th at 5:00 p.m. The location would be determined and the Commissioners would be notified. The meeting would be publicly noticed.

The Planning Commission postponed the work session Annual Open and Public Meetings Act to October 10, 2012.

The Park City Planning Commission meeting adjourned at 9:00 p.m.

Approved by Planning Commission: _____