

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MINUTES
SPECIAL GENERAL PLAN MEETING
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MARCH 26, 2014

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Preston Campbell, Stewart Gross, Steve Joyce, John Phillips, Adam Strachan, Clay Stuard

EX OFFICIO:

Planning Manager, Kayla Sintz; 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 5:30 p.m. and noted that all Commissioners were present.

ADOPTION OF MINUTES

March 12, 2014

Commissioner Stuard referred to page 10 of the Staff report, page 8 of the minutes, and removed the word and from the second line of the fourth paragraph.

Commissioner Stuard referred to page 11 of the Staff report, page 9 of the minutes, fifth paragraph, second line and replaced the word safe family residential neighborhoods with **single** family residential neighborhoods.

Commissioner Stuard referred to page 18 of the Staff report, page 16 of the minutes, second paragraph, second line and replaced accepted the amendment with **seconded** the amendment.

Commissioner Stuard referred to page 36 of the Staff report, page 34 of the minutes, last paragraph, first line, and corrected "...was a better solution that the previous proposal." to correctly read, "...was a better solution **than** the previous proposal."

Commissioner Stuard referred to page 40 of the Staff report, page 38 of the minutes, middle of the fifth paragraph and changed southwest to correctly read **southeast**.

MOTION: Commissioner Stuard moved to APPROVE the minutes of March 12, 2014 as amended. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

Lisa Wilson apologized to the Planning Commission for her comments regarding the Silver Lake plat at the last meeting. She was under the impression that on February 26th the the Planning Commission had approved the proposed plat for 7101 Silver Lake Drive. She had since been informed that she was incorrect and that the approval was only for the lockout units. Ms. Wilson stated that she had filed an appeal to City Council but it was obviously unnecessary at this point and her filing fee was reimbursed.

Ms. Wilson commented on an email she received during the week which stated that the applicant has requested to amend the 6 unit lot as convertible land to reflect the 54 units approved in 2010. She has been reading Staff reports and other documents since 2009 and while she is not an expert, she could not recall ever hearing or seeing the term convertible plat. Ms. Wilson had corresponded with the Summit County Tax Assessor and she was told that there are only rights on the lot for six homes. She had a copy of the plat showing the six homes. She understood that the boundaries of the units represent the boundaries in which all buildings and associated construction disturbance shall occur. In looking at the plat, she believed building would only be allowed to occur within the building boundary. Ms. Wilson read from the tax letter, "The rest of the lot outside the building boundary is common area, and the common area has never been taxed." According to the letter from Summit County there are no rights to build in the common area. Mr. Wilson read an excerpt from the auditor's letter and the tax assessor. "The conditional use rights exist only on paper if they are developed at all. Until a subsequent plat is recorded determining and fixing the rights to this parcel, it would be unwise to attach value to undetermined, speculative future potential as yet realized." She previously presented tax receipts and tax bills showing that in 2005 this lot was taxed over \$100,000. The current tax bill is significantly less. If they turn the property into a Stein Eriksen Lodge Residence, it would be worth over \$100 million dollars. A property with an estimated value today of \$1.2 million will be worth \$100 million plus. Ms. Wilson understood that the value is great for the developer and it would bring in money for the School District; however, the problem is the change in building rights. Another problem was all the money that lost from 2005 until a new plat is recorded.

Ms. Wilson noted that the Summit County Council was accused of improper management and she questioned whether it was due to recording plats and not collecting taxes. Ms. Wilson remarked that the school district has lost millions of dollars due to the changes allowed to the property. Based on her calculations, \$14 million has been lost on this one lot alone. Mr. Wilson believed that the Planning Commission would be opening a can of worms if they allow the proposed plat to be recorded. She also felt that the Planning Commission and the City Council were causing the potential problems.

Ms. Wilson stated that another problem with the potential recorded plat is that it uses Lot 2D toward development. Lot 2D is owned by Deer Valley and the tax receipt designates Lot 2D as dedicated open space. Ms. Wilson believed the public would be very upset if they realized that the Stein Eriksen Lodge site uses 3.78 acres of dedicated open space towards development. It would be setting a dangerous precedent, particularly since the use of Lot 2D has been questioned throughout the process.

Assistant City Attorney McLean noted that the Silver Lake plat amendment was still pending with the Planning Commission and it was scheduled on the April 9th agenda. She thought it was more appropriate for Ms. Wilson to make her comments at that time when the item is actually being heard by the Planning Commission. Ms. Wilson explained that she was making her comments this evening because she would be in Mexico on April 9th and unable to attend the meeting. Planner Francisco informed Ms. Wilson that she would also have the opportunity to speak on the plat amendment during the City Council public hearing in May.

Ms. Wilson stated that if the Planning Commission forwards a positive recommendation to the City Council and she was not allowed to speak, the City Council could make their decision based upon the recommendation. She felt like she is always being shut down whenever she tries to speak. She requested the opportunity to continue with her comments this evening.

Assistant City Attorney McLean stated that legally the Planning Commission could hear her comments but they did not have the benefit of the Staff report or other materials to address Ms. Wilson's concerns.

Chair Worel gave Ms. Wilson three minutes to finish her comments.

Ms. Wilson stated that using Lot 2D towards development takes away dedicated open space. Removing Lot 2D from the open space calculation results in less than the 60% open space requirement. Therefore, the project would not comply with Code. In her

research she found that there was not a conservation easement and she confirmed it again this week with Cheryl Fox. Ms. Wilson felt they were misled by former Mayor Dana Williams during a City Council appeal hearing when he implied that Lot 2D had a conservation easement and that dedicated open space could be used for development. Ms. Wilson stated that she did not want to create a ruckus or hurt anyone, but she would if she had to.

Ms. Wilson submitted her written comments since she would be out-of town on April 9th.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Manager Sintz reported that the City Council had scheduled a joint meeting with the Planning Commission on Tuesday, May 13th to discuss Form Based Code and the Bonanza Park Area Plan. She believed the Form Based Code discussion was scheduled for noon and the Bonanza Park Area Plan discussion would be held at 6:00 p.m. Ms. Sintz remarked that Form Based Code would be a preliminary introduction for anyone who needed additional information. An email would be sent to the Commissioners once the agenda is finalized. The Planning Commission would still hold their regular meeting on Wednesday, May 14th.

Commissioner Strachan announced a pot-luck party at his house on March 29th. The Staff and the public were invited. It was strictly social and no business would take place.

REGULAR AGENDA (public hearing and possible action)

520 Park Avenue – Steep Slope Conditional Use Permit **(Application PL-14-02242)**

The Staff requested that this item be continued to April 9, 2014. The Planning Commission would take public input since the item was noticed.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Joyce moved to CONTINUE 520 Park Avenue – Steep Slope CUP to April 9, 2014. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

**4001 Kearns Boulevard - Park City Film Studio Subdivision Plat
(Application PL-14-02263)**

Planner Francisco Astorga stated that Kirsten Whetstone was the project planner. Planner Whetstone was out of the office this week and he would be presenting on her behalf.

Planner Astorga reviewed the application for a final subdivision plat for the Park City Film Studio Subdivision, which creates a 29.55 platted lot of record for the Park City Film Studio project, pursuant to the Quinn's Junction Partnership annexation and the approved master plan for the Park City Film Studio. All the conditions of approval from both the annexation and the MPD continue to apply. The Staff report included the annexation ordinance.

Planner Astorga noted that the property is zoned CT, Community Transition, with RCO, Original Commercial Overlay. As reviewed by Staff there are no non-conforming conditions created by the requested subdivision plat. The plat memorializes the existing property boundary as one lot of record.

The Staff recommended that the Planning Commission conduct a public hearing for the subdivision plat and consider forwarding a positive recommendation to the City Council.

The applicant was not present and the applicant's representative arrived later in the discussion.

Commissioner Strachan wanted to know who had submitted the application. Planner Astorga replied that according to the Staff report, the contractor, Sahara Construction, submitted the application.

Commissioner Stuard had sent an email to Planner Whetstone on Monday but she had not responded. He was unaware that she had been away from the office. Commissioner Stuard had asked her about a stipulation in the Annexation Ordinance 12-12, which states that final subdivision approval shall contain CC&Rs. Commissioner Stuard asked if the action they were being asked to take this evening was considered to be the final subdivision approval, and if the CC&Rs would be associated with the approval.

Planner Astorga understood that it was the final subdivision approval. He explained that certain components of CC&Rs have to be reviewed in order for plats and subdivisions to be approved; however, it was not the entire document.

Commissioner Stuard was concerned that it was possibly putting the cart before the horse.

Assistant City Attorney McLean understood that the project has been phased. She was unsure how the CC&Rs were connected, but if the Subdivision Plat is forwarded to the City Council she would make sure the issue was addressed and clarified.

Commissioner Stuard commented on the prominent berming plan on the highway 248 side of the project. He assumed that was to provide screening from the parking and the tall buildings. Commissioner Stuard remarked that coming down Highway 40, once you come over the summit between Mayflower and the Park City exit, the parcel is very much in the line of sight. While there is a little bit of landscaping in the site plan, the southeast edge of the project is very exposed. As they go through the administrative CUP, Commissioner Stuard suggested that the Planning Department consider ways to screen the back side of the tall buildings and the large amount of surface parking behind the buildings from Highway 40 with something other than tall trees.

Planner Astorga remarked that screening was addressed during the MPD process. Commissioner Strachan recalled that there was significant discussion during the MPD regarding fencing and vegetation, particularly coming down the hill from Mayflower towards the Park City exit. They did what they could to make the project aesthetically pleasing, but there was no way to completely shield a six-foot building or the vast amounts of surface parking. Commissioner Strachan stated that the Planning Commission also tried to encourage a structure parking to eliminate surface parking.

Commissioner Strachan agreed that through the administrative CUP process they should revisit the issue and consider whether there are ways to improve the berm and screening.

Chair Worel opened the public hearing.

Lisa Wilson asked Commissioner Stuard to clarify his question regarding the CC&Rs.

Commissioner Stuard stated that condition of approval #34 in the annexation ordinance indicates that approval of the CC&Rs would occur at the time of the final subdivision approval. He had asked whether the action the Planning Commission would take this evening was in fact the final subdivision approval. He understood from the response that

the CC&Rs were not complete and there would be a final opportunity to review them when the final plat is reviewed by the City Council.

Assistant City Attorney McLean clarified that it was also due to the phasing of the project. The action this evening was Phase I and the CC&Rs would be part of a subsequent phase.

Commissioner Stuard asked if the CC&Rs are recorded concurrently with final maps. Ms. McLean answered yes.

Commissioner Joyce noted that Commissioner Stuard had used the word approved. However the actual phrasing in the Condition was, "The final subdivision shall contain Covenants and Restrictions in compliance with the annexation agreement." He assumed the language was written because there was an annexation agreement; and that it was not applicable to all plat submissions. Commissioner Joyce pointed out that the Planning Commission does not address or approve the CC&Rs, other than to determine whether it meets the requirements defined in the annexation agreement. He emphasized that the language regarding CC&Rs did not apply to all plats.

Ms. Wilson thanked Commissioner Joyce for the clarification.

Chair Worel closed the public hearing.

Doug Rosecrans, representing the applicant, stated that he had reviewed the Staff report with Planner Whetstone and he had nothing further to add.

Commissioner Joyce stated that he did not have any issues with this application given that most of the issues were addressed and the battles were fought as part of the annexation agreement.

Commissioners Gross and Phillips did not have further questions.

Commissioner Strachan stated the Planning Commission is required to make a finding that the plat is consistent with the Park City Land Management Code, that no person will be materially injured, and that the project would not adversely affect the health, safety and welfare of the citizens of Park City. He remarked that those battles occurred over and over again and he consistently voted the same, that it does not meet the LMC and it was not good for the health safety and welfare of the community, and it would materially and adversely affect the community. For all the reasons he stated in all the meetings he would incorporate and reference those now. Commissioner Strachan remarked that normally the Conclusions of Law require that everything complies with the General Plan. However

there was not a Conclusion of Law for this action saying that it complies with the General Plan. He found that interesting because the Planning Commission voted a year and a half ago and every Commissioner agreed that it did not meet the General Plan. It was a unanimous decision by the Planning Commission that was overturned by the City Council.

Commissioner Strachan questioned why this plat did not have a Conclusion of Law saying that it meets the General Plan. Commissioner Strachan still believed that it did not meet the General Plan, but this was the time or place to have that fight again. The MPD was approved and the damage was already done.

Commissioner Stuard stated that he had removed the project name on the site plan and asked some of his developer friends what they thought the project looked like. They all thought it was a shopping center. He hoped the film studio was successful; otherwise the City would be looking at an adaptive re-use for a shopping center in the future.

MOTION: Commissioner Phillips moved to forward a positive recommendation to the City Council for the Final Subdivision Plat for the Park City Film Studios, based on the Findings of Fact, Conclusions of Law and Conditions of Approval stated in the draft ordinance. Commissioner Joyce seconded the motion.

VOTE: The motion passed 4-3. Commissioners Joyce, Gross, Phillips and Worel voted in favor of the motion. Commissioners Strachan, Campbell and Stuard voted against the motion.

Findings of Fact – 4001 Kearns Boulevard

1. The property is located at 4001 Kearns Boulevard in Park City, Utah.
2. The property is located north of Richardson Flat Road, east of SR 248 and west of US Highway 40.
3. The property contains 29.55 acres.
4. The property was annexed into Park City with the Quinn's Junction Partnership (QJP) Annexation on May 12, 2012, and is subject to Ordinance 12-12. The property was zoned Community Transition (CT) with Regional Commercial Overlay (RCO).
5. On May 24, 2012 a Development Agreement was executed and recorded at Summit County.

6. The Development Agreement includes concept plans for a film studio campus, a 100 key hotel, and commercial and support uses, as further defined in the Development Agreement, consistent with the prior January 17, 2012 Annexation Agreement, a pre-annexation agreement between the City and the property owner.
7. The Annexation Agreement and Ordinance 12-12 include a condition of approval that an Administrative Conditional Use Permit is required for the Park City Film Studio project prior to issuance of any building permits.
8. On December 5, 2013, the City Council approved an amended phasing plan for Phase 1 allowing it to be broken into three sub-phases (1-A, 1-B, 1-C).
9. On December 11, 2013, the applicant submitted an Administrative Conditional Use Permit (CUP) application for Phase 1-A of the Park City Film Studios project.
10. On March 11, 2014, the Planning Director conducted an administrative public hearing to receive public comment on the Administrative Conditional Use permit. No public comment was provided.
11. No portion of this plat is within the Park City Soils Ordinance boundary.
12. The proposed subdivision plat creates a lot of record for the Park City Film Studios project that is planned to be maintained under the common ownership of Quinn's Junction Properties, LC, the current owner.
13. No non-conforming conditions are created by the subdivision plat.
14. The property is accessed from Kearns Blvd, aka SR 248, a State Highway. The MPD access point is at an existing signalized intersection with Round Valley Way as contemplated by the February 1, 2007 Cooperative Corridor Preservation Agreement between UDOT and Park City. A traffic signal for the entrance/exit to the Film Studio site will be installed as part of the Studio project. The cost associated with the traffic signal shall be worked out between the applicant and UDOT.
15. All roads will be designated as private drives and streets. Easements are provided as needed for public utilities. A shared access easement with the City's parcel to the south is provided for possible future shared access point with SR 248.

16. There are no public streets within the subdivision. Each phase is designed to accommodate fire and emergency vehicle circulation through the phase.
17. The subdivision plat application complies with the Land Management Code regarding final subdivision plats.
18. General subdivision requirements related to 1) drainage and storm water; 2) water facilities; 3) sidewalks and trails; 4) utilities such as gas, electric, power, telephone, cable, etc.; 5) public uses, such as parks and playgrounds; and 6) preservation of natural amenities and features have been addressed through the Master Planned Development process as required by the Land Management Code.
19. The Annexation Ordinance applies to this plat. The Ordinance requires LEED construction at the certified level without commissioning per the Annexation Agreement and at a minimum, the Hotel shall include a "Green" operational policy within industry standards and a door key activated light shut-off (or similar system) in all of the rooms.
20. Sanitary sewer facilities are required to be installed in a manner prescribed by the Snyderville Basin Water Reclamation District (SBWRD).
21. There are wetlands adjacent to the site to the north and east, as identified on the National Wetlands Inventory. The Inventory does not identify wetlands on the property.
22. There are remnants of an irrigation ditch running through the property. No water has been diverted through the ditch since 1995. If the applicant intends to use the ditch for irrigation of landscaping for Phase Two, there would first need to be resolution of water right and water source issues.
23. A Riparian Analysis prepared by Psomas and submitted with the CUP application, concludes that no riparian conditions exist within the property boundaries.
24. Water service is provided by Summit Water for this property.
25. There is good cause for this subdivision plat in that it creates a legal lot of record from metes and bounds described parcel for a future film studios project.

26. Trails and sidewalks are provided consistent with the MPD Development Agreement. The applicant has provided the City with the required \$75,000 for trails to be constructed to the site by the City.
27. The findings in the Analysis section are incorporated herein.

Conclusions of Law – 4001 Kearns Boulevard

1. The subdivision complies with LMC 15-7.3 as conditioned.
2. The subdivision is consistent with the Park City Land Management Code and applicable State law regarding subdivision plats.
3. The subdivision is consistent with the May 12, 2012, Quinn's Junction Partnership Annexation and May 24, 2012 MPD Development Agreement, as amended with the December 5, 2013 Council approved phasing plan for Phase 1-A.
4. Neither the public nor any person will be materially injured as a result of approval of the proposed subdivision plat, as conditioned herein.
5. Approval of the proposed subdivision plat, subject to the conditions stated herein, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 4001 Kearns Boulevard

1. City Attorney and City Engineer review and approval of the final form and content of the subdivision plat for compliance with State law, the Land Management Code, and the conditions of approval, is a condition precedent to recordation of the plat.
2. The applicant will record the subdivision plat at Summit 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 amendment will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Conditions of approval of the May 12, 2012, Quinn's Junction Partnership Annexation, as stated in the Annexation Agreement and Ordinance 12-12, continue to apply, and shall be noted on the plat.

4. Conditions of approval of the May 24, 2012, MPD Development Agreement, as amended by the City Council on December 5, 2013, continue to apply, and shall be noted on the plat.
5. A final utility plan shall be approved by the City Engineer prior to issuance of permits for site work for each phase.
6. A final grading plan shall be approved by the City Engineer prior to issuance of permits for site work for each phase.
7. Any proposed impacts to the off-site wetland areas require prior approval from the Army Corps of Engineers and/or UDOT. All proposed impacts shall be identified with the building permit application.
8. UDOT approval is required for any off-site storm-water detention facilities and/or landscaping and fencing proposed within the UDOT right-of-way areas, prior to approval of final utility plans by the City Engineer for each phase.
9. A construction mitigation plan (CMP) shall be submitted and approved by the City for compliance with the Municipal Code, LMC, and the MPD conditions of approval prior to issuance of a building permit. A construction recycling area and excavation materials storage area within the development shall be utilized and identified on the CMP.
10. A financial guarantee, in a form and amount acceptable to the City and in conformance MPD conditions of approvals, for the value of all public improvements, including landscaping, shall be provided to the City prior to building permit issuance for new construction within each phase. All public improvements shall be completed according to City standards and accepted by the City Council prior to release of this guarantee.
11. Water sufficient for adequate redundancy and fire flows per the Park City Fire District is required prior to issuance of building permits for vertical construction for each phase.
12. A certificate of occupancy for Buildings 7, 7A, and 7B (as identified on the approved revised phasing plan) shall be issued by the Park City Building Department prior to requesting a certificate of occupancy for Buildings 6 and 8 as identified on the approved revised phasing plan per the MPD Agreement.

13. Topsoil shall be stockpiled on site for use on the property and export of excess material from the site shall be minimized.
14. A note shall be added to the plat indicating that a shared access easement will be granted by the Property owner and the City for possible future shared access to SR 248 at the southwest corner of the property. The City Engineer shall identify the easement requirements prior to recordation of the easements at such time that the easements are needed.
15. Due to the potential for areas of expansive soils within this subdivision, a soils conditions report shall be submitted prior to issuance of any building permits for structures, utilities, and roads, and shall be reviewed by the City Engineer and Building Official prior to issuance of an excavation permit for any construction.

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The Planning Commission adjourned the regular meeting and moved into Work Session where Assistant City Attorney, Polly Samuels-McLean, provided legal training on conditional use permits and due process.

The Park City Planning Commission meeting adjourned at 7:10 p.m.

Approved by Planning Commission: _____