

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
August 28, 2013

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Planner; Francisco Astorga, 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.

ADOPTION OF MINUTES

August 14, 2013

Chair Worel corrected the minutes under Roll Call to reflect that **Chair Worel** opened the meeting. The minutes incorrectly read Chair Wintzer.

MOTION: Commissioner Savage moved to APPPROVE the minutes of August 14, 2013 for the Work Session and the Regular Meeting as amended. Commissioner Thomas seconded the motion. Commissioner Wintzer abstained since he was absent from that meeting.

VOTE: The motion passed unanimously.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Thomas Eddington introduced the new planner, Christy Alexander. She comes with great planning and design background and the Planning Department was excited to have her on Staff.

Director Eddington reported that the application deadline for a seat on the Planning Commission was extended to Friday, September 6th at 5:00 p.m.

Director Eddington announced that the special joint meeting with the Planning Commission and City Council was scheduled for Wednesday, September 4th at 5:00 p.m. The topic would be policy issues related to the General Plan.

Director Eddington asked which Commissioners would be available on September 11th to make sure the Planning Commission would have a quorum. Commissioners Worel, Strachan and Savage would be out of town. Commissioners Thomas, Hontz, Gross and Wintzer would attend. With four members attending, the Planning Commission would have a quorum to conduct the meeting. For the meeting on September 25th, Commissioners Worel, Wintzer, Gross and Thomas would attend, giving the Planning Commission a quorum. Commissioners Hontz, Strachan and Savage would be absent.

Kayla Sintz reviewed the September 11th agenda to make sure none of the Commissioners had conflicts and would need to be recused from an item. Commissioner Hontz asked if she would need to recuse herself from the work session discussion for the Library MPD modification, or whether a disclosure would be sufficient. Assistant City Attorney wanted the opportunity to determine whether or not it would be a conflict and she would inform the Planning Department if the item needed be continued to another meeting. The September 25th agenda was not yet finalized.

Commissioner Savage disclosed that he is friends with Gary Felsher, an applicant in the 7905 Royal Street matter on the agenda this evening. He did not believe their association would affect his decision this evening.

CONTINUATION(S) – Public Hearing and Continuation to date specified.

510 Payday Drive – Plat Amendment. (Application PL-13-01945)

Planner Whetstone reported that the applicant was still working out issues with the Water Agreement before it is finalized. She wanted to make sure that easements or other items from the Water Agreement were reflected on the plat before it comes to the Planning Commission.

Chair Worel opened the public hearing. There were no comments. Chair Worel closed the public hearing.

MOTION: Commissioner Thomas moved to CONTINUE 510 Payday Drive - Plat Amendment to September 22, 2013. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

2519 Lucky John Drive – Plat Amendment (Application PL-13-01980).

Chair Worel opened the public hearing. There were no comments. Chair Worel closed the public hearing.

MOTION: Commissioner Thomas moved to CONTINUE 2519 Lucky John Drive - Plat Amendment to September 11, 2013. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

LMC – Amendments to Chapter 2.4 – HRM District

Chair Worel opened the public hearing. There were no comments. Chair Worel closed the public hearing.

MOTION: Commissioner Wintzer moved to CONTINUE the LMC Amendments to Chapter 2.4 to September 11, 2013. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA – Discussion, Public Hearing and Possible Action

1. 7905 Royal Street – Record of Survey Amendment (Application #PL-13-01968)

Planner Kirsten Whetstone reviewed the request for a record of survey plat amendment for Units 1 and 3 at the Knoll Condominiums located directly north of the Chateau at Silver Lake at Deer Valley. The owners of the Knoll Units 1 and 3 and the HOA, have requested an amendment to the plat to transfer approximately 700 square feet of unused platted private area from Unit 1 to Unit 3. The owner of Unit 1 does not intend to build his addition and was transferring the unbuilt area to Unit 3. The owner of Unit 3 would like to build an addition to the rear at the lower level, with a deck above to be limited common space.

Planner Whetstone reported that the 700 square feet would be transferred over, as well as an additional 100 square feet of common area to become private area for Unit 3 to construct an addition. No new units would be created. The Knoll was constructed with Deer Valley units and there is no calculation based on square footage. The Deer Valley MPD concept and configuration and the property use would not change. The amount of open space decreases by less than 1%. However, a footprint calculation was done and the open space would go from 65.3% to 64.9%. The required open space is 60%. Planner Whetstone stated that the proposed modifications would not have a negative impact on the Deer Valley MPD or the Greater Park City community.

The Staff found good cause for the Plat Amendment, and the record of survey amendment is consistent with the 11th Amended Master Plan Development for Deer Valley, the LMC, and State law for condominium plats. The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval as outlined in the ordinance attached to the Staff report.

Chair Worel referred to language on page 38 of the Staff report, "...the lower level of Unit 3 increases by 811.7 square feet beneath a proposed common area deck". She asked if the lower level of Unit 3 would be under a common deck. Planner Whetstone explained that in a condominium plat the deck is typically limited common area. The addition is one-story off the back of the lower level, and a deck would be built on top of the addition. The deck would be considered common area. Planner Whetstone noted that the deck could be private; however limited common allows the HOA to access and maintain the deck. Commissioner Strachan clarified that limited common is different from common space.

Kevin Horn, the project architect, was available to answer questions. Mr. Horn noted that the three owners are close friends from New York and no one objects to this request.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for Unit 3 of 7885 and 7905 Royal Street in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval as stated in the draft ordinance. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 7885 and 7905 Royal Street

1. The property subject to this plat amendment is located at 7885 and 7905 Royal Street East and consists of Units 1 and 3 of The Knoll at Silver Lake Condominiums Phase I and associated common area.
2. The Knoll at Silver Lake Condominiums Phase I record of survey plat was originally recorded at Summit County on April 5, 1982. A first amended plat was recorded at Summit County on November 11, 1996, followed by subsequent amendments on December 21, 1999; November 29, 2005; April 5, 2006; and February 28, 2007.
3. The Knoll at Silver Lake Condominiums Phase I is located on a parcel that is 27,184 square feet in total area and consists of four (4) residential condominium units in one building with twelve (12) parking spaces located in an underground parking structure. The remaining phases were reconfigured in the 1980s with an MPD amendment and developed as detached single family homes, known as Knoll Estates.
4. The property is located within the Residential Development (RD-MPD) zoning district and is subject to the Deer Valley Master Planned Development (MPD) that sets forth maximum densities, location of densities, allowed uses, developer-offered amenities, and other conditions for the entire Master Plan. The property is located within the Silver Lake Community of the MPD.
5. The Knoll at Silver Lake Condominiums Phase I was approved for four (4) “Deer Valley Units” similar to Stag Lodge with no maximum floor area or residential unit equivalents (UEs) were assigned to these units. The MPD requires a minimum of 60% open space and compliance with the RD zone setbacks and building height limitations.
6. On July 1, 2013, an application for a plat amendment was submitted to the Planning Department requesting an amendment to the record of survey plat to transfer 711.1 sf of unused, un-built private area from Unit 1 to Unit 3 and to convert 100.6 sf of common area to private area for Unit 3 for the purpose of constructing an addition to Unit 3. The addition would increase the platted floor area and building footprint of Unit 3 by 811.7 square feet and decrease the platted floor area and building footprint of Unit 1 by 711.1 sf. There is a net change of floor area and building footprint of 100.6 sf.

7. No new units are created and the Deer Valley MPD concept and configuration of property and uses are not changed.
8. The amount of open space decreases from 65.3% to 64.9 % and the property continues to comply with the MPD requirement of 60% open space.
9. The State Condominium Act requires a vote of the condominium owners and approval of the amendment by 2/3 of the condominium owners.
10. On August 2, 2013, the owners signed a Sixth Amendment to the Declaration of Condominium and Consent to Record of Survey Amendment to be recorded with the amended plat and indicated that $\frac{3}{4}$ of the owners were in favor of the amendment.
11. No new units are created and the MPD concept and configuration of property and uses is not changed. No new uses are created with the plat amendment. The proposed modifications are not substantive and will not have a negative impact on the surrounding area, the Deer Valley project, or the greater Park City community.
12. The MPD required 2 parking spaces per unit for a total of eight (8). There are twelve (12) spaces provided within an underground parking structure. No additional parking is required or proposed. No additional parking demand is created by the proposed amendments.
13. Findings in the staff analysis section are included herein.

Conclusions of Law – 7885 and 7905 Royal Street

1. There is good cause for this record of survey plat amendment.
2. The record of survey plat amendment is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. As conditioned, the record of survey plat amendment is consistent with the current Eleventh Amended and Restated Deer Valley MPD.
4. The proposed record of survey plat amendment will materially injure neither the public nor any person.
5. Approval of the record of survey plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park

City.

Conditions of Approval – 7885 and 7905 Royal Street

1. The City Attorney and City Engineer will review and approve the final form and content of the record of survey 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 record of survey 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 complete application requesting an extension is granted by the City Council.
3. All conditions of approval of the Deer Valley MPD and Knoll at Silver Lake Condominium record of survey plat continue to apply.
4. All construction subject to this plat amendment requires a Building Permit and approvals from the Building and Planning Departments.
5. A plat note shall be added requiring maintenance of all required elements of the fire protection plan, including residential fire sprinkler systems, according to the Building Code in effect at the time of building permit application submittal.

2. 1555 Iron Horse Drive – Extension of a MPD (Application PL-13-01963)

Planner Francisco Astorga reviewed the request to extend the approved MPD that was approved in 2011. The property is located at 1555 Iron Horse Loop Road. Planner Astorga explained that the property owner put his plans on hold due to the discussion the City and the property owners were having with Rocky Mountain Power regarding the possible relocation of the substation. Since the relocation was not negotiated and the City was not looking into further possibilities, the property owner would like to extend the approval date for two years from the original date to begin the project. The original MPD expired on August 2nd, 2013. The applicant had filed the proper request for a two-year extension.

Planner Astorga noted that during the review process of the extension the Staff discovered a discrepancy with the unit equivalents under Section 5, Affordable Housing. The original number was incorrect based on the calculation of affordable housing equivalents. The number 6.14 should be corrected to read 6.91 unit equivalents. Planner Astorga stated that the inaccurate number was acknowledged and the correct number would be put in the

appropriate development agreement. He noted that Rhoda Stauffer, the City Affordable Housing Specialist, had revised the language as reflected on page 119 of the Staff report.

Planner Astorga stated that all the conditions of approval of the MPD would continue to apply with the exception of the expiration date and the correction to the number of unit equivalents indicated on Exhibit C. The Staff requested that the extension be granted to August 2nd, 2015 to obtain a building permit for the approved MPD.

The Staff recommended that Planning Commission conduct a public hearing and consider approving the requested MPD Extension.

Chair Worel noted that the language in Section 5 on page 119 made reference to 100% of Park City's workforce wage. She was unfamiliar with that term and asked how the work force wage is calculated. Assistant City Attorney McLean stated that the City Housing Specialist calculates the number. Director Eddington explained that affordable housing is typically based on area median income and they look at 100% of what a family of four makes. However, Rhoda Stauffer and Phyllis Robinson established a formula that was more accurate. Area median income also includes those who live here but work somewhere else, or vice-versa, and that can elevate the numbers. The workforce housing number is lower because it is based on the actual work force income. They try to balance the two to achieve a clearer picture for workforce housing.

Commissioner Wintzer asked if the applicant was agreeable to the change in the unit equivalent calculation. Craig Elliott, representing the applicant, replied that the applicant understood that it was a difference in calculation and he was comfortable with the correction.

Craig Elliott clarified that the applicant was requesting a two-year extension to work through the process of relocating the existing tenants before construction begins.

Chair Worel opened the public hearing.

Betsy Megs was not opposed to the extension; however, she wanted to know what would be constructed in place of the existing buildings.

Mr. Elliott informed Ms. Megs that the planned project would be commercial, office and residential use. Planner Astorga stated that if Ms. Megs came into the Planning Department he would review with her the plans of the 2011 MPD.

Chair Worel closed the public hearing.

Commissioner Hontz referred to page 57 of the Staff report, Finding of Fact 12 and changed the word compliances to correctly read **compliance**.

Commissioner Gross noted that the MPD was originally approved in 2011 and this was 2013. He pointed out that a two year extension would be to 2015. In looking at the phasing plan on page 113, the tenants would be moving in the summer of 2020, approximately ten years after the original approval. Commissioner Gross asked Mr. Elliott if it was reasonable to assume he would have a site under construction for over four years. He questioned why it would take 4-1/2 years to construct a 55,000 square foot structure. . Commissioner Gross was nervous about granting a two year extension and having the applicant extend the construction schedule.

Commissioner Thomas stated that the Planning Commission has the purview to extend the MPD. Commissioner Gross thought they should extend it one year and have the applicant come back next year if he needed additional time. He noted that they spent two years discussing the substation which ended up being a wasted two years. Commissioner Gross thought two years was a long time, particularly in the current economy.

Commissioner Hontz asked if the applicant would be able to come back for another extension if they only extend it one year. Assistant City Attorney McLean explained that the Code allows for a two-year extension and they could break it into two one-year extensions.

Commissioner Wintzer did not believe extending it one year or two years would affect the phasing plan. Commissioner Gross remarked that this was the most extended phasing plan he has seen. Commissioner Savage understood that the phasing plan had not changed since the original approval in 2011 and granting the extension would not change the phasing plan. Therefore, if the phasing plan is onerous, it was that way when it was approved.

Commissioner Strachan pointed out that the phasing plan is a function of the market as well as the timing to complete the project. Commissioner Gross believed the construction needed to be completed at one time because the developer would not be waiting for an anchor tenant. He would pursue financing that would allow for full construction and complete at one time. Commissioner Gross thought the worst case should be a fifteen month construction period. Commissioner Strachan was unsure whether the developer would want to build the project at one time. Commissioner Gross noted that phase one and two was site work. Phase three is constructing the shell and phase four is finishing the shell. At that point they would still need to add the tenant improvements which would take another four to six months. He thought Phases one and two should only take six months.

Mr. Elliott explained that the site is a former City dump and the phasing plan allows for enough time to mitigate any impacts on the site. There are also tanks on the site from an old fueling station. The site work could be a long and extensive process based on EPA requirements. Mr. Elliott noted that the owner would like to compress the time frame if possible, but that was unknown at this time. Mr. Elliott remarked that another issue is that construction on the site could not begin until the Deer Valley Laundry is operating in a new location. He stated that the phasing plan was based on the worst case of unknown conditions.

Commissioner Thomas asked whether the argument was the phasing plan or the two-year extension. He did not believe that the Planning Commission was at liberty to open up the MPD and change the phasing plan. Commissioner Gross remarked that all the drilling, studies and tests should have been done by now. Commissioner Thomas disagreed because it is impossible to know the condition of the soil until you dig into it. Commissioner Gross was uncomfortable with dragging out the project by granting a two-year extension.

Commissioner Wintzer remarked that when the MPD was approved they heard similar arguments regarding the phasing plan. The developer was requesting a two-year extension and he did not think it was appropriate to relook at the phasing plan. Commissioner Wintzer stated there was a reason for approving the phasing plan and the reason had not changed. He was not opposed to a two-year extension because this construction season was coming to an end and the existing tenant could not move until after the ski season.

Commissioner Thomas believed it was in the owner's best interest to complete construction once it starts. Commissioner Gross agreed with all the comments; however, he was not on the Planning Commission in 2011 and he was uncomfortable with the extended period of the phasing plan. If the MPD was opening up because of the extension, he believed the phasing and all other issues were on the table.

MOTION: Commissioner Savage moved to APPROVE the two-year extension of the Master Planned Development for 1555 Lower Iron Horse Loop Road in accordance with the Findings of Facts, Conclusions of Law and Conditions of Approval, as amended. Commissioner Wintzer seconded the motion.

VOTE: The motion passed 5-1. Commissioner Gross voted against the motion.

Findings of Fact – 1555 Lower Iron Horse Loop Road

1. The 1555 Lower Iron Horse Loop Road MPD was approved by the Planning

Commission on December 8, 2010.

2. The Development Agreement, ratifying the MPD was submitted to the City in April 2011, within six (6) months of the approved MPD.
3. The approved MPD was put in the form of a Development Agreement and ratified with some minor revisions by the Planning Commission on July 13, 2011.
4. The Development Agreement was executed on August 2, 2011.
5. The Development Agreement was recorded on August 8, 2011.
6. The MPD had a condition of approval which indicated that a building permit must be approved within two (2) years of the development agreement ratification.
7. The expiration date of the approved MPD was August 2, 2013.
8. On June 25, 2013 the applicant submitted a formal letter and application requesting to extend the approved MPD to two (2) more years.
9. During this two (2) year period the project was on hold during the Rocky Mountain Power/Park City Municipal Corporation discussion of relocating the Bonanza Park substation to possibly, this subject site. A decision was made in June 2013 not to pursue the possible relocation.
10. The applicant desires to move forward with their approvals which includes building the approved mixed use residential and commercial development.
11. Staff recommends that the Planning Commission extend the approval to the requested two (2) year extension which would allow the applicant to submit applicable building permit/plans by August 2, 2015.
12. There has been no change in circumstance that would result in unmitigated impacts or that would result in a finding of non-compliance with the Park City General Plan or the LMC at this time.
13. There have not been any significant changes in circumstance which includes physical changes to the property or surroundings.
14. Staff prepared a new Development Agreement to be executed and recorded to reflect this possible MPD extension approval.

15. During this MPD extension request, Staff identified that the required Unit Equivalents (UEs) of Affordable Housing were incorrectly calculated on the executed and recorded Development Agreement.

16. Staff recommends that the updated Development Agreement associated with this MPD extension be amended to reflect the correct amount of Affordable Housing UEs as indicated on the proposed/redlined Development Agreement.

17. All original findings of fact, conclusions of law, and conditions of approval of the MPD approved on the December 8, 2010 and ratified with minor revisions in the form of a development agreement on July 13, 2011 shall continue to apply except as modified herein.

Conclusion of Law – 1555 Lower Iron Horse Loop Road

1. The MPD extension, as conditioned, complies with all the requirements of the approved MPD.
2. The MPD extension, as conditioned, complies with all the requirements of the Land Management Code.
3. The MPD extension, as conditioned, is consistent with the Park City General Plan.
4. The MPD extension, as Conditioned, is consistent with the employee Affordable Housing requirements as adopted by the City Council at the time the Application was filed.
5. The MPD has been noticed and public hearing held in accordance with this Code.

Conditions of Approval – 1555 Lower Iron Horse Loop Road

1. All conditions of approval of the approved MPD approved on December 8, 2010 and ratified with minor revisions in the form of a development agreement on July 13, 2011 shall continue to apply.
2. The updated Development Agreement shall reflect the correct amount of affordable housing unit equivalents as indicated on Exhibit C.

3. The updated Development Agreement shall be recorded within thirty (30) days.
4. The MPD shall expire on August 2, 2015 unless a building permit is issued by said date.

**3. 331 McHenry Avenue – Appeal of Staff’s Determination
(Application PL-13-01959)**

Due to a conflict of interest, Commissioner Wintzer recused himself and left the room.

Planner Astorga apologized for the late notice, but he only learned this morning that both the applicant and the appellant had decided to continue this item to October 9th.

MOTION: Commissioner Savage moved to CONTINUE the quasi-judicial hearing for 331 McHenry Avenue to October 9, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission meeting adjourned at 6:15 p.m.

Approved by Planning Commission: _____