

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
May 8, 2013

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Planner; Mathew Evans, 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 5:55 p.m. and noted that all Commissioners were present except Commissioner Strachan who was excused. Commissioner Gross arrived later in the meeting.

**ADOPTION OF MINUTES**

April 24, 2013

Commissioner Hontz referred to page 117 of the Staff report, page 17 of the Minutes, and the Conditions of Approval regarding 9100 Marsac Avenue. Commissioner Hontz corrected Condition #8 to read, "Any temporary structure that exceeds 5,000 square feet shall not exceed 20 days and will require a Special Events Permit." The correction reflected the discussion on page 115 of the Staff report. Commissioner Hontz corrected the first sentence of Condition #5 to read, "The use shall not violate the City's: Health, Nuisance or Noise Ordinances."

Commissioner Hontz referred to page 116 of the Staff report, page 16 of the Minutes, the Condition #3 regarding 9100 Marsac Avenue, and revised the condition to read, "A maximum of fifteen (15) events which include temporary structures per year are allowed **for a maximum of 60 days.**"

MOTION: Commissioner Wintzer moved to APPROVE the minutes of April 24, 2013 as amended. Commissioner Thomas seconded the motion.

VOTE: The motion passed. Commissioner Savage abstained since he was absent on April 24<sup>th</sup>. Commissioner Gross was not present for the vote.

**PUBLIC INPUT**

Jim Tedford stated that during a previous meeting he submitted a request to the Planning Commission about initiating a few proposed changes to the Land Management Code. One of the

items he addressed was on the agenda this evening, but he had seen nothing regarding his other proposals for Chapter 11 – Historic Preservation. Mr. Tedford asked if those LMC items would be addressed and if so, when.

Director Eddington explained that the intent was to finish the LMC amendments regarding height and MPDs before bringing forth recommendations on other sections of the LMC. Those would be on the agenda at a later date.

Mr. Tedford noted that he had asked the Planning Commission to initiate his proposed changes. He asked if the Commissioners had that purview or if it needed to be done by Staff. He remarked that language in the LMC states that a citizen can request that the City, Planning Department, Planning Commission, City Council or the Historic Preservation Board initiate proposed changes to the Land Management Code.

Assistant City Attorney McLean stated that any citizen can ask the Board to initiate it, but the Board has the discretion of whether or not to direct the Staff to bring those changes.

Director Eddington was unsure which letter Mr. Tedford was referring to and the exact details. He offered to bring the letter to the next meeting for discussion so the Planning Commission could determine if it is a viable alternative to address the LMC.

#### **STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Commissioner Wintzer disclosed that he would be recusing himself from the Park Bonanza discussion. However, he obtained permission from the Legal Department to stay in the room and listen to the discussion.

Commissioners Thomas and Hontz recused themselves from the 1450/1460 Park Avenue projects under the CONTINUATIONS portion of the agenda. They had also recused themselves from the discussion during the work session.

The Planning Commission postponed voting on the Continuations for 1450/1460 Park Avenue until Commissioner Gross arrived since they lacked a quorum with the two recusals.

#### **CONTINUATION(S) – Public Hearing and continuation to date specified.**

Land Management Code – Amendments to Chapter 15-5-4(l) Lighting regarding changes to seasonal lighting (Application PL-13-01887)

Commissioner Hontz reported that after the last meeting a member of the public presented information about France and their national policy to turn off lights. Following that meeting, Commissioner Hontz researched the policy and found that starting July 1<sup>st</sup>, France has a National Law requiring businesses to turn off their exterior lighting between 1:00 a.m. and 7:00 a.m.

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

MOTION: Commissioner Thomas moved to CONTINUE the Amendment to Chapter 15-5-4(l) regarding seasonal lighting to a date uncertain. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously. Commissioner Gross was not present.

916 Empire Avenue – Steep Slope Conditional Use Permit  
(Application PL-12-01533)

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

MOTION: Commissioner Thomas moved to CONTINUE 916 Empire Avenue, Steep Slope CUP to May 22, 2013. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously. Commissioner Gross was not present.

1450/1460 Park Avenue Conditional Use Permit (Application PL-13-01831)  
1450/1460 Park Avenue – Plat Amendment (Application PL-13-01830)

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

MOTION: Commissioner Savage moved to CONTINUE the CUP and the Plat Amendment for 1450/1460 Park Avenue to a date uncertain. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

**REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION**

**1. 2260 Jupiter View Drive, Parkview Condominiums – Amendment to Record of Survey Plat (Application PL-12-01568)**

Planner Mathew Evans reviewed the application to amend the existing Parkview Condominiums Record of Survey Plat. The purpose of the application is two-fold. One is to correct several errors that exist on the current recorded plat. The second is to re-delineate a high water setback line that was recorded in the original plat.

Planner Evans noted that the Staff report contained significant information regarding Army Corps of Engineering permitting and the issues associated with the creek in the meander corridor. Planner Evans reported that when the original MPD was approved there was a trail dedication and the creek was straightened out, which moved the setback line somewhere between 10' to 20'. Since that time the owners of the Parkview Condominiums have contemplated extensions of decks and rear extensions of the buildings. As indicated in the Staff report, the original concept was to limit access

to the wetland area to keep it undisturbed and not to encroach on the 50-foot setback line. Planner Evans stated that the setback line has changed and there is substantial area between the creek and the buildings; and the owners would like to take advantage of the change and extend the decks.

Planner Evans stated that the applicants originally contemplated at-grade patios. However, that idea was abandoned based on the Staff's recommendation to keep the area as natural as possible.

The applicants were proposed the deck expansions, as well as expansions to the rear of some of the units that could be expanded and still meet setbacks.

Planner Evans noted that page 131 of the Staff report outlined the proposed deck extensions for the individual units.

The Staff was being asked to approve only the Plat Amendment. This proposal is not an increase in density and the MPD did not contemplate floor area ratio requirements. Because they were clearing up some of the discrepancies of the original plat, the actual square footage increases contemplated by the applicant equals out with the current proposal and what would be corrected in the plat amendment.

Planner Evans reported on a small reduction in the overall open space. The original open space was 75%. The requirement was 60%. Taking into consideration all the issues that have taken place from the time of the original approval until now, including the deck expansions, Planner Evans had calculated a 4% reduction in open space, reducing the overall open space to 71%. Most of the reduction was due to an increase in the parking, which the owners felt was necessary. The original approvals and requirements contemplated parking in front of the garages and parking in the garages. Since that time the homeowners have provided additional parking areas for visitors and guests.

Planner Evans referred to illustrations in the Staff report showing the main changes between how it was recorded originally and what is being proposed now.

The Staff recommended that the applicant be allowed to move forward with their proposal due to the fact that the high water mark changed, and that the change was a result of doing improvements to the creek as required by the MPD. Planner Evans stated that materials, elevations, etc. were Staff level approvals and were not being considered this evening. However, some of that information was provided to the Planning Commission so they could see what the applicant was actually proposing. Planner Evans presented an aerial overview of the area. He indicated the location of the creek and the affected units.

Planner Evans pointed out that there was a correction to the Staff report regarding the total number of units that would benefit from the deck extensions. He believed the applicant would speak to the discrepancy between the Staff report and the actual benefitted units.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Hontz referred to page 132, third paragraph, which cited concerns expressed by Staff regarding the landscape area between the existing units and the creek. She also had the same concerns and carefully reviewed the conditions of approval to make sure they accomplished the goals set forth in the third paragraph on page 132, as well as additional concerns she had. Commissioner Hontz was comfortable with the plan with revisions to some of the conditions as follows:

Condition #5 – Open Space areas are to remain free of structures **or development**, with an exception **only for the required gravel** stairway landings which shall not exceed the square footage minimum for each, as required by building code (approximately 36: x 36” or 6 feet by 6 feet for side-by-side stairways).

Condition #6 – There will be no hot tubs, gazebos, barbeques, **playgrounds, or any structures** or active recreation areas allowed within the open space area between the buildings and the creek. The originally contemplated **improvements within this area of the Parkview MPD are not allowed.**

Conditions #7 – Deck areas shown as on the plats are not to be converted to private living space **or enclosed**, nor are additional structures, etc. allowed within these or other opens space areas.

Commissioner Hontz asked if the Staff and the Commissioners were comfortable that the language in Condition #8 would address pesticides, herbicides, etc. that would be used within that area; or whether it needed to be addressed in a separate condition of approval.

Derek Howard, representing the Parkview Condominiums HOA, explained that there is no irrigation at all on the back area. There is no sod and all the vegetation is completely natural and native. The willow trees are dying off and since the creek was straightened the ground is basically dead. There are sumps inside the condos which go down 3-feet. The basements go down 4-feet. Going down as far as 7-feet the ground is dry. In order to grow anything they would have to run water irrigation. Mr. Howard stated that an attempt was made to put in natural bushes and they all died. They have also planted a number of trees and many did not survive because the ground is so dry. Regarding the landscape plan, Mr. Howard noted that all the soils have been removed and the entire area has been xeriscaped. The water consumption has been reduced over the last five years from 2.3 million gallons to 1.5 million gallons. Mr. Howard stated that if the City requires them to grow plants, they would be to put in a water system. He noted that the trees cannot exist without water and they drip feed each tree.

Director Eddington remarked that the Parkview HOA has done a nice job with landscaping. However, he thought adding Condition #9 would address Commissioner Hontz’s concerns moving into the future.

Condition #9 – No pesticides, herbicides, or other non-organic fertilizers shall be applied to this landscape area.

Commissioner Thomas referred to page 131 of the Staff report, second paragraph, third line, and corrected the (22) in parentheses to (72) to match the written language of “seventy-two parking spaces”.

MOTION: Commissioner Wintzer moved to forward a POSITIVE recommendation to the City Council for the Record of Survey Plat Amendment for the Parkview Condominiums at 2260 Jupiter View Drive, in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval as amended. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously. Commissioner Gross was not present for the vote.

#### Findings of Fact – Parkview Condominiums

1. The property is located at 2260 Jupiter View Drive within the Residential Development (RD) Master Planned Development Overlay (MPD) District.
2. The proposed plat records and memorializes the change to the wetland high water setback line from McLeod Creek by approximately 10-22 feet (eastward toward the creek) representing approximately 0.51 acres.
3. The Army Corps of Engineers has issued a LOMA Determination to the Parkview HOA which re-designated the property to show that all portions of the Parkview open space outside of the new McLeod Creek meander corridor to be “Zone X” which is a non-flood hazard designation.
4. None of the proposed rear expansions or deck extensions to the affected units are within the new flood designation or the McLeod Creek meander corridor designation.
5. The plat amendment fixes twelve (12) discrepancies of deck and basement areas noted on those units that were not constructed but were shown on the original plat, including showing basement square footages and decks for units that have neither a basement nor a deck.
6. The proposed changes to the plat will allow twenty-four (24) of the thirty-six (36) units within the Parkview Condominiums to extend their decks outward into the eastern portion of the site, and will allow fourteen (14) of those units to expand the square footage of their existing units by adding rear additions of approximately 500 square feet each, and decks from 187 to 310 square feet.
7. The proposed plat will not increase in the density above the original 36 recorded units.
8. The original Master Planned Development for Parkview did not contemplate a maximum FAR and does not prohibit an increase in unit or deck sizes. The only limiting factors to further development were the number of units, the established setback from the wetland high water mark, established height requirements and

other setback requirements.

9. There are 102 parking spaces provided where seventy-two (72) spaces are required.

10. The original amount of open space provided was 75% of the total site, the overall amount of open space provided after the deck and square footage additions to the habitual living space (and the 30 additional parking spaces) is approximately 71%. The open space requirement was 60% when the original approval for the Condominiums was granted, thus the required open space is still exceeded.

11. The proposed plat amendment will not cause any nonconformities or noncompliance with the Residential Development-Medium (RDM) District designation or the Parkview MPD as there is no increase in the total number of units, front and rear setbacks, or building height. All units exceed the minimum rear yard setback requirements (25 feet), with the closest unit to the rear property line being approximately sixty feet (60') feet away.

12. Although the proposed amendment will increase the habitable living spaces for 14 of the 36 units, the amended plat will not require additional parking as the Parkview HOA previously installed additional parking, and only two (2) spaces are required per unit.

13. The proposed amended plat will record a new sewer easement through the property as required by the Snyderville Basin Water Reclamation District.

14. The proposed additional square footage and deck extensions will occur within the Army Corps of Engineers FEMA flood zone "X" as delineated on the approved revised LOMA map.

15. The proposed condominium plat amendment does not require a revised MPD due to the fact that the proposed changes to the original approval of the Parkview MPD are in substantial compliance with the original approvals, and no new units are proposed, the amount of contemplated private space stays roughly the same, and the original open space proposed still exceeds the required amount of 60%.

#### Conclusions of Law – Parkview Condominiums

1. The proposed plat amendment to the record of survey is necessary to memorialize as-built conditions and correct existing discrepancies with the constructed units as compared to the original recorded plat.

2. The proposed plat amendment to the record of survey will reflect the Army Corps of Engineers acceptance of the changes to the high water mark.

3. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.

4. Neither the public nor any person will be materially injured by the proposed plat amendment.
5. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.
6. There is Good Cause to approve the proposed plat amendment not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Conditions of Approval – Parkview Condominiums

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment 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 complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. All applicable original Conditions of Approval for the Parkview Condominiums shall apply.
4. All original notes on the Parkview Condominium Plat shall be noted on the amended plat.
5. Open space areas are to remain free of structures or development with an exception only for the required gravel stairway landings which will be gravel and shall not exceed the square footage minimum for each as required by building code (approximately 36"x36" or 6 feet by 6 feet for side-by-side stairways).
6. There will be no hot tubs, gazebos, barbeques, playgrounds, or any permanent structures or active recreation areas allowed within the open space area between the buildings and the creek. The originally contemplated improvements within this area of the Parkview MPD are not allowed.
7. Deck areas shown as on the plats are not to be converted to private living space or enclosed, nor are additional structures, etc. allowed within these or other opens space areas.
8. A revised landscape plan for the open space area between the existing units and the creek is required at the time of building permit submittal for the deck extensions.



Said landscape plan shall incorporate the reintroduction of native landscape materials within this area, and reduce the amount of sod-grass, especially near the creek.

9. No pesticides, herbicides, or other non-organic fertilizers shall be applied to this landscape area.

**2. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, Chapter 2.3, and Chapter 2.16 regarding Building Height (Application PL-13-01889)**

Planner Francisco Astorga noted that this item addressed LMC amendments to change some of the parameters of the building height in the HRL, HR1, HR2 and RC Districts. The Planning Commission has had significant work session discussions as reflected in the Minutes from those meetings and included in the Staff report. The Staff was before the Planning Commission this evening with recommended proposed changes for review and a possible recommendation to the City Council.

Planner Astorga reviewed the current height provisions: 1) The height must be within 27 feet of existing grade. This provision was unchanged. 2) Final grade must be within four (4) vertical feet of existing grade around the peripheral of the structure except for approved window wells and access to the structure. Planner Astorga reviewed highlighted changes to this provision. The current language addressing a maximum of three stories would be replaced with an internal height parameter. The 10-foot minimum horizontal step on the downhill façade would remain. The mandated roof pitch would also remain based on direction from the Planning Commission during the February work session. The height exception would also remain.

Planner Astorga noted that the 3-story language would be replaced with language regarding internal height that would vary on a specific roof pitch on the roof form, as indicated in the table on page 230 of the Staff report. The language was revised to read, "The internal height of a structure measured from the lowest point of the finished floor level to the highest exterior ridge point shall not exceed the number based on the following table". Planner Astorga explained that they would still achieve the mass and scale of three stories, without saying that the maximum is 3-stories. The Staff thought it was better to use a scale because otherwise people would try to capitalize on their wall height for their stories and then give the lowest roof pitch each time. Therefore, the Staff created an incentive of 1' foot of step per higher roof.

Planner Astorga explained that the logic for the internal height was wall height plus the roof height. The wall height was derived from 3-stories. A ten-foot story including a floor joist may not be doable, and that number was increased to 11 feet for a wall height of 33 feet. The Staff calculated what each roof height might be depending on the pitch of the roof to determine the varying height.

Commissioner Wintzer was unclear why the Staff thought a 9-foot or 10-foot story was not doable. Planner Astorga stated that the scenarios the Staff presented in January and February were based on 10-foot stories, which included a floor joist. The intent was to be more consistent with what the market might drive. He pointed out that the proposed change does not dictate how tall the story might be. It could be less or more and the applicant has the ability to work with the design. Planner

Astorga understood from previous comments that the Planning Commission thought the 10-foot story maximum was too small.

Commissioner Hontz thought believed that 10-feet was adequate and that 11-feet was a gift. However, she recognized that it did allow more flexibility. Commissioner Thomas was not concerned with whether it is 9, 10 or 11 feet on the interior. Commissioner Hontz was concerned that if someone takes the maximum internal height of 43', they would need to grub out again. She pointed out that the 27' would only keep it with the slope. However, internally, the house could continue to go further down. Planner Astorga noted that the internal measurement creates a split level. Commissioner Hontz was comfortable with split levels, but the question is how many splits. They were keeping down the height, but they also wanted to keep the structure from growing bigger side to side. She preferred the ten-foot story because it keeps the building from creeping down the slope too far.

Planner Astorga stated that based on the methodology selected for the scale, if they use the 10-foot measurement it would drop 3-feet from each internal height. Therefore, the internal height would range from 35' to 40'. Commissioner Hontz was more comfortable with those numbers. Commissioner Hontz stated that because the current Code does not allow stepping within the house, the current three-story solution works because it limits how far people are willing to go out and down the hill. Commissioner Hontz wanted to make sure that by allowing more flexibility in terms of steps within the interior, that they were not allowing creep up or down the hill.

Director Eddington asked if the Commissioners wanted to go to 10-foot floor plates and reduce the internal height by 3-feet each. Commissioners Hontz and Wintzer answered yes.

Commissioner Thomas was more concerned with the impact on footprint. They would still have the 27' maximum height from existing grade, but he was interested in knowing the relative difference in footprint between a 10-foot floor plate and an 11-foot floor plate.

Director Eddington did not believe the footprint would change either way because most people max out their footprint. He noted that the City has a formula for footprint for all of the historic zones. Commissioner Thomas stated that he was very comfortable with the 11-foot for interpretation as long as people are held to the 27' maximum height and the footprint could not creep up or down the hillside. Director Eddington clarified that it was a formula of lot size.

Commissioner Savage thought they should stay with the 11-foot floor plate as proposed. Chair Worel was comfortable with 11-feet as long as the footprint could be limited. Commissioner Wintzer was not opposed to 11-feet because people do build to the maximum. Commissioner Wintzer suggested that Planner Astorga include an illustration for clarification to show how it should be interpreted.

Commissioner Hontz asked for the definition of finished floor level? Commissioner Savage suggested that it could be defined as, the lowest point of the lowest finished floor level to the maximum vertical height of the structure. The Commissioners supported that definition. Commissioner Savage wanted to know how the number relates to not counting a basement if it is totally subterranean. Planner Astorga clarified that subterranean basements are counted. Commissioner

Savage clarified that regardless of whether or not the basement is buried, the lowest level of the lowest floor is Point A, and Point B is the highest point of the exterior.

Director Eddington clarified that the language indicates the lowest point of the finished floor level and/or any structural element is the lowest point. Commissioner Thomas gave a scenario to show how talking about structure complicates the issue. Commissioner Savage thought the confusing word was internal.

Planner Astorga remarked that the next proposed change was to add two provisions to the Existing Historic Structures. This portion of the Code states that historic structures are valid complying structures in terms of parking and other issues. Planner Astorga noted that the LMC defines a Historic Structure, but it does not include any additions to the structure. The Staff wanted to keep the regulation for valid complying and added Footprint and Height to the existing Code language for the three Historic Residential Districts and the RC District.

Director Eddington clarified that it was already understood that if a structure exists with an existing footprint or building height, it is existing non-complying. Planner Astorga believed that most of the historic structures comply with the building footprint.

Commissioner Hontz noted that someone could take away some of the property associated historically with the historic structure that makes it complying currently. Director Eddington clarified that a building could not violate the Code and be taken into non-compliance. However, he understood Commissioner Hontz's concern. If someone had more than a single Old Town lot they could split a portion of the land and put it on another property. He pointed out that the footprint would be limited to the 844 square feet or whatever it exists as and the building would never get bigger. Commissioner Hontz agreed that the structure could not be bigger, but splitting a portion of the property would allow a larger structure next door.

Planner Astorga stated that the Staff also tried to clean up the section regarding Building Height. A number of historic structures do not comply with the existing heights. One of the parameters is a 7:12 to 12:12 roof pitch. The Staff did not think it was appropriate to do a complete analysis on how a structure is legal non-conforming, when a similar clause in the Code addresses setbacks.

Commissioner Savage asked if complying and conforming were synonyms for purposes of the Code. Director Eddington explained that conforming is for a use and complying is for a structure. Commissioner Savage understood that a valid complying structure could be legal non-conforming.

Planner Astorga noted that the final proposed change was a roof pitch exception. He explained that periodically the Staff encounters a historic structure that may have a 5:12 or 4:12 roof pitch. The Staff felt it would be more appropriate if the addition that comes in for that structure would be held to the same type of roof pitch or possibly lower. Planner Astorga noted that currently the Code would not allow that because it specifies 7:12 to 12:12 roof pitch.

Planner Astorga stated that the Staff was proposing to add language for additions to historic structures, stating that through an HDDR review and compliance with the Historic District

Guidelines, the Planning Director has the ability to approve a roof pitch lesser than the one required in the Code.

Planner Astorga stated that the next question was how that would apply in the case of a split level and the maximum height. He noted that a secondary table was added for these types of exceptions.

Planner Astorga asked if the Planning Commission was comfortable adding the roof exception for additions to historic structures; and whether it would be appropriate to add the same type of scale for the maximum building height. Commissioner Thomas liked the idea because it would allow for a more appropriate design and more flexibility. The Commissioners concurred.

Commissioner Wintzer referred to the table on page 231 of the Staff report and corrected the 5:15 roof pitch to be a 5:12 roof pitch. Commissioner Thomas noted that 5:15 appears several times in the Staff report and it should be corrected throughout.

Commissioner Hontz referred to page 244 of the Staff report and asked what they would do about the 10-foot horizontal step that is referenced in conjunction with a third story, because people would now be able to have three stories. Planner Astorga replied that the provision is based on a 3-story building and it is mathematically impossible to have more than three stories. Commissioner Hontz did not believe it referenced what they were trying to accomplish now. She thought the language should be re-written relevant to where they want the 10-foot horizontal step to occur. Commissioner Thomas agreed that it was no longer clearly defined as the third story. Director Eddington suggested that it may need to be a numeric value.

The Commissioners were not comfortable forwarding a recommendation to the City Council without seeing the drafted verbiage regarding the roof pitch exception and associated illustrations.

Chair Worel opened the public hearing.

Ruth Meintsma, a resident at 505 Woodside, commented on the 3-story versus internal height issue and did not believe they were accomplishing what they intend to accomplish. Ms. Meintsma understood that they were first trying to accomplish visual height and mass from the exterior, and secondly to control the height and mass from stepping up the side of the hill with a 3-story limit. She thought the height limitation seemed complicated and she believed they would cause other issues. Ms. Meintsma presented a visual to support her concerns. Regarding the discussion about the lowest point of the lowest floor to the highest exterior to limit crawling up the hill, Ms. Meintsma pointed out that many houses in town have an exposed foundation way below the first floor. If they do not consider the exposed foundation and start from the bottom first floor and limit the interior, people will lift their house out of the ground and have an exposed foundation, which will significantly increase the visual mass. Ms. Meintsma stated that the interior measurement from the lowest floor was not accomplishing what they wanted. She believed that starting from grade would accomplish their goal and keep the structure from creeping up the hillside.

Ms. Meintsma commented on the different roof pitch options with different heights. She pointed out that a green roof is 33 feet and a 12:12 is 43 feet. No one will choose a green roof unless they are very environmentally conscientious, because people prefer an open ceiling roof. She believed the

proposed formula would discourage green roofs. Ms. Meintsma also thought it discourages a steeper pitch because with a 27' height limitation a steeper pitch would move the structure further underground. She noted that most people want to be above ground as much as possible for light and windows.

Ms. Meintsma suggested that there were different ways of controlling visual height and mass. She thought it would be better to control the height and visual and put a limitation on cubic dirt moved under the house. That would address both issues separately and in a more appropriate way than the interior number of floors. Ms. Meintsma was pleased that Commissioner Hontz mentioned the third floor, because in her opinion the 3-story step back did not work. She provided different scenarios to explain her point.

Ms. Meintsma thought there needed to be some way to encourage green roofs through some type of height limitation. She asked if a conditional use for a higher height could be used as a negotiating tool for green roofs. Ms. Meintsma pointed out that the advantages of a green roof. She believed everything needed to be thought through to be productive and to have the control the Commissioners wanted.

Commissioner Wintzer asked the Staff to consider Ms. Meintsma's comments and work it through a number of drawings.

MOTION: Commissioner Wintzer moved to CONTINUE the LMC Amendments regarding Building Height to May 22, 2013. Commissioner Savage seconded the motion.

VOTE: The motion passed unanimously. Commissioners Gross and Thomas were not present for the vote.

**3. Land Management Code – Amendments to Chapter 2.1, Chapter 2.2, and Chapter 2.3 and Chapter 2.16 regarding underground parking structures. Amendments to Chapter 2.18 regarding Prospector Overlay. Amendments to Chapter 6 regarding Master Planned Developments. (Application PL-1301888)**

Planner Whetstone stated that these were the remaining amendments of the 2012 annual update of the Land Management Code. This agenda item addressed three amendments. The first was to clarify the purpose and the applicability of the Master Planned Development review process throughout Park City. It was not specific to any one area, but it clarifies the language. The second was to clarify and add additional review criteria to the Master Planned Development Review process. This would apply to any Master Planned Development. The review criteria were clarified and updated to make references that are specific to the Code. The third amendment was to clarify the lots within the Prospector Square overlay in the General Commercial (GC zone) that are subject to zero lot line development. Planner Whetstone noted that added language clarifies the lots subject to exceptions in the overlay. One of those exceptions is to have a zero lot line development. Planner Whetstone stated that when the Prospector Square subdivision was amended, the Code was not also amended to identify that those lots are also allowed zero lot line development.

Planner Whetstone referred to the General Commercial Zones, Section 15-2.18-3 of the LMC, Lot and Site Requirements. This section addresses lot and site requirements and several changes were

made to this section of the Code. The first change is to clarify which lots in the Prospector Square Subdivision can have the zero lot development and which lots are exempt.

Planner Whetstone reviewed the redlined changes on page 281 of the Staff report and noted that Lot 44 should have never been listed as a lot that could have a zero lot line and; therefore, Lot 44 was added back in. The proposed amendment refers to the affected lots, which are the smaller lots within the Prospector Overlay.

Planner Whetstone stated that page 281 also talks about front yards, rear yards and side yard setbacks. The Staff added the reference that the Prospector Overlay allows reduced site requirements for designated Affected Lots, and referenced the LMC section where those are further described. Planner Whetstone clarified that the purpose of the change was an attempt to make the Code more user friendly.

Planner Whetstone stated that the next proposed change was to clarify the Purpose and the Applicability of Master Planned Developments, Section 15-6-1. The Planning Staff felt it was important to make the intent very clear in terms of where an MPD is required, where is it allowed but not required, and where they are not allowed.

Planner Whetstone noted that the Staff had removed any HRC, HCB reference. As proposed, Master Planned Developments are not required for large projects on property zoned HRC and HCB. A residential project of ten or more lots or a hotel with 15 residential unit equivalents, or any new commercial, retail office, public, quasi-public, or industrial project with more than 10,000 square feet or any project utilizing transfer of development rights, or other projects of those types would require a Master Planned Development, based on the new proposed language, unless the project is solely located in the HRL, HR-1, HR-2, HCB or HRC. Planner Whetstone pointed out that proposed language is similar to the existing language, with the exception that large projects in the HRM are required to be reviewed as a Master Planned Development. This is because this zone contains larger parcels that could have larger projects that should be reviewed as a Master planned Development.

Planner Whetstone referred to Section 15-6-2 and noted that the language in the existing Section B was deleted and replaced with (B) Allowed but not required. Planner Whetstone noted that the HR-2 zone is the transition between the back of the lots on Main Street and the east side of Park Avenue. The Staff felt that the projects that cross the zone line should continue to be reviewed as a Master Planned Development because the HR-2 zone was designed several years ago with that provision as a key component. MPDs are not required in the HR-2 but they can be used to address the different conditions and challenges with that type of development.

Planner Whetstone read language that was added to B (1), "Height exceptions will not be granted for Master Planned Developments that are within the HR-1, HR-2, HRC, HCB zones". The language references to the specific height review criteria under a different section in MPD Chapter of the Code that reiterates that language.

Planner Whetstone stated that "allowed but not required" has always been in the Code but without much clarity. She clarified that the Master Planned Development process is allowed but not

required is primarily for HR-1 zoned properties that are not part of the Park City survey. Language in this section refers to Affordable housing MPDs in a different section of the Code.

Planner Whetstone stated that the next proposed change addresses where MPDs are not allowed at all except as provided in A and B above and as described in LMC 15-6-7, which is MPDs for Affordable housing. Another exception is when it is specifically required by the City Council as part of an Annexation or Development Agreement.

Planner Whetstone noted that the second part of the changes to Master Planned Development Chapter includes additions and clarification of the review criteria and process. She explained that the Master Planned Development in general requires 60% open space. However, there has always been an exception for the GC zone and the Staff was proposing to add the LI zone. The exception also extends to the HRC and HCB only when they are combined with HR-1 and HR-2 properties, and the HRM. The minimum requirement for the excepted zones is 30%. These zones are located in more urban areas of the City.

Planner Whetstone noted that the revised language also clarifies that the Planning Commission may reduce the required open space to 30% for redevelopment of an existing development or developments, or if the MPD is for an infill site that is not subject to an existing MPD, and not in one of the previously mentioned zones. Planner Whetstone commented on project enhancements that must occur in order to reduce the open space from 60% to 30%.

Commissioner Hontz referred to language on page 287 of the Staff report, 1) a ten (10%) or more increase in Affordable Housing. She wanted to know 10% over what. Planner Whetstone replied that it was over what would be required by the development, and that would be decided by the Affordable Housing Resolution. Director Eddington stated that based on the current Affordable Housing Resolution the number was 15%.

Commissioner Hontz did not think the language as written was clear. Director Eddington suggested revising the language to state, "10% or more beyond the required Affordable Housing." Commissioner Hontz was comfortable with the revision.

Commissioner Hontz wanted to know who would determine the project cost. Director Eddington believed it was determined at the time of building permit. Planner Whetstone assumed Commissioner Hontz was talking about - 6) Public art equivalent at least 3% of the total project cost. She pointed out that the Planning Commission would be reviewing the MPD and they would be the ones making the decision regarding a reduction in open space. The applicant would have to submit that as part of their MPD application or it could be a conditions of approval to be determined at the building permit stage when costs are known.

Commissioner Savage noted that that the language says the enhancements may include but are not limited to, and then it lists very explicit items. If the enhancements are not limited to the list, he felt everything would be negotiable. Commissioner Savage encouraged the Staff to eliminate the percentage constraints of 50%, 10%, etc., because it is unclear where the numbers came from and it should be evaluated on a case by case basis. If they want flexibility to negotiate, they should not pre-constrain the nature of the give and get. For example, if they put "LEED Silver or equivalent" in

the LMC it may be obsolete in a year or two and the standards may be different, but it still remains in the Code. Commissioner Savage suggested language stating that the open space requirement could be reduced as low as 30% based upon the applicant's willingness to make concessions in these areas, but not give specific guidelines.

Commissioner Hontz stated that she was thinking of the value of open space and how it is designed based on what they have recently seen. She questioned whether it should be added in this section or to the open space definition. Commissioner Hontz remarked that if they were willing to reduce the open space to 30%, she was not willing to include any area in the minimum setbacks or required buffers as part of that 30%. Commissioner Hontz preferred to make it part of the open space definition because it would improve the value of other projects.

Commissioner Savage stated that whatever the definition of open space, he wanted to make sure that it gives the Planning Department and the Planning Commission the flexibility to negotiate the best outcome. Commissioner Hontz wanted the open space to be valuable and usable.

Planner Whetstone pointed out that the General Plan has a lot of information about open space and types of open space. The LMC would be updated once they get clarity from the General Plan. She noted that the Planning Commission has always had the ability to do this with guidance from the existing General Plan and the current definitions.

Commissioner Hontz recommended that they put the restriction of not including minimum setbacks and required buffers in the 30% open space in this section of the LMC. Commissioner Hontz proposed that they also consider excluding setbacks from the 60% open space calculation. She asked the Staff to consider what constitutes open space and what they see as not being valuable or meaningful open space. Planner Whetstone offered to draft the language Commissioner Hontz had suggested in this section of the MPD.

Commissioner Savage recommended that the Planning Commission continue the MPD section of the proposed amendments and direct Planner Whetstone to come back with a revised definition that would be consistent with the desired objectives. The Commissioners concurred. Director Eddington pointed out that the open space definitions in Section 15-15 were outdated and would not address their objectives.

Planner Whetstone clarified that the Commission's direction was that the enhancements should be more general and that the Commissioners were comfortable with that approach. Commissioner Hontz stated that if she could get open space with clarification and definition of what the value is, she would be willing to allow more freedom and flexibility with the enhancements.

Commissioner Savage thought this would build discretion and allow the capacity to consider a decrease in the requirement of open space in exchange for things the City/Planning Commission deems to be valuable. Rather than putting the constraints in the LMC section, it should be constrained in the definition. The definition would cause people to look at the list to see how they could get a reduction in open space.



Planner Whetstone reviewed the proposed changes in Section 15-6-5(F) Building Height. The existing language only said "Height" and the Staff changed it to "Building Height" for clarification. Another change added HRC and HCB as zoning districts where height exceptions would not be granted in an MPD. The remainder of the proposed changes clarified the existing language or were capitalizations and grammatical changes being administrative changes.

Planner Whetstone referred to the landscape and streetscape section of the MPDs. Instead of trying to redo the section that was recently approved for landscaping, this section refers to Chapter 5, Architectural Standards. Any MPD must have a landscape plan and has to comply with the criteria and requirements of Section 15-5-5, Landscaping. The Staff added that noxious weeds have to be removed in an MPD. They also added a Historic Mine Waste Mitigation plan for an MPD at the request of another City Department.

Planner noted that the Staff had cleaned up the required findings and added the finding that the MPD addresses and mitigates physical mine hazards as well as historic mine waste.

Planner Whetstone noted that the last changes were under 15-6-8, Resort Accessory Uses, to clarify that certain items listed on page 291 of the Staff report do not require the unit equivalents in a resort. They also clarified that circulation and hallways only apply to resort accessory uses and not for anything else.

Chair Worel opened the public hearing.

Jim Tedford referred to the letter he had submitted a month ago with suggested changes to the MPD section that he had asked the Planning Commission to include in the LMC amendments. His suggestion at the time was that a Master Planned Development process should be required in all zones except the HR-1, H-2, HRL, HRM, HCB and HRC. More importantly in Section B, The Master Planned Development process is not allowed in the HCB, HRC, HR-1, HR-2 or HRL, basically the historic districts.

Mr. Tedford believed the rationale for not allowing MPDs in these historic districts was summed up very well by Commissioner Strachan on November 28<sup>th</sup>. Mr. Tedford quoted Commissioner Strachan's comments from the minutes. "MPD applications are basically exceptions to the existing zoning and that is fine as long as it meets a certain criteria. He believed the idea works well in theory, however, the most controversial projects over the last ten years have all been MPDs. The reason for the controversy is that MPD projects are exceptions to the zoning they all agreed on. Commissioner Strachan believed that an MPD sets up the Planning Commission, the City and the public for controversy every time. They are controversial and they please no one. He thought there was a nice balance now where MPDs are allowed in certain zones. There have been few exceptions that did not come without a fight and he anticipated that there would be more. Commissioner Strachan could see no need to extend the use of the MPD tool. Rather than make exceptions to the zone, the logical approach is for an applicant to request a zone change if they cannot meet what is allowed in the zone."

Mr. Tedford stated that they cannot do much about past mistakes made by past Planning Commissions or past City Councils. However, they can make sure that all future Main Street

projects complement the existing historic qualities of our mountain community. The Park City LMC and the Historic District Design Guidelines determine what can or cannot be built. It is time to strengthen these laws and not weaken them by creating exceptions and including ambiguous language that will allow projects that do not belong on Main Street. It is a bad policy to create, delete or modify the Land Management Code to accommodate any one project. The question is whether they want to take the historic out of historic Main Street, which is one of the biggest attractions in Summit County.

Mr. Tedford stated that what happens with Historic Main Street begins with the Planning Commission this evening. The decisions they make will be passed on to the City Council and become new laws for Main Street. He felt it was too bad to see anything being weakened because they know from the past what can happen when there is too much flexibility. Main Street is a gem and he thought it behooved the Planning Commission to protect it the absolute best they can.

Craig Elliott, with Elliott Work Group, stated that he is a frequent consumer of the LMC and he was probably responsible for the majority of the MPDs that came through within the last ten years. Mr. Elliott applauded the Staff's approach to clarifying the Master Planned Development because it has always been unclear on where it can or cannot be applied. Mr. Elliott stated that the Master Planned Development is a great tool that allows for flexibility and allows the City to come together and provide better solutions than what the underlying Code can provide. He noted that a Code cannot provide every particular instance that occurs in City and that is why the Planning Commission works to improve it.

Mr. Elliott suggested that the HRC would be an important element to have an MPD because it always transitions in some form or fashion and every piece of property in the HRC has some quirk about it. Mr. Elliott thought it should be allowed as a use. He thought it was a good idea to restrict the height exceptions in the HRC zone, but allow the HRC to have an MPD to provide for better solutions is a smart tool and a change he thought they should consider. Mr. Elliott thought a discussion about the definition of open space was long overdue. It was talked about ten years ago in early presentations on MPDs. They went through the discussion and made determinations on urban open space versus Mountainside open space. He wanted to see that codified because it is the appropriate thing to do in different zones.

Mr. Melville, a resident at 527 Park Avenue, generally supported the proposed language for the Master Planned Development as stated in Chapter 6, Section 15-.6-.2, specifically with regard to paragraph B, that height exceptions will not be granted for Master Planned Developments within the HR-1, HR-2, HRC and HCB zone districts. He believed this limitation was extremely important to help preserve the character of the historic core.

Hope Melville, an Old Town resident, referred to the proposed amendment to the LMC on page 282 of the Staff report, Section 15-6-1, regarding the statements of Purpose for MPDs. Ms. Melville noted that the amendment reinserts a provision in subsection K about encouraging economic diversification and development. She recalled that a similar provision was discussed and stricken by the Planning Commission during the November 28<sup>th</sup> meeting. She questioned why this proposed amendment was being reinserted.

Ms. Melville strongly agreed with the proposed amendments to LMC 15-6-2 and 16-6-5(F) which state that height exceptions for building height will not be granted for MPDs within the HRC and HCB zones. She believed that prohibiting these height exceptions was consistent with many things in the Code, as well as the General Plan provision to preserve Park City's Historic Character and scale and the Land Management Code Purpose Statements to protect and enhance the City's historic character and for development in a manner that preserves the integrity of the historic districts and the unique urban scale of the original Park City. It is also consistent with the requirements of the design guidelines for the historic districts, which includes that the size, mass, scale and height of new structures be compatible with and follow the predominant pattern of neighboring historic sites and the neighborhood.

Ms. Melville stated that since some MPDs are always going to be allowed in the historic zones, when projects are in an HCB or HRC zone combined with an HR-1 and HR-2 zone, an MPD should be expressly required to comply with the historic district design guidelines. Ms. Melville pointed out that this requirement is in the Code for projects that are solely in the HRC zone or the HCB zone and there is no good reason not to require a similar provision for MPDs in historic districts. She thought that requirement should be added to the Code.

Chair Worel closed the public hearing.

Commissioner Wintzer referred to Purpose Statement K and noted that Ms. Melville was correct. The Planning Commission had taken it out and it was back with stronger language. Commissioner Hontz stated that she was comfortable removing it before and she had no problem removing it again.

Planner Whetstone recalled that some of the Commissioners were not present when they discussed removing the language. She thought they had tabled a decision until all the Commissioners could have a say.

Commissioner Thomas was not uncomfortable with the purpose statement because if they allow an MPD in the districts it allows the flexibility to create the needed diversity. However, he felt that Item B on the same list, "insure neighborhood compatibility" could be strengthened by adding "historic" compatibility. Commissioner Thomas stated that as long as they have the restriction of no exceptions to maximum height, he was comfortable with Item K because they need the MPD access to help the vitality and renovation of change. Commissioner Thomas pointed out that like it or not, the community continues to evolve and change.

Planner Whetstone referred to the list of purpose statements and noted that "and" should be removed from the end of (I) and moved to the end of (J).

Commissioner Savage wanted to know if MPDs would be required if something happened to a large building on Main Street and it needed to be replaced. Planner Whetstone stated that if it is solely within the HCB or the HRC zone the MPD would not be allowed. If the use is an allowed use it would be approved administratively.

Director Eddington noted that the Staff was asked to research old minutes to find the history of MPDs. Based on that research the Staff found that the intent for the MPD was to design by Planning Commission and public input and not solely by numbers. MPDs exist for projects where numbers do not work and design needs to be incorporated.

The Commissioners were not sure they had agreed on all aspects of the amendments and they were not prepared to forward a recommendation to the City Council. Commissioner Savage noted that Mr. Tedford had made specific comments and requests related to the MPD in certain zones and he wanted to make sure they had an explicit response to his comments. Director Eddington understood that Mr. Tedford was asking that the Planning Commission not allow MPDs in any of the Historic Zones. Director Eddington recommended that the Planning Commission continue with the current language in the Code that when a building or project crosses the HCB or HRC and the residential HR-2 behind it, that project comes to the Planning Commission as an MPD for review. Commissioner Savage suggested that the Planning Commission continue their recommendation to the City Council until the Staff has the opportunity to review the letter Mr. Tedford submitted at an earlier meeting and specifically address his questions.

Director Eddington noted that the Staff would not be able to address Mr. Tedford's letter for a few months based on the time involved with the Form Based Code.

Commissioner Wintzer thought the Planning Commission should try to forward some of the recommendations to the City Council.

MOTION: Commissioner Hontz moved to forward a POSITIVE recommendation to the City Council regarding the Land Management Code amendments to Chapter 2.18, General Commercial Zones, specifically LMC Section 15-2.18-3. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Director Eddington believed that some of the clarifications of the Applicability of the MPD on pages 283 and 284 were very worthwhile. He emphasized that nothing was being changed; it was only clarifying the existing language.

Commissioner Hontz asked about Purpose (K). The majority of Commissioners preferred to leave Purpose (K) in the LMC. Commissioner Thomas noted that a modification was made to Purpose (B) to reference Historic Compatibility. Commissioner Hontz referred to (B) Allowed but not required, on page 284 of the Staff report, Item 1, and asked if this was the appropriate place to state that Height exceptions would not be granted, or if needed to be addressed as a separate item. She explained that it does not matter whether it is allowed or not required. What matters is going through the process. Planner Whetstone noted that it was also referenced in Section 15-6-5(F), Building Height, on page 287 of the Staff report. Director Eddington noted that Section 15-6-5(F) was specifically referenced in (B) Item 1.

Commissioner Hontz thought they were ready to forward a recommendation on the Building Height Exception. She requested that commas be added before and after but is not required on the first line of (B) Item 1 on page 284 of the Staff report.

Commissioner Savage referred to Item C on page 284, Not Allowed, and assumed that if they forward that as a recommendation, they would be answering Mr. Tedford's question in the negative.

Director Eddington replied that this was correct. Commissioner Savage wanted it clear that there would not be the opportunity to have another discussion on the contents of Mr. Tedford's letter. Commissioner Hontz remarked that they could still address other portions of Mr. Tedford's letter, but that portion would off the table.

Director Eddington referred to Section 15-6-5, Building Height, on pages 287 and 288, and noted that the proposed changes were clarifications, and minor corrections with capitalizations and adding no height exceptions for the Historic Zones. Director Eddington noted that changes to 15-6-5 (H) cleans up the language for requiring formal landscape plans. It references another section that addresses landscaping and clarifies botanical plant names and common plant names. Section 15-6-5(M) talks about Historic Mine Waste Mitigation pursuant to the new Environmental Regulatory recommendations.

Commissioner Hontz noted that the Commissioners had added the word "Historic" to Purpose Statement (B) on page 283. She asked if the word Historic should be added where appropriate in (G) on page 290 in order to make the finding in purpose statement (B). The language in (G) was changed to read, "Promotes Neighborhood Compatibility and Historic Compatibility where appropriate".

Director Eddington stated that in 15-6-8(G) Resort Accessory Uses, pages 290 and 291, the Staff verified back of house issues related to employee restrooms, locker rooms, dining areas. Assistant City Attorney McLean recommended that they add the word "employee" before locker rooms, break rooms and dining areas to avoid confusion. The language was revised to read, "Employee restrooms, employee locker rooms, employee break rooms and employee dining areas".

MOTION: Commissioner Wintzer moved to forward a POSITIVE Recommendation to the City Council on the amendments to the Land Management Code as amended, excluding Section 15-6-5 (D) - Open Space. Commissioner Thomas seconded the motion

VOTE: The motion passed unanimously.

The Commissioners adjourned the regular meeting and moved into Work Session to discuss Form Based Code. The work session discussion can be found in the Form Based Code Work Session Minutes dated May 8, 2013.

The Park City Planning Commission meeting adjourned at 9:30 p.m.

Approved by Planning Commission: \_\_\_\_\_

