

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
DECEMBER 12, 2012

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

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

=====

REGULAR MEETING

**ROLL CALL**

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

**ADOPTION OF MINUTES**

October 10, 2012

Commissioner Hontz referred to page 112 of the Staff report, page 6 of the minutes, fourth paragraph, regarding the 264 Ontario plat amendment and a discussion she had with the City Engineer that established key points about the small size and narrowness of City roads and the policy. She requested that someone listen to the recording and expand the paragraph to include more details of the actual discussion. Commissioner Hontz recalled an exchange between herself and the City Engineer which clarified that the narrowness of the road was appropriate. She would like her question and his response included in the minutes before they are adopted.

MOTION: Commissioner Hontz moved to postpone adopting the minutes of October 10, 2012 to January 9, 2013. Commissioner Wintzer seconded the motion.

VOTE: The motion passed 4-0. Commissioner Thomas abstained since he was absent on October 10, 2012.

November 28, 2012

MOTION: Commissioner Wintzer moved to ADOPT the minutes of November 28, 2012 as written. Commissioner Gross seconded the motion.

VOTE: The motion passed 4-0. Commissioner Thomas abstained since he was absent on November 28, 2012.

**PUBLIC INPUT**

There were no comments.

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

Director Eddington announced that the second meeting on December 26, 2012 was cancelled and the next Planning Commission meeting would be January 9, 2013.

Commissioner Hontz noted that the Park City Sustainability Department had put forth the project at 1580 Sullivan Road. Her husband works within that department, however, it would not affect her decision making on the project.

Planner Matt Evans reported that at the last meeting the Planning Commission denied the application for a CUP at 1580 Sullivan Road. He noted that the application would have come back to the Planning Commission this evening for ratification of new findings. However, the applicant had withdrawn the application and intends to make a new application that will come before the Planning Commission as a work session item.

#### **CONTINUATIONS – PUBLIC HEARING AND MOTION TO CONTINUE**

1. 1580 Sullivan Road – Conditional Use Permit  
(Application #PL-12-01644)

Vice-Chair Thomas opened the public hearing. There were no comments. Vice-Chair Thomas closed the public hearing.

MOTION: Commissioner Savage moved to CONTINUE the 1580 Sullivan Road conditional use permit to January 9, 2013. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission moved into Work Session to discuss the Echo Spur Development Plat Amendment and the 30 Sampson Avenue CUP. Those discussions can be found in the Work Session Minutes of December 12, 2012.

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

1. 1580 Sullivan Road – Plat Amendment  
(Application #PL-12-01645)

Planner Astorga reviewed the application for a plat amendment to allow the reconstruction of the two existing tennis courts and to add a third one. As the Staff internally reviewed the application they discovered a lot line that went through the existing corner of one of the two existing tennis courts, which would ultimately affect the third court proposed by the City. Planner Astorga remarked that

the plat amendment would shift the lot line as indicated on page 174 of the Staff report. He noted that the survey was shown on page 175 and the proposed site plan was shown on page 176. The property is owned by the City and it is located in the General Commercial (GC) District.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval.

Vice-Chair Thomas opened the public hearing.

There were no comments.

Vice-Chair Thomas closed the public hearing.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the administrative subdivision on 1580 Sullivan Road in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval in the draft ordinance. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 1580 Sullivan Road

1. The site is located at 1580 Sullivan Road, City Park.
2. The site is within the General Commercial District.
3. The City requests to reconstruct the existing two (2) tennis courts and a third court at the north end of City Park.
4. The site contains two (2) existing tennis courts, a concrete sidewalk leading into the courts from the parking lot, two (2) park benches at the court entry area, landscaped area around the courts and four (4) court lights, one on each corner.
5. The City requests to add another tennis court west of the existing courts over the entry area, concrete sidewalk, bark mulch path, and portion of the landscape area.
6. The City also requests to reconstruct the exiting two (2) tennis courts.
7. Construction of the proposed third court and reconstruction of one of the courts would be located over an existing lot line, which is why the subdivision is necessary.
8. The City requests approval of the subdivision application to remove this lot line in order to be able to construct the proposed improvements (as described in this Staff Report) at City Park.

#### Conclusions of Law – 1580 Sullivan Road

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

Conditions of Approval – 1580 Sullivan Road

1. The City Attorney and City Engineer will review and approved the final form and content of the record of survey for compliance with State law, the Land Management Code, and conditions of approval.
2. The applicant will record the plat at the County within one (1) year from the date of City Council approval. If recordation has not occurred within one (1) year's time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Approval of a CUP and issuance of all necessary permits (building, et.) is required prior to the commencement of any construction activity.

**2. 1063 Norfolk Avenue – Plat Amendment  
(Application PL-12-01693)**

Planner Evans reviewed the application for a plat amendment to combine existing Lot 16 and half of Lot 15 in the Snyder's Addition to Park City into one lot. Planner Evans stated that the ultimate application would be a Historic District Design Review for an addition to an existing historic home listed on the Historic Sites Inventory as a significant home. Any addition to the home would require a plat amendment due to the fact that a portion of this home straddles both of those lots.

Planner Evans noted that the lot combination would result in a 2,812 square foot lot with an existing footprint of 739 square feet and a maximum building footprint of 1,201square feet, resulting in approximately 462 square feet of additional footprint. Planner Evans remarked that the applicant had not yet submitted an HDDR application; however, the Staff assumed it would be submitted in the near future. The Staff has a general idea of what the applicant plans to do with the existing historic home. One idea is to put a basement underneath the home and add a rear addition.

The Staff found good cause for the plat amendment as described in the Staff report. There were some existing non-conformities associated with the setbacks; however, due to the fact that this is a historically significant home, those setbacks are legal conforming. Any new addition would be subject to the current setback standards.

The Staff recommended approval based on the findings of fact and conditions of approval outlined in the Staff report.

Planner Evans stated that the owner, Letitia Lawson, had questions regarding condition of approval #4. He clarified that it was a standard condition that is placed on all lot combinations.

Ms. Lawson requested clarification on condition of approval #5, which requires a 10-foot wide public snow storage easement. Commissioner Wintzer explained that the condition comes from the City Engineer and it is required on every lot combination. Ms. Lawson asked where the 10-feet was measured from. Planner Evans replied that it is 10-feet beyond the right-of-way. Ms. Lawson was concerned because the house does not sit 10-feet back. Commissioner Wintzer clarified that the 10-foot easement only gives the City the right to push snow off the road. Planner Evans stated that currently there is 9-feet to the existing house. In that case it becomes a snow storage area minus the encroachment.

Ms. Lawson referred to condition of approval #4 and questioned the requirement for sprinklers. She had met with someone from the Building Department who told her that per City ordinance, all homes in Park City must have sprinklers. She was unsure why that condition was placed on the plat amendment. Ms. Lawson was told that the condition was a standard requirement of the Building Code for any new construction, renovation or additions. If the historic home is left in its existing state, the sprinklers would not be required. Ms. Lawson still questioned why the condition was placed on the plat amendment.

Commissioner Savage pointed out that sprinklers would be required once Ms. Lawson does the addition. Having the condition on the plat should not make a difference. Ms. Lawson clarified that additions are included in the definition of new construction. She was told that this was correct. She was concerned about the expense and long term maintenance associated with fire sprinklers. It would also take away from the funds she planned to use to make the house historically correct.

Planner Evans suggested revising Condition #4 to read, "Modified 13-D sprinklers may be required for the renovation of the existing structure or new addition to be determined by the Chief Building Official at the time of review of the building plan permit submittal". Director Thomas thought the revised condition would be sufficient. Ms. Lawson was comfortable with the revised language.

Chair Thomas opened the public hearing.

There were no comments.

Chair Thomas closed the public hearing.

Commissioner Hontz revised condition of approval #3 to read, "No building permit for any work that expands the footprint of the home or **that** would first require the approval of an HDDR shall be granted until the plat amendment is recorded with the Summit County Recorder's office.

Commissioner Hontz changed Condition #4 to read, "Modified 13-D sprinklers may be required for the renovation of the existing structure or **any** new addition to be determined...."

MOTION: Commissioner Savage moved to forward a POSITIVE recommendation to the City Council for the Norfolk Avenue plat amendment at 1063 Norfolk Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance as amended. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1063 Norfolk Avenue

1. The property is located at 1063 Norfolk Avenue within the Historic Residential (HR-1) Zoning District.
2. The property is shown on the Historic Sites Inventory as a “Significant Site” and includes a 739 square foot mining-era home constructed in 1911.
3. The applicants are requesting to combine one and a half Old Town lots into one parcel.
4. The plat amendment is necessary in order for the applicant to move forward with an HDDR for the purpose of a basement level and rear yard addition to the home.
5. The amended plat will create one new 2,812.5 square foot lot.
6. Currently the property is one and a half separate Old Town lots, Lot 16 and half of Lot 15. The half of is adjoined to Lot 14 and is a separate parcel.
7. The existing historic 739 square foot home is listed as “Significant” on the Historic Sites Inventory.
8. The applicant is considering a basement level addition to the home, including a garage and a rear yard addition. The application will also include a proposal to bring back the original covered front porch and bay window, as well as remove the front attic window, which was an out-of-period addition.
9. The existing historic home straddles Lots 15 and 16 of the Snyder’s Addition and cannot be moved per the Historic District Guidelines.
10. The proposed additions to the existing historic home will require a review under the adopted 2009 Design Guidelines for Historic Districts and Historic Sites through the HDDR process.
11. The maximum building footprint allowed is 1,201 per the HR-1 LMC requirements. The current square footage is 739, which would allow a maximum footprint addition of 462 square feet.
12. There are non-conforming setbacks associated with this property, including the north side yard and (west/East/south) front yard setbacks. New additions to the rear of the historic

home would require adherence to current setbacks as required in the HR-1 District, as well as be subordinate to the main dwelling in terms of size, setback, etc., per the requirements of the adopted 2009 Design Guidelines for Historic Districts and Historic Sites.

Conclusions of Law – 1063 Norfolk Avenue

1. There is good cause for this plat amendment.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. 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.

Conditions of Approval – 1063 Norfolk Avenue

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. No building permit for any work that expands the footprint of the home or that would first require the approval of an HDDR shall be granted until the plat amendment is recorded with the Summit County Recorder's office.
4. Modified 13-D sprinklers may be required for the renovation of the existing structure or any new addition, to be determined by the Chief Building Official at the time of review of the building plan permit submittal.

**3. 481 Woodside Avenue – Plat Amendment  
(Application PL-12-01653)**

Planner Kirsten Whetstone reviewed the request for a plat amendment for the purpose of combining all of Lots 16 and 17 of Block 29 of the Park City Survey. The address is 481 Woodside on the west side of Woodside Avenue. An existing historic home on the property is listed on the Historic Sites Inventory as a significant home. The home was constructed in 1884 and went through a remodel in 1984. The house straddles a common lot line between Lot 16 and 17 and the applicant would like to combine the lots to resolve the common lot line.

Planner Whetstone reported that the applicant intends to work on the house and possibly add a partial basement. The applicant would eventually like to do interior remodeling due to storm water runoff issues in the rear of the property. Interior work was not being proposed at this time and the requirement would be one lot of record.

The Planning Staff believed there was good cause for this application because the home currently straddles the lot line creating a non-conforming situation with regards to setbacks of the common property line. The plat amendment is required before the applicant could proceed with improvements to the home and to protect the historic house from flood water. The Staff found that the plat would not cause undue harm to the adjacent property owner and could possibly improve the situation. All requirements of the LMC for future development shall be met.

Planner Whetstone noted that the conditions of approval were similar to the previous application, and she revised Condition #4 regarding the sprinklers. "Modified 13-D sprinklers may be required for renovation of the existing structure or any possible future additions." She pointed out that some new structure takes up footprint; however, since the house currently exceeds the maximum footprint the applicant could not add an addition unless something else was removed. Planner Whetstone referred to Condition #5 regarding the 10-foot snow storage easement. There is an existing garage within that easement area and the City would not push snow into the garage. However, the garage is not historic and if it ever comes down the City would want that easement.

The Staff recommended that the Planning Commission conduct a public hearing for the 481 Woodside Avenue plat amendment and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval listed in the draft ordinance.

Vice-Chair Thomas opened the public hearing.

There were no comments.

Vice-Chair Thomas closed the public hearing.

Commissioner Hontz revised Condition #4 to match the revised language in the previous application. "Modified 13-D sprinklers may be required for renovation of the existing structure or possible addition to be determined by the Chief Building Office..." Commissioner Hontz referred to Finding #6 and removed the sentence, "no additional building footprint is proposed". She felt that language weakened Finding #10 regarding the maximum footprint and created confusion.

**MOTION:** Commissioner Hontz moved to forward a positive recommendation to the City Council for the 481 Woodside Avenue plat amendment in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Gross seconded the motion.

**VOTE:** The motion passed unanimously.



Findings of Fact -

1. The property is located at 481 Woodside Avenue within the Historic Residential (HR-1) Zoning District.
2. The property includes an existing 2,677 square foot house and 594 square foot garage.
3. The house was originally constructed circa 1884 and remodeled with additions over time with the latest remodel and garage constructed in 1984.
4. According to the Historic Sites Inventory (KSI) the existing historic home on the property is listed as "Significant".
5. The applicant is requesting to combine two Old Town lots into one lot of record.
6. The plat amendment is necessary in order for the applicant to move forward with additional interior remodeling and landscaping in the rear to resolve existing issues with storm water run-off into the basement.
7. The amended plat will create a 3,750 square foot lot of record from the combination of all of Lots 16 and 17, Block 29 of the Park City Survey into one lot.
8. The existing historic home straddles Lots s16 and 17 and cannot be moved onto one lot, per the LMC and Historic District Guidelines. The house is also wider than one 25' wide lot.
9. Any exterior changes to the existing historic home or exterior landscaping requires submittal of an Historic District Design Review application with review for compliance with the adopted 2009 Design Guidelines for Historic Districts and Historic Sites.
10. The maximum building footprint allowed is 1,519 square feet per the HR-1 LMC requirements. The current building footprint is 1,723 square feet and is considered non-complying. No additional building footprint is permitted or proposed.
11. There are non-conforming setbacks associated with this property, including the south side and rear yards for the house and the front yard setbacks for the garage.
12. Ne construction is not proposed that will create further non-compliance of building footprint, height or setbacks.

Conclusion of Law – 481Woodside Avenue

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.

3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. 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.

Conditions of Approval – 481 Woodside Avenue

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. No building permits for work on the existing structure that would first require the approval of an HDDR shall be granted until the plat amendment is recorded with the Summit County Recorder's Office.
4. Modified 13-D sprinklers may be required for renovation of the existing structure or a possible addition to be determined by the Chief Building Official at the time of review of the building plan permit submittal.
5. A 10-foot wide public snow storage easement will be provided along the frontage of the property.
6. Encroachments in the ROW and cross property lines must be addressed prior to plat recordation and either removed or entered into an agreement to preserve each encroachment.
4. **Land Management Code Amendments – Chapter 2-Zoning, Chapter 5-Architecture Review, Chapter 6-Master Planned Development, Chapter 15-Definitions.**  
**(Application PL- 12-01631)**

Chapter 5 – Architectural Review

Planner Whetstone noted that at the last meeting the Planning Commission discussed adding the requirement for a landscape plan to this section. Additions were also made to the landscape requirements for using water-wise xeriscaping.

Planner Whetstone referred to page 225 of the Staff report and new language for permitting up-lighting for City funded or owned statues, public monuments, ground mounting public art, or flags of the United States. The language is very restrictive.

- (i) The use of Luminaires for up-lighting on any residentially or commercially zoned Lot

or within a City ROW or Open Space Zone is permitted only for City-funded or owned statues, public monuments, ground-mounted Public Art, or flags of the United States of America.

(ii) All lighting shall be shielded and have a beam-angle control aimed to limit the directed light to the illuminated object.

(iii) Up-lighting is permitted 30 minutes before sunset and until 11:00 p.m. or one hour after the close of the location.

Vice-Chair Thomas asked if there was a way to control the amount of lumens that reflect off surfaces. Planner Whetstone suggested adding a restriction to address the issue. Commissioner Strachan noted that the language in (ii) says to limit the light to the directed object only. Vice-Chair Thomas thought there should be a limitation on lumens.

Commissioner Hontz suggested that they add a fourth restriction and ask the Staff to come back with proposed numbers for lumens. Planner Whetstone preferred to draft that language this evening so the Planning Commission could forward this chapter to the City Council.

Commissioner Strachan pointed out that the LMC sections regarding lighting and down lighting already have lumen restrictions. Director Eddington remarked that the lumen restrictions in those sections primarily address down-lighting for fields and parking lots.

Commissioner Hontz suggested adding language to indicate that the intent is to only illuminate the object. Commissioner Strachan remarked that the proposed language specifies that intent in (ii), "The up-lighting shall be shielded and/or have a beam-angle control and shall be aimed to limit the directed light to the illuminate object only". The Commissioners were comfortable that the language as proposed addressed the concern.

Director Eddington reported that in January the Planning Commission would have a more detailed discussion regarding lighting.

Planner Whetstone referred to page 226 of the Staff report, (L) Patios and Driveways. She noted that the Planning Commission previously discussed this requirement and approved the language in another section of the LMC. The language was being added to the Architectural Design Guidelines as well to say that:

- All non-bearing concrete flatwork, asphalt, and/or any Impervious Surface regardless of size is required to obtain a Building Permit, including any repairs, alterations, modification, and expansion of existing features.

Planner Whetstone clarified that the requirement is intended to be proactive. When people do their own work or hire someone to do repair work or construct a patio or driveway, it often results in issues related to soils, drainage, property lines and neighborhood issues. The permits will be inexpensive and the cost will be based on the value of construction. Requiring a building permit allows the Building Department to review plans and inspect the work.

Planner Whetstone referred to (M) Landscaping. Proposed language requires a complete landscape plan to be prepared for all building permit applications. New language was added to include all exterior work that impacts existing vegetation.

Commissioner Wintzer asked if that applied to minor decks or patios and whether a property owner would have to hire a licensed landscape architect. Planner Whetstone replied that the owner would be required to submit a landscape plan; however, the requirement for a licensed landscape architect only applies to a conditional use permit, a master planned development or historic district design review. Commissioner Wintzer clarified that the homeowner could draw his own landscape plan to comply with the requirement. Planner Whetstone replied that this was correct.

Commissioner Hontz referred to the second paragraph under Landscaping on page 226 and asked if "Organically" was a defined term in the LMC. Planner Whetstone replied that currently it is not a defined term. Commissioner Savage thought the sentence could be removed entirely. Planner Whetstone agreed and deleted the sentence, Mulches do not need to be Organically produced.

Planner Whetstone referred to the paragraph under Landscaping that addressed irrigated lawn and turf area. She thanked Commissioner Hontz for helping the Staff draft appropriate language. A table on page 227 of the Staff report outlined the percentage of Maximum Turf or Lawn Area of the allowed Limits of Disturbance Area of the lot that is not covered by Buildings, Structures, or other Impervious paving. Great than 1 acre is 25%; .50 to 1 acre is 35%; 0.10 to 0.49 acres is 45%; Less than 0.10 acres – no limitation.

Planner Whetstone noted that additional language requires that rocks and boulders used for pathways, walls, etc., need to be from local sources. Noxious weeds must be removed from the property prior to issuance of a certificate of occupancy.

Commissioner Savage asked why the City would dictate that rocks and boulders must come from local sources. Planner Whetstone replied that it was a sustainability issue. Vice-Chair Thomas asked for a definition of "Local". Director Eddington stated that it would be the northern part of Utah and typically stone that is seen historically in Browns Canyon and surrounding areas. He clarified that the language was primarily added for HDDR purposes. Planner Whetstone pointed out that LEEDS defines local sources as within a couple hundred miles of the area.

Commissioner Strachan referred to (L) on page 225 of the Staff Report, and suggested that the language related to all non-bearing concrete flatwork be revised to indicate the type of action that requires a building permit. Director Eddington revised the language to read, A building permit is required for the construction of all non-bearing concrete, flatwork, asphalt, or any other Impervious Surface regardless of size, including any repairs, alterations, modifications, and expansions of existing features.

Vice-Chair Thomas opened the public hearing on Chapter 5 – Architectural Review.

There were no comments.

Vice-Chair Thomas closed the public hearing.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation for the amendments to Chapter 5 of the Land Management Code subject to the revisions made during this meeting. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

#### Chapter 6 – Master Planned Developments (MPD)

Planner Whetstone reported that on November 28<sup>th</sup> the Planning Commission removed a purpose statement the Staff had added regarding economic development.

Planner Whetstone referred to page Section 15-6-2 – Applicability, on page 229 of the Staff report. For the meeting on November 28<sup>th</sup> the Staff had added proposed language for clarification of where a Master Planned Development process would be required and where it would be allowed but not required. She noted that the language had not changed since November, other than to capitalize “Public” and “Quasi-Public” and “Light Industrial” and to add definitions.

Planner Whetstone stated that based on the language, master planned developments are required in all zones except the HR-1, HR-2, HRL zones. The language also removes the two zone allowance that has been allowed but not required. An MPD is allowed in HR-1 and HR-2 only when property in those two zones is combined with either the HRC or HRC zones. The draft also cleaned up the language and clarified that an MPD would be allowed but not required if it is not part of the original Park City Survey and the proposed MPD is for affordable housing. Planner Whetstone clarified that the most recent changes were based on direction by the Planning Commission on November 28<sup>th</sup>.

Planner Whetstone recalled from the last meeting that there was general concurrence among the Commission that a master planned development was an appropriate process for these types of projects; and that height exceptions should be allowed in the HCB or HRC zones. To make sure the Staff had the correct understanding, Planner Whetstone requested that the Planning Commission revisit the issue to discuss the four options outlined on page 230 of the Staff report:

- 1) Forward the current language allowing no height exceptions for those MPDs which would limit the HRC to 32 feet and the HCB to 45 feet;
- 2) Allow a 50% zone exception in the HRC Heber subzone, which would allow a height of 48 feet;
- 3) Allow 50% of the zone height in the entire HRC, but only if a historic structure is located on the site. The allowed height would be 48 feet;

4) Allow a height exception in the HRC zone only up to the HCB limit of 45 feet. Commissioner Hontz requested that Height and Open Space on page 231 of the Staff report be included in this discussion so it could be addressed at one time.

Open Space – 15-6-5(D)

Planner Whetstone noted that new language states that open space may be reduced for infill or redevelopment to 20%. Additional amenities were added such as sustainable design, meeting LEED Gold, publicly accessible, plazas and historic restoration either on or off the site. Planner Whetstone stated that based on comments at the last meeting, the fee-in-lieu was revised to a consideration of up to 5% of the required open space, with the fee to be determined by the City Council, with a recommendation by the Planning Commission based on market appraisal and a recommendation from COSAC or a similar open space committee.

Commissioner Hontz thought the language in (1) Minimum Required Open Spaces was confusing to read. She requested that the Staff come back with either bullet points or a chart to help with clarification. The language was too wordy and she felt it could be more concise. In reading the language, Commissioner Hontz was unable to determine what percentage of open space would be required. She suggested that the language be revised to better convey the information, along with charts and/or bullet points.

Director Eddington stated that the proposed language was clarification of existing language. As worded, all master planned developments require 60% open space, except the City's most dense zones, which are the GC, LI, HRC and HRM, as well as HR-1 and HR-2 if they are a bifurcated MPD issue. In the denser zones, the Staff recommended an open space requirement of 30%. If a project is part of redevelopment, the open space may be reduced to 20% subject to the criteria. Director Eddington offered to look at revising the language. Planner Whetstone would prepare the requested visuals for clarification.

Commissioner Gross pointed out that "Publicly" was spelled two different ways and one was incorrect.

Commissioner Wintzer was comfortable with 30% open space in the denser zones. However, he was concerned that they were dwindling the open space and then making an allowance for better landscaping. He was unsure how that would work since they were taking away the land that could be landscaped. Commissioner Wintzer believed open space was a great requirement for affordable housing, and he questioned whether they were dwindling open space too much to have meaningful open space. He was also concerned about process, because the City could reduce the open space and the developer could get credits for adding the open space back in. Commissioner Wintzer questioned the 20% reduction and he could not see the purpose for considering a 5% reduction for fee-in-lieu.

Commissioners Strachan and Hontz concurred with Commission Wintzer regarding the 5% reduction. Commissioner Savage thought it would depend on the situation. The language "may be considered" is only an option and does not mean it would be granted. Vice-Chair Thomas was concerned that it would become a standard procedure for every application. Commissioner Savage suggested that they revise the language to state, "Fee-in-lieu would apply to situations where the open space is at least 20-30%". Commissioner Gross thought they should also add,

"In no event less than" a specified percentage. Commissioner Wintzer was uncomfortable with allowing 20% because that results in very little open space. No landscaping could be done in 20% open space. Commissioner Hontz remarked that that the concept of publicly acceptable plazas, pedestrian ways and trail linkages have taken away the public accessibility or flow of pedestrian ways. She recalled a conversation at the last meeting that a pool would not be considered open space because it is not accessible 365 days per year/24 hours per day. Commissioner Hontz could not support publicly accessible plazas, gardens, etc. as an acceptable piece of open space. Vice-Chair Thomas asked if Commissioner Hontz was suggesting that the proposed language be stricken. Commissioner Hontz replied that she wanted the Planning Commission to discuss whether the "publicly accessible" language should be eliminated or further defined.

Planner Whetstone read the LMC definition of publicly accessible. "Open or available for public use to share and enjoy that may be subject to posted hours of operation such as weather, time, and seasonal closures".

Commissioner Strachan was bothered by the language, "...that are located either on or off the property." He felt that was the same as in-lieu. Planner Whetstone clarified that the language only pertained to historic structures. She read, "Rehabilitation or restoration of historic structures that are located either on or off the property". She explained that the owner could get credit for open space in another location in exchange for historic preservation. Director Eddington stated that the idea stemmed from the issue of setbacks serving as open space. No one wanted setbacks to serve as open space because it is non-functional and non-usable space. The intent was to get away from setbacks and require a reduced amount of open space that was more usable. Commissioner Wintzer preferred to reduce the setbacks in certain areas and keep the percentage of open space the same. Director Eddington remarked that the Staff was also looking at that as well, particularly as they work with form based code. However, the issue was that maintaining 60% open space in the more dense areas created areas that were separated from each other and diminished the walkability experience. Director Eddington believed the Staff could reword the language to address their concerns.

Commissioner Strachan asked if the Planning Commission was in agreement on the fee-in-lieu. Commissioners Wintzer, Hontz and Strachan thought they should strike the language. Commissioner Savage pointed out that they continually talk about affordable housing and ways to finance the ability for affordable housing. He believed the fee-in-lieu could be a revenue source, particularly since the City would have the ability to decide on a case by case basis whether it was good revenue source. He did not understand why they would cut that option. Commissioner Strachan did not want the selling of open space to become a precedent to raise revenue. In his opinion, the City should be buying open space, not selling it. Commissioner Savage clarified that his point was to have the option. Commissioner Strachan was not interested in having that option.

Director Eddington stated that the fee-in-lieu was a TDR of open space. Commissioner Wintzer asked the Staff to provide visual examples of how it would work before they strike the language.

Commissioner Hontz referred to (2) Type of Open Space, and the language, "Open space may not include land that is to be utilized for streets, roads, driveways, parking areas, uses, or building requiring a building permit." She recommended adding internal pathways that exist only to service a particular use. Commissioner Savage thought the wording, Open space **may not** include land..." should be replaced with **does not** include land..." Planner whetstone made the suggested change. The Planning Commission discussed what they would consider to be acceptable publicly accessible open space.

Director Eddington stated that the Staff had enough information to prepare the requested visuals.

#### Height – 15-6-5(F)

Commissioner Hontz was comfortable with the proposed language on page 232 of the Staff report. Commissioner Strachan understood that the revisions were part of the discussion on the bullet points outlined by Planner Whetstone and listed on page 230 of the Staff report. Commissioner Savage clarified that the revisions on page 232 were part of the first bullet point. Commissioner Strachan replied that this was correct.

Planner Whetstone noted that Landscaping, Historic Mine Waste Mitigation and Resort Accessory Uses were the remaining topics in Chapter 15-6-5. She stated that rather than describing landscaping again, the language talks about compliance with the landscaping requirements in Chapter 5. Mine Waste Mitigation was unchanged from the last meeting including findings for addressing physical mine hazards and mine waste. Back of house was the only change to Resort uses.

Commissioner Strachan was comfortable with the remaining sections as proposed. The Commissioners concurred.

Vice-Chair Thomas opened the public hearing on Chapter 6 – MPDs.

Sanford Melville, an Old Town resident, stated that he was also a member of Preserve Historic Main Street. Mr. Melville felt it was clear from previous statements that Preserve Historic Main Street was very opposed to modifying the current MPD language. The existing rules were well thought out and have served the community very well. Mr. Melville understood that the Staff believed the MPD language needed to be revised and he and others had concerns with the proposed revisions. One is the height exceptions. Mr. Melville questioned why they would consider an exception for MPDs in the Historic District. It would increase the mass and scale of future buildings and it would substantially contribute to building creep. Mr. Melville asked where the 50% zone height exception came from and what analysis was done to show that it was even needed. He felt it appeared to be arbitrary and definitely counter to the small town feel, nature setting, and historic character goals in the General Plan. He believe is also conflicted with some of the purpose goals in LMC.

Mr. Melville expressed concern with the open space. He asked why they would consider reducing open space requirements for MPDs in the historic district or anywhere else in Park City. Mr. Melville stated that reduced open space would lead to increase project density and was



counter to the goals of the new General Plan. He noted that the purpose statement in the MPD chapter states that one of the goals of the MPD is to provide the highest value to open space for any given site. The modifications being proposed for open space do not reflect that goal and the project enhancements do not contribute to the feeling of open space at the project site. Mr. Melville commented on the revisions to the type of open space that include publicly accessible plazas and gardens. He noted that publicly accessible is defined as open or available for public use to share and enjoy that may be subject to posted hours of operation. In his opinion that was not truly open space. Mr. Melville stated that the historic core is fundamental to the whole identity of Park City. It is the heart and soul of the town and he urged the Planning Commission to preserve this valuable historic core by narrowly modifying the MPD Chapter of the Land Management Code.

Hope Melville an Old Town resident could not find in the LMC a requirement that the historic design guidelines apply to MPD projects in historic zones. There was a provision in the Architectural Code that all uses in historic districts are subject to design review by the Planning Department. Referring to the Findings for MPDs in 15-6-6, Ms. Melville believed there should also be a finding that requires MPDs in the historic district to comply with the historic district design guidelines.

Robyn Rouche, the Executive Director of the Kimball Arts Center, stated that like everyone else, they are committed members of Park City who are passionate about what is best for Park City. She believed they could all agree that the community deserves the merits of a larger, better, and cooler art center. Ms. Rouche wanted to clear up misconceptions about why the Kimball has not been more forthcoming. The intent was to be respectful of the process and they were advised not to come before the Planning Commission until an official applicant was submitted. She explained that all they have at this point is a conceptual plan from their architectural contest and they have been gathering public opinion on that plan while waiting to hear whether they could even apply for a formal application. Ms. Rouche understood that the Kimball may not have that opportunity. She noted that the Kimball Arts Center was mentioned 36 times in the minutes from the last two Planning Commission meetings without their voice being heard. She came this evening to discuss the situation firsthand. Mr. Rouche reiterated that the plan in question was only a concept from a design contest. The Kimball Arts Center wants to work with the Planning Commission and they are willing to compromise if the Planning Commission is willing to have the dialogue. She remarked that the goal from start, and after years of study, has been how to expand the Kimball and contribute to the enrichment of the community both culturally and financially in the best way possible through greater education, events and exhibits, not to mention being a draw to Main Street. Ms. Rouche stated that the economic reality is that the Kimball is housed in a building that has become too expensive to maintain and it does not meet their current needs and future programming goals. The 32' height limit would not come close to meeting their programming goals, nor would it warrant the high cost of the massive preservation effort they are willing to undertake. Ms. Rouche pointed out that in addition to square feet it is also about cubic footage. Without the ability to do the necessary expansion, the Kimball Arts Center would be forced to look at other options and locations. It would only be a matter of time before they would have to move. Mr. Rouche understood that 80 feet was a non-starter. She clarified that they were not looking for approval. They only wanted a formal chance to have a dialogue on what would work best on that site for the Kimball and the community. Ms. Rouche

stated that the Planning Commission would be welcome and encouraged to have a say in the design. The goals of the project are entirely altruistic in nature and are meant for the overall prosperity and educational advantage of the community. She hoped there was an opportunity to collaborate with the Planning Commission to achieve an extraordinary and successful result.

Matt Mullin, Chairman of the Board of the Kimball Arts Center and an Old Town resident, stated that the Kimball has not submitted an application of any kind. They have not finalized their design and have not drafted an application. They have done nothing more than talk about the concept, yet the concept has been discussed at length in Planning Commission meetings. Only one side has been vocal. The other side has been kept silent and out of the discussion. Mr. Mullin asked the Planning Commission to allow the Kimball to voice their opinion and share their needs and the reasons for expansion. They have a strong desire to stay in the Historic District of Park City, but without help and cooperation they may need to set their sights on a new location. Mr. Mullin stated that after contemplating expansion for more than ten years through various boards and three directors, they know what it takes to meet their needs and how it could be accomplished. What they do not know is whether Park City wants to have a dialogue that will allow all the components necessary for a great Arts Center to work within the Historic District. He requested that the Planning Commission give them this avenue through which they can share ideas and allow the Kimball and their supporters the equal right to become part of the discussion and process. Mr. Mullin stated that the Kimball has a run a public and collaborative process from the beginning and they hope to continue to do so. They want to work with the Planning Commission and City Council to build an addition that allows them to do all the things they need to do and at the same time preserve historic Main Street.

Jim Tedford provided a handout of his comments and proposals. Mr. Tedford stated that he was speaking on behalf of Historic Main Street. Following the process for three months he believed the concept of public dialogue started with the initial work session with the City Council in August. During that meeting it appeared that the main impetus was to find a method of allowing public dialogue. Mr. Tedford believed there were options for dialogue without changing the MPD process. One option would be to schedule a work session. As outlined in his handout, the opportunity for dialogue was already written in the Code. There was an existing opportunity for a pre-application conference and a pre-application public meeting and determination of compliance in front of the Planning Commission. Mr. Tedford understood that wording was the reason why the pre-application process would not be available to the Kimball Arts Center. He recommended modifying the language in 15-6-2 – Applicability (A), to say that the master planned development pre-application process shall be required in all zones. In (B) the language could be modified to require the master planned development application process in all zones.

Chris Shaeffer, an owner in the Town Lift condos next door to the Kimball Arts Center. He has met with Robyn Rouche several times over the past few years regarding this project. Ms. Rouche has also met with others from the Town Lift condos. In the past they discussed the previous proposal the Kimball was making for a more modest development on that same site in 2006 and 2007. Mr. Shaeffer suggested that the Kimball entertain a more modest expansion similar to what was proposed in 2006-2007. That proposal alone would not meet the space requirements; however, there is available space across the street in the Summit Watch development that could be leased to meet some of their requirements. He believed that option

would be less expensive than the building they were currently proposing. Mr. Shaeffer offered that suggestion as a viable way to keep the Kimball Arts Center in the downtown area and still meet their expansion requirements.

Vice-Chair Thomas closed the public hearing.

Commissioner Savage stated that trying to recommend modified language to the City Council regarding the MPD would have a significant impact on the future course of events as it relates to the Kimball Arts Center. From his personal perspective, as well as the perspective of a Planning Commissioner, he thought they should try to create an opportunity by which they could look at the objectives, vision and the benefits to Park City from this project within the constraints of the existing Code and within the context of the concerns expressed by all the citizens.

Commissioner Savage suggested that they consider whether there could be a reasonable solution to move forward in a positive fashion.

Commissioner Wintzer stated that it is always difficult to weigh the value of Old Town and/or the community against the value of a project. He personally struggles with the idea of rewriting the Code for a project. Commissioner Wintzer recalled earlier discussions where they agreed to keep the focus on whether or not to allow an MPD, but the conversation always goes back to the Kimball project. He would like to find a way to open the door for MPDs, but he was concerned that if they allow for more height they would end up with four or five buildings on the corner that would take away from what they were trying to preserve. Commissioner Wintzer pointed out that they cannot write a Code that allows something for one building but not another. He noted that part of the Code is to protect the neighbors who built underneath the Code. The people who live behind or adjacent to the Kimball thought they would be subject to the same restrictions as everyone else in the neighborhood. Commissioner Wintzer felt it was an awkward situation; however, he would like to have a conversation to see what might be accomplished. He was not comfortable recommending an arbitrary number for height without understanding the implications. This is an important corner and with the information he has he would have to vote against additional height.

Commissioner Hontz echoed her fellow Commissioners. The Kimball is an important piece and central to tourism in Park City. Although it is not within their purview to make sure Park City is successful and economically healthy and vibrant, the Code has ramifications to what people can and cannot do that may or may not impact what would happen in the vicinity of the Kimball Arts Center and other affected Districts. However, from the standpoint of a Planning Commissioner, she knows how the proposed height changes to the MPD would look and feel. Because this is not a discussion about a site specific application, they need to understand the ramifications of allowing this for all MPDs in all the areas discussed. Commissioner Hontz stated that the impacts are significant and she was not comfortable with the height exception. In many of the jurisdictions she works with, when someone has a good idea they bring it forward and it is presented and vetted through a process. Commissioner Hontz believed that if an applicant worked with the Legal Department there would be a way to have a discussion about an actual application regardless of where it is located. She did not favor spot zoning, but in some circumstances it is necessary to look at a site and determine that the zoning does not fit.

Commissioner Hontz was not comfortable opening the window for height and she could not support changing the Code to allow additional height for any applicant at any time.

Commissioner Gross thought it was unfortunate that the Planning Commission went through the process without a submitted application and it is difficult to make a decision based on that fact. He noted that the Kimball needs to make tough decisions and decide whether they can physically operate their vision within that building regardless of what it looks like. The Planning Commission was doing their best to develop those areas where there is more density to create walkability so they are not developing on the fringes. Commissioner Gross believed the stated mission was clear. Whether the Kimball comes under the MPD or something else that allows the expansion is critical, but they do not have the answers.

Assistant City Attorney McLean clarified that from a legal perspective the Kimball could not submit an application because the winning design of the competition would not meet the Land Management Code requirements.

Commissioner Hontz remarked that there could be a non-application made through a different process where it is not an application for land use. A second option would be for the Kimball to amend their application to come in under the Code and possibly ask for variances. There are options but the Planning Commission should not be the ones to find them.

Commissioner Strachan did not think the City should amend an entire zone based on one subpart that may or may not want to do something. If they intend to make zone-wide decisions, they should be made based on the needs of the zone and how the needs of that zone interrelate to the needs of the other zones. At the last meeting he stated that under that analysis height exceptions should not be allowed. He had changed his opinion since the last meeting and now believes that MPDs are not good for any of the HR zones. Commissioner Strachan stated that MPDs are an exception to the zone and it is a way to get around the planning and zoning that the City has tried to make as consistent and beneficial as possible. If they allow a tool like an MPD, whereby any property owner who fits a certain amount of criteria can submit an application and ask the Planning Commission to ignore the zone, it is a dangerous tool. It is a helpful tool in other zones but not in historic zones. Commissioner Strachan stated that he would not vote in favor of the proposed MPD language at all.

The Planning Commission discussed process and options for the Kimball Arts Center or any other project to have the ability to submit an application when it does not meet Code. Assistant City Attorney McLean explained the process for variances and zone change requests.

Commissioner Strachan reiterated that aside from the height issue, he would recommend that the City Council not make any changes to the MPD section of the LMC. Ms. McLean stated that it was appropriate to recommend that no changes be made.

Commissioner Hontz asked if the Planning Commission would consider recommending changes to the MPD section that makes the Code easier to read without changing the intent. Commissioner Strachan was willing to discuss clarification changes at the next meeting.

Commissioner Savage asked if it was appropriate to ask the Staff to conduct a process in conjunction with the various stakeholders to see if there is a process to find a solution to this particular situation. The Planning Commission could then discuss how that impacts what they want to do in terms of making a recommendation to the City Council on the MPD section of the Code.

Director Eddington stated that the Staff would come back with a revised proposal for 16-6-2 and 15-6-5 based on the comments made by the Planning Commission this evening. They would also look at other options as requested by Commissioner Savage.

Commissioner Strachan thought the Planning Commission needed to give the Staff clear direction on whether or not they want MPDs in the HR Districts. Planner Whetstone understood that the Planning Commission did not want MPDs in any of the historic districts. In the spirit of optionality, Commissioner Savage could not understand why the Planning Commission would take that step right now. Commissioner Strachan did not believe that optionality would ever be necessary or appropriate in the historic districts. Commissioner Savage took the opposite perspective. He would not want to pre-judge what is or is not appropriate in the historic district until he had the opportunity to see the proposal and understand how it looks and feels within the context of the historic district. If a proposal comes forward from the Kimball that does a good job of maintaining the historic significance of the existing location and adds value to the community and neighborhood, as a servant to the City he would like to see a process that would allow for that possibility. He thought they were cutting off options rather than letting the possibilities manifest themselves. Commissioner Gross concurred with Commissioner Savage.

Vice-Chair stated that if the Code is not changed for that District, it would be more restrictive by prohibiting MPDs. He was unsure where he stood on the issue.

Commissioner Savage suggested that the Planning Commission continue further discussion on this section of the Code to the next meeting and let the Staff do what was requested. Commissioner Wintzer felt they needed to give the Staff direction before they continue the matter.

Vice-Chair Thomas noted that Commissioner Strachan had asked for clarity on whether or not the rest of the Commissioners agreed with not allowing MPDs in the historic districts.

Commissioner Hontz stated that as much as she agreed with Commissioner Strachan regarding the history of MPDs and the ones seen in the past, she was not uncomfortable with allowing MPDs in the historic district as long as they eliminated the height exception. If they move forward and keep (B) allowed but not required, she would want the height restriction for the historic district. Commissioner Hontz could see opportunities with MPDs, but height in the historic district would be the biggest challenge and people would build to the maximum. In the interest of cooperation and unanimity, Commissioner Strachan would be willing to allow MPDs in the HR Districts if there would be no height exception under any circumstance.

Vice-Chair Thomas stated that the problem is that MPDs cascade through their way through the community in unexpected places. He has seen exception to heights used in other small towns on significant building that enhance the community and make it a better place. It provides a focal point for where you are. Absolutes make him nervous and he was not comfortable with absolutely restricting that site forever.

Director Eddington asked if it would be helpful for the Staff to come back with a better analysis of what exists along Main Street where MPDs were utilized and the various heights in the different zones. Commissioner Savage personally thought the analysis would be helpful.

Commissioner Wintzer stated that he would have a hard time allowing a height exception in this area. He would like the opportunity to look at a project under an MPD, but he was certain that if they changed the Code to allow height exception that is all they would see. He believed developers and the design community fail on that issue because they see a height exception as a permitted use.

The Commissioners commented on buildings in the Historic District that could increase their height if the height exception was allowed.

MOTION: Commissioner Savage move to CONTINUE this discussion to the next meeting and ask the Staff to carry out the exercises discussed, and to come back with additional information to help the Planning Commission make the decision regarding the MPD language in the context of that analysis. Vice-Chair Thomas seconded the motion.

VOTE: The vote was tied 3-3. Commissioners Savage, Gross and Thomas voted in favor of the motion. Commissioners Wintzer, Hontz, and Strachan voted against the motion.

Commissioner Strachan suggested that the Planning Commission make a motion to direct Staff to come back with language disallowing any height exceptions. They would have this same discussion at the next meeting but they would have language to vote on.

Commissioner Savage withdrew his motion.

Commissioner Hontz read language from page 232, "Height exceptions will not be granted for master planned developments within the HR-1, HR-2, HRC and HCB".

MOTION: Commissioner Strachan moved to CONTINUE the discussion to January 9, 2013 with direction to Staff to include the proposed language on page 231 and the top of 232 with regard to 15-6-5 – Building Height, and bring back added language that makes it clear that no exceptions to the height restrictions will be allowed in the HRC and HCB zones. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

Chapter 15 - Definitions

The Commissioners agreed to open the public hearing and continue discussion on Chapter 15 to the next meeting.

Vice-Chair Thomas opened the public hearing for Chapter 15 – Definitions.

Ruth Meintsma, a resident at 305 Woodside, stated that the definition on half-story was appropriate except the description does not apply to some structures on the Historic Sites Inventory. An example was the pyramid structure at 359 Woodside, which was originally a boarding house. Ms. Meintsma noted that this house was described as a story and a half on the HSI. It does not look like a two-story structure; however, according to the definition a half story now becomes a whole story. A half-story was described in history and the National Register description describes it as a half-story. Ms. Meintsma suggested an exception for historic houses described in that way on the HSI.

Lila Tedford requested clarification on the definition of publicly accessible. She asked if that would apply to a deck that was publicly accessible unless the restaurant closed or to a roof top garden.

Vice-Chair Thomas stated that the Planning Commission would come back with clarity at the next meeting.

Vice-Chair Thomas closed the public hearing.

MOTION: Commissioner Wintzer moved to CONTINUE Chapter 15 – Definitions to January 9, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

#### Roof Pitch

Vice-Chair Thomas opened the public hearing on Roof Pitch.

There were no comments.

Vice-Chair Thomas closed the public hearing.

MOTION: Commissioner Savage moved to CONTINUE the Roof Pitch discussion to January 9, 2013. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

#### **5. Richards Parcel – Annexation (Application PL-12-01482)**

Planner Whetstone requested that the Planning Commission provide direction on a number of issues outlined in the Staff report and continue the item to January 9, 2013 to allow Staff time to

draft an annexation agreement. She noted that most of the issues would be addressed through conditions of approval that must be met prior to final plat recordation.

Commissioner Wintzer asked if the agreement to allow the applicant to use City property for grazing would be a separate agreement. Planner Whetstone answered yes. Commissioner Wintzer asked if there would be limitations to prevent over-grazing. Planner Whetstone stated that the City was working with an expert on that language.

Commissioner Hontz felt they failed in the last annexation by not addressing the environmental existing conditions. She asked if that would be part of the analysis and whether there would be actual existing conditions of the open space that the City purchased in the 1990's. Planner Whetstone remarked that in 2009 the Summit Land Conservancy did a study of the property for existing conditions. The City has asked people from the Soil Conservation Service to provide their thoughts on what needs to be done on the property in terms of restoration, remediation, restrictions and monitoring. She noted that Mr. Richards has done that for 30 years and the Staff would also seek his input.

Commissioner Wintzer stated that he could not receive a packet this late and do a good job of reading it. If the Staff is unable to provide packets in a timely manner they should postpone the issue to allow the Planning Commission sufficient time to review the information.

Steve Schueler with Alliance Engineering stated that the proposal was still the same 7 lot configuration that was presented at the last meeting. Commissioner Wintzer noted that his previous question on Lot 7 had not been addressed. He still did not want to see fencing going all the way up to the common area. He understood the issues related to the barn, but he was uncomfortable allowing Lot 7 to wander that far into the common area. He was not opposed to the lot going out that far, but he was opposed to fencing because it takes away from the appearance of public space.

Commissioner Gross suggested placing limits on fencing. Planner Whetstone noted that the Staff requested that the applicant submit a fencing plan with the final subdivision plat. She stated that the Staff has concerns with white vinyl fencing around each lot. She recommended interior fencing to keep animals away from the streams and wetland areas, but it should be pole fencing or a simple agricultural wire fencing instead of white vinyl.

Mr. Richards, the applicant, stated when he was young his family had a ranch in Morgan County and he would install fences all summer long. He could say from experience that wire fencing was not good fencing. He was willing to put in a brown rail fence, but wire fences do not hold up. Mr. Richards remarked that a vinyl rail fence lasts forever. He commented on two fences along the highway from Payday Drive to the Osguthorpe Farm. One was a wire fence that was installed by the State. The other was a white vinyl fence he put in. Mr. Richards pointed out that the wire fence is down and the vinyl fence is still standing. In all these years he has only had to repair one area of the vinyl fence. Vinyl fencing is maintenance free and much stronger than a wire fence. Mr. Richards commented on other areas where wire fencing was installed and the number of times it has needed to be repaired because the poles fall over and the braces rot out.



Vice-Chair Thomas thought they could simplify the discussion by requesting a fencing plan with fencing samples and section elevations.

Commissioner Wintzer showed Mr. Richards exactly where the fencing should end and where the unfenced open space should begin. Vice-Chair Thomas clarified that Commissioner Wintzer preferred to see a delineation of the fence immediately behind the structures on Lot 7, and no fencing east of Lot 7 between the Park City open space parcel and the rear of that property.

Mr. Richards understood that the owner of Lot 7 could own the property but not fence it off. Commissioner Wintzer clarified that he could own it and fence it as long as the fence does not go out as far as what was shown on the east side of the lot. Planner Whetstone noted that part of the reason for fencing is to control the animals, which is why the Staff had requested a fence plan. Vice-Chair Thomas agreed with Commissioner Wintzer and he directed the applicant to submit a fencing plan that addresses their comments regarding location and fence material.

Planner Whetstone asked if the Planning Commission wanted to see the fencing plan with the annexation or with the final subdivision plat. The Commissioners preferred to see it with the annexation. Planner Whetstone noted that she had drafted a condition of approval requiring a fencing plan with the subdivision plat application to ensure that the Planning Commission would see the fencing plan. Commissioner Wintzer was comfortable waiting until the subdivision plat. The Commissioners concurred.

Commissioner Hontz stated that she was overridden at the last meeting with regard to density and other issues. Other than density, the other issues were identified as bullet points in the Staff report. Commissioner Hontz remarked that this was an artificial political boundary that has existed for a long time. It would be nice to have it in order to eliminate the holding of Summit County's zoning within Park City boundary, but it has not negatively affected anyone for all these years. Commissioner Hontz stated that changing it from what the current zoning allows, which is one house, the outbuildings and the stable, to a seven lot subdivision by annexing it into the City, would be upzoning by seven units. She felt that was a generous give. When looking at other annexations they made sure the "get" for the public was something of value. Commissioner Hontz could not see a "get" in this annexation because the City purchased the open space in 1998, and currently under the artificial boundary they get the visual feeling of continued open space along the road. Commissioner Hontz clarified that this was not an issue of compatibility. The number of units and size of structures proposed are compatible with the surrounding developments. However, the applicant could not do that unless that City gives them the right. She personally likes the land in its current condition because the existing structures and the layout fits the agricultural nature of the existing terrain. Commissioner Hontz stated that through the process she has not seen less than one unit of affordable housing, fencing, avoidance of wetlands, mitigation plans. She was concerned about that the open space parcel had become so degraded because of the uses the City has allowed on it.

Commissioner Hontz stated that if they move forward with the annexation and zone the property single family, she would demand additional precautions to possibly limit the actual amount of square footage on any lot and to have all the wetland areas and sensitive lands and all the land with barns zoned ROS or another open space designation.

Commissioner Hontz urged the Planning Commission to use the same filter they have used for other annexations, because it would be unfair if they did not look for the appropriate “get” for the public on this annexation as well.

**Commissioner Savage was excused and left the meeting at 10:00 p.m.**

Vice-Chair Thomas asked if any work had been done with regards to wildlife mitigation. When he drove through there this morning there were two moose on the property. He would like to know more about the wildlife and wetland issues and whether those had been studied. Planner Whetstone replied that the applicant had provided that information and wildlife does use the property.

Planner Whetstone remarked that the conservation easement was the biggest “get” for the City. Currently there is not a written agreement. If they have an annexation agreement it is important for the City to have a written and recorded agreement that talks about what could occur on the City’s parcel.

Commissioner Hontz pointed out that there was a signed Deed of Conservation Easement on page 20 of the Staff report. Planner Whetstone explained that there was a gentleman’s agreement for use of the property. This property was farmland and not pristine open space and it was used for agricultural purposes. This was a historical use of this property but there was never a written agreement. The City is very interested in having a written plan. Commissioner Hontz wanted to know which plan they did not have. Planner Whetstone replied that if this property owner wishes to continue using the property there is not a written management plan.

Commissioner Hontz referred to Exhibit C and the piece labeled Park City Open Space Parcel. She understood that Park City Municipal owned that parcel of land. Planner Whetstone replied that this was correct. Commissioner Hontz noted that there was a signed Deed of Conservation Easement recorded against it. Therefore, the only thing the City did not have was an agreement regarding animals and livestock. Commissioner Hontz asked if that was the only “get” they were getting. Planner Whetstone clarified that the City has nothing in writing for the irrigation, hay cutting, fertilizing and all things that Frank Richards does to take care of the parcel. She agreed that not all the activity on that parcel was the best benefit, but the City would like a written agreement to better understand what was occurring on the property.

Commissioner Hontz noted that page 3 of the Conservation Easement has a Continued Conservation Reserve program which is a 15 year farm service agency contractual agreement for the stream corridor. Planner Whetstone replied that it was not an agreement for the use of Frank Richards, who sold the land to the City. If the land is annexed, the City would get an agreement in writing. Planner Whetstone stated that when the other parcels were annexed to the City, there was another agreement that said when Frank Richards decides to develop his property he would come to the City first. After a year, if no progress is made with the City, he would be able to ask the County for development. Planner Whetstone believed that provision was in the annexation agreement for Thaynes Creek Ranches. She pointed out that denying the annexation would not keep the property in its current state because it could be developed

through the County. The City has been working diligently and a main issue is the use of the open space. The City wants to make sure it is monitored, protected and maintained, and possibly remediated based on a study by the Conservation Reserve Program. Planner Whetstone stated that the City has had conversations with Cheryl Fox, who holds the easement, in terms of whether grazing of the horses and hay cutting could continue.

Commissioner Hontz understood that the "gets" were that the entity that currently manages the open space would continue to manage it and that Mr. Richards would not develop through the County. Commissioner Hontz reiterated her opinion that this was a very generous annexation proposal.

Planner Whetstone remarked that the density analysis showed that the proposed density was low for this area and consistent with the lots along Pay Day and the SF zone. The General Plan expresses an interest in having the City's entry corridor maintaining an agricultural and rural look. The riding stable would remain and while it is an amenity for the development, it also provides an equestrian property in the City.

Commissioner Hontz referred to the minutes on page 44 of the Staff report and her comments from the meeting in September. She appreciated the Staff's opinion and analysis, but she disagreed. Commissioner Hontz noted that in September she had said that it was a benefit to the landowner to go from 0 to 7 units and the Planning Commission needed to find benefits for the City. Planner Whetstone stated that restoration of the property is also important. The City required and the applicant agreed to LEED Silver for all the homes being constructed. The applicant also agreed to limit the houses sizes and the disturbance area. Other benefits include restricting the use of the City open space land and repairing and maintenance of ditches that serve the property. Planner Whetstone stated that various other parts would be part of the annexation agreement and the Planning Commission would have the opportunity to review those at the next meeting. She would provide it to the Planning Commission early so they would have sufficient time to consider the benefits.

Vice-Chair Thomas stated that the drawings in the packets were too small to read the lettering. He asked about the size of the barns and whether there were driveways leading to the barns. Mr. Schueler replied that the barn dimensions were 36' x 36'. Vice-Chair Thomas clarified that Lots 1,2, 6 and 7 would have a 36' x 36' one-story barn. He was told that this was correct and the use would be for horses and storage equipment. Vice-Chair Thomas suggested limiting the use to agricultural use only and eliminate the possibility of ATV, snowmobiles or similar items. Vice-Chair Thomas also wanted to see how the barns would be accessed.

Planner Whetstone asked if the Planning Commission would be interested in seeing design guidelines like they did with Park City Heights. Vice-Chair Thomas stated that the nature of the site is agrarian. He did not want to be too restrictive with design guidelines, but he encouraged agrarian structures and elevations. Commissioner Strachan did not want all seven homes to look the same. Director Eddington suggested variety with the barns as well. Planner Whetstone offered to make variation in design and materials a condition of approval.

Mr. Richards outlined the problems associated with different barns. He preferred to see one top-of-the-line barn for these homes rather than a variety of different barns. He thought uniformity would add class to the subdivision. Vice-Chair Thomas still preferred variation. Commissioner Wintzer noted that the issue would be addressed and discussed with the plat.

Commissioner Hontz stated that according to the annexation initiation, a complete application for a petition for annexation must also include the preliminary subdivision plat. Planner Whetstone noted that they were looking at the preliminary subdivision plat this evening. The preliminary plat identifies the lots, square footage, etc. The specific details are addressed with the plat application.

Assistant City Attorney stated that an annexation is measured against certain criteria. She noted that the criteria was summarized in the Staff report and she suggested that the Planning Commission provide input on those bullet points.

Planner Whetstone stated that the Staff would come back with the annexation agreement that would address some of their concerns. They would also bring back the analysis for various sections of the Code.

The Planning Commission reviewed the bullet items in the Staff report.

**- Conservation Easement and Use/Restoration of PCMC parcel.**

Planner Whetstone felt this had already been addressed in their discussion.

**- Incentivize Equestrian component of Subdivision.**

Planner Whetstone stated that equestrian property is important in this area. They would need to look at how many horses would be allowed in the area and would use the City property and how many horses each lots could have. Since horses require a conditional use permit, part of the annexation agreement would allow the horses to go through an administrative conditional use permit. The Staff was preparing to write that into the annexation agreement.

Commissioner Wintzer asked if the share agreement had time limit on use of the land. Mr. Richards stated that it was a verbal agreement and there was no time limit. Commissioner Wintzer felt it was important to have something in writing to give the City leverage if someone abuses the land. Planner Whetstone stated that the recommendation from Summit Land was for a two-year or three-year review and the City would do the report and report back to Summit Land. She clarified that use of the land would not be in perpetuity.

Mr. Richards asked if the Planning Commission would prefer that he not develop the land as equestrian property. The lots are averaging 2 acres per lot and he was willing to consider a different type of development. Commissioner Wintzer replied that horses were not the issue. If someone is using public land, the City would want a mechanism to monitor the conditions of the annexation and development. Mr. Richards understood and he was not opposed.

**- Fencing.**

Planner Whetstone noted that this item had already been address.

**- Affordable Housing.**

Planner Whetstone noted that there was a requirement for affordable housing at 15%. The calculation was .1 times 900 square feet. The affordable housing unit must be built on site unless the Housing Authority allows it to be a fee-in-lieu or constructed elsewhere. That language will be in the annexation language. Planner Whetstone noted that Mr. Richards has an existing manager's unit that could count as affordable; however, the unit would need to be deed restricted.

**- Historical and cultural resources**

Planner Whetstone stated that there have been conversations with the State, the County and City and the Historical Society and there are no known resources at this time. Before the plat is recorded there would be a historic survey of the property. If anything is there it would go into the Historic Sites Inventory. If nothing is found they would have that certification. Planner Whetstone stated that there would also be language in the annexation agreement addressing cultural or archeological. If anything is found during an excavation there would be a process and procedure to follow.

**- Zoning**

The Staff recommended Single-Family because it is consistent with the surrounding neighborhoods. She pointed out that the neighbors were not interested in nightly rental and that the Iron Canyon Subdivision rezoned to single-family because they had issues with nightly rentals. Single-Family zoning allows greater density, which is why each lot should be deed restricted to prohibit re-subdivision to increase the density. The eighth lot is for a riding stable and that should also have a deed restriction.

**- Preliminary plat lot layout, building pad size, and visual analysis**

Planner Whetstone noted that the building pad for Lot 7 was moved to the south. The applicant would provide visual information. The Planning Commission would have a more detailed discussion at the time of the final subdivision plat when the final lot lines are drawn and the building pads are identified.

**- Public benefits**

The Planning Commission discussed public benefits earlier in the discussion.

Vice-Chair Thomas opened the public hearing.

Ruth Meintsma commented on the sand barns. It was mentioned at the last meeting that the barns would be the same and would favor variations.

Mike Jorgensen, a resident at 20 Pay Day Drive, was surprised by the discussion this evening. He came to this meeting five hours earlier thinking it would be a no-brainer, great project. He is the one who would be looking at the barns and he would much prefer having a high-quality barn in his back yard rather than a cinder block barn that could be built. Mr. Jorgensen stated that he attended this evening because he was primarily concerned about the fence. His lot is intersected by the lot line coming down the other way. He currently has a vinyl and rail fence and he was opposed to metal wire fencing. Mr. Jorgensen emphasized how hard Mr. Richards has worked to propose a project that looks nice. In looking at the history of the open space and how much Park City paid for that

open space versus how much it is worth today, they would find that the City already got something for nothing. Mr. Jorgensen believed the City has benefitted a great deal from that property purchase. He stated that Mr. Richards developed the property and worked there and at this point in his life decided he would like to subdivide it out. However, the City feels that it has the right to get something for nothing. Mr. Jorgensen reiterated his preference for a nice looking fence and attractive barns. He would be the most impacted by this development and strongly supports it.

Vice-Chair Thomas closed the public hearing.

Mr. Richards clarified that he was not poaching on City property. He did not want to sell the property when the City approached him about purchasing to maintain a view corridor coming into the City. He told them no because he had purchased the farm and developed every fence and every building on the property and he wanted to use it as long as he lived. The City asked if he would consider selling if they allowed him to continue using the property. Mr. Richards eventually sold the property and worked out an agreement because it was important to the City. He believed he sold the property at a fair price at the time with the understanding that he could continue to use the property as long as he lived.

MOTION: Commissioner Strachan moved to CONTINUE the Richards Parcel Annexation to January 9, 2013. Commissioner Hontz seconded the motion.

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

The Park City Planning Commission meeting adjourned at 10:35 p.m.

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