

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
October 26, 2011

COMMISSIONERS IN ATTENDANCE:

Vice-Chair Julia Pettit, Brooke Hontz, Jack Thomas, Adam Strachan, Nann Worel

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Planner; Matthew Evans, Planner; Mark Harrington, City Attorney; Polly Samuels McLean, Assistant City Attorney

=====

REGULAR MEETING

ROLL CALL

Vice-Chair Pettit called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioners Wintzer and Savage who were excused.

ADOPTION OF MINUTES – September 28, 2011

Commissioner Hontz referred to page 5 of the Staff report, page 1 of the minutes, the fifth paragraph, and questioned the use of the word “people” in reference to her comments regarding the task force. She recalled using the word “task force” or “group”, and requested that her comments be verified with the recording.

The minutes of September 28, 2011 were tabled to the next meeting pending verification.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington reported that the next Joint Work Session with the City Council and Planning Commission was scheduled for Thursday, December 8 at 6:00 p.m. The discussion would focus primarily on Lower Park Avenue redevelopment.

Director Eddington stated that during the last joint meeting, the City Council and Planning Commission raised questions regarding the Rocky Mountain Power substation relocation. He noted that the Staff was trying to schedule a separate work session to discuss the issues with Rocky Mountain Power. Tentative dates were November 17th or December 1st. The Planning Commission would be notified when a date is confirmed.

Commissioner Worel asked about a joint meeting with the Snyderville Basin Planning Commission. Director Eddington stated that the Staff has been trying to schedule a joint meeting. Due to scheduling conflicts, as well as a significant workload relative to the BOPA and the General Plan, Director Eddington remarked a joint meeting would not be scheduled until late February. The Staff was also working with the Snyderville Planning Department to see if the next joint meeting could include Ted Knowlton and the Planning Group that is working on TDRs for the County.

Vice-Chair Pettit recalled an item on the City Council agenda related to expanding the oversight of the HPB on reconstruction projects. The Planning Commission previously discussed the matter and forwarded a recommendation to the City Council. She requested an update on the status and what action had occurred. Assistant City Attorney McLean stated that the City Council sent the matter to the HPB for their input. The item was scheduled to go before the City Council on November 3rd. Director Eddington clarified that the issue was whether or not to have the HPB review applications for reconstructions. Vice-Chair Pettit requested that the Planning Commission continue to be updated on the matter.

Vice-Chair Pettit suggested a joint meeting between the Planning Commission and the HPB to discuss how they could do a better job being liaisons to each another. She thought that having the HPB join the walking tour was very beneficial and it would be nice to have more of those joint opportunities.

Vice-Chair Pettit asked about the City Council decision regarding the two properties on Park Avenue. She recalled hearing from radio reports that the plan was not to tear down or reconstruct, and that the City Council was looking at other options. Director Eddington replied that the City Council would be discussing those two properties the following evening. He noted that the City Council directed the Staff to come back with a recommendation that the preferred option was rehabilitation and not reconstruction. Council Member Butwinski clarified that the City Council would be looking at the RFP for those properties the following evening.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 1530 Empire Avenue, Snowcrest Condominiums – Amendment to Record of Survey (Application #PL-11-01227)

Planner Matthew Evans reviewed the application for an amendment to the Record of Survey. He reported that the applicant was requesting to drop the name “hotel” from the recorded plat. The current name on the plat is the Snowcrest Condominium Hotel. The structure is a 51 unit existing development on the corner of Empire Avenue and Snow King, a block in from Park Avenue.

Planner Evans stated that the application was received on March 24th and there was some confusion related to issues with the Building Department regarding two of the units; Unit 316 and 317. At one time both units were owned by one entity and in 1997 the loft of the two units were combined into one. Due to that change, the entry that was created between the two units broke into a firewall and that issue was never resolved. In discussing the matter with the Building Department, the Staff agreed that the issue could be mitigated and the application could move forward with a condition that the owners of two units fix the problem.

The Staff found good cause for the plat amendment. It is an existing structure and new construction is not proposed. The only change would be to drop the word "hotel" from the name.

Planner Evan remarked that the application went through the Development Review process. He noted that the only issue raised was the possibility of increased nightly rentals. However, the RC zone allows nightly rentals as a permitted use and individual owners would not be required to apply for a CUP. Planner Evans stated that the purpose of removing the word "hotel" from the name better reflects its current use, which is primarily individual ownership condominiums as opposed to a hotel setting.

The Staff had received no public communication or objections.

The Staff recommended that the Planning Commission forward a positive recommendation the City Council based on the findings of fact, conclusions of law and conditions of approval found in the draft ordinance.

Commissioner Worel wanted to know why the owner of Unit 317 was responsible for mitigating the door situation. Planner Evans replied that Units 316 and 317 used to have the same own. In 1997 the owner sold off Unit 316 and it was replatted without the loft. Therefore, both loft areas were contained within Unit 317. The owner of 316 purchased a unit without a loft. Planner Evans clarified that both units were owned by one owner when the door was cut into the firewall.

Vice-Chair Pettit opened the public hearing.

There was no comment.

Vice-Chair Pettit closed the public hearing.

MOTION: Commissioner Hontz moved to forward a POSITIVE recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1530 Empire Avenue

1. The property is located at 1530 Empire Avenue within the Residential Commercial (RC) Zoning District.
2. There are no proposed changes to the building footprint or any of the existing units within the building, including the exterior elevation, parking, amenities, or otherwise.
3. The applicants proposed to drop the name "Hotel" from the recorded name of the condominium plat.

4. Per Section 15-2.16-2(A)(7), Chapter 2.16 Recreational Commercial District of Title 15 of the LMC, nightly rentals are permitted, and would be permitted regardless if the name of the condominiums changes or stays the same.
5. There are no known non-conformities associated with the existing building or the uses therein.
6. Multi-family dwellings are a conditional use within the RC Zone District.

Conclusions of Law – 1530 Empire 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 amendments.
4. Approval of the plat amendment, subject to the conditions state below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 1530 Empire 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. The owner of Unit 317 shall work with the building department to the building department's satisfaction to mitigate the issues related to the opening of the firewall between the loft areas prior to plat recordation.
2. **57 King road – Steep Slope Conditional Use Permit.**
(Application #PL-11-01327)

Planner Kirsten Whetstone reviewed the application for construction on a vacant lot located at 57 King Road. The lot is Lot 1 of the Anchor Development, second amended of the Millsite Reservation subdivision #1. The lot is approximately 70,300 square feet. The lot is vacant, but there is existing vegetation on the southwest side and larger trees that the applicant would like to keep if possible.

Planner Whetstone noted that the site is a knoll that comes off of a private shared driveway with 55 King Road. The lot has a flat area at the beginning that eventually rises up. Since the area proposed for construction is a slope greater than 30% and the proposed structure is greater than a 1,000 square feet, additional steep slope CUP review is required by the Planning Commission.

Page 35 of the Staff report contained the nine criteria for a Steep Slope CUP. The Staff found that the request complied with the nine criteria. The applicant was proposing less than the allowed footprint in the LMC. The proposal is less than the allowed total of 2400 square feet above ground floor area by a plat note. Planner Whetstone summarized that the applicant proposed greater setbacks, less height, less footprint, less square footage, and a larger lot. In addition, a vertical articulation to the third story is required to be a minimum of ten feet. The applicant was proposing 23 feet to where a shed roof begins and 35 feet to the third story ridge. Additional criteria in the LMC for the HR1 zone was a change of grade by no more than 4 feet from existing, and the project proposes 3 feet or less, except for the front of the garage and window wells.

Planner Whetstone pointed out that the Staff had drafted a condition of approval requiring that the driveway be minimized to the greatest extent possible and that the width at the easement edge not exceed 20 feet. Planner Whetstone noted that the Staff was in the process of finding compliance with the Design Guidelines. To this point, other than the Steep Slope CUP, they found that the design complies. The Staff was pleased that the application did not maximize the various parameters.

The Staff recommended that the Planning Commission review the proposal, conduct a public hearing, and consider approving the Steep Slope CUP for 57 King Road, according to the Findings of Fact, Conclusions of Law, and Conditions of Approval stated in the Staff report.

Warren Lloyd, the architect/agent for the applicant, stated that he worked with Staff on the conditions and he agreed with the recommendations. Mr. Lloyd believed the project was compatible in size and architectural character. He understood the recommendation to narrow the roadway and felt they could accommodate safe, access to the site.

Mr. Lloyd presented and reviewed a site context model.

Commissioner Hontz referred to Sheet SD1.1 and noted that she was unable to find the distance from where the garage door begins and ends and the edge of the drive. She could see the width but not the length. Commissioner Hontz wanted to make sure there was enough space between the public utility and access easement and the front of the garage. Mr. Lloyd replied that it would be possible to park a car in front of the garage door and keep the shared driveway accessible.

Commissioner Hontz again referred to Sheet SD1.1 and asked if there was a difference between a non-exclusive access and utility easement and a public utility and access easement, since both were shown. Mr. Lloyd stated that it was taken off the recorded plat and both were designated in that manner on the plat. He noted that a utility easement is required for both conditions.

Assistant City Attorney McLean explained that non-exclusive means that it is not limited to just the sewer district or a specific entity. Commissioner Hontz noted that the City has been cleaning up

the plats to make sure they have the access correct. With the public access, she questioned the reason for a non-exclusive easement. Planner Whetstone thought the non-exclusive easement may provide access across the property for the second lot.

Assistant City Attorney McLean suggested that the Planning Commission schedule time at another meeting to discuss the different types of easements.

Vice-Chair Pettit opened the public hearing.

Kevin Reilly, a resident at 84 Daly Avenue, thought his property may be directly below the proposed project. If that is the case, he was concerned about soil erosion coming down on his property.

Mr. Lloyd provided a site map and Mr. Reilly was pleased to learn that the property at 57 King Road was not close to his home on Daly Avenue.

Vice-Chair Pettit closed the public hearing.

Commissioner Thomas asked Mr. Lloyd if the plans had gone through engineering. Mr. Lloyd replied that it had gone through structural engineering. Commissioner Thomas referred to Drawing A2.1 which showed a large overhang, and asked if the thickness relative to snow loads had been considered in drawing the elevations. Mr. Lloyd replied that the intent was to design a roof that was compatible with the miners sheds, keeping the same scale and elements. He noted that the structural aspect had been considered in the design.

Commissioner Thomas assumed the project and the details would be consistent with the design guidelines. Planner Whetstone stated that a condition of approval with the Steep Slope states that the building set that comes back must be consistent with the plans that were reviewed by the Planning Commission.

Commissioner Thomas complimented Mr. Lloyd on submitting a nice application with a complete historical context. It was great work, particularly since Mr. Lloyd had not done much work in the community.

Commissioner Hontz concurred. She was impressed by the well thought out and complete package, and commended Mr. Lloyd and the Staff. Commissioner Hontz complimented Mr. Lloyd on his thoroughness, particularly the way the model dropped the house into the existing landscape. Commissioner Hontz liked how Mr. Lloyd worked to make the project fit the site as opposed to making the site fit the project. She suggested a stronger presentation on the two main massing pieces so they would stand out and look like two separate elements.

Commissioner Worel also thought the application was complete and thorough. She appreciated the fact that the design was so compatible with the surrounding structures and with the environment. It was very well done.

Commissioner Strachan concurred with all previous comments. The issue is compatibility and his only concern was that the design may not be compatible with the two structures below it. He was unsure how those homes would be impacted but he trusted the Staff to make sure any impacts were mitigated by the design. Aside from that, Commissioner Strachan was comfortable with the application.

Vice-Chair Pettit asked if there was an arrangement between the property owners for clearing the shared driveway. Mr. Lloyd stated that the owner of 57 King Road had spoken with the other owner. At this point there is one parcel that plows, and that would continue moving forward. Mr. Lloyd noted that at 55 King Road the driveway widens out quite a bit and he was unsure where they have been pushing the snow. They would need to make sure there is adequate room.

Vice-Chair Pettit asked if it was appropriate to include a condition of approval regarding snow clearing. Given the amount of snow that falls in that area, she was concerned about where the snow would go and how it would impact the adjacent properties.

Planner Whetstone noted that the issue was not addressed in the plat. It only talks about a shared access road that provides access to 57 King Road over 55 King Road. She could not find a recorded agreement between the two property owners. Mr. Lloyd was not aware of any written agreement between the two property owners.

Assistant City Attorney McLean suggested adding a condition of approval that requires a recorded agreement prior to issuance of a building permit or a certificate of occupancy.

Planner Whetstone drafted Condition #13 to read, "An agreement between the owners of 55 and 57 King Road regarding maintenance, snow removal and use of the easement shall be recorded at Summit County prior to issuance of a Certification of Occupancy".

Commissioner Thomas believed there was enough massing break in the building and enough variation with the footprint of the building and roof lines that color may not be as critical as it would be on a larger building mass.

Director Eddington stated that the Staff would look at colors and materials as part of the Historic District Design Review. Planner Whetstone clarified that the guidelines do not specifically address a color and a color is not specifically approved. It addresses the use of color in terms of breaking up a mass with a different hue or shade of the chosen color. The Staff would have the ability to address that issue and the use of materials.

Commissioner Hontz stated that the only time she likes to see a significant variation in color is for gray on gray on silver gray.

MOTION: Commissioner Strachan moved to APPROVE the application for 57 King Road for a Steep Slope Conditional Use Permit, according to the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the Staff report and as amended. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 57 King Road

1. The property is located at 57 King Road within the Historic Residential Low Density (HRL) zoning district. The HRL zone is characterized by historic residential structures and larger contemporary houses on larger lot.
2. The property is subject to the Anchor Development S3econd amended subdivision plat of the Millsite Reservation Subdivision No. 1. The amended subdivision plat was recorded on December 11, 1998 includes plat notes regarding 1) shared access from King Road with adjacent lots; 2) limits on above ground floor area; 3) requires residential fire sprinklers; and 4) prohibits the re-subdivision of lots.
3. The plat notes regarding floor area state that “above ground building square footage for Lot 1 is 2,400 square feet (not including the garage) and 3,400 square feet (not including the garage) for Lot 2”. The notes further clarify that “above ground square footage are considered to be the floor area of the building that is 80% or more above finished grade. Above ground square footage does not include the floor area associated with a true basement or crawl space.”
4. The lot is currently vacant and contains oak, deciduous trees, and a large white fir tree. The lot contains areas of greater than 30% slope.
5. The proposal is for a new single family house consisting of 3,768 square feet of total space (including the garage), with 2,540 square feet of heated space and 1,228 square feet of unheated garage and basement space. The total above ground floor area (excluding the garage areas) is 2,180 square feet (1,190 sf on the main level and 990 sf on the upper level). The proposal complies with the plat note limiting above ground floor area to 2,400 sf, excluding the garage.
6. The lot area is 7,305 sf with an LMC allowed building footprint of 2,411 sf. A building footprint of 1,878 sf is proposed.
7. Access to the property is by a shared driveway with 55 King Road accessing King Road.
8. Under the current LMC, the minimum front and rear yard setbacks are 12 feet. The house is proposed with a 27' front setback and a 15' rear setback to the property lines.
9. Under the current LMC, the minimum side yard setback is 5 feet for this lot, with a total of 14 feet. The proposed house includes a 25'3" left (east) side setback and 12' and 11'1" setbacks on the two right sides (west) to the property lines.
10. Under the current LMC, the maximum building height in the HR-L zone is 27 feet. No height exceptions are allowed. The proposed house does not exceed 27 feet in height. The upper

portion is 27' on the east side and 23'7" on the west side. The shed roof portions are 22' from existing grade and the gable over the garage is 25' from existing grade.

11. Under the current LMC the maximum number of stories allowed is three stories. Three stories are proposed.
12. Under the current LMC a 10' horizontal step is required between the second and third floors. Thirty-five (35') feet of horizontal stepping is proposed.
13. The applicant is proposing two parking spaces within a two car garage with two separate garage doors.
14. Utilities are located within a public utility and access easement recorded on the plat. The easement is shared with 55 King Road.
15. The findings in the Analysis section of this report are incorporated herein.
16. The applicant stipulates to the conditions of approval.

Conclusions of Law – 57 King Road

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6(B).
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 57 King Road

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. A final utility plan, including a drainage plan for utility installation, public improvements, storm water drainage, etc. shall be submitted with the building permit submittal and shall be review and approved by the City Engineer and utility providers prior to issuance of a building permit.
4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.

5. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance. The landscape plan shall include shrubs and trees of sufficient number and size to provide additional screening of the building façade as viewed from King Road. The existing significant evergreen tree (White Fir) located behind 81 King road and shown on the plans shall remain. The existing deciduous trees to the south of the driveway shall remain.
6. No building permits shall be issued for this project unless and until the design reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the June 19, 2009 Design Guidelines for Historic Districts and Historic Sites.
7. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges to confirm that the building complies with all height restrictions.
8. If required by the Chief Building official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building Official, the shoring plan shall include calculations that have been prepared, stamped and signed by a licensed structural engineer.
9. This approval will expire on October 26, 2012 if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been granted by the Planning Commission.
10. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission, subject to additional changes made during the historic District Design Review.
11. The driveway width shall be minimized to the greatest extent possible in order to minimize hard surface area and maintain existing vegetation. The driveway width at the access easement edge shall not exceed 20 feet. The garage doors shall not exceed the dimensions of 9' x 9' consistent with the design guidelines.
12. Modified residential 13-D fire sprinklers are required.
13. An agreement between the owners of 55 and 57 King Road regarding maintenance, snow removal and use of the easement shall be recorded at Summit County prior to issuance of a Certification of Occupancy.

3. Park City Heights – Ratification of Development Agreement

Planner Whetstone stated that the Planning Commission was being asked to ratify the Development Agreement for the Park City Heights Master Planned Development. The MPD was

approved by the Planning Commission on May 11, 2011. The Development Agreement was submitted to the City in August. The agreement was included on page 73 of the Staff report, along with various exhibits such as the annexation agreement and its conditions of approval, the water agreement, the MPD site plan, the action letter with the Findings of Fact, Conclusions of Law and Conditions of Approval of The MPD.

Planner Whetstone noted that a phasing plan was required and that plan was attached. During the MPD approval the Planning Commission addressed the timing of certain amenities and public improvements. Those issues are addressed by the Master Planned Development. The language of the phasing was included in the text of the development agreement.

The Development Agreement had been reviewed by the Planning Department, the Legal Staff, and the City's representative as a co-owner. The Planning Staff also reviewed the Development Agreement against LMC, Section 15-6-4(G), which requires eight elements to be contained in the Development Agreement.

The Staff recommended that the Planning Commission review the Development Agreement, consider ratifying the agreement as written or amended, and allow for public input at their discretion. Planner Whetstone clarified that this would be an administrative action that ratifies the May 11, 2011 final Park City Heights MPD approval. Once ratified, the Development Agreement would be signed by the Mayor and recorded at Summit County.

Commissioner Strachan asked about the standard of review. He wanted to know if the Planning Commission was only supposed to determine whether the Development Agreement accurately reflects what was decided in the MPD. Assistant City Attorney McLean replied that ratification was only memorializing the MPD and whether or not it includes the eight elements from the LMC that were outlined in the Staff report. The Planning Commission could not go back and re-review the MPD other than to make sure the Development Agreement reflects what the Planning Commission voted on and approved.

Commissioner Strachan questioned whether the Planning Commission could suggest amendments. Assistant City Attorney McLean stated that amendments could be suggested but only within the parameters of what was approved by the MPD.

Vice-Chair Pettit opened the public hearing.

There was no comment.

Vice-Chair Pettit closed the public hearing.

Commissioner Hontz referred to page 73 of the Staff report, the first paragraph of the Development Agreement, and pointed out a number of grammatical and typographical errors. She requested that the Legal Department review that paragraph because it was confusing as written.

Commissioner Hontz referred to page 76 of the Staff report, Item 6 - Phasing, and read the second sentence, "The final plat including utility plans for the last phase of the Project shall be

recorded no later than ten years from the date of this agreement". She noted that the sentence was repeated in the middle of that same paragraph, and suggested that one sentence be removed to avoid being redundant.

Commissioner Hontz referred to page 78 of the Staff report, 9.1 Signalize Intersection Improvements. She was unclear on the relationship of who pays what. The second paragraph talks about assigning the cost of improvements, but there was no reference as to whether the City would assume 100% of the signalized intersection improvements.

City Attorney Mark Harrington noted that the language was intentionally left unclear because they did not have the answers. Currently it is a federally funded project and they were proceeding under that assumption. If that changes, a partnership would need to be addressed and the City reserved the right to request that in the future if necessary.

Commissioner Strachan asked about the bike lane. He noted that the MPD approval was conditioned on the developer paying for the bike lane. Mr. Harrington replied that the bike lane was a requirement of the development, as opposed to an intersection improvement by definition. He noted that currently it is the responsibility of the City and Boyer Company and it would remain such unless it is assigned to someone else. Commissioner Strachan recalled that Boyer was the responsible party as the developer. Mr. Harrington clarified that the City would be involved as an owner.

Commissioner Hontz referred to page 87, Finding #21, and noted that there were two periods after Administrative Conditional Use Permit. On page 87, Finding #24, Commissioner Hontz noted that the Planning Commission had been updated on the short range Transit Development Plan, but it was not in relationship to this project. She requested an update on this specific condition of approval #24.

Commissioner Hontz referred to page 95 of the Staff report, Condition #43, which indicated that the Planning Commission had requested an additional site visit by a certified biologist in May or June 2011. Planner Whetstone replied that the site visit was done and the report was submitted. Commissioner Hontz noted that the report had not been provided to the Planning Commission. She would have a problem approving subdivisions or anything else related to this project without seeing that document to make sure she was comfortable with the results.

Planner Whetstone pointed out that the condition required that the Planning Commission see the report prior to the issuance of a grading and building permit. Commissioner Hontz recognized the problem with the condition in hindsight, but she knew exactly what she wanted and she would have liked the information when it was submitted. She provided an example to show why it was important to have that information before approving the subdivision. Commissioner Hontz believed this was a lesson learned. While trying to be accommodating, the last sentence of the condition was not sufficient language to address her concerns. She was pleased that the report was completed as requested, but it was important for the Planning Commission to have the opportunity to review it. Planner Whetstone remarked that the biologist report and the housing plan would be provided to the Planning Commission.

Commissioner Hontz referred to page 94 of the Staff report, Condition #30, which related to construction of the public park, trails, and other amenities related to the first phase. She was concerned about having those in tandem and occur at the same time. The condition indicates that the commencement would happen at the 40th building permit of the first subdivision. Commissioner Hontz remarked that she only counted 32 building permits that would be pulled in the first phase. Therefore, the first phase would not trigger the condition. She found that to be problematic.

Assistant City Attorney McLean clarified that the Development Agreement is more than a rubber stamp of the MPD. Parts of the Development Agreement reflect exactly what was in the MPD; however, other parts address elements that were not discussed as part of the MPD but were required as part of the Development Agreement.

Commissioner Strachan believed the Development Agreement reflected the MPD. Even though he had voted against the MPD, he believed it met the eight components required in the LMC. Commissioner Strachan still disagreed with the approval of the MPD.

Vice-Chair Pettit thought the challenge with language was that Park City was acting as the developer and in a municipal capacity. In looking at the first paragraph of the Development Agreement, she disagreed with Commissioner Hontz that the language was written inaccurately. Vice-Chair Pettit remarked that the first reference to Park City Municipal Corporation was in the capacity of the developer. The second reference was in its capacity of a Municipality. She suggested adding language after the second Park City Municipal Corporation to read “**acting in its capacity** as a municipality and political subdivision...” to clarify why Park City Municipal is on both sides of the agreement.

Vice-Chair Pettit remarked that the content of the Development Agreement was consistent with the MPD. She thought Commissioner Hontz had raised good questions from the standpoint of lessons learned, and also in thinking about the path forward. It would be helpful if the Planning Commission could have a timeline that shows each of the different phases of the project so they can understand how the conditions of approval fit with each phase when being asked to make a decision. Vice-Chair Pettit thought it would keep them on task to make sure the project moves through the process in the way they had intended.

Commissioner Hontz noted that the next item was approval of the subdivision. With the knowledge of the subdivision plat, she asked if it was appropriate to change the requirement regarding the 40th building permit. In her opinion, there was no way to reach 40 building permits with what was being proposed in the first phase.

Assistant City Attorney McLean stated that the conditions of approval of the MPD could not be revised or changed. However, the issue could be addressed as part of the phasing section in the Development Agreement or as part of the subdivision. Planner Whetstone noted that all the trails would be completed with the subdivision associated with Phase 1 of the plat.

Spencer White, representing the applicant, reminded the Planning Commission that the 28 affordable units in Phase 1 were the IHC units. He pointed out that those 28 units were brought in

by direction from the City. Mr. White recalled having a discussion about the 40th unit, and at that point they are fully vested. However, having to front all of the improvements for the 28 affordable units that were already accepted in was part of the reason for having the discussion. Mr. White clarified that the applicant was not trying to get away from putting in the improvements, but from a financial standpoint, it never made sense to do until the 40th unit. Mr. White remarked that the applicant had originally said 50 units and later backed down to 40 units.

Commissioner Hontz remembered the discussions and how they reached 40 units. If the Planning Commission was comfortable moving forward on the Development Agreement, they would still have a potential future discussion on the subdivisions.

Mr. White stated that part of the issue was that they were getting pushback from IHC on getting those affordable units built. The units would either get built where they were originally approved on the five acre parcel next to IHC, or they would come into Park City Heights. Whether the affordable units are built in Park City Heights or on the five acre parcel next to IHC, they would still get the amenities in either location. The only issues for Park City Heights was that once they reach the 40th building permit, all the improvements would be constructed in Phase 1.

City Attorney Harrington stated that the characterization of IHC was accurate. He noted that the IHC annexation agreement has its own separate requirement and the affordable units need to be constructed within a certain time frame. Mr. Harrington remarked that the IHC units were driving the issue and not the developer. Mr. Harrington suggested that the Planning Commission consider addressing the matter in the subdivision item. He suggested that they could address the issue as they would with any developer, which is through a public improvement guarantee for the first phase. That would insure that if something happens with the rest of the development, the public improvements are still there.

Director Eddington clarified that Phase 1 as it was identified in Condition 30, was also identified in the Annexation Agreement, Phase 1, which was up to the 90 UEs. Commissioner Hontz clarified that her only concern was having a Phase I that was the only phase of the project that would not achieve the goals. Regardless of the number, she wanted to see those improvements occur in case this is the only phase that gets built. She was comfortable addressing that with the subdivision.

MOTION: Commissioner Thomas moved to ratify the Development Agreement for the Park City Heights Master Plan Development as amended. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

4. Park City Heights - Subdivision

City Attorney Harrington disclosed that due to the conflict of interest, the City Council had removed itself as the appellant authority. An appeal of the Planning Commission decision would be sent to an independent appeal authority. However, per Code, plats must go to a legislative body and the City Council would continue as the appeal body with the appropriate disclosures.

Planner Whetstone reviewed the request for approval of a final subdivision plat for the first phase of the Park City Heights master planned development. The first phase consists of 28 townhouse units, which are the IHC housing units for fulfillment of their affordable housing requirement for the Park City Medical Center, and four cottage home lots, for a total of 32 dwelling units. The application also includes a plat for the City park parcel, the HOA clubhouse parcel, open space parcels, support commercial parcels, dedication of the first phase streets, utility easements, trail easements, and a parcel for a future multi-unit affordable housing project at the north end of the project.

Planner Whetstone noted that the parcels and streets layout was consistent with the Park City Heights MPD that was approved on May 11, 2011. The conditions of the MPD and the Park City Heights Annexation Agreement continue to apply in this phase.

The Staff had conducted an analysis against the LMC criteria. The property is located in the Community Transition Zone. The various requirements of the zone were outlined in a table on page 137 of the Staff report. Planner Whetstone noted that master planned developments allow zero setbacks, which is proposed for the townhouse units. There would be a zero setback where the units attach with common walls. The setbacks along the street side would be 10 feet, and 12 feet along the sides between structures. The setbacks were identified with the plat as required by the MPD.

The Planning Staff conducted a general subdivision analysis on requirements A through N, as well as the general lot design requirements A through K in the LMC, as outlined in the Staff report. The Staff also did an analysis of the general road design requirements. Planner Whetstone noted that the City Engineer still needed to approve the final form of the plat in terms of the final utility and drainage plans.

The Staff recommended that the Planning Commission conduct a public hearing on the Park City Heights Phase 1 subdivision plat, consider public input and any discussion or amendments, and consider forwarding a positive recommendation to the City Council pursuant to the Findings of Fact, Conclusions of Law and Conditions of Approval stated in the draft ordinance.

Vice-Chair Pettit opened the public hearing.

There was no comment.

Vice-Chair Pettit closed the public hearing.

It was noted that the text did not print on some of the documents that were provided to the Planning Commission. Planner Whetstone read the plat notes from her copy, and new copies were printed and given to the Commissioners.

Commissioner Thomas referred to L1.0 and the notes on the right hand side of the page that indicated that the trees are spaced 60 feet on center. He thought that was excessive. Mr. White noted that the applicant originally proposed 30 feet on center and it came back from the City

redlined to 60 feet. Planner Whetstone replied that during the development review the recommendation for 60 feet came from the City's arborist for the Honey Locust trees. The trees are 2 to 2-1/2 inch caliper. The trees would be a mix of Honey Locust and Norway Maple. Director Eddington was unsure why the arborist would have recommended 60 feet on center. Commissioner Thomas thought that should be changed if the applicant was willing to go to 30 feet. Director Eddington concurred. Mr. White reiterated that the applicant originally proposed 30 feet and they were willing to do 30 feet or 60 feet. Commissioner Thomas clarified that the recommendation was to space the trees at 30 feet on center.

Planner Whetstone noted that the primary purpose of the landscape plan was to identify the limits of disturbance, and how and when that would be reseeded after construction.

Vice-Chair Pettit questioned the streets names and asked who had named them. Planner Whetstone believed it was the City Engineer in consultation with the Postmaster. Since this was a co-development with the City, Vice-Chair Pettit preferred that the names be significant to people, places or events in Park City. Phyllis Robinson explained that significant time was spent trying to list appropriate street names, and they ended up submitting a list of avalanche dogs that are used at PCMR and Deer Valley resort, as well as some of the service dogs that have been raised in Park City. The streets were named after dogs associated with Park City.

Vice-Chair Pettit commented on the public improvement bond to address Commissioner Hontz concerns. City Attorney Harrington stated that the Planning Commission could ask if the applicant was willing to accept a condition of approval that requires a public improvement guarantee that includes the full Phase 1 trail and other amenities. He did not believe the requested improvements were so cost prohibitive that it would be a problem.

Mr. White stated that the applicant has always been willing to construct the amenities. They were only following the development agreement. He wanted to know if the improvements were the ones listed in Condition #30. Commissioner Hontz thought the improvements outlined in Condition #30 were sufficient at a minimum.

City Attorney Harrington suggested amending Condition of Approval #17 of the subdivision to read, "A financial guarantee, in a form and amount acceptable to the City and in conformance with the LMC and MPD conditions of approvals, for the value of all public improvements, **including those identified in the MPD condition of approval #30**, shall be provided to the City prior to building permit issuance for new construction within each phase. All public improvements shall be completed according to City standards and accepted by the City Council prior to release of this guarantee".

Commissioner Hontz thought the Planning Commission had specified the park design. Planner Whetstone remarked that because it is a City Park, the design and function would be per the Parks and Recreation Board recommendation to the City Council. She recalled that the Planning Commission specified that the Park not be designed in a way that would prohibit or affect the placement of the soccer field.

Commissioner Hontz read from page 84 of the Staff report, Finding #1 of the MPD, letter H. "A dedicated 3.55 acre (155,000 sf) public neighborhood City Park with field, tot lot and playground equipment, shade structure, paths, natural area, and other amenities to be designed and constructed by the developer and maintained by the City. This park is included in open space calculations. Bathrooms are proposed in the club house with exterior access for the park users". She thought that language was very important.

Commissioner Hontz pointed out that the trail connections were described in Letter K of Finding #1. She asked about the community gardens identified in Letter I. Mr. White clarified that the community garden was in a subsequent phase and not part of the subdivision.

Commissioner Strachan incorporated his comments from past meetings on this project, and voiced his objections to conclusions of law 1,2 ,5 and 6. He would be voting nay on any motions for approval that find compliance with conclusions of law 1, 2, 5, and 6. He would not vote for a continuance because no amount of time could resolve that issue.

MOTION: Commissioner Thomas moved to forward a POSITIVE recommendation to the City Council for the Park City Heights Phase I Subdivision plat, pursuant to the corrections discussed at this meeting and with the Findings of Fact, Conclusions of Law and Conditions of Approval as amended.

Commissioner Hontz asked Planner Whetstone to read Condition of Approval #17 as amended.

Planner Whetstone read, "A financial guarantee, in a form and amount acceptable to the City and in conformance with the LMC and MPD conditions of approval for the value of all public improvements, including those public improvements identified in the Park City Heights master planned development Condition #30 and further described in Finding #1, letter H, shall be provided to the City prior to building permit issuance for new construction within this phase. All public improvements shall be completed according to City standards and accepted by the City Council prior to release of this guarantee."

Commissioner Worel seconded the motion.

Commissioner Hontz was concerned that the condition as written would trigger the improvements at 40 units rather than 32 units. Planner Whetstone pointed out that the guarantee would be in conformance with the LMC and MPD conditions. City Attorney Harrington explained that the guarantee would give the City money to make those improvements if the developer fails to do it. Commissioner Hontz was comfortable with the condition as written.

VOTE: The motion passed 4-1. Commissioners Pettit, Hontz, Thomas and Worel voted in favor of the motion. Commissioner Strachan voted against the motion.

Findings of Fact – Park City Heights Subdivision

1. The property is located on Richardson Flat Road east of SR248 and west of US Highway 40.

2. The property was annexed into Park City with the Park City Heights Annexation on May 27, 2010, and was zoned Community Transition (CT).
3. On May 11, 2011, the Park City Planning Commission approved the Park City Heights MPD for a mixed residential development consisting of 160 market rate units and 79 affordable units on 239 acres.
4. On June 22, 2011, the Planning Commission reviewed and approved a preliminary subdivision plat as being consistent with the Park City Heights MPD. The proposed plat is consistent with the preliminary subdivision plat.
5. Park City Municipal Corporation and Boyer Park City Junction are joint owners of the property. The property was not purchased with open space revenues.
6. The property is restricted by the Land Management Code, the Park City Heights Annexation Agreement, and the Park City Heights Master Planned Development conditions of approval and Development Agreement, and other applicable codes and regulations.
7. The lots are not within the Entry Corridor Protection Overlay zone (ECPO) and no portion of this plat is within the Park City Soils Ordinance boundary.
8. The proposed subdivision plat creates lots of record for 28 townhouse units to be constructed for IHC as fulfillment of the required affordable housing for the Park City Medical Center. The subdivision plat also includes four (4) cottage home lots of record, a City Park parcel, HOA clubhouse parcel, open space parcels, support commercial parcels, dedication of first phase streets, utility easements, trail easements, and a parcel for a future multi-unit affordable housing building.
9. The townhome lots range in area from 1,898 sf to 4,779 sf for Lot T16, a corner lot with 3 front yard setbacks. The cottage lots range in area from 4,431 sf to 6,051 sf. These lots are consistent with the Lot and Site Requirements of the Community Transition (CT) zone as conditioned by the Park City Heights MPD.
10. No non-conforming conditions are created by the subdivision.
11. An existing 50' wide power line easement for PacifiCorp traverses parcels G and D. An additional 10' is being dedicated with this plat for a total width of 60' as requested by PacifiCorp to meet future anticipated utility easement needs.
12. The property is accessed from Richardson Flat Road, a public county road.
13. Access to all lots and parcels within the proposed subdivision is from local public drives and streets. No lots or parcels access directly to Richardson Flat Road. All streets and drives are public.

14. The subdivision complies with the Land Management Code regarding final subdivision plat, including CT zoning requirements, general subdivision requirements, and lot and street design standards and requirements.
15. General subdivision requirements related to 1) drainage and storm water; 2) water facilities; 3) sidewalks and trails; 4) utilities such as gas, electric, power, telephone, cable, etc.; 5) public uses, such as parks and playgrounds; and 6) preservation of natural amenities and features have been addressed through the Master Planned Development process as required by the Land Management Code.
16. Sanitary sewer facilities are required to be installed in a manner prescribed by the Snyderville Basin Water Reclamation District (SBWRD).
17. There is good cause for this subdivision plat in that it creates legal lots and parcels of record from metes and bounds described parcels; memorializes and expands utility easements and provides for new utility easements for orderly provision of utilities; provides a parcel to be dedicated as a public park; provides for open space areas within and around the subdivision; dedicates trail easements and public streets, provides for future support commercial parcels; and provides for future development parcels for affordable housing and market rate units consistent with the approved Park City Heights Annexation Agreement and Master Planned Development.
18. The findings in the Analysis section are incorporated herein.

Conclusions of Law – Park City Heights Subdivision

1. The subdivision complies with LMC 15-7.3 s conditioned.
2. The subdivision is consistent with the Park City Land Management Code and applicable State law regarding subdivision plats.
3. The subdivision is consistent with the Park City Heights Annexation and the Park City heights PD, as conditioned.
4. The subdivision is consistent with the Park City Heights preliminary plat approved by the Planning Commission on June 22, 2011.
5. Neither the public nor any person will be materially injured as a result of approval of the proposed subdivision plat, as conditioned herein.
6. Approval of the proposed subdivision plat, subject to the conditions stated herein, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – Park City Heights Subdivision

1. City Attorney and City Engineer review and approval of the final form and content of the subdivision plat for compliance with State law, the Land Management Code, and the conditions of approval, is a condition precedent of recordation of the plat.
2. The applicant will record the subdivision plat a Summit County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat amendment will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Conditions of approval of the Park City Heights Annexation, as stated in the Annexation Agreement, continue to apply.
4. Conditions of approval of the Park City Heights MPD, as memorialized in the Development Agreement, continue to apply.
5. Final approval of the sewer facilities/utility plan by the Snyderville Basin Water Reclamation District is required prior to final plat recordation.
6. All streets and drives, but not driveways on individual lots and parcels, within the subdivision plat shall be dedicated as public streets. Final acceptance of these streets by the City shall occur upon completion and acceptance of the public improvements. The City will commence maintenance and snow removal from public streets once 50% of the units within this phase are complete and certificates of occupancy have been issued.
7. The City Park parcel shall be dedicated to the City upon recordation of the plat.
8. All construction, including streets, utilities, and structures shall comply with recommendations of the June 9, 2006 Geotechnical Study provided by Gordon, Spiller Huber Geotechnical Consultants, Inc. Additional soils studies and geotechnical reports may be required by the City Engineer and Chief Building Official prior to issuance of any building permits for structures, utilities, and roads. The report shall be reviewed by the City Engineer and Chief Building Official and may recommendations for utilization of special construction techniques to mitigate soils issues, such as expansive clays, shall be incorporated into conditions of the building permit and ROW Permit approval.
9. A landscape and irrigation plan shall be submitted for City review and approval for each lot, prior to building permit issuance. Landscaping and irrigation shall be consistent with the Park City Heights Design Guidelines and the MPD conditions of approval
10. All applicable requirements of the LMC regarding top soil preservation, final grading and landscaping shall be completed prior to issuance of a certificate of occupancy.
11. A storm water run-off and drainage plan shall be submitted with each phase of the project and with the building plans consistent with the MPD conditions of approval and shall be approved prior to building permit issuance.

12. Prior to issuance of a building permit for any units within this plat, all building plans shall be reviewed for compliance with the Park City heights Design Guidelines.
13. Confirmation of street names shall be provided by the local postmaster and City Engineer prior to plat recordation.
14. An industry standard Third Party inspector shall be mutually agreed upon by the Chief Building Official and the applicant prior to issuance of a building permit to provide third party inspection for compliance with LEED for Homes Silver rating, as stated in the Annexation Agreement, MPD conditions of approval and as noted on the plat.
15. A construction mitigation plan (CMP) shall be submitted and approved by the City for compliance with the Municipal Code, LMC, and the MPD conditions of approval prior to building permit issuance.
16. A construction recycling area and excavation materials storage area within the development shall be utilized for this phase as required by the MPD conditions of approval.
17. A financial guarantee, in a form and amount acceptable to the City and in conformance with the LMC and MPD conditions of approval, for the value of all public improvements, including those public improvements identified in the Park City Heights master planned development Condition #30 and further described in Finding #1, letter H, shall be provided to the City prior to building permit issuance for new construction within this phase. All public improvements shall be completed according to City standards and accepted by the City Council prior to release of this guarantee.
18. All standard project conditions shall apply.

The Park City Planning Commission meeting adjourned at 7:30 p.m.

Approved by Planning Commission: _____