

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MARCH 28, 2018

COMMISSIONERS IN ATTENDANCE:

Chair Melissa Band, Sarah Hall, John Kenworthy, John Phillips, Mark Sletten, Laura Suesser, Doug Thimm

EX OFFICIO: Planning Director, Bruce Erickson; Francisco Astorga, Planner; Kirsten Whetstone, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Band called the meeting to order at 5:35 p.m. and noted that all Commissioners were present.

ADOPTION OF MINUTES

March 14, 2018

MOTION: Commissioner Thimm moved to APPROVE the Minutes of March 14, 2018 as written. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Erickson reported that at the State Ombudsman would be doing training for the Planning Commission on April 11th. The Planning Department Staff would also be in attendance to hear the training.

Director Erickson noted that there was an error on the paper copies of the LMC; however, he believed it had been corrected. The electronic copies were correct.

Chair Band recalled that Director Erickson was going to send an email to the Commissioners regarding the new iPads. She asked if that email had been sent because had not received it. Graham Bunt, with the Planning Department, stated that

he only emailed the new Commissioners. He reported that the new iPads should arrive in a week.

Commissioner Sletten commented on the Twisted Branch Road subdivision plat item on the agenda and disclosed that he is a Talisker Club member. He was working with Assistant City Attorney McLean to determine whether or not he will need to recuse himself from the Twisted Branch project when it comes back.

CONTINUATIONS – Public hearing and continue to date specified.

Twisted Branch Road Subdivision Plat – A Subdivision Plat for 3 lots of record for an on-mountain private restaurant, a City water tank, and a recreational warming shelter/yurt; platted ROW for existing Twisted Branch Road; and platted parcels for Deer Valley Resort ski trails and bridges, open space, and existing Guardsman Pass Road, subject to the Flagstaff Annexation and Development Agreement, located within the Empire Pass Development Area. (Application PL-17-03664)

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

MOTION: Commissioner Suesser moved to CONTINUE the Twisted Branch Road subdivision plat to April 11, 2018. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **Park City Heights Subdivision Phase 2 – The applicant is requesting a final subdivision plat for a total of 39 single family lots consistent with the Park City Heights Master Planned Development. (Application PL-17-03552)**

Planner Kirsten Whetstone introduced Brad Mackay with Ivory Development, representing the owners.

Planner Whetstone reviewed the request for a final subdivision plat for 39 single family lots associated with the Park City Heights Master Planned Development, and consistent with the preliminary plat for all 239 lots at Park City Heights.

Planner Whetstone noted that the Planning Commission reviewed this subdivision on February 28th and continued the item to this meeting. At that time the Staff had asked the Planning Commission to consider a few of the items coming forward, which included lot size requirements, conditional use permit requirements for certain lots on the western perimeter, and the condition regarding the house size. Planner Whetstone reported that the condition was amended to correspond to the LMC which is measured as the gross floor area.

The Staff had reviewed the application and the plat for consistency with the Park City Heights Master Planned Development. There was also a request to amend the phasing plan, and that was incorporated into the Findings and the Conditions of Approval as a new Phase 2. The remaining phases would be coming forward at a later time.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council, according to the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the draft ordinance.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

Commissioner Sletten referred to PCA-89 in Parcel D, and he assumed the line was an easement and the circle was a building pad. However, he found nothing definitive that identified what it was. Planner Whetstone thought Commissioner Sletten was identifying the piece for the water tank in Parcel D. Commissioner Sletten asked where PCA-89 exists. He read, "An access easement is provided for the landlocked Byers Parcel PCA-89". Planner Whetstone explained that the Master Planned Development and preliminary plat that identified the Byers parcel coming off of the upper Street C, which is still unnamed. It is the upper cul-de-sac. She stated that the Byer parcel was annexed at a different time and they were not a party to the MPD. However, their current access comes off of the Rail Trail, and the MPD said that Park City Heights would provide them with an access easement from that upper cul-de-sac.

Director Erickson referred to page 89 of the Staff report and informed the new Commissioners that Planner Whetstone has been tracking the affordable housing. He asked Planner Whetstone if she was comfortable with the affordable housing at this time. Planner Whetstone answered yes. She explained that affordable housing needs to meet its own housing mitigation plan. The applicant provides an update to the City

Council every December. Planner Whetstone stated that phasing is involved, and she recommended that for the next update in December that the phasing be updated to be consistent with this phasing in terms of which units are coming forward. She stated that after speaking with Community Development Director Anne Laurent and the City's Housing Specialist, Rhoda Stauffer, she found that as long as there is progress for the affordable housing, building permits can be issued for both the affordable and the market units. The last ten percent of the market rate units are put on hold until all of the affordable units are complete and have Certificates of Occupancy.

Board Member Kenworthy asked how many units have been completed to date. Planner Whetstone stated that 8 townhouses and 6 park homes have COs. Six Park homes were under construction and another six had come in for building permits. An additional 8 townhouses had been reviewed but had not yet received building permits.

Assistant City Attorney stated that her reading of the MPD was that Phase I needed a certain number of affordable units. She asked how many were required and how many were built or under construction.

Brad Mackay believed that was dictated in the Affordable Housing Plan. He recalled that all but 11 of the affordable units were in Phase I and were already platted. The deed restricted lots are identified in Phase I. Of those platted units, they were on track with the Affordable Housing Plan. Mr. Mackay believed that the next building permits for the affordable housing units would put them ahead of the Affordable Housing Plan.

Planner Whetstone stated that all 28 Townhouses, all 36 Park Homes, and 5 of the Cottage Units are in the Phase I plat that was already approved and recorded. Building permits could be pulled on those at any time. The remaining Cottage units will be in Phases 4 and 5. Assistant City Attorney McLean pointed out that the Affordable Housing Plan needed to be updated. It currently says that 5 units would be built in Phase 2, but that was different from what was being proposed this evening. Mr. MacKay noted that Planner Whetstone had recommended updating the Affordable Housing Plan to reflect those changes when it comes up for review in December. The language would then say Phase 4 instead of Phase 2.

Assistant City Attorney McLean asked Planner Whetstone to explain the overlap between Phase 1 and Phase 2. Planner Whetstone stated that it was never a requirement to complete Phase 1 before starting Phase 2. The plat was so large with 239 units that it was divided up and construction was phased for the road and the units. Planner Whetstone pointed out that the Affordable Housing Plan indicates that the phasing could be changed at any time. The primary issue was to keep on track with building the affordable units.

Assistant City Attorney McLean asked Mr. Mackay to address the plan for how the phasing would work. Mr. Mackay explained that Phase I currently has Park Townhomes, which are the 28 IHC units that were transferred on to this property. It has the Park Homes, which are also affordable. The rest of the project are either Cottage homes or Homestead homes. Mr. Mackay stated that there were only 6 Homestead Lots in Phase I. All of Phase 2 are Homestead lots. They are required to build the water tank in conjunction with the second phase. They were requesting an amendment to the phasing plan because they have to build the roads and all the utilities required to service the water tank. The water tank will be operational in conjunction with building in Phase 2. Mr. Mackay stated that they might still be building homes ten years from now in Phase 2. However, they would also bring on Phases 3, 4, and possibly a Phase 5; building different products in different parts of the community depending on the market.

Commissioner Suesser asked if Mr. Mackay anticipated getting the Certificates of Occupancy for the affordable housing units in Phase 1 before they begin the other phases. Mr. Mackay replied that the COs for the affordable housing would be based on meeting the schedule of the Affordable Housing Plan. Commissioner Suesser wanted to know how the schedule aligned with the phasing. Mr. Mackay stated that he was not a party to the Affordable Housing Plan and was not familiar with every detail. However, he understood that a certain percentage of affordable housing units must be built and completed before the next bank of market rate units could be built. As long as they meet the Affordable Housing Plan, there were no restrictions on building the market rate units. Planner Whetstone recalled that 5 Park Homes, 4 Townhouses and a Cottage home would be built in 2017 and the same number in 2018. She pointed out that currently they have applied for building permits beyond those numbers for construction this summer. Planner Whetstone remarked that 68 of the 79 affordable units for the project were in Phase 1. Phase 3 are the two units that tie into the Solamere Hidden Oaks subdivision. Phase 4 will complete the Cottage Homes.

Commissioner Kenworthy noted that Planner Whetstone had mentioned that the timing would go alongside an absorption rate. He wanted to know what percentage they were planning on building out, and how many needed to be sold before they begin the other phases. Mr. Mackay replied that the other phases were not driven by Phase 2. Phase 2 could be primarily custom home market rate units. The plan is to bring on Phase 4 later this Fall and build more Cottage homes. They are currently building Cottage units as quickly as they can get building permits from the City. The Homestead units in Phase 2 will be built as they are sold. They are high end custom homes that he anticipated would start in the \$1.2 million range. Mr. Kenworthy asked if selling 50% would be enough to continue. He noted that Mr. Mackay had suggested that it might

take ten years to build out this project. Mr. Mackay was unsure because it would be up to the sales manager and how fast they wanted to move through the lots. He understood that the Cottage units were built six at a time. The price of the Cottage units was \$800,000 to \$1 million and they were selling rapidly.

Commissioner Sletten commented on the road maintenance and page 27 of the Staff report which said that for Phase 2 the City would start maintenance and snow removal once the development is at 50%. He asked if the City was maintaining the roads in Phase 1. Mr. Mackay replied that the City maintains the roads in terms of road repairs. However, the language on page 27 refers to snow removal, and that maintenance occurs at 50% build out. Mr. Sletten pointed out that the language specifically says maintenance and snow removal at 50%. His concern was to make sure there was adequate snow removal due to the number of residents. Mr. Mackay stated that for the past three or four years the HOA has been doing the snow removal maintenance.

MOTION: Commissioner Suesser moved to forward a POSITIVE recommendation to the City Council for the Park City Heights Subdivision Phase 2, in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval as outlined in the draft ordinance. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Park City Heights Subdivision Phase 2

1. The property is located south of Richardson Flat Road, south and east of SR 248 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 CT-MPD (Community Transition subject to the Park City Heights MPD).
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.
5. On November 17, 2011, the City Council approved the original Park City Heights Phase 1 final subdivision plat.

6. On January 24, 2013 the City Council approved an extension of the Phase 1 plat to allow the applicant additional time to resolve issues regarding historic mine soils.
7. On November 6, 2013, the Planning Commission approved an amended Park City Heights MPD and preliminary plat to address relocation of lots and streets due to mine soils mitigation.
8. On February 27, 2014, the City Council approved a revised Park City Heights Phase 1 final subdivision plat that was subsequently recorded at Summit County on November 4, 2014.
9. On May 2, 2017, the City Planning Department received an application for a final subdivision plat for 16 single family lots as Park City Heights Phase 2. The application was deemed complete on May 24, 2017. Additional information was requested specific to MPD compliance regarding house size restrictions.
10. On January 19, 2018, the City Planning Department received a revised submittal requesting 39 single family lots and extending Calamity Lane to the end of the cul-de-sac in order to facilitate construction of a required water tank in 2018.
11. On February 2, 2018, the revised submittal for 39 lots was considered complete.
12. The property is restricted by the Land Management Code, the Park City Heights Annexation Agreement, and the Amended Park City Heights Master Planned Development Agreement and the Park City Heights Design Guidelines.
13. 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.
14. The proposed subdivision plat creates lots of record for 39 Homestead houses and dedicates public streets, utility, snow storage, drainage, access and trail easements.
15. The Homestead lots of this phase range in area from 12,596 to 27,752 square feet. Parcel D is also platted as a 105.91-acre open space parcel. The lots are consistent with the Lot and Site Requirements of the Community Transition (CT) District as conditioned by the Park City Heights MPD and Design Guidelines.
16. The applicant requests a revised overall phasing plan to include the extension of Calamity Lane within this second phase in order to construct the required water tank this summer. Access to the water tank requires the extension of Calamity Lane.

17.No non-conforming conditions are created by the subdivision.

18.An existing 50' wide power line easement for PacifiCorp traverses Parcel 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.

19.The Park City Heights development is accessed from Richardson Flat Road, a public county road, and access to 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 are public streets.

20.The subdivision complies with the Land Management Code regarding final subdivision plats, including CT zoning requirements, general subdivision requirements, and lot and street design standards and requirements.

21.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.

22.Sanitary sewer facilities are required to be designed and installed in a manner prescribed by the Snyderville Basin Water Reclamation District (SBWRD).

23.There is good cause for this subdivision plat in that it creates legal lots and an open space parcel 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 for open space areas within and around the subdivision; dedicates easements and public streets; and provides for future development parcels for market rate units consistent with the approved the Park City Heights Annexation Agreement and Master Planned Development.

24.As a condition of the Park City Heights MPD a total of 79 deed restricted affordable units are required. The Development Agreement states that all 28 Townhouse units and all 35 Park homes (all deed restricted affordable) are located in Phase 1, along with 5 Cottage homes and that "affordable units for subsequent phases will be identified with the final subdivision plats for those phases".

25.The lots within this Phase are designated as Homestead lots on the MPD. None of the Homestead lots are designated as affordable deed restricted lots.

26. The affordable housing mitigation plan indicates that the Project may be platted in phases and that each primary phase may include sub-phases as market conditions dictate and the phases may be adjusted.

27. An adjustment to the Park City Heights Housing Mitigation Plan should be reviewed by the Park City Housing Authority during the annual review and status report in December of 2018 to reflect the amended subdivision phasing plan.

28. A total of 14 of the 35 affordable permits to date and 8 of the 18 market rate permits have certificates of occupancy. The amended phasing plan does not change requirements of the housing mitigation plan. The applicant is on schedule to provide affordable housing according to the housing mitigation plan.

29. An access easement is provided for the landlocked Byers parcel (PCA-89) consistent with the preliminary plat.

30. Findings in the Analysis section are incorporated herein.

Conclusions of Law – Park City Heights Subdivision Phase 2

1. The subdivision complies with LMC Chapter 7 as conditioned.
2. The subdivision is consistent with the Park City Land Management Code and applicable State law regarding subdivision plats.
3. The subdivision is consistent with the Park City Heights Annexation and the Park City Heights MPD and preliminary plat as amended and conditioned.
4. Neither the public nor any person will be materially injured as a result of approval of the proposed subdivision plat, as conditioned herein.
5. Approval of the proposed subdivision plat, subject to the conditions stated herein, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – Park City Heights Subdivision Phase 2

1. City Attorney and City Engineer review and approval of the final form and content of the subdivision plat for compliance with State law, the Land Management Code, and the conditions of approval, is a condition precedent to recordation of the plat.
2. The applicant will record the subdivision plat at Summit County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat amendment will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. A plat note shall state that the plat is subject to the conditions of the Park City Heights Annexation, approved by the City Council on May 27, 2010.
4. A plat note shall state that the plat is subject to conditions of approval of the Amended Park City Heights MPD approved on November 6, 2013, by the Planning Commission and memorialized in the Park City Heights Development Agreement, as amended, February 26, 2014 and March 8, 2017.
5. A plat note shall state that this plat is subject to this Ordinance (2018-xx).
6. Final approval of the sewer facilities by the Snyderville Basin Water Reclamation District is required prior to final plat recordation.
7. A plat note shall state that trees, structures and retaining walls shall not be located within SBWRD easements.
8. The plat shall indicate that all streets and utilities, except for sewer laterals, constructed within the ROW are dedicated to the City for public use. 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.
9. Ten-foot-wide public snow storage easements are required along all street frontages.
10. All survey monumentation as required by the LMC is required to be completed prior to acceptance of public improvements.
11. Parcel D, a non-developable parcel, shall be dedicated to the Park City Heights HOA as restricted open space, to be owned and maintained by the Master HOA, and shall be encumbered by a blanket utility, drainage, snow storage, and public trails easement.
12. A plat note shall state that public trails within the open space parcels shall be constructed in type and location as approved by the City consistent with the MPD. Final constructed trails are agreed, by the recording of this plat, to be within ten (10') foot public trail easements. Trails within Phase 2 shall be constructed prior to issuance of 50% of the certificates of occupancy in this phase.
13. A plat note shall state that all construction, including streets, utilities and structures

shall comply with recommendations of the supplemental, updated soils investigation conducted by AGECE on December 20, 2011 that updated and supplemented the June 9, 2006 Geotechnical Study provided by Gordon, Spilker, Huber Geotechnical Consultants, Inc.

14.A plat note shall state that 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 any 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.

15.A plat note shall state that a landscape and irrigation plan shall be submitted and approved by the City for each lot, prior to building permit issuance. Landscaping and irrigation shall be consistent with the Park City Heights Design Guidelines.

16.A plat note shall state that a limits of disturbance plan (LOD) and existing vegetation protection plan shall be part of the building permit submittal.

17.A plat note shall state that exterior lighting shall conform to requirements of the City's Lighting Ordinance and the Park City Heights Design Guidelines.

18.A plat note shall state that applicable requirements of the LMC regarding top soil preservation, final grading, and landscaping shall be completed prior to issuance of a certificate of occupancy.

19.A plat note shall state that grading, drainage and storm water run-off plans shall be approved by the City Engineer prior to building permit issuance.

20.A plat note shall state that 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, including building setbacks, building height, maximum floor area, building articulation, architecture and materials, landscaping, lighting and other elements as stated in the Park City Heights Design Guidelines. Include a table for setbacks, building height and maximum floor area on plat prior to recordation.

21. Confirmation of street names shall be provided by the City Engineer prior to plat recordation.

22.A note shall be added to the plat stating that all units shall be constructed to National

Association of Home Builders National Green Building Standards Silver Certification (or other equivalent Green Building certification approved by the Planning Director) OR reach LEED for Homes Silver Rating (minimum 60 points). Green Building Certification or LEED rating criteria to be used shall be those applicable at the time of the building permit submittal.

23.A plat note shall state that in addition to meeting Green Building or LEED for Homes checklists and in order to achieve water conservation goals, each house must either: 1) achieve at a minimum, the Silver Performance Level points within Chapter 8, Water Efficiency, of the National Association of Home Builders National Green Building Standards; OR 2) achieve a minimum combined 10 points within the 1) Sustainable Sites (SS2) Landscaping and 2) Water Efficiency (WE) categories of the LEED for Homes Checklist. Points achieved in these resource conservation categories will count towards the overall score, as further described in the Park City Heights Design Guidelines.

24.A plat note shall state that 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 Green Building and Water Conservation requirements. Final certification documenting compliance shall be provided to the Building Department prior to issuance of certificates of occupancy.

25.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 on individual lots as well as for construction of public infrastructure. The CMP shall address construction access, parking, allowed hours of work, temporary lighting, construction signs, limits of disturbance, recycling and stockpiling of materials, re-vegetation of all disturbance areas, noise, dust, and other items listed on the standard CMP form required by the Building Department.

26.To mitigate impacts on existing City streets and residents, temporary construction access to Phase 2 and to subsequent phases shall be from Richardson Flat Road onto a temporary graded road, utilizing Lot C-1 and Parcel G located east of Piper Way, then connected to Piper Way just south of the Kinley Drive and Piper Way intersection. If an access easement can be acquired from the UDOT to use the US 40 frontage road that option should be pursued for temporary construction access. The disturbed area shall be re-graded and re-vegetated if not used for a period of one year or longer.

27.Ledger Way shall not be used for construction access to Phase 2 or any future

phases.

28.A common construction recycling and excavation materials storage area within the development shall be utilized for this phase as required by the MPD.

29.A financial guarantee, in a form and amount acceptable to the City and in conformance with these conditions of approvals, for the value of all required public improvements, shall be provided to the City prior to building permit issuance for new construction. All public improvements shall be completed according to City standards prior to release of this guarantee. Ten percent of the bond shall be held by the City for the warranty period and until such improvements are accepted by the City.

30.A plat note shall state that maintenance of sidewalks (including, without limitation, snow removal), trails, lighting, and landscaping within the public rights-of-way and common areas, with the exception of public trails, shall be provided by the Master HOA, unless otherwise agreed upon by the City Council.

31.A plat note shall state that a fire protection and emergency access plan shall be submitted and approved by the Park City Fire District prior to the issuance of any building permits for this phase. The fire protection and emergency access plan shall include any required fire sprinkler systems and landscaping restrictions within the Wild land interface zones and shall ensure that Park City's ISO rating is not negatively affected by the development.

32.A plat note shall state that modified 13-D residential fire sprinklers are required for all occupied structures.

33.An existing 50' wide power line easement for PacifiCorp traverses Parcels D and an additional 10' shall be dedicated with this plat for a total width of 60', as requested by PacifiCorp to meet future anticipated utility easement needs.

34.Issuance of building permits for Phase 2 are subject to completion and issuance of certificates of occupancy for deed restricted affordable housing as required by the approved Housing Mitigation Plan, as amended.

35.An adjustment to the Park City Heights Housing Mitigation Plan, regarding phasing of units, shall be reviewed by the Park City Housing Authority during the annual review and status report in December of 2018, to be consistent with the amended subdivision phasing plan.

36.A note shall be included on the final plat stating that a Conditional Use Permit is required for construction on Lots 205, 206, 214 and 215, if Building Height exceeds 28' from existing grade to the top (ridge) of the roof. Conditional Use Permit applications shall include a visual analysis of the proposed house from the intersection of State Highway 248 and Richardson Flat Road, from the intersections of Richardson Flat Road with Ledger Way and/or Piper Way, whichever location provides the best view of the lot, and from the Rail Trail crossing of Richardson Flat Road.

37.A note shall be included on the final plat stating the following maximum Residential Floor Area (aka house sizes), consistent with the LMC definitions, shall apply:
4,500 square feet for Lots 201 to 205
5,000 square feet for Lots 206 to 211 and Lots 236 to 239
6,000 square feet for Lots 212 to 235

38.A note shall state that this plat is subject to the Water and Maintenance Agreement with Park City Municipal Corporation dated October 3, 2014.

39.No through roads may be provided through the Park City Heights MPD to the Deer Valley MPD subdivisions.

40.A minimum 40' wide access easement shall be dedicated on the plat for the benefit of the landlocked Byers parcel (PCA-89), consistent with the preliminary plat.

41.All standard project conditions shall apply.

2. Land Management Code (LMC) Text Amendment – Removing the Transfer of Development Rights Sending Treasure Hill (TDR-STH) language from LMC Section 15-2.24-4(A)(1) and 15-2.24-5(A)(7).
(Application PL-18-03816)

Planner Francisco Astorga reported that this item was a follow up based on the last City Council discussion on February 15, 2018. The City Council debated in public whether or not to keep the ability to transfer specific density from the Treasure Hill site to other parts of town as designed in the LMC. The City Council direction was to remove the City's ability to make that transfer.

Planner Astorga explained that in order to move forward, they would remove any type of language that references a TDR-STH, Transfer of Development Rights Sending Treasure Hill sites. He noted that there are three specific areas within the TDR Chapter

of the LMC, and the proposed amendment is to strike the language from the Code and renumbering the specific text in the LMC.

Planner Astorga noted that if the City Council passes the LMC Amendment it would be effective December 1, 2018; but only if the Treasure Hill Open Space Bond passes.

Assistant City Attorney McLean stated that in light of feedback from the sellers of the property, she recommended that they revise the proposed amended language in Section 2 - Effective Date to state, "This Ordinance shall be effective on December 1, 2018 only if the Treasure Hill Open Space Bond passes. If the Bond fails or if the Treasure Hill Hillside Properties (Creole-Gulch and Mid-Station Sites) of the Sweeney Properties are not acquired by Park City in accordance with the Settlement Agreement (and other relevant documents) by April 1, 2019, this ordinance shall be null and void.

Planner Astorga amended the original recommendation to add the language provided by the Assistant City Attorney. Assistant City Attorney McLean pointed out that the language was already written into the ordinance as a Whereas. The intent is to make it clear that the effective date is contingent upon the sale going through.

Commissioner Thimm questioned why the City would relinquish its rights to have a TDR. He thought the City would have some level of flexibility if they wanted to develop affordable or accessible housing or something similar. Commissioner Thimm thought it was better to have the City police itself, as opposed to having something occur that could be damaging to the City.

Director Erickson stated that the City Council wanted to make sure that any transactions affected by the bond passage are as transparent as possible. Secondly, the Transferable Development Rights program is not effective in the City for several reasons. One is the ability to assess a real estate value to the seller and the buyers affected by the ability of the Planning Director to approve the movement of the TDR. It is a difficult way to do development. Another reason is that the largest receiving site is the Snow Park parking lot, and Deer Valley has not expressed an interest in having additional density in that location. Director Erickson pointed out that there is no place to send this density. It is not needed for affordable housing because that is triggered by a different mechanism.

Director Erickson emphasized that the City Council directed the Staff to remove the language to make sure the process moved forward as transparently as possibly.

Commissioner Thimm clarified that based on the reasons given, this amendment was to clean-up the language. Director Erickson answered yes. He stated that it was a long

and hard debate amongst the Staff, and it only takes effect if the City does not acquire the property.

Commissioner Suesser asked if the decision to leave the TDRs in place was a request of Park City II and the Sweeney's to retain what they have in the event that the bond does not pass. Director Erickson replied that if the City does not acquire the property, the process goes back to where it was in December, and they would re-establish the fundamental property rights that were in place at that time.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council regarding the proposed LMC Amendments removing the Transfer of Development Rights, and the language as amended by the Assistant City Attorney this evening regarding the Effective Date. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commissioner moved into Work Session

Work Session

Code Enforcement Update – Presentation by Deputy Building Official and Planning Director regarding current Code Enforcement Policies

Director Erickson noted that Chief Building Official David Thacker was also present for this presentation.

Director Erickson stated that the City Council asked for a quarterly update on how Code Enforcement is performed, particularly respect to construction sites, parking and signs. He noted that over the course of time Code Enforcement has become more difficult as the City builds out. The intent this evening is to update the Planning Commission on what was occurring directly; and to illustrate the changes made and how the City processes an approval.

Director Erickson explained that once an action is taken by the Planning Commission or the Historic Preservation Board, the Staff summarizes the findings of fact, conclusions of law, and the conditions of approval in an action letter that goes to the applicant. It is an official record of what occurred inside the Minutes. He noted that included in the Staff report was a reorganization of the approval letters to make it easier for information to transfer from the approval letter into the approved construction management plan that is managed by the Building Department. When a construction management plan is put in place, they want to make sure that the conditions that the Planning Commission put on that construction management plan are upfront and visible to not only the applicant, but also the contractor, the subcontractors and the public. A condition was added requiring that the construction management plan needs to be available on site.

Chair Band asked if a neighbor or someone from the public went to a site and asked to see the construction management plan whether they would have to show it. Chief Building Official Thacker stated that he could not require showing it to a neighbor; however, it is required to be on site. They require each project under construction to have a permit with the approved set of plans available on site for inspection. Mr. Thacker remarked that within the permit packet is a permit placard, which is a large yellow card that is required to be displayed at each site. Within the clear envelope with the yellow card is where they require the construction mitigation plan to be placed. It is available to Code Enforcement Staff or the Inspection Staff. If a neighbor were to ask for it, he assumed it would be provided. If not, a copy is kept on file in the Building Department and it is a public document.

Chair Band asked how often they receive requests from neighbors for construction mitigation plans. Mr. Thacker had personally never had a request. They receive requests regarding packet information pertaining more to mass and scale, height, and other matters not related to construction mitigation. However, they do receive a substantial number of complaints related to issues that are tied directly to the construction mitigation plan, and they do enforce based on those items.

Chair Band assumed that if there are a number of complaints, people would want to know what the construction mitigation plan entails. Since they are tailored heavily to each site, she wondered if there was an easier way for people to obtain that information. She personally would want to know the mitigations if it were in her neighborhood; and whether or not they were being followed. Mr. Thacker stated that there has been discussion about a way to display them more openly and placing them on one of the required construction signs. The problem is that it would be difficult to protect them and to keep them from being removed. They have not yet found a fail proof option.

Director Erickson stated that it is easier to track the comments from the public if they hear about them. If a neighbor goes to the site and asks to see the construction management plan and complains about the dump truck, if the Staff does not hear about it there is no legal authority to address it. The City Staff needs to hear the complaint.

Director Erickson stated that most of the public, especially in the Historic Districts, are aware of the construction mitigation criteria that the Planning Commission attaches to their action; but they are not aware of the standard conditions of approval. It is easier for the Staff to explain it to a neighbor and it gives the City enforcement capability. Depending on the situation, they can issue a Stop Work Order or do an Administrative Code Enforcement Action, also called an ACE. Mr. Thacker explained that an ACE citation is a civil penalty as opposed to a criminal penalty. It gives the City the ability to impose civil fines based upon an infraction or an enforcement action. Mr. Thacker explained the process.

Chair Band wanted to know how often a Stop Work Order is issued, and where they would typically use a Stop Work Order versus an ACE. Mr. Thacker stated that they typically issue more Stop Work Orders. He did not have an exact number, but he estimated that they had issued approximately a dozen over the last two weeks. Commissioner Suesser asked if the Stop Work Orders were issued with respect to violation of a condition of approval. Mr. Thacker replied that they could be issued for violating a condition. In some cases, Stop Work Orders were issued based on excavation that was done which related to a condition of approval. Commissioner Suesser stated that the conditions of approval are carefully drafted, and she wanted to know at what stage of construction those conditions are inspected and continue to be met. Mr. Thacker replied that a condition of approval is an ongoing tool that is looked at as necessary throughout the project by the Inspector and by Code Enforcement. The Building Department is called to do on-site inspections numerous times throughout the construction process. With each inspection they are tasked with ensuring that all the conditions of approval are being met. They do their best to hold the construction team or the owner accountable for the conditions of approval.

Director Erickson stated that this was the reason why he, David Thacker, and Michelle Downard reset how conditions of approval are written. They re-ordered the entire document so they could be found, and it is clear which ones relate to construction, which ones relate to land use, and which ones relate to operation.

Commissioner Suesser asked if the City has a mechanism for enforcement procedures to say they have looked into a specific condition of approval and found that the condition was being met. Director Erickson replied that it was not that formative. He suggested that there would probably be more checklists in the future. The Building

Department is bringing forward a new electronic permit tracking system. Inspectors and Code Enforcement Officers can enter the information live on-site rather than having to come back to the office. Director Erickson stated that the Community Development Department, at the request of the City Council, is coming forward with a new customer engagement program, which will put the Planners and the Historic Preservation Team in the neighborhoods more often. He realized the process was slower than what they would like, but they were making progress.

Commissioner Sletten stated that to the extent that some things slip through and they reach a point where civil fines need to be imposed, he wanted to know who would be responsible for fix the situation. Mr. Thacker replied that ultimately the responsibility falls upon the owner, and they have the burden of working it out with the contractor they hired. He stated that they generally try to notice both the owner and the contractor so everyone is aware. The intent is to be as transparent as possible so the contractor does not hide something from the owner and vice-versa.

Director Erickson noted that the Stop Work Order is red and white and it is easily visible on the site.

Chair Band asked for clarification between a Stop Work Order and an ACE. Mr. Thacker did not believe they were all that different and could be considered one in the same process. A Stop Work Order could be the starting point of getting to an ACE violation. Most times they do not have to go beyond the Stop Work Order because nothing can be done until the problem has been rectified. If a Stop Work Order has been in place for several weeks and there is still a violation and work has stopped, at that point they can go to an ACE violation and fine the contractor daily for the violation that has not been rectified. Chair Band wanted to know how often they are called to the same site with the same contractor who continually flouts the rules. Mr. Thacker replied that it is based on violations, not on individuals who violate. The violation has to take place and it is per violation. They have to wait for the violation in order to move forward with any type of citation. Director Erickson noted that the violation could also be on a sub-contractor. He pointed out that a Stop Work Order is an effective tool because the general contractor could lose all his subcontractors to another job if work stops on that site.

Planner Astorga stated that in his ten years with Park City he has called the Building Department many times to issue Stop Work Order, and it was always a same day turnaround.

Commissioner Phillips believed he was the one who discovered that the conditions of approval placed by the Planning Commission were not getting to the Code

Enforcement. He also personally gave testimony to the City Council very early in this process. Based on what he has observed, he was very pleased with the progress and the direction this was moving. It was a good balance. Commissioner Phillips stated that he has seen the Stop Work put in place and he was very happy with being more proactive. He understood that at one point the City Council talked about keeping a closer watch over the more difficult neighborhoods. He asked if anything was being done on that issue. Mr. Thacker stated that they have proactively policed the areas that were identified as having a higher degree of violations. In an effort to be more visible they have larger door magnets on the cars, and the Code Enforcement Staff drives around those areas to have a presence and to proactively look for violations that need to be addressed. Mr. Thacker remarked that they were still taking the initial approach of education. They want people to understand that they are in violation and to document it with them. If there has already been a discussion, they would go directly to a Notice or a Stop Work Order, depending on what the Code Enforcement Staff sees fit.

Commissioner Kenworthy asked why the construction mitigation plan for a specific project and construction site are not online since they are public documents. Mr. Thacker stated that some of the documents are online. The current data base does not allow a user friendly way to view all of the documents. They are working on a new Inspection and Permitting software. Once that is in place, more documents can be made available for the public to view. Commissioner Kenworthy believed that being transparent in that way will hold the construction crews accountable.

Director Erickson stated that a weak spot in the process is the length of time of the construction. They have 180 days to make substantial progress on a project. However, if they put up two 2' x 4's and call for an inspection, that is considered substantial progress. Director Erickson noted that the City was looking at other Codes to speed up the construction process, but at this point there is no mechanism for it. Speed of construction, primarily in residential districts, is a frustration that is continually heard through public comment. Mr. Thacker pointed out that ideas are being discussed, but at this point there was nothing to report as an update.

Commissioner Suesser recalled a resident on Sampson who expressed concern at a Planning Commission meeting about the amount of construction going on in that area. Director Erickson replied that she was taking her comments to the City Council the following evening and would most likely comment at an HPB meeting. He believed all three bodies shared the same concern. Director Erickson noted that they looked at one permit system that had a GIS Map of all the building permits in effect at any one point in time. They ultimately rejected that system because they were looking for something with other functionalities that are more important. He pointed out that Graham Bunt and Laura Newberry in the Planning Department are both GIS capable and can build a GIS

map. He agreed that they needed to do a better job of informing the neighbors on what to expect. Director Erickson stated that he would like to start updating the City Council quarterly on where they anticipate the heaviest construction impacts. He did not believe there was a mechanism for phasing on the streets at this point. Mr. Thacker agreed that there was not a mechanism for phasing, but they could still have discussions on how to make some things work, such as limiting the number of permits in a certain area at a certain time. Director Erickson thought they also needed to reach out to the Homebuilders Association.

Commissioner Phillips thought a lot of citizens in town know what is or is not allowed. However, when it comes to specific conditions that the Planning Commission places on projects, the neighbors have no way of knowing if a special condition was added. Citizens are a policing body, and he thought they should find a way to highlight specific conditions and make them easily accessible to the public. He thought making them available online would be the best way for a neighbor to understand what is allowed for the project on their street.

Commissioner Suesser was more concerned about the City process of following up on projects to make sure the conditions have been met, rather than having neighbors police the conditions. She thought it was important for the City to be careful and diligent about enforcing the conditions of approval. There needs to be processes for making sure the conditions are enforced, that there are checklists, and a mechanism for follow up to make sure the conditions are continually met. Commissioner Phillips concurred.

Commissioner Phillips commented on a number of violations that are not construction related. One is light pollution. He assumed the Planning Commission would be addressing the lighting codes in the future. He suggested that the City have someone spend one night once a year driving around to find lighting violations. He noted that there are other things that are never enforced because they occur after normal working hours. He suggested that they look at way to enforce those circumstances.

Commissioner Kenworthy remarked that communication in the stage they are now, as well as defining certain things and communicating them transparently and openly was important. Having the ability to post the documents online would be a great help. Education would be key to make sure everyone has the same understanding. Commissioner Kenworthy agreed that a Stop Work Order could cost a contractor a lot of money. However, there needs to be a bigger stick for repeat offenders.

Chair Band asked if they should look at per violator rather than per violation. Director Erickson stated that they were looking at ways to address it. He noted that the Town of

Aspen has a Historic District Contractor Licensing program. The contractors are required to go through a training before they can work in Aspen's Historic District. Mr. Thacker remarked that the City has to follow State regulations regarding fining, how often, and how much. Licensing is also State governed. Director Erickson noted that the City has become more rigorous on what is submitted on a set of drawings. For example, in the past, a few houses went through without a lighting plan; and that is no longer allowed. He believed they have an educational responsibility to the architectural community so they understand the expectation.

Chair Band thanked Mr. Thacker and Director Erickson for working towards a better system and recognizing that there is an issue. She agreed with her fellow Commissioners on making documents more accessible to the public in a way that can be utilized. Secondly, it is frustrating to know that they spend a lot of time crafting conditions of approval that are not being enforced.

Mr. Thacker thanked the Planning Commission for their time and feedback because it is helpful. He emphasized that the conditions of approval do not fall on deaf ears. They do their best in an ongoing and busy community to make sure the conditions are followed. His Staff is aware of the concern and the increased awareness of what they need to be looking at. He encouraged the Commissioners to contact him if they have any questions or specific job related concerns.

Chair Band asked Mr. Thacker if he has ever seen a condition of approval that completely missed the mark and caused more problems than it was meant to solve, or had unintended consequences. Mr. Thacker thought most of the conditions were enforceable. However, one challenging example is a condition related to a truck backing up on a street. Unless Code Enforcement Staff is there to actually see the violation, there is no way to take action. That was one example, but the majority of conditions do not have that challenge or regulation.

Chair Band asked Mr. Thacker if he could suggest any conditions that they were not placing on projects. Mr. Thacker thought the Planning Commission was doing a good job with the conditions of approval. He stated that every construction mitigation plan has a generic list that will be modified to be more specific for each job. That, in conjunction with the conditions of approval placed by the Planning Commission, go hand in hand and create a great document. He agreed with the comments that more transparency would create more awareness for neighboring property owners to understand the steps that were taken.

Commissioner Phillips stated that he sees this from the standpoint of a Planning Commissioner, a homeowner, and a builder. It has all been very visible and he could

easily see the strides being made. He thanked them again for their efforts and for including the Planning Commission in the update.

Commissioner Thimm stated that if there is a list of conditions that are difficult to enforce, it would greatly help if there was a mechanism to inform the Staff and the Planning Commission as the conditions are being written. An even greater help would be for someone from the Building Department to suggest an alternative condition that would achieve the same intent. Commissioner Thimm thanked everyone involved. Since he has been on the Planning Commission they have continually expressed frustration about the conditions of the approval not being enforced. He appreciated the fact that they were heard and steps were being taken to improve the system.

Director Erickson noted that the Planning Commission gets their authority for placing conditions through the conditional use process where they make findings that the 15 criteria are mitigated. That mechanism is a completely separate permit outside of the building permit. Steep slope conditional use permits are another good mechanism. He explained that their authority is derived from the Land Management Code in the conditional use process.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

The Park City Planning Commission Meeting adjourned at 6:45 p.m.

Approved by Planning Commission: _____