

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
APRIL 25, 2018

COMMISSIONERS IN ATTENDANCE:

Chair Melissa Band, Sarah Hall, John Kenworthy, John Phillips, Mark Sletten

EX OFFICIO: Planning Director, Bruce Erickson; Francisco Astorga, Planner; Tippe Morlan, Planner; Laura Newberry, Planning Tech; Anya Grahn, Planner; Polly Samuels McLean, Assistant City Attorney

=====

REGULAR MEETING

ROLL CALL

Chair Band called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioners Suesser and Thimm, who were excused.

ADOPTION OF MINUTES

April 11, 2018

Commissioner Phillips corrected the Minutes to reflect that Commission Band was not present at the last meeting and that she was excused.

MOTION: Commissioner Kenworthy moved to APPROVE the Minutes of April 11, 2018 as amended. Commissioner Sletten seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Commissioner Sletten disclosed that he does not have a relationship with the applicant of Promontory; however, over the years he has had a relationship with the HOA Board, who will be the landlord. He spoke with the City Attorney's Office and after hearing the details they felt there was no reason for him to recuse.

CONTINUATIONS – Public hearing and continue to date specified.

Director Erickson stated that the reason for the following Continuations was to make sure that the noticing requirements were met. Planner Grahn requested that the Planning Commission continue both items to the meeting in May.

1. The Anderson Plat Amendment located at 1203 Park Avenue – A plat amendment proposing to combine 1.5 existing lots of record addressed at 1203 Park Avenue into one lot of record. (Application PL-17-03508)

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

MOTION: Commissioner Phillips moved to CONTINUE the Anderson plat amendment at 1203 Park Avenue to May 9, 2018. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

2. The Gardner Parcel- First Amended located at 943-945 Norfolk Avenue – A subdivision proposing to divide the existing Gardner Parcel plat into two (2) legal lots of record. (Application PL-18-03810)

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

MOTION: Commissioner Phillips moved to CONTINUE the Gardner Parcel First Amended located at 943-945 Norfolk Avenue to May 9, 2018. Commissioner Sletten seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **Stag Lodge Phase II Unit 49, Fourth Amended Plat - A plat amendment proposing to convert 578 SF of unexcavated common area to private area belonging to Unit 49 of the Stag Lodge Condominiums**
(Application PL-18-03802)

Planner Tippe Morlan reviewed the request to convert 578 square feet of unexcavated Common Ownership area to Private Ownership Area B, belonging to Unit 49 of the Stag Lodge Condominiums. She noted that Private Ownership Area B is identified as

property which is changed from common area to private area. Private Ownership Area A is the original recorded private area; and Area B are areas that have changed over.

Planner Morlan presented the proposed lot and indicated the areas that would be excavated and turned into floor area. The request would not expand the footprint of the building, change the exterior of the building, and it will not affect any other units in the area.

Planner Morlan noted that this was an existing condominium that was constructed in 1989. The square footage of the unit would increase from 3,934 square feet to 4,513 square feet. The application meets the requirements of the RD and of the Deer Valley MPD. There are no unit equivalent requirements or unit size requirements for the Stag Lodge subdivision. The request would not change the number of units or any of the other requirements for this unit in the Stag Lodge.

Commissioner Band asked whether this was part of the Deer Valley MPD. Planner Morlan replied that it is; however, the Stag Lodge goes by number of units and does not have any UEs.

The Staff recommended that the Planning Commission conduct a public hearing and forward a POSITIVE recommendation to the City Council finding good cause that it allows the owners to utilize this area without increasing the building footprint or parking requirements.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Hall moved to forward a POSITIVE recommendation to the City Council for the Stag Lodge Phase II Unit 49 Fourth Amended Plat, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – Stag Lodge Phase II, Unit 49

1. The property is located at 8200 Royal Street #49.

2. The site consists of Unit 49 of the Stag Lodge Phase II Condominium development.
3. The property is in the Residential Development (RD) District.
4. The property is within the 12th Amended Deer Valley Master Planned Development.
5. On March 28, 2018, the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record and the Utah Public Notice Website on March 26, 2018, according to requirements of the Land Management Code.
6. The City received a Plat Amendment application for the Stag Lodge Phase II, Third Amended plat on February 20, 2018. The application was deemed complete on February 26, 2018.
7. The proposal is to convert 578 square feet of unexcavated Common Ownership area to Private Ownership Area B belonging to Unit 49. The proposed amendment increases the size of Unit 49 from 3,934.89 square feet to 4,513 square feet. With the addition, the Unit will be compatible in size to surrounding units at Stag Lodge that range in area from 2,213 square feet to 6,806.8 square feet.
8. No other units will be affected by this proposal.
9. The original Stag Lodge Phase II condominium plat was recorded as a 12-unit condominium project in the Silver Lake area of Deer Valley on January 17, 1989 after City Council approval on January 11, 1989.
10. The existing structure was constructed on this site in 1989 according to Summit County records.
11. The Stag Lodge Phase II, First Amended plat was recorded on January 17, 2003 after receiving City Council approval on June 6, 2002 and created two types of ownership for the Units.
12. The Stag Lodge Phase II, Second Amended plat was recorded on May 25, 2005 after receiving City Council approval on July 1, 2004 and created additional private area for the Units.
13. The Stag Lodge Phase II, Third Amended plat was recorded on January 12, 2015 and converted unexcavated common area to private ownership for Unit 35 expanding the garage level to encompass the entire building footprint.

14. All changes proposed are internal and will not alter the exterior appearance of Unit 49.
15. The footprint of the building will not change.
16. The parking requirement for this unit is 2 spaces. Unit 49 has an existing attached two car garage. No additional parking is required.
17. Stag Lodge is limited to a maximum of 52 units with no Unit Equivalent or unit size restrictions.
18. There are currently 52 Stag Lodge units, and the proposed amendment does not change the number of units.
19. The subject property is within the Sensitive Lands Overlay.
20. There is no change to the open space because the footprint of the affected unit will not be changing.
21. The height and setbacks of the existing structure will not change.

Conclusions of Law – Stag Lodge Phase II Unit 49

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 lot combinations.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – Stag Lodge Phase II Unit 49

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat 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 at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing

prior to the expiration and an extension is granted by the City Council.

3. Residential fire sprinklers will be required for all new construction per requirements of the Chief Building Official.

4. All other conditions of approval of the Stag Lodge Condominium plats as amended and the Deer Valley MPD shall continue to apply.

2. **Land Management Code (LMC) Amendment – 1. Replacing the term Record of Survey with Condominium, 2. Updating the Board of Adjustment and Historic Preservation Board voting language, and 3. Amending the definition of Floor Area. (Application PL-18-03828)**

Planner Francisco Astorga noted that this item addressed three amendments.

The first amendment updates the term “record of Survey” with “Condominium”, for the reasons listed in the Staff report. The second amendment addresses when each respective Chair of the Historic Preservation Board and the Board of Adjustment votes. The purpose was to clean up the language. The third amendment was the definition of Gross Floor Area. Planner Astorga stated that the Planning Department is often challenged by the development community in terms of how to interpret a basement area below final grade. The Staff had updated the definition to further clarify what they believe was the original intent of that specific definition.

The Staff recommended that the Planning Commission conduct a public hearing, review the language, and consider forwarding a POSITIVE recommendation to the City Council.

Director Erickson clarified that they were trying to change most of the Land Management Code from a negative to an affirmative action. That intent was reflected in all three of these Code amendments. The Chairs of the BOA and the HPB are unsure what to do in the case of a tie because the Code language is not clear. The proposed language clarifies the role and matches the Planning Commission procedure.

Planner Astorga noted that the Staff report had three sections for the HPB and the BOA; Chair, Quorum, and Voting. The Voting section states that all members get to vote. The language says that the Chair may vote, but they wanted to strengthen the language to clarify that the Chair must vote to break a tie.

Chair Band noted that the last sentence says “may” vote rather than “shall” vote to break a tie. Planner Astorga remarked that he had made a mistake and the language should say “shall” vote to break any ties. He replaced the word “may” with “shall”.

Commissioner Kenworthy suggested using “must” because the Chair is obligated to vote in the case of a tie. Assistant City Attorney McLean stated that the City generally uses the word “shall”, and it is a more commonly used term. Commissioner Kenworthy clarified that all the Board members must vote. If they are present they cannot abstain unless they are recused. Ms. McLean replied that he was correct.

Commissioner Sletten read from the Staff report regarding Floor Area, “Staff finds the original intent is to not count those areas”. He asked if they relied on specific documentation or background information, or whether it was supposition. Planner Astorga replied that they relied on the actual text, which says “basement area below final grade does not count towards the calculation of floor area”. He gave an example of a scenario to show how it is calculated. The basement area not defined as the floor but rather the volume that the floor is covering.

Director Erickson stated that the Staff had done several pieces of research. The first was to bring this closer into alignment with the International Building Code International Residential Code about the definition of a basement. Second, they reviewed previous Land Management Codes from when this decision was put forward; particularly the one when the HPB and the Planning Commission jointly put additional restrictions on taller buildings in the Historic District in the attempt to regulate walk-out basements. The walkout basement area contributes to the volume and mass of the building. If it is fully underground, it does not contribute to the volume and the mass and there is no reason to count it against gross residential floor area. Director Erickson remarked that this amendment was basically reversing the equation. The old equation said if that if you were not under it was not counted. The new language says that if you are under it is not counted.

Planner Astorga clarified that it was not a matter of adding another layer or removing something. It was an effort to simplify to avoid arguments with the development community who interpret it differently.

Commissioner Phillips understood that the calculation was currently being applied. Nothing was being changed, and it was just a matter of clarifying. Planner Astorga replied that he was correct. It was being clarified by adding another sentence to the definition.

Planner Astorga explained that the language for the BOA was updated because the current language did not specify that all members present have to vote.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for LMC Amendments replacing the term “record of survey” with “condominium; updating the BOA and the HPB voting language; and amending the definition of Floor Area as described in the Staff report, and as amended this evening to change “may vote...” to “shall vote...”. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

3. **Land Management Code (LMC) Amendment - Amendment regarding the Use of Club, Private Residence Off-Site in the Recreation Commercial (RC) and Residential Development (RD) zones.**

Planner Laura Newberry noted that Shawn Potter, the applicant’s representative, was present to answer questions.

Planner Newberry reported that this amendment was half applicant-driven and half City-driven. The applicant was proposing to amend Chapter 2.16 for the Recreation Commercial Zoning Conditional Uses to allow club private residence off-site. The Staff was recommending to also add this use as a conditional use to the residential development zone within MPDs, which would include the Deer Valley Base. The primary purpose is to keep resort bases consistent zoning.

The Staff also recommended that both of these zones review the use under an Administrative CUP, and that the use only be allowed within an approved existing commercial space, or a development that has ten or more units and support commercial space. The reason is to limit this to resort bases and larger developments.

Planner Newberry stated that to date two other CUPs have been approved in the HRC zone, which is another zone that allows this use, as shown in Table 2 in the Staff report.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council to allow the private residence off-site club as a conditional use in the RC and RD MPD zones.

Director Erickson remarked that Park City Village at the Park City Mountain Resort Base was one of the first residence clubs in town, and everyone was still learning how to do them. It also involves a parking garage. Director Erickson noted that Ms. Newberry had researched this all the way back to the original approvals on the condominium space that this potential use may go in as part of an Administrative Conditional Use Permit. She also researched comparable resort communities, and the history of the definition of Private Residence Club Off-site, which Park City adopted in the early 1980s in response to the timeshare/interval ownership craze. It has never been updated since its adoption. When the Staff started to see the inconsistencies in the zoning and it was brought forward as a potential use that could occur within Park City Village, the Planning Department agreed to process this amendment to the Code and clarify what they were doing inside the Deer Valley MPD.

Commissioner Kenworthy disclosed that Shawn Potter represented his wife in a case eight or nine years ago. There has been no other relationship with Mr. Potter since that time.

Shawn Potter, representing the Promontory Club, stated that they were looking forward to putting in a club facility for their members at the Base of Park City Resort. They have a similar type facility at Silver Lake and the new one would basically be the same. There is a shuttle system that runs the members through all the ski resorts. He stated that their snowboard members were very excited to have a place in Park City. Mr. Potter commended Ms. Newberry on doing phenomenal research work. It is an old PUD and it was difficult to find information. He stated that Trent Davis with the HOA had also been very helpful.

Chair Band stated that she is not a big fan of private clubs. Vertical zoning on Main Street does not allow it and she understood that Victory Ranch was allowed through a loophole. She was not opposed to the one at Silver Lake. Chair Band was concerned about the door this amendment might open. Director Erickson replied that the door was already partially opened, but the Code was not clear. It is not allowed in the areas where they want to encourage people to stay rather than generate additional peak traffic, and in areas where they want to encourage transit. The private residence club occurs in other Districts. Director Erickson believed that the benefits of the transit program and keeping skiers and snowboarders on site was greater than the issue of having private clubs. If they begin to see an issue, then the City might back away from it. Director Erickson pointed out that it was an obsolete term dating back to timeshares,

and most other jurisdictions have no regulations on private residence clubs. Director Erickson thought an Administrative Conditional Use Permit was the proper approach. If they see issues in the future, they could place a limit on the number of private clubs within a given distance of each other. Director Erickson did not believe private residence clubs were a threat at this point.

Chair Band clarified that she was not in favor of people walking in a public space and being told they cannot come in. However, she also understood that people like to have a club in their building just for themselves.

Commissioner Sletten read from page 62 of the Staff report, the definitions of Club Private Residence Off-site, which defines the following services, "real estate, restaurant, bar, gaming...". He asked if real estate needed to be further defined because it is such a broad term. Director Erickson stated that if the concern was having sales operations inside the club, real estate could be taken out. Commissioner Sletten did not believe it was applicable for this particular applicant because of the location; but it could be an issue in other areas. Director Erickson explained that the Staff was thinking that it was by invitation only and it would not occur very often. Planner Newberry pointed out that the Staff would have to write a separate amendment to address real estate activities because the definition was not in the use. Director Erickson pointed out that the Planning Commission could make that recommendation to the City Council.

Mr. Potter responded to Chair Band's concern about this being in a public place but being exclusive. He pointed out that the location of this private residence club is under the Pig Pen Saloon. The intent is to keep it very low key and it would probably not attract people from the outside.

Chair Band asked Planner Newberry what she found when she researched other ski towns in terms of private clubs and vibrancy. Planner Newberry stated that none of the resorts she researched regulated Private Club Off-site. It was not even defined in the definitions.

Trent Davis, the property manager for the Lodge at Mountain Village, stated that they had called other private clubs and none of them had any interest in coming into Park City at either the base area or the Lodge.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Sletten moved to forward a POSITIVE recommendation to the City Council for the LMC Amendments to Zoning Chapter 2.16, Recreation Commercial and Chapter 2.13 Residential Development pursuant to the Findings of Fact and Conclusions of Law found in the Staff report; and that the Planning Commission recommends that the City Council amend the definition to remove the word “real estate” from Private Club Off-site. Commissioner Kenworthy seconded the motion.

VOTE: The motion passed unanimously.

4. **Land Management Code (LMC) Amendment – Amending the LMC to address solar energy systems in the Historic Districts (H-zoning districts) by amending LMC 15-1-2 Statement of Purpose, LMC 15-5-5 Architectural Design Guidelines, and 15-15 Defined Terms and specifically the Lot and Site Requirements and Building Height sections for LMC 15-2.1-3, 15-2.1.5, 15-2.2-3, 15-2.2-5, 15-2.3-4, 15-2.3-6, 15-2.4-4, 15-2.4-7, 15-2.5-3, 15-2.5-5, and 15-2.6-5.**

Planner Grahn reported that the Planning Department had been working with the Sustainability Department to reach a Gold SolSmart designation for the City. One issue was how to balance solar with the Historic District because they do not want solar to impede or detract from the District. Planner Grahn remarked that the redlines in the Staff report was how they tried to balance it. The Staff had done considerable research and looked at the National Trust for Historic Preservation and the American Planning Association. They also met with people in Portland.

Planner Grahn stated that Sustainability helped define a definition for “solar energy system” rather than “solar device”. In the H Districts it is treated like an accessory building. For example, free standing solar has to meet the setback requirements for a detached accessory building. Planner Grahn noted that they also spoke with Commissioner Thimm to make sure they were on track. Commissioner Thimm recommended that they tie it more to the requirements of a mechanical system, which has a three-foot rear yard setback instead of a one-foot rear yard setback.

Planner Grahn noted that they went through the Architectural Section of the LMC and provided specific requirements to make sure that solar energy systems are set back from the perimeter of the roof. If it is on a flat roof that it will be hidden by a parapet. If it is on a gable, hip or other sloped roof, it would be set back so it is not visible from the

right-of-way. Planner Grahn noted that there are exceptions to the requirements, but only if it results in a net positive generation, which is equal to 105% or more.

Director Erickson asked if the amendments were reviewed by the HPB. Planner Grahn answered no; however, the HPB had discussed solar with the Design Guidelines revisions.

Chair Band asked for the typical return. Director Erickson replied that the efficiency of the solar varies by where the panel is located and the number of panels, versus the energy demand in the house. He explained that the criteria were set as such because solar is good, but it should not detract from the Historic District. If an owner has done everything possible with updating insulation and windows, the Planning Director has the discretion to modify how the panels are placed on the roof to achieve the energy goal needed to meet the goal of 105%. Chair Band did not think 105% would be easy to achieve. Director Erickson agreed. With the number of panels on the MARC, they were only running 70%, not including heating the pools and the hot tubs, or the air conditioning issues with indoor tennis. That was the reason for looking at each building individually.

Chair Band asked where the 105% came from. Director Erickson stated that the Sustainability Department did the research and came up with 105% as the number necessary to get to net zero. Based on the percentage of other buildings, Chair Band asked if they were creating something that no one could achieve. Director Erickson stated that as they go through redevelopment in the Historic District they were starting to see better wood windows, better insulation, and roof insulation.

Planner Grahn pointed out that currently the majority of the products are actually solar panels. However, Tesla is coming up with a type of roofing shingle. Some standing seam metal roofing products are solar as well. As they see more of those products, it will help improve the efficiency to reach the higher numbers. Director Erickson remarked that the intention was more to tier to the net zero goal rather than push the efficiencies. The way the Code is written gives him more flexibility to adjust the angles to make sure the panels are as efficient as possible without causing distress in the Historic District. Planner Grahn had crafted additional flexibility into the system to make it easier to have more solar in the Historic District.

Director Erickson reported that an independent third party review was done on all the Land Management Codes by a solar energy consulting company called SolSmart. They are funded by the National Research Engineering Laboratory. They parsed all of the Codes to see what systemic impediments there were to doing solar. The consultants provided goals in order for the City to meet gold standard. Therefore,

Planner Grahn had drafted the amendment so the City could achieve a gold standard and the ability to deliver solar with the fewest impediments possible. Director Erickson remarked that the City Council's goal is to protect the District first, and to deliver energy efficiency.

Commissioner Kenworthy asked how solar would affect the Landmark designations. Planner Grahn did not believe it would affect landmark structures. It is much easier to hide solar panels on a commercial building. On residential, if the panels are set back and hidden by adjacent houses, the solar might be noticed from the street but it would not be the first thing anyone sees and the historic character is still maintained.

Commissioner Kenworthy was concerned about protecting Landmark structures. If there is a conflict, he asked if the process gives priority to the Landmark designation. Planner Grahn replied that the current LMC compares the Code to the Design Guidelines; and the stricter of the two apply. Director Erickson pointed out that language in the Code also states that nothing is allowed that would remove the Landmark structure from the National Register.

Commissioner Hall asked how this would apply for integrated technology with the new shingles. Planner Grahn stated that the Planning Department has had a couple of requests for Tesla shingles. Each time they directed the applicant to bring in a sample to make sure they would not want to end up with a glass shingle roof. The shingles should blend in with the Historic District. Commissioner Hall asked if it was an exemption. Planner Grahn recalled that they had included language about technology such as solar shingles. The language states that the size must be similar to conventional asphalt shingles and siding. They shall be similar in color to roofing materials so they blend in. The shingles should not be reflective.

Commissioner Hall wanted to know why the skylight language was so restrictive. Planner Grahn noted that they kept the skylight language as it was before the skylights and solar panels were tied together in one section. They were eventually divided up for more clarity. She offered to relook at skylights if the Commissioners thought there needed to be a future amendment, but the language itself had not changed. They had only removed the solar panel references in that section. Planner Grahn noted that the skylight language applied to all the zones. Director Erickson pointed out that issues with night sky, glare, and other approaches needed to be resolved first. The idea is to minimize light trespass and reduce glare. Skylights contribute to those problems.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

MOTION: Commissioner Kenworthy moved to forward a POSITIVE recommendation to the City Council for the Land Management Code Amendments amending the LMC to address solar energy systems in the Historic District, pursuant to the Findings of Fact and Conclusions of Law found in the Staff report. Commissioner Sletten seconded the motion.

VOTE: The motion passed unanimously.

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

Approved by Planning Commission: _____

APPROVED