

EXHIBIT D

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MAY 9, 2001

COMMISSIONERS IN ATTENDANCE:

Chair Jim Hier, Michael O'Hara, Andrew Volkman, Diane Zimney

EX OFFICIO:

Patrick Putt, Planning and Zoning Administrator; Ray Milliner, Planner;
Brooks Robinson, Planner; Jonathan Weidenhamer, Planner; Kirsten
Whetstone, Planner

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REGULAR MEETING - 7:00 P.M.

I. ROLL CALL

Chair Hier called the meeting to order at 7:00 p.m. and noted that all Commissioners were present except Commissioners Erickson, Larson, and Powers who were excused.

II. ADOPTION OF MINUTES

Commissioner O'Hara referred to Page 3, Item 2, of the April 25, 2001, minutes and asked that, since he is no longer chairman and did not attend that meeting, the minutes be amended to reflect that correction.

MOTION: Commissioner Volkman moved to APPROVE the minutes of April 25, 2001, as amended. Commissioner O'Hara seconded the motion.

VOTE: The motion passed unanimously.

III. PUBLIC COMMUNICATIONS

Gordon Strachan, representing Claire Weiss, noted that their matter is scheduled for rehearing by the Planning Commission on June 13. Ms. Weiss will be out of town on that date, and Mr. Strachan requested that the matter be continued to June 27. Chair Hier asked if this would present a conflict for the Homeowners Association. Mr. Strachan replied that Larry Keller, the HOA attorney, indicated that he would neither consent to nor oppose this request. Planning and Zoning Administrator Patrick Putt offered to forward Mr. Strachan's request to City Attorney Mark Harrington along with the information that the Planning Commission does not oppose changing the date to June 26. If Mr. Harrington believes the matter should be formally continued, it can be done on June 13.

IV. STAFF/COMMISSIONERS' COMMUNICATIONS

Administrator Putt announced that the Holiday Village matter will be scheduled for public hearing on May 23.

Commissioner Zimney stated that she was driving by the barricade near Cole Sport and noticed that all the trees are dead and big garbage cans are exposed. Administrator Putt replied that a plan is currently being

developed to look at redesign and reconstruction of that traffic calming device. Tom Bakaly, Assistant City Manager, reported that the City Council directed them to replace the barricade on a temporary basis as opposed to a \$50,000 or \$75,000 permanent traffic calming device. Jerry Gibbs and Rick Lewis are looking at a solution to remove the Rubbermaid planters and provide a cleaner appearance for the Olympics, which should be completed this summer.

V. OLD BUSINESS

1. 1555 Snow Creek Drive, Key Bank - Master Planned Development amendment

Planner Brooks Robinson reported that the Planning Commission discussed this item during the March 28 work session and held a public hearing. The Staff has prepared an analysis reviewing the criteria under the standards for review for a CUP for this project. They have also prepared findings of fact, conclusions of law, and conditions of approval for possible action.

Chair Hier re-opened the public hearing.

There was no comment.

Chair Hier closed the public hearing.

MOTION: Commissioner Volkman moved to APPROVE the amendment to the Snow Creek Master Planned Development and Conditional Use Permit to allow a drive-up window with the findings of fact, conclusions of law, and conditions of approval outlined in the staff report. Commissioner Zimney seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - Key Bank at Snow Creek

1. The Findings in the Analysis Section are hereby incorporated.
2. This staff report and approval are based on plans dated April 4, 2001.
3. Application is for Lot 6 of the Snow Creek Crossing Subdivision, street address 1555 Snow Creek Drive.
4. The zoning district is Residential Medium Density (RDM) with Regional Commercial Overlay (RCO) and is within the Sensitive Lands Overlay district.
5. Snow Creek Crossing Master Planned Development identified Lot 6 as a restaurant pad.
6. Lot 6 is permitted a building no greater than 6,000 square feet. The proposed bank is 5,436 square feet.

7. A bank is an allowed use within the Regional Commercial Overlay district.
8. A drive-up window is a Conditional Use within the RCO district.
9. With the build-out of Snow Creek Crossing, the new Post Office, and the Hotel Park City, the additional traffic necessitates the signalization of the intersection of SR 224 and Snow Creek Drive.

Conclusions of Law - Key Bank at Snow Creek

1. The application is consistent with requirements of the Park City Municipal Code, specifically Chapter 15, Section 1-10 and Section 2.17-6.
2. The use is consistent with the Park City General Plan.
3. The use is compatible with surrounding structures in use, scale, mass, and circulation.
4. The effects of any differences in use and scale have been mitigated through careful planning.
5. The design and materials are consistent with the Park City Design Guidelines.

Conditions of Approval - Key Bank at Snow Creek

1. All Standard Project Conditions of Approval apply to this project.
2. Proposed intersection improvements with SR224 and Snow Creek Drive must meet the satisfaction of the Park City Engineer.
3. A Construction Management Plan (CMP) will be submitted to and approved by the Community Development Department prior to the issuance of any building permits. The plans will address staging, material storage, construction time lines, special signs, parking, fencing, vegetation protection, and any other construction-related details to the satisfaction of the Community Development Department.
4. Materials and colors samples, final design details, a lighting plan in conformance with the Park City Lighting Ordinance, a sign plan in conformance with the Park City Sign Ordinance, and a landscape plan must be approved by Staff prior to building permit issuance.

2. April Mountain - Master Planned Development

Planner Kirsten Whetstone reviewed a map showing the location of April Mountain, Mellow Mountain Road, the water tower, and the water tank. She noted that the Planning Commission has reviewed this project and held a public hearing at several meetings. They have discussed the Sensitive Lands Analysis since portions of the site are located in the SLO District as well as the RD and ROS Zoning Districts. The Planning Commission

ratified the Sensitive Lands Analysis and density determination at the last meeting. The applicant is working on a visual analysis, but he needs to know which vantage points to use for the MPD in addition to the SLO vantage point at Snow Park Lodge. The applicant is looking for direction from the Planning Commission on other vantage points they would like to see in terms of the location of structures, height limitations, and ridgeline encroachments. Planner Whetstone reported that the Staff did a windshield survey from various locations in Park City and used a map to indicate the areas from which the site is visible. The SLO refers to specific locations for visual analysis, and the Land Management Code states that before the Planning Commission can approve a master plan, they need to be sure the criteria are satisfied. They should protect the ridges from development that would be visible on the skyline in prominent areas of Park City. The Staff finding is that a prominent area would be the Lower Deer Valley area at Snow Park Lodge, where there is a true vista of the ridgelines and a great amount of activity. Other areas include the transit center, the roundabout, and the switchbacks on Royal Street. The Stew Pot deck was used to look at the ridgeline between Summit County and Wasatch County. Planner Whetstone requested input from the Planning Commission to incorporate into findings to enable the applicant to complete a visual analysis of the site.

Steve Deckert, representing the applicant, felt that Planner Whetstone's presentation showed that the property was not visible from many places in town. He commented on his need to understand what is important to the Planning Commission and what they consider a vista or view that would impact the most eyes so he could focus on which site has problems and what measures can be taken to mitigate the impacts.

Commissioner Zimney did not think Ridge Avenue would be a problem. She believed the Planning Commission was looking at Fairway Hills as the worst possible scenario. Mr. Deckert agreed that the expanse of Fairway Hills does create a vista.

Chair Hier stated that a lot of people congregate at the Stew Pot, which is a check-in point for a lot of properties. He felt it was appropriate to know the impacts and see what it would look like but agreed that it would be a worst case scenario given the severe angle looking up. Commissioner Volkman asked about the parking lots at Snow Park. Chair Hier suggested one more visual from the mid-level of the Snow Park parking area. Commissioner Volkman stated that he thought the parking area may eventually become a focal point for congregating and looking back toward April Mountain. Mr. Deckert stated that this view has been generated and was shared with Staff. The problem is putting it into real context given future condominium development and the likely scenario of the plaza area being located above a two-deck parking structure (putting eye level 20 feet above existing grade).

Planner Whetstone summarized the direction to be that vantage points from the Stew Pot deck and a future plaza above the Deer Valley parking lot should be used, but with a less strict interpretation of looking at ridge-line encroachment to look at mitigating the visual impact to the

greatest degree possible, as well as the sensitive lands vantage points where the ridge line is not broken by structures.

Chair Hier opened the public hearing.

Shardel Riley, a resident on Mellow Mountain Road, stated that she understood this land had been zoned for development but found it sad because it is beautiful open space. She was not certain what would happen to Gambel Oaks trail, but it is heavily used by many different people. She felt the Commission should take into consideration the vantage points from Royal Street because many visitors to Park City drive up and down Royal Street. This is a significant vantage point when driving down from Deer Valley to look over the open valley. She believed many people hike and mountain bike in the Rossi Hill/Daly Canyon area, and that should also be considered. She believed 55 houses was a lot of density.

Chair Hier continued the public hearing to June 13, 2000.

3. Land Management Code, Phase II, Chapters 6, 8, 10, 11, and 14

The Staff requested that this item be continued to June 13.

MOTION: Commissioner O'Hara moved to CONTINUE this item to June 13. Commissioner Volkman seconded the motion.

VOTE: The motion passed unanimously.

VII. NEW BUSINESS

1. 1637 Short Line Road, Chez Betty Restaurant Patio Fence - Conditional Use Permit for construction in the Frontage Protection Zone

Planner Jonathan Weidenhamer reviewed the application for a Conditional Use Permit to allow construction of a fence in the Frontage Protection Zone south of the Copper Bottom Inn at 1637 Short Line Road. The applicant proposes building a fence around an existing patio to screen outdoor diners from Highway 224. The Copper Bottom Inn was built in 1980. In 1982, the City purchased 10 feet of the southern portion of the Copper Bottom Inn lot to widen Deer Valley Drive which relocated the property line to within two feet of that existing patio. In 1991, the Planning Commission approved a CUP for outdoor dining on the patio, and at that time there was concern about the proximity of the patio to the road. To address that concern, landscaping was placed between the property line and the patio. A two-foot cement retaining wall was placed at the property line, and a railroad tie wall surrounds the patio wall, with landscaping and planter boxes added between. The applicants propose putting a fence around the planter boxes approximately two feet from the patio. The applicant went to the Board of Adjustment and requested a variance to allow construction in the 30-foot no-build zone established by the FPZ, and their request was granted. A second variance was requested to allow an increase in height in the front yard setback of the

structure in the General Commercial Zone. The zone stipulates a four-foot wall or fence in the front yard setback, and the applicants requested a 5'4" fence. That request was denied. Planner Weidenhamer explained in Staff's review of the conditional use criteria that Staff was concerned with two issues, the first being the fence material. The applicant originally proposed a vinyl fence but has since agreed to a cedar fence. The second issue is visual obstruction that a fence might create along Deer Valley Drive, although the Board of Adjustment did not have a problem with visual obstruction. The Staff has found that the proposal meets all the necessary criteria to support a CUP. In the past, there has been a precedent to allow a CUP for a fence to screen outdoor dining in the FPZ. The Staff recommended that the Planning Commission conduct a public hearing and approve the CUP based on the findings of fact, conclusions of law, and conditions of approval outlined in the staff report.

Chair Hier opened the public hearing.

There was no comment.

Chair Hier closed the public hearing.

Commissioner O'Hara asked if limitations on the type of fence material should be included in the conditions of approval. Planner Weidenhamer replied that Condition 4 states that the fence must be wood.

MOTION: Commissioner O'Hara moved to APPROVE the Conditional Use Permit for construction in the Frontage Protection Zone at 1637 Short Line Road with the findings of fact, conclusions of law, and conditions of approval outlined in the staff report. Commissioner Volkman seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 1637 Short Line Road

1. The Copper Bottom Inn is located at 1637 Short Line Road.
2. The Copper Bottom Inn and exterior patio were constructed in 1980. In 1982 the City purchased the southern portion of the lot where the Copper Bottom is located to accommodate the widening of Deer Valley Drive. The City's purchase of the property relocated Copper Bottom's southern property line approximately ten feet (10') to the north, leaving the southwest corner of the patio approximately two feet (2') north of the property line.
3. The original record of survey for the Copper Bottom Inn (Exhibit B) is no longer accurate due to the widening of SR 224 and relocation of the property line at 1637 Short Line Road.
4. No current, certified survey was submitted as part of this proposal.
5. The SR 224 right-of-way ends approximately at the edge of sidewalk located to the south of the Copper Bottom Inn.

6. A Conditional Use Permit was approved on June 26, 1991, to allow outdoor dining on the existing patio.
7. The southwest corner of the building, planter boxes, and the exterior patio of the Copper Bottom Inn are located within the General Commercial Zone and the 30' no-build portion of the Frontage Protection Zone.
8. The Copper Bottom Inn building and patio met all Code requirements at the time they were built. The creation of a 30-foot no-build zone as part of the FPZ in 1992 left the patio and the building as existing, non-complying structures.
9. Section 15-9-6(A) of the Land Management Code allows for repair, maintenance, alteration, and enlargement of non-complying structures provided that such repair, maintenance, alteration, or enlargement shall neither create any new non-compliance nor shall increase the degree of the existing non-compliance of all or any part of such structure.
10. This proposal does not meet the criteria for expansion, alteration, or enlargement of a non-complying structure and therefore needs a variance from the 30' no-build zone of the FPZ.
11. A CUP is required for all construction in the FPZ.
12. The proposal is for a five-foot, four-inch (5'4") privacy fence to encompass three sides of the patio, located at one point directly on the south property line.
13. A monument sign for the Copper Bottom exists in this location. It is an existing, non-complying structure.

Conclusions of Law - 1637 Short Line Road

1. The application does not comply with all requirements of Section 15-1-10, Standards for Review for a Conditional Use Permit, of the Land Management Code.
2. The proposed use, as conditioned, is compatible with the surrounding residential and commercial structures in use, scale, mass, and circulation.
3. The use is consistent with the Park City General Plan.
4. Any differences in use or scale have been mitigated by the Conditions of Approval.

Conditions of Approval

1. The location of the fence shall maintain substantial compliance with the site plan (Exhibit C).

2. The fence shall maintain substantial compliance with the fence detail recommended by Staff, submitted April 24, 2001 (Exhibit D).
3. The maximum height of the fence shall not exceed four feet (4') from existing grade.
4. The fence shall be wood.
5. All standard conditions of project approval shall apply to this project (See Exhibit F).
6. The approval shall be null and void as of May 9, 2002, unless the applicant has received a building permit for the project.
7. The applicant must receive a variance from the Board of Adjustment for the expansion of a non-complying structure prior to receiving any building permit.
8. Any changes to existing lights or signs as a result of this application are required to meet City ordinances.
2. 543 Park Avenue, Washington School Inn - Plat amendment to combine 7 Old Town lots

Planner Ray Milliner reviewed the application for a plat amendment to combine seven lots into one at the Washington School Inn on Park Avenue. The applicant recently acquired the non-historic garage immediately north of the historic structure and would like to renovate it to match the historic school inn. In order to make the proposed changes, the Land Management Code requires a lot line adjustment to combine the lots. The Staff has reviewed the project and found it to be in compliance with the Land Management Code. The Staff requested that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval outlined in the staff report.

Chair Hier opened the public hearing.

There was no comment.

Chair Hier closed the public hearing.

MOTION: Commissioner Volkman moved to forward a POSITIVE recommendation to the City Council to approve a plat amendment that combines Lots 10, 11, 12, 13, 37, 36, and 35 of Block 5 of the Park City Survey according to the findings of fact, conclusions of law, and conditions of approval outlined in the staff report. Commissioner Zimney seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 543 Park Avenue

1. The property is located in the Historic Residential (HR-1).
2. The HR-1 District is characterized by a mix of small historic structures and larger contemporary residences.
3. The amendment will consolidate lots 10, 11, 12, 13, 37, 36, and 35 of Block 5 of the Park City Survey into one (1) platted lot to allow the renovation of an existing, non-historic garage.
4. The proposed lot size will be 13,175 square feet.
5. The project is on Park Avenue with dense residential uses. Minimal construction staging area is available along Park Avenue.
6. A neighboring historic structure encroaches one foot onto the north side yard of Lot 13.
7. An encroachment easement was granted for the neighboring residence and recorded at the County on January 9, 2001.
8. The garage has a side yard setback of four feet (4').
9. The required side yard setback for the garage is three feet (3').
10. The garage is not historic.
11. The Washington School Inn is historic.
12. The plat amendment will not increase density on the lot.
13. Staff will review the applicant's proposed modifications to the existing non-historic garage upon the submission of a Historic District Design Review application.

Conclusions of Law - 543 Park Avenue

1. There is good cause for this plat amendment.
2. The amended plat is consistent with the Park City Land Management Code and applicable State law regarding subdivision plats.
3. Neither the public nor any person will be materially injured by the proposed amended plat.

Conditions of Approval - 543 Park Avenue

1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. The proposed construction of improvements to the existing garage shall require compliance with the Historic District Design Guidelines.

3. No additional density is allowed as a result of this plat amendment.
4. 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 and the plat will be void.
5. A note shall be added to the plat stating that no accessory apartment shall be permitted as part of the garage renovation.
6. No further subdivision of the property is allowed.
3. 128-134 Ontario Avenue - Plat amendment to reconfigure and improve 3 lots

Commissioner Zimney disclosed that she has provided a title report for the City on this piece of property. She did not believe this presented a conflict of interest, and she intended to discuss and vote on this matter.

Administrator Putt reviewed the plat amendment request to combine 15 full and/or partial lots in the HRL Zone in Block 52 of the Park City Survey into three new lots of record. The Historic Residential Low Density Zoning District requires a minimum lot size of 3,750 square feet in order to build a single-family residence. Access to the property is proposed by way of extending a private driveway easement approved with the recently-approved Ivers replat which will extend across platted Second Street and provide access to Lots 1, 2, and 3. The request also involves a request to vacate 488 square feet of platted Marsac Avenue right-of-way, and that action will be taken separately by the City Council under a public hearing once a recommendation on the application is forwarded by the Planning Commission. The Planning Commission does not approve or deny street vacations but does consider the impacts as part of the overall project plan. The three lots range in size from 5,735 square feet to 12,128 square feet. The Staff report contains information regarding the maximum building footprints, which range from 2,078 square feet to 3,068 square feet. The intent of the HRL District is to allow for exclusive single-family residential development, and duplexes or multi-family structures are not allowed. The HRL District is also predicated on the fact that there are usually access constraints, existing narrow streets, and topography that tends to be steep. Altogether, these result in greater than usual design constraints for Old Town construction. Because of this, it is encouraged that lot sizes be larger than the standard 25'x 75' typically seen in the HR-1 District. Administrator Putt stated that the proposed lot sizes are consistent with the Land Management Code requirements, and the resulting building footprints are consistent with building footprints and sizes being constructed in the HRL zone. The access proposed by way of the Ivers replat will be through an extension of the private easement, and the applicant and Staff are working on finalizing that language. In addition to serving as a private driveway easement, the 30-foot-wide easement will

double as a public pedestrian trail easement to allow a continuation and connection to the railroad spurs used for hiking and mountain biking.

Administrator Putt noted that this item was briefly discussed during work session, and the Planning Commission asked why the Ivers replat was platted as a private driveway easement rather than a public driveway easement. He researched that matter and found that the easement originated from a couple of issues. One was that the Planning Commission was looking at trying to obtain appropriate building setbacks on the westernmost three lots of the Ivers replat. In order to achieve that, houses were moved closer to the driveway and downhill rather than being pushed further back with a standard setback. The other issue was allowing public access across Second Street without knowing the resulting density. As a result, a specific condition of approval was memorialized as part of the plat amendment approval which reads, "Access to Lots 3 and 4 shall be provided by means of a platted 20-foot-wide driveway easement accommodating a 12-foot-wide paved private driveway. The proposed right-of-way dedication shall be eliminated from the plat, although the private driveway may at some future time be converted to a public right-of-way or a private road to access Block 52 provided the right-of-way standards (currently 40 feet) are met and approval is given by the City Council via a formal plat amendment." Eric DeHaan and Ron Ivie have reviewed the 40-foot right-of-way width issue, and based on the Ivers lots, their location to fire hydrants, and their proximity to existing Ontario Avenue and the proposed fire suppression plan for the lots which involves development and construction of three fire department standpipes at the intersection of the private drive and Ontario Avenue, Ron Ivie has determined that these meet Code and the proposed access is minimally acceptable. Administrator Putt explained that prior to this evening's meeting he distributed a letter submitted to the Planning Commission as part of this application which outlines the project and a list of proposed benefits, and the Staff does not take issue with any of the benefits. The Staff finds this request to be in compliance with the Land Management Code requirements. The new Land Management Code requires a CUP when private driveways extend across platted but undeveloped City streets, which gives the public and the Planning Commission a chance to see what impacts may be created. Those impacts are not seen with this application, but to follow procedure, a formal public hearing will be held.

Steve Deckert, representing the applicant, explained that this proposal is the balance of the original Sand Ridge Heights proposal which involved the Ivers property, the Peterson replat to the west, the parcels in Block 52, and the crosshatched area to the south. At that time the intent was to vacate existing Ontario Avenue and extend a road to the south to intersect Marsac Avenue, and 28 single-family lots were associated with that proposal. The applicant did not eliminate Thrill Hill but did reduce the density of the overall area from 28 to 7 lots. He believed the plan would work well and solve many on-going problems. He stated that he spoke with Jim Ivers, and he did not oppose extension of the driveway or the proposed improvements within the platted private driveway easement. Another benefit of the plan would be to redirect the sewer as currently designed for the Ivers replat which would have extended the sewer line 190 feet to the north in the middle of existing Ontario Avenue

to tie into the southernmost manhole. This plan will redirect the sewer and extend to the south and down the hillside to tie into a sewer line in Marsac Avenue. This plan will reduce the impact to existing homes on Ontario Avenue.

Chair Hier opened the public hearing.

There was no comment.

Chair Hier closed the public hearing.

Commissioner O'Hara asked if the proposed improvements would create a non-conforming use for setbacks on the existing lots on the Ivers property. Administrator Putt replied that they would not widen the portion of the private driveway in front of the Ivers lots, and it would have no adverse impacts on the setbacks.

Commissioner Volkman stated that he agreed with the points made in Mr. Deckert's letter.

Chair Hier felt this proposal addressed the density issue and would combine the lots. He was unsure about the proposed vacation and was comfortable leaving that issue for City Council.

Administrator Putt stated that this item will be scheduled for a public hearing on the Conditional Use Permit on May 23 for possible action.

The Park City Planning Commission meeting adjourned at 8:00 p.m.

Approved by Planning Commission _____