

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
OCTOBER 27, 2010

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Dick Peek, Julia Pettit,

EX OFFICIO:

Planning Director, Thomas Eddington; Kayla Sintz, Planner; Katie Cattan, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

I. ROLL CALL

Chair Wintzer called the meeting to order at 7:10 p.m. and noted that all Commissioners were present except Commissioners Luskin, Savage and Strachan, who were excused.

II. PUBLIC COMMUNICATIONS

There were no comments.

III. ADOPTION OF MINUTES OF OCTOBER 13, 2010

MOTION: Commissioner Peek moved to TABLE the approval of the minutes of October 13, 2010 to the next meeting, due to the fact that two Commissioners who were present on October 13th were absent this evening. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

IV. STAFF/COMMISSIONER'S COMMUNICATIONS & DISCLOSURES

Director Thomas reported that Summit County is working on potential language changes to address opportunities for increased development in the annexation declaration areas, which is the boundary around Park City's boundary. The Snyderville Basin Planning Commission discussed this issue at their meeting earlier this month. Since the Park City Planning Commission has requested regional planning opportunities in conjunction with the County, Director Eddington asked the Snyderville Basin Planning Commission if they would consider a joint meeting with the Park City Planning Commission. It would be a good opportunity for both Commissions to discuss the annexation declaration area, as well as general plan and regional planning ideas. Director Eddington pointed out that what Park City does impacts the County and vice-versa.

Director Eddington asked if the Planning Commission would consider meeting with Snyderville Basin on a Tuesday in November. He noted that the second Planning Commission meeting was canceled due to the Thanksgiving holiday. The Planning Commission discussed dates and

tentatively scheduled November 23rd, pending coordination with the Snyderville Basin Planning Commission and the Commissioners who were absent this evening.

Director Eddington noted that it was time for the Planning Commission to elect a new Chair and Vice-Chair. Commissioner Peek recommended that they wait until the next meeting since three members were absent. The Commissioners concurred.

Director Eddington announced that due to the holidays and Sundance, the Planning Commission would only have one meeting in November, December and January.

Assistant City Attorney, Polly Samuels McLean, provided an update and clarification on the Electronic Participation Policy. She noted that the Planning Commission had discussed electronic meetings in February 2008 during a joint work session with the Historic Preservation Board and the City Council; and it was mentioned again in January of this year.

Assistant City Attorney McLean stated that during those discussions some of the comments included 1) The public deserved to have a full Commission present at each meeting; 2) The importance of individuals being able to fully participate in a meeting, which requires having accessibility to materials presented at the meeting and the ability to observe presentations; 3) It is crucial to permit a Commissioner who is unable to physically attend a meeting to at least listen to comments; 4) A valid need for the ability to participate in electronic meetings.

Assistant City Attorney McLean stated that back in February 2008, the Planning Commission adopted Rule 08-01, which allowed for electronic participation in meetings, and that rule is still valid. The status quo currently is that Commissioners can participate in an electronic meeting.

Assistant City Attorney McLean reviewed the legal requirements and what the resolution allows them to do. Ms. McLean stated that Utah State Code supports and allows electronic meetings. Per State law the Planning Commission must adopt a resolution, which they have already done, and the resolution may prohibit or limit meetings based on budget, public policy, or logistical considerations. They can require a quorum of the public body to be present at a single anchor location for the meeting and require a vote to approve establishment of an electronic meeting. They can require that the request for a public meeting be submitted three days prior to the meeting. They can restrict the number of separate connections for members and establish any other procedures.

Assistant City Attorney McLean remarked on the noticing requirements, which include making sure that the electronic meeting is noticed and complies with the requirements of the Open Public Meetings Act. It also requires informing the public that one or more of the Commissioners would be participating off-site and the mode of communication by which they would be participating electronically. People must be allowed to come to the anchor location so the meeting takes place at a central location.

Assistant City Attorney McLean stated that the actual Planning Commission Rule 08-01 allows electronic participation for Planning Commission meetings and for joint meetings. It requires a quorum of members at the normal meeting location. The rule also requires a majority vote by the attending members to allow a member to participate electronically. Ms. McLean noted that the Rule

requires three day noticing, however less time may be acceptable provided that noticing requirements can be met. At a minimum, the members participating electronically must be able to hear the public hearing and member comments.

Assistant City Attorney McLean remarked that since electronic participation was first discussed in 2008, there are now more virtual meeting rooms, skype, and traditional conference calls. The only limitations for doing electronic meetings is budgeting and time constraints in terms of involving the IT Department. Ms. McLean had spoken with the IT Department and researched various options for electronic participation. She noted that the IT Department has a camera but it was uncertain whether the camera could tie in with the audio system in the Council Chambers. Those issues could be resolved if the Planning Commission is interested in pursuing electronic participation.

Assistant City Attorney McLean pointed out that an electronic meeting contemplates a Commissioner participating, speaking, voting and being an active part of the meeting. However, there is no prohibition against a Commissioner listening in on the meeting without participating. She believed that option could be facilitated.

Assistant City Attorney McLean remarked that the rule is already in place to allow electronic participation. The question was whether the Planning Commission wanted to allow it and to what extent. If the Planning Commission chooses to pursue electronic participation and use the rule already in place, she requested that they provide direction on the preferred technology.

Chair Wintzer asked if there was a process where a Commissioner could submit written comment to the Staff if he or she would be absent from a meeting but wanted their opinion heard on a particular agenda item. Ms. McLean replied that a Commissioner could communicate with the Planning Department through written comment, however, it is not an ideal approach. Ms. McLean discouraged that type of participation and preferred electronic participation with open dialogue and an open process.

Commissioner Pettit stated that she often comes to a meeting with an opinion on a particular application, and after participating in the discussion, her opinion may change after hearing additional input and clarification. She felt those were important elements that support the reason why participating in an open meeting is key to the decision making process. Ms. McLean clarified that there is no prohibition against a Commissioner speaking with another Planning Commissioner and asking them to take their concerns to the Planning Commission meeting on their behalf. She felt that was a better venue than submitting comments to the Staff.

Commissioner Pettit stated that she had advocated for the ability to have electronic participation as an option when she was out of town and was not able to attend an important meeting. She recalled mixed sentiment from other Commissioners for supporting electronic participation, and she was unsure whether that sentiment had changes with the new Commissioners.

Commissioner Hontz favored the idea that the Planning Commission was required to have a physical quorum at the meeting location, but others could still participate through skype or another mechanism.

Chair Wintzer commented on why it may be difficult to participate electronically and he assumed that it would only be done for major projects. However, he felt it was a good option to have that ability. He was concerned that the Commissioner participating electronically would lose the benefit of presentations and being able to see drawings.

Commissioner Pettit remarked that they would need to be more verbal in identifying visual materials so the person who was not physically present would understand what they were looking at. The participant would have the benefit of visual material if there is a camera, however, the challenge is not being able to look at materials such as a letter or drawing that is handed to the Commissioners. She pointed out that there are ways to accommodate those challenges, such as reading letters into the record or verbally explaining a drawing. Commissioner Pettit stated that she has participated in enough virtual court hearings to know that it can be done successfully.

Commissioner Pettit pointed out that three Commissioners were absent this evening and they should have the ability to provide input before the Planning Commission makes a decision and provides direction. Assistant City Attorney McLean reiterated that since February 2008 the Planning Commission has had the ability for electronic participation, however, since that time no one has requested to use it. Ms. McLean distributed copies of Rule 08-01 to the Commissioners and offered to update the Commissioners who were not present this evening.

Commissioner Pettit thought it would be helpful if someone from IT would provide a list of options that would trigger the ability to participate electronically, and include limitations and associated costs. Chair Wintzer felt it was important for IT to also include equipment or items the participant would need on their end. Another question is the time frame IT would need to set up the equipment for electronic participation. Ms. McLean stated that the City could begin researching the options to have it in place so it could be done within the required three days notice.

Commissioner Pettit stated that the challenge with the three-day request is that the Commissioners do not know what items are on the agenda until they receive their packet on Friday. That may not be enough time to submit a three-day request for a meeting on Wednesday. Ms. McLean stated that she would ask IT if they could put together basic options and illustrate how it works. Based on that information, the Planning Commission could move forward. She noted that if a Commissioner requests to participate electronically, the Planning Commission would have to vote to allow that person to participate before they begin the meeting.

Commissioner Peek suggested a trial run with a Staff discussion or discussion with IT, and include graphics, so the Planning Commission could see how it works.

Chair Wintzer asked if it was possible for the Planning Commission to send the agenda to the Planning Commission earlier than the packet. Director Eddington replied that they could email a copy of the agenda to the Commissioners when it is noticed in the newspaper. Anything earlier than that would be a draft or tentative agenda. Chair Wintzer stated that even a draft agenda would be helpful notice for the Commissioners if they are planning to be away.

CONTINUATION(S) And PUBLIC HEARING

1. 543 Park Avenue - Conditional Use Permit
(Application PL-10-01066)

Chair Wintzer opened the public hearing. There was no comment. Chair Wintzer closed the public hearing.

MOTION: Commissioner Pettit moved to CONTINUE 543 Park Avenue to November 10, 2010. Commissioner Peek seconded the motion.

CONSENT AGENDA

1. 310 Park Avenue - Plat Amendment
(Application PL-09-00758)

Commissioner Pettit referred to language on page 39 of the Staff report under the Analysis, that refers to an existing "historic" home. She assumed that was an error and it should read, "non-historic" home. Planner Katie Cattan replied that this was correct. The home is non-historic.

MOTION: Commissioner Pettit moved to forward a POSITIVE recommendation to the City Council for the 310 Park Avenue Plat Amendment in accordance with the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 310 Park Avenue - Plat Amendment

1. The property is located at 310 Park Avenue.
2. The zoning is Historic Residential (HR-2A).
3. The proposed lot is 3202 square feet in size.
4. Maximum footprint for a 3202 square feet lot size is 1337 square feet and the existing footprint is approximately 1,200 square feet.
5. Maximum height is 27 feet above existing grade.
6. The proposed lot is fifty feet wide and varies between fifty and seventy-five feet in depth.
7. The required front and rear setbacks are 10 feet. The side yard setbacks are 5 feet. The existing home complies with all setback except the north side yard. The north side yard is four feet wide and is existing non-complying.

8. There is an existing non-historic home on the property. A single family home is an allowed use in the HR-2A zone.
9. The buildings located at 301 Main Street and 305 Main Street each encroach onto the property at 310 Park Avenue. Encroachment easements have been recorded at the county for each of the buildings.

Conclusions of Law - 310 Park Avenue - Plat Amendment

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

Conditions of Approval - 310 Park Avenue - Plat Amendment.

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. No remnant parcels are separately developable.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

4. 2169 Monarch Drive - Condominium Conversion
(Application PL-10-01049)

Planner Kayla Sintz reviewed the application for a condominium record of survey for a legal duplex, Lot 81, of the Prospector Village subdivision, located at 2169 Monarch Drive. The property is jointly owned and the applicants were represented by one of the owners, Roger Stephens. Planner Sintz reported that the official subdivision plat as recorded allowed duplexes on cul-de-sac lots. Lot 81 is one of those lots.

The Staff supported the requested condominium Conversion. Planner Sintz explained that the non-compliance issue discussed on pages 50 and 51 of the Staff report relates to a parking issue and

encroachment into the City right-of-way. She pointed out that the parking issue is not under review by the Planning Commission. Planner Sintz stated that the parking requirement for two parking stalls per unit, a total of four spaces, is already accommodated on site without the additional encroachment.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council for the condominium conversion, based on the findings of facts, conclusions of law and conditions of approval found in the draft ordinance.

Roger Stephens remarked that parking is a problem at Prospector Village and he was not in favor of taking out parking spaces. He had photos of parking on other cul-de-sacs and felt it was unfair to approve parking in the right-of-way for others but not for them.

Chair Winter did not believe the City had ever approved parking in the City right-of-way or in setbacks. Director Eddington stated that when it is allowed, it is by approval of the City Engineer.

Assistant City Attorney McLean clarified that the Planning Commission could not approve the parking because it is not on Mr. Stephens' property. She understood the issue and noted that as written, the condition of approval allows the City to work through the issue as a global problem within that community. Mr. Stephens would be treated the same as his neighbors. Ms. McLean understood Mr. Stephens concern that he was being singled out, but since this condominium conversion is before the Planning Commission, a condition of approval allows the property to meet the regulations and lets the Planning Director and the City Engineer determine how it should be addressed in that neighborhood.

Mr. Stephens did not object to the condition of approval or the process; however, he encouraged the Planning Commission to view photos he had taken of other duplexes that park in the right-of-way. Mr. Stephens pointed out that most of the properties on the end cul-de-sac have concrete from property line to property line. Chair Wintzer reiterated that even if people park there, that does not mean it was approved by the City. He agreed with Ms. McLean that the parking issue was outside of the Planning Commission purview.

Commissioner Pettit was unclear on the parking issue. In reading the Staff report and the condition of approval, she understood that a paved area exists in the side yard setback and in the City right-of-way. Commissioner Pettit asked Mr. Stephens if that was an area that he and others who reside on the property have used for parking. Mr. Stephens replied that he has personally used that area for parking since 1978. Chair Wintzer pointed out that Mr. Stephens has been parking on property that he does not own.

Assistant City Attorney McLean clarified that there is sufficient parking on site to meet the requirements of the plat amendment application. She advised the Planning Commission not to discuss the parking because they do not have the ability to approve parking with this application.

Commissioner Pettit wanted to know why the parking issue was addressed as a condition of approval if it was outside of the Planning Commission purview to approve it. Ms. McLean

explained that currently it is a compliance issue and compliance issues are typically corrected when applications go through the City. As an example, they would not approve a conditional use permit if they know it would violate other issues. A property needs to be in compliance in order to move forward with a pending application. In reviewing this application, the Staff noticed that it did not meet the LMC and needed to come into compliance. Because this same problem exists throughout the community, the condition of approval allows some flexibility so this owner is not treated differently from everyone else. The City cannot ignore areas of non-compliance when it is identified through the application process.

Commissioner Pettit assumed that the condition of approval as written does not allow the applicant to utilize the City right-of-way for snow storage. Ms. McLean replied that this was correct, which is another requirement by the City Engineer. The area cannot be used for personal snow storage because the City uses it for snow storage.

Commissioner Peek asked if the concrete was fresh. Mr. Stephens replied that the concrete was put down three years ago when it was brought into soil compliance. Prior to that time it was a gravel parking area. He preferred not to remove the concrete but he would if it is required. Planner Sintz noted that the concrete is in the City right-of-way across the property line. Commissioner Peek pointed out that typical soils mitigation would not have been paving. Chair Wintzer noted that paving creates an issue with regard to utility repairs.

MOTION: Commissioner Peek moved to forward a POSITIVE recommendation to the City Council for the condominium record of survey plat for the Monarch Condominiums at 2169 Monarch Drive, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 2169 Monarch Drive

1. The property is located at 2169 Monarch Drive.
2. The property is located in the Single Family (SF) District.
3. The structure is a built duplex.
4. A duplex is an allowed use in the SF District on this cul-de-sac lot as identified on the Prospector Village Subdivision plat.
5. The area of the lot is 9,147 square feet.
6. The existing building conditions comply with required minimum setbacks.
7. Two (2) parking spaces req required for each unit, for a total of four (4).

8. Each unit has two (2) dedicated parking spaces, for a total of four (4).
9. The duplex was originally constructed with two garages. Since the date of original construction, one garage unit has been filled in and converted to living area.
10. There are existing non-compliance relating to additional parking which consists of a paved parking pad encroaching into the City right-of-way, minimum parking dimensions, and parking within the side yard setbacks.
11. Unit 1 has 1,670 square feet of private area.
12. Unit 2 has 1,670 square feet of private area.
13. Separate stair entry areas, rear wood decks and driveway parking and open space are identified as common ownership.
14. The property is within the Park City Soils Ordinance boundaries.
15. The findings within the Analysis section are incorporated within.

Conclusions of Law - 2169 Monarch Drive

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

Conditions of Approval - 2169 Monarch Drive

1. The City Attorney and City Engineer will review and approve the final form and content of the Record of Survey 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 Record of Survey at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void.
3. The CC&Rs shall include a tie breaker mechanism.

4. The applicant shall not be allowed to park in the paved area within the side yard setbacks or in City right-of-way nor shall the applicant store snow in the City right-of-way. The applicant shall meet all requirements by the Planning Director and City Engineer to mitigate future potential use of this area as parking as a condition precedent to plat recordation.
5. The site shall be in compliance with the Soils Ordinance. Any additional required work shall be complete as a condition precedent to plat recordation.

The Park City Planning Commission meeting adjourned at 7:55 p.m.

Approved by Planning Commission: _____