

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
JUNE 11, 2014

COMMISSIONERS IN ATTENDANCE:

Chair Pro-Tem Gross, Preston Campbell, Steve Joyce, John Phillips, Clay Stuard

EX OFFICIO:

Planning Director; Tom Eddington; Planning Manager, Kayla Sintz; Kirsten Whetstone, Planner; Anya Grahn, Planner; John Boehm, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

**ROLL CALL**

Chair Pro-Tem Gross called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except for Commissioners Strachan and Worel who were excused.

**ADOPTION OF MINUTES**

May 28, 2014

MOTION: Commissioner Stuard moved to APPROVE the minutes of May 28, 2014 as written. Commissioner Phillips seconded the motion.

VOTE: The motion passed. Commissioner Campbell abstained since he was absent on May 28, 2014.

**PUBLIC INPUT**

There were no comments.

**STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Planning Manager Sintz referred to page 4 of the Staff report and noted that during a meeting in May the Planning Commission had continued 1851 Little Kate Road, Dority Spring Subdivision plat amendment to the meeting this evening. That project was not scheduled on the agenda this evening and it would be re-noticed. She requested that the Planning Commission continue the item to June 25<sup>th</sup>.

Assistant City Attorney McLean suggested that the Planning Commission call for public input on the Dority Springs projects because it was noticed for this meeting.

Chair Pro-Tem Gross called for public input on 1851 Little Kate Road, Dority Springs Subdivision. There were no comments.

Chair Pro-Tem Gross continued 1851 Little Kate Road, Dority Spring Subdivision Plat Amendment to June 25, 2014.

Director Eddington announced that the City Council was having a study session on Bonanza Park on June 12<sup>th</sup> at 3:00 p.m.

Commissioner Stuard disclosed that he and Commissioner Phillips had toured the 333 Main Street Project. He had requested the tour because he was new on the Planning Commission and had not participated in the earlier deliberations. He wanted to understand the project before the Planning Commission acted on the condominium record of survey. Commissioner Stuard stated that at his request, Planner Kirsten had set up the tour with the owner's representative and the project manager.

**CONTINUATIONS – Public Hearing and Continuation to date specified.**

1. 1310 Lowell Avenue – Amendment to Master Planned Development  
(Application PL-13-02136)

Chair Pro-Tem Gross opened the public hearing.

Jim Doilney, representing the Marsac Mill Manor and Silver Mill House Condominium Association at the base of the Resort, read a letter they had written to the Planning Commission opposing any effort to reduce the parking lot at Park City Mountain Resort. People in the community have been damaged because PCMR made a most unfortunate mistake; and now PCMR and Vail's failure to compromise was reducing skier reservations and jeopardizing property values. They believe that Park City should do its best not to compound the problem. The letter further stated that Park City can initiate actions and motivate PCMR to maintain the mountain terrain by refusing to allow any parking reductions at PCMR. The 1998 Development Agreement is voided if a major ski area is not maintained. They requested an opinion from the City Attorney that a Woodward approval would not help PCMR re-establish otherwise debatable development agreement rights. A Woodward approval would enhance PCMR's Vail downside by setting up the ability to develop the parking lot into a mini-sports resort needing less parking. If skiers and boarder cannot conveniently park at the Resort, they will take their skier dollars to the Canyons, which would benefit Vail, or to the Cottonwood Canyons. The only way to protect

Park City is to maintain the integrity of the base area of PCMR as a full and complete ski resort by insisting that all current parking capacity remain; rather than allowing parking to be destroyed to accommodate a sports resort if PCMR cannot work out a compromise with Vail. Allowing PCMR to destroy parking now on the promise of building parking structure at some point in the future is dangerous and raises the possibility that parking would never be replaced; or if it is replaced, not with the same quality and configuration contemplated. Regardless of the impacts on Park City, they expected neither PCMR nor Vail to sacrifice to reduce their losses. PCMR, an excellent corporate citizen for decades has threatened worse cases by planning to remove ski lifts from any lost lands and positioning Woodward to anchor a smaller resort. Reducing skier parking and asserting that they will never sell regardless of community impacts does not sound like a party that has the community's interest at heart. Therefore, the community looks to the Planning Commission and the City Council to protect the interest of every business owner and property owner in Park City whose investment depends upon a viable and desirable ski resort with quality access and adequate parking. In looking at the events that have transpired to date, it is clear that PCMR and Vail will operate from a position of what they believe is in their own best interest. They implored the City not to compound PCMR's mistake and the damage to the community by allowing them to develop without replacing the lost parking spaces. Those spaces will be needed if there is any hope of maintaining Park City's in-town, world class ski resort instead of becoming just an action sports camp with limited mountain access. They reiterated a request from an April 22<sup>nd</sup>, 2014 letter to the Planning Commission to increase the overall Resort Center parking to accommodate both existing uses and the proposed additional use proposed by Cam Woodward. Given the peak parking challenges, which will be further exacerbated by the proposed Camp Woodward development, an equal trade strategy is not sufficient. The project should provide adequate provision of parking alternatives during construction for the temporary loss of 230 parking spaces.

Mr. Doilney pointed out for the record that the Canyons have routinely missed deadlines on their Development Agreement by more than two days. Rule of law would indicate that their Development Agreement is in the same amount of default as PCMR. He hoped that the City would implore the County to enforce that agreement at the same level as Vail was trying to enforce the PCMR agreement.

Commissioner Stuard noted that the Planning Commission had not recently seen the Woodward proposal and he asked the Staff for an update. Director Eddington stated that the Planning Commission would review the project at the next meeting. The Commissioners had requested information relative to Woodward in terms of design, massing and numbers. PCMR would be prepared to address those questions at the next meeting.

Commissioner Joyce asked if they would also address the idea of moving around the vested rights. Director Eddington replied that it would address the square footage within the Woodward facility, as well as the density allocations on each of the pods.

Mr. Doilney pointed out that any re-addressing of the development agreement and process of applications would strengthen their hand to enforce a development agreement. He would ask the City Attorney whether a development agreement made in the context of a ski resort stands to rise in the absence of a ski resort.

Chair Pro-Tem Gross closed the public hearing.

MOTION: Commissioner Joyce moved to CONTINUE 1310 Lowell Avenue Amendment to MPD to June 25, 2014. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

2. 1310 Lowell Avenue – Conditional Use Permit  
(Application PL-13-02135)

Chair Pro-Tem Gross opened the public hearing. There were no comments. Chair Pro-Tem Gross closed the public hearing.

MOTION: Commissioner Joyce moved to CONTINUE 1310 Lowell Avenue – CUP to June 25, 2014. Commissioner Stuard seconded the motion.

VOTE: The motion passed unanimously.

3. 1604 & 1608 Deer Valley Drive – Plat Amendment  
(Application PL-14-02344)

Chair Pro-Tem Gross opened the public hearing. There were no comments. Chair Pro-Tem Gross closed the public hearing.

MOTION: Commissioner Joyce move to CONTINUE 1604 & 1608 Deer Valley Drive – Plat Amendment to a date uncertain. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

4. 257 McHenry Avenue – Plat Amendment  
(Application PL-14-02338)

Chair Pro-Tem Gross opened the public hearing. There were no comments. Chair Pro-Tem Gross closed the public hearing.

MOTION: Commissioner Joyce moved to CONTINUE 257 McHenry Avenue – Plat Amendment to June 25, 2014. Commissioner Phillips seconded the motion.

5. 333 Main Street – The Parkite Condominium Record of Survey  
(Application PL-14-02302)

Chair Pro-Tem Gross opened the public hearing. There were no comments. Chair Gross closed the public hearing.

MOTION: Commissioner Joyce moved to CONTINUE 333 Main Street – The Parkite Condominium Record of Survey to June 25, 2014. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Stuard asked why the commercial units were being continued and the residential units were on the regular agenda. Planner Kirsten Whetstone stated that the Planning Department received two separate applications for two separate condominium plats. One is for the residential units at the Main Street Mall for the Parkite, and the second is a separate condominium plat for the commercial. She explained that an amendment to the commercial to create different spaces would require agreement from the residential units. There would be two Owners Associations, one for the residential and one for the commercial, as well as a Master Association.

Planner Whetstone stated that originally it was proposed to be one commercial unit to be owned by one entity, and it would then be divided up into leased tenant space. However, the basement created a separate space that could be separately owned, and it did not have proper access. The item was continued to allow the Staff time to take it back for department review. The access issue still needed to be resolved.

The Planning Commission moved into Work Session to discuss LMC Chapter 15-5.5 Architectural Review. The discussion can be found in the Work Session Minutes dated June 11, 2014.

The Planning Commission moved out of Work Session and convened the Regular Agenda.

## **REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION**

### **1. 337 Daly Avenue – Steep Slope Conditional Use Permit (Application #PL-14-02290)**

Planner Anya Grahn introduced the applicant, Tori Shaver, and Steve Schueler with Alliance Engineering. She reported that 337 Daly was Lot 5 of the Daly West Subdivision and it was currently a vacant lot. The owner was proposing to build a new single-family structure. A Steep Slope CUP is required because the building is over 1,000 square feet and the slope of the lot at the rear of the property is over 30%.

Planner Grahn stated that like many of the lots on Daly Avenue the lot is flat and then elevates steeply in grade up the back. In looking at all ten criteria for the building, the majority of the development is located primarily on the flat portion of the lot. The house is sunken in the back so the first level is partially buried underground. They did a nice job of using the slight grade change at the front of the property to install a 9% slope driveway.

Planner Grahn presented a visual analysis and noted that much of the bulk of the house was behind the cross-wing design, which helps hide its size and helps to keep with the historic character of the neighborhood. Access is right off of Daly Avenue. Some terracing occurs at the back of the property. The deck is off of the second floor and into the hillside; therefore, the amount of retaining walls and terracing at the back of the lot is minimal. The form and scale is consistent with other houses on Daly Avenue, and the sizes of the architectural elements are of human scale. The project meets the required setbacks and the applicant has kept the distance between the houses and his front yard very consistent with the neighbors and other historic properties. The building height complies with the 27' requirement. The height in the back is much lower than what could have been allowed.

The Staff recommended that the Planning Commission review the application and hold a public hearing and approve the Steep Slope CUP.

Commissioner Campbell asked about the issue with the footprint. Planner Grahn explained that when the applicant initially brought in their Steep Slope CUP, the Staff measured it and realized that there were overhangs that increased the footprint beyond what was allowed. The size of the house was reduced approximately 300 square feet to resolve the issue. The applicant, Tori Shaver, explained that cantilevering on the second level was eliminated.

Commissioner Campbell requested that the Planning Commission revisit this concept

with the amendments to the Land Management Code, because as currently written he believed the LMC rewards poor design. Commissioner Campbell assumed that the design with the cantilevers looked better than what the applicant was forced into to comply with the footprint requirement. He requested that the Staff prepare a report with different design scenarios so the other Commissioners could understand why it was important to change that portion of the LMC and how it pushes design into a square box. Commissioner Campbell understood the reason for minimizing the volume on this project, but the LMC forces square boxes. He thought the City should be in the position to rewarding good design.

Mr. Shaver stated that the revisions he was forced to make caught himself and the project architect off-guard. He is a mechanical engineer and in his world the footprint is the portion of the building that touches the ground. His architect had the same assumption. Mr. Shaver remarked that it was so standard in their minds that they did not bother to read the LMC regarding the footprint to know that the requirement was not standard.

Director Eddington noted that the Planning Commission would be revisiting footprint and building sizes as one of the initial LMC revisions. Commissioner Campbell suggested that the Staff use the original design for this application as a test case example.

Commissioner Phillips thought the project was straightforward. He referred to language in the LMC stating that the Planning Commission may require articulation to prevent a wall effect. He asked if that was intended to prevent just a flat wall. Director Eddington replied that the language is part of the Architectural Review portion of the Code. It is primarily applicable to commercial development structures because it talks about certain lengths of buildings. Commissioner Phillips clarified that he only mentioned it because in looking at the drawings, it appears that there is one long flat wall. He was comfortable with the design and he was not suggesting a change. He was mainly asking for clarification.

Mr. Shaver pointed out that the articulation that applies to this home was on the front facing property. At 23 feet they were required to have a certain setback to avoid a straight wall projecting to the street. Director Eddington noted that the City typically has challenges with the side walls in Old Town because it is only a three-foot setback and people usually build all the way out.

Commissioner Stuard asked if the wall effect applied to the side of buildings. Director Eddington replied that in Old Town the lots are usually not long enough to justify that application of the Code.

Commissioner Joyce noticed the creek running through the front of the yard. Mr. Shaver stated that the creek is under the ground in the storm drain pipe under Daly Avenue. A dry creek runs through at a low elevation and there is a small dip in the driveway. If there is runoff, it would go down the center of the driveway and across the driveway, and not in the garage.

Chair Pro-Tem Gross opened the public hearing.

There were no comments.

Chair Pro-Tem Gross closed the public hearing.

Chair Pro-Tem Gross asked about the 9' wide driveway, noting that the Code calls for 10 to 12 feet. Planner Grahn stated that a condition of approval was added to make sure that the minimum driveway width was 10' to meet the Code.

Commissioner Stuard corrected Finding of Fact #7, second sentence, to say that the lot was an uphill lot.

Commissioner Joyce noted that there should be a separation between Findings 3 and 4. Planner Grahn made the suggestion to combine Findings 3 and 4 as Finding #3 and to renumber the remaining findings.

MOTION: Commissioner Stuard moved to APPROVE the Steep Slope Conditional Use Permit for 337 Daly Avenue, based upon the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report and as amended. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 337 Daly Avenue

1. The property is located at 337 Daly Avenue.
2. The property is described as Lot 5 of the Daly West Subdivision. The allowable building footprint is 1,571 sf for a lot of this size. The proposed building footprint is 1,568 sf.
3. Ordinance 07-51, which approved the Daly West Subdivision, limits the footprint to

1,571 square feet and requires that only a single-family residence be constructed on this property. The applicant is proposing to construct a single-family residence.

4. The site is not listed as historically significant on the Park City Historic Sites Inventory and there are no structures on the lot.
5. The property is located in the HR-1 zoning district, and is subject to all requirements of the Park City Land Management Code (LMC) and the 2009 Design Guidelines for Historic Districts and Historic Sites.
6. Access to the property is from Daly Avenue, a public street. The lot is an uphill lot. The lot is a vacant, platted lot with existing grasses and little other vegetation. The lot is located between an existing non-historic single family home, a vacant lot, and is located across the street from a small historic mining shack. There are no existing structures or foundations on the lot.
7. Two parking spaces are proposed on site. One space is proposed within an attached garage and the second is on the driveway in a tandem configuration to the garage.
8. The neighborhood is characterized by primarily historic and non-historic single family and duplex houses. Daly Canyon forms the rear yard.
9. The lot is an undeveloped lot containing primarily grasses, weeds, and shrubs that are not classified as significant vegetation.
10. The applicant submitted an HDDR application in March 2014; the application was deemed complete on March 20, 2014.
11. The proposed design is a single family dwelling consisting of 3,132 square feet of living area (including the 275 sf single car garage) with a proposed building footprint of 1,568 sf.
12. The driveway is proposed to be a maximum of 9 feet in width and 19 feet in length from the edge of the street to the garage in order to place the entire length of the second parking space entirely within the lot. The garage door complies with the maximum width and height of nine feet (9').
13. The proposed structure complies with all setbacks.
14. The proposed structure complies with allowable height limits and height envelopes for the HR-1 zoning as the two (2) story house measures less than 27 feet in height

from existing grade, the structure is less than the maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.

15. The proposal, as conditioned, complies with the Historic District Design Guidelines as well as the requirements of 15-5-5 of the LMC.

16. The proposed materials reflect the historic character of Park City's Historic Sites, incorporating simple forms, unadorned materials, and restrained ornamentation. The exterior elements are of human scale and the scale and height follows the predominant pattern of the neighborhood, in particular the pattern of houses on the Daly Avenue.

17. The structure follows the predominant pattern of buildings along the street, maintaining traditional setbacks, orientation, and alignment. Lot coverage, site grading, and steep slope issues are also compatible with neighboring sites. The size and mass of the structure is compatible with surrounding sites, as are details such as the foundation, roofing, materials, as well as window and door openings. The single car attached garage and off-street parking area also complies with the Design Guidelines and is consistent with the pattern established on Daly Avenue.

18. No lighting has been proposed at this time. Lighting will be reviewed at the time of the building permit for compliance with the Land Management Code lighting standards.

19. The applicant submitted a visual analysis/ perspective, cross canyon view from the east, and a streetscape showing a contextual analysis of visual impacts on adjacent streetscape.

20. There will be no free-standing retaining walls that exceed six feet in height with the majority of retaining walls proposed at six feet (6') or less. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography.

21. The site design, stepping of the building mass, articulation, and decrease in the allowed difference between the existing and final grade for much of the structure mitigates impacts of construction on the 30% slope areas. The Building Department will require a shoring plan for stabilizing the slope above.

22. The plans include setback variations, increased setbacks, decreased building heights, and an overall decrease in building volume and massing.

23. The proposed massing, articulation, and architectural design components are compatible with the massing of other single family dwellings in the area. No wall effect is created with adjacent structures due to the stepping, articulation, and placement of the house.

24. The findings in the Analysis section of this report are incorporated herein.

25. The applicant stipulates to the conditions of approval.

26. The lot is located in a Zone A Special Flood Hazard Area based on the FEMA Flood Insurance Rate Maps.

#### Conclusions of Law – 337 Daly Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B)

2. The CUP, as conditioned, is consistent with the Park City General Plan.

3. The proposed use will be compatible with the surrounding structures in use, scale, mass, and circulation.

4. The effects of any differences in use or scale have been mitigated through careful planning.

#### Conditions of Approval – 337 Daly Avenue

1. All Standard Project Conditions shall apply.

2. No Building permit shall be issued until the Plat has been recorded.

3. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The CMP shall include language regarding the method of protecting the historic house to the west from damage.

4. A final utility plan, including a drainage plan, for utility installation, public improvements, and storm drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers, including Snyderville Basin Water Reclamation District, prior to issuance of a building permit.

5. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance. Altering of the site topography may require a stream study to determine impacts to the flood plains.
6. A final Landscape Plan shall be submitted to the City for review prior to building permit issuance. Such plan will include water efficient landscaping and drip irrigation. Lawn area shall be limited in area.
7. If required by the Chief Building Official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building Official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer. The shoring plan shall take into consideration protection of the historic structure to the west and the non-historic structure to the north.
8. This approval will expire on June 11, 2015, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by the Planning Director.
9. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission and the Final HDDR Design.
10. All retaining walls within any of the setback areas shall not exceed more than six feet (6') in height measured from final grade, except that retaining walls in the front yard shall not exceed four feet (4') in height, unless an exception is granted by the City Engineer per the LMC, Chapter 4.
11. Modified 13-D residential fire sprinklers are required for all new construction on this lot.
12. The driveway width must be a minimum of ten feet (10') and will not exceed twelve feet (12') in width.
13. All exterior lighting, on porches, decks, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way and shall be subdued in nature. Light trespass into the night sky is prohibited. Final lighting details will be reviewed by the Planning Staff prior to installation.

14. Construction waste should be diverted from the landfill and recycled when possible.

15. All electrical service equipment and sub-panels and all mechanical equipment, except those owned and maintained by public utility companies and solar panels, shall be painted to match the surrounding wall color or painted and screened to blend with the surrounding natural terrain.

16. As stipulated by Ordinance 07-51, any relocation of the existing utility pole and guy wires located on this property will not be the responsibility of Park City.

17. Also stipulated by Ordinance 07-51, the city acknowledges that there is an existing private water channel along the frontages of Lots 5 and 6 of the Daly West Subdivision. The channel begins with a diversion from Silver Creek on the property owned by United Park City Mines Company and continues through Lots 1 through 6. The City has no obligation to operate, maintain, or repair the existing private channel.

**2. 333 Main Street – The Parkite Condominiums Record of Survey Plat for Residential Units (Application PL-14-02301)**

Planner Whetstone reviewed the application for a condominium record of survey plat to memorialize 15 residential condominium units for the Main Street Mall that are under construction. In response to a question as to whether the residential units could stand alone without the commercial plat, Planner Whetstone believed it could stand alone. It would be similar to the Montage, which has an area of condominiums and another area that is owned by whoever owns the building. By creating 15 condominium units, they are able to sell the units individually.

The Staff recommended that the Planning Commission conduct a public hearing for the Parkite residential condominiums record of survey plat for 15 residential condominiums located at 333 Main Street, and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval found in the draft ordinance.

Commissioner Stuard referred to page 99 of the Staff report regarding the north tunnel access. He noted that the second diagram was a plan view of the tunnel coming from Swede Alley on the right over to the building on the left. He indicated a choke point a third of the way from the right. It showed a 45 degree angled wall and it gets fairly tight

at that point. He had asked the developer's representative how that would be resolved to allow access to the parking garage. Tom Bennett, the applicant's representative, explained that a portion of the existing 45 degree angled wall, and as it continues to a 90 degree wall, would be configured. The developer had re-acquired rights to an easement that was once given to the adjacent property and he had the right to reconstruct that area.

Mr. Bennett stated that the drawing showed the current configuration of the easements through that property. Three or four different easements go through the property and the applicant has negotiated an agreement with the owner of the property that will terminate the old easements and replace it with a new reconfigured easement that would go straight through that area instead of taking the jog. Mr. Bennett noted that the agreement was negotiated but it has not yet been signed. It has been in existence in principle for several months and the attorneys have agreed to all the terms.

Planner Whetstone noted that a condition of approval #6 was written to say that prior to recordation of the plat, the existing encroachment agreement would be finalized. Mr. Bennett thought the condition should say "easements" instead of encroachment agreement. Planner Whetstone clarified that the encroachment agreement language came from the City Engineer and it relates to the maintenance of the tunnel and City utilities. However, she believed that Condition #6 addressed the encroachment agreement between the City and the property owner regarding the tunnels and access issues to City utilities.

Commissioner Stuard wanted to make sure that when the units were completed and occupied, that the occupants could access the parking. He asked if they had all the proper assurances in the conditions to ensure that happens.

Mr. Bennett explained that the plat currently shows the current recorded easements, because that is the requirement. Prior to recording the plat, the easement amendment agreement would have to be in place. The plat would be modified before it is recorded to show the location of the new easement and to remove the three easements that are being terminated. He understood that was purpose of Condition #6.

Planner Whetstone clarified that Condition #6 addressed the encroachment agreement between the City and the property owner. It did not pertain to the easement. She understood that the tunnels were not part of the plat, or if they were part of the plat, it was common area. Mr. Bennett replied that the tunnels were part of the plat and it is common area. He explained that the walls would be moved, so the common area would go straight out to Swede Alley rather than taking a jog. Chair Pro-Tem Gross understood that the existing spaces next to the stairwell would be eliminated to enable

people to drive straight out onto Swede Alley. Mr. Bennett replied that this was correct. He pointed out that it would involve some compensation to the property owner because they would be losing retail space. Planner Whetstone understood that it was shown as an easement, but it was not condominiumized as part of this plat. Mr. Bennett explained that the easement rights were part of the common areas for the residential units.

Assistant City Attorney McLean suggested adding a condition of approval to reflect what was just discussed. She asked if a drawing was submitted showing the anticipated easement, because the drawing provided to the Planning Commission did not show it. The Commissioners needed to see the drawing so they could add a condition of approval indicating that an approval would be conditioned on the easement agreement.

Mr. Bennett asked if the condition of approval could reflect that the easement be modified in a way that is acceptable to the City Engineer to allow for through traffic to the tunnel. That would avoid having to come back to the Planning Commission to decide whether the easement is adequate.

Mr. Bennett noted that a drawing was already prepared showing the plat with the proposed easement; however, he did not have it available this evening. Planner Whetstone stated that the drawing could be provided to the City Council before they make the final decision; or if the Planning Commission preferred, they could continue this item and ask to see the drawing at another meeting. Director Eddington remarked that the drawing would show the future situation. Mr. Bennett clarified that before the plat is recorded, the current drawing would be changed to show the corrected easement. Assistant City Attorney McLean reiterated that the Planning Commission should have the opportunity to review that drawing before making their decision.

Commissioner Phillips stated that he did not need to see the actual drawing as long as he understood what was being changed, and if they could draft a condition of approval describing what would occur.

Chair Pro-Tem Gross did not think the lower level on the back looked very accessible for cars. He wanted to know how that would work.

Steve Mermer, one of the project architects with Elliott Work Group, noted that this was a private parking garage. It is a one-way drive lane through the north tunnel and they were not trying to accommodate two-way traffic at all times. The tunnel will exit straight out to Swede Alley. The back portion would come in at the Main Street level, and because of how Main Street slopes, it drops a story into the basement. He indicated the ramp coming up from the tunnel below into the parking garage level, which is the

basement of 333 Main. At that point the columns in the building were staggered to accommodate a 30' driving turning radius to pivot from the ramp to the parking area. Once in the parking area, there is enough width to accommodate two-way traffic and double-loaded parking on both sides. Chair Pro-Tem Gross asked if the south tunnel becomes a pedestrian tunnel. He was told that this was correct.

Assistant City Attorney asked Mr. Bennett to address the interplay between the two condos. Mr. Bennett stated that the developer could have done this as one condo. However, part of the reason for separating it was to provide distance between the commercial owners and the residential owners. The idea was to create two separate Owners Associations, as well as a Master Owner's Association, with representatives from each of the two Associations to resolve issues related to the building as a whole. Mr. Bennett noted that the residential condominiums were structured so it could stand on its own. The land and the structure of the building itself is all common area to the residential condominiums. The Commercial condominiums are literally just the air space that is left over in between the residential condominiums. The Residential Condominium Declaration grants to the commercial owners certain easements over the common areas in the residential project, primarily for emergency access.

Mr. Bennett stated that there is every intention to condominiumize the commercial space, but if for some reason that did not happen, it could still stand on its own as simply non-condominiumized space within this building.

Commissioner Joyce was not opposed to approving the plat this evening as long as they could satisfactorily address the easements in a condition of approval. Planner Whetstone thought it was important for the developer to have the easements worked out before the City Council takes action. Chair Pro-Tem Gross concurred. Mr. Bennett did not think that would be a problem. He was comfortable adding a condition stating that the easement has to be amended prior to the time it goes to the City Council.

Chair Pro-Tem Gross opened the public hearing.

There were no comments.

Chair Pro-Tem Gross closed the public hearing.

Commissioner Joyce noted that the roof terraces and other elements were listed as limited common ownership. He would assume that the patio off of a private unit would be the owner's, but that was not the case. Mr. Bennett stated that the cross-hatched area shown as limited common ownership was limited common area appurtenant to the penthouse unit. It is a gigantic deck for the penthouse. The rest of

the roof was designated as common area that is available for the use of all the residential owners. Commissioner Joyce stated that on the previous page all the terraces on individual units were marked as limited common. He questioned why that was common use versus being part of the individual condominium. Mr. Bennett replied that the Utah Condominium Act requires that all balconies be designated as limited common area. He explained that it is common area but it is reserved for the exclusive use of the unit to which it is appurtenant. No one other than the owner of the unit attached to the balcony can use it, but it is considered common area so the HOA can maintain it and can impose rules.

Commissioner Stuard understood from the developer that the cross-hatched area on the roof terrace was intended to be an 1800 square foot live grass lawn for the owner of the south penthouse. The other areas would have fire pits and other amenities for the general use of all the owners.

Planner Whetstone asked if the easements, once they are amended and shown correctly on sheet 9, could be recorded with this plat or whether they needed to be recorded separately and noted on the plat. Assistant City Attorney McLean replied that it could be done either way. Mr. Bennett stated their plan was to record the easement first.

The Planning Commission took a short break to allow Planner Whetstone and Mr. Bennett time to draft appropriate findings of fact and conditions of approval to reflect the discussion this evening.

The meeting was resumed.

Planner Whetstone read the added Findings of Fact.

Finding 18 – The existing easements that provide access through the north tunnel shall be amended to accommodate vehicular access as per the requirements of the City Engineer. Existing easements do not accommodate vehicular access from Swede Alley to the north tunnel.

Finding 19 - The applicant has provided the Planning Commission with a sketch of the proposed access easement, which shall be reflected in the revised sheet #9 of the plat.

Condition 7 - Easements related to access through the north tunnel shall be modified and finalized consistent with the Planning Commission discussion and sheet #9 of the plat shall be revised to reflect the revised easements. These easements shall be

recorded at Summit County prior to recordation of the plat. Recording information shall be noted on the plat. The easements shall be sufficient in width and configuration to allow vehicular access from the north tunnel to Swede Alley to be approved by the City Engineer.

Commissioner Stuard asked about the cross-hatched area on the sketch. Mr. Bennett stated that it would be built out space. It would not be part of the vehicular access. The owner of the building is retaining the use of that space. Commissioner Stuard suggested adding a note for clarification.

Chair Pro-Tem Gross asked about access to the small storage area. Mr. Mermer replied that it could be accessed from the breezeway or from the Swede Alley side.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for the Parkite Residential Condominium Plat based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended draft ordinance. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 333 Main Street

1. The property is located at 333 Main Street between Main Street and Park Avenue and consists of Lot A of the 333 Main Street plat amendment that combined lots 7-15 and 18-26, Block 11, of the Amended Park City Survey. There is an existing four story commercial building on the property.
2. The existing building, known as the Main Street Mall, was constructed in 1984 across property lines and zone lines.
3. On March 26, 2009, the City Council approved a plat amendment to create a single lot of record from the multiple underlying lots for the existing Main Street Mall building. On March 8, 2010, the Council extended the approval for one year to allow the applicants additional time to finalize the plat in preparation for signatures and recordation at Summit County. The 333 Main Street one lot subdivision plat was recorded at Summit County on April 12, 2011.
4. On April 1, 2014 an application for a condominium record of survey plat was submitted to the City to plat fifteen residential units (total of 32,610 sf), residential common area, and fifteen parking spaces on the lowest level of the old Main Street Mall

building. Access to the parking is contemplated through the north tunnel.

5. Fifteen residential units are platted with this record of survey. Units range in size from 1,334 sf to 3,586 sf for the two level penthouse unit. Average unit size is 2,174 sf. Residential units are located on the first floor (one unit), second floor (five units), third floor (7 units), and fourth floor (one unit). The condominium plat is required in order for the units to be sold individually. Common area for a lobby, recreation uses, and outdoor patios and decks is also being platted with this record of survey.

6. The building currently has a single entity as owner and is currently being remodeled with an active building permit.

7. Residential uses currently under construction within the HCB zone are allowed uses. Residential uses currently under construction within the HR2 zone are permitted per the Board of Adjustment approval on June 18, 2013, of an application for a change of non-conforming use. The BOA approved the change of use for the area of the building within the HR2 zone (Park Avenue side) from legal non-conforming retail/office uses to multi-unit residential.

8. Commercial condominium spaces within the building are also being platted with the concurrently submitted Parkite Commercial Condominiums record of survey plat application.

9. The Main Street portion of the building is located in the Historic Commercial Business District (HCB) with access to Main Street and the Park Avenue portion of the building is located in the Historic Residential 2 (HR-2) zoning district with limited access to Park Avenue. The building has existing non-complying side yard setbacks within the HR2 zone.

10. Main Street is important to the economic wellbeing of the Historic Commercial business district and is the location of many activities important to the vitality and character of Park City. The Main Street Mall architecture is out dated and not in compliance with the 2009 Design Guidelines for Historic Sites and Districts and the owners are currently renovating and improving the building with an active building permit. The building is currently owned by one entity.

11. On February 27, 2009, a Historic District Design Review was approved for a complete renovation of the building. On May 2, 2011, a revised Historic District Design Review application was approved for modifications to the interior space and exterior skin of the building in compliance with the current revised 2009 Design Guidelines for Historic Districts and Sites (Exhibit C) and to reflect the proposed residential uses

where the interior spaces changed the exterior elevations, windows, access, patios, etc. An additional revision to the May 2, 2011 action letter clarifying access to the building, to include language that the north and south tunnels provide access to the building in addition to Main Street and Park Avenue, was approved on July 30, 2012.

12. The property is encumbered with a recorded 99 year lease agreement to provide parking for the property at 364 Park Avenue. This lease agreement is identified on the plat because of the duration of the lease. The parking subject to the lease is currently provided within a garage in the Main Street Mall building with access to Park Avenue. The private 559 sf garage space is platted as unit 1G on this record of survey plat.

13. Five (5) easements for existing emergency and pedestrian access, utility, and parking easements as described in the title report and land title of survey for 333 Main Street were memorialized with the recorded subdivision plat. These easements are also included on the proposed condominium plat.

14. On June 27, 2011, the City received a complete application for a condominium plat to create 2 two non-residential condominium units (Unit A and Unit B) within the existing space of the Main Street Mall building and consistent with the May 2011, approved Historic District Design Review plans. The two unit plat was approved by Council however it was not recorded and it expired.

15. This property is subject to a February 28, 1986 Master Parking Agreement which was amended in 1987 to effectuate an agreement between the City and the owner with regards to providing parking for a third floor of the Main Street Mall (for office uses proposed with the original construction). The property was assessed and paid into the Main Street Parking Improvement District for the 1.5 FAR (for the lower floors). The residential units have a 26.5 space parking requirement that is met by the 56 spaces (in-lieu payment), 15 on-site, and 10 private spaces off of Swede Alley.

16. Commercial space is located at the street along the Main Street frontage, including commercial space within the historic structures, with residential space located above and/or behind commercial space. All of the storefront properties comply with the vertical zoning ordinance.

17. Access is also contemplated via the existing north tunnel to a proposed parking garage with fifteen parking spaces. The parking garage is located in the lowest level and is designated as common area for the residential uses. The City has utilities in the tunnel and the City Engineer recommends that the existing encroachment agreement between the City and Property Owner regarding the tunnels be revised to address the tunnel access, utilities, maintenance, etc. and that the agreement be recorded prior to

or concurrent with the plat.

18. The existing easements that provide access through the north tunnel shall be amended to accommodate vehicular access as per requirements of the City Engineer. Existing easements do not accommodate vehicular access from Swede Alley to the north tunnel. Applicant has provided Planning Commission with a sketch of the proposed access easements which will be reflected in a revised sheet #9 of the plat.

#### Conclusions of Law 333 Main Street

1. There is good cause for this condominium plat.
2. The condominium plat is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the proposed condominium plat.
4. Approval of the condominium 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 – 333 Main Street

1. The City Attorney and City Engineer will review and approve the final form and content of the condominium plat for compliance with State law, the Land Management Code, the recorded subdivision plat, and any conditions of approval, prior to recordation of the plat.
2. The applicant will record the condominium plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless an extension request is made in writing prior to the expiration date and the extension is granted by the City Council.
3. All conditions of approval of the 333 Main Street Subdivision plat and approved Historic District Design Review shall continue to apply.
4. All conditions of approval of the June 18, 2013 Board of Adjustment approval of an application for a change of non-conforming use for the HR2 portion of the property shall continue to apply.
5. All new construction at this property shall comply with all applicable building codes

and any current non-compliance issues for tenant spaces, such as ADA access and bathrooms, restaurant grease traps, etc. within the building shall be addressed with tenant improvement building permits for those spaces.

6. Prior to or concurrent with recordation of the plat, the existing Encroachment Agreement between the City and Property Owner, regarding the tunnels, shall be revised, executed, and recorded.

7. Easements related to access through the north tunnel shall be modified and finalized consistent with the Planning Commission discussion and sheet #9 of the plat shall be revised to reflect the revised easements. These easements shall be recorded at Summit County prior to recordation of the plat. Recording information shall be noted on the plat. The easements shall be sufficient in width and configuration to allow vehicular access from the north tunnel to Swede Alley to be approved by the City Engineer.

The Park City Planning Commission meeting adjourned at 7:25 p.m.

Approved by Planning Commission: \_\_\_\_\_