

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

COMMISSIONERS IN ATTENDANCE:

Vice-Chair Melissa Band, John Phillips, Laura Suesser, Doug Thimm

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

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REGULAR MEETING

**ROLL CALL**

Vice-Chair Band called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioner Campbell, who was excused.

**ADOPTION OF MINUTES**

February 14, 2018

Vice-Chair Band clarified that the champagne the Commissioners had given to Adam Strachan was actually Dom Perignon, not Don Perignon as stated in the Minutes.

MOTION: Commissioner Suesser moved to APPROVE the Minutes of February 14, 2018 as corrected. Commissioner Phillips seconded the motion.

VOTE: The motion passed. Commissioner Thimm abstained since he was absent on February 14<sup>th</sup>.

Assistant City Attorney McLean noted that if Commissioner Thimm abstained the Planning Commission would not have a quorum to approve the Minutes. She stated that Commissioner Thimm could rely on the Commissioner who were present at the February 14<sup>th</sup> meeting and vote accordingly.

Commissioner Thimm rescinded his abstention and vote in favor of approving the Minutes of February 14, 2018.

Vice-Chair Band stated that the Minutes were approved unanimously.

**PUBLIC COMMUNICATIONS**

There were no comments.

## **STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Director Erickson reported that the City Council intends to announce the selection of Planning Commission members on March 8<sup>th</sup>. The new Commissioners would be available to attend the Planning Commission meeting on March 14<sup>th</sup>. He noted that since March 14<sup>th</sup> was a light agenda, Assistant City Attorney McLean was planning to do the Annual Open Public Meetings Act Training that evening.

Vice-Chair Band commented on the merits of the last State Ombudsman training they had and she thought it would be beneficial to have the State Ombudsman come back for additional training and update. Assistant City Attorney McLean stated that they try to have that training every couple of years. She would try to arrange for the Ombudsman to come back at a future meeting. Commissioner Phillips thought it would be especially beneficial for the new Commissioners. He found it to be very educational.

Commissioner Thimm stated that due to his absence from the last meeting he was unable to vote on the Resolution to Continuation Treasure Hill to a date uncertain. However, he wanted to express his support for the Mayor and the City Council on the consideration of purchasing the Treasure Hill, Creole Gulch, and Town Lift Mid-Station properties.

Commissioner Phillips asked if the Planning Commission needed to nominate a Chair. Director Erickson recommended that they wait until the new Commissioners were present. He noted that the election of Chair and Vice-Chair were scheduled on the March 14<sup>th</sup> agenda.

The Draft Park City Forestry Plan has been completed and Staff would like the Planning Commission to review before it is presented to City Council. (Informational only)

Director Erickson noted that this was an informational item for the Planning Commission. The Park City Forestry Plan would go to the City Council as part of the Arbor Tree City USA Award. It also provides information for the public rights-of-way. Director Erickson stated that the Forestry Plan would be used in the Planning Department for plant materials selection.

City Engineer, Matt Cassel had nothing to add. He just wanted to make sure the Planning Commission had the opportunity to review the Plan so he could address their questions or concerns before taking it to the City Council. Mr. Cassel remarked that the best part of the Plan is that the plant list in the back provides guidelines for plant

material. He pointed out that even though it was written for the rights-of-way or for public lands, anyone could use it as guidance.

Vice-Chair Band thought it was a well-written report. Commissioner Phillips asked if the Forestry Plan included the Quinn's Junction area. Mr. Cassel answered yes. Commissioner Phillips commented on the highlighted sections that appear to be on the depth of certain things, and asked if the Plan was still being finalized. Commissioner Suesser agreed that some numbers were missing from the report. Matt Cassel stated that he would look into it.

Commissioner Suesser referred to page 29 of the Staff report. The last paragraph of 2.1 states, "The City Municipal Code had requirements that the City have a Forestry Plan and a Forestry Manager, however, the City had not implemented a formal program". She thought that should be revised because the Municipal Code does have a Forestry Plan. Mr. Cassel replied that the reference is in the Code, but currently they do not have a Forestry Plan. Commissioner Suesser suggested revising the language because it is misleading as written and implies that the requirement is no longer in the Code".

Vice-Chair Band asked how long the requirement has been in the Code but not complied with. Mr. Cassel stated that it was before he came in at least 10 years ago. He had raised the issue in the past and suggested that the City either change Chapter 14 of the Code or write a Forestry Plan. Mr. Cassel did not believe the City Engineer should be writing the Forestry Plan, but he ended up writing it with assistance from other people.

Commissioner Suesser asked about the expectation for forming the Board. Mr. Cassel stated that one of the questions they will pose to the City Council is the possibility of a Forestry Manager. Currently, it is the City Manager or her designee. Once that person is selected they would begin to structure the Board. Mr. Cassel expected the Board to be fully functional within six months or less.

Commissioner Thimm stated that even though the Plan is more about trees, he thought the reference to the selection of the Forestry Manager would be better described or it would include a job description. Mr. Cassel stated that qualifications are specified in the Forestry Plan for someone to be considered.

Commissioner Thimm referred to page 26 of the Staff report, under recommendations and implementation of the Plan, where it talks about planting new tree species and expand the existing tree canopy within the forest. The term "new tree species" caught his eye because most of the things he gets involved with talk about working with

indigenous and not introducing new species. He asked if that was the actual intent. Mr. Cassel stated that the City is not closed to new species. He explained that this was a download of Clint Dayley and Maria Barndt, and they have never been against trying new species. Mr. Cassel understood that the goal for a lot of people is native landscape material and water-wise; but that does not mean other things could not be tried.

Commissioner Thimm stated that most of his reading and studies have been moving towards working with indigenous types. Director Erickson noted that the plants on the plant materials list are native plants, and they coordinate with the native list from the State. He clarified that the City was not trying to introduce outside species. Director Erickson provided examples of finding better plant materials to replace the ones that exist.

Commissioner Thimm noted that page 53 talks about replacement trees starting with a 1-1/2" caliper. In his experience, a 2" caliper seem to have a much better viability. Commissioner Thimm stated that page 55 talks about tree removal and it lists very appropriate items. However, he did not see anything regarding proximity and potential intrusion into utilities, or proximity and potential impact on structures and/or their foundations. He suggested that they consider those.

Commissioner Thimm referenced page 56 regarding planting, and suggested that they consider a 12-month inspection after the tree has lived a full cycle of seasons and they know it will survive before it is fully accepted.

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

1. **8902 Empire Club Dr. –Second Amended Silver Strike Lodge Condominiums Plat – The applicant is requesting to amend the Condominium Plat to combine Units 201 and 203 with an adjacent common area hallway.**  
**(Application PL-18-03786)**

Planner Kirsten Whetstone reviewed the request to amend a condominium plat at Empire Pass. The request is to combine Units 201 and 203 with a section of hallway that was constructed to service Unit 201. The City had purchased Unit 201, which was the affordable housing unit. Because of how the HOA dues were structured, after a time the unit was no longer affordable. The City was then approached by the adjacent owner of Unit 23 to purchase that unit. The City Council took off the deed restriction and agreed to sell the unit. Planner Whetstone stated that the applicant would like to

combine the two units and the hallway to create one unit. Planner Whetstone identified the areas to be combined.

The Staff recommended 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 found in the Staff report. Planner Whetstone noted that one condition of approval requires a review prior to recordation and prior to issuance of a building permit, and that the architect provide a fire emergency access and exiting plan due to the fact that this hallway and the doorway on the north side would now be incorporated into the unit.

Commissioner Suesser understood that the proceeds from the sale of the affordable unit would be applied towards an affordable housing fund. Planner Whetstone replied that she was correct. The money would be used to provide affordable housing units in other areas of the City.

Commissioner Phillips disclosed that in the past he has worked with the project architect, Burke Larson, but that would have no impact on his decision this evening.

Vice-Chair Band opened the public hearing.

There were no comments.

Vice-Chair Band closed the public hearing.

Commissioner Phillips understood that this was part of the Village at Empire Pass Master Plan Development. He recalled strict square footages for the total MPD and he asked if converting the hallway into livable area would impact the square footage. Planner Whetstone explained that it would increase the unit equivalent of that unit, and that would go into the overall number of units, which would not change because the affordable unit was not counted initially. In addition, there is an overall total unit equivalents for the entire area and that is being tracked in the density chart. She would make that adjustment in the chart. Commissioner Phillips clarified that this request would not push the square footage and the UEs beyond what is allowed. Planner Whetstone answered no, because it is a pool of UEs for the entire area. However, she would need to get confirmation in terms of the agreement when the City purchased that unit. She believed there might be language in the agreement stating that this unit would not change the UEs at the Silver Strike Lodge.

Vice-Chair Band thought Commissioner Phillips had asked a great question because she was curious to know whether it would come out of the pool of UEs for future development. She pointed out that Silver Strike is already built so that would not

change. Planner Whetstone offered to provide that information to the City Council if it moves forward, so if additional considerations were made they can be incorporated.

Commissioner Suesser asked about HOA fees. Once the units are combined, she wanted to know if the same amount of HOA fees on the affordable housing unit would added to the owner's HOA fees. Planner Whetstone was unsure.

Elie Antar, the owner of Units 201 and 203, stated that the HOA fees are based on square footage. When he acquired the affordable housing unit at market prices, the HOA fees would be based on the exact square footage. The rate is the same but they will pay more because they have increased the square footage. Mr. Antar stated that the affordable housing unit was 874 square feet and the additional amount would be the per square foot cost. The hallway is less than 300 square feet and they would pay additional for that as well.

Planner Whetstone stated that it would likely be reflected in the amended CC&Rs, which are typically recorded with the final mylar.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the Second Amended Silver Strike Lodge Condominium Plat based on the Findings of Fact, Conclusions of Law, and Conditions of Approval found in the draft ordinance. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 8902 Empire Club Drive

1. The property is located at 8902 Empire Club Drive.
2. The Silver Strike Lodge is located in the RD-MPD zoning district.
3. The City Council approved the Flagstaff Mountain Development Agreement/Annexation Resolution 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development Agreement, which was amended in March of 2007, sets forth maximum densities, location of densities, and developer-offered amenities.
4. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass, aka Pod A. Silver Strike Lodge is Building 6 of the MPD.
5. On September 30, 2004, the City Council approved a Final Subdivision Plat for the

Village at Empire Pass, Phase I. The Silver Strike project is located on Lot 14.

6. On January 25, 2006, the Planning Commission approved a Conditional Use Permit for the Silver Strike Lodge. The Conditional Use Permit approved 34 units totaling approximately 71,200 square feet for approximately 35.6 Unit Equivalents. In addition, 2 ADA units, one Employee Housing Unit, and 1,106 square feet of retail commercial space were proposed within the building.

7. On August 24, 2006, the City Council approved the Silver Strike Lodge condominium record of survey for 34 residential units ranging in size from 1,647 square feet to 3,386 square feet. The previously proposed retail space was eliminated.

8. An Employee Housing Unit (EHU) of 874 square feet (Unit #201) was provided. In the submitted documents reviewed by the City Council in 2006, the EHU unit was platted as private space.

9. The recorded page 3 of 11 showed Employee Housing Unit 203 as Common, contrary to what was reviewed and approved by the City or intended by the applicant.

10. A First Amended Silver Strike Lodge condominium plat was approved by City Council on August 27, 2009, recorded at Summit County on March 17, 2010. The first amended condominium plat corrected the designation for Unit 201 from common to private area.

11. A deed restriction for the Employee Housing Unit was recorded on with condominium plat at time of recordation.

12. This Second Amended Silver Strike Lodge condominium plat combines Units 201 (874 sf) and 203 (1,364 sf) with 334 sf of adjacent hallway. The amendment also changes the designation of the hallway from common area to private area.

13. No exterior changes are proposed. The Silver Strike Lodge meets the minimum setback requirements.

14. A height exception was granted for this building for a total height of 92 feet above existing grade and no changes are proposed to the building height.

15. Parking is provided at 75% of the Code requirement consistent with the Development Agreement. No additional parking is required with this plat amendment.

16. The proposed amended plat is consistent with the approved Master Planned Development for the Village at Empire Pass.

Conclusions of Law – 8902 Empire Drive

1. There is good cause for this amended condominium plat.
2. The amended 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 amended plat.
4. Approval of the amended 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 – 8902 Empire Club Drive

1. The City Attorney and City Engineer will review and approve the final form and content of the amended plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the amended 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.
3. A plat note indicating that all conditions of approval of the Village at Empire Pass Master Planned Development, the Village at Empire Pass West Side subdivision plat, and the Silver Strike Conditional Use Permit shall continue to apply.
4. Prior to plat recordation and issuance of a building permit to combine the hallway with the Units 201 and 203, any common utilities within the hallway area shall be relocated as determined by the Chief Building Official, and an emergency and ADA exit plan for the building shall be approved by the Park City Fire District and Park City Building Department.

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

Planner Whetstone introduced the applicant, Brad Mackey, with Ivory Development.

Planner Whetstone noted that this was part of the Park City Heights Master Planned Development. It was annexed to the City and a lot of history is associated with it. This is the Second Phase Subdivision Plat. One standard to review it by would be the approved amended preliminary plat, as well as all of the conditions of approval, the development agreement, and the annexation.

Planner Whetstone stated that because of the amount of history and the number of findings and conditions, the Staff thought it was important to conduct a public hearing and give the Planning Commission the opportunity to look through this application and discuss the issues outlined in the Staff report. She requested that the Planning Commission continue this item to March 28<sup>th</sup>.

Planner Whetstone reviewed a preliminary plat for 39 units in the next Phase. The units are located to the south of where homes are currently being built. She stated that 239 acres were annexed into the City and placed in the Community Transition Zone (CT), which has a density of one unit per acre for residential development. The agreement was that this would include 79 affordable deed restricted units as well as the market rate units. Planner Whetstone disclosed that at one time the City had an ownership interest; however, while it still retains a security interest as the holder of some of the agreements, the City does not have any current ownership in the property.

Planner Whetstone oriented the Commissioners to the First Phase of the project. The units being built currently included the 28 Townhouse units, which are deed restricted, 35 Park Homes, and 16 of the Cottage-style units. The units further up the hill are the Homestead units.

Commissioner Suesser asked if the Cottages were part of the affordable units. Planner Whetstone stated that 16 of the Cottages would be deed restricted. She had included the last Housing Mitigation Plan in the Staff report, which talks about the units being developed on an annual basis rather than a phasing basis. For example, if the affordable units are not on schedule by December 2018, the market rate Certificates of Occupancy are held until they catch up with the COs for the affordable units.

Planner Whetstone reported that Phase 2 are 39 single-family lots. All are Homestead units and none are affordable units. She explained that the primary reason for doing this phase next was based on the requirement to construct the water tank, which requires extending Calamity Lane. Since Calamity Lane needed to be extended it made sense to put in that infrastructure and plat those lots at the same time.

The Staff requested that the Planning Commission provide input on amending the phasing plan and discuss maximum house sizes. She noted that the Design Guidelines

that were recorded as part of the MPD identified the house size for the Townhouses, the Park Homes and the Cottages. However, the Homestead lots were based on the preliminary subdivision plat that identified the maximum house size for certain lots. They were by number, but the numbering has changed. Planner Whetstone stated that she relooked at the numbers and it relates to the maximum house size in the preliminary plat.

Commissioner Thimm asked if the shifting of numbers resulted in a higher number of larger houses, or whether it was the same number and only renumbered. Planner Whetstone replied that they were just renumbered to make an association between Lots 64, 65, 66 and what it related to.

Planner Whetstone noted that in Phase 1 the lots on the east side of Ledger Way are 3500 square foot Cottage style units. In Phase 2, the downhill lots on the first cul-de-sac were identified as 4,000 square feet for Lots 201 to 205. She had spoken with the designer and the sale manager and he had requested that the square footage for Lots 201 to 205 be increased from 4,000 square feet to 4,500 square feet, because it is harder to bury a basement on a downhill lot. Planner Whetstone pointed out that the uphill lots on cul-de-sac A were already identified as 5,000 square feet. Planner Whetstone remarked that all the other sizes were consistent with the preliminary plat.

Commissioner Suesser asked if there were townhomes on the north side of the lots. Planner Whetstone replied that they were all Homestead units. She identified Richardson Flat Road on the far north side and noted that the 35 lots were all Park Homes ranging up to 3,000 square feet; and all the basements are buried. Commissioner Phillips believed Commissioner Suesser was referring to the units abutting those lots. Planner Whetstone stated that all the Homestead lots in this Phase abut Homestead lots. Across Ledger Way are the Cottage lots. Commissioner Suesser understood that the square footage of the Homestead lots are 4,000 square feet. Planner Whetstone answered yes. She noted that they were all uphill lots where it was easy to bury the basement. Behind those lots is where the designer was requesting an increase to 4,500 square feet.

Commissioner Phillips asked how the additional 500 square feet would help to bury the basement. Planner Whetstone replied that it helps in counting the basement area that they are not able to bury. In addition, it would help minimize the excavation. Commissioner Phillips understood the reasoning. Planner Whetstone stated that when the preliminary plat was approved with the MPD, it said that house sizes could be discussed at the time of the final plat.

Planner Whetstone presented the Phasing Plan as it is now with Phase 1, which has already been platted. Phase 2 was going to continue the two streets to the south with Phase 3 coming back to the north, and Phase 4. However, because of the water tank, the applicant was requesting that Phase 2 move up the hill, and plat all of the open space, which is Parcel D. Phase 3 are the two lots adjacent near Hidden Oaks. The applicant had submitted Phase 3 but they were still working on the access to those lots. Phase 4 would come back down and continue the infrastructure. Phase 5 fills in. Planner Whetstone stated that Phase 4 was where they were doing construction staging at this time.

Commissioner Phillips wanted to know what amount was deed restricted in Phase 2 of the previous version versus Phase 2 of this version. Mr. Mackey stated that the original Phase 2 was now Phase 4. The layout is identical. Eleven deed restricted units in the Cottage area that was mostly in Phase 2 would now be Phase 4. Mr. Mackey remarked that Phase 2 has zero deed restricted units, but as Planner Whetstone had mentioned, they are on a yearly requirement for building those units. Currently, six Park homes under construction are all framed. Eight Townhomes are into the City for approval of a building permit. One Cottage home is ready to submit for building permit. Mr. Mackey stated that it complies with the affordable housing schedule and they intend to meet that schedule. He explained that they were bringing Phase 2 on now as it stands, because the Second phase of development requires the construction of a water tank concurrent with the phasing of Phase 2. They have to build the road to get to the water tank, as well as all the utilities in the road. As long as that was being built they thought it made sense to plat the lots. Commissioner Phillips assumed it would not have much impact on the progress of the deed restricted units. Mr. Mackey did not believe it would.

Planner Whetstone stated that five deed restricted Cottage homes that were identified in Phase 1 have already been platted and they can begin pulling building permits.

Commissioner Thimm clarified that the phasing plan would not change the delivery schedule of affordable housing units. Planner Whetstone replied that he was correct. Commissioner Thimm asked if it would change the type of units and when they are delivered. Planner Whetstone answered no.

Planner Whetstone stated that during the MPD when the visual analysis was done, there is a power line on a minor ridge on the property that was visible. At that time the Planning Commission had concerns about the lots on the western perimeter. She noted that four lots at the end of the cul-de sacs are in this Phase. Planner Whetstone reported that a condition was put on the MPD that development on the western perimeter lots requires a conditional use permit if the structure has a height greater than

28'. She pointed out that the condition would be placed on this plat. The Staff believes that if the height exceeds 28' there should be a visual analysis, consistent with the MPD. Mr. Mackey was comfortable with adding that condition. He explained that there is an allowance in the Code to exceed 28'. If it is a gable they could go an additional five feet. These homes would be restricted to a rambler style or a modern type of architecture and he did not believe it would be an issue. Mr. Mackey stated that the ridge is approximately the western line of the power corridor. Therefore, there should not be visual issues over that ridge because they would be gaining 20+ feet up to the top of the ridge. Mr. Mackey was comfortable with a 28' restriction. If not, it would open up the additional ability to put a gable roof. If they wanted to design a home that did not comply with the condition, it would require a conditional use permit that would come back to the Planning Commission.

Planner Whetstone requested input from the Planning Commission on the discussion items presented, as well as other comments on the Findings and Conditions. The Commissioners could submit their comments to her prior to preparing the Staff report for the March 28<sup>th</sup> meeting.

Commissioner Suesser asked for the location of the water tank. Mr. Mackey reviewed the new phasing plan to identify the location. He understood that Roger McLain with the Public Works Department and the City Council walked all the possible locations before choosing the tank site. He indicated an open space parcel that is a trail access that would also serve as an access road up to the tank site.

Vice-Chair Band opened the public hearing.

There were no comments.

Vice-Chair Band closed the public hearing.

The Commissioners had no other questions or comments. Commissioner Thimm asked if they could take action this evening since the Planning Commission had no other issues. Assistant City Attorney McLean stated that they could since the agenda did not specify a continuance this evening. However, she questioned whether Planner Whetstone was comfortable with the Findings and Conditions as written since she had planned on a continuance. Planner Whetstone had no objection to a motion if the Commissioners and the applicant had reviewed the Findings and Conditions and had no changes or concerns.

Director Erickson stated that if the Planning Commission took action this evening, Finding 35 needed to be modified for clarification. It defines how house sizes are

defined, and the Staff wanted to bring it more into alignment with the definitions in the Land Management Code. He explained that currently there are three different ways to measure home size. Planner Whetstone remarked that the Staff had discussed revising the language from “the following maximum house size shall apply” to language that ties it to the LMC. The revised language would read, “maximum residential floor area shall apply, as defined by the Land Management Code”.

Commissioner Thimm read from page 173 of the Staff report under Staff Recommendations, “The Staff recommends that the Planning Commission conduct a public hearing for Park City Heights Phase 2 subdivision plat, review the application and draft ordinance, and continue this item to March 28, 2018, with direction to Staff...” He believed anyone in the public who read the Staff report would think they had the opportunity to comment at the meeting on March 28<sup>th</sup>. The Commissioners concurred.

MOTION: Commissioner Phillips moved to CONTINUE Park City Heights Subdivision Phase 2, to March 28, 2018. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

The Park City Planning Commission Meeting adjourned at 6:15 p.m.

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