

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MARCH 14, 2018

COMMISSIONERS IN ATTENDANCE:

Melissa Band, Sarah Hall, John Kenworthy, John Phillips, Mark Sletten, Laura Suesser, Doug Thimm

EX OFFICIO: Planning Director, Bruce Erickson; Tippe Morlan, 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. She welcomed the three new Commissioners.

ADOPTION OF MINUTES

February 28, 2018

MOTION: Commissioner Thimm moved to APPROVE the Minutes of February 28, 2018 as written. Commissioner Suesser seconded the motion.

VOTE: The motion passed.

PUBLIC COMMUNICATIONS

Carol Sletta, a resident at 135 Sampson Avenue, expressed concern about the overcalled mitigation plan for the Sampson/Ridge/Upper Norfolk/King Road neighborhood. She was concerned about the multiple projects that will be started in the near future, and the lengthy construction time of the current projects. Ms. Sletta thought it would be helpful if the neighbors could be consulted regarding the mitigation of the neighborhood projects; in particular, noise, road closures, and general public safety. In reviewing the construction mitigation plan, Ms. Sletta noticed that there had been many violations in the neighborhood over the past many years, and there appears to be exceptions to many of the rules, such as street parking, construction equipment parked on the streets, use of construction equipment driven on the streets, off-site staging, road closures, etc.

Ms. Sletta thought the mitigation plans should be customized for the protection of the Old Town neighborhoods, because they are different than Park Meadows, Prospector and

other areas. She was more than willing to talk to the City about helping to make upcoming construction in the neighborhood as painless as possible for the neighbors.

Ms. Sletta stated that on Sampson Avenue over the last five or more years, no less than 12 cars would be parked on their street. At times the road would be so narrow that a fire truck could not go through, and that is very concerning. Ms. Sletta hoped that with the upcoming projects, the City will find a way to create a mitigation plan that would be safer in Old Town.

Vice-Chair Band noted that the Planning Commission does its best to mitigate construction impacts, but most of the Commissioners do not live in Old Town. However, the few who do have great insight. She suggested that the Planning Commission discuss construction mitigation for Old Town at a future meeting and invite the City Engineer to participate in the discussion. Director Erickson thought it was a good idea. He announced that the City Council would be discussing Code Enforcement in two weeks. Approximately 50% of that is construction mitigation strategies. He and the Deputy Building Official would be giving a presentation to the City Council. Based on direction from the City Council, the Planning Department could prepare a Staff report for discussion on March 28th.

Director Erickson recalled that the conditions were added to the last rounds of Steep Slope CUPs and accessory apartment requests that the Planning Commission had approved. Regarding the two projects on the agenda this evening, Planner Morlan was prepared to add additional conditions prior to going to the City Council if the Planning Commission chooses to forward these projects this evening.

Vice-Chair Band noted that Code Enforcement has been an issue for the Planning Commission. Director Erickson anticipated rigorous questioning.

Commissioner Suesser liked the idea of customizing the construction mitigation plans and tailoring them to Old Town conditions. She believed that was important. Director Erickson agreed that it was a good idea and the Staff would look at that possibility.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Erickson introduced Liz Jackson, Laura Newberry, and Graham Bunt, the newest Analyst. The Commissioners can expect communications from all three because they work as a team. The Commissioners can contact Liz, Laura or Graham whenever they need something, and all three have authorization to add to Director Erickson's schedule.

Director Erickson reported that he had validations for anyone who parked in the China Bridge to attend this meeting.

Director Erickson reported that the Commissioners would see an email tomorrow from the City with an update on the iPads. The head of IT has put together an equipment stipend for the Planning Commissioner. The Commissioners will be able to pick either an iPad Pro 12.9" screen or a 10.5" screen. The City will purchase the iPads so they can be checked and maintained. Director Erickson stated that all the Commissioners were eligible for a new iPad. He did not expect the new iPad to be up and running by the next meeting. If anyone has concerns about mingling personal and City emails for GRAMA reasons, the City can produce the information in paper to be delivered or picked up. They should contact Liz, Laura, or Graham if they prefer paper until the new iPads are ready.

Director Erickson noted that the Commissioners would also be signing an agreement about how to use the equipment.

Director Erickson commented on the Land Management Code. He hoped to have new copies printed for the three new Commissioners by Friday. Any other Commissioners wishing to have paper copies of the new LMC should be ready on Monday. Director Erickson stated that the Code on the website is more reliable than the paper Code, and he encouraged the Commissioners to use the website version. Both the electronic copy and the paper copy show the date when the ordinance was updated. It also tracks the previous ordinances.

Vice-Chair Band requested a paper copy of the Code, since she was using Liza Simpson's old LMC. Director Erickson pointed out that when this next round of LMC changes go through for affordability, parking, the Affordable Master Plan, and solar in the Historic Districts, the LMC will be out of date again. The Staff was trying to find extra copies of the General Plan so it did not have to be published. He had put in a budget request to the City Council to fund that if they end up needing to re-publish for all the Commissioners.

Director Erickson commented on the sign-up sheet that the Commissioners need to sign at each meeting. He stated that the Commissioners needed to go by HR to fill out their disclosure forms. They are paid for each meeting by direct deposit into their personal checking accounts.

Director Erickson reminded the Commissioners to make sure their microphones are turned on when they speak.

Director Erickson suggested that Vice-Chair Band move the Open and Public Meetings Training to the end of the agenda.

Commissioner Suesser informed everyone that she was not feeling she may have to excuse herself before the end of the meeting.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. Election of Chair and Vice-Chair

MOTION: Melissa Band nominated John Phillips as the Vice-Chair. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

MOTION: John Kenworthy nominated Melissa Band as the Chair. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

2. Open and Public Meeting Training

Not hearing any objections, Chair Band moved the Open and Public Meeting Training to the last item on the agenda.

3. 89 King Road – A plat amendment proposing to combine three existing lots and a remnant parcel of a fourth lot into one lot of record at 89 King Road to be 4,915 square feet in size. Application PL-18-03773

Planner Tippe Morlan reviewed the request to combine three existing lots and a sliver of a fourth lot on the south side into one lot of record. These lots and portion of a lot are all currently addressed at 89 King Road. All three interior lot lines bisect the existing non-historic house on the lot. The property owner has indicated intent to demolish the existing structure and construct a new single family dwelling. Planner Morlan clarified that this request would remove all existing encroachments and non-compliance from the existing house, as well as the proposed new house. When that application comes in it would be required to meet all LMC standards for the HRL zone. It would also have to go through the Historic District Design Review process.

Planner Morlan noted that a Steep Slope CUP may also be required, depending on where the proposed future new house would sit on the lot, since the rear portion of the lot is quite a bit steeper than the portion where the existing house sits. Planner Morlan remarked that there would be additional applications for this property as changes progress.

Commissioner Phillips asked if it was safe to say that a Steep Slope CUP was likely. Planner Morlan answered yes, especially since a good portion of the lot does not meet

the front or side setbacks and it would have to be pushed back. If the applicant wanted to maintain a similar footprint it would need to have a Steep Slope CUP. Planner Morlan explained that the proposed lot would meet HRL requirements. However, the existing house does not meet the current requirements of the front and side yard setbacks. There is also an encroachment of the wall on the north side of the lot.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council on this plat amendment, finding good cause that it cleans up property lines and allows the property owner to make improvements and changes to bring the lot into compliance with the LMC.

Chair Band opened the public hearing.

Mark Blue stated that he lives at 89 King Road. He asked about the applicant's timeline for destruction and rebuild.

Planner Morlan stated that this application was only for a plat amendment. The City had not yet received applications for demolition or for a new house. In order to submit applications for a new house or a demolition, the property lines first need to be removed through a plat amendment.

Mr. Blue asked about the timeline for the steps.

Planner Morlan reiterated that currently there were no other applications submitted beyond this plat application. If the Planning Commission forwards the plat amendment to the City Council, it would be schedule for the City Council meeting on April 5th.

Mr. Blue asked if the City was aware of the applicant across the street. It is an empty piece of land that was sold and he understood that it already had an approval on October 15, 2017. He wanted to understand the amount of construction that would be occurring on King Road this next summer.

Planner Morlan was not familiar with any other applications on King Road, and she was unable to answer his question this evening. She encouraged Mr. Blue to come into the Planning Department and the Staff would be able to help him with the status of any other applications.

Chair Band agreed that the questions Mr. Blue was asking required research by the Planning Department.

Mr. Blue wanted to know what was planned for the meeting on April 5th. Planner Morlan stated that if the Planning Commission issues a recommendation this evening, on April 5th the City Council will decide whether to approve, deny, or possibly table this application for a plat amendment.

Mr. Blue clarified that the only approval tonight would be a plat amendment for the three lots. Planner Morlan replied that he was correct. It was only to approve the plat amendment and to get it recorded and finalized.

Mr. Blue asked if the owner had applied for any type of architectural designs. Chair Band informed Mr. Blue that there was nothing other than this plat amendment.

Director Erickson explained the application processes and noted that it could be several months before any activity takes place on the lot. Mr. Blue asked if the existing structure was historic. Planner Morlan answered no. She also stated that no architectural designs have been submitted. Planner Morlan did not believe the owner had reached that point in deciding how to proceed with the project. The Staff knows nothing further until the applicant submits an application.

Mr. Blue stated that he was only doing his due diligence.

Chair Band thanked Mr. Blue for his comments. She suggested that he follow the meeting agendas to be aware if another application is submitted. Commissioner Phillips told Mr. Blue that the Staff is very helpful if he goes into the Planning Department.

Chair Band closed the public hearing.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the 89 King Road Plat Amendment, based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 89 King Road

1. The property is located at 89 King Road.
2. The site consists of the entirety of Lot 26, Lot 27, Lot 28, and a remnant parcel of Lot 25 of Block 76 of the Park City Survey.

3. The property is in the Historic Residential – Low Density (HRL) District.
4. There is an existing non-historic structure at this address.
5. On February 28, 2018, the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record and the Utah Public Notice Website on February 24, 2018, according to requirements of the Land Management Code.
6. The City received a Plat Amendment application for the 89 King Road Plat Amendment on January 9, 2018. The application was deemed complete on January 26, 2018.
7. The proposed plat amendment will create one lot 4,915 square feet in size.
8. The existing home was constructed in 1950.
9. The property lines between the existing lots bisect the structure.
10. The applicant proposes to combine the subject lots into one lot of record.
11. No known encroachments exist on this property.
12. The existing home is a single-family dwelling which is an allowed use in the HRL district.
13. The minimum lot area in this zone is 3,750 square feet. The proposed lot has an area of 4,915 square feet.
14. Lot size in this neighborhood ranges from 1,742 to 11,963 square feet. Proposed lot size of 4,915 square feet is consistent with lot sizes in the area and less than the average size of 5,128 sf. There is not sufficient lot area to create two HRL lots of 3,750 square feet each.
15. The minimum lot width in the HRL zone is 35 feet. The proposed lot meets the requirements of this zone at 75 feet in width.
16. The proposed lot will also be approximately 60 feet deep.
17. The minimum front yard setback is 10 feet. The existing house has an 8-foot front

yard setback.

18. The minimum rear yard setback is 10 feet. The existing house has a 29-foot rear yard setback.

19. The minimum side yard setback is 5 feet on each side and 18 feet total. The existing house has an 8-foot side yard setback on the north side and a 1-foot side yard setback on the south side with a total of 9 feet on both sides.

20. The existing structure does not meet current LMC front or side yard setback requirements.

21. At the time the residence was constructed, the property was a part of the Historic Residential (HR-1) zoning district.

22. The zoning for King Road was changed from HR-1 to HRL as approved by the City Council on June 7, 1984.

23. The maximum building footprint for a lot this size is 1,864.4 square feet. The existing footprint meets this standard at approximately 1,700 square feet.

24. A Historic District Design Review application is required for any new construction proposed at the existing site.

25. A Steep Slope Conditional Use Permit is required for any construction proposed on slopes greater than 30 percent according to the HRL requirements.

26. King Road is a narrow steep street that can at times receive heavy snowfall. Snow storage easements along public streets allow the City to efficiently plow and clear streets.

Conclusions of Law – 89 King Road

1. There is good cause for this Plat Amendment.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding lot combinations.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not

adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 89 King Road

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
 2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration and an extension is granted by the City Council.
 3. Residential fire sprinklers will be required for all new construction per requirements of the Chief Building Official.
 4. Side lot line snow shedding easements may be required for new construction per requirements of the Chief Building Official.
 5. A 10-foot wide public easement along the King Road frontage shall be shown on the plat.
4. **86 Prospect Street – A plat amendment proposing to convert two existing lots into three new lots of record including one lot 2,002 square feet in size and two lots 2,908 square feet in size. Application PL-18-03792)**

Planner Morlan handed out a new applicant statement that she had received the previous day. She noted that it was very similar to the one in the Staff report. The difference is that the new statement states that the existing building is non-historic.

Planner Morlan reviewed the application to convert two existing parcels into three lots of record. Currently, the north lot is an existing Old Town lot and the south parcel is a metes and bounds parcel that was never platted in the City. The applicant would like to create three new lots from the entire property. Planner Morlan noted that the existing Lot 12 is 1,994 square feet, which allows for a single-family home in the zone. The metes and bounds parcel, which has not been subdivided, is currently 5,830 square feet. She stated that the area was sufficient in the zone to construct either a single family dwelling or a duplex. In the HR-1 zone a duplex dwelling requires 3,750 square feet. Planner Morlan reported that the proposed lots would be one lot of 2,202 square feet, and two lots of 2,908 square feet.

Planner Morlan stated that there were currently three existing structures on the property; the existing house, an accessory structure in the rear that was approved as an art studio in 1994, and a shed to the south which encroaches over the south property line.

Planner Morlan reported that the applicant intends to demolish the structure and construct three new single-family dwellings. She pointed out that there were sufficient lot areas for only single-family dwellings on each of the three lots. Planner Morlan remarked that an HDDR and LMC requirements for the HR-1 will be required for all future structures. Steep Slope CUPs would also very likely be required on each of these lots given the slope around the distribution of the property. The existing structures must be removed before the plat is recorded, since new property lines cannot be recorded through an existing structure. That requirement was noted in Condition of Approval #6.

Planner Morlan summarized that the proposed lots meet the HR-1 requirements. The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation based on finding good cause the plat amendment would resolve the existing encroachment and resolve the non-complying setbacks for the existing house, particularly in the front yard area.

Commissioner Phillips noted that the Commissioners were given a printed copy of a document that appeared to be the same as Exhibit E in the Staff report; however, the dates were different. Planner Morlan explained that the one she handed out this evening was received from the applicant's engineer yesterday. The only change was that the new exhibit labeled the existing house as non-historic.

Chair Band asked if there was a timeline for removing the existing structures. Planner Morlan replied that they would have to be removed before the plat could be recorded. If it is not recorded within one year of approval, the approval expires.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

Commissioner Phillips suggested that it would be a good idea for the Staff to include the purpose statements in the Staff report on future applications, as opposed to just a

link. He thought it would be helpful for the Commissioners and for the public to see the purpose statements written out on a particular project.

Commissioner Phillips asked for a broad description as to why the existing house was determined to be non-historic. Planner Morlan stated that she had personally researched this house because it was constructed in 1907 but not on the Historic Sites Register. In her research she found that the existing structure was constructed in 1907, but in the 1982 the Historic Property Survey it was identified as historic but close to being a new structure due to significant alterations and additions. The City does not have record of permits or alterations that far back. Planner Morlan was not familiar with what changes and additions that the 1982 survey referred to. She stated that in the early 2000s, one of the historic property surveys conducted in the City had taken it off the Register, but there was no paper trail indicating any reasons other than quoting the 1982 Survey that it was close to being a new structure. Planner Morlan pointed out that it was not included on the 2009 Historic Property Inventory, and it is not on the current Inventory. Commissioner Phillips understood it was likely due to the additions that were put on to the house. Planner Morlan replied that he was correct.

Commissioner Kenworthy asked if Planner Morlan had compared the footprint with the Sanborn map from 1907. Planner Morlan stated that Planners Anya Grahn and Hannah Tyler had done that for all the historic houses when they worked on the most recent Historic Properties Survey.

Commissioner Phillips assumed the houses would come through as a CUP. It was not important this evening, but often times this is their only opportunity to look at projects. Commissioner Phillips referred to the topography Exhibit. He understood how it would lay out, but in the future it would be nice to see the new lot lines overlaid over the topography. If the Planning Commission does not have the opportunity to see it again, it would be nice to have that overlay in case they do have comments or something additional to add to the plat.

MOTION: Commissioner Thimm moved to forward a POSITIVE recommendation to the City Council for the Prospect Place plat amendment for the property located at 86 Prospect Street, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

For the benefit of the new Commissioners, Director Erickson explained certain terms. In the Historic District any lot steeper than 30% cross slope is required to go through another conditional use permit with the Planning Commission, which is the Steep Slope

CUP. It is an excellent opportunity to add additional conditions of approval with respect to construction. Director Erickson stated that in the Historic Districts, excavation for foundations is not allowed between November-April with a Steep Slope CUP. Director Erickson explained that the Historic District Design Review, referred to as the HDDR, is a public process by which the Staff reviews projects inside the Historic District against the Historic District Guidelines. It is another level of review. The Staff compares the plat information and the Steep Slope Conditional Use Permit.

Director Erickson noted that the Staff reports contains the recommendation by the Staff on each item. The Commissioners can read that language directly from the Staff report when making a motion. If the Planning Commission wishes to change the recommendation, they should direct the Staff to draft findings to support their direction.

Findings of Fact – 86 Prospect Street

1. The property is located at 86 Prospect Avenue.
2. The site consists of Lot 12 of Block 18 of the Park City Survey and a metes and bounds parcel 75 feet wide by 80 feet deep located south of and adjacent to Lot 12.
3. The property is in the Historic Residential (HR-1) District.
4. There is an existing non-historic structure with an accessory building approved as an art studio at this address.
5. On February 28, 2018, the property was posted and notice was mailed to property owners within 300 feet. Legal notice was also published in the Park Record and the Utah Public Notice Website on February 24, 2018, according to requirements of the Land Management Code.
6. The City received a Plat Amendment application for the Prospector Place Plat Amendment on February 8, 2018. The application was deemed complete on February 15, 2018.
7. The proposed plat amendment will create three lots, one at 2,002 square feet and two at 2,908 square feet in size.
8. Each of the proposed lots is of sufficient area for a single family house and not of sufficient area for a duplex.
9. Existing Lot 12 is 1994.20 square feet and has sufficient lot area for a single family

house.

10. The metes and bounds parcel is 5,830 square feet and has sufficient area for a duplex. Duplexes require a Conditional Use Permit in the HR1 District.
11. The existing home was constructed in 1907 and has been altered in a manner that it is not on the Historic Sites Inventory.
12. The existing home is a single-family dwelling which is an allowed use in the HR-1 district.
13. There is an accessory structure on the property which was approved as an art studio in 1994.
14. There is a shed on the property which encroaches over the south property line and onto neighboring property.
15. The minimum lot area in this zone is 1,875 square feet. One of the proposed lots is 2,002 square feet in size and two are 2,908 square feet in size.
16. The minimum lot width in the HR-1 zone is 25 feet. The proposed lots meet this requirement with one lot 25 feet wide and two lots 36.3 feet wide.
17. The proposed lots will each be approximately 80 feet deep.
18. The minimum front yard setback is 12 feet. The existing house has a 4-foot front yard setback.
19. The minimum rear yard setback is 12 feet. The existing house has a 26-foot rear yard setback.
20. All three new lots will have a front and rear yard setback of 12 feet each and 25 feet total.
21. The minimum side yard setback is 10 feet on each side and 24 feet total. The existing house has a 27-foot side yard setback on the north side and a 23-foot side yard setback on the south side with a total of 56 feet on both sides.
22. The existing structure does not meet front yard setback requirements.

23. The maximum building footprint for a lot this size is 2,520.4 square feet. The existing footprint meets this standard at approximately 1,805 square feet.
24. The maximum building footprint is 894.49 square feet for the proposed Lot 1 and 1,234.8 square feet for the proposed Lots 2 and 3.
25. The existing structures will need to be removed before the plat is recorded.
26. A Historic District Design Review application is required for any new construction proposed at the existing site.
27. A Steep Slope Conditional Use Permit is required for any construction proposed on slopes greater than 30 percent according to the HR-1 requirements. Construction mitigation, including parking of construction vehicles, will need to be addressed with each building permit.
28. Prospect Avenue is a narrow steep street that can at times receive heavy snowfall. Snow storage easements along public streets allow the City to efficiently plow and clear streets.

Conclusions of Law – 86 Prospect Street

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

Conditions of Approval – 86 Prospect Street

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration and an extension is granted by the City Council.

3. Residential fire sprinklers will be required for all new construction per requirements of the Chief Building Official.
4. A 10-foot-wide public snow storage easement along the frontage of Prospect Avenue is required and shall be provided on the plat.
5. Removal of existing structures that will create new non-complying setback situations with the new lot lines is a condition precedent to recordation of this plat amendment.
6. The encroaching shed shall be removed or relocated to resolve the encroachment prior to plat recordation.

5. Planning Commission Rules of Order Resolution

Assistant City Attorney McLean stated that this item was more for bookkeeping purposes. This Resolution was adopted by the Planning Commission in 2014. It is mandated by State Code. Although it was passed by the Planning Commission as a resolution, it was never signed because the Staff failed to get the signatures on the Resolution and it was never assigned a Resolution Number. Since the Open and Public Meetings Act training was on the agenda this evening, this was a good time to review the Rules and Procedure of Order for the Planning Commission.

Assistant City Attorney McLean explained that if the Planning Commission does not have any rules, the rules adopted by the City Council become their rules. She noted that changes were made in order to follow more closely what the Planning Commission does to make it specifically their rules. If the Planning Commission feels that the rules should change in any way or they would like to do things differently, they can make that request. Ms. McLean stated that legally there are no firm requirements for what the rules should be, but they are required to have Rules of Order.

Chair Band opened the public hearing.

There were no comments.

Chair Band closed the public hearing.

Chair Band did not believe the Rules of Order addressed Planning Commission conduct. Director Erickson replied that it only discusses how to make motions, etc. He pointed out that it has a lot to do with public decorum, which is important for the Planning Commission to know and understand because the City Council functions

under the same rules. Director Erickson noted that the means of making a motion is the simplified version of the Roberts Rules of Order. He noted that some items needed additional discussion. For example, the possibility of moving more items to the Consent Agenda. Unless there were major changes this evening, Director Erickson recommended that the Planning Commission adopt the Resolution and make changes later if necessary.

Chair Band clarified that the Rules of Orders were similar to what the City Council uses. Director Erickson replied that it was modified to how the Planning Commission functions versus the City Council. Public decorum and other things are exactly the same. He pointed out that when someone making public comment tries to engage the Planning Commission, the Commissioners should be polite but try not to engage in a discussion with the person making comment. The intent is for the public to make their comments and for the Commissioners to have a discussion among themselves based on the presentations and input.

Assistant City Attorney McLean stated that in the future, when she does the Open Public Meetings Act annual training, they can review the Rules of Order at the same time to see if any changes need to be made or just as a reminder of the rules.

Chair Band asked if the City Council had recently reviewed their rules. Ms. McLean replied that the Council adopted their rules in 2014, and they are required to be posted in the Council Chambers. Chair Band personally preferred to review the rules in a year if they pass the Resolution this evening.

MOTION: Commissioner Kenworthy moved to ADOPT the Resolution regarding the Planning Commission Rules of Order and Procedure. Commissioner Sletten seconded the motion.

VOTE: The motion passed unanimously.

6. Open and Public Meeting Training- Required training for compliance with Utah Code 52-4 Open Public and Meeting Meetings Act.

Assistant City Attorney McLean stated that Open Public Meetings Act Training is done annually. She reminded everyone to update their disclosure forms with the City Recorder. Each Commissioner is responsible for updating the disclosure form any time they have a change in job, address, sitting on a new Board, or anything else that might be a potential conflict. The Commissioners that were re-appointed were asked to redo their disclosure forms even if nothing has changed, so they have a new up-to-date submittal as of the reappointment date.

Assistant City Attorney McLean remarked that Transparency in Government is one of the foundations of government. When people feel like things occur behind the scene it leads to the perception of corruption and lack of faith in government. Even on a local level, it is important to make sure that whatever they do is transparent and in the public eye. Ms. McLean stated that to be open means to act openly, make decisions openly, deliberate openly, and conduct the people's business in the Council Chamber where it is recorded and the public can witness their discussions.

The Planning Commission is subject to the Open and Public Meetings Act and every meeting must be public. A meeting is defined by a quorum, which is four Commissioners. The Planning Commission cannot conduct any business unless there is a quorum. She pointed out that the Vice-Chair or a Chair Pro Tem is always allowed to vote. The Chair does not vote unless their vote is needed to break a tie.

Assistant City Attorney McLean stated that convening means to talk about business. If the Commissioners have chance meetings or meet socially, they do not have to leave the event if they are in one place at the same time as long as they do not discuss Planning Commission business.

Assistant City Attorney McLean cautioned the Commissioners about having a meeting after the meeting. Particularly after a contentious meeting everyone wants to rehash it. Often times the Commissioners go out socially after a meeting, and she always goes to make sure they do not fall into the habit of rehashing what just happened. She stressed the importance of not having a meeting after the meeting.

Assistant City Attorney McLean reminded the Commissioners to be careful about emailing. They should never email the entire Planning Commission and they should never have a back and forth banter via email because if four or more Commissioners participate, it could be considered a meeting. Ms. McLean noted that sometimes the Staff will send an email to ask about availability on certain dates for a special meeting. The Commissioners can respond to those emails, but they need to be careful about discussing agenda items.

Director Erickson stated that if a Commissioner emails the Planning Department with a question on an agenda item or other questions, the Staff will respond but it will also be made part of the public record to avoid any issues.

Assistant City Attorney McLean stated that email is a public record under GRAMA. She noted that the iPads are not City equipment. However, Planning Commission related emails should always be done on their City email accounts because the City backs it up and they do not have to worry about co-mingling with their private emails. If something

is sent to their private email they should forward it to their City account. If they follow that procedure there will never be a question of where to recapture that email if someone does a GRAMA request.

Assistant City Attorney McLean emphasized that people are entitled to know what the Planning Commission is doing and to observe them in the process. If people can see the process in action, it lessens the perception that decisions are made behind closed doors. Chair Band thinks people still believe that, and as the Chair she has to decide how much banter and back and forth to allow with the public. When people come for public comment they have things to say and the Commissioners just sit there with a stone face. She understood that part of the Rules of Order is not to engage in a discussion with the public, but without back and forth banter, the public often feels like they are not being heard. Chair Band was unsure how to strike a balance because sometimes people ask valid questions. People do not understand when they are told to talk with the Staff or someone else after the meeting to get the answer to their question, and then the Planning Commission goes ahead and makes a decision.

Assistant City Attorney McLean stated that from an Open Public Meetings Act standpoint, the fact that the public can comment and the Commissioners can provide feedback and discuss it is transparency in action. In terms of how they want to balance it is up to the Planning Commission in terms of public input. The reason for the rule is because when they get into a dialogue it is very hard to stop, or it grows into a discussion with more than just the person making the comment and the Planning Commission. Ms. McLean pointed out that there was no legal requirement on what they have to do. She recommended that they let the public make their comments and then let the Staff or the applicant respond and either answer the question or let them know where they can get the answer. Ms. McLean pointed out that it was a recommendation, but ultimately it would be the call of the Chair in terms of running the meeting.

Assistant City Attorney McLean noted that the State Code specifically says that nothing prevents the Commissioners from emailing each other, but they are not allowed to communicate with each other via email or text while the meeting is going on.

Commissioner Phillips asked about handing a note from one Commissioner to another. Ms. McLean replied that technically a note could be part of a GRAMA request, depending on the content. If it is about the substance of what is being discussed, the public is not getting the benefit of hearing a private conversation. If someone sees a note being passed it goes against the appearance of transparency, even if the note is about something other than the item being discussed.

Assistant City Attorney reviewed the rules on the meeting location. State law states that the entire meeting has to occur in one place. Site visits or a retreat are exceptions to the rule. Another exception is the situation they had with Treasure Hill where they held the entire meeting at the Library to accommodate more people. Once the meeting is started in one location it cannot be moved.

Director Erickson assumed the Planning Commission would have more site visits when they start looking at Land Management Code changes. Site visits are noticed differently. In order to keep public business in front of the public they would not have a discussion on site. The applicant and the Staff can provide information, but the discussion takes place at the meeting where it can be recorded. Assistant City Attorney McLean stated that she typically recommends that the Chair provide a brief summary of the site visit at the beginning of the meeting or when that item comes up on the agenda.

Commissioner Phillips clarified that during a site visit the Commissioners are allowed to ask questions about the site and what they observe, as long as it does not turn into a discussion. Ms. McLean answered yes. For example, they cannot have a substantive discussion about potential impacts they might see. That discussion needs to take place during the meeting. The site visit is a factual gathering.

Assistant City Attorney McLean stated that a Resolution from 2008 allows the Planning Commission to have electronic participation at a meeting. She noted that she generally discourages electronic meetings because even with 2018 technology, things get lost. The person trying to participate is not fully able to participate. The City now has live meetings and anyone can listen to the meeting. She reiterated that electronic meetings are not recommended, but the Planning Commission has the discretion to allow it; particularly in situations where they might not have a quorum.

Assistant City Attorney McLean noted that the Planning Commission would rarely have a reason to go into a closed meeting. If that situation every occurs, she would counsel the Commissioners on the procedure.

Assistant City Attorney McLean reviewed the notice requirement under the Open and Public Meetings Act. The agenda needs to be noticed at least 24 hours before. The agenda must be detailed enough to let people know what will be discussed. Notices must also be published at City Hall and on the Utah Public Notice Website. They send it to the Park Record but that it not mandatory by State law. Ms. McLean stated that they must also give notice of the annual schedule every year, which is the second and fourth Wednesday of each month.

Commissioner Thimm commented on times when the Commissioners get an email or papers sitting on the dais that was not part of the Staff report and came in an hour or two before the meeting. He asked if there was any way to require last minute items to be received by the Planning Commission 24-hours prior to the meeting or it would not be considered. Commissioner Thimm thought that receiving information at the last minute was inappropriate. Assistant City Attorney McLean replied that the public has a right to submit information up to the last minute; but the Commissioners have the purview to weight it however they want. For example, if a neighbor submits last minute information in an attempt to get a continuance, they could decide whether or not it was fair and make their decision accordingly. Ms. McLean noted that the Staff encourages people to submit all materials in time for the Staff report because that give the Planning Commission the opportunity to read through and study it. State law requires that the applicant be provided with the Staff report 72 hours prior to the meeting. The Planning Commission Staff report is provided on Friday.

Assistant City Attorney McLean stated that most applications require public hearings. If a public hearing is not required, the public still has the right to watch the meeting. However, the culture in Park City has been that if a member of the public would like to speak, they are usually given that opportunity. The Chair has the ability to keep the comments on point. Assistant City Attorney McLean noted that the public can bring up topics that are not on the Agenda, but the Planning Commission cannot take action or make any decisions. They could ask to have it on another agenda where it could be discussed for possible action.

Assistant City Attorney stated that all meetings are recorded and Minutes are prepared. The Minutes are the official record of the meeting. The recordings are unedited. Therefore, even during a break the recording continues. State law requires that the meeting must be recorded from the beginning until it is adjourned.

Chair Band noted that the Minutes of February 28th that were in the Staff report were marked Approved, even though they were not approved until this evening. Ms. McLean replied that it was a mistake because Minutes are always marked as a Draft until they are approved.

Assistant City Attorney McLean stated that an emergency meeting is when a meeting is called without 24-hour notice. She did not recall that the Planning Commission has ever called an emergency meeting, and it was unlikely to occur.

Assistant City Attorney McLean stated that intentionally violating the Open and Public Meetings Act is a Class B Misdemeanor enforced by the County Attorney and Attorney General. The biggest mistakes usually happen out of good intentions, which is why it is

important to know the rules. Ms. McLean stated that there are no requirements for recusal on Legislative actions such as LMC Amendments and the General Plan, and interaction with the public is encouraged. They are not restricted from talking to the public on those matters outside of a meeting. Administrative matters are more restrictive. Interaction with the public outside of the meeting is discouraged. Their decisions should be based on adherence to the Code and the Findings and Conclusions substantiate their decision. Ms. McLean noted that if a Commissioner has interaction or communication outside of a meeting, it should be disclosed in the meeting so everyone is aware of what the conversation. If someone asks a question and the Commissioner stops the conversation, they do not have to disclose the encounter. However, if someone provides facts or their opinion on a project and it is difficult to stop the conversation, that should be disclosed.

Chair Band stated that when she has a conversation with someone outside of a meeting she emails it to the Staff and it becomes part of the public record. She asked if that was sufficient. Ms. McLean answered yes. If that happens they can forward an email to her and to Director Erickson and they will make sure it gets into the record.

Regarding quasi-judicial matters, Assistant City Attorney McLean noted that when the Planning Commission hear an appeal it is usually an appeal of the Planning Director's interpretation. In appeals, the Planning Commission acts as a judge and there should be no ex-parte or outside communication. They are restricted to the evidence that they hear at the meeting.

Assistant City Attorney McLean stated that she reached out to Mr. Bateman, the Property Rights Ombudsman, but he had not yet responded. When she hears back she would try to schedule him on one of the agendas.

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

Approved by Planning Commission: _____