

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JUNE 9, 2010

COMMISSIONERS IN ATTENDANCE:

Vice-Chair Dick Peek, Brooke Hontz, Richard Luskin, Julia Pettit, Adam Strachan

EX OFFICIO:

Thomas Eddington, Planning Director; Brooks Robinson, Principal Planner; Mark Harrington, City Attorney; Polly Samuels McLean, Assistant City Attorney; Ron Ivie, Chief Building Official; Jeff Schoenbacher, Building Department.

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REGULAR MEETING - 6:30 p.m.

I. ROLL CALL

Vice-Chair Peek called the meeting to order at 6:05 p.m. and noted that all Commissioners were present, except Commissioners Wintzer and Savage who were excused.

II. ADOPTION OF MINUTES

May 12, 2010

MOTION: Commissioner Strachan moved to APPROVE the minutes of May 12, 2010 as written. Hontz seconded the motion.

VOTE: The motion passed unanimously.

May 26, 2010

MOTION: Commissioner Strachan moved to APPROVE the minutes of May 26, 2010 as written. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously by those who were present at that meeting. Commissioner Pettit abstained since he had not attended.

III. PUBLIC COMMUNICATIONS

There was no comment.

IV STAFF/COMMISSIONER'S COMMUNICATIONS & DISCLOSURES

MOTION: Commissioner Strachan made a motion to move the discussion of 9100 Marsac Avenue to the first item on the agenda before the Continuations. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

Director Eddington reported that the Neighborhood Public Input Session for the General Plan was scheduled for July 6th and July 20th at the High School. He asked for volunteers from the Planning Commission to go on the radio and prompt people to attend those sessions. Commissioners Pettit and Hontz volunteered.

Commissioner Strachan asked about email addresses. Director Eddington replied that each Commissioner should be receiving their City email address through the IT Department. In the transition period, the Staff would send reminders to their regular emails, but all content will be posted on their City email address.

Commissioner Pettit asked about the joint meeting with the City Council on June 17th. Director Eddington stated that a joint meeting was scheduled on June 17th, between 5:00-6:00. The Staff would provide the City Council with an update of the Bonanza Park General Plan discussion.

Commissioner Pettit disclosed that her firm has been retained to represent United Park City Mines. For that reason she would recuse herself from the 9100 Marsac Avenue Montage matter on the agenda this evening.

Commissioner Strachan disclosed that he would be recusing himself from the discussion on 201 Norfolk because the applicant is a current client of his law firm.

REGULAR AGENDA/PUBLIC HEARINGS/POSSIBLE ACTION

1. 9100 Marsac Avenue, Montage - Update and Ratification of Amended Soil Hauling Plan for the Montage Construction Mitigation Plan

Commissioner Pettit recused herself and left the room.

Ron Ivie reported that he had attended a previous Planning Commission meeting to discuss extending the work hours at the Montage to 24 hours. At that time he mentioned that hauling from the site would be completed and would amount to approximately 20,000 cubic yards. Mr. Ivie stated that since that time, he found a significant error between what the Planning Commission officially authorized and what was actually done. Mr. Ivie referred to the second paragraph, third line, in the Staff report and changed "contractor" to read "consultant".

Mr. Ivie explained that the consultant is required to provide USEPA quarterly reports as to quantities of material that go to a regulated site. That report was provided, however, what was reported was different from what was authorized. He stated that the Planning Commission approval authorized approximately 94,000 cubic yards. Including the 20,000 cubic yards, they would have hauled

approximately 155,000 cubic yards to Richardson Flat from the Montage site. Mr. Ivie clarified that all the dirt hauled was necessary because during the course of the project, other mine activity was discovered that was unknown when the project started. Mr. Ivie stated that he was unaware of the overage until he received the information documents for the item discussed during work session.

Mr. Ivie pointed out that the material was gone and he has no interest in hauling it back. He wanted the Planning Commission to understand that he relied on the conditions of approval to be met by the operator and what happened is already done. Mr. Ivie requested that the Planning Commission authorize that activity to continue, consistent with what has been approved. He asked that the Commissioners not look unfavorably on the 155,000 yards that was hauled, because in his opinion there is still some uncertainty as to whether or not the EPA is going to finally approve the landscape plan currently before them. Discussions are still ongoing and if they have to excavate anything more to satisfy the capping requirement, he would prefer to get the project done this summer and not have to come back to the Planning Commission.

Mr. Ivie noted that to date the project is on schedule to be completed by the Fourth of July to avoid the impacts of holiday activity. They are close to finalizing the 20,000 cubic yards, and he wanted to be the one to explain the unintended circumstances to the Planning Commission. He clarified that if the landscape plan before the EPA is approved, they would be at 155,000 cubic yards and that would be the end of hauling the regulated material. Mr. Ivie remarked that some material would be put back on for capping.

City Attorney Mark Harrington explained that the City's authority on this aspect was limited to the construction mitigation plan. During the original approval, there was extensive debate on what routes would be used for excavation and all the hauling. He stated that the hauling numbers are relevant to the degree that if they had known in advance how that would play into the analysis, they may have had the ability to split the routes for hauling that much material. Mr. Harrington pointed out that the hauling was done safely and it was done in a compressed manner in terms of minimizing neighborhood impacts. This would imply that the conditions to mitigate the impacts had worked.

City Attorney Harrington stated that it was relevant to clear up the record for future requests to determine whether Mr. Ivie has limited approval to continue to make minor alterations in the hauling at an administrative level to keep things going, which is expressly provided for in the original conditions of approval, or whether he should require the applicant to come back to the Planning Commission for a full process to amend the original hauling plan. Mr. Ivie has expressed his preference to continue the project to completion, but the question is to what extent he would be limited in terms of administrative approval without going to the Planning Commission. Mr. Harrington clarified that this was why he wanted the record reflected accurately to show what it is to date, even though it is an after-the-fact ratification.

Mr. Ivie reported that in the past three years there has only been one citizen complaint. He believed the hauling has been successful in controlling and mitigating public impacts. Commissioner Peek wanted to know what would happen if the landscape plan is not approved by the EPA. Mr. Ivie replied that additional excavation would be required to get the depth of the cap

increased. Therefore, additional material would need to be hauled out and brought back. He hoped the EPA would approve the landscape plan but he could not certify that as fact.

Commissioner Strachan asked if the City was as certain as possible that the 15,600 cubic yards was all that is necessary. Mr. Ivie replied that based on what he knows today, that would be the end, keeping in mind that they do not have a landscape plan signed by the USEPA.

Commissioner Hontz clarified that the Planning Commission would be approving the amended Construction Mitigation Plan, which was the letter from DV Luxury Resort, LLC. She asked if the Commissioners were comfortable with that or if they wanted something from the City legal staff, based on what happened in the prior matter.

Mr. Harrington explained that technically they were correcting previously represented numbers from the applicant to Ron Ivie in terms of application materials for the administrative extension. Had Mr. Ivie been given accurate numbers, the application would have been handled differently. Mr. Harrington reiterated that this correction was being done after the fact.

Commissioner Strachan understood that they were correcting the numbers to finish the project in the submittal. Mr. Harrington replied that this was correct and the City has obtained confirmation from both the Mine Company and the EPA that the numbers match the current numbers. Commissioner Strachan verified that the numbers were included in the submittal and in the letter from David Smith. Mr. Harrington answered yes.

Mr. Ivie stated that he was comfortable that the 155,600 cubic yards would be the total amount hauled off the site, assuming that the landscape plan would not need to be amended. Commissioner Strachan clarified that all but 15,600 has already been hauled.

Commissioner Hontz understood that currently the soil continues to be hauled to Richardson Flat and accepted by that facility. Mr. Ivie replied that this was correct, noting that the Richardson Flat site is under the jurisdiction of USEPA regarding clean-up requirements.

Vice-Chair Peek clarified that it included the adopted plan regarding moving the waste through the City. Jeff Schoenbacher stated that it coincides with Richardson Flat being the consolidation point for all the water shed and not just that facility.

Vice-Chair Peek asked if there was a reasonable range beyond the 15,600 cubic yards if they did not hold to that number. Mr. Ivie was willing to report back to the Planning Commission if the EPA changes the landscape plan, but he wanted the ability to move forward to get the project completed.

If the EPA requires a thicker cap, the City cannot overrule that requirement and they would have to do whatever is necessary to make it work. Mr. Ivie pointed out that there is a critical time table on the mountain for getting the landscape in and out. If they cannot continue to work, there is no chance of getting it finished.

Commissioner Hontz asked if a thicker cap would be above the amount that the EPA had authorized. Mr. Ivie stated that it would be above the amount currently there, but the EPA would need to authorize that amendment.

City Attorney Harrington stated that if the Planning Commission was concerned about the administrative limit for Mr. Ivie to continue to grant changes, he suggested that they frame it in the context of number of additional truck trips that would be germane to either change the routing or the conditions of approval. If there is no basis to change either of those based on another 5,000-10,000 cubic yards, there would be no basis to require another formal process. He noted that each 5,000 cubic yards requires 3-4 days of hauling.

City Attorney Harrington clarified that the Staff would not recommend changing the conditions of approval or the route because everything has worked without incident. However, the Planning Commission has the authority to make that decision. Mr. Harrington explained that typically the Staff has jurisdiction over construction mitigation plans. In this case, the prior Planning Commission requested that the Planning Commission approve the construction mitigation plan as part of the conditional use permit for Montage. Therefore, the Planning Commission has retained jurisdiction over the hauling and routing. In other projects it would be addressed by the Building Department. City Attorney Harrington outlined options that the Planning Commission could take on this issue.

Commissioner Strachan understood that the Planning Commission could authorize the Building Department to approve the 15,600 cubic yards and direct the Chief Building Official to come back to the Planning Commission for an information update once he hears back from the USEPA on the landscaping plan. Mr. Harrington clarified that Mr. Ivie was asking that the Planning Commission allow him some latitude to continue with the hauling until he hears from the EPA. Commissioner Strachan remarked that Mr. Ivie could continue the hauling process if the amount remains at or under the 15,600 cubic yards. Mr. Harrington pointed out that 9,000 cubic yards out of the 15,600 had already been moved. Commissioner Strachan clarified that once that is completed, the only thing left would be hauls subject to the landscaping plan, which may or may not be approved by the USEPA.

Vice-Chair Peek stated that the worse case would be that the EPA does not treat their applicant efficiently and this could go into the next season. He thought the Planning Commission should definitely see it again if it goes into the next season.

Vice-Chair Peek opened the public hearing.

Jeff Mongan, representing the Athens Group, the developer of the project, thanked Ron Ivie and the City Staff for working with them through a very complex and difficult project. They have encountered a number of unforeseen conditions and the efforts of Ron and the Staff is a testament to how smooth it has gone over three years.

Mr. Mongan clarified some of the points that were discussed regarding the cap and the landscape plan. He did not anticipate any further changes. Mr. Mongan believed that Ron Ivie was only pointing out circumstances that would occur if the EPA were to change the landscape plan. If the EPA were to change the landscape plan on a certain portion of the site or change the cap thickness, that only means they need to dig down deeper to achieve the cap section and that creates more soil that needs to go to Richardson Flat. Mr. Mongan did not anticipate that would happen. There is a tight window of time to complete the work and they have no intentions of going

into the next construction season. If they can move forward, their goal is to finish next week before the busy summer visitors season.

Mr. Mongan stated that they operate under an EPA approved work plan and governed by that plan to a certain extent. In terms of quantities, in the past they have had to go back and ask for permission to haul more. The EPA approved hauling to Richardson Flat and they worked with Ron Ivie on implementing that within the conditions of approval.

Vice-Chair Peek asked Mr. Mongan if the Athens Group was a party to the EPA application or if it was a lessee of the site. Mr. Mongan replied that technically the owner of the site is DV Luxury Resort, LLC and that is the party in contract with the EPA. The Athens Group is a member of that LLC, and therefore, they have responsibility for the execution of the work plan.

Vice-Chair Peak closed the public hearing.

Commissioner Strachan was comfortable authorizing the additional 15,600 cubic yards of which 9,000 has been exported. He felt that whatever harm was done was either mitigated or not mitigated. He did not believe an additional 6,600 cubic yards would create a problem. In the event they reach the 155,000 cubic yard cap and the EPA requires more, he would like this to come back to the Planning Commission to consider mitigation aspects.

Vice-Chair Peek suggested a 90 day trucking mitigation expiration.

Commissioner Hontz agreed with the date and the amount suggested by Commissioners Strachan and Peek and felt the motion should be tied to both. She wanted to see the project completed and believed the applicant has done a fantastic job. She thought the Planning Commission should see it again for the reasons previously stated.

Regarding the 90 expiration, Commissioner Strachan suggested a deadline of 90 days from the July 4th completion date established by the applicant, assuming that the EPA does not require a deeper cap.

City Attorney Harrington was unsure if a hard date was relevant. He suggested that the Planning Commission give direction to Staff not to approve any further extensions of the construction mitigation plan beyond the 155,000 cubic yards or October 15th, whichever comes first.

MOTION: Commissioner Strachan made a motion to APPROVE the amended construction mitigation plan for 9100 Marsac Avenue, the Montage, according to the June 3, 2010 letter from Deer Valley Luxury Resort, LLC with direction to the Building Department that they come back to the Planning Commission with an update once the 155,000 cubic yard cap has been met or the date of October 1st, 2010 occurs, whichever comes first.

Commissioner Hontz requested an amendment to the motion stating that no administrative approvals shall be granted for additional hauling or that it comes back to the Planning Commission for review and consideration. This would avoid a situation where something would be approved and then reported to the Planning Commission afterwards

Commissioner Strachan amended his motion to say that no administrative approval shall be granted until the Building Department has updated the Planning Commission either by October 1st, 2010 or when the 155,000 cubic yard cap is met.

Mr. Ivie stated that there would be hauling for the top soil cap that was not included in the 155,000 cubic yard export to Richardson Flat. He wanted to make sure the Planning Commission would not restrict their ability to bring the top soil back in to cap the site.

Commissioner Strachan clarified that his motion only addressed the soils going out.

Vice-Chair Peek suggested amending the motion to specify the export of 155,000 cubic yards of regulated soils.

City Attorney Harrington pointed out that bringing in the material was already part of the existing approval and this motion would not amend that approval.

The motion was read for clarification and accuracy

The motion was to APPROVE the amended construction mitigation plan for 9100 Marsac Avenue, the Montage, according to the June 3, 2010 letter from Deer Valley Luxury Resort, LLC, with direction that the Building Department come back to the Planning Commission with an update once the 155,000 cubic yard cap has been met or the date of October 1st, 2010 occurs, whichever comes first. No administrative approval shall be granted for regulated soils prior to the Building Department updating the Planning Commission either by October 1st, 2010 or when the 155,000 cubic yard cap is met.

Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously. Commissioner Pettit was recused.

CONTINUATIONS

1. 1200 Little Kate Road - Ratification of Development Agreement
(Application #PL-09-00785)

MOTION: Commissioner Pettit moved to CONTINUE 1200 Little Kate Road to June 23, 2010. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

2. 1440 Empire Avenue - Conditional Use Permit
(Application #PL-09-00725)

Vice-Chair Peek opened the public hearing. There was no comment. Vice-Chair Peek closed the public hearing.

MOTION: Commissioner Pettit moved to CONTINUE 1440 Empire Avenue to July 14, 2010. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA (Continued)

2. 201 Norfolk Avenue - Extension of Steep Slope Conditional Use Permit
(Application #PL-10-00941)

Commissioner Strachan recused himself and left the room.

Planner Brooks Robinson reported that this item was a request for an extension of a steep slope conditional use permit at 201 Norfolk Avenue that was originally approved on May 27th, 2009.

Planner Robinson noted that the project at 201 Norfolk is tied into the adjacent property, which the applicants also own at 16 Sampson Avenue. That property also went through a steep slope conditional use but it has not been found to meet the requirements of the Land Management Code. Although the applicants are still working on re-designing 16 Sampson, they are requesting to obtain the extension of approval for 201 Norfolk.

Planner Robinson stated that Commissioner Pettit had requested the minutes from the May 27, 2009 approval and those were emailed to the Commissioners.

Planner Robinson explained that under the Land Management Code, when considering requests for extensions of approval, the Staff looks for changes in the Land Management Code or circumstances that would require further mitigation. He noted that this was the first application that came in under a pending ordinance for LMC changes and the design review guidelines were also being amended. The application had to wait until those Code changes were adopted. No subsequent Code changes have occurred that would affect this particular project.

Finding no changes in circumstance, the Staff recommended approval of the one year extension of the approved steep slope CUP.

Commissioner Pettit stated that she had spoken with Assistant City Attorney, Polly Samuels McLean regarding the process, since she had voted against granting this particular CUP in May 2009. She questioned how she could vote for an extension when she believed that certain criteria had not been met in terms of mitigating the impacts when this was originally approved. Assistant City Attorney McLean explained that the issue before the Planning Commission this evening was whether or not to grant the extension. It is not a revisit of the original CUP. The Planning Commission voted in favor of the application and granting the CUP, and although individual Commissioners may disagree with the vote, the Planning Commission as one unit made that decision. Ms. McLean clarified that the issue this evening is specifically directed to the section in the LMC that allows the Planning Commission to vote for an additional one year extension if the applicant is able to demonstrate no change in circumstances that would result in an unmitigated

impact. The question before the Planning Commission is whether or not no change in circumstance has been demonstrated that would result in an unmitigated impact. It has nothing to do with revisiting the application that was approved.

Commissioner Hontz asked if that also applied to Commissioners who were not on the Planning Commission at the time of the original approval and a party to that decision. Ms. McLean answered yes, because the Planning Commission as a unit made that decision, even though individual members disagreed.

Commissioner Pettit stated that after reading the LMC, she believes it is a very narrow standard. As an example, if there had been subsequent changes to the LMC that would impact this particular application, the Planning Commission would then have the opportunity to determine whether or not it was appropriate to grant the extension under the prior Code. She asked Ms. McLean if that was a correct interpretation. Assistant City Attorney McLean explained that this application came in right after the Land Management Code changed, however, if it had come in under the old Code, that would be a change of circumstances.

Commissioner Pettit felt this was a difficult position. She was being asked to make a decision on extending a CUP for an additional year when she could not support the underlying application. However, understanding that she was being asked to uphold a decision of the Planning Commission as a body, she was inclined to vote in favor of granting the extension with the caveat that she did not and still does not support the underlying application.

Vice-Chair Peek opened the public hearing.

There was no comment.

Vice-Chair Peek closed the public hearing.

Commissioner Pettit clarified that the way the LMC language reads, the extension can only be up to one year. Ms. McLean agreed. She understood that individual Commissioners may feel their hands are tied, but the Planning Commission as a Board voted on the application and granted the CUP. Therefore, they are bound by their own decisions, even if an individual disagreed with the overall Board decision.

Commissioner Hontz stated that she was not on the Planning Commission at the time of the original approval; however, in reviewing the criteria she would have voted against the application based on the number of unmitigated impacts. Commissioner Hontz understood the complexity of the situation, but felt it was difficult to consider approving an extension when she did not agree with the language and the analysis.

Assistant Attorney McLean agreed that it was a very narrow question because the entire CUP was not open for discussion. Commissioner Pettit stated that her issue is that the reason for having a sunset date for CUPs is to keep them from being going on for years without constructing the project. It also takes into account how the community develops, as well as changes in policy and

how they view the General Plan and the application of the LMC. Commissioner Pettit believed there was tension between wanting to have the ability to stay flexible as things change. Under these circumstances it is a limited extension of the original granting of the application. She suggested that the issue may need to be re-visited in terms of how the language is drafted and whether or not they should consider granting extensions.

City Attorney Harrington felt that was a fair assessment and believed the key words were “if things change”, not people change. He noted that reasonable people can disagree, which is the basis of governing, and prior decisions still need to hold for vesting, fairness and other reasons. The change needs to be either in material things or a fact for the policy as enabled by law, but not by individual perceptions. That is the reason why the CUP is tied to specific criteria and not a more subjective process. Mr. Harrington agreed with Commissioner Hontz that it is extremely difficult to approve something you were not a party to originally and would not agree with today. However, it is a separate analysis based on two specific issues.

MOTION: Commissioner Peek moved to APPROVE the request for a one-year extension of the approval of the Steep Slope Conditional Use Permit for 201 Norfolk Avenue based on the Findings of Fact, Conclusions of Law, and Conditions of Approval as outlined in the Staff report. Commissioner Luskin seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact - 201 Norfolk Avenue

1. The property is located at 201 Norfolk Avenue within the Historic Residential (HR-1) zoning district.
2. The existing building started as a duplex built circa 1970's. In 2000, the 201 Norfolk Avenue subdivision was approved and recorded. The subdivision created two lots, one for the duplex and the second for a new building located at 205 Norfolk. In 2002, the duplex was rehabilitated and converted into a single family dwelling at the same time as the construction of the adjacent (to the north) 205 Norfolk Avenue by a previous owner.
3. The existing house at 201 Norfolk is approximately 2,310 square feet.
4. The First Amended 201 Norfolk Avenue subdivision was approved in 2007 which included the adjacent (to the south) 16 Sampson Avenue. The First Amended 201 Norfolk Avenue subdivision made the 201 Norfolk property larger in order to create a garage to the south with shared access with 16 Sampson.
5. This lot is adjacent to the HRL zone and is characterized by several historic residential structures and mostly larger contemporary houses on larger lots.
6. Access to the property is from a shared driveway with 16 Sampson Avenue.

7. Under the current LMC, the minimum front yard setback for lots of this size is 10 feet.
8. Under the current LMC, the minimum rear yard setback is 10 feet.
9. Under the current LMC, the minimum side yard setback is 5 feet for this lot, with a total of 19 feet.
10. Under the current LMC, the maximum building height in the HR-1 zone is 27 feet. No height exceptions are allowed.
11. The maximum number of stories allowed is three stories.
12. The roof pitch in the HR-1 zone is required to be a minimum of 7:12, unless the roof is a flat vegetated roof.
13. The addition is two stories, with a flat, vegetated roof under the 27-foot height requirement.
14. The applicant is proposing two parking spaces within a double car garage with a shared access driveway with 16 Sampson. The garage doors face away from the street.
15. The maximum footprint for the lot is 2,168 square feet, subject to Steep Slope CUP review by the Planning Commission. The proposed footprint is 2,165 square feet with the addition.
16. The Planning Commission approved a Steep Slope Conditional Use Permit on May 27, 2009. The CUP is valid for one year unless a building permit or an extension is granted.
17. An application for extension of approval was received on March 31, 2010.
18. The findings in the Analysis Section of this report are incorporated herein.

Conclusions of Law - 201 Norfolk Avenue

1. The CUP and extension, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B) and 15-1-10(G).
2. The CUP extension, 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.
5. No change in circumstance that would result in an unmitigated impact has been found.

Conditions of Approval - 201 Norfolk Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. City Engineer review and approval of all appropriate grading, utility installation, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. A final landscape plan shall be submitted for review and approval by the City Landscape Architect, prior to building permit issuance.
5. No building permits shall be issued for this project unless and until the design of the addition is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit and the Historic District Design Guidelines.
6. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges.
7. Prior to the issue of a building permit the applicant shall submit a detailed shoring plan with calculations that have been prepared, stamped and signed by a licensed structural engineer, if required by the Building Department.
8. This approval will expire on May 27, 2011, if an application for a building permit has not been submitted prior to this date.
9. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission.

The Park City Planning Commission meeting adjourned at 7:00 p.m.

Approved by Planning Commission: _____