

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MAY 9, 2012

COMMISSIONERS IN ATTENDANCE:

Chair Charlie Wintzer, Brooke Hontz, Julia Pettit, Adam Strachan, Nann Worel

EX OFFICIO:

Thomas Eddington, Planning Director; Kirsten Whetstone Planner; Matt Evans, Planner; Francisco Astorga, Planner; Polly Samuels McLean

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REGULAR MEETING

ROLL CALL

Chair Wintzer called the meeting to order at 5:30 p.m. and noted that all Commissioners were present except Commissioners Savage and Thomas who were excused.

The Commissioners held a work session discussion on the Richards/PCMC Parcel – Annexation Petition. That discussion can be found in the Work Session Minutes of May 9, 2012.

ADOPTION OF MINUTES

April 25, 2012

Commissioner Hontz understood that the minutes were a summary of their discussion; however, she recalled making statements regarding the Quinn’s Junction Partnership Annexation that were not included in the minutes. She felt strongly about the work the Planning Commission did at the April 25th meeting and the amount of effort that went into their comments. She wanted the City Council to clearly understand why she took the position to deny the annexation and associated MPD. Commissioner Strachan concurred.

It was noted that the Planning Commission has also forwarded conditions of approval to the City Council for the Council to consider if they were to overturn the recommendation to deny, and those conditions were not in the minutes. Director Eddington noted that the conditions of approval he been re-drafted with the revisions from the last meeting, and that draft was forwarded to the City Council with their recommendation. Chair Wintzer thought the revised conditions should have been included in the minutes so the Planning Commission could have reviewed the conditions that were sent to the City Council, since they were the one who made the revisions.

Director Eddington pointed out that because this application was expedited, the draft minutes and conditions had already been sent to the City Council.

Commissioner Hontz was not willing to approve the minutes of April 25th, 2012 this evening because it was not an accurate reflection of what she had said. It reflected the flavor of her intent, but her statements were not complete. She felt the comments were imperative so people who read

the minutes ten years from now have a complete understanding of their discussion and what they accomplished that night.

Director Eddington remarked that this item would appear before the City Council on Thursday, May 17th, with the final meeting on May 24th. He noted that the Planning Commission would not meet again until May 23rd.

After further discussion and based on the importance of their comments, the Planning Commission requested a verbatim transcript of the Quinn Junction Partnership Annexation discussion. Once the transcript is complete, Director Eddington would email it to each of the Commissioners for review. The Staff would send the transcript to the City Council as a supplement to their Staff report prior to the May 17th Council meeting.

Assistant City Attorney, Polly Samuels McLean, advised the Planning Commission that because the transcript would be verbatim the Planning Commission could only make changes if a comment was inaccurately stated in the verbatim transcription. They could not make changes if they wanted to rephrase something they had said or did not like what they said. Those situations needed to remain on the record as it was recorded.

Chair Wintzer stated that if the City Council had received a copy of the revised conditions, the Commissioner could read those conditions online and notify the Staff if something was incorrect or incomplete.

MOTION: Commissioner Hontz moved to CONTINUE the minutes of April 25th, 2012 to May 23rd, 2012. Commissioner Pettit seconded the motion.

VOTE: The motion passed unanimously.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

As requested by the Planning Commission, Director Eddington provided an update on 124 Daly Avenue. He reported that 124 Daly was done in conjunction with 118 Daly. The Historic District Design Review was approved in 2004 and the conditional use permit was approved in 2005. Construction was started in 2007 or early 2008 and has progressed slowly. The project was approved under the old guidelines and there were no sunsets. The project is near completion. Director Eddington had spoken with the architect to confirm that they were adhering to the building plans. The Staff pulled the setbacks and the project is in compliance. It is not required, but in good faith the applicant has committed to work with the Staff to consider possible revisions that meet the new guidelines.

Chair Wintzer clarified that his initial question was how something was approved so close to the road. Director Eddington explained that the house was raised to accommodate a garage underneath, but the house remained in the same location. The deck out front moves in two to three feet to make way for some steps. When this project was presented in conjunction with 118 Daly, a set of shared steps went up to both 118 and 124 Daly. During the building permit review Ron Ivie did not allow that for fire code and other reasons, and mandated that the deck remain with steps.

The steps were separated for the two buildings and the steps for 124 Daly were pulled out to preserve the existing deck. Director Eddington stated that the piers are quite large, which contributes to the appearance of being closer to the road. Director Eddington clarified that currently the project was being built as approved.

Commissioner Pettit referred to the comment that the house remained in its existing location, and noted the amount of excavation that was done to the hillside. Director Eddington agreed. The existing historic house was lifted on site, and an addition was added to the back where they dug out a significant part of the hillside and put up a very large retaining wall.

Commissioner Pettit implored Director Eddington to take a picture of the house as it sits right now before completion, to use as an example of an absolute “don’t” in the Historic District Design Guidelines and something they never want to see again in the Historic District.

Director Eddington clarified that the new design guidelines would not permit this type of design. Commissioner Strachan thought the amount of excavation and retaining that was done should be recorded because it would be the same issue on Anchor Avenue and they will have to do something similar, if not more drastic. The Code already speaks to that issue; however, previous Planning Commissions have been overly flexible and the result is structures like 124 Daly Avenue. Commissioner Strachan emphasized the importance of remembering this when they move forward with projects on Anchor Avenue or any steep slope. Director Eddington pointed out that the new Code addresses the cuts and heights of the retaining walls pursuant to the new Steep Slope CUP language, which talks about bringing it back within two to four feet of grade.

Commissioner Hontz had reviewed the previous approval. However, she understood from Director Eddington that the project was approved by the Planning Commission, but the Building Department changed the plan without sending it back to the Planning Commission. Director Eddington explained that it was a field change and was not required to come back before the Planning Commission. In researching the paperwork going back to 2004, he was still trying to find exactly where the Building Department made that correction to the steps.

Commissioner Hontz noted that the dimensions for the posts that extend into the road were not identified in the Planning Commission approval. They looked smaller on the plan than what they are in reality. She believed they could make the argument that it was not what was approved. Director Eddington replied that the Staff looked at the plans and took some measurements, and the posts used are actually 2 inches smaller in dimensions. He agreed with Commissioner Hontz that it looks larger, but they measure smaller. Commissioner Hontz made the point that without the dimensions it was hard for the previous Planning Commission to understand what they were approving.

Commissioner Hontz stated that from looking at the historic pictures of where the house was located, she questioned whether the house was put back in the same location. She had not visited the site itself and recognized that it may appear different because of the foundation that was put underneath. Commissioner Hontz encouraged the Staff to compare the current location with the actual dimensions that were approved.

Commissioner Hontz stated that 124 Daly is a disaster and they need to keep asking questions to avoid making those same mistakes again. Director Eddington clarified that this project could not be approved under the new Code or the new design guidelines. He noted that the Staff did rough calculations on the measurements and it appears that the original and the existing location was the same. The Staff will work with the Building Inspectors as they continue to do their inspections.

Director Eddington announced that the joint meeting with the Snyderville Planning Commission was scheduled for Wednesday, May 30th, 6:00 p.m. at the Richins Building. The discussion would focus on regional growth issues, interlocal agreements with regard to General Plans, growth management strategies and other issues.

Commissioner Strachan suggested that the Boyer Development project by the Utah Olympic Park be scheduled as an agenda item for the joint meeting. He would like to brainstorm with the Snyderville Basin Planning Commission on how they approached that project. In his view, that situation was similar to what the City would be facing with aggressive developers who have land rights.

Director Eddington reminded the Planning Commission of the joint meeting with the City Council on Thursday, May 31st. Dinner will be at 5:30 p.m. and the meeting will begin at 6:00 p.m. Charles Buki would present the balance growth study that he has been working on with the City.

Chair Wintzer would be out of town for both joint meetings.

Francisco Astorga announced that Planner Katie Cattan had passed the AICPA exam.

CONTINUATION(S) – PUBLIC HEARING AND CONTINUE

1. Richards/PCMC Parcel – Annexation Petition
(Application # PL-12-01482)

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

MOTION: Commissioner Pettit moved to CONTINUE the Richards/PCMC Parcel annexation petition to the May 23, 2012 meeting. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

2. 30 Sampson Avenue – Steep Slope Conditional Use Permit
(Application #PL-12-01487)

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

MOTION: Commissioner Pettit move to CONTINUE the 30 Sampson Steep Slope conditional use permit to the May 23, 2012 meeting. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

3. 543 Woodside Avenue – Steep Slope Conditional Use Permit
(Application #PL-12-01487)

Chair Wintzer opened the public hearing. There was not comment. Chair Wintzer closed the public hearing.

MOTION: Commissioner Pettit moved to CONTINUE the 543 Woodside Avenue Steep Slope conditional use permit to May 23, 2012. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

4. 7700 Marsac Avenue – Subdivision (Application #PL-10-01070)
5. 7700 Marsac Avenue – Condominium Conversion (Application #PL-10-01071)

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

MOTION: Commissioner Pettit moved to CONTINUE the 7700 Marsac Avenue subdivision and condominium conversion to a date uncertain. Commissioner Strachan seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 80 Daly Avenue – Plat Amendment
(Application #PL-12-01488)

Chair Wintzer thanked Planner Astorga for including the purpose statement in his Staff report. It helps the Planning Commission focus on the zone.

Commissioner Pettit disclosed that she lives on and owns two properties on Daly Avenue at 239 and 243 Daly. Her ownership and residency would not influence her ability to be objective in this application.

Commissioner Hontz disclosed that she lives at 209 Daly Avenue, which is not in the vicinity or within the 300 feet noticing boundary of this property.

Planner Francisco Astorga reviewed the application for the 80 Daly Avenue subdivision. The Planning Commission reviewed this application on April 11, 2012 and continued the matter with direction to Staff to provide an analysis of the house sizes on Daly Avenue. The completed analysis was included in the Staff report.

The Staff had determined an overall average floor area of 2,532 square feet for the entire Daly Avenue neighborhood; and recommended putting a cap on the gross floor area of Lot B to match that average. Planner Astorga stated that Lot A, which is equivalent to an Old Town lot of 1875 square feet, yields a maximum footprint of 844 square feet. Calculating 844 square feet by three stories allowed by Code results in 2,532 square feet. Planner Astorga clarified that it was completely coincidental that the average number identified in the overall analysis was the same as one Old Town lot of record.

Planner Astorga stated that he had not received public hearing at the time the Staff report was prepared, but he was later approached by Brent Gold who represented Mr. Henderson, the owner of 68 Daly Avenue. Mr. Gold would be making comments during the public hearing on Mr. Henderson's behalf.

Jonathan DeGray, representing the applicant, reported that his clients did not agree with the Staff analysis. It is not a fair evaluation because the Staff only took the assessor records for each individual property and recorded the lot or building size and determined the average based on every single house and building on Daly Avenue. The analysis did not take into account what size home sits on what size lot, and whether it is a 3,000 square foot home on a 1875 lots or a 500 square foot home on three lots.

Mr. DeGray remarked that a more appropriate method would be to compare this property to like properties in size, and to the homes that are built on those properties in relationship to Lot B of the proposed subdivision. Lot B is slightly over 3800 square feet and is equivalent to the size of two lots. Based on the average, the Staff would propose that a single home on that lot would be the size of a home on a single lot. Mr. DeGray believed it was a product of a skewed analysis. Mr. DeGray requested a more fair evaluation of the property size in comparison to buildings on similar size properties.

Mr. DeGray stated that the analysis did not address the property size of 80 Daly Avenue. On 3800 square feet they are eligible for a duplex. The average size of the 14 duplex lots or multi-family units along the entire length of Daly Avenue is 3,980 square feet of living space. Mr. DeGray noted that his client has not presented a specific plan, but the lot is large enough to sustain a duplex under the Code. However, under the Staff evaluation it would be placed as a single-family without further discussion. His clients would like the ability to build a duplex if they decide to and their property should be compared to other properties on Daly Avenue that are similar in use and size, which would be all the other multi-family units.

Mr. DeGray noted that the analysis says that the buildings should be 2532 square feet in gross area, including a garage. He stated that the current configuration of the parcel, without the plat, contains Lot 9 and 10. Lot 10 is the larger building lot currently being discussed. His clients would like to build on that lot and would like some incentive to move forward with the plat. The idea of being limited to 2500 square feet of gross area is not an incentive, because the lot in its current configuration would yield a larger home without a plat amendment. Lot 9 contains 2,252 square feet. On the proposed plat it would contain 1875 square feet. Lot 10 contains 2,449 square feet. On the proposed plat it would contain 3,893 square feet. Without the plat amendment, Lot 10 would yield a home approximately 2700-2800 square feet. As proposed by Staff, that would be reduced to

2,555. Mr. DeGray stated that under the current guidelines the larger lot with a plat amendment at 3,893 square feet would yield a footprint of 1,564 square feet.

On behalf of his clients, Mr. DeGray proposed to look at Lot B and offered to remove the Anchor Avenue vacation area, which is 554 square feet, from the area calculation. That would reduce the footprint from 1564 down to 1384. It would reduce the potential building size to 3200-3300 square feet gross area, including the garage. The living space of the home would be approximately a 2800 square foot house and a two-car garage at 400 square feet, which meets the City Code minimum size. In an effort to move forward, Mr. DeGray offered that proposal to the Planning Commission. He would like to move forward with design solutions using the reduced footprint, with the knowledge that it would come back to the Planning Commission as part of a Steep Slope CUP. Mr. DeGray pointed out that any building on Lot B would require a Steep Slope CUP. At that point he would be able to show compatibility or with appropriate mass and scale for the surrounding structures.

Commissioner Strachan referred to the numbers proposed by Mr. DeGray and understood that the 3900 was the total square footage of the structure that could be built under his analysis. Mr. DeGray was proposing a reduction capped at 3200-3300 square feet.

Mr. DeGray explained that his proposal is to not deal with a cap at this time, but to propose a reduced footprint on the property. Commissioner Strachan asked if Mr. DeGray would consider a square footage cap at a later time if the Planning Commission decides to approve the plat amendment. Mr. DeGray replied that because this would come back to the Planning Commission for a Steep Slope CUP, his clients were concerned that if they negotiate a reduced size with the plat amendment, it would be done again with the Steep Slope CUP. Mr. DeGray noted that he would have to meet the requirements of the Steep Slope CUP. Taking out the Anchor Avenue vacation reduces the footprint by a few hundred square feet. He believed that 1300 square feet of footprint would achieve a building size that works for his clients at approximately 3300 gross floor area and 2800 square feet net livable area. Based on the Staff analysis, Mr. DeGray believed those numbers fall within the realm of reasonable.

Commissioner Strachan asked Mr. DeGray if his clients would prefer not to do the plat amendment if they could not get the footprint they want on Lot B; and instead build two separate structures on two separate lots. Mr. DeGray clarified that without doing the plat amendment Lots 9 and 10 were still buildable lots. One lot is 2252 square feet and the other is 2400 square feet. Both lots are bigger than standard lot sizes and would yield larger homes. Since that would be an option without a plat amendment, Mr. DeGray requested a continuance so he could ask his clients what they would prefer in response to Commissioner Strachan's question. Mr. DeGray could not answer that question this evening; however, he did know that his clients were willing to take a reduction in footprint if the Planning Commission was willing to let them come forward with a Steep Slope CUP.

Chair Wintzer opened the public hearing.

Brent Gold introduced Pete Henderson, the owner of 68 Daly Avenue. Mr. Henderson has owned the property at 68 Daly Avenue for more than 40 years. The house that was originally on that property was the infamous water tank rollover house that was squashed when a water tank fell off a

truck and rolled down the hill and onto the house in 1980. Mr. Henderson constructed the existing house from the remnant of the original house. Mr. Gold stated that the house at 68 Daly Avenue is approximately 1950 square feet. It is a flag lot with a 7-1/2 foot flag pole coming up from Daly Avenue serving the house. The alleged encroachments that are spoken of in the Staff report have been there for over 30 years. Mr. Gold emphasized "alleged". The encroachment spoken about in the Staff report is identified as approximately 64 square feet. Mr. Gold thought the extent of the encroachment may be three or possibly four feet extending into the lot.

Mr. Gold stated that Mr. Henderson at 68 Daly Avenue is singularly is most affected by this proposed plat amendment. The structure allowed on Lot B would loom over Mr. Henderson's house to the south. The size and height of the Lot A structure would be a tower blocking his singular view corridor, which is to the Daly side of the street. Mr. Henderson is already blocked to a great extent upstream of Daly in the southerly direction.

Mr. Gold stated that Mr. DeGray believes that his proposal not to use the portion of Anchor Avenue would give Mr. Henderson a view corridor to the south. He pointed out that there is no view corridor because there is literally a vertical hill on that side due to the steepness of the slope. Mr. Gold noted that Mr. Henderson had several conversations with the applicants and suggested a number of proposals for how they could minimize the impacts. The 2500 square feet that Planner Astorga recommended is a step in the right direction; however, there is no consideration for this tower and the impact of literally blocking Mr. Henderson's house from the view corridor.

Mr. Gold noted that one of the conditions of approval is that the encroachment matter be resolved. Mr. Henderson had received no proposal from the applicant at this point regarding a resolution of the alleged encroachments. Mr. Gold stated that they were doing the best they could to keep open the channels of communication. A number of different options were on the table.

Mr. Gold encouraged a continuance if for no other reason than to try and further engage the petitioners in an attempt to come to some resolution. Mr. Gold encouraged the Planning Commission to become familiar with Lot A and the potential impacts before making any decisions regarding the plat amendment.

Mr. Gold noted that Mr. Henderson was out of town for the April meeting and did not receive his notice. He was notified by his neighbors. He was happy that the decision was continued in April to this meeting to allow him the opportunity to present his case. Mr. Gold stated that Daly Avenue is worth protecting what little of it is left and he asked the Planning Commission for their assistance.

Chair Wintzer understood that the encroachment issue was between the applicant and Mr. Henderson, and the Planning Commission could not get involved. Assistant City Attorney McLean stated that on a regular basis, part of what the City is trying to do with plat amendments and subdivisions is clean up encroachments and lot lines. As a regular course the City requires encroachments to be dealt with in some way. The condition of approval is typical in a plat amendment. Chair Wintzer clarified that the City requires it to be cleaned up by a condition of approval, but the Planning Commission does not get involved in how it is done. Ms. McLean replied that this was correct.

Chair Wintzer closed the public hearing.

Commissioner Pettit agreed that from a historic character and scale, Daly Avenue is one unique long street and a variety of structures have been built over time. The most important piece and element of Daly are the historic structures that continue to exist and hopefully will continue to exist into the future. The size and scale of those single level structures are very modest. In looking at the Staff analysis, she can see the range that exists; however with each study the average size continues to creep up and that causes her concern. They tend to get more structures on the higher end versus the existing historical structures that continue to be dwarfed through development.

Commissioner Pettit stated that in looking at the streetscape with respect to these lots and where they sit next to Carlene's property and historic properties across the way and beyond, she was concerned about the size of the structure that could be built on Lot B regardless of whether it is single family or a duplex.

Commissioner Pettit commented on some of the strange things that have happened along Marsac with some of the structures on the hill and the mining structures off of Ontario that were dwarfed. Even from a solar perspective, views were blocked by large structures that were compliant under the Code. When there is a property that sits in a unique manner, she has concerns about impacting that particular property. Commissioner Pettit was very concerned about how that would come into play in the context of either what is currently allowed or what would be allowed through a lot combination and subdivision. She appreciated that Mr. DeGray came back this evening with a proposal to further reduce the footprint for Lot B, but she was not convinced it was enough. Commissioner Pettit was also concerned about pushing that process into the Steep Slope CUP because the Planning Commission has less control in the CUP process than with the plat amendment in terms of trying to anticipate impacts and the desire to maintain the historic fabric of Daly and compatibility.

Commissioner Pettit stated that coming into this meeting she was inclined to consider adopting the conditions of approval recommended by Staff, but that was without understanding the impacts to 68 Daly Avenue, particularly of building to the maximum height on Lots A and B. Commissioner Pettit needed to better understand the impacts to see if other conditions would be appropriate in this context. She recognized that it was a difficult situation because without the plat amendment the owner still had two buildable lots that could potentially yield worse results.

Commissioner Hontz concurred with all of Commissioner Pettit's comments. She referred to page 103 of the Staff report and asked for clarification on the dimensions. Commissioner Hontz understood that the rectangle box shown was Lot 10, and that it did not include the additional square feet that extend from the bottom rectangle line to the bottom red rectangle line. Without a plat amendment, the lot that could be developed was everything within that black rectangle and not all the way down to Lot 64. Mr. DeGray replied that this was correct. He stated that the fragment of Lot 11 that Commissioner Hontz was indicating was approximately 6 feet. Planner Astorga explained that if the applicant proposed to build within the existing parameters, including the setbacks, a plat amendment would not be necessary because development would not cross any lot lines.

Commissioner Hontz pointed out that it would still exclude the Anchor Avenue portion. Planner Astorga remarked that Daly Avenue was platted differently than the typical 25' x 75' configuration.

Commissioner Hontz asked if a variance would be required for Lot 9. Mr. DeGray answered no. Planner Astorga remarked that everything owned by Mr. DeGray's client was identified in red and included Lots A and B. He stated that the County allows property owners to consolidate lots for tax purposes. Therefore, PC-653 was everything the applicant owns. Planner Astorga pointed out that Lot 10 was buildable as it currently exists. However, Lot 9 is not a lot of record. It is a portion of a lot that is shared with 68 Daly Avenue. He noted that in 1992 when Mr. Henderson built the structure at 68 Daly Avenue, a different policy was in place that did not require a plat amendment.

Assistant City Attorney McLean verified that Lot 9 would need to be remedied and made into two lots of record. At one point there was discussion about including 68 Daly Avenue as part of the plat amendment to clean up all the property lines. However, because it involves two different owners it was not something the City could mandate.

Planner Astorga stated that a letter was sent to Mr. Henderson prior to the two week noticing to begin that dialogue in early March. Planner Astorga clarified that his records show that the letter was sent to Mr. Henderson's listed address with the County and provided by the applicant.

Commissioner Hontz stated that when the Planning Commission approves a plat or a plat amendment, it should not create new problems. As currently configured, she believed the requested plat amendment would make things worse for 68 Daly Avenue and that entire portion of the street. Commissioner Hontz pointed out that only one buildable lot exists and everything else would need to be remedied through the plat amendment process. She preferred to see more solutions amenable to making both lots better fit the neighborhood character. She never considered Anchor Avenue as a viable square footage in the calculation due to its steepness and proximity to surrounding structures. The problems would be exacerbated if these properties were developed. Commissioner Hontz stated that there is a huge parking problem on Daly Avenue that these properties do not need to rectify, but they cannot make it worse.

Commissioner Strachan asked how the applicant came to own the part that goes on to Lot 11. Planner Astorga replied that it was unique to Daly Avenue. At one point there was a 5-7 foot shift in ownership on Daly Avenue where everyone owns a portion of another lot. Chair Wintzer explained that the shift occurred when the entire town was re-monumented in the early 1980's. Commissioner Strachan asked if anyone had spoken with the owner of Lot 11. Planner Astorga stated that Carlene owns Lot 11 and she provided input at the last public hearing.

Mr. DeGray was disappointed that his clients were not informed of the Staff's opinion that Lot 9 is not a lot of record. That issue should have been dealt with before they came back to the Planning Commission. Mr. DeGray stated that he assumed all along that Lot 9 was buildable. Planner Astorga clarified that he only came to that conclusion during the discussion this evening.

Chair Wintzer hesitated to continue an item without some type of direction from the Planning Commission. Assistant City Attorney McLean advised that if the Planning Commission did not need additional information, they should move forward.

Commissioner Pettit remarked that the applicant took issue with the Staff recommendations on the proposed conditions of approval. In addition, given the determination that Lot 9 is not a buildable lot, even if the Planning Commission moved forward with the proposal as presented with the Staff recommendations, she did not fully understand the impacts to Mr. Henderson's property.

Assistant City Attorney McLean explained that if the plat amendment were to move forward, it would create Lot A, which would be a lot of record. If Mr. Henderson ever requests a building permit, the City would require him to turn his metes and bounds parcel into a lot of record. Commissioner Pettit clarified that her concern was how a structure on Lot A would impact Mr. Henderson's property from the standpoint of view shed, solar access, etc. She would like to understand those impacts before making a decision to create a buildable lot.

Commissioner Hontz felt that was the point. If there is only one buildable lot, it would not be good cause to create more problems with a plat amendment. She shared Commissioner Pettit's concern that what happens on Lot A could impact the entire neighborhood. Commissioner Hontz was not willing to consider the conditions as conditions of approval because it was not consistent with her analysis that there is only one buildable lot. She was not comfortable creating two lots that impact everything around it without further discussion.

Director Eddington suggested that a topographic survey or a plat with contours in a 3D image might help. He asked Mr. DeGray if that was something he was willing to prepare. Mr. DeGray stated that he would ask his clients if they were interested in doing that. He pointed out that it would be totally fictitious at this point because there was no plan to build on Lot 9 and there was no building design.

Chair Wintzer stated that it would only need to be a block to get an idea of what it would look like. He concurred with his fellow Commissioners that they would not want to make the problem more arduous than what already exists. They would need to know what could go on those two lots before approving the plat amendment.

Planner Astorga clarified that that the Staff review found that there would be two lots of record with the plat amendment. Commissioner Pettit stated that the issue was what could be done today versus what the applicant was requesting to do. They were asking to have two buildable lots, and her concern was the impacts of Lot A on Mr. Henderson's property.

Mr. DeGray asked what type of abilities the Planning Commission would anticipate if they found the massing to be impactful on the property behind. Commissioner Pettit replied that one way would be a height restriction to mitigate the impact and still allow a structure to be built on the property. Planner Astorga suggested platting a buildable pad in an area that may mitigate the impacts. Commissioner Worel thought that would be helpful.

Mr. DeGray understood that the Planning Commission wanted to see a model or some type of 3D presentation to understand the massing and scale of the structure in relationship to the building behind. He asked if the Planning Commission as a group would feel comfortable approving the plat amendment once the model is presented.

Commissioner Pettit stated that personally she was not willing to move forward with the footprint restriction approach that was proposed on Lot B. She was more comfortable with the Staff's recommendation based on the streetscape and the surrounding structures, particularly Carlene's house which would be adjacent to the structure on Lot B, and the historic structures across the way. Commissioner Pettit wanted to see something more consistent with the pattern and the fabric of that part of the street.

Commissioner Strachan referred to the slide and the blue line that goes right through Carlene's house. He asked if that was an encroachment issue that the parties need to work out. Planner Astorga replied that it was not an encroachment. The Staff used the GIS and understood that the lines could be incorrect. They rely on the survey, which shows that it barely touches the structure but does not encroach.

Commissioner Pettit commented on the number of smaller homes on Daly Avenue that sit on fairly large lots. She suggested that the table of homes on Daly Avenue include the lot size associated with the house sizes. Commissioner Pettit stated that in the past there has been a pattern of limitation of gross floor area or house size on that street historically. Precedent has already occurred and she thought it might be helpful to flush that out.

Commissioner Pettit stated that the more information the Planning Commission has in terms of understanding the existing fabric and the size and scale helps them achieve something that is more equitable and compatible. In her mind it was still not perfect because it continues to push the average higher, but it is a method that has been used in similar applications with plat amendments.

MOTION: Commissioner Pettit moved to CONTINUE the 80 Daly Avenue plat amendment to the May 23, 2012 meeting. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

**2. 255 Deer Valley Drive – Conditional Use Permit for a Bed and Breakfast
(Application #PL-12-01504)**

Planner Astorga reviewed the application for a conditional use permit for a Bed and Breakfast at 255 Deer Valley Drive. The site is currently owned by Miriam Broumas; however, Christine Munro was in the process of purchasing the site for the purpose of operating a bed and breakfast. Mike Johnston was representing the applicant this evening

Planner Astorga reported that the applicant was proposing to have six bedrooms as nightly rentals for the bed and breakfast. The Staff analyzed specific criteria outlined in the Land Management Code and found that the proposal complies with the criteria for a bed and breakfast, as well as the conditional use permit. Planner Astorga pointed out that the applicant was also requesting a 448

square foot addition at the third level behind the front portion of the existing structure. Planner Astorga noted that the property is located in the R-1 District. The Staff found that no additional impacts would be generated by the proposed use beyond those conditioned in the Staff report.

The Staff recommended that the Planning Commission consider approving the conditional use permit for a bed and breakfast based on the findings of fact, conclusions of law and conditions of approval found in the Staff report.

Commissioner Hontz asked how the building was currently being used. Planner Astorga replied that currently the building was a duplex. The Building Department has had many issues in the past because it was being operated as a bed and breakfast without the proper approval. Before Ron Ivie left, he had Ms. Broumas sign a notice on her site indicating that she would only use it as a duplex. The Building Department and the Code Enforcement Officers have been aware of the illegal use.

Commissioner Worel stated that in looking at the Staff report and the LMC, she understood that parking spaces were required for the rented units but nothing addressed parking for the owner's unit, which has three bedrooms. Planner Astorga explained that the LMC states that in order for a structure to be a bed and breakfast, the owner or manager must live on site. However, in looking at the use table for a bed and breakfast, it only indicates one vehicle per each rentable unit. Commissioner Worel did not think that made sense. Planner Astorga stated that as part of the proposed business plan, the applicant has made arrangements with a transportation agency for drop-offs; however, the Code would not allow that to be tied to the approval.

Chair Wintzer asked whether it was a void in the Code or if the parking space was not needed. Planner Astorga believed it was a combination of both.

Commissioner Worel stated that she drives by this address every day and parking is tight now. She was concerned that there would be no required parking for the owner's unit.

Commissioner Strachan stated that he had lived in that unit and when they had parties there was plenty of room to park cars to get them off the street. There is more space than what appears to be. Commissioner Strachan agreed that the manager would have a car, but he assumed a good manager would park off-site to leave room for guest parking.

Mike Johnson reported that the potential buyer was aware that parking could be an issue. Therefore, her business plan is to discourage and/or prohibit people from driving to the bed and breakfast. She would provide transportation to and from the airport and shuttles around town to assist people in getting where they need to go. She understands that parking problems would drive away business.

Chair Wintzer opened the public hearing.

There was no comment.

Chair Wintzer closed the public hearing.

Chair Wintzer suggested adding a condition of approval requiring that the property be advertised as not needing a car. It would not prohibit someone from driving there, but the advertisement would make effort to discourage personal vehicles. Chair Wintzer believed this location was the best place in town for a bed and breakfast if the parking works. There is a bus stop across the street, a transit center next door, and it is within walking distance from Old Town. He agreed that there is a potential for parking problems, but he favored the use.

Mr. Johnston stated that Ms. Munro plans to do exactly what Chair Wintzer suggested. It would be advertised on her website and in any material related to the bed and breakfast.

Commissioner Pettit preferred a condition of approval stating that no more than four guest cars are allowed at any one time. That would mean two of the six rooms would not be allowed to have a car on site. Commissioner Pettit had concerns with how the owner would effectively manage it.

Mr. Johnston stated that the primary issue is getting in and out of the site, and there is a substantial area to back in and out. He noted that originally there were eight parking spots, however, the outside four were not long enough to meet Code. Director Eddington noted that the area outside the property line is within the Deer Valley right-of-way and that area is protected by a retaining wall.

Mr. Johnston reiterated that the applicant was trying to meet the minimum Code requirement and move forward with the business plan that would alleviate the problem.

Commissioner Pettit stated that even though the Code requires six spaces, limiting the number of cars to four at one time allows the owner the luxury of working with the space in a way that works best for their guests. It also addresses her concern regarding snow removal issues in the area outside of the garage where cars are parked.

Chair Wintzer asked if the applicant would be comfortable limiting the parking spaces to four cars. Mr. Johnston preferred five spaces and one for the owner. He clarified that the owner's unit only has two bedrooms, not three as stated in the Staff report. Planner Astorga confirmed that the updated floor plans showed two bedrooms in the owner's unit. Mr. Johnston believed that the owner would limit herself to one car.

Commissioner Pettit remarked that the Planning Commission has to think beyond the current owner when they review these applications. She emphasized her request to place a limitation on the number of cars allowed for this use.

Chair Wintzer thought the question was whether allowing the bed and breakfast would make the existing conditions better than it is with a duplex, or whether it would be worse. In his opinion, it would be better because the owner would be trying to run a successful business. Chair Wintzer did not believe that allowing a bed and breakfast would increase the parking issues.

Commissioner Hontz referred to page 126 of the Staff report, the revised elevation concepts, and asked if another drawing showed the existing structure better than the little picture on page 126. Planner Astorga replied that the picture was the existing structure without the proposed addition. Planner Astorga presented a slide of the first concept, which had since been revised. He later

received another rendering which remodels the area and adds an elevator to make one of the floors accessible. Planner Astorga presented the new rendering to the Planning Commission.

Mr. Johnston stated that after the application was submitted, the applicant hired an architect. He pointed out that the first concept has an elevator in a different location going up from the lowest level. The architect was looking at options to extend the elevator to the lower, main and second upper level. The elevator was shifted to the west side with a roof over it. Commissioner Hontz asked about the windows on the front. Mr. Johnston replied that the applicant intends to completely redo the exterior and remove the gingerbread siding. A slide of the exterior plan was shown.

Commissioner Hontz referred to a letter from the applicant on page 127 of the Staff report and questioned the statement, "It's centrally located with good exposure, as well as proximity to the Olympic Torch". Chair Wintzer believed she was referencing the mini torch on the roundabout.

Chair Wintzer understood that the floor plan remodel would not come back to the Planning Commission. Planner Astorga clarified that the Planning Commission was reviewing the use for approval. Any remodels would be approved at the Staff level. Director Eddington explained that the structure would be reviewed for conformance if it is within a certain distance or adjacent to the Historic District, but it would not follow a formal HDDR.

Commissioner Hontz thought the proposed design had the qualities of what is seen in Deer Valley. Driving up Deer Valley to the south there are similar structures and every time she drives by them she thinks they look horrible because of the immense size and the brown on brown on brown color. The nice thing about the structure at 255 Deer Valley being red is that it breaks away from the Deer Valley architecture. She encouraged the applicant to consider using red or other bright colors to be distinct from the other run-down structures on Deer Valley Drive.

Commissioner Strachan clarified that the Planning Commission was primarily reviewing the use. He was unsure whether they could specify colors or design. Chair Wintzer remarked that the mass and scale of the building was set. He agreed that use was the issue and the Planning Commission was not being asked to look at design or colors.

Mr. Johnston offered to relay the opinions regarding color and design to the applicant.

Commissioner Pettit stated that she used to work at a bed and breakfast and she questioned where the employees would park. Hopefully they would use public transportation or public parking, but there was no way to guarantee it. Commissioner Pettit still had serious concerns about parking.

Chair Wintzer recalled that a condition of approval prohibits parking in the City right-of-way. He understood Commissioner Pettit's concern but he could not imagine a housekeeper blocking in a guest vehicle. It goes back to the issue that the bed and breakfast use would not increase the parking needs or the hardship.

Mr. Johnston pointed out that currently the structure has ten bedrooms as a duplex. The proposed bed and breakfast reduces the number of bedrooms to six.

Commissioner Worel referred to condition of approval #2, which stated, "The structure shall not have maximum of six (6) rentable rooms". She believed that was an error and the word "not" should be removed. Planner Astorga replied that she was correct.

Commissioner Pettit suggested revising condition #7 to state, "The site shall provide no more than six (6) on-site parking spaces".

Assistant City Attorney McLean recommended adding a condition of approval stating that if there are more than three enforcement actions, the CUP comes back to the Planning Commission for further review. She pointed out that the owner would need to apply for a business license and that would be another enforcement mechanism. Commissioner Pettit was comfortable with that recommendation.

Commissioner Pettit clarified that she loves bed and breakfasts and she misses the ones that have been lost. Commissioner Strachan agreed that bed and breakfasts were slowly being squeezed out. Commissioner Pettit was not opposed to the use and she believed it was a great idea in a great location. Recognizing that uses come with greater impacts, she wanted the Planning Commission to be cognizant of the City's best interest in terms of planning. Mr. Johnston concurred with Commissioner Pettit and stated that her concern has been discussed thoroughly by the applicant. He noted that even though six legal parking spaces were shown, the cars would still park facing the garage and not diagonally. Therefore, eight cars could potentially park. Mr. Johnston stated that the owner wants this to be a successful business and for that reason he believed the issue would regulate itself.

Commissioner Hontz asked Assistant City Attorney McLean to phrase her recommended conditions. Director Eddington had drafted the condition to read, "If there are more than three enforcement issues relative to parking issues, the CUP shall be brought back to the Planning Commission". It was noted that a similar condition was placed on the Yard and the Washington School Inn.

Chair Wintzer reiterated his condition to read, "This property shall be advertised as vehicles not required".

Director Eddington indicated a typo in condition #3 and changed night rental to nightly rental.

MOTION: Commissioner Hontz moved to APPROVE the conditional use permit for the Torchlight Bed and Breakfast with the Findings of Facts, Conclusions of Law, and the Conditions of Approval with the following changes;

- Condition #2 - The structure shall have a maximum of six (6) rentable rooms.
- Condition #3 – The rentable rooms shall be available for nightly rental only.
- Condition #7 – The site shall provide no more than six on-site parking spaces.
- Add Condition #12 - The project shall be advertised as vehicles not required.
- Add Condition #13 - If there are more than three enforcement issues relative to parking, the CUP shall be brought back to the Planning Commission.

Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

Mr. Johnston asked for clarification on nightly rental and whether it meant they could not rent weekly. Assistant City Attorney McLean replied that nightly rental is defined by Code as any rental less than 30 days.

Findings of Fact – 255 Deer Valley Drive

1. The site is located at 255 Deer Valley Drive.
2. The site is located within the Residential (R-1) District.
3. The applicant requests a Bed & Breakfast.
4. A Bed & Breakfast use is a Conditional Use Permit in the R-1 District.
5. The LMC defines a B& B as defined as a Business, located in an Owner or on-site Manager occupied dwelling, in which up to ten (10) Bedrooms are rented nightly or weekly, and where one (1) or more meals are provided to the guests only, the price of which is usually included in the room rate. B&B Inns are considered a lodging Use where typical lodging services are provided, such as daily maid service.
6. The proposal includes six (6) bedrooms to be rented nightly or weekly.
7. Currently the site is being used as a duplex with approximately ten (10) bedrooms.
8. The structure has a total of 5,384 square feet.
9. The applicant proposes to build a small addition on the third (3rd) floor behind the front portion of the existing structure consisting of 448 square feet.
10. The addition will be for the purpose of additional hall/lounge area and additional area for the owner's unit.
11. The applicant requests to change the interior spaces to accommodate the B&B.
12. The structure will consist of guest rooms, common areas, a kitchen to provide breakfast to its guest's daily, utility area and the owner's quarters.
13. The structure is not historic.
14. The rooms would be available for nightly rental only.
15. The property owner will be living on-site managing the B&B.

16. Food service will be for the benefit of overnight guests only. The intent of the proprietor is to provide breakfast service for the convenience of its guests only.
17. The rooms do not have kitchens.
18. The applicant submitted a site plan which indicates a total of six (6) on-site parking spaces.
19. The parking ratio requirements found in LMC 15-3-6(B) indicates that a B&B requires 1 parking space per bedroom.
20. The location of the use is close to the Old Town transit center and the China Bridge parking structure.
21. There are minimal traffic impacts associated with the use.
22. The proposed use is located on Deer Valley Drive, a major collector street and is in walking distance of the Own Town transit center.
23. No additional utility capacity is required for this project.
24. Emergency vehicles can easily access the project.
25. The applicant proposed the six (6) parking spaces to be on-site per the submitted site plan. Four (4) parking spaces are accommodated on the two (2) two-car garages and two (2) parking spaces are accommodated on the driveway area directly accessed off Deer Valley Drive, as vehicle back onto the street via a shared driveway with their neighbor to the east.
26. The City will not allow any vehicles to be parked on the City right-of-way (ROW).
27. The parking area is directly accessed off Deer Valley Drive, as vehicles back onto the street via a shared driveway with their neighbor to the east.
28. Fencing, screening and landscaping are not proposed at this time.
29. No changes to the exterior landscaping are part of this application as the addition to house is located above livable space.
30. The building mass, bulk, orientation and the location on the site are not affected by the use or addition to the structure.
31. No open space will be affected with the requested use from what is currently found on site.
32. Any future signs will be subject to the Park City Sign Code.

33. All future lighting will be subject to the LMC development standards related to lighting. Any existing signs or exterior lighting will be required, as part of this application, to be brought up to current standards.
34. Due to the size of the addition there are no issues with the physical design and compatibility with surrounding structures in mass, scale and style.
35. The applicant has indicated that no noise, vibration, odors, steam or mechanical factors are anticipated that are not normally associated within the R-1 District such as nightly rentals, etc.
36. The applicant has indicated that the proposed B&B use will have minimal delivery and service vehicles.
37. The applicant's representative plans on purchasing the property to live on site and run the B&B. This would be a condition of approval.
38. The proposal is not located within the Sensitive Lands Overlay zone.

Conclusions of Laws – 255 Deer Valley Drive

1. The proposed application as conditioned complies with all requirements of the Land Management Code.
2. The use as conditioned will be compatible with surrounding structures in use, scale, mass and circulation.
3. The use conditioned is consistent with the Park City General Plan, as emended.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 255 Deer Valley Drive

1. All standard conditions of approval shall continue to apply.
2. The structure shall have a maximum of six (6) rentable rooms.
3. The rentable rooms shall be available for nightly rental only.
4. The owner/manager shall live on-site.
5. Food service shall be for the benefit of overnight guests only.
6. the rooms shall not have kitchens.
7. The site shall provide no more than six (6) parking spaces.

8. The City will not allow any vehicles to be parked on the City right-of-way (ROW).
9. Any future signs will be subject to the Park City Sign Code.
10. All future lighting will be subject to the LMC development standards related to lighting.
11. Any existing signs or exterior lighting will be required, as part of this application, to be brought up to current standards.
12. The bed and breakfast shall be advertised to discourage vehicles.
13. If there are more than three (3) enforcement issues relative to parking, the CUP shall be brought back to the Planning Commission for additional mitigation.

The Park City Planning Commission meeting adjourned at 8:50 p.m.

Approved by Planning Commission: _____