PARK CITY COUNCIL WORK SESSION MINUTES
SUMMIT COUNTY, UTAH
AUGUST 30, 2012

Present: **Mayor Pro Tem Cindy Matsumoto; Council members Andy Beerman; Alex Butwinski; Dick Peek; and Liza Simpson**

Diane Foster, Interim City Manager; Mark Harrington, City Attorney; Matt Cassel, City Engineer; Scott Robertson, IT Manager; Heinrich Deters, Trails Manager; Rhoda Stauffer, Housing Specialist; Phyllis Robinson, Public Affairs Manager

Absent: **Mayor Dana Williams**

1. **Council questions/comments.** Dick Peek relayed that he attended the Habitat for Humanity Board meeting; its fund-raiser will be held on October 13. He, Andy Beerman, and staff attended the County Council meeting where extending the RDA was positively received. Final details will be addressed in the meantime. Liza Simpson attended a community fire plan meeting and she discussed a fire-wise landscaping pamphlet available to the public. She thanked staff for organizing Tom Bakaly's going-away reception and Public Works for helping move the Friends of the Library's books for its annual book sale fund-raiser.

Ms. Simpson relayed that the Mayor would like to have a discussion about the safety of the barrier on Bonanza Drive and referred to the recent accident. Matt Cassel explained that he had an opportunity to speak with the Mayor. Mr. Cassel understood that the barrier stopped the car and kept it from going across the road. There appears to be concern of someone landing on top of the barrier and getting impaled. He spoke with the Mayor about modifying the design and will follow-up with Council members in a manager's report.

Cindy Matsumoto stated that she attended the Chamber Board meeting. The visiting center will open around September 8th and a grand opening will be scheduled in October. Park City will be showcased on Flip Men on Spike TV. Board members gave very positive updates on summer business experiences.

2. **iPad discussion.** Scott Robertson recommended that iAnnotate be used as the standard app. Andy Beerman expressed that he is satisfied with iAnnotate but suggested that plugs be installed at the dais so iPads can be recharged. Liza Simpson agreed with Mr. Beerman and likes iAnnotate. She was supportive of providing the Executive Office staff with iPads which will be helpful in trouble-shooting. Ms. Simpson felt it would be helpful to reach out to Bozeman, Montana where the Planning Commission has been issued iPads to find out how large files are managed. Dick Peek explained his preference for iAnnotate. Problems with opening meeting invitations were discussed.

Andy Beerman pointed out that when looking at large documents with appendices, it might be useful to separate out exhibits as individual documents. This would require sending members multiple documents from the meeting packet. Dick Peek pointed out that referring to them in the future may be problematic. Diane Foster understood that one document would be created for the public and another version of the packet where all of the staff reports are in one document and all of the exhibits in the other document. She felt this is a decent solution but Mark Harrington emphasized that it is very labor intensive. If the problem is viewing exhibits, he suggested just switching between the browser and iAnnotate so that multiple documents do not have to be created and/or distributed.

Ms. Simpson complained about not having referenced prior closed session staff reports attached to the closed staff report because she doesn't necessarily save them. Diane Foster will follow-up with staff and Andy Beerman interjected that Drop Box can solve this problem as well.

Cindy Matsumoto invited Alex Butwinski's input as this matter was continued on his behalf. He stated that he supports iAnnotate and likes the support provided by the Executive Office. He felt there are too many issues to extend the iPad to the Planning Commission at this point in time. There was a presentation made a couple of weeks ago and it would have been so easy to put in *see the date*; it doesn't need to be a link or anything like that. Diane Foster noted that this is the opposite of what Liza Simpson suggested. Ms. Simpson stated that if it is a reference in a regular staff report to a previous staff report, a link can be created. A closed session report, however, is not available in Document Central so hyperlinking is not an option. Ms. Foster pointed out that links can also become outdated.

Mr. Robertson asked about direction to provide iPads to Planning Commission. The Mayor Pro Tem recommended following up with Bozeman. Liza Simpson agreed with Mr. Butwinski about working out problems on the Council level first. Mr. Robertson relayed that the Planning Commission is interested in using iPads. Dick Peek suggested that Commission members take turns reviewing a meeting packet on an iPad as a trial. Ms. Foster spoke about using an iPad as a Planning Commission member which was very challenging. She understood direction to be that staff research other communities and return to Council for approval before distributing devices to the Planning Commission.

3. UDOT underpass project. Heinrich Deters explained that this is a follow-up from the August 9th meeting where staff presented a conceptual underpass proposal from UDOT for a wildlife/pedestrian underpass at US40. The site is located across from the Triangle Parcel on the east side of the road and the PRI Round Valley Parcel on the west side of the road. At that time, staff recommended to continue the item because the project was very fluid and influenced by time constraints. It originated when available federal enhancement funds were identified by UDOT. These needed to be used by September 1, 2012. Based on a wildlife study, UDOT has been installing fencing along the corridor and the Director of Region 2 approached the County, City and SBSRD about the possibility of creating a wildlife and pedestrian underpass at this location. He continued that at that time, due to the Triangle Parcel planning efforts, there was concern that a wildlife underpass would create a wildlife corridor on a parcel that has not yet been planned and has a letter of intent associated with planning signed by the City and the County. Additionally, funding was not finalized and the project was estimated at $1.5 to $2 million for the tunnel. Mr. Deters stated that UDOT has approximately $700,000 and is looking for co-funding assistance.

Council continued the item and the project as it stands today entails a multi-use recreational tunnel. The wildlife component has been removed which eliminates the stipulation of possible negative impacts on future planning efforts for the Triangle Parcel. Additionally SBSRD has committed to co-funding the project with UDOT. Mr. Deters emphasized that funding from the City or the County is not being requested. The Triangle Parcel Planning Committee consisting of SBSRD, County and City representatives is supportive of the proposal as set forth in the staff report. The proposal of placing a trailhead on the Triangle Parcel has been removed by SBSRD. Staff is recommending that the City Council conceptually support the project even though it is within the UDOT right-of-way. It will provide regional trail connections for Basin, County and City residents.

In response to questions from Dick Peek about where the tunnel daylights, Heinrich Deters described the location. He added that SBSRD and the County are considering a temporary trailhead facility in that area on the west side of the frontage road. Alex Butwinski asked about parking on the frontage road and Mr. Deters explained that is the reason why the Basin and the County are working on a temporary trailhead facility. Mr. Butwinski pointed out that there is no trail connection, the parking seems unclear and it is not intuitive to find. Mr. Deters agreed and explained that the frontage road is very popular for road cyclists. Currently, the only way to get back to the Silver Summit Parkway is to cross the ramp at the Home Depot which can be a challenge. The tunnel provides for a much safer crossing east to west from the frontage road to the Round Valley area. Secondly, the Silver Quinn Pathway will be paved which goes from IHC all the way to Highland Drive creating another multi-purpose use corridor. It will be a good connection for those recreational users.

With regard to the trailhead component, Mr. Deters explained that over the last couple of years, the Nordic trails have been expanded and specifically routed toward Highland Drive which has become a problem. The SBSRD has a high interest in trying to provide more trailhead parking to access Round Valley from that area and are considering the area on the east side of US40 using the underpass to access the property. This is viewed as accommodating Salt Lake guests. They are also working on a neighborhood trailhead at the end of Highland Drive which won’t be identified on maps or publicized because it is intended for residents. Mayor Pro Tem Matsumoto emphasized that the project is not on City property and Council members expressed support of the underpass project.

4. Housing assessment and plan. Rhoda Stauffer explained that she will share key indicators but the discussion is intended to focus on policy over the next five years. There has been little change in population, only a 187 net difference since the 2000 Census but more than 700 people have left the community in age groups between 4 – 49 years old. More than 800 people have joined Park City that are 50 years old and above. Median age has changed from 32.7 to 37.4 over ten years. She stated that wages continue to be substantially outpaced by housing costs despite the recession. Thirty-nine percent of the jobs in the community are in the leisure and hospitality fields which pay 30% less than average wages. She illustrated a chart showing the dual bell curve relating to the age of the community. The higher income group and lowest income population are also rising. Families where the parents are 35 to 45 years old are represented in the middle of the dual bell-curve and is the group Park City is losing.

Currently 336 renter households are paying 50% or more which is considered *cost-burden* and more than 500 households who are renting could be owners. The aging stock among deed restricted properties needs attention. She explained that the work force wage is used instead of average median income because AMI is usually 40% higher than what people are actually earning here. Ms. Stauffer reported that by 2005, the City had 369 affordable housing units and from 2005 the focus was turned to home ownership and home ownership units were increased by 47 and another 79 units are coming on the market at Park City Heights as well as some in-town units. She felt the City has made significant progress in newly constructed home ownership.

She relayed that the goal of affordable units as a percentage of the total units in town, is 10% which was discussed in 2005 when the percent was 5.5%. Today, the City is closer to 7% and it is estimated that adding 295 units would fill the gap. Staff used a number of ways to look at the demand including reviewing location substitution which is a concept adopted in 2005.

Park City is the center of employment on a regional basis and the goal is to have 34% of those employees living in town. In 2005, 17% lived in town and today it is at 20% and to get it to 34% would require adding 213 units. Ms. Stauffer reported that 288 rental units are needed to accommodate severely cost burdened households (paying over 50% of income for rent). The demand number is also based on the Balanced Growth Study which recommends 390 units. Ms. Stauffer felt the need is between 200 to 400 units, recognizing that affordable housing needs will never be fully met however it is helpful to know that it’s not 4,000 units.

She asked for feedback on the City’s efforts in the next five years. The amount of available land is finite in Park City and even with sufficient land it is impossible to build ourselves out of this problem, but helping younger families to remain in Park City will address the dual bell curve and the divided community that is developing. Preserving what we have and helping local work force members to buy existing homes is the ultimate form of recycling.

Rhoda Stauffer stated that the mortgage assistance program is only a concept at this point and staff will return to Council with more details if there is support. There is money in the budget to hire a consultant in the field of equity sharing programs. She invited questions.

Alex Butwinski referred to a proposed amendment to the 2007 Housing Resolution regarding updating the payment in lieu fee and expressed that one of Council's goals for some time was not to accept payments in lieu but to increase the affordable housing product. Ms. Stauffer explained that payment in lieu remains one of the options for satisfying an affordable housing obligation and needs to be updated on a regular basis. There are cases where the affordable housing requirement may be .5 and rather than building half a unit, the applicant could pay cash in lieu. The fee was established in 2007 at $162,000 and it is proposed to decrease.

Alex Butwinski pointed out the high number of unoccupied units at Kimball Junction which may be a viable option. Ms. Stauffer relayed that one goal is formulating a regional affordable housing plan and a group is being formed with the County to discuss regional approaches to these issues. Those units are priced so close to market that the housing doesn't meet our needs. If there is support from other members, he asked her to explore City assistance on mortgages. Ms. Stauffer explained one of the pieces is looking at current units. She would like to set up a stewardship program to make sure that deed restricted home ownership units are viable well into the future. One proposal is a buy-back program to adjust deed restrictions because of the market and to resell units back into the affordable housing pool.

Liza Simpson made minor corrections to the plan document. She referred to the comment in the report about families leaving but households getting smaller and as the City moves forward on addressing actual housing needs, this should be considered. Recognizing that this is an effort to correct the trend, house sizes should be getting smaller. She asked the last time the housing allowance was updated and Ms. Stauffer stated that she will find out and get back to her.

Ms. Simpson asked how the 34% was reached for the location substitution percentage. Phyllis Robinson explained that the housing resolution should provide a nexus between housing requirements and the actual needs in the community. In 1999, the City began to include specific requirements in the housing resolution and looked at the relationship between jobs and housing in the community and the location substitution percent was set at 34%. Ms. Simpson commented that the community has changed so much in type of housing stock and she wants to make sure that the number is on target with Council's goals given how much the community has changed with second home owners.

In response to questions from Dick Peek, Ms. Stauffer explained that work force wage includes a household factor and median Summit County wage in 2010 is a wage for an individual. Work force wage considers other elements that are added to the number.

Andy Beerman complimented the work accomplished. He recognized that it is much harder to obtain a loan and buy a house in these times and younger people seem less interested in owning houses. He suggested that the emphasis in the short term focus on rentals because that seems to be the growing market because it offers maximum flexibility. Ms. Stauffer believed this is a good point but felt housing has to be balanced. People who come here and invest in the community seem to want to buy here. He understood that the Liberty Apartments are priced too high and asked if it is possible to direct a developer to build less housing but subsidize the rents. Ms. Stauffer responded that this option is included in the resolution.

Ms. Simpson stated that she is looking forward to the discussion of the stewardship program so the housing stock remains in good condition. Stewardship can lead to providing housing management services and Ms. Stauffer agreed that management is key.

Mayor Pro Tem Matsumoto asked if there are concerns about people qualifying for loans for units at Park City Heights. Rhoda Stauffer indicated not so much there because Ivory has its own lending capabilities and expertise. Ms. Matsumoto asked if there is an inventory of homes for sale that may fit the affordable housing niche. Ms. Stauffer felt the asking prices are a little out of reach for work force housing wage earners but there are units out there in the City. Staff will return to Council with more details on the concept. Council members indicated their support of the recommendations in the staff report.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
AUGUST 30, 2012

I ROLL CALL

Mayor Pro Tem Cindy Matsumoto called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, August 30, 2012. Members in attendance were Andy Beerman, Alex Butwinski, Cindy Matsumoto, Dick Peek, and Liza Simpson. Mayor Dana Williams was absent and excused. Staff present were Diane Foster, Interim City Manager; Mark Harrington, City Attorney; Matt Twombly, Project Manager; and Francisco Astorga, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Dick Peek disclosed that he is working with the architect hired for the 80 Daly Avenue project on an unrelated project.

III PUBLIC INPUT *(Any matter of City business not scheduled on the agenda)*

The Mayor Pro Tem invited public input.

Affordable housing assessment and plan:

Darius Griven, Woodside Avenue resident, relayed that she is within the median age of 35 to 45 and median income of the group moving out of town because of wage and housing ratios presented during work session. She referred to housing at the Junction which is not really an option for her and her husband because they only have one vehicle. Moving out of Old Town would require acquiring another vehicle. They like Park City and don't want to move to the County and commute. She walks to work on Main Street but her rent is comparable to a mortgage payment. She and her husband are considering having a family but Park City may not be a good long-term fit.

Patricia Smith, resident, stated that the housing survey is excellent. She emphasized the need for affordable senior housing including regular rentals, assisted living and nursing facilities. It may be that not all needs will be solved in our small community but she felt it important to work regionally. *We don't need to reinvent the wheel* and Ms. Smith commented on Heber's Prestige Housing Project as an example. Liza Simpson added that senior housing is one of the elements of the Lower Park Avenue RDA.

With no further comments, the public input session was closed.

IV JOINT WORK SESSION NOTES OF JULY 12, 2012

Liza Simpson, "I move we approve the joint work session notes of July 12th". Andy Beerman seconded. Motion unanimously carried.

V CONSENT AGENDA *(Items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon under "Additional Discussion – Agenda Items")*

1. Consideration of a Resolution adopting 2030 Long Range Strategic Plan for Park City, Utah - and

2. Consideration of a Use Agreement for Sundance Film Festival Automatic Vehicle Location – Andy Beerman, "I move we approve the Consent Agenda". Liza Simpson seconded. Motion unanimously carried.

VI NEW BUSINESS

Consideration of authorization to the City Manager to enter into a construction contract in a form approved by the City Attorney's Office with Miller Paving Inc., in the amount of $178,897 – Matt Twombly explained that the contract relates to the Swede Alley crosswalks. This is a smaller project associated with the HPCA Main Street improvement plan. The working committee is represented by staff, HPCA, and IBI Group which formulated conceptual plans and a prioritized list of projects. The Swede Alley projects are identified as immediate needs, including the crosswalks, the historic wall and the Egyptian Theater pass-through. The other projects need additional design and engineering work before moving forward. This project proposes constructing new crosswalks which will be colored brick pavers and the main idea is to visually strengthen the crossing for pedestrians and hopefully slow down vehicle speeds. The project also includes a small pedestrian plaza at the south end of China Bridge across from the Egyptian pass-through. He stated that there will be impacts but two lanes of traffic will be maintained to minimize inconveniences. Project information will be disseminated to the public.

Alex Butwinski asked why pavers were chosen rather than stamped concrete and expressed concern about durability. Mr. Twombly replied that natural brick holds up better than concrete. Concrete pavers did not seem to hold up well in weather and/or snow removal. The natural brick pavers work because they are air entrained and made here locally to handle the environment. The crosswalks will be done first and the wall and pass-through perhaps during the winter. Liza Simpson commented on the wide range in bids submitted and hoped there will not be change orders. Matt Twombly explained that sometimes that occurs but it was bid as one project and there shouldn't be change orders. Way-finding, specifically the Egyptian pass-through was discussed. The Mayor Pro Tem invited public input; there was none.

Dick Peek, "I move that we authorize the City Manager to enter into a construction contract in a form approved by the City Attorney's Office with Miller Paving Inc. in the amount of $178,897". Liza Simpson seconded. Motion unanimously carried.

VII OLD BUSINESS

Consideration of a plat amendment for 80 Daly Avenue, Park City, Utah – Planner Francisco Astorga stated that the City Council received a letter from Attorney Wade Budge today with new information. In staff's opinion, it is important information and the public has not had a chance to see it but copies are available at the meeting. Mayor Pro Tem Matsumoto asked if the hearing should be held, continued, or remanded to the Planning Commission. Mr. Astorga noted that the Commission has not seen the new information. Mr. Harrington advised that a decision be made after full presentations and holding a public hearing, although a remand is certainly an option. Members were comfortable with proceeding.

Mr. Astorga explained that 80 Daly Avenue is currently under the same tax identification number. He displayed a map of the lots explaining that they are considered flag lots and referred to the 1981 accident where a water tank rolled over a historic building. The structure was rebuilt but does not resemble the previous one dating back to the early 1900s. In 1981 the lot received a variance to reconstruct the building and deviated from the parking requirements by not having to providing on-site parking. The building to the south is old however it is not considered as a significant or landmark site. There are two historic homes across the street at 61 and 71 Daly Avenue. He displayed a survey which shows the footprint of 68 Daly Avenue and explained that the plat amendment results in two buildable lots of record and the proposal meets the minimum lot area and minimum width requirements.

Mr. Astorga pointed out that Daly Avenue was not platted like the rest of Old Town with the typical 25 x 75 foot lot configuration. Most of the lots are about 91 feet in length and most on the west side have a little more area because of the vacation of Anchor Avenue in 1969 resulting in ranging widths. The Planning Commission forwarded a negative recommendation and voted 4:1 to deny the plat amendment application. He referred to the July 25th Planning Commission minutes where concerns included snow storage, traffic, view shed, parking, massing and scale were discussed. He continued that a big issue is Lot 9 which seems to be already divided because of the property owned by Pete Henderson at 68 Daly Avenue and the area owned by the applicant. Lot 10 is completely owned by the applicant, including half of Anchor Avenue in the rear and a portion of Lot 11. The Planning Commission felt there should only be one unit per lot. He believed Lot 10 would require a steep slope CUP process and there was discussion about placing restrictions on a portion of Lot 9 because of the existing home on the lot.

Francisco Astorga stated that the information received today was researched by Attorney Wade Budge and Alliance Engineering. He displayed the proposed plat and referred to a warranty deed dated 1940 and pointed out the associated property. The date is important because the state code regulation allowing municipalities to move forward with subdivisions wasn't adopted until 1953. The first Land Management Code he was able to locate is dated 1968 and the current subdivision ordinance in the LMC dates back to 1979. There were many other deeds but this is the first one found relating to this application. The next deed is an expansion of the same area towards the current owned area, dated 1971. He referred to two deeds both dated 1983 which picked up some of the area from the vacation of Anchor Avenue. These deeds were presented to staff who recommended that the applicant work with a surveyor to better define properties and ownership. Alliance Engineering was hired and he displayed the exhibit produced. Dick Peek asked when a portion of the property described in the 1940 warranty was transferred and Mr. Astorga guessed it was in 1971. For the benefit of Liza Simpson, he displayed the location of the King Ridge Estates easement over Lot 11. This configuration has existed since at least 1971. She understood the easement was granted by the owners of Lot 10 because they own part of Lot 11. Mr. Astorga pointed out the same ownership of this portion of Lot 11 and Lot 10 since 1971.

He explained that the reason staff feels the new information is relevant is because of the dates of the deeds dated 1940 and 1971. In most cases, anything in that same shape or configuration prior to the 1953 state subdivision ordinance is viewed as legal non-conforming. Other information submitted today is the 1907 Sanborn Insurance Map. On the map, he pointed out 84 Daly and relayed that it is felt that the original building was destroyed in 1981. The size of these structures were smaller than what is currently being built. Mr. Astorga explained that this application was reviewed by the Planning Commission at three meetings. Staff forwarded a positive recommendation to the Planning Commission who forwards a negative recommendation to Council. This was to be reviewed by Council on August 9th but the applicant requested additional time to conduct research. The staff report contains findings for denial as directed by the Planning Commission.

Dick Peek asked the offset in the neighborhood after the survey monument was corrected. Mr. Astorga relayed that he doesn't have an answer but could probably get one from Alliance. Mr. Peek asked if 84 Daly sits on a portion of Lot 11 and it was pointed out that it touches the lot line. Dick Peek understood the application is for three structures and the Sanborn map shows four structures. Liza Simpson asked what information was requested in May for the first continuance and Mr. Astorga explained that the architect was directed by the Planning Commission to provide a rendering illustrating mass and the footprint which is included as an exhibit in the meeting packet. A shadow study was also provided.

Andy Beerman asked if there are other examples of homes on flag lots on Daly Avenue and Ms. Astorga indicated that this is the only situation he is aware of. He asked about intended access to the property on the Sanborn map and Mr. Astorga pointed out Anchor Avenue on the map with the notation *not an open road*. Mayor Pro Tem Matsumoto invited the applicant to speak.

Attorney Wade Budge stated that he represents Taylor Harminling and Alex Adamson who own the properties together but live on the coast and are unable to attend the meeting. One of the reasons they researched the Sanborn Map and other maps was to determine if it would be appropriate under the Code to place a building in front of Mr. Henderson's property. The Planning Commission was concerned about adding density to the street that would have been unhistorical or out of character. It was found that structures were historically located in front of Mr. Henderson's property and next to 84 Daly as well. The proposal is to place the smallest structure possible in front of Mr. Henderson's property and they have reduced the size of Lot A on the currently designated Lot 9 to the minimum at 1,865 square feet and the smallest footprint allowable will result for a structure which is the intent.

He emphasized that he understands if the Council doesn't want to proceed tonight because some of these materials have just been provided. Mr. Budge explained that they would like a plat approval because it is important to move these lot lines including moving Lot 11 off of the property, address the back lot lines with respect to Anchor Avenue, and resolve the issue of having two owners of Lot 9. Lot B will be a little bit larger than if they were to just simply apply for a permit today but this is a good way to make use of the land. The staff recommended to the Planning Commission that the setback be increased by an additional foot to take into account the fact that there is an easement with King Estates. His clients are okay with that and have no intention of interfering with the overhang at 84 Daly and no intention of interfering with the King Estates easement. Mr. Budge stated that Mr. Henderson's stairs actually encroach in part on their property. His clients will allow the stairs in perpetuity and he has engaged in discussions with Attorney Brent Gold about satisfying some of Mr. Henderson's concerns.

Mr. Budge acknowledged interest in how the structures will look. Given the City's ordinances and the topography of the property, a steep slope CUP process will have to be conducted by the Planning Commission. At that point, the applicants will have to provide details. In May, they were asked to provide massing models which was done to provide the Planning Commission with an additional tool to evaluate the proposal. Mr. Budge relayed that they want to present a structure compatible with the historic area and the character of the neighborhood. The height limit is regulated by the Code and the total maximum square footage of a structure should be evaluated at the time of application of a steep slope CUP.

Liza Simpson asked if his clients are willing to do an encroachment agreement for the Henderson House and Mr. Budge answered yes; they are willing to do an encroachment agreement or license that will address the situation so that the stairs can remain in perpetuity and be replaced as long as they are rebuilt in the same location.

Dick Peek referred to exhibits and pointed out that the setbacks don't correspond with the easements and asked if the massing studies were based on these calculations. Mr. Budge explained that the drawings illustrating mass were intended to show the worst case scenario. The renderings are only intended to show massing and space not the actual design and the final design will be determined through the Planning Commission CUP process. Francisco Astorga interjected that the architect may have overlooked the easements. If the Planning Commission forwarded a positive recommendation, staff was also requesting that setbacks be increased. Dick Peek pointed out the wood stairs and an adjacent wood structure and asked if the Building Department has additional setback requirements for fire. Mr. Astorga clarified that there is a specific requirement which may limit the number of openings on the façade as well as additional fire related precautions but he felt these requirements can be met.

Alex Butwinski asked the relevance of the insurance map. Attorney Wade Budge responded that the relevance is that historically, in front of the back half of Lot 9, there was a structure and due south there was a structure adjacent to 84 Daly as well. Mr. Butwinski pointed out that they were probably substantially smaller than the proposal. Francisco Astorga advised that the historic structure to the south had a footprint of 690 square feet while the one to the north had a footprint of 785 square feet. Mr. Butwinski asked if approving a plat with odd shaped lots will create precedence. Mark Harrington didn't think so. This is likely the only situation which is predicated on an existing historic situation and there aren't any other flag lots. A new application could not be submitted with this configuration under the current Code. In response to a question from Alex Butwinski, Wade Budge explained that the easement would be granted in perpetuity.

Andy Beerman asked about fire access. Mr. Astorga advised that he checked with the Building Department on health, safety and welfare issues related to the application. A fire hydrant is located across the street which can adequately serve the properties. The Mayor Pro Tem opened the public hearing.

Carlene Riley, 84 Daly Avenue, emphasized that the applicants are proposing a three story building next to her which will dramatically shadow her property. She requested that the plan be scaled down and maybe just build one house on the lot. This is a major impact for Daly. She noted that the old foundations are still there and the historic homes were small. She asked that Council look at this again so that the project is reasonable.

Attorney Brent Gold stated that he is representing Pete Henderson, owner of 68 Daly Avenue. He has owned that property in excess of 40 years and lived there for a considerable period of that time. He was residing there at the time of the water tank roll-over and constructed the existing house, including the steps over 30 years ago. Mr. Gold stated that the information submitted today is germane and there are issues relating to the Sanborn Map and the deeds referenced. He would like an opportunity to evaluate them and suggested taking more time to make a determination.

He explained that the Planning Commission dealt with this matter as two distinct issues. One was the Historic District Commission massing, size, proximity, location, height, etc. which are consistent with what the Historic District requires. He referred to excerpts of the Planning Commission Minutes, specifically Pages 175 through 177 and urged members to read them carefully to understand its reasoning. Commissioners rejected the application because they found it offensive and inconsistent with the Historic District.

The second concern relates to legal issues like easements, ownership, and encroachments. He referred to the survey which shows the ownership line midway at least in the upper portion of the steps as the encroachment and also shows the cement pad and a lesser portion of the lower steps. He reiterated that that structure has been there for 30 years. Mr. Henderson built these steps prior to the relocation of the survey monumentation and the discrepancy in the survey with distances between what occurred when Bush & Gudgell relocated the monumentation it seems feasible, probable and likely those are the issues that we have here. Boundary lines shifted because of survey differentiation.

Mr. Gold continued that his client's house is perched on a hill immediately behind Lot A and if they put a house in front of him, even with the height limitations, it blocks the entire first floor and his view over Daly Avenue. It is his client's request that a height limitation be imposed. There are many ways to accomplish that. Even though this can be addressed in the CUP process, Lot A is virtually flat and Mr. Henderson is on the steep part. He questioned if the applicants are required to go through a steep slope CUP process. If Council considers going forward, there should be a height limitation. He also referred to the impacts to Carlene Riley if this is approved and asked that counsel share all information. Mr. Gold requested a continuance.

Richard Iron, 61 Daly Avenue, pointed out that the street is like a wall already because of density and there is a severe parking problem on Daly Avenue. He and his family of four live in a small home. Daly is a nice spot and this is an opportunity to keep it small and simple.

Brooke Hontz, Planning Commissioner, addressed the ownership of PC653 which is Lot 10 and portion of the other. She contacted the Summit County Recorder and learned that it transferred hands relatively recently and she felt that members may have thought differently. She referred to the Planning Commission Minutes, Pages 175 through 177, which summarize the discussion about density, scale, mass and height. Additionally, the Planning Commission has not had an opportunity to review the new information which relates to increasing density. If the applicant wants the three units then the same scale, mass and height should be used. The 3-D model really helped because it showed what could be done. The Minutes also reference Mr. Astorga suggesting a compromise by agreement to smaller footprints and limiting the sizes. The applicants did not want to do that and they actually said that they would not. She spoke about compatibility. Public health, safety and welfare issues were considered. Ms. Hontz referred to the easement and if this is approved, leverage may be more in the hands of the applicants. She proposed that 68 Daly would be harmed if the plat is approved. The Commission felt that there is harm caused by new impacts and issues, e.g., snow storage, traffic, view shed and parking problems increase in the winter months. The Minutes show that these are existing problems that this project will exacerbate but it also creates its own new issues.

The Mayor Pro Tem closed the public hearing.

Francisco Astorga stated that a letter was received from Bill and Gayle Sickler who are opposed to the approval of the plat.

Cindy Matsumoto asked if the structure in front of Mr. Henderson's house will need to go through the steep slope CUP process. Mr. Astorga indicated that any construction over 1,000 square feet or access to any construction that is over 30% of grade or steep slope requires review by the Planning Commission for a conditional use permit. He explained that it depends on the design and size but typically the scale proposed is much larger.

Ms. Simpson asked if there is any reason why the Council cannot uphold the Planning Commission's decision tonight. Mark Harrington pointed out that there is a problem with the *three to four units* as a finding of fact. Some findings may change if the applicant and neighbors resolve encroachment issues in a particular way. He clarified that Mr. Gold was hinting that this is beyond easement and potential for quiet title based on prescriptive rights which would affect the maximum lot area. He advised that Council has a number of options. A continuance can be granted to see if the parties resolve some of their issues and it also gives everyone a chance to hear and evaluate the new submission. The Planning Commission didn't have access to the information and the application could be remanded for further consideration of the new material. This would also give parties time to work things out and address the volumetric more accurately which was a point made by Attorney Budge. Council could give direction to further consider staff's recommendation in light of the new information as well as in terms of height and size limitations. He stated that Council could also move ahead with its own analysis and provide staff direction on the things that are desired with regard to mass, scale, height, density and compatibility. Mr. Harrington encouraged members to consider holding one more Council meeting on this matter because it gives both sides impetus to move things forward quickly while a remand may reduce the time pressures to resolve.

Ms. Simpson stated that she is very supportive of the Commission's concerns. Mark Harrington felt there is no harm in one continuance to make sure that all parties have an opportunity to weigh-in. Alex Butwinski stated that he is inclined to continue based on Mr. Gold's request to review the material. He feels this is the best alternative for the parties and keeps other options open. He agrees with Ms. Simpson and has reservations about not upholding the Planning Commission's determination. Dick Peek stated that he is in line with the Planning Commission's determination with regard to the application not comporting with the purpose statement of the zone. Mass, scale and compatibility are big issues and he hoped to see the ownership issue of the stairway easement resolved. Massing is a critical element in the purpose statement. He addressed snow shedding and the potential of drift loading and stated that he is in support of a continuance. Andy Beerman stated that he supports the Planning Commission's conclusions but has no problem with continuing the matter to provide an opportunity for the parties to meet.

Mr. Butwinski expressed that he would like to better understand if Lot A would be required to go through a conditional use permit process. Francisco Astorga explained that the LMC indicates a minimum distance of 15 feet on slopes 30% or greater, measured from the beginning of the driveway and he would need to see the proposed footprint to make a determination. Liza Simpson understood that if the footprint was limited to the front half of the lot, the project would not need a steep slope CUP.

Liza Simpson stated that she would prefer to have only one continuation which prompted discussion on meeting schedules. Liza Simpson, "I move that we continue the plat amendment for 80 Daly Avenue to October 25th". Dick Peek seconded. Motion unanimously carried.

VIII ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3 p.m. Members in attendance were Mayor Dana Williams, Andy Beerman, Alex Butwinski, Cindy Matsumoto, Dick Peek, and Liza Simpson. Staff present was Diane Foster, Interim City Manager; and Mark Harrington, City Attorney. Alex Butwinski, "I move to close the meeting to discuss personnel, property and litigation". Andy Beerman seconded. Motion carried unanimously. The meeting opened at approximately 5 p.m. Andy Beerman, "I move to open the meeting". Liza Simpson seconded. Motion unanimously carried.

The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott, City Recorder

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