



**PARK CITY COUNCIL MEETING MINUTES
445 MARSAC AVENUE
PARK CITY, SUMMIT COUNTY, UTAH 84060**

April 4, 2019

The Council of Park City, Summit County, Utah, met in open meeting on April 4, 2019, at 2:00 p.m. in the City Council Chambers.

Council Member Henney moved to close the meeting to discuss property and personnel at 2:00 p.m. Council Member Ware Peek seconded the motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

CLOSED SESSION *

*Council Member Ware Peek was recused from the first property item on the Closed Agenda.

Council Member Joyce moved to adjourn from Closed Meeting at 3:15 p.m. Council Member Ware Peek seconded the motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

WORK SESSION

Annexation Discussion:

Anne Laurent, Community Development Director, Bruce Erickson, Planning Director, and Heinrich Deters, Open Space Manager, presented this item. Laurent reviewed the state's policy on annexations. She displayed an annexation expansion area (AEA) map and noted the Clark Ranch and Bonanza Flat properties were not included in the current expansion boundaries. Mayor Beerman gave the history of the current boundaries. Erickson clarified that the annexation plan needed to be in cooperation with the surrounding landowners, specifically the two neighboring counties. Laurent stated the 2014 plan did not include affordable housing. Deters discussed the conservation easements within the boundaries.

Council Member Joyce asked what the City was looking to accomplish since the conservation easement prevented development in those areas. Laurent stated annexations were feasible for services reasons. Erickson stated annexation included all other city goals, such as transportation, and would be considered when updating the General Plan. He thought it would be better to have City property controlled by the City. Deters stated controlling the property would help the City regulate its ordinances, and gave the examples of hunting, dogs, e-bikes or e-scooters, etc. Mayor Beerman stated the Stonebridge property was acquired from the County with the agreement that it would be annexed in the future.

Council Member Ware Peek asked what the health and safety officials thought of the expansion. She also asked about the ramifications to the school district. Erickson stated there would be impacts since many families affected by annexation would want to send their children to the Park City schools. Foster indicated public safety was a concern for the Bonanza Flat property because an agreement was set up between the Park City Police Department (PCPD) and the Wasatch County Sheriff's Office (WCSO) and the Wasatch County Council would not pass it.

Council Member Joyce stated he didn't want to fight other entities over land. Council Member Worel asked Council Member Joyce if he was against expanding the annexation area. Council Member Joyce stated the fight would begin with other entities as soon as new annexation expansion boundaries were drawn. Erickson stated there was a long-term process for the expansion area. Council Member Henney reviewed that if an annexation application came to a County for a property within the City's annexation expansion boundary, the County would have to notify the City.

Council Member Joyce asked how transit applied to annexation. Erickson stated transportation/transit was a regional effort and it was beneficial to know the land processes so a good General Plan could be formed, as well as planning meetings with the affected entities for transit purposes. Harrington reiterated the intent was for good planning. The expansion map would put Park City at the table for future planning.

Council Member Joyce asked if the City would be in an awkward position if a developer bought land within the annexation areas and requested annexation. Harrington reaffirmed Erickson's position and stated most planners encouraged entities to reassess their expansion boundaries from time to time to make sure it reflected their planning goals.

Council Member Henney favored annexation for property the City owned so that it would have jurisdictional authority. He also liked aligning the City goals. He agreed that the City needed to work with its partners and not oppose them.

Council Member Gerber noted the services got complicated when all the special service districts were taken into consideration, and especially the school district. She discussed the animal control regulations with the City and County where the jurisdiction was divided and preferred having consistent regulations. She also stated she was for affordable housing within the community, and was not in favor of sprawl.

Council Member Joyce asked if Council favored extending the boundary beyond the property the City currently owned. Council Member Gerber thought the city created a moat of open space surrounding the City and she didn't know if the moat should be expanded. Council Member Henney stated it was situational for him. Council Members Ware Peek and Worel agreed. Mayor Beerman discussed the process timeline. Council Member Gerber thought it would be wise to bring in some properties and stated it would be good to bring this to the attention of Wasatch County since there were already enforcement issues with Bonanza Flat. Council Member Worel indicated it would be good to consider each property individually and begin discussions with the City's land partners. Council Member Henney wanted a discussion on Clark Ranch. Council Member Joyce stated the properties in question didn't align with any of the recommended criteria except that the City owned it. Harrington stated this situation was different since the City owned it and growth was not the goal.

Council Member Ware Peek asked if the AEA facilitated the annexation process for Park City Heights and the film studio. Harrington stated that property was in the AEA, but it did not help in the annexation process.

Council Member Gerber asked if two entities could place the same property under their individual AEAs. Harrington stated there was a new statute that allowed for both entities to have an AEA on the same property. Council Member Joyce stated he was fine making progress on this although he knew staff was very busy. The majority of Council was willing to take this discussion to the next level. It was suggested to drop the Gilmore property, not include Richardson Flat, but consider Clark Ranch. Harrington quoted the State Code which stated entities should avoid gaps.

Mayor Beerman opened the meeting for public input.

Patrick Putt, Summit County Community Development Director, reminded Council the General Plan for Snyderville Basin stated that Summit County would not entertain rezoning unless there was a compelling interest to do so. This was added to protect Park City. He offered his help whenever it was needed.

Adam Strachan stated the biggest fights occurred over annexation. He suggested expanding boundaries and initiating annexation at the same time. He thought announcing a boundary expansion area would only hurt the City. He also indicated transit planning should happen no matter if there was annexation or not. He also

suggested annexing only if all the homes in the subject property were planned to be affordable. Lastly, Jordanelle was being developed so fast so there would not be opportunity to plan on the front end. Mayor Beerman noted that the property around Jordanelle was not being considered in the AEA.

Mayor Beerman closed the public input portion of the meeting.

STUDY SESSION

Community Foundation Social Equity Update:

Diego Zegarra, Community Foundation, gave a PowerPoint presentation on the data collected for social equity. There were five categories identified for social equity: affordable housing, low wages, affordable and safe childcare, lack of feeling included, and access to healthcare.

Council Member Ware Peek asked if there were responders that indicated mental health was a concern. It was indicated this was a broad survey and it would be narrowed down in the future. Mayor Beerman was worried about the high number of responders that didn't feel included. Zegarra stated the response section of the survey showed that people didn't feel included due to religion, events, access, etc.

Council Member Worel asked if the percentage of respondents to the survey corresponded to the percentages in the community, to which Zegarra responded that the percentages were fairly balanced. Those underrepresented in the survey were men and people who lived elsewhere and worked in Park City.

It was noted that households with someone who had different abilities or with someone that was LGBTQ+ had concerns with the top five social equity concerns. Council Member Joyce asked if there was bias in the survey. Ollie Wilder indicated that just having the survey indicated they were coming from a certain perspective of social equity. Council Member Worel asked if the team would drill down on healthcare access to determine what kind was needed. Zegarra stated they needed to determine where there were gaps.

Wilder stated the next step was to bring the data to the advisory committee to discuss where change could be effected. He also noted that other groups in the community would be looked at to determine what was already being done.

It was indicated that every category played off each other. There was discussion on racism in the community with concern by younger people and those with different abilities. Council Member Gerber asked if more surveys could be collected. Wilder felt there were enough to start honing in on priorities, but data would continue to be collected simultaneously while action steps were taken.

Council Member Ware Peek stressed that continued outreach was important. Wilder asked if the listening tours should continue. Council Member Joyce suggested drilling down on the current data and then having targeted listening tours as needed. The other Council members agreed.

REGULAR MEETING

I) ROLL CALL

Attendee Name	Status
Mayor Andy Beerman Council Member Becca Gerber Council Member Tim Henney Council Member Steve Joyce Council Member Lynn Ware Peek Council Member Nann Worel Diane Foster, City Manager Matt Dias, Assistant City Manager Mark Harrington, City Attorney Michelle Kellogg, City Recorder	Present
None	Excused

II) COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Council Questions and Comments

The Council reviewed the meetings, events, and activities they attended since the last meeting.

Mayor Beerman asked if Council would like a work session discussing the Utah Compact on Immigration and stated it was a bipartisan bill that he thought the City should support. The Council agreed to discuss it at a future meeting. He also announced Wasatch County agreed to be a financial contributor to the transit study. It was also indicated that Bill Malone was the recipient of the Double Black Diamond award.

Council Member Henney requested an update of the China Bridge parking statistics since it had been a year since the paid parking program began.

Staff Communication Reports

1. McPolin Farm CUP Amendment

2. 2019 Spring Season Transportation Update

III) PUBLIC INPUT (ANY MATTER OF CITY BUSINESS NOT SCHEDULED ON THE AGENDA)

Mayor Beerman opened the meeting for public input. No comments were given. Mayor Beerman closed the public input portion of the meeting.

IV) CONSIDERATION OF MINUTES

Consideration to Approve the City Council Meeting Minutes from March 14 and 21, 2019:

Council Member Gerber referred to Page Three Line 35 of the March 21st minutes and noted she had asked how an aerator would cause lead problems. Council Member Henney referred to Page Seven Line 14 of the March 21st minutes and indicated there was an unnamed council member in that sentence and thought it could be attributed to him. Council Member Joyce stated he was not present at the March 21st meeting and his name should be removed from roll call as being present.

Council Member Worel referred to the March 14th minutes, Page Four, Lines 24 and 25, and clarified that she thought Deer Valley Drive should either allow parking and remove the "No Parking" signs that are along part of the road, or not allow parking at all.

Council Member Worel moved to approve the City Council Meeting minutes from March 14 and 21, 2019 as amended. Council Member Gerber seconded the motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

ABSTAINED: Council Member Joyce for March 21, 2019

V) CONSENT AGENDA

1. Request to Authorize the City Manager to Enter into a Professional Services Agreement in a Form Approved by the City Attorney with Piercy Bowler Taylor & Kern, Certified Public Accountants and Business Advisors (PBTk) for Audit Services, Not to Exceed \$283,200:

2. Request to Authorize the City Manager to Execute the First Addendum to the Professional Services Agreement, in a Form Approved by the City Attorney, with Van Boerum & Frank Associates, Inc. for Golf Maintenance Building Energy Commissioning Services in an Amount Not to Exceed \$32,700.00:

3. Request to Authorize Staff to Extend Current Tenant Leases Located in the City-owned Bonanza Park East Property Through March 31, 2020:

4. Request to Authorize the City Manager to Execute a Construction Manager at Risk (CMAR) Agreement in a Form Approved by the City Attorney's Office with North Ridge Construction, Inc., in an Amount Not to Exceed \$16,500 for Preconstruction Services for remodeling the Old Bus Barn Located on the East Side of the Public Works Facility at 1053 Iron Horse Drive:

5. Consideration to Authorize the City Manager to Enter into a Construction Manager at Risk (CMAR) Agreement in a Form Approved by the City Attorney's Office with Ascent Construction, Inc., in the Amount Not to Exceed \$12,000:

Council Member Joyce moved to remove Items 1 and 5 off the Consent Agenda.
Council Member Gerber seconded the motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

Council Member Gerber moved to approve Items 2, 3, and 4 of the Consent Agenda.
Council Member Ware Peek seconded the motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

1. Request to Authorize the City Manager to Enter into a Professional Services Agreement in a Form Approved by the City Attorney with Piercy Bowler Taylor & Kern, Certified Public Accountants and Business Advisors (PBTk) for Audit Services, Not to Exceed \$283,200:

Rebecca Gillis, Finance Manager, was present to answer questions. Council Member Joyce stated it would be wise to not stay with the same auditor for too long because they had already seen the documents and had a rapport with the City. If this contract was accepted they could be with the City for a total of 14 years.

Gillis stated the auditor suggested having a different managing partner oversee the audit each year. These were internal controls that gave her the assurance they were thorough in their audit.

Council Member Joyce indicated he would feel comfortable with a partner rotation.
Council Member Ware Peek stated for transparency reasons there should be rotating

partners. Council Member Joyce suggested changing partners every two to three years to which the Council agreed.

Council Member Henney moved to authorize the City Manager to enter into a professional services agreement in a form approved by the City Attorney with Piercy Bowler Taylor & Kern, Certified Public Accountants and Business Advisors (PBTk) for audit services, not to exceed \$283,200 with the amendment that a different partner would supervise the audit every three years. Council Member Gerber seconded the motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

5. Consideration to Authorize the City Manager to Enter into a Construction Manager at Risk (CMAR) Agreement in a Form Approved by the City Attorney's Office with Ascent Construction, Inc., in the Amount Not to Exceed \$12,000:

Jason Glidden, Affordable Housing Manager, explained this contract was for a CMAR for Woodside Park II, and it would help cut down on change orders. Mayor Beerman stated this was moved from the Consent Agenda because it needed public input.

Mayor Beerman opened the meeting for public input. No comments were given. Mayor Beerman closed the meeting for public input.

Council Member Ware Peek asked if the CMAR could be the contractor. Glidden stated they were eligible to bid. He also noted this was the number one multi-family housing contractor in Utah and they also had a lot of experience in constructing net zero buildings.

Council Member Worel moved to authorize the City Manager to enter into a Construction Manager at Risk (CMAR) agreement in a form approved by the City Attorney's Office with Ascent Construction, Inc., in the amount not to exceed \$12,000. Council Member Ware Peek seconded the motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

Mark Harrington noted that the CMAR contract item in the Housing Authority agenda was noticed improperly and would come back at the next meeting for approval as a Redevelopment Agency (RDA) item.

VI) OLD BUSINESS

1. Discuss Special Service Contracts:

Jed Briggs, Budget Manager, reviewed \$150,000 was set aside for innovation grants, which could be for anything, not just the critical priorities. The regular service contracts would have \$300,000, and four additional categories were added to the list: Childhood Care and Development, Emergency Assistance, Housing Outreach and Education, and Safe Haven.

Council Member Gerber asked if all the organizations involved with childhood care and development were nonprofit organizations. It was indicated those organizations were nonprofits. Council Member Gerber asked if Peace House only took women. It was indicated Peace House housed women and children, but offered classes for men.

The Council members discussed the services needed to attain its goals. Council Member Gerber felt the childhood care and development should be in the social equity category. Council Member Worel shared the concerns of some nonprofit directors, noting their request to have an informational meeting prior to the application deadline. There was also concern that the new program might not allow the same funding, and some nonprofits with calendar year budgets had already budgeted their contract for this year.

Council Member Joyce reviewed the Chamber's contracts, which funded the part-time employees at the museum and the history museum for archiving. He was concerned that the funds didn't go straight to the museum. He was also concerned that the funding was \$120,000, which was over 1/3 of the entire budget for contracts.

Mayor Beerman opened the meeting for public input.

Paige Anderson and Randy Scott, Park City Historical Society and Museum, stated they were concerned about funding. Anderson indicated the front desk employees welcomed 135,000 people who visited the museum each year. She reviewed the reasons for the large amount of funding provided by the City. Scott indicated he understood Council didn't want to give entitlements, but those employees were essential to the museum and they would need more than 90 days to find other funding if the City decided not to fund them.

Cindy Matsumoto stated dividing the funds into three pots made it appear that Council wasn't acknowledging the good work being done by the nonprofits. She thought by using half the funds for innovation grants and social equity, Council wasn't supporting the nonprofits. She noted that Council could fund the nonprofits through the budget process and that funding didn't have to come out of the 1%. She also felt some contracts were part of social equity - such as childcare and healthcare.

Mayor Beerman clarified that social equity was a critical priority and more funding would go to the priority than what was assigned for the nonprofits.

Council Member Gerber stated childcare should be classified as a social equity contract, and by putting it in the social equity bucket, more funding for special service contracts would be available for other organizations. She indicated nonprofits shouldn't feel like they should get funding just because they had received it for so many years in the past.

Council Member Joyce asserted no decision had been made on funding. Council Member Worel offered a compromise by delaying the awards until the social equity strategic plan was in place.

Matsumoto felt the museum saw the writing on the wall and they wanted to say they would be more sustainable, but they needed time to have more conversations with the Chamber.

Mayor Beerman asked if the Chamber was planning on cancelling the part-time help or just cancelling it if it wasn't funded.

Bill Malone, Park City Chamber of Commerce, stated he used the City funding to pay for the part-time help, and if the funding was cut, those positions would have to be discussed in the budget process. He indicated the Chamber was asked by the City to have a visitor's bureau in the museum.

Mayor Beerman stated that prior Councils put the museum in the special service contract process. He felt there was an obligation to sort this out. The historic character was a core value in the community and Council should support it.

Council Member Henney wanted to think of this category in terms of this is a service contract that the City should be paying for. Money should be assigned to the museum, recycle Utah, Mountain Trails, and legal mediation, and then the City could use the rest of the money for other applicants. Council Member Ware Peek explained this first year the categories would be fluid. Council Member Henney suggested phasing this in over a couple years and noted he was not in favor of assigning dollar values to each bucket. It was indicated the bucket was now regular service contracts and no longer special service contracts. Council agreed to move childcare to social equity and remove the budget for each bucket.

Briggs reviewed Council's direction to take childcare out of regular service contracts and move it to social equity, have an informational meeting for applicants, bring back the Park City Museum topic for future discussion, and not assign dollar amounts to the buckets.

It was decided the City would issue an RFP for services needed and nonprofits could apply. Briggs stated one RFP would be issued explaining the services needed and then the committee would determine how much money would be issued for each service. Foster indicated the Council would approve or amend those recommended dollar amounts. Further discussion ensued on dollar amounts for social equity and innovation grants. Council Member Worel favored funding the regular service grants and waiting until fall to address social equity. Council Member Gerber suggested holding off on innovation grants until next year.

It was decided that the regular service contracts that had contracts with the City would go through the budgeting for outcomes process each year. There would be other categories for applicants who did not have existing contracts and they would be moved to social equity and have two liaisons talk about the funding for those applicants. If there was money left over, it would be put into social equity and innovation buckets. It was clarified that the social equity contract applicants should apply now.

2. Consideration to Approve Ordinance 2019-12, an Ordinance Approving the Park City Heights Phase 3 Subdivision Plat Located at 10 and 30 Sun Ridge Cove:

Council Member Worel recused herself because she lived in The Oaks Subdivision. Kirsten Whetstone, Senior Planner, and Brad Mackay, Ivory Homes, presented this item. Whetstone stated Condition of Approval 12 had been amended, but she distributed a handout with a newly amended Condition of Approval 12. She also distributed a letter from an attorney from The Oaks HOA requesting this item be continued until the HOA had time to discuss the options with Ivory Homes. Mackay distributed a letter from the Ivory Homes Attorney which stated Ivory Homes was not interested in joining The Oaks HOA.

Mark Harrington asked about the change in language for single family uses. Mackay stated Ivory had design guidelines for more than just single family dwellings. Harrington suggested the language be changed to state "and the design guidelines, as applied to single family uses."

Mayor Beerman opened the public hearing.

Justin Keys, attorney for some of The Oaks residents, stated the two Park City Heights lots on Sun Ridge Cove were part of The Oaks Subdivision. He spoke with the HOA president who stated if there were lots in the neighborhood, they needed to be in the HOA. He requested this item be continued so the HOA could discuss this with Ivory Homes.

Mayor Beerman closed the public hearing.

Council Member Henney asked Mackay why the attorney wrote a letter saying Ivory Homes didn't want to talk to The Oaks HOA. Mackay stated Ivory Homes didn't want to be in discussions because it didn't want to be held hostage by the neighbors when buyers built their homes. If, in the future, the owners wanted to be part of the HOA, that could be a possibility. Whetstone suggested adding to the Condition, "approval of the plat would not preclude the lots from joining the HOA in the future."

Council Member Joyce thought the design of the homes in Park City Heights were very different than The Oaks. Whetstone stated there were four different design guidelines for the Park City Heights subdivision. The two lots would have the design guidelines for the homestead custom homes. She noted the homes in The Oaks were outdated and there would be things such as energy efficiencies required in Park City Heights that would be followed. Ivory Homes would develop the homes to The Oaks' design guidelines.

Council Member Joyce asked what would happen when The Oaks' design guidelines conflicted with Park City Heights' design guidelines. After some discussion, Harrington stated the normal rules of statutory construction would apply, and the burden would be on the City to make the particular findings with an appeal right for the neighbors or owner if they disagreed with the findings. Council Member Joyce asked about The Oaks' HOA appeal process. Erickson stated any party who disagreed with the decision of the Planning Department could appeal. Council Member Joyce stated the City would have the responsibility for the design review, and he thought there would be conflict. He asked about the CCRs. Erickson stated there was nothing in the documents that required joining the HOA. Mackay indicated the CCR question was clarified in Condition of Approval 12.

Council Member Ware Peek asked what the conflict was with the CCRs. Harrington stated the CCRs could not be forced because the lots were not part of The Oaks Subdivision. He stated if Council didn't have clarity on the design guidelines to request clarity from staff.

Council Member Gerber asked if design guidelines were referenced in the Master Planned Development (MPD). Whetstone stated the design guidelines were not mentioned in the MPD. Erickson suggested crafting language that the Deer Valley (The Oaks) design guidelines would take precedence over the Park City Heights design guidelines, and noted it would take pressure off of staff. He gave an example of having The Oaks' design guidelines taking precedence and then adding the pieces of Park City Heights that didn't conflict. Council Member Joyce requested wording that stated if there was conflict on the design, The Oaks' design guidelines would take precedence.

It was decided that Planning staff and representatives from Ivory Homes and The Oaks would meet to work out mutually agreeable language for the design guidelines conflict.

Council Member Gerber moved to continue Ordinance 2019-12, an ordinance approving the Park City Heights Phase 3 Subdivision Plat located at 10 and 30 Sun Ridge Cove until the end of the City Council meeting agenda. Council Member Joyce seconded the motion.

RESULT: CONTINUED TO THE END OF THE COUNCIL MEETING AGENDA

AYES: Council Members Gerber, Henney, Joyce, and Ware Peek

RECUSED: Council Member Worel

VII) NEW BUSINESS

1. Consideration to Approve Ordinance 2019-14, an Ordinance Approving the 139 Main Street Plat Amendment, Located at 139 Main Street, Park City, Utah:

Tippe Morlan, Planner II, explained this plat amendment would combine lots.

Mayor Beerman opened the public hearing. No comments were given. Mayor Beerman closed the public hearing.

Council Member Ware Peek moved to approve Ordinance 2019-14, an ordinance approving the 139 Main Street Plat Amendment, located at 139 Main Street, Park City, Utah. Council Member Joyce seconded the motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

2. Consideration to Approve Ordinance 2019-15, an Ordinance Approving the 1137 Lowell Avenue Plat Amendment Located at 1137 Lowell Avenue, Park City, Utah:

Tippe Morlan, Planner II, stated this plat amendment would combine a portion of six lots and was a vacant property. Council Member Gerber asked if one person owned all the properties, to which Morlan responded in the affirmative.

Mayor Beerman opened the public hearing. No comments were given. Mayor Beerman closed the public hearing.

Council Member Ware Peek moved to approve Ordinance 2019-15, an ordinance approving the 1137 Lowell Avenue Plat Amendment located at 1137 Lowell Avenue, Park City, Utah. Council Member Worel seconded the motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

3. Consideration to Approve Ordinance 2019-16, an Ordinance Approving the 839 Woodside Avenue Plat Amendment Located at 839 Woodside Avenue, Park City, Utah:

Tippe Morlan, Planner II, indicated this plat amendment would combine two lots and noted a historic home currently bisected the lots.

Mayor Beerman opened the public hearing. No comments were given. Mayor Beerman closed the public hearing.

Council Member Worel moved to approve Ordinance 2019-16, an ordinance approving the 839 Woodside Avenue Plat Amendment located at 839 Woodside Avenue, Park City, Utah. Council Member Ware Peek seconded the motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

4. Consideration to Continue an Ordinance Approving the 220 Main Street Plaza Subdivision Located at 220 and 250 Main Street, Park City, Utah:

Tippe Morlan, Planner II, noted this plat amendment was being continued.

Mayor Beerman opened the public hearing.

Justin Keys stated he represented the adjoining owners and they were interested in what was happening with this parcel.

Mayor Beerman closed the public hearing.

Mayor Beerman disclosed he owned an adjacent property to this parcel.

Council Member Gerber moved to continue an ordinance approving the 220 Main Street Plaza Subdivision located at 220 and 250 Main Street, Park City, Utah to a date uncertain. Council Member Worel seconded the motion.

RESULT: CONTINUED TO A DATE UNCERTAIN

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

5. Consideration to Continue an Ordinance Approving the 269 Daly Avenue Plat Amendment Located at 269 Daly Avenue, Park City, Utah:

Tippe Morlan, Planner II, noted this plat amendment was being continued.

Mayor Beerman opened the public hearing. No comments were given. Mayor Beerman closed the public hearing.

Council Member Gerber moved to continue an ordinance approving the 269 Daly Avenue Plat Amendment located at 269 Daly Avenue, Park City, Utah to April 18, 2019. Council Member Ware Peek seconded the motion.

RESULT: CONTINUED TO APRIL 18, 2019

AYES: Council Members Gerber, Henney, Joyce, Ware Peek, and Worel

OLD BUSINESS (CONTINUED)

2. Consideration to Approve Ordinance 2019-12, an Ordinance Approving the Park City Heights Phase 3 Subdivision Plat Located at 10 and 30 Sun Ridge Cove:

Bruce Erickson stated Ivory Homes agreed to only use The Oaks' design guidelines, and to not directly apply the Park City Heights design guidelines. An approval letter would be required from Park City Heights that would determine compliance with the Park City Heights MPD. An approval letter from the Park City Heights architectural committee would also be required, and at the time when the City received a building permit for one of the lots, The Oaks HOA would receive notice.

It was decided to remove from Condition of Approval 12 "the design guidelines." Then further add, "The City upon receipt of a complete building permit application shall provide notice to the registered HOA at Deer Valley. Approval of this plat shall not preclude these lots from joining The Oaks at Deer Valley HOA in the future." Upon further discussion, it was decided to insert after Architectural Review, "and the Deer Valley design guidelines for The Oaks at Deer Valley as they apply to single family uses." Additional language to Condition 20 stated, "excluding the design guidelines." Council directed staff to clean up "The Oaks at Deer Valley" and make that consistent in the ordinance.

Council Member Joyce moved to approve Ordinance 2019-12, an ordinance approving the Park City Heights Phase 3 Subdivision Plat located at 10 and 30 Sun Ridge Cove as amended in a form approved by the City Attorney. Council Member Gerber seconded the motion.

Harrington requested the motion include “with amendments to Conditions of Approval 12 and 20 as noted. Council Member Joyce amended his motion to include the suggested language. Council Member Gerber seconded the amended motion.

RESULT: APPROVED

AYES: Council Members Gerber, Henney, Joyce, and Ware Peek

RECUSED: Council Member Worel

VIII) ADJOURNMENT

IX) PARK CITY HOUSING AUTHORITY MEETING

I) ROLL CALL

Attendee Name	Status
Chairman Andy Beerman Committee Member Becca Gerber Committee Member Tim Henney Committee Member Steve Joyce Committee Member Lynn Ware Peek Committee Member Nann Worel Diane Foster, City Manager Matt Dias, Assistant City Manager Mark Harrington, City Attorney Michelle Kellogg, Secretary	Present
None	Excused

II) PUBLIC INPUT (ANY MATTER OF CITY BUSINESS NOT SCHEDULED ON THE AGENDA)

III) NEW BUSINESS

1. Consideration to Authorize the City Manager to Enter into a Construction Manager at Risk (CMAR) Agreement in a Form Approved by the City Attorney’s Office with Ascent Construction, Inc., in the Amount Not to Exceed \$12,000:

It was indicated this item should have been noticed as a Redevelopment Agency meeting item and therefore would be discussed at the April 18, 2019 meeting.

IV) ADJOURNMENT

With no further business, the meeting was adjourned.

Michelle Kellogg, City Recorder

**City Council
Memo**

Subject: Park City Heights Phase 3 Subdivision
From: Kirsten Whetstone, MS, AICP, Senior Planner
Date: April 4, 2019
Type of Item: Amendment to Ordinance 2019-12 for Condition #12

Project Number:	PL-17-03553
Applicant:	Ivory Development LLC
Location:	10 and 30 Sun Ridge Cove
Zoning:	Community Transition (CT-MPD) subject to the Park City Heights Master Planned Development (MPD)
Adjacent Land Uses:	Residential single-family dwellings and open space
Reason for Review:	Subdivision plats require Planning Commission review and City Council approval.

Proposed Amendment

Staff recommends the following amendment to Condition of Approval #12 as stated in Ordinance 2019-12. This Ordinance is attached to the Staff Report for the Park City Heights Phase 3 Subdivision item on this evening's agenda (Staff report starts on page 232 and Ordinance starts on page 242).

Proposed Language amending Condition #12:

12. A plat note shall state that housing plans shall be submitted for building permit review and issuance in compliance with conditions of the Annexation Agreement dated July 2, 2010 between Park City Municipal Corporation and Boyer Park City Junction, L.C. , the Park City Land Management Code, including Chapter 5 Architectural Review, ~~the Design Guidelines for Park City Heights MPD~~, and the single family uses authorized by the Deer Valley Design Guidelines for The Oaks at Deer Valley.

Language currently in April 4, 2019 Staff Report (page 246) amending Condition #12 from March 21, 2019:

12. A plat note shall state that prior to issuance of building permits, house plans shall be reviewed by the Planning Department for compliance with these conditions, the Park City Land Management Code, including Chapter 5 Architectural Review, and the CCRs for The Oaks, specifically Article IV Section 11- Architectural. The Oaks CCRs state that "All buildings, structures and improvements on any Lot shall comply with the Design Guidelines attached hereto as Exhibit D". Exhibit D consists of the Deer Valley Design Guidelines. Conflicts between the LMC and the Oaks CCRs shall be resolved and approved by the Planning Director.

Snell & Wilmer
L.L.P.
LAW OFFICES

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April 4, 2019

VIA E-MAIL COUNCIL_MAIL@PARKCITY.ORG

Park City City Council
445 Marsac Avenue
Park City, UT 84060

Re: 10 and 30 Sun Ridge Cove - Ordinance No. 2019-12

Dear Park City Council Members:

This firm represents Ivory Development, LLC. On tonight's agenda is Ordinance 2019-12 to approve Park City Heights Phase 3 Subdivision Plat. We recognize that you have received recent comments from some groups on the application. Notwithstanding the late comments, we believe there is no reason to delay action any further on this matter. As a result, we urge you to approve the Park City Heights Phase 3 Subdivision Plat tonight.

There are many reasons to take action tonight. Some of the legal reasons to do so include the following:

Reason No. 1. There is no requirement that these two lots on Sun Ridge Cove must become part of The Oaks at Deer Valley HOA ("The Oaks"). The Annexation Agreement clearly states that these two lots need only be "consistent with the uses allowed in the Oaks at Deer Valley Subdivision." See Section 6 of Annexation Agreement dated July 2, 2010. This consistency is achieved by having these lots approved for single family homes. Approving the plat will do this. Requiring that these lots become part of an HOA that Ivory does not intend to join risks breaching this agreement.

Reason No. 2. The MPD also does not require these two Sun Ridge lots to become part of The Oaks. Contrary to yesterday's letter from The Oaks, the MPD only requires a design review before development occurs on these lots. It does not require that these lots join The Oaks. Specifically, the language from the MPD states:

"Design Guidelines approved as part of this MPD apply to all lots, with the exception of 2 upper lots proposed to be subject to the CCRs for the Oaks at Deer Valley, ***or equivalent.***"

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See MPD at Subsection 1(s). The "or equivalent" language was purposely used. This language recognized that while these two lots may elect to join The Oaks, if they don't they just need to go through a review process to ensure that the lots are developed as contemplated by the Annexation Agreement with "consistent uses." Here, Ivory has clearly communicated that it will not be joining The Oaks. As a result, this process will be met by submitting house plans to the Planning Department as contemplated by notes on the plat.

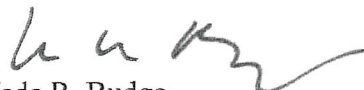
In yesterday's letter from The Oaks, there was a reference made on page 2 indicating that "The Deer Valley lots must adhere to the CC&Rs of the Oaks at Deer Valley." This language is NOT from the MPD as stated. Rather, this is a sentence found in design guidelines prepared two years after the MPD. The cited phrase would apply to these lots if Ivory were to join The Oaks. But again, where Ivory has elected not to join The Oaks, they do not apply.

Reason No. 3. Utah law does not authorize a city to compel joining an HOA. There are certainly situations where approving an entire development may result in a municipality requiring the creation of a homeowner's association. Here, it would be beyond what is allowed by the Utah Community Association Act and related case law to compel Ivory to join The Oaks. These two lots are not part of The Oaks. Rather, Utah law requires that an owner of property submit itself to membership in a homeowner association with a recorded document. There is no recorded document annexing or submitting Ivory's property to The Oaks. To act as though there is a way to require Ivory to join The Oaks would violate these longstanding legal principles. As such, there is no reason to delay tonight's action.

We appreciate the time and effort expended by staff, the planning commission and now the council to consider this plat. Any effort to require membership in a neighboring association where that is not required by law or the Annexation Agreement would create serious legal problems. Finally, an approval tonight would not preclude Ivory or its subsequent lot owners from joining The Oaks later. As a result, we request that you approve the plat tonight.

Sincerely,

SNELL & WILMER



Wade R. Budge

WRB:hks

cc: Mark Harrington, Esq.
Bruce Erickson
Kirsten Whetstone
Ivory Development, LLC



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April 3, 2019

VIA ELECTRONIC MAIL (council_mail@parkecity.org)

Park City City Council
445 Marsac Avenue
Park City, Utah 84060

Re: *10 and 30 Sun Ridge Cove – Ordinance No. 2019-12*

Dear Park City Council Members:

This law firm represents the Oaks at Deer Valley Homeowners Association (the “Oaks HOA”). Yesterday, the Association was contacted for the first time concerning the proposed Ordinance No. 2019-12 (the “Ordinance”) that we understand is noticed for consideration at tomorrow’s City Council Meeting. The Association has a legal interest in the development of the parcels that are the subject of approval in the proposed Ordinance and seeks time to review the application and negotiate with applicant Ivory Homes before the proposed Ordinance is considered and a new plat is finalized.

We have conducted a cursory review of the proposed Ordinance and Kirsten Whetstone’s March 21, 2019 Staff Report (the “Staff Report”) related thereto that contemplate the approval of the Park City Heights Phase 3 Subdivision. This proposed subdivision contains two (2) lots – Lots 301 and 302 – which would be developed as 10 Sun Ridge Cove and 30 Sun Ridge Cove and accessible through an existing city street that runs through the Solamere and Oaks at Deer Valley Subdivisions in Lower Deer Valley (the “Property”). The proposed Ordinance and the Staff Report describe the Property as being adjacent to the Hidden Oaks Subdivision.¹ We have been able to determine, however, that the Property is actually located adjacent to the Oaks at Deer Valley Subdivision and that the Master Plan Development for Park City Heights (“MPD”) expressly provided that development of the Property be governed by the Association’s governing documents and its architectural review process².

When Park City Heights’ Master Plan Development (“MPD”) was going through the initial approval process in 2011, the Association and its neighbors in the Hidden Meadows and Morning Star Estate Subdivisions, were actively following the process and were involved in the following conditions³ being placed on the development of the Property:

¹ See Ordinance, Findings of Fact, Paragraph 1.

² See Declaration of Covenants, Conditions and Restrictions of The Oaks at Deer Valley, recorded with the Summit County Recorder on August 7, 1989, as Entry No. 311419, at Book 531 and Pages 63-10. as amended (the “Association’s CC&Rs”).

³ See Annexation Agreement, Park City Heights.

APR 04 2019

PARK CITY
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*The MPD shall not propose a road or street connection from Park City Heights to The Oaks at Deer Valley Subdivision, Hidden Meadows Subdivision, or to the Morning Star Estates Subdivision. The two proposed single family lots with access onto Sunridge Court shall be restricted at the time of the Final MPD to single family uses, consistent with the uses allowed in the Oaks at Deer Valley Subdivision. **These lots may, if approved by the Oaks at Deer Valley Subdivision, be included in the Oaks at Deer Valley HOA at the time of the Final Subdivision Plat approval.***

These conditions were further addressed in the MPD when the design of the Property was deemed subject to the Association's CC&Rs:

*For homes in Park City Heights, the emphasis is on simple structural expressions using a vocabulary of architectural elements found within Park City including Victorian, Cottage, Arts and Crafts, Prairie Style, and Modern and Contemporary styles. Each Home within Park City Heights with the exception of 2 lots accessed from Deer Valley will be required to meet and adhere to the following guide with the intent that each and every Home contributes to the community as a whole. **The Deer Valley lots must adhere to the CC&Rs of the Oaks at Deer Valley.***

Given the tight window of time that the Association's Board of Trustees has had to consider the Ordinance, the Staff Report and the proposed Plat since being contacted on April 2, 2019, the Association has not been able to perform a thorough review of the matter against the voluminous governing documents, including the MPD for Park City Heights, the Annexation Agreement and other documents bearing on the development of the Property. What's clear to the Association is that the MPD expressly contemplated that the Association would have the opportunity to annex the Property into the Oaks at Deer Valley Subdivision (and not Park City Heights) prior to the "Final Subdivision Plat approval." At first blush, the Board of Trustees of the Association is positive about this possibility, but needs adequate time to discuss what the annexation would involve, the associated cost, any time constraints that exist and work with Ivory Homes and Ms. Whetstone to revise the new plat so that the Property is expressly subject to the Association's CC&Rs. Accordingly, the Association's leadership respectfully requests that the Ordinance be tabled at the Council's April 4, 2019, meeting and a vote be continued to a future date to enable it to conduct an appropriate review and make a final decision about whether to annex the Property.

We appreciate the Council's consideration and look forward to being a part of the dialogue about the Property.

Sincerely,



DEBRA GRIFFITHS HANDLEY

Cc: Mark Harrington (via email, mark@parkcity.org)
Kirsten Whetstone (via email, kirsten@parkcity.org)