

MINUTES

SNYDERVILLE BASIN PLANNING COMMISSION

REGULAR MEETING
THURSDAY, JANUARY 12, 2016
Sheldon Richins Building (Library)
1885 West Ute Boulevard
Park City, UT 84098

COMMISSIONERS PRESENT:

Mike Franklin, *Chair*
Bea Peck, *Vice-Chair*
Mike Barnes
Colin DeFord

Canice Harte
Greg Lawson
Chuck Klingenstein

STAFF PRESENT:

Peter Barnes– *Planning and Zoning Administrator*
Amir Caus– *County Planner*
Ray Milliner– *Principal Planner*
Patrick Putt– *Community Development Director*

Jamie Brackin– *Deputy County Attorney*
Jennifer Strader– *Senior Planner*
Tiffanie Northrup-Robinson- *Senior Planner*
Kathy Lewis– *Secretary*

The regular meeting of the Snyderville Basin Planning Commission was called to order at 6:00 PM.

REGULAR ITEMS

1. General Public Input

The general public input session was opened. There were no comments made and the public input session was closed.

2. Public hearing and possible action regarding a proposed Plat Amendment to combine parcels RBS-1 and RBS-2 of The Residences at Blackstone into one unit: 3668 Blackstone Drive, Canyons Village, Park City; Harrison Horn representing MacDillon and Dimmit Properties, LLC, applicant– Tiffanie Northrup-Robinson, Senior Planner

Senior Planner Tiffanie Northrup-Robinson presented the staff report and provided the background on the parcel. She introduced the applicant, Harrison Horn who has been authorized to proceed in behalf of the property owners. A vicinity map was displayed

that showed the location of units. Planner Northrup-Robinson said the site plan was approved and recorded in August 2014. The units are located in Phase 1 of the development.

Construction of the townhomes (*The Residences at Blackstone*) began in January of 2015. In early summer, it was brought to Staff's attention that units 1 and 2 were not being constructed according to plan. The units were being combined to function as one unit instead of two. The applicant was informed he would have to apply for a plat amendment to legally combine the units together; otherwise, a property line would separate the two units.

APPLICANT'S COMMENTS

The applicant, Staff, the Community Development Director, and the building official met in July to discuss the options including installing a door within the wall that separated the two units: that would not require an amendment. The applicant choose to not construct the dividing wall and were told they would have to amend the plat. A plat amendment application was not received until November, 2015 when the unit was ready for the certificate of occupancy (CO) inspection. The applicant is hoping to have the plat amendment application approved so the two units can function as one.

Planner Northrup-Robinson said this has been noticed as a public hearing and no comments have been received. Staff recommends the Planning Commission take into consideration Staff's analysis, take into account any comments received tonight, and consider approving the application with the findings of fact, conclusions of law, and conditions as outlined in the Staff Report. She added there are service provider conditions that need to be included on the amended plat, if approved. Additionally, no CO permit may be granted until final plat recordation.

The applicant, Harrison Horn, said he is one of the developers for The Residences at Blackstone Condominium. As they got into the sales of this project, it was identified

that people wanted to have bigger units. The owner of these two units also purchased buildings 1, 2, and 3. He wanted to combine units 1 and 2 for himself.

Mr. Horn said they extensively covered how the process would proceed to combine a unit in the project's CC&Rs. They thought they had their bases covered. When they called for an inspection, they were told they would have to contact the Planning Department because they had not followed the approved plans. Up to that point, they were not aware that they had to amend the plat. At that time, they talked with the County and have tried to do everything asked of them.

COMMISSION COMMENTS AND QUESTIONS

Commissioner Harte asked whose idea was it to leave out the wall during construction. Was that the homeowners? Mr. Horn responded in the affirmative.

Commissioner Harte said if they allow this, it sets a precedence that people can do whatever they want and come in after the fact.

Mr. Horn said they didn't realize there would be a problem with the approach they took. The homeowner wanted two tax ID numbers, two mail boxes, and two garbage cans. This was so that at any point in the future, he could put the wall back in and sell them as two separate units.

Mr. Horn assured **Commissioner Harte** this won't happen again in the future. They didn't realize that this wouldn't be allowed. When they did, they met several times with Director Putt and Planner Northrup-Robinson to work out a solution. They were told they could combine the units and proceed with the construction as one as long as the plat amendment was approved.

Planner Northrup-Robinson said she would like to clarify a few points. The development was red-tagged and construction was halted. The applicant was given the go ahead to construct the wall with a door to create a cross access without an

amendment. The problem Staff has is that the two units were constructed without the wall. They were given instructions in July that a plat amendment must be filed. Additionally, Staff expected that the plat amendment would be received almost immediately, not four months after the fact.

Mr. Horn said they had an engineer look at and redlined the plans. The plans were reviewed, approved, and stamped by the Summit County Building Department plans reviewer. They thought they had everything they should when the inspector came out. That is when all of this was brought to their attention.

Mr. Horn said the Building Department did not communicate with the Planning Department. The person who reviewed the plans for the Building Department made sure all structural elements were being done correctly. When that was completed, they started discussions with the Planning Department. **Commissioner Harte** asked if approval was given by Director Putt to continue with the wall and a door or without the wall. Planner Northrup-Robinson and Director Putt said the approval was given to proceed with the wall and door, only.

Commissioner Lawson had no questions at this time.

Commissioner Barnes asked if the redlined plans were with the wall and door or with the removal of the wall. Mr. Horn said they were with the removal of the wall.

Commissioner Barnes said there is letter in their packet from Bryan Atwood of the Snyderville Basin Water Reclamation District saying that several of the units have shifted locations. He requested the County to ensure that the correct building location is provided.

Mr. Horn said this letter is referring to a surveying error from Alliance Engineering. He showed a graphic on his laptop to explain the error. All of the buildings are located two feet closer to the interior road. **Commissioner Barnes** said that should be re-platted as

well. Mr. Horn said they were told that the margin of error is covered by the plat notes. Planner Northrup-Robinson said the easement encroachments have been recorded on the three affected areas.

Commissioner Barnes asked if this action will decrease the density for the project by one. Mr. Horn said what they purchased is the allowable square footage. They purchased 185,000 square feet. He added that both The Canyons and the County had the intention of creating hot beds, or rental units. The number of hotbeds has not been reduced. In his opinion, this is better than having two units because they have a larger unit that they can rent while keeping the same number of beds.

Commissioner Klingenstein asked if there was an oversight by Staff with this application. Commissioner Northrup-Robinson said that it is her understanding the applicant came to the counter and met with the plans examiner. The plans examiner didn't refer the applicant to the Planning Department for the next step; however, that is the usual path. **Commissioner Klingenstein** said this is strike one.

Commissioner Klingenstein said as he understands it, anytime a condominium plat is altered, approval must be received. Most Utah State real estate attorneys would not write something in the CC&Rs that would say they can violate Utah State Statute. This is strike two.

Commissioner Klingenstein said notification was given in June, but the applicant took until November to amend the plat map. He thinks that is strike 3. Mr. Horn said they don't have a condominium plat, but a PUD plat. Several of the Commissioners and Attorney Brackin disagreed with this statement; it is a condominium plat. Planner Northrup-Robinson said the County doesn't have a PUD plat; however, the applicant designed the units through a PUD-liked process. She emphasized this is a condominium plat. Mr. Horn asked Director Putt to comment.

Director Putt shared his recollection of the process. He said the project was approved and building permits were issued to move forward. Modifications were approved on the interior wall between units 1 & 2. The building inspector saw the change in the plans and informed the applicant he would have to contact the Planning Department to modify the plans. The decision was made to allow a door to be constructed between the two units and instructions were given that the plat had to be amended. Director Putt said he believes when the plans examiner saw a modification to an interior wall inside of the previously approved building, he made the decision to sign off not fully recognizing that the wall was a property line.

Commissioner Klingenstein said this was processed as a condominium plat but the applicant labeled it as a PUD plat. He asked for clarification. Attorney Brackin said it is a condominium plat. **Commissioner Klingenstein** asked why they would be allowed to label this as a PUD, if the process doesn't exist. Planner Northrup-Robinson said she asked that question of legal counsel. She was told that is how the developers had chosen to sell their units; however, the County recognizes it as a condominium plat. **Commissioner Klingenstein** said he wants to make sure that this doesn't happen again.

Mr. Horn said he doesn't understand why combining two units into one would be something the County wouldn't want. The way they wrote the CC&Rs was to ensure that the units could be combined into one. **Commissioner Peck** said the CC&Rs don't have any effect on how things are platted. Her question is what would stop future landowners from coming in and combining units so they end up with 15 instead of 30.

Commissioner Harte said it seems they are actively selling the townhouses this way, but they don't really have this flexibility. Mr. Horn said they wanted to combine other units because they were selling better, but Director Putt has told them this cannot be allowed in the future. This one combination would be recorded on the plat. It can't be repeated; nor can it be undone.

Attorney Brackin said it needs to be understood that the concept for this density was meant to be bed-based for The Canyons resort. The requirement was for these to be rental, not fulltime or primary residences. There have been several conversations with Mr. Horn that these are not primary residences. They are multi-family condos for the purposes of hot beds.

Attorney Brackin said the developers wanted to divide the property into three phases. They were told they have to create a condo plat for the individual units. It went through the condo plat process. The County does not approve or enforce the CC&Rs. They have to follow The Canyon SPA agreement. Any alteration, such as combining two units, requires a plat amendment. The plat amendment was submitted very late.

Commissioner Klingenstein said that one way of preventing this from happening again is for the Commission to say no. Attorney Brackin agreed. She outlined the requirements of a denial. She added she would hope that a developer would let potential buyers know they will have to go through a County process to combine units.

Commissioner DeFord said as he understands it, that combining the units into one doesn't change the density because it is square foot based, not bed based. What is the harm in doing this so that it sells better? It won't be a primary residence, but a hot bed for the County. Attorney Brackin said that is why the Staff report reads the way it does.

Commissioner DeFord said there is no way of guaranteeing this won't be used as a primary residence. Planner Northrup-Robinson clarified the units in question meets the definition as an attached unit according to the SPA agreement. If they had wanted to combine all three units, it would not have been an allowed use on the parcel.

Commissioner DeFord said the actions by the developers are very disappointing. They are experienced developers and should know better. He asked that beyond Staff's

and the Commission's irritation, what is the harm to the County? Attorney Brackin said Staff analyzed that this is consistent with The Canyon SPA agreement and the County's land use Code.

Commissioner Peck said the Commission has to find good cause. She asked what that would be. Mr. Horn said their realtors and buyers say the good cause would be that larger units sell better. **Commissioner Klingenstein** said the goal of The Canyons Resort was to serve a real estate market and to meet the need of rentable hot beds. He thinks that generally speaking, the larger units are more likely to sit dark.

Commissioner DeFord said it is outside of their purview if the units are rentable or not. Attorney Brackin said it could be considered as part of their good cause analysis.

Commissioner DeFord said the square footage of the density is unchanged. If they were talking about beds or units, it would be easier to understand what they should do.

Commissioner Lawson asked if there has been a maximum square footage size designated for each unit. Attorney Brackin said there is not a minimum or maximum square footage per unit. There is a multi-family designation, which requires shared walls or shared floors. It was very specific this was multi-family not single-family. Planner Northrup-Robinson said that is why Staff found that it complies. The unit still has a shared wall with unit 3.

Mr. Horn said he assumes the Commission is familiar with the 80/20 rule of the SPA agreement. Planner Northrup-Robinson said The Canyons goal was to provide multiple hot beds for the resort. There is a requirement found that in the resort core no more than 10% can be single-family year-round units. Outside the core it is 80/20. This means 20% can be single family dwelling units. Attorney Brackin listed some of the developments that are found outside of the core. Mr. Horn said they were approved as part of the 20%. Attorney Brackin disagreed. She said they are part of the 80%. Planner Northrup-Robinson said they still meet the requirements of the SPA.

Commissioner Peck asked why they waited until November 17th to submit the plat amendment. Mr. Horn said they have had multiple conversations with Director Putt, Planner Northrup-Robinson, and their attorneys. They wanted to legally look at all their options. That took two to three months. It took a month to amend the plat. Another month was because they couldn't get on the calendar.

Commissioner Peck said the meetings with Staff were held in July. They were told they could go ahead with the construction anticipating they would be applying for a plat amendment in a very short period of time. What happened between July and November? Why did it take so long while they continued to build? Mr. Horn said he amended the entire plat and then Planner Northrup-Robinson advised him not to change the entire plat, just the two units in question. That plat was thrown out and then they created the plat they now have.

Planner Northrup-Robinson said The Canyons DRC reviewed and approved the application in October.

Commissioner Peck said the fact that he would bring the plans in and not recognize the need for a plat amendment is surprising to her, especially given the experience of this family in development. This is not their first building. Developers know an alteration requires a plat amendment. It doesn't matter to the County what their CC&Rs say. If they are going to change their plans, they have to change the plat. Mr. Horn said the CC&Rs were reviewed by the County attorney and approved. Attorney Brackin said these were recorded with the County. They were not approved by the County.

The public hearing was opened. There were no comments and the public hearing was closed.

Commissioner DeFord said his opinion is that Mr. Horn is the most irritating applicant he has ever had. However, he doesn't see the harm in combining the two units into one.

Mr. Horn has not done a good job at presenting himself. He should be listening and learning instead of arguing.

Commissioner DeFord made a motion, which was seconded by Commissioner Lawson to approve the plat combination amendment of The Residences at Blackstone Units 1 and 2 with the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

FINDINGS OF FACT:

- 1. MacDillion & Dimmit Properties, LLC is the listed fee title owner of Parcels RBS-1 and RBS-2.***
- 2. Parcel RBS-1 is located at 3668 Blackstone Drive.***
- 3. Parcel RBS-2 is located at 3672 Blackstone Drive.***
- 4. Parcels RBS-1 and RBS-2 are located within The Canyons Specially Planned Area (SPA).***
- 5. The Canyons DRC made a positive recommendation for the proposed amendment.***
- 6. The Residences at Blackstone Condominium plat was recorded in Summit County December 19, 2014.***
- 7. The proposed amendment would combine the two units into one unit.***

CONCLUSIONS OF LAW:

- 1. The overall Blackstone project was approved for multi-family dwellings, consistent with The Canyons Land Use and Zoning Chart. The modification to the condominium plat would still be consistent with the multi-family designation and therefore, there is good cause for the amendment of The Residences at Blackstone Condominium plat to combine units 1 and 2.***
- 2. No increased in density would occur as a result of this amendment.***

Conditions:

- 1. All service provider conditions must be met to the individual service provider's satisfaction, prior to plat recordation.***

- 2. No Certificate of Occupancy may be granted for the residences at Blackstone Units 1 and 2 until final plat recordation.***

- MOTION CARRIED (4-3) *Commissioner Peck, Commissioner Harte, and Commissioner Klingenstein voted against.***

- 3. Public hearing and possible action regarding a proposed Plat Amendment to vacate a portion of Zermat Strasse Road and add it to Lot 5, Plat D; 130 Zermat Strasse; SU-D-5: John Troilo, applicant – *Jennifer Strader, Senior Planner***

Planner Jennifer Strader said a letter was received after the Staff Report went out from a neighbor. That letter was distributed to the Planning Commission. This application is a request to vacate a portion of the public road and to add it to Lot 5 of Summit Park Plat D. A second request is to adjust a portion of a property boundary line. This will help to clean up the boundary between lot 5 and the right of way and to provide additional space for snow storage.

Planner Strader said this is a public right of way owned by the County; therefore, consent from the County Manager is required. Mr. Fisher's consent has been given. (See Exhibit E in the Staff Report) Planner Strader displayed a copy of the existing and proposed plats. Lot 5 has .26 acres. The area to be added to lot 5 is approximately 3,100 square feet. She pointed out the area this is proposed to be added and the lot line adjustment. Some pictures were shown of the pullout/turnaround area and the area that would be vacated.

Planner Strader said this has been noticed as a public hearing. Staff has received notice there are two property owners in opposition of the request and two property owners in favor. One of those in favor is the homeowner's association.

Planner Strader said there are three findings that must be found to be in favor of a plat amendment. The first is that neither the public nor any person will be materially injured by the proposed amendment. The plat was reviewed by various service providers. The Fire District and the Public Works Department didn't have any objections to the right of way vacation; however, the Public Works Department stated they don't normally like to dispose of County rights of way. The water reclamation district has an existing sewer line within the area that is proposed to be vacated. They asked the property owner to grant a 10-foot easement. He has agreed and has been working closely with the water reclamation district.

The next finding is that there is good cause for the amendment. Good cause is reviewed on a case-by-case basis. The burden is on the applicant to demonstrate and justify the good cause. The Planning Commission determines if they agree with that justification.

Planner Strader said Staff analyzed the good cause. They reviewed the existing conditions on the lot and took into account the required setbacks of Summit Park and the percentage of the slopes on the lot. Staff found the lot is buildable as is without a variance or a plat amendment. Staff was not able to find good cause for the amendment.

Thirdly, Staff has found that the plat amendment would not result in increasing density. Planner Strader said there are two different types of amendments being requested. 1) The public road vacation requires the Planning Commission to hold a public hearing and forward a recommendation to the County Council. 2) For the lot line adjustment, the Commission would forward a recommendation to the Community Development Director (CDD).

Staff recommends that the Commission hold a public hearing and take public comment on the proposed plat amendment. Staff further recommends a negative recommendation be forwarded to the County Council based on the findings of fact and conclusions of law found in the Staff Report. Should the Commission vote to forward a negative recommendation, the applicant would not move forward with the lot line adjustment.

She added the lot line adjustment was requested by the Public Works Director and the County Recorder. This would clean up some discrepancies and provide some additional area for snow storage.

Should the Planning Commission choose to forward a positive recommendation for the right of way, Staff recommends they vote to forward a positive recommendation to the CDD based on the Findings of Facts and Conclusions of Law found in the Staff Report.

Planner Strader said the applicant is present. He has some slides he would like to show. John Troilo introduced himself. He has been a Summit County resident for the past 17 years and is anxious to build a primary residence on this lot.

He thinks the central theme is about good cause. The other requirements don't seem to be a factor. Pictures were shown of the flat area that is referenced on the survey. The property line is 32 feet down from the existing grade. The contoured area is densely vegetated. This is the area the applicant is requesting to be vacated by the County. That part of the right of way is not utilized. What is being proposed does not alter the current use in any way.

Mr. Troilo said this is a non-conforming street. At the end of the street is a cul-de-sac. He stated that he reviewed the proposal with Scott Adams from the Park City Fire District. He has a letter from Mr. Adams with a positive recommendation. An emergency vehicle turn around would remain with ample room for snow storage.

COMMISSION COMMENTS AND QUESTIONS

Commissioner DeFord said he has taken a site visit. When he was there looking at the area, the neighbor across the street came over to visit with him. He asked if the proposed boundary removes any of the gravel area. Mr. Troilo responded to **Commissioner DeFord** and said that it does not. It brings the property line up to be even with the grade. There would be an additional 15-foot setback.

Commissioner DeFord said he thinks the fear of the neighborhood is that this action would take away some of the gravel area. Mr. Troilo said that is not the case. He has reached out to Mr. Barney, the neighbor across the street, several times. He had a meeting with all of the neighbors, but Mr. Barney was not able to be present. The neighbors understand the scope of what is being asked. The current boundary line is 32 feet down the hill.

Commissioner DeFord said that Exhibit A does not show the contour lines, so he can't see if the new boundaries are taking away from the flat area. Mr. Troilo said he would be happy to provide that at another time.

Mr. Troilo said Fire Chief Adams has expressed concerns because the area is heavily overgrown. Mr. Troilo said he has had two fires at his present location. The only thing that saved his house was defensible space. The vegetated area is a significant concern. Mr. Troilo said additionally, Public Works Director Derrick Radke has helped to solve snow storage issues on the lower portion of the street.

Mr. Troilo said there is no question that the lot is buildable. He said having a driveway approach on the lower part of the street is nothing the residents want. There is a confluence of about four driveways and this is a blind corner. The sensible thing is to come in from the top with the driveway.

Mr. Troilo said the flat area is used for off-street parking during the summer months. He explained he is looking to connect the two crests of the semi-circle. Mr. Troilo used Staff's slide to point out some of the characteristics of the property. He said they are dealing with contours that are over 30 degrees in the general area. His neighbors requested that a driveway not be put at this location. He said from a construction and engineering perspective, it wouldn't make sense to come from there.

By moving the property line, he would have a driveway that would be relatively flat without much of an angle. This would lessen the impact of building a house in this location. **Commissioner Peck** asked if he is planning to put his driveway in the turnout. Mr. Troilo said from his conversation with Director Radke he was under the impression that he would be able to do this.

Commissioner Peck said he just told the Commission that he had assured his neighbors that he will not affect the flat gravel area. Mr. Troilo said he is going to minimize the impact to that area as best as he can, but there will be an impact.

Commissioner Peck said that is a lot different than saying there won't be an impact. She said that essentially, he would be bisecting the gravel area. Mr. Troilo said that is correct. He was told that he can build a driveway across the right of way.

Commissioner Lawson said he can build a driveway across the right of way, as long as he is not impacting anything. **Commissioner DeFord** said this area is currently being used for snow storage.

Commissioner Peck said she presumes the County designated this area for snow storage and for turnaround for fire equipment. Does the County's intent not exist anymore? She thinks that bisecting the right of way would be impactful. She asked Commissioner Strader if she knows what the County's original intent for the right of way was. Planner Strader said this was built in the 1960s, but she can guess. If they look at this area, it seems this was designated to provide an emergency pullout and snow storage.

Commissioner Peck asked if Mr. Troilo can currently bisect this area by putting his driveway there. Planner Strader said he would have to have approval from the County Engineer for access through the right of way. **Commissioner Lawson** said it is allowed to cross a County right of way if permission is granted. It is done all the time. Attorney Brackin agreed. She said that a resident can get permission from the County to cross a right of way and access a paved road. There would probably be conditions that it wouldn't interfere with the County use.

Mr. Troilo said Director Radke told him that as long as nothing was built above ground, he could put a driveway there. Director Strader said Staff has not seen any plans for a driveway. **Commissioner Lawson** said this would be a lot easier to understand if they had the site plans to see where the driveway is proposed to be built. He suggested Mr. Troilo create a comparative site plan. One plan would show how it is now and the other would show the way he wants it to be. Having the plans would make it much easier to understand exactly what he is proposing.

Mr. Troilo said his point is he will minimize the impact to this area. **Commissioner DeFord** said he is talking about the neighbor's driveways, but he has nothing to back up his statements. If the driveways are being brought into the discussion, the Commission needs to be able to see it. He would like to see this on a document.

Commissioner Klingenstein said if approved, he would like to see the following: how the driveway access could be accomplished, how unofficial parking would be accommodated, and how snow storage and the emergency turnaround could be accommodated. He would like to see this visually, not only a site plan, but he would like to see an aerial photo. Mr. Troilo agreed to provide these.

Commissioner Peck added she would like to know what the impact would be to what remains of the gravel area. Would it still be useful for the uses just listed?

Commissioner Harte said the area Mr. Troilo is requesting to add is the vegetated

down-slope area next to his property. The access to his property would bisect the flat gravel area. Several of the Commissioners said that is why they need to have some visual representation.

Mr. Troilo said that spring is coming and he would like to go through this process as expeditiously as possible. Attorney Brackin said that road vacations are not speedy. To help expedite the process, once the public hearing is opened, and if the Commission decides to continue the public hearing, a date certain would be needed. **Commissioner Peck** said they should summarize what is requested and then Mr. Troilo can decide how long it will take him to obtain the needed items. That way they can determine the date certain.

Commissioner DeFord asked if there is a real estate transaction involved with a road vacation. Attorney Brackin responded that a road vacation is a legislative act that has to go to the County Council. Even if they abandon the public right of way, the County's interest in the property is not necessarily abandoned. It becomes a surplus property transfer, which is under the County Manager's purview.

Commissioner DeFord asked if Mr. Troilo understands what this will cost if it goes through. Mr. Troilo said this was brought up with the County Manager. He was told that based on a positive recommendation from the Planning Commission an accurate record of survey of the area in question would be required. At that point, the value of the property would be appraised. He could then choose whether to complete the real estate transaction. **Commissioner Harte** asked if someone could bid against him. Attorney Brackin said that is not out of the realm of what could happen.

Commissioner DeFord and **Commissioner Klingenstein** said what they would like for Mr. Troilo to bring to the next meeting is the following:

- A topographical map with the new boundaries

- A plan view with an overview of how this property fits in with the neighbors and their driveways
- A plat map that show the adjacent lots with more detail
- An aerial photo with the plan overlaid. This would show the turnaround, snow storage, and functionality

Commissioner Klingenstein asked Attorney Brackin if they would need to fix the driveway location on the plat map. Attorney Brackin said to the extent that the driveway is going to cross County property, a specific described easement would be recorded. The applicant asked if he is allowed to put in a driveway at this location in order to access his property. Attorney Brackin said that he can if permission is granted by the County.

Commissioner Peck said the criteria for granting approval would be that it doesn't have a negative impact. Mr. Troilo said it will have an impact, but he would work to mitigate the impact as best as he can. **Commissioner Peck** suggested he work with an engineer to put the driveway in the best spot to minimize the impact on the right of way, but would still make sense for what he wants to build.

Commissioner DeFord said he needs to come to the Commission and show better "good cause" than what he is doing at this time. Before the Commission comes up with a recommendation, they should have all the needed information.

Chair Franklin opened the public hearing. *There were no comments made. Chair Franklin said the public hearing should be continued to February 23rd by motion.*

Commissioner Peck made a motion to continue the matter until February 23, 2016. Commissioner Klingenstein seconded the motion. All voted in approval.

- **MOTION CARRIED (7 - 0)**

A ten-minute break was declared.

4. Public hearing and possible action regarding a proposed Plat Amendment to amend the property boundaries between lots 85, 86, & 87 and relocate a small portion of a private road; The Preserve, Phase 3 Subdivision; Clive Bridgwater applicant – *Jennifer Strader, Senior Planner*

Planner Jennifer Strader gave the background of the application, which is to amend two property lines between three lots located in the Preserve Subdivision and to relocate a private road. The Preserve is located north of Glenwild. A map was displayed that showed its location.

Planner Strader said the three lots are under one ownership. The yellow lines on Exhibit B identify the requested adjustments. She pointed out the existing and proposed lot lines. The purpose of the lot line adjustment between lot 86 and 87 is to allow the property owner to build a home in an area that is not as steep. This would make it so no significant grading or retaining walls would be required. The amendment would increase the size of lot 87.

The property owner would also like to adjust the property line of lot 85. If permitted, the lot would no longer be bisected by the private road. Additionally, by amending the lot line, the driveway would be shortened. Staff recommends that the Planning Commission conduct a public hearing and vote to forward a positive recommendation based on the Finding of Fact and Conclusions of Law as outlined in the Staff Report.

COMMISSION QUESTIONS AND COMMENTS

Commissioner DeFord asked if the service providers had provided comment on the application. Planner Strader responded the service providers reviewed the application and had no comments or conditions.

Commissioner DeFord asked if the intent is to eventually build three homes on the property. Sam Ferron, in place of Clive Bridgwater, stated the property owners own all three lots, but only intend to build on lot 87. **Commissioner DeFord** asked why not combine all three lots into one. Mr. Ferron said he surmises it is to allow for future flexibility. The design they are contemplating wouldn't require it.

Commissioner DeFord asked if there are designated building pads in The Preserve. Planner Strader said in the first two phases building pads were designated, but not in phase three. This was processed under a development agreement. The development agreement states they have a 30,000 square foot building envelope, which needs to be designated prior to receiving a building permit. **Commissioner DeFord** asked if once the property owners decide the location of the house, the next step is to go before the Planning Department for review of the site. At that time the 30,000 square foot envelope would be designated. Planner Strader said that is correct.

Commissioner Harte, Commissioner Lawson, and Commissioner Barnes had no questions. **Commissioner Klingenstein** said this seems very straightforward. **Commissioner Peck** agreed.

The public hearing was opened. There were no comments made and the public hearing was closed.

A motion was made by Commissioner Barnes to forward a positive recommendation to the County Manager for the amendments based on the following:

FINDINGS OF FACT

- 1. On August 28, 2015 Clive Bridgwater, on behalf of the property owners, Braden and Ashley Hopkins, submitted a plat amendment application.***

- 2. The request is to amend the property lines among Lots 85, 86, and 87 of The Preserve Phase III subdivision and reduce the length of an existing private road.**
- 3. Braden and Ashley Hopkins are the owners of Parcel PRESRV-3-85, PRESRV-3-86, and PRESRV-3-87.**
- 4. The zoning for each parcel is MR (Mountain Remote).**
- 5. The preserve, Phase III subdivision was recorded in 2007.**
- 6. The Preserve, Phase III consists of thirty-seven (37) lots ranging in size from approximately 5.5 to 11.0 acres**
- 7. The subdivision was originally developed under the Redhawk Wildlife Preserve Development Agreement.**
- 8. Public notice was mailed to property owners located within 1,000 feet from the boundaries of the parcels and posted in The Park Record. Staff has not received any public comment.**
- 9. This request moves the north boundary line of lot 87 to the north, resulting in a reduction in the size of lot 85 and an increase in the size of lot 87. The amendment also moves the west boundary line of lot 86 to the west, resulting in an increase in the size of lot 86 and further reducing the size of lot 85.**
- 10. The request to move the west property line of lot 86 is to add the portion of lot 85 that is on the east side of the road into lot 86. This would result in the private road being located at the edge of lot 85, rather than running through the middle of the lot.**
- 11. The request to move the north lot line of lot 87 is due to a steep slope that exists on that lot that would result in significant grading and the construction of retaining walls for any development.**
- 12. Due to the change in the north lot line of Lot 87, the private road is proposed to be shortened so that it ends at the revised boundary of Lot 87.**

CONCLUSIONS OF LAW

- 1. Neither the public nor any person will be materially injured by the proposed amendment and there is good cause for the amendment.**

2. *This plat amendment would not result in an increase in density.*

Commissioner Lawson seconded the motion. All voted in agreement.

• **MOTION CARRIED (7 - 0)**

Commissioner DeFord recused himself for the next agenda item as he is the applicant.

Commissioner Peck stated she will also recuse herself as she is the legal counsel for Colin DeFord in this manner.

5. Public hearing and possible action regarding a proposed Plat Amendment on lots 4 & 5 to adjust a lot line shared by lots 4 & 5, and to increase the building pad of lot 5 to reflect the existing improvements associated with lot 5 in the Pineridge Subdivision; 6960 and 6950 Canyon Drive; Parcels PB-PR-4 & PB-PR-5; Colin DeFord, applicant - Amir Caus, County Planner

Planner Amir Caus said the Pineridge subdivision was recorded in 1995 and consists of 130 single family lots. These lots range in size from 0.36 acres to 24.21 acres. Every lot has a building pad. They range in size from 0.08 acres to 0.69 acres. Lot 4 has 0.71 acres and lot 5 has 0.58 acres.

The home on lot 5 was built in 1998 and lot 4 is vacant. As a result of a recent survey, it was discovered that a portion of the home on lot 5 encroaches into lot 4. If approved, the building pad on lot 4 would decrease from 15,160 square feet to 13,499 square feet. The building pad for lot 5 would increase from 7,905 square feet to 11,928 square feet.

An aerial photograph was shown. Planner Caus said the lot line is toward the bottom of the picture. The next slide showed the proposed plat amendment. It shows the location of the house and the increase of the building envelope. Both the driveway and the existing house encroach into the setback.

Slides were shown that demonstrated the increase of the building envelope and the encroachment of the driveway and the house. The proposal is to adjust the lot line and

the building pad to reflect what is there now. Staff is recommending approval as outlined in the Staff Report.

COMMISSION QUESTIONS AND COMMENTS

Commissioner Harte asked how they know if the person who owns lot 4 is okay with this action. Planner Caus said they signed off on the application. Ms. Peck said they are in attendance at the meeting.

Commissioner Klingenstein said this is refreshingly straight forward. Mr. DeFord explained when they purchased the home they didn't have a survey done. At the time lot 4 and lot 6 (on the other side) were vacant.

His guess is that errors were made when the Pineridge subdivision was platted. Everything probably should have been shifted to the north. The topographical maps were not done accurately.

The public hearing was opened. There were no comments made and the public hearing was closed.

Commissioner Harte made a motion, which was seconded by Commissioner Barnes, to approve the lot line adjustment as outlined below:

FINDINGS OF FACT:

- 1. Jessica and Scott LaRoche are the owners of record of Parcel PB-R—4, located at 696- Canyon Dr. Pinebrook, Summit County, UT***
- 2. Melissa and Colin DeFord are the owners of record of Parcel PB-PR-5, located at 6950 Canyon Dr., Prinebrook, Summit County, UT***

3. *The proposed Plat Amendment is legally described as "Pineridge Amended Lots 4 & 5."*
4. *The proposed Plat Amendment will bring Lot 5 into conformance.*
5. *Public notice of the public hearing was published in the January 2, 2016 issue of The Park Record.*
6. *Postcard notices announcing the public hearing were mailed to property owners within 1,000 feet of the subject parcels.*
7. *Staff has reviewed the plats for compliance with applicable Development Code standards.*

CONCLUSIONS OF LAW:

1. *There is good cause for this Plat Amendment.*
2. *The proposed Plat Amendment will not result in additional density.*

CONDITIONS OF APPROVAL

1. *All service provider requirements shall be met.*

- **MOTION CARRIED (5 - 0)**

6. **Approval of Minutes**

December 8, 2015:

Commissioner Harte made a motion, which was seconded by Commissioner Barnes, to approve the minutes as corrected. All voted in favor.

MOTION CARRIED (7 - 0)

DRC UPDATES

(None)

DIRECTOR COMMENTS

- Director Putt said the book in front of each Commissioner is a gift from Staff. The book addresses, in down-to-earth language, the problem of contemporary community designs and urban sprawl. The book is a quick read and will give them some background before they start moving forward in the Development Code. He hopes they have time to read the book.
- Director Putt said the Hiatt Place sign will stay off until the problem is remedied. They have a commitment from the developer that they are going to look at different solutions to resolve the problem.
- Tomorrow afternoon there will be two separate, but related, discussions in front of the County Council. The first is approximately 3:45 p.m. Carolyn Ferris will give an update about some of the transportation plan initiatives that she has been working on. Immediately afterwards (~4:10 p.m.), there will be a presentation to the Council on the Canyons Transportation Master Plan. If they have an opportunity to come to this meeting, they would find it informative.
- There will be another meeting tomorrow on transportation at 5:30 p.m. in Council Chambers at the Marsac Building. This meeting will take about one hour.
- Director Putt said the next Commission meeting is January 26th. Currently, there are no public hearings or work sessions scheduled. He asked if they want to take the night off. This would be during the Sundance Film Festival.

Commissioner DeFord said a night off would be great. Continuing education would also be great. **Chair Franklin** recommended they take the night off.

- Coffee with a Planner will be held this Thursday, January 14 at 8:30 a.m. at Hugo Coffee. Director Putt explained that once a month, he and Administrator Barnes will spend an

hour or two at a coffee shop. People can stop by and ask questions. They take this time to hear people's ideas and problems.

- Director Putt asked if the Commission would like to pick up their packets on Friday evenings at the library. The Commission said they would rather have them mailed.
- Director Putt said it is in the budget to provide the Commission with tablets for the 2017 year.

COMMISSION ITEMS

- **Commissioner DeFord** thanked Director Putt and Administrator Barnes for taking their time to make a presentation at the Rotary Club. He has received a lot of positive comments.
- **Chair Franklin** said that Summit Water (the well site by the storage area) is dumping affluent on the bank. It is running straight to the fence line. There is no erosion control. As soon as it thaws out this spring, it will go into the creek. Director Putt said he will take care of this situation.
- **Commissioner Peck** asked what kind of checks and balances there are to protect Staff from getting into the type of situation the Commission saw tonight with the Blackstone development. Director Putt said he thinks they have taken care of this internally. He explained the inspector caught the problem and told the developer they needed to modify their planning with the Community Development Department. When the plans examiner saw they were adding a door to an interior wall, he signed off on it. Later, when the County was made aware that they had moved forward without the dividing wall, they were red flagged. The developer was told the only remedy was a plat amendment.

Director Putt said he granted them permission to move forward with the door, but they realized they were doing so at their risk; that they were responsible to demonstrate good cause to the Commission. He made this decision to not hold a third party (the property owner) hostage.

Commissioner Peck suggested the plans examiner have a checklist that would catch a situation that would trigger a visit to the Planning Department. That is the second time an inspector has caught something, but a permit was issued without a plat amendment.

Commissioner Harte added that he thought the recommendation from Staff was to approve the application. Director Putt said they should have been more upfront with the Commission. This is a situation where he got burned trying to help the property owner. Had he realized how long it would take the developer to get the plat amendment to Staff, he would have acted differently.

- **Commissioner Lawson** asked how the Development Code update is progressing and for the status of the General Plan review. Director Putt said the subcommittee met this past week. Staff introduced a preliminary draft of the master plan development chapter. The subcommittee will meet again during the coming week. The annual review of the General Plan will be scheduled for a work session in February.
- Attorney Brackin gave a legislative update. At this point, there have been 1,600 bills filed. Most of the issues with the land use bills have been worked through. There are a few outliers that are somewhat alarming. There is a sentiment that all local control of planning and zoning should be taken away. This started in Salt Lake City and their historic districts. An amendment to the Utah Constitution is being proposed. This bill basically abolishes zoning. It makes it unconstitutional for the government to say how people can and cannot use their property.

She stated that Representative Green believes that parks and trails are not needed for any community. Because they are not needed, impact fees should not be charged. He is running a bill to get rid of that ability.

ADJOURN

At 8:37 p.m., the meeting was adjourned.

A black and white image of a handwritten signature, likely in cursive, on a dark background. The signature is somewhat stylized and difficult to read.

Approval Signature