

MINUTES

SNYDERVILLE BASIN PLANNING COMMISSION

REGULAR MEETING
TUESDAY, APRIL 9, 2019
Sheldon Richins Building
1885 West Ute Boulevard,
Park City, UT

COMMISSIONERS PRESENT:

Malena Stevens- *Chair*
Thomas Cooke
Ryan Dickey
Canice Harte

John Kucera
Joel Fine
Crystal Simons

STAFF PRESENT:

Patrick Putt- *Community Development Director*
Peter Barnes- *Planning & Zoning Administrator*
Tiffanie Northrup-Robinson- *Senior Planner*
Jami Brackin- *Deputy County Attorney*
Kathy Lewis- *Secretary*

The meeting was called to order at 4:30 PM.

REGULAR SESSION

1. General Public Input

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

2. Public hearing and possible action for a subdivision Plat on Lot 9, Silver Creek Village Center Subdivision, consisting of three (3) lots, located on Parcel 7.1, 7.2, 7.3, and 7.4, Silver Creek Village Center, Matt Lowe, applicant- Jennifer Strader, Senior Planner

Planner Strader said this is a request for a 3-lot subdivision on what will become Lot 9 of the Silver Creek Village Center Subdivision. The parcel contains six acres. This project came before the Planning Commission in June 2018. At that time, the applicants were proposing a 36-lot subdivision. Lots 1-34 contained townhomes, Lot 35 contained two apartment buildings, and Lot 36 was designated as a future development parcel.

The applicant is requesting to amend the previous approval. Three lots are being proposed. The townhomes will be removed from the plat. As currently proposed, Lot 1 will contain 64 apartments between two buildings. This is consistent with what was previously approved. Lots 2 and 3 will be a future development parcel.

Planner Strader said when the Silver Creek Development Agreement was approved, it contained a road dedication subdivision plat. A slide was shown of the amended subdivision plat. It was noted that Lot 2 has an easement to provide for parking associated with Lot 1.

Planner Strader said Staff has reviewed the application for compliance and found that it complies with all requirements. It is recommended that following a public hearing, the Planning Commission vote to approve the application as outlined in the Staff Report. The applicant had no comments.

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

COMMISSION COMMENTS AND QUESTIONS

Commissioner Simons asked what the intentions are for the large lots to the north of this development. Planner Strader said that Lot 1 is a parcel that was donated to the Snyderville Basin Recreation District for a future recreational facility. Lot 2 will be subdivided into single family lots at some time in the future. Other surrounding lots are designed to be for single family homes, townhomes, and some apartments.

Commissioner Harte added there is 50,000 square feet of commercial buildings associated with the project. There is also a possible school. **Commissioner Simons** asked if removing the townhomes will impact the character of the area.

Scott Loomis, executive director of Mountainlands Housing Trust, spoke to the question. He said in the first phase of Silver Creek Village Center, 95 affordable units were

required of the first 271 units constructed. They had two different sites to meet that requirement. He said they will be coming to the Commission soon with 40 apartments that will be for-sale condominiums.

Commissioner Simons asked if there will be diversity within the project. Mr. Loomis said he believes there are some townhomes currently being proposed for the project by another entity. That will add the needed diversity.

Commissioner Fine noted a comment in the Staff Report that Mountainlands does not find it feasible to build the townhomes and be in compliance with affordable pricing. He asked if it will become feasible in the future. Mr. Loomis said that it isn't feasible for Mountainlands to build townhomes. Others may be able to build them by subsidizing the cost with their market-rate units.

Commissioner Cooke said this agenda item is just about the subdivision plat. This was reviewed and approved at the DRC level. He has no questions. **Commissioner Kucera** said he doesn't have any questions. **Chair Stevens** called for a motion.

MOTION

Commissioner Cooke made a motion to approve the Final Subdivision Plat as outlined below and in the Staff Report. Commissioner Fine seconded the motion. All voted in approval.

FINDINGS OF FACT

- 1. On June 26, 2018, the Planning Commission forwarded a positive recommendation to the Summit County Manager for a thirty-six lot preliminary subdivision plat on Lot 9, Silver Creek Village.*
- 2. On August 1, 2018, the County Manager approved the preliminary plat.*
- 3. Lots 1-34 were intended for townhomes; Lot 35 was intended for apartments; and Lot 36 was not proposed to be developed.*

- 4. The developer of the project is Mountainlands Community Housing Trust and the units were proposed to be workforce housing units.***
- 5. Due to rising construction costs, Mountainlands state it is not currently feasible to build the townhomes and maintain the affordable price, but they will still construct the apartments as workforce units.***
- 6. The applicant is proposing a three (3) lot subdivision, Lot 1 would contain sixty-four apartments; lots 2 and 3 are not proposed to be developed at this time.***
- 7. SCVC-9 contains 6.07 acres.***
- 8. SCVC-9 is zoned SPA/RR.***
- 9. The Silver Creek Village Center consists of approximately 244 acres and was approved for 1,290 residential units and 50,000 SF of commercial use through the Specially Planned Area (SPA) provisions of the 1998 Code and General Plan.***
- 10. On June 22, 2015, the Development Agreement that implements the provisions of the SPA was recorded.***
- 11. The Development Agreement contains a number of exhibits that outline specific requirements as well as development standards that must be met for all development within the Village Center.***
- 12. Where the Development Agreement is silent as to specific development, the Code provisions apply.***
- 13. The Silver Creek Village Center Subdivision Plat was recorded on April 4, 2017. It consists of 19 lots that are intended to be further subdivided and developed.***
- 14. The processing of subdivision plats and other types of development permits are required to follow the provision in the code for the particular type of application.***
- 15. This subdivision is being processed according to the Minor Development standards found in Chapter 3 of the Code. The Minor Development process is used for subdivision with ten (10) lots or less.***
- 16. The applicant filed a Final Site Plan application in conjunction with the Final Subdivision Plat. The Final Site Plan is scheduled for a public hearing and***

possible recommendation subsequent to the public hearing for the Final Subdivision Plat.

17. The Final Site Plan staff report, dated April 9, 2019, addresses all of the applicable Development Agreement standards for approval.

18. The site does not contain Critical lands, as defined in the Snyderville Basin Development Code.

19. The development will tie into the existing sewer system.

20. Mountain Regional Water will supply water to the subdivision.

21. The Summit County Engineering Department reviewed the subdivision plat and stated it meets their requirements.

22. The applicant provided will-serve letters from the utility companies.

23. A central mailbox facility will be provided the location has been reviewed and approved by the Postmaster.

24. The subdivision has been reviewed by all applicable service providers who have stated they have adequate capacity to provide service to the development.

25. Prior to commencement of construction, the developer will be required to submit and receive approval of the construction documents.

26. Written approval of the development of the subdivision has been granted by the property owner.

CONCLUSIONS OF LAW

1. The proposed subdivision complies with all applicable requirements of the Silver Creek Village Development Agreement as evidenced in the Findings of Facts and Conclusions of Law found in the staff report for the Final Site Plan for the north half of Lot 9, dated April 9, 2019.

2. The subdivision is in accordance with the 1998 General Plan

3. The subdivision conforms to all pertinent provisions of the Code.

4. The subdivision complies with appropriate concurrency management provisions of the Code and the appropriate infrastructure and level of service standards of the Code.

5. ***The development of the subdivision will not adversely affect the public health, safety and welfare.***

CONDITIONS OF APPROVAL

1. ***Prior to final subdivision plat approval, confirmation of the final details of the plat will be verified by Staff.***
2. ***All service provider requirements shall be met.***

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

3. **Public hearing and possible action regarding a Final Site Plan for a Sixty-Four (64) Unit Multifamily Development on Lot 9, Silver Creek Village Center; Matt Lowe, Applicant- *Jennifer Strader, Senior Planner***

Planner Strader said this application was reviewed by the Commission in June 2018. It was recommended for approval to the County Manager at that time. As proposed, this will be Lot 1 of the subdivision. A slide was shown of the proposed and previous plans. Only minor changes are being proposed; however, the changes require another recommendation from the Planning Commission.

Planner Strader outlined the changes that were made to the plan. Previously, the accessory building was to contain a laundry area, a leasing office, and some storage space. Each unit will have its own laundry facilities, so a laundry area is no longer needed. The applicants are proposing to expand the accessory building approximately by 2,000 square feet. This will become storage for the individual units.

Staff has reviewed this plan for compliance with the Development Agreement and the Development Code and has found it meets all of the requirements. The parking lot which was located to the left in the previous plan has been shifted to the south. This has also been reviewed by Staff. It fits all of the requisite requirements and has the

appropriate easements. Staff recommends the Planning Commission conduct a public hearing and forwards a positive recommendation to the County Manager.

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

The Commission had no questions or comments.

MOTION

Commissioner Dickey made a motion to send a positive recommendation to the County Manager as outlined below and in the Staff Report. Commissioner Cooke seconded the motion. All voted in approval.

FINDINGS OF FACT

- 1. On June 26, 2018, the Planning Commission forwarded a positive recommendation to the County Manager for a final site plan for a 98 unit multi-family affordable housing development on Lot 9, Silver Creek Village Center, containing 6.07 acres.***
- 2. The project consisted of: 34 townhomes on Lots 1-34, 64 apartments in two (2) buildings on Lot 35, including an accessory building that included a laundromat for the apartment units, space for storage, and a small office.***
- 3. The developer of the project is Mountainlands Community Trust and the units were proposed to be workforce housing units.***
- 4. Due to rising construction costs, Mountainlands stated it is not currently feasible to build the townhomes and maintain the affordable price, but they will still construct the apartments as workforce units.***
- 5. The applicant is requesting to amend the Final Site Plan. The amendment includes the removal of the thirty-four (34) townhomes and a minor amendment to the accessory building attached to Building A and the west parking lot associated with Building A.***

- 6. The accessory building recommended for approval on June 26, 2018 was intended to be used for laundry, storage, and a leasing office for the units.**
- 7. The applicant has incorporated washer and dryers into the individual units and intends the accessory building to be used for storage for the individual units. Approximately 2,000 SF has been added to the accessory building.**
- 8. Silver Creek Village Center Lot 9 subdivision Lots 1-3 are zoned SPA/RR.**
- 9. The Silver Creek Village Center consists of approximately 244 acres and was approved for 1,290 residential units and 50,000 SF of commercial use through the Specially Planned Area (SPA) provisions of the 1998 Code and General Plan.**
- 10. On June 22, 2015, the Development Agreement that implements the provisions of the SPA was recorded.**
- 11. The Development Agreement contains a number of exhibits that outline specific requirements as well development standards that must be met for all development within the Village Center.**
- 12. Where the Development Agreement is silent as to specific development standards, the Code provisions apply.**
- 13. The Silver Creek Village Center Road Dedication/Subdivision Plat was recorded on April 4, 2017. It consists of 19 lots that are intended to be further subdivided and developed.**
- 14. The processing of final site plans and other types of development permits are required to follow the provisions in the Code for the particular type of application.**
- 15. The Development Agreement states; "35% of the first 271 units (95 units) within the project shall be workforce units. Thereafter, any future development shall have a proportionate number of workforce units of not less than 25% of the total units as workforce units until the total obligation is satisfied."**
- 16. The project proposes 63 WUEs and 64 actual workforce housing units.**
- 17. The parcels included in the subdivision are 7.1, 7.2, 7.3, and 7.4. These parcels are designated as VR3, which allows multi-family uses.**
- 18. Parcel 7.1 contains 64 apartments in two (2) separate buildings.**

- 19. Parcel 7.2 is not proposed to be developed at this time, but will be further divided in the future.***
- 20. Parcel 7.3 is not proposed to be developed at this time, but will be further divided in the future.***
- 21. Parcel 7.4 is not proposed to be developed at this time but will be further divide in the future.***
- 22. There are two (2) neighborhood trails identified on Exhibit F3 that are located within Lot 9; one running north/south and one running east/west.***
- 23. Sidewalks will be installed in the public right of way as part of the development of the public roads around the development.***
- 24. The DRC submitted a written recommendation with the submittal of the Final Site Plan application.***
- 25. Proof of compliance with the National Green Building Standard for Site Design has been submitted.***
- 26. The subdivision plat contains a note restricting the use of wood-burning fireplaces.***
- 27. The subdivision plat contains a note restricting turf to a maximum of 20% of the entire lot.***
- 28. The Park City Fire District submitted written approval of the Final Site Plan with no conditions attached.***
- 29. The Water Reclamation District provided written confirmation that a Line Extension Agreement has been submitted and accepted.***
- 30. The setbacks for each lot have been verified and the structures are compliant with the Development Agreement.***
- 31. The project proposes a total of 102 parking spaces.***
- 32. The heights of the buildings do not exceed the maximum allowed height of 45'.***
- 33. The site does not contain critical lands, as defined in the Snyderville Basin Development Code.***
- 34. The development will tie into the existing sewer system.***
- 35. Mountain Regional Water will supply water to the development.***

- 36. The applicant is proposing to screen five (5) parking spaces on the south end of the parking lot that serves apartment building A & B by constructing a screen fence.***
- 37. The snow storage areas provided in the parking lots exceeds the minimum required amount of 10%.***
- 38. The internal parking lot landscaping is compliant with the minimum required amount of 15%.***
- 39. The Summit County Engineering Department reviewed the Final Site Plan and stated it meets their requirements.***
- 40. The applicant provided will-serve letters from the utility companies.***
- 41. A central mailbox facility will be provided. The location has been reviewed and approved by the Postmaster.***
- 42. The locations and design of the trash facilities have been reviewed and approved by the Summit County Public Works Department and Republic Services (waste collector).***
- 43. Garbage and recycling will be located within completely enclosed structures.***
- 44. The Final Site Plan has been reviewed by all applicable service providers who have stated they have adequate capacity to provide service to the development.***
- 45. Prior to commencement of construction, the developer will be required to submit and receive approval of the construction documents.***
- 46. Written approval for the development has been granted by the property owner.***
- 47. The proposed architecture has been reviewed by the Silver Creek Village Center DRC and is in compliance with the design guidelines. The layout of the project in regard to mass and scale is consistent with the residential nature of the project. The façade shifts, window treatments, roof shapes, materials and colors are not inconsistent with the standards contained in the Agreement and Code.***
- 48. A conceptual landscape plan was submitted with the Final site Plan. Prior to building permit approval, Staff will ensure the plan is in compliance with the Code.***

49. Prior to the issuance of a building permit, Staff will review the final lighting plan for compliance with the standards in the Code.

CONCLUSIONS OF LAW

- 1. The proposed multifamily development, as conditioned, complies with all requirements of the Silver Creek Village Center Development Agreement.***
- 2. The proposed multifamily, as conditioned, complies with all requirements of the Snyderville Basin Development Code.***
- 3. The use is not detrimental to the public health, safety, and welfare.***

CONDITIONS OF APPROVAL

- 1. Prior to Final Site Plan approval, a note shall be added to the Site Plan stating: "All dwelling units will be built subject to the National Green Building Standard, Bronze, and the then effective version in effect at the time of building permit with certification by a qualified third party consultant that will be submitted to the Summit County Building Department to ensure compliance prior to issuance of a certificate of occupancy."***
- 2. Prior to building permit approval, Staff will review and approve the landscape plan.***
- 3. Prior to building permit approval, Staff will review and approve the proposed lighting plan, including any lighting proposed on the structures.***
- 4. Prior to the erection of any signage, a sign permit shall be obtained from the Summit County Community Development Department. If the proposed signage is not identified in the Development Agreement, the signage shall conform to the regulations found in the Snyderville Basin Development Code.***
- 5. Prior to building permit issuance, the developer will be required to submit a Development Improvement Agreement to the County Engineer which shall be approved. Sufficient bonding for all infrastructure improvements, landscaping, and re-vegetation shall be submitted as part of the Development Improvement Agreement.***

- 6. All service provider requirements shall be satisfied.**
- 7. Minor deviations from the recorded Final Site Plan may be approved at the discretion of the Community Development Director.**
- 8. The Final Site Plan shall be recorded concurrently with the Lot 9 Final Subdivision Plat.**

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

- 4. Public Hearing and possible action regarding a proposed Weight Subdivision Plat Amendment; 2306 W. Red Pine Road, Canyons Village; Marty Breen, applicant-Tiffanie Northrup-Robinson, Senior Planner**

Planner Northrup-Robinson said this is part of the existing Canyons SPA, which was originally approved in 1988. There have been two amendments since that time. The most recent amendment was approved in December 2017. These two parcels were not affected by that amendment. They were platted and structures were built on them in the early 2000s.

A location map was shown and the parcel was pointed out. It is between Red Pine and High Mountain Road. The proposal is to remove a note that was placed on the Weight Townhouse subdivision plat. A condition of approval was a plat note that indicated Red Pine Road will not be used for primary access to this property. The property owner, Escala Park City Land LLC, is requesting to remove the note.

Planner Northrup-Robinson gave the background history of the project. In 1999, the land use and zoning chart was created along with the density, height, setbacks, and use. The Weight parcel was part of Escala Phase II. It was recorded in 2006. In 2008, this and another plat were combined.

In 2010, part of the parcel was subdivided off and is now known as the Weight Townhome subdivision. Planner Northrup-Robinson noted the name can be confusing. She isn't sure how it got the name of the "Townhouse Subdivision."

On the plat, a chart outlined the remaining density. There are 36,760 square feet of remaining hotel lodging density and 33,813 square feet of commercial density remaining that can be utilized on this parcel.

It was noted that at a previous public hearing, there were many concerns expressed about this density and what it will be used for. It was indicated this density would be used for cassettes or cottage-type housing that would be added to the existing hotel lodging. It would be developed along with the existing hotel lodging. The conditions of approval were outlined. One condition was there will be no primary access from Red Pine Road. It would be accessed from the existing hotel on the property.

Planner Northrup-Robinson said there is no associated development application; therefore, she has no plans to demonstrate. During the Canyon's amendment process, the use of Red Pine Road was discussed at length. The Canyons Development Agreement does not specifically prohibit an access from Red Pine Road. She noted it was not intended for this parcel to be developed separately. She said that Staff can supply the Commission with the audio and meeting minutes if they desire.

Planner Northrup-Robinson said the applicant has provided the recommendation from the Canyons DRC. She said that relocating density is not part of this application. Included in the Staff Report is the actual recorded easement agreement.

Planner Northrup-Robinson said there are two standards to be met when someone seeks to amend a plat. These are:

- The public or person will not be materially injured by the vacation, alteration, or amendment. There must be good cause for vacation, alteration, or amendment.
- The plat amendment shall not result in an increase in density.

The appropriate land use authority can approve an amendment only if these requirements are met. It was emphasized that no density would be increased or moved as a result of approval.

Planner Northrup-Robinson said that Staff recommends the Commission conduct the public hearing and take into consideration the public's comments. Public comments have been received and these were included in the Staff Report. Additional public comments were distributed. The Commission took time to read the letters.

APPLICANT'S PRESENTATION

Representing the applicant was Marty Free and Legal Counsel Nick Frost. Mr. Frost said he would like to provide additional background. He reminded the Commission there was a substantial amendment to the Canyons SPA in 2017. Part of that amendment included entering RC16 into the Development Agreement. The RC16 parcel is located on Red Pine Road.

In response to this proposal, there was a substantial amount of comment. The majority of the comments were centered about there being no access to RC16 from Red Pine Road. After discussion with the County Council and the Attorney's Office, the Council concluded that there was nothing that prohibited access off Red Pine Road to the parcel. The 50-foot buffer could not be developed, but it could be penetrated for access.

At that time, an extensive review was performed of the 1998 SPA Development Agreement and exhibits. The applicants engaged a title company to search for access rights. Access rights were found and are included as Exhibit H in the Staff Report. It was concluded there is no access prohibition within the SPA.

Mr. Frost said that Exhibit G-2 is an email from Community Development Director Pat Putt. It also clarifies there is no prohibition from accessing the parcel from Red Pine

Road. The email makes multiple references to the requirement of being subject to hotel lodging designation. Plat note #8 addresses those requirements.

Mr. Frost said they would like to clarify why the plat note was added. He said in the audio recording, Attorney Brackin stated the note was added because the SPA and Development Agreement expressly prohibits access into the Weight parcel from Red Pine Road. They have since found out that is not the case. This was confirmed by the County Council. They are requesting they have the same rights as RC16 B and that the plat note be removed.

Mr. Frost said they don't have any plans or proposals at this time because they are limited in their ability to develop the density on this parcel. This is not only because of the access, but also the limitations on a structure's height.

The public hearing was opened.

John Phillips said he is the president of the Aspen Creek Homeowners Association, which is directly across the street from the Weight parcel. Most people believe there would not be any access from Red Pine Road to this parcel. The HOA agrees with the letter written and submitted by Mr. Chalos.

Mr. Phillips said there is a lot of uncertainty associated with this parcel because of its density of over 70,000 square feet. If a Yotel were to put in, there could be over 100 units. The possibilities concern the residents greatly. In order to approve this proposal, any detrimental impacts on the neighborhood must be considered. Until the development plan is known, it is impossible for the Commission to assess how significant the adverse condition would be. If there are only a few cassidas it may not be a big deal. If they are talking about a 100 hotel units, the impact would be huge.

Mr. Chalos' letter does an excellent job of describing the challenges faced by the community. He agrees with the ideas and sentiments expressed. He thanked the Commission for their time and service.

Paul Bedford is a new homeowner in the Timbers Subdivision. He is on the Timbers HOA. All of the homeowners are behind the letter written by Mr. Chalos. They have the same concerns presented by Mr. Phillips. There is a lot of uncertainty of what might be allowed there.

Red Pine Road was not designed to handle a lot of traffic. It is not very wide. This is especially true during snow season, even with the 50-foot buffer. There is a lot of uncertainty around this project. There are 33,000 square feet of allotted commercial use and 36,000 square feet of hotel designation.

Mr. Bedford said he is in support of Mr. Chalos' letter. A lot of good points were made. He doesn't understand how a fully approved plat note can be overturned. He will be interested in how this process moves forward.

Robyn Wheaton is also in support of the letter written by Mr. Chalos. He does not see any conceivable way that he will *not* be materially injured by the removal of the note. During the winter, there is only one lane going each direction. It would be a nightmare trying to travel the road if this is approved. It would negatively impact the 30 homeowners of the area.

Michelle Cummings lives in the Aspen Creek Subdivision. She suggested the Commission take the time to drive the road. It starts out wide, but the width is decreased two times. With the snow, the road becomes very narrow.

Ms. Cummings said there are a lot of people who like to walk. Because there is no trail or sidewalk, they walk in the road. This can be very dangerous. She doesn't see how the Commission can vote on something when it is unknown what is being proposed.

Ms. Cummins said she understood the SPA was designed to have feathering out to the residential areas of the community. There is already a hotel which gives access to the inner part of the Weight parcel. She is in support of what Mr. Chalos has written.

Arlen Chalos said she agrees with the letter written by her husband. She doesn't understand how all of the parties can be fully aware of the restrictions and now one of them is seeking to remove one of the conditions. The vote of the Planning Commission at the time was unanimous. She said after seven years, the applicant is trying to take a second bit of the apple.

There were no other comments and the public hearing was closed.

COMMISSION COMMENTS AND QUESTIONS

Commissioner Kucera asked Attorney Thomas to talk about the plat note and what would it take to overturn it. Attorney Thomas said they should start with the Development Agreement. It is silent about the access on Red Pine Road. There were a lot of things put in the agreement to buffer the outer edge of the resort. Access was not one of the things in the Development Agreement.

Attorney Thomas said it is his understanding the reason the note was put on the plat was because a hotel was already on the parcel. The remaining 33,000 square feet was hotel lodging. It would need to be associated with a hotel that would provide a central check-in location, shared parking, and utilities. The concern was if an access was added from Red Pine Road, the cassidas could become residential units. To avoid this, the access was limited to running through the Escala property.

Attorney Thomas said since the plat note was applied, the Escala property and this property were subdivided from each other. He added that a property owner is allowed to ask for an amendment to their subdivision plat. The standard that has been noted is a standard allowed in State statute.

Mr. Thomas said the County's Code may not have been updated. It simply requires good cause. He read the current County Code. This language is more restrictive than what is allowed by the State, but that is allowed. The Commission has to find that there is no material injury as a result of this amendment to the plat. Material injury has to be specific. An example would be road failure. Specific details allow the applicant the opportunity to mitigate the impact.

Commissioner Kucera asked if the Commission can make that determination without knowing what is going to be developed. Attorney Thomas answered they assume the density would be what is remaining on the parcel. They also know the height limitations. They know the buffering. The applicant has stated they don't know if they can fit all of this on the site.

Attorney Thomas said at this time, the Commission should consider how Red Pine Road would be impacted if an access is allowed. A 32' tall structure on the parcel is immaterial to the amendment because they already have the right to build that. The question before the Commission at this meeting is what the negative consequences would be of allowing an access from Red Pine Road.

The Commission should also consider the idea that this parcel is to stay connected to hotel lodging. He understands it is hard to determine what the consequences are when the proposed development is unknown. When the County amended the Canyons' SPA, it was known that most actions would not result in a decrease in the level of service. When it did, mitigating conditions were placed. For example, as part of the amendment, Canyons Resort Drive is being widened.

Commissioner Kucera said the plat note designates something that is different from the Development Agreement. How does the Commission determine good cause relative to the note? Attorney Thomas said the purpose of the Canyons Resort is as a resort. Does having this access help or hinder the resort? Good cause also considers what happens to Red Pine Road.

Commissioner Cooke said it seems clear from the 2012 meeting minutes and the Staff Report that the discussion about the access from the Red Pine Road and its impact to the neighbors was a factor in creating the condition of approval. He hasn't heard a compelling reason for good cause that inspires him to overturn a plat note. To him, the lack of prohibition in the Development Agreement isn't good cause.

Commissioner Cooke said he doesn't believe Director Putt's email gives support for the project. When the Commission reviewed the Canyons SPA amendment, they took into account the impacts to the surrounding neighbors. They looked at traffic studies and what mitigations would make the plan viable. He is interested to know what a 70,000 square foot development would do to Red Pine Road.

Commissioner Cooke asked who owns the road. It's been described as partially public and partially private. Who granted access permission in 1985? That was granted prior to the Development Agreement. Which take precedence?

Attorney Thomas answered that TCFC owns the road. The CVMA is responsible to maintain the road. The County Council determined it is a private road with no prohibitions against access in the DA, but there is a prohibition via a plat note. In order to remove the plat note, good cause has to be shown. The CVMA has permission from TCFC to use the road.

Commissioner Fine asked if there is an idea of what will be built there. Is it more in the realm of 5 or 100 units? Mr. Frost said that is unknown. Because of the restrictions

on the land, it probably will be less than what is allowed. Planner Northrup-Robinson added that it has to be hotel lodging. It can't be residential. **Commissioner Fine** asked if there is an idea concerning the impact to the traffic this would create. Mr. Frost said he doesn't think it would be much.

Commissioner Harte said his experience is that what seems like a large increase to the public or the Commission doesn't generally create a failed road. He added that it is hard to make a decision about this without a traffic study.

Commissioner Harte said there is set criteria. These are things like height and setbacks. It doesn't take much to extrapolate what could sit there. He added that the Planning Commission cannot consider property values.

Commissioner Harte asked if there is anything in the Development Agreement that requires this development has to be attached to Escala. He was told there is not. He asked if there is access to their property from High Mountain Road through the adjoining parcel or would the property be landlocked. Planner Northrup-Robinson said they have access to their property, but they would have to be creative. Mr. Frost said they don't have vehicular access to their property. They can walk through the adjoining property, but they can't drive to it.

Commissioner Harte said he understands the note's purpose. It designates that this parcel was once part of Escala. They were required to build smaller units and have people check in through the hotel. **Commissioner Harte** asked since the parcel was subdivided, do they have a legal right to access their property? Planner Northrup-Robinson said they will have to develop the access in conjunction with the existing Escala development.

Planner Northrup-Robinson said the parcel has been legally subdivided; however, it was not originally intended to be a separate standalone development. This is remaining density from the Escala development. They have to find a way to access the property.

Commissioner Harte asked Attorney Thomas if they can require someone to work out a way to find access through a neighboring property. Attorney Thomas said that generally they cannot; however, at the time of subdivision, Escala owned both parts of the property. Escala knew where the access was intended to be. The agreement with the new owners should have included access.

Commissioner Harte said while he understands the request, he doesn't currently see a case for good cause. He gave a list of things the Commission would like to see if this comes back to them. To begin with, they would like a traffic study. Additionally, they would like to know what the legal options are for access.

Commissioner Fine asked Attorney Thomas if not knowing what is going to happen on the property constitute good cause. Attorney Thomas said that is up to the Commission to decide. Whatever the Commission decides is good cause (or not), needs to be based on subjective facts.

Commissioner Cooke noted there is a discrepancy about having access. He said that Planner Northrup-Robinson has stated there is access from High Mountain Road. The applicant said there is not. Planner Northrup-Robinson clarified the Escala property is off High Mountain Road. It was intended for this property to be accessed through the Escala property. She is not aware of any easements through the Escala property to the property.

Commissioner Harte said when they separated the parcels, an access disability was created. This may have been an over site when the subdivision occurred. He said there is a difference between intention and what is legal.

Chair Stevens asked when the plat note was added. Was it when the parcel was subdivided? Planner Northrup-Robinson said it was when the subdivision was approved; December 18, 2012. **Chair Stevens** verified the parcel was separated knowing this was the only arrangement for access. Planner Northrup-Robinson said that is correct.

Commissioner Simons asked if the property is commonly owned with Escala. Planner Northrup-Robinson said it was until 2012, when it was subdivided. It is no longer commonly owned. **Commissioner Simons** requested a traffic study.

A discussion ensued about the impact to the backs of houses. **Commissioner Dickey** said he thought this was straight forward. This wasn't contemplated to be a separate development parcel. He doesn't see good cause.

Commissioner Dickey said the Commission can't land-lock a parcel, but can two parties land-lock themselves? Does the Planning Commission have an obligation to fix that for them? How does it impact the Commission's decision if the parties have injured themselves? Attorney Thomas answered that is another fact they can consider.

Commissioner Dickey said he looks at the intent that this is was one development with one primary access. That access was from High Mountain Road. At this point, he doesn't see good cause to overturn the plat note.

Chair Stevens said she shares the concerns expressed by the Commission. She would like to have a traffic study, particularly where the road narrows. The traffic study should reflect high snow days as well.

Chair Stevens asked if this development were accessed from Red Pine Road, would people be able to access the Escala parcel as well. Planner Northrup-Robinson said she would assume it wouldn't be developed in that manner; however, she doesn't know

what their development plans are. The applicant said there is no way to have cross access by cars.

Mr. Frost said they would appreciate a continuance. They would like to have a chance to respond to the Chalos letter and the concerns of the Planning Commission.

Commissioner Cooke said he would like to listen to the audio recording.

Commissioner Harte said he would like to have more knowledge about if the property is land locked. What are the options? **Chair Stevens** said it was commented that the parcel may not accommodate all of the density that remains. She would like to know the maximum of what they could build taking into account the parameters that is on the parcel. **Commissioner Simons** said she would like to see a massing graphic.

Commissioner Cooke asked if this parcel is considered part of the Resort Core. If it is, wouldn't the height be measured in elevation? Planner Northrup-Robinson said that it is part of the Resort Core, but in this case the height is based on stories.

Commissioner Harte made a motion to continue this to a date uncertain.

Commissioner Cooke seconded the motion. All voted in favor.

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

5. **Public Hearing and possible action regarding a Final Plat for a proposed 2 lot subdivision for the Gillmor Subdivision; SS-47; Summit County, applicant- *Patrick Putt, Community Development Director***

Director Putt said that Attorney Thomas has been very involved with all of the discussions concerning this application. Because of this, he will explain the application. Attorney Thomas said this parcel is across the street from Home Depot. The Gillmor property is about 460 acres and surrounds the triangle parcel.

He said that Summit County and Basin Rec entered into a purchase agreement to buy the property. It is within the OA2 and OA3 overlay zone. In order to develop it, approval is required from the EPA. In this case, that would be an administrative order with regard to the clean up on one side of Highway 40.

Attorney Thomas said the SS47 parcel will be subdivided into two lots. Lot 1 would be the developable parcel. Lot 2 would be open space with deed restrictions. The subdivision is needed to divide the developable land from the open space.

Attorney Thomas said the triangle piece will connect to Silver Creek Village. It will add to the recreational open space corridor from Round Valley to the Gillmor property. The arrangements of the purchase were described. Attorney Thomas said the developable parcel may have some civic uses on the property. These may be things that the school district or other service providers might be interested in.

Attorney Thomas said this parcel was removed from OU2 and OU3. Some rather expensive testing took place to prove to the EPA that the developable parcel is clean. The subdivision boundaries follow the demarcation line between clean and dirty.

Attorney Thomas said in order for the parcel to be subdivided, it needs approval from the EPA. The County Council and the Basin Rec District will be in a joint meeting in the near future to potentially approve the deal. The County is hoping to close on the property by June. Tonight's recommendation is to hold a public hearing, listen to the public's response, and give a positive recommendation to the County Manager.

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

COMMISSION COMMENTS AND QUESTIONS

Commissioner Cooke asked if the market-place parcel (which has come before the Commission) is adjacent to this property. Attorney Thomas said the Sigg parcel abuts this on the north side.

Commissioner Harte asked what the size of the triangle property is. He was told it is 112 acres. He reiterated that only Lot 1 is developable. Eventually, the County will have to go through a land planning process. The only thing the County is specifically looking at is public-work type of facilities. There are a number of special interest groups that are interested. In the future, the County will have to decide if further subdivision is desired.

Commissioner Harte asked if it is in the NMU I or NMU II zone could be applied to the property at a later date. Attorney Thomas said that it could. Because the property is rural residential, it would have to go through a rezoning process. The future of the property was discussed in connection with the Henry Sigg property. Mr. Sigg has road access and an amphitheater designed. Would this proposal prevent these from happening? Attorney Thomas said the County Council is interested in finding a secondary access that would probably link up with Mr. Sigg's property. It would run through the developable piece.

Commissioner Harte asked if this is approved, will Basin Rec receive this property, or is that still in negotiation? Attorney Thomas said nothing is finalized until the County and Basin Rec meet in a week. If Basin Rec declines to be involved, he doesn't think the County will go through with the project. This is being done for the benefit of Basin Rec. If one of the pieces doesn't come through, it all falls apart.

Chair Stevens asked what the impact will be to the people who may be walking on the trails which are located on the contaminated land. Attorney Thomas said that part of the deed restrictions go into detail of what will be expressly permitted. People walking

on the land would not be a problem. He pointed out where most of the contamination is located.

Attorney Thomas said the big question is when the EPA will clean up the contaminated area. That date is unknown. Once the cleanup has taken place, a six-inch cover of dirt will be placed and maintained by Basin Rec. Until that time, trails will be created.

Commissioner Cooke verified this will stay as Rural Residential, unless the rezone occurs. Attorney Thomas said that is correct. This property will come before the Commission again in the future to be subdivided. **Commissioner Simons** asked if there has been discussion to make the boundaries less obscure. Attorney Thomas said they have to work with the construct the EPA provided.

Commissioner Fine asked if notification required to possible property owners of soil contamination. Attorney Thomas said it would not be required on the developable portion of the land.

Commissioner Harte made a motion to send a positive recommendation to the County Manager as outlined in the Staff Report and below. The motion was seconded by Commissioner Fine. All voted in approval.

FINDINGS OF FACT

- 1. The property is located within the rural residential zone district and comprises 163.23 acres.***
- 2. The property is subject to the Silver Creek Soils Temporary Overlay Zone, Ordinance 692.***
- 3. The Estate of Florence J. Gillmor is the record owner of the property.***
- 4. A two lot subdivision complies with the density limitations of the Rural Residential Zone District.***

- 5. Lot 2 of the proposed FJ Gillmor Subdivision will be deed restricted to recreation open space, which use is consistent with the Rural Residential Zone District.**
- 6. Lot 1 of the proposed FJ Gillmor Subdivision will comprise a development parcel subject to the existing Code. US Highway 40 provides legal access to Lot 1. No infrastructure improvements are proposed at this time.**
- 7. EPA, through its AOC, has approved of the proposed FJ Gillmor Subdivision development in accordance with Ordinance 692.**
- 8. A properly noticed public hearing was held to receive public comments on the proposed FJ Gillmor Subdivision on April 9, 2019.**

CONCLUSIONS OF LAW

- 1. The proposed FJ Gillmor Subdivision Plat conforms to the requirements of Code 10-3-14(B).**
- 2. The proposed FJ Gillmor Subdivision Plat conforms to the requirements of Code 10-2-4.**

CONDITIONS OF APPROVAL

- 1. A signed copy of the AOC will be presented to the County Manager.**
- 2. A signed copy of the deed restriction will be presented to the County Manager.**
- 3. A plat note will reference that Lot 2 is within the Richardson Flat Tailing Site and is subject to a deed restriction.**
- 4. A plat note will reference that Lot 1 is not within the Richardson Flat Tailings Site and is subject to re-subdivision in accordance with the Code.**

- MOTION CARRIED (7-0)**

DRC UPDATES

An update was given by **Chair Stevens** on the Commons at Newpark project.

COMMISSION ITEMS

There are problems accessing the packet on the Commission's tablets.

DIRECTOR ITEMS

- The upcoming agenda items were reviewed.
- The retreat date was described.
- E-share scooter programs will not be coming to Summit County at this time.

ADJOURN

At 6:54 p.m., the meeting was adjourned.

A handwritten signature in black ink, appearing to read "Mike Stur", is written above a horizontal line.

Approval Signature