The City Council for the City of Junction City, met in regular session at 6:30 p.m. on Tuesday, March 27, 2018, in the Council Chambers of City Hall, 680 Greenwood Street, Junction City, Oregon.

PRESENT: Mayor, Mark Crenshaw; Councilors Kara McDaniel, Robert Stott, Jack Sumner, John Gambee, Dale Rowe, and Bill DiMarco; City Administrator, Jason Knope; City Attorney; Rebekah Dohrman; Police Chief, Bob Morris; Public Works Director, Gary Kaping; Finance Director, Mike Crocker; City Planner, Jordan Cogburn; and City Recorder, Kitty Vodrup.

1. Call to Order and Pledge of Allegiance

Mayor Crenshaw called the meeting to order at 6:30 p.m. and led the Pledge of Allegiance.

2. Changes to the Agenda.

None.

3. Public Hearing: SUB-17-02 West Linn Corporate Park, LLC Reserve Phase III Preliminary Subdivision Appeal

Mayor Crenshaw opened the public hearing. He asked if there were any exparte contacts or conflicts of interest. There were none.

Staff Report

Planner Cogburn distributed a revised Agenda Item Summary and a letter from the applicant's attorney, which included the Final Order for SUB-17-01. He stated that before the Council was an appeal that has been submitted by the applicant regarding three specific conditions of approval for Junction City Land Use File SUB-17-02 regarding an 11 lot tentative subdivision approval that was granted by the Planning Commission on December 20, 2017. On November 29, 2017, a revised application was submitted by the applicant regarding the 12 acre parcel south of West 11th Avenue and Oaklea Drive. The original application was submitted on July 21, 2017, and the initial review was deemed invalid, based on noticing requirements; therefore, the applicant had an opportunity to resubmit materials and go back for an actual complete review.

Planner Cogburn continued that the proposal included 11 lots, zoned multi-family residential with a wetland resource district overlay. Eight of those lots would be developed with duplexes, based on the lot size requirements, while the other three would be held for future land division and development. The applicant's representative had made clear that they intended to develop those with a multi-family unit type development. On December 20, 2017, the Planning Commission conditionally approved the subdivision application, and on January 10, 2018 the applicant's attorney appealed the Planning Commission decision regarding the land use approval. The applicant had requested that the City remove three conditions of approval that the Planning Commission imposed on this application, specifically conditions numbers 8, 9, and 11, which pertained to the location of the wetlands, permit approval from Lane County, and specific language regarding park dedication.

Planner Cogburn noted that the Council packet included a draft final order that would amend the Planning Commission's original final order, based on legal counsel and staff recommendation. The draft final order proposed to redesignate the wetlands and the county conditions as information items. The City would be able to look at those options later on in the development process, as they did not need to live in a tentative subdivision approval. Regarding condition 9 on park land dedication, the Council had the authority to require the park land dedication and determine whether or not this proposed subdivision did or did not require additional park land dedication. As part of the original application and revised application, the applicant did not provide any testimony or facts demonstrating that the proposed development required or did not require a dedication of park land, nor did the applicant propose dedicating any park land as part of the subdivision application.

Planner Cogburn added that the related policies associated with this appeal would be JCMC 16.05.080 regarding appeals. The revised Agenda Item Summary (AIS) included possible actions by the Council, as legal counsel did not have a chance to review the AIS in time for packet distribution. The applicant's legal representative submitted a letter and the final order associated with subdivision approval SUB-17-01 at 4:30 p.m. today and asked that it be provided to the Council.

Councilor DiMarco asked a process question on the draft final order which legal and staff had modified. Planner Cogburn responded that staff and legal were comfortable with moving two of the three conditions as informational, as the City would be able to enforce those at a later date and they were not legally required to be part of a subdivision approval; whereas, condition 9 was modified to reflect park land dedication. Attorney Dohrman added that the draft final order was for Council consideration, as one of the potential actions that the Council could take.

Councilor Gambee asked if staff could share more about what was meant by informational and the City's ability to address those things later on in the process. Planner Cogburn responded that information items included as part of any staff report or final order was basically to the applicant's benefit, letting them know that a particular agency may issue some comments on referral, so the City provides that information to the applicant to let them know that further down the line, these things may be required of them. Specifically with regard to the wetlands, any development that occurred there, regardless of a land division, would require notice out to the Department of State Lands (DSL), understanding no development could occur within a wetland area. The same would apply to the Lane County Right of Way. Any adjustments would need to be made by the developer at the time that they were asking for building permits.

Councilor Gambee asked for clarification on the two conditions as informational only. Planner Cogburn responded that the draft final order was a recommendation from staff and legal for the Council to remove two of the three items and place them as informational items rather than conditions of approval, because the City had no legal basis to require them as a condition of approval. Both of those items would be required, upon development. Attorney Dohrman added that they redrafted condition 9 on park land so the applicant would meet the criteria in one of two ways. One was to demonstrate that the subdivision does not require additional dedication of park land, because of a previous dedication of park land and the other one was to demonstrate that it does and here was the additional park land that they were going to be dedicating.

Councilor Gambee asked if the letter that the applicant's attorney submitted today would satisfy the need for adequate park land. Planner Cogburn responded that the letter included their position regarding the packet of information that was distributed and was their rebuttal to the proposed final order. Attorney Dohrman added that they were still processing the information in that letter and could find out more information, after hearing applicant's argument.

Councilor DiMarco noted that he was a respecter of process and wanted to make sure they were respecting the Planning Commission's work. He asked if the Planning Commission had modified the final order that staff had presented to them. Planner Cogburn responded no.

Councilor DiMarco asked if would be fair to say that after the Planning Commission rendered their decision, staff and legal had new information and found that a couple of those conditions were legally not supportable? Planner Cogburn responded that upon review of the appeal and the applicant's request, it was his understanding that legal came back with the decision that it would be best to remove those conditions.

Councilor DiMarco noted that his concern with the process was that it seemed like staff and legal were acting as the appellate body rather than the Council. The Planning Commission made a recommendation, the developer appealed that, and then it did not come before the Council without it already being modified. That was his concern with process going forward for future reference. Mayor Crenshaw asked Administrator Knope to make a note of that.

Applicant Testimony

Mr. Bill Kloos, 375 W. 4th Street, Suite 204, Eugene, attorney for the applicant, stated that there were three conditions from the Planning Commission decision that gave his client heartburn, and he had addressed those and staff's recommendation that conditions 8 and 11 be changed to advisory in his appeal statement. He and his client concurred with staff's recommendation to move conditions 8 and 11 as advisory; however, condition 9 related to park dedication still caused his client heartburn. He noted that this subdivision was for Phase III for 8 duplex lots and some area for future development. Before that was Phase I with 97 lots that were built out. Phase II was for 122 lots, which was approved last summer, but no development had been done. His understanding was that before Phase I was approved, his client dedicated to the City the existing park site, which was 11.85 acres. When you look at the

amount of park that was supposed to be dedicated in conjunction with the population of 1 acre per 100 people, the 11.85 acres were adequate to meet the City standards for all three Phases. His client's consultant had said they were good on park land, because it had already been addressed by the park land that had been dedicated and that was why the application materials did not talk about parks.

Mr. Kloos continued that the original condition proposed by the Planning Commission read that the applicant shall obtain and provide proof of review and approval by the State Historical Preservation Office (SHPO) for the use of Tax Lot 4201 of Assessors Map 15-04-31-00 as intended recreation area in compliance with the standard of 16.05.050(1)(1) prior to Final Subdivision approval. He thought Tax Lot 4201 was the dedicated park land, so what that condition was saying was they had second thoughts about this parks issue, and the applicant would have to spend a lot of money to have a report done, submit that to SHPO, and then SHPO was supposed to make some decision about whether the 11.85 acres was really adequate for the intended recreational area. This envisioned the possibility that if SHPO determined there were too many valuable artifacts, a fence would need to be put up and people kept off the site, which could happen as this was Junction City and there were a lot of artifacts out there. If that happened, the condition said that the developer would have to come back and provide that they had enough park land dedicated, recognizing that SHPO would have just taken a big bite out of the amount of acreage in the current park that could be counted. He noted that the Council could understand how this would be disturbing to his client.

Mr. Kloos stated that his client's understanding was that the park land had been addressed by the 11.85 acres that was dedicated to and accepted by the City and that was the basis for their appeal. He read the proposed condition, "Prior to Final Subdivision approval, the applicant will demonstrate to the City's satisfaction that the proposed subdivision does not result in the need for additional park land." He stated that he did not know how they would do that to the satisfaction of the City or what that discussion would look like. He continued reading, "If the applicant relies on Tax Lot 4201 to demonstrate that no additional park is required for this subdivision, then the applicant shall obtain and provide proof of review and approval by the State Historical Preservation Office for the use of Tax Lot 4201….as intended recreation area in compliance with the standard code…" He stated that this proposed condition was similar to the original and basically said that the developer would have to prove to the City all over again that there was enough acreage for parks and doing that was going to require SHPO to step in and maybe do an archeological study and figure out what part of that park was really usable for parks or what part had to be kept for passive recreation rather than active recreation.

Mr. Kloos continued that they would like the Council to agree with their starting assumption coming in with this application that if you take all the people that were going to be in Phases 1, 2, and 3 and add them all up, divide by 100, you get an acreage needed for parks which was substantially less than the 11.85 acres and so based on that, they were done with parks. On the other hand, if the Council wanted them to go with the Planning Commission's recommendation or staff's slightly amended condition, then they would have trouble with that because that could cause an open ended process of sitting across the table from SHPO and trying to figure out what portion of the park acreage out there was suitable for parks and if it's less than what was needed to accommodate all the population in Phases 1, 2, and 3 then they would have to figure out where to get more land to dedicate for parks; if that was the situation, they would not have a subdivision approval, and they were hoping that finality would be premised on the fact that 11.85 acres was dedicated for parks years ago, accepted by the City for parks, and that amount of acreage was adequate to meet their parks obligations for Phases 1, 2, and 3.

Mayor Crenshaw stated that he heard in the testimony that the applicant was disturbed because they thought the parks issue was already taken care of, but later someone else may be able to come and say it was not so now we have to find a new deal. Mr. Kloos responded that was right.

Mayor Crenshaw asked if that was a statement in concurrence that they would like an authority that has the ability to say no to your projects to give their answer before proceeding on with the project.

Mr. Kloos responded no and that his client wanted condition 9 to be taken out of the decisions, so his client was confident he could go forward with this subdivision without having to worry

about having to deal with the adequacy of park acreage that was on the other side of this project not connected to this Phase III. The only way to get finality now and for his client to be sure that he had a tentative subdivision approval was for condition 9 to go away. If condition 9 stayed in either its current form or the proposed recommended change, then they would have an opened ended condition that they did not know where it would be going or what was going to happen with the parks matter.

Mayor Crenshaw asked if Mr. Kloos could state for the record the approximate date the 11.85 acres was donated to the City. Mr. Kloos responded that he did not know, but believe it came to the City, prior to the approval of the Phase I subdivision.

Mayor Crenshaw asked what was the basis of adequacy of park land and if he had any testimony from any agency that had authority to be able to say that there were not any preclusions that that property would be disqualified from being adequate park land.

Mr. Kloos responded that he did not know. He stated that from his client's perspective, it was dedicated to the City for parks and accepted by the City for parks. It was like a bank of acreage that had enough capacity for all three phases to support compliance with the parks standards. He continued that he was not an expert on how SHPO worked and did not know whether SHPO or anyone else had been looking at the park site. He stated that even if it were determined that the entire site was an archeological site, he would say that they still have met their burden on parks, because they dedicated the 11.85 acres years ago and it was accepted by the City. That was their duty and if the City needed more park land than the City could look for more park land or negotiate with people for more park land. But the City did not really have the authority to demand that park land in conjunction with approving this tentative subdivision for this particular phase. The debt for parks had been paid for this phase of this subdivision and it was paid years ago when the 11.85 acres was dedicated and accepted by the City.

Councilor DiMarco noted that brought up a legal question. If the area was determined to be a culturally sensitive area by state rules, and the City did accept that as park land originally, whose problem would that be, the City's or the developers?

Attorney Dohrman responded that she could provide a little more background on the park dedication. In 2007 there was a Planned Unit Development (PUD) for this property to be developed in three phases, and she thought the park land dedication was part of that PUD, which had expired and was not developed. After the land was dedicated to the City is when the City found out that it had cultural resources on it. The City owns that park land with the cultural resources on it. To the extent that it could be used for park land was a question that they did not have the answer to. They were asking the applicant to demonstrate how they would meet the park land dedication criteria for this one small subdivision.

Councilor DiMarco noted that the PUD expired and asked a question for legal on if that started the clock again and the applicant would need to again satisfy the park land dedication or did the original donation stand legally?

Mr. Kloos stated that the applicant was more interested in getting it done and figured out right, rather than getting it done fast.

Councilor Gambee asked if the City owned the original dedication or if the applicant owned the original dedication of the 11.85 acres, since the PUD expired.

Attorney Dohrman responded that the City owned the 11.85 acres now.

Councilor Sumner asked if there were any constraints on the original dedication that it had to be proved whether there were artifacts on it or not. Planner Cogburn responded that looking at the dedication document in the PUD file, he did not see any reference to any known cultural resources on that site, either from the applicant or from the City's possession; however, he did have written correspondence from the applicant stating that they were aware of that known cultural resource at that time.

Councilor McDaniel asked if there were any parks in that subdivision right now that had been developed. Attorney Kloos responded that there were no developed parks for Phase III and he did not believe there were any in Phases I and II.

Councilor McDaniel noted that if a park could not be put on any of the 11.85 acres and there was not one planned for Phase III, that whole subdivision would be completed without a park. Director Kaping responded that was correct.

Councilor Gambee asked if Planner Cogburn could tell them more about the correspondence that he mentioned. Planner Cogburn responded that he had an email from the applicant stating that they were aware of that cultural resource at the time of that dedication and that the City should have documentation of that. Planner Cogburn said he poured through the file and found no indication that the City was aware.

Councilor Gambee asked if that was an email from 2007 or a recent one. Planner Cogburn responded that it was a recent email.

Councilor DiMarco stated that for him it came down to what were the City's rights and recourses if that park land was not useable. If they could not use that land for parks, was that all on the City and between the City and the residents that the City did not provide a park for that entire subdivision? Or did the City have recourse with the developer, because the PUD expired or diligence was not done.

Public Testimony – Those in Favor.
None.

Public Testimony – Neutral Testimony.
None.

Public Testimony – Those Opposed.
Mr. Jon Campbell, 1332 Alderdale, Junction City, expressed concerns that the representative for the builder referred several times to the conditions causing his client heartburn and it was concerning to his client. He noted that heartburn and concerns were why they were all there, and he thought it was unsettling that the builder wanted to push on with his project and not meet the conditions that were previously set by the City. He noted that it was important enough for the City to have set these conditions and he felt they should be followed. He thought that submitting a draft plan at 4:30 p.m. was like dropping a bomb at the last minute and that was concerning to him.

Mr. Tim Ware, 1303 Alderdale, Junction City, stated that it looked as though it would be best to drop the two conditions, but he had not heard a real answer on the legalities of the two they were trying to drop. He confirmed that there was no park in their subdivision. He stated that the correspondence from the applicant saying that they knew what was there was ridiculous; if the applicant knew and thought that was good enough for a park when he knew there were some issues with it, tells you what kind of person he was.

Mr. John Henderson, 2428 12th Avenue, Junction City, stated that he had lived here for 2 ½ years and one of the first things he was told in conversations with his neighbors was that a park was going to be built, but so far they did not have a park and he did not see it happening as things stood. He noted that if you drove through the neighborhood at 3:00 p.m. you would find 20 to 30 children on the streets, with no park.

Mayor Crenshaw stated that he heard Mr. Henderson say that they were promised a park, but that was not delivered. He asked if that was a fair estimation of the testimony?

Mr. Henderson responded that he moved here 2 ½ years ago and that was what he had heard. He initially told his neighbors that he smelled a rat and asked why 11 acres had been dedicated over there when the homes were built here and stated that they obviously knew that they could not build on that land. There was a rumor that there was Indian artifacts there, and if that land could not be used for parks, it was not good.

Director Kaping asked who told the residents that there would be a park there. Mr. Ware responded real estate agents.

Additional Staff Comments
Planner Cogburn clarified that the preliminary PUD that was approved and made the subsequent dedication of park land did indeed expire. No final PUD was ever granted;

therefore, that dedication was not necessarily beholding to any particular phase of development. What was seen here was called the Reserve Phase III, but it was an arbitrary name and the applicant was not bound by any phasing diagram associated with the PUD. Consequently, the City was unaware of what the potential development was out there. There's additional area that could certainly be developed beyond that originally perceived park need, so that original 11.85 acres may or may not suffice for whatever development occurred out there. The expiration of the PUD was clearly communicated with the applicant, prior to the subdivision 17-01 submittal, so they knew that they did not need to follow that phasing diagram that was associated with the original PUD. Now we have this subdivision called the Reserve Phase III and for a subdivision application and per the current code 16.05, the Planning Commission has the discretion to require one acre of recreational area to every 100 people of the ultimate population of this specific subdivision. The applicant's response to this criteria was "this application is for a preliminary subdivision with no public park land or payment to the City for parks proposed." There was no reference to the City owned parcel or statement for parks; therefore, staff's position was the condition of approval certainly was warranted.

Additional Questions from Council
Councilor Sumner asked if the ownership of the 11.85 acres was conditional. Planner Cogburn responded that unfortunately, he did not have the information with him tonight.

Councilor Rowe asked about changing condition 9 to informational, like was done for conditions 8 and 11 and whether that would allow the City recourse to come back and insist that the developer hold to their end of the agreement on park land.

Planner Cogburn responded no. Ultimately, the revised final order spoke to a population based on the duplex lots that were there with the remaining portions of land to be determined at a later date upon future development. It was his understanding through correspondence with the applicant's representative that their intention was to develop that area with a multi-family unit type development. The City did not have a recreation standard under the multi-family standards that would require additional open space and common area to meet a recreation need; for those original 8 duplex lots, the City would have no other way, other than the subdivision process to require park land.

Councilor Gambee asked if there was a park for the 122 lot subdivision that had been approved. Planner Cogburn responded that for SUB-17-01 for the Reserve Phase II, they requested that the City owned parcel be included, and a very similar condition of approval applied to that subdivision approval.

Councilor Gambee asked where the park was for the 1st phase with 97 lots, and asked for confirmation that those homes were actually built out. Planner Cogburn responded that those homes were built out and his understanding was the park was conditioned upon the City owned parcel.

Councilor Gambee asked how much park land would be required for the 8 duplex lots. Planner Cogburn responded that there would be 16 units. They calculate 2.48 individuals per unit, so roughly 40 individuals and with the ratio per 100 would be .4 acres needed.

Councilor Gambee asked how many acres were included in the Phase III subdivision. Planner Cogburn responded the entire site was 12.19 acres, with the 11 lots and 8 lots being designated for duplexes. If the remaining 3 lots were buildable for multi-family and assuming you could put 120 units there, you could end up with a speculative estimate of 300 individuals in that entire subdivision. If the City were to rely on a metric, staff would look at the Comprehensive Plan and look at the designation of the site. Looking at the average density requirement, you would be looking at roughly 12 to 18 units per acre.

Applicant Final Rebuttal
None.

Mayor Crenshaw asked if there was anyone who could give just cause to hold this record open. There was none.

Mayor Crenshaw closed the public hearing at 7:32 p.m.

Deliberation and Decision

Councilor DiMarco stated that it would be beneficial to have a work session with legal staff to look at the following questions: Legally what precedent would be set if the City would start allowing developers to donate smaller pieces of land that could be looked at as spot zoning? If the City made the first two conditions informational, what kind of precedent would that set? If the City did something that slowed this piece of the development to go forward, were they setting a precedent that abrogates the City's ability to set straight the original park problem? Did the City have the right at this point since that PUD expired, to judge sufficiency of park land in general and ignore that dedication or renegotiate all that? Was the City bound by it?

Attorney Dohrman responded that when the PUD expired, it was not taken to completion to the final PUD; thus, the application basically evaporated. She did not know what the circumstances of that were, but assumed that the PUD was approved and one of the conditions of approval was the park land dedication, but she was not sure if that was true or not. If the City should give the park land back because the PUD never went through, could be something the City explores. But for answering the question now, the PUD evaporated and there was subdivision criteria to apply. One of those criteria was the park land dedication ratio of one acre per 100 inhabitants, and if they were applying that criteria to this subdivision application and relying on the 11 acre park that was dedicated earlier, then the developer would need to explain to the City that it was okay with SHPO and that would meet the criteria. If they could not do that, then they would then dedicate .4 acres; that was the modified condition of approval.

Councilor DiMarco reiterated that it would be important to find out what the legal options and recourses would be, regarding the 11.85 acre park dedication and the fact that the PUD expired.

Attorney Dohrman stated that with the modified condition, the applicant would need to demonstrate that they could use a part of that previously dedicated park land to satisfy this criteria; they would have to meet that condition of approval, before the City would approve the final subdivision. The issue would be addressed with regard to the subdivision at the time the final subdivision application came through for approval. This would take care of the park issue for this subdivision, but she did not know what the status of the park land would be for the two previous phases; that was something she could not answer tonight.

Councilor Rowe stated that this was a rights versus responsibility issue. The City was given the park land perhaps in good faith and the City accepted the park in good faith. The questions were whose nickel would it be to decide whether that was usable land or not and does that dedication fulfill the requirement for park land. He felt that they needed legal help and that could not be answered tonight. He added that all the applicant had to do was prove to the City that the park land was indeed recreational use or give the City .4 acres of park land and they would have fulfilled their portion of the deal. Mayor Crenshaw concurred with that.

Councilor Gambee disagreed and thought the problem was with the City and not the developer, as the City took the land 11 years ago and never developed the park. The PUD expired, but in the meantime the City let 97 houses be built without giving them a park.

Mayor Crenshaw stated that tonight's question on condition 9 was whether or not the developer should be made to prove that the 11.85 acres was actually eligible to be a park.

Councilor Gambee stated that the 11.85 acres was City owned land, and if the City had put a park in there 11 years ago, this would not be a question. He thought the City needed to buy half an acre and give them a park, like they had done in other areas of town.

Councilor Stott noted that there were two separate issues here. There was the 11.85 acres of park land and whether it could be used. The other was there was this development in front of them, and he felt that the developer needed to put in a park. He noted that the 11.85 acres was over on the other side of the development, which may be difficult for younger children to access.

Mayor Crenshaw stated that the Planning Commission expressed a condition to the developer that they either provide a new park land or prove that the 11.85 acres qualifies. Councilor Stott expressed his agreement with that.

Councilor McDaniel asked what the size of the park in Raintree Meadows was. Director Kaping responded roughly ¼ of an acre.

Councilor McDaniel stated that she lived across the park in Raintree Meadows and it was always full of children. A .4 acre park might not seem that large, but could accommodate a lot of children.

Councilor Sumner asked who owned the 11.85 acres and whether or not it had to provide that it could be used for parks. He agreed with the park land conditions as set by the Planning Commission; the applicant had to prove that they have adequate park land. He asked why they should move the two conditions as informational and thought the Planning Commission had done a good job.

Councilor Gambee pointed out that if the City had done what it was supposed to do 11 years ago, this would not even be a topic. He noted that there was a housing crisis in Junction City and houses were needed.

Planner Cogburn stated that the original dedication was part of a PUD that included 8 phases. The City collects service development charges for each residential development and so those parks system development fees go into a parks budget that would afford the ability to develop that park land. Seeing as though the City never saw that development occur, the City had not gathered those fees to develop that park land out.

Councilor Gambee noted that those fees were collected for the 97 homes. Planner Cogburn responded that was correct. Councilor Gambee asked how much a park costs and how much had been collected.

Administrator Knope responded that one would have to refer to the Parks Master Plan, and for the 11 acre park there was a 15 to 25 million dollar development cost. It was never intended to be a park like was done later in Raintree Meadows where the City bought two lots; that was where the majority of the City's Parks System Development charges went to buying those parcels that were never intended to be parks to try and address issues for particular subdivisions. That is why they had not seen anything happen over in the Reserve because it was based on 800 SDCs, not 97. There was money in the pot that was spent on parks system development, but not specifically over there; by the time the City decided to go down this path of doing pocket parks, all the lots over there were developed and there were no lots to buy to do something similar to other temporary solutions in other subdivisions. He noted that Raintree Meadows also had a large 10 acre parcel of undeveloped park land behind it.

Mayor Crenshaw stated that the applicant appealed conditions 8, 9, and 11. Staff recommended that conditions 8 and 11 could be treated as informational and not as conditions of approval. The applicant said they were fine with staff's recommendation on 8 and 11. That left the question of whether or not to uphold condition 9. He felt they should go with staff's recommendation on condition 9 because regardless of the existence of a potential park, City Code required that there be park land. The 11.85 acres did exist and potentially qualified, but the applicant had not proven that. If the Council waived condition 9 and allowed them to subdivide this property and then later the authority having jurisdiction over the 11.85 acres determined that the acreage could not be used for parks, the applicant would not be able to build new homes, because they failed to provide the parks space for it. The modified condition said that the applicant needed to prove that they were providing adequate park land and the City was fine if the 11.85 acres qualified. But if it did not work, the City should uphold condition 9 to save the applicant from hardship down the road.

Planner Cogburn added that he did not believe the City had a legal basis to require conditions 8 and 11 as part of a subdivision approval and both would be addressed through the building process.

Councilor Gambee asked how much a report would cost to evaluate the 11.85 acres. Administrator Knope responded that the dollar figure varied and even though the land was dedicated 11 years ago, the cultural resources aspect only came to the City's attention about 9 months ago.

Mayor Crenshaw noted that condition 9 actually gave the applicant options and one of those options was to prove that .4 acres of the 11.85 acres was available for park land or to take a piece of the subdivision and designate that for park land.

Councilor DiMarco noted that to Councilor Gambee's point, could they find out whose responsibility it was years ago to determine the status of the 11.85 acres. Was it the City's or the developers? He asked if it was unfair to impose this condition, if the City should have paid for the study a long time ago? Councilor Gambee concurred. Councilor DiMarco added that in that case, the City could get legal advice and come back in a couple weeks.

Mayor Crenshaw stated that for the sake of argument, if the City had the responsibility, condition 9 would still hold. The applicant would then use the information that the City obtained in order to prove their argument and move forward with the subdivision. So either way, item 9 would hold. Somebody had to prove that there was adequate park land available for this subdivision to work. Councilor DiMarco noted that he would defer to legal.

Attorney Dohrman responded that from what she was hearing, if the Council made a decision this evening to adopt the draft final order as recommended by staff, then there would be a condition of approval for the park land dedication, where the applicant would need to demonstrate the 11.85 acres was adequate for purposes of this subdivision or dedicate some other land to meet that criteria. And who gets the study done, who pays for the study could be left out to be decided, based on a subsequent legal review and discussion. Councilor DiMarco added that he thought the City should do its own study, as the issue was important enough to have two opinions.

Planner Cogburn stated that per JCMC 17.150.020 burden of persuasion stated that the burden of persuading the decision making body is on the opponent, applicant, or moving party. As he had stated, as part of the applicant's revised materials submitted on November 29, 2017 regarding the recreation area criteria, this application for a preliminary subdivision was submitted with no public park land or payment to the City for proposed parks and that's the end. There was no persuasion on the part of the applicant to the Planning Commission in terms of this particular park land, as it related to this application.

Mayor Crenshaw stated that they all could concur that they did not know if the 11.85 acres was adequate for park land. He felt the Council must impose condition 9, no matter who paid for it, so this process could move forward.

MOTION: Councilor Gambee made a motion to affirm the applicant's appeal, modified to having Conditions #8 and #11 being informational only and omitting Condition #9. The motion died for lack of a second.

MOTION: Councilor Stott made a motion to modify the Planning Commission's decision as provided in attached draft final order (Attachment E). The motion was seconded by Councilor DiMarco and passed by a vote of four to two, with Councilor McDaniel, Stott, Sumner, and DiMarco voting in favor and Councilors Gambee and Rowe voting against.

4. AFSCME Contract Review

Administrator Knope reviewed that the current AFSCME Contract would expire on June 30, 2018. Negotiations had occurred and there were very few changes.

MOTION: Councilor Rowe made a motion to approve the AFSCME contract as presented and authorize the Mayor and City Administrator to sign the necessary documents. The motion was seconded by Councilor Stott and passed by unanimous vote of the Council.

5. New Liquor License – Burlington Grill

Chief Morris stated that the new owners of the Burlington Grill had submitted a liquor license application. The Police Department reviewed and had no concerns with the Council recommending approval.

MOTION: Councilor Stott made a motion to recommend approval of the liquor license application for the Burlington Grill. The motion was seconded by Councilor Sumner and passed by unanimous vote of the Council.

6. Budget Committee Appointment

Mayor Crenshaw reviewed that there was one vacant position on the Budget Committee, and one application was received to fill the remainder of that three year term through December 2019.

MOTION: Councilor Stott made a motion to appoint a new member to the City Budget Committee as follows: Bev Ficek to position #7. The motion was seconded by Councilor Rowe and passed by unanimous vote of the Council.

7. Other Business

Councilor Gambee referred to Parks System Development fees being collected for each home in town and that the 97 homes in the Reserve had paid Parks fees but did not have a park. He noted that he would like to discuss at a future meeting who was responsible for that 11.85 acres and why a study had not been done.

Administrator Knope responded that the reason it had not been done was because the City was not aware of it until the last several months. A proposal to do the study would be going before the Community Development Committee. The cost had been worked into the budget for the upcoming fiscal year.

Councilor Gambee stated that he expected nothing less from the current staff and was proud of them. But that still did not take the cost away from what they imposed on the developer trying to bring more houses to Junction City.

Councilor Rowe noted that they had brought up tonight that it would be beneficial to have a work session with legal counsel over some of the issues that faced the Council that were not answered. Administrator Knope responded that he had already made note of that.

Councilor Sumner stated that in response to Councilor Gambee's comments, the Council did not impose anything on anyone that was not already there, and the developer knew that when coming in the door.

Councilor Sumner asked about the status of the Revolving Loan Fund (RLF) Committee work. Mayor Crenshaw responded that he had met with Planner Cogburn, who would be updating the RLF Criteria, per the RLF Committee recommended changes. The RLF Committee would review those changes and then bring back to the Council. Mayor Crenshaw noted that he would like to see this before the Council in the next few months.

8. Adjournment

As there was no further business, the meeting was adjourned at 8:35 p.m.

ATTEST: APPROVED:

_____ _____

Kitty Vodrup, City Recorder Mark Crenshaw, Mayor