

Ordinance No. 13-25

**AN ORDINANCE APPROVING THE 415 DEER VALLEY DRIVE PLAT AMENDMENT
LOCATED AT 415 DEER VALLEY DRIVE, PARK CITY, UTAH.**

WHEREAS, the owner of property located at 415 Deer Valley Drive have petitioned the City Council for approval of the 415 Deer Valley Drive Plat Amendment; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on June 26, 2013 and April 23, 2013, to receive input on the 415 Deer Valley Drive Plat Amendment; and

WHEREAS; the City Council, held a public hearing on July 18, 2013; and,

WHEREAS, it is in the best interest of Park City, Utah to approve the 415 Deer Valley Drive Plat Amendment.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. APPROVAL. The above recitals are hereby incorporated as findings of fact. The 415 Deer Valley Drive Plat Amendment as shown in Exhibit "A" is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 415 Deer Valley Drive within the Residential (R-1) District.
2. The overall property is made up of four (4) full Park City Survey Lots and two partial lots totaling 8,437 square feet.
3. There is an existing home on the property that straddles two lots.
4. The applicant is proposing to combine the lots in order to construct a rear addition to the home, as well as an interior remodel. The plat amendment is necessary due to the fact the home straddles two lot lines and the required setbacks would encroach on the other two lots (as well as the partial lots).
5. Although the existing home is near Old Town, it is not historic and is not identified on the Historic Sites Inventory.
6. There is a discrepancy between the platted location of where the Heber Avenue and Deer Valley Drive rights-of-way converge and the physical location of Deer Valley Drive, which has left a gap of approximately twenty-five to thirty feet (25'-30') between the street and the garage.

7. The home is noncompliant with respect to the front yard setback requirement, and the existing garage has a zero foot (0') setback where fifteen feet is required.
8. The property has frontage onto both Deer Valley Drive and Coalville Avenue. However, Coalville Avenue is not a built roadway, and is likely never to be built due to the steep terrain of its location.
9. The proposed lot meets and exceeds the minimum lot size established in the R-1 District, as the minimum lot size is 2,812, and the proposed plat amendment will create a lot of 8,437 square feet.
10. Potential development on the property is limited by the steep terrain in the rear. For this reason, the applicant has voluntarily agreed to limit the potential development area within the back 60 feet of the proposed lot.

Conclusions of Law:

1. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
2. Neither the public nor any person will be materially injured by the proposed plat amendment.
3. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.
4. There is Good Cause to approve the proposed plat amendment as the plat does not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.


Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Modified 13-D sprinklers will be required for new construction as required by the Chief Building Official at the time of review of the building permit.
4. A proposed no-build area shall be shown on the final mylar which delineates the rear sixty feet (60') of the lot as a "non-buildable area." This no-build area shall preclude the owner from constructing buildings, fences, or similar structures. The no-build area shall be kept in its natural state and no vegetation from this area shall be removed, or introduced, and the area shall remain un-irrigated so as to prevent erosion.
5. The garage encroachment agreement from the City Engineer will be required prior to the recording of the plat.
6. A ten foot (10') wide public snow storage easements will be required along the Deer Valley Drive side of the property only.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 18th day of July, 2013.

PARK CITY MUNICIPAL CORPORATION



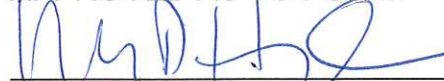
Dana Williams, MAYOR

ATTEST:



Sharon Bauman
City Recorder

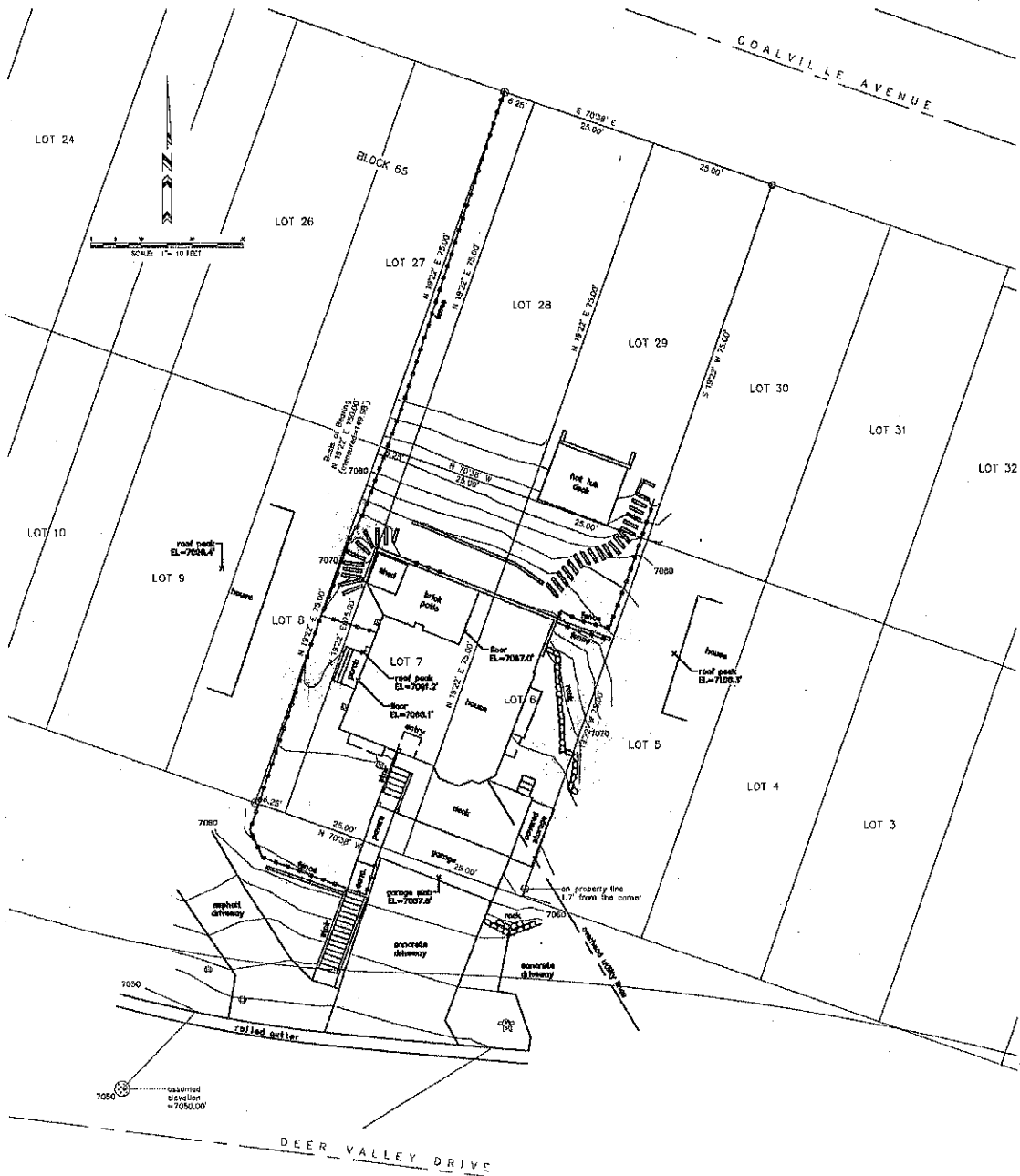
APPROVED AS TO FORM:



Mark Harrington, City Attorney



Park City Survey
Block 65, Lots 6, 7, 28, 29
and a portion of Lots 8 & 27



NARRATIVE

1. Survey requested by: Diana J. Thompson.
2. Purpose of survey: locate the deed description, the improvements and the topographic relief.
3. Basis of survey: found property monuments as shown.
4. Date of survey: April 22, 2013.
5. Property monuments found as shown.
6. Located in the Southeast Quarter of Section 16, Township 2 South, Range 4 East, Salt Lake Base & Meridian.
7. See the official plots of the Park City Survey for other possible easements, restrictions or setbacks.
8. The owner of the property should be aware of any items affecting the property that may appear in a title insurance report.
9. An elevation of 7050.00 feet, from the U.S.G.S. Quad Map "Park City East", was assigned to the top of the sewer manhole lid in Deer Valley Drive, as shown.
10. See the previous survey recorded as Survey File No. S-4422 in the office of the Summit County Recorder.

Legend

- ⊕ Found rebar & cap—LS 173736
- ⊕ Found rebar & cap—LS 6164
- ⊕ Found rebar & cap—LS 6700
- ⊕ Electric meter
- ⊕ Telephone box
- ⊕ Gas meter
- ⊕ Water meter
- ⊕ Irrigation box
- ⊕ Water valve
- ⊕ Fire hydrant
- ⊕ Sewer manhole

Alpine Survey, Inc.
18 Prosperity Blvd.
Park City, Utah 84060
(435) 855-8216

DEED DESCRIPTION

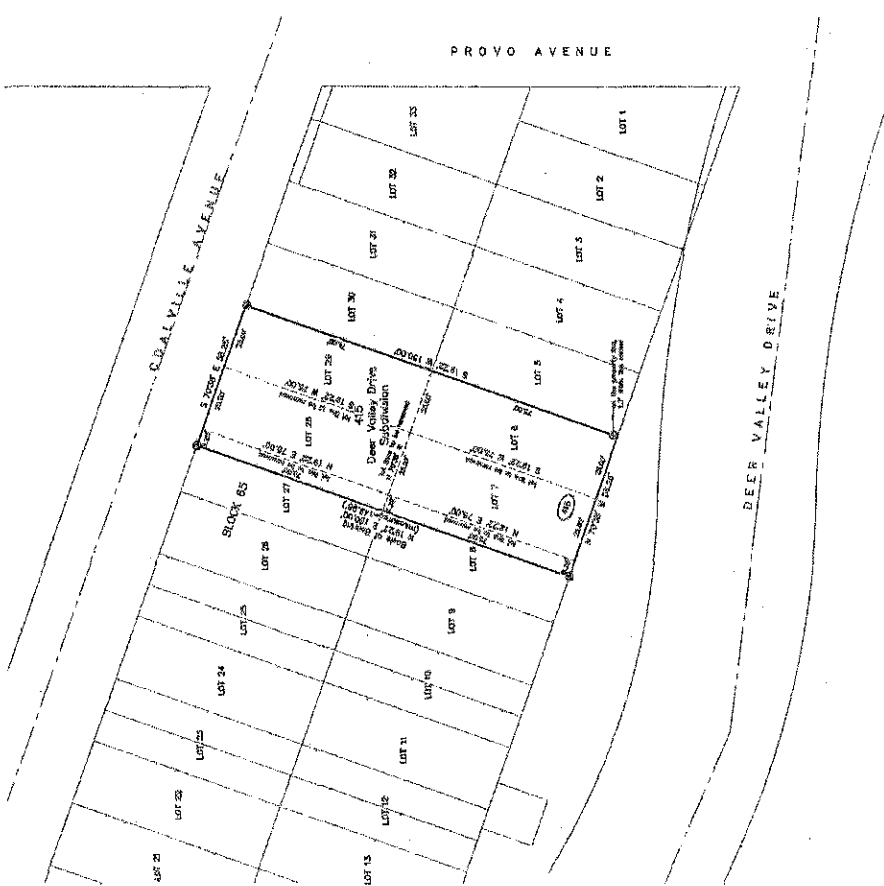
All of Lots 6, 7, 28 and 29, Block 65, Amended Plat of the Park City Survey, according to the official thereof, on file and of record in the office of the Summit County Recorder, State of Utah.
Also, The Easterly 6.25 feet of Lots 8 and 27, Block 65, Amended Plat of the Park City Survey, according to the official plat thereof on file and of record in the office of the Summit County Recorder, State of Utah; containing ±8,437.5 sq.ft.

SURVEYOR'S CERTIFICATE

I, J.D. Galley, a Registered Land Surveyor as prescribed by the laws of the State of Utah and holding License No. 359005, do hereby certify that I have supervised a survey of the hereon described property and that this plat is a true representation of said survey.

RECEIVED
MAY 08 2013
PARK CITY PLANNING DEPT.
J.D. Galley RLS#359005

415 Deer Valley Drive
a replat of Block 65, Lots 6, 7, 28 & 29
and a portion of Lots 8 & 27



- NARRATIVE**
1. Survey requested by: Daniel J. Thompson.
 2. Date of survey: 10/11/2011.
 3. Book of survey: 10/11/2011.
 4. Property measurements: 10/11/2011.
 5. Located in the Southwest Quarter of Section 10, Township 2 South, Range 10 East, 10th Principal Meridian, Summit County, Utah.
 6. The owner of the property should be aware of any liens existing on the property that may appear in a title insurance report.
 7. This survey is subject to the Survey File No. S-4422 in the office of the Summit County Recorder.

DEED DESCRIPTION

All of Lots 6, 7, 28 and 29, Block 65, Amended Plat of the Park City Survey, according to the official plat thereof, on the east of record in the Summit County Recorder's Office, and Lots 8 and 27, Block 65, Amended Plat of the Park City Survey, according to the official plat thereof, on the east of record in the office of the Summit County Recorder, State of Utah.

LEGAL DESCRIPTION

415 DEER VALLEY DRIVE SUBDIVISION
Beginning at the Southeast Corner of Lot 6, Block 65, Park City Survey, according to the official plat thereof, on the east of record in the Summit County Recorder's Office, and running thence North 70° 30' 00" West, 56.25 feet to a point that is 62.25 feet from the Southeast Corner of said Lot 6, thence North 10° 30' 00" East, 123.00 feet to a point on the Center of said Lot 27, thence South 70° 30' 00" East, along the Northern line of Lot 27, 22 feet to a point on said Block 65, thence East to the intersection of said Lots 28 and 6, 123.00 feet to the Point of Beginning, containing 5,837.3 square feet, more or less.

SURVEYOR'S CERTIFICATE

I, J.D. Colley, a Registered Land Surveyor as provided by the laws of the State of Utah and holding license No. 25906, do hereby certify that the above described property and the description thereof are true and correct as shown on the plat hereof.

RECEIVED
MAY 08 2013
PARK CITY
CITY ENGINEER'S OFFICE

Date _____
J.D. Colley, L.S. 25906

RECORDED
STATE OF UTAH, COUNTY OF SUMMIT, AND TIER 2
AT THE REQUEST OF _____
DATE _____ TIME _____ BOOK _____ PAGE _____
FILE _____ RECORDS _____

EUNCLIL APPROVAL AND ACCEPTANCE
APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____ 2013
BY _____ MAYOR

CERTIFICATE OF ATTEST
I HEREBY CERTIFY THAT THE ABOVE DESCRIBED PROPERTY IS CORRECTLY DESCRIBED AND THE PLAT IS TRUE AND CORRECT.
BY _____ PARK CITY RECORDER

APPROVAL AS TO FORM
APPROVED AS TO FORM THIS _____ DAY OF _____ 2013
BY _____ PARK CITY ATTORNEY

ENGINEER'S CERTIFICATE
I HAVE THIS DAY PLAT TO BE RECORDED AND FILED IN MY OFFICE THIS _____ DAY OF _____ 2013
BY _____ PARK CITY ENGINEER

PLANNING COMMISSION
APPROVED BY THE PARK CITY PLANNING COMMISSION THIS _____ DAY OF _____ 2013
BY _____ CHAIRMAN

WATSONVILLE BASIN
MAYOR'S OFFICE
AT THE REQUEST OF _____
PP: APPROVED AND FILED WITH RECORDS DEPARTMENT

My commission expires: _____
NOTARY PUBLIC
RESIDING IN _____ COUNTY, _____
STATE OF UTAH
City of Summit
On this _____ day of _____ 2013, Daniel J. Thompson, Trustee of the Daniel J. Thompson Family Trust, dated November 16, 2011, owner of the above described property, has appeared before me, a Notary Public in and for said State and County, who after being duly sworn, acknowledged to me that he is the owner of the above described property and that he has executed the foregoing instrument and that he has signed the above Survey & Dedication and Consent to Record freely and voluntarily for the purpose set forth herein.
My commission expires: _____

By: Daniel J. Thompson
Trustee, Daniel J. Thompson Family Trust
ACKNOWLEDGEMENT

OWNERS DEDICATION AND CONSENT TO RECORD

I, Daniel J. Thompson, Trustee of the Daniel J. Thompson Family Trust, dated November 16, 2011, owner of the above described property, do hereby dedicate and consent to the recording of this Plat of Survey and the plat hereof to the City of Park City, Utah, for the purpose of dedicating the same to the City of Park City as a public street, and for local government use, utility and easements and for the purpose of recording the same in the public records of the State of Utah. I, Daniel J. Thompson, do hereby acknowledge that I am the owner of the above described property and that I have executed the foregoing instrument and that I have signed the above Survey & Dedication and Consent to Record freely and voluntarily for the purpose set forth herein.

By: Daniel J. Thompson
Trustee, Daniel J. Thompson Family Trust

ACKNOWLEDGEMENT

On this _____ day of _____ 2013, Daniel J. Thompson, Trustee of the Daniel J. Thompson Family Trust, dated November 16, 2011, owner of the above described property, has appeared before me, a Notary Public in and for said State and County, who after being duly sworn, acknowledged to me that he is the owner of the above described property and that he has executed the foregoing instrument and that he has signed the above Survey & Dedication and Consent to Record freely and voluntarily for the purpose set forth herein.

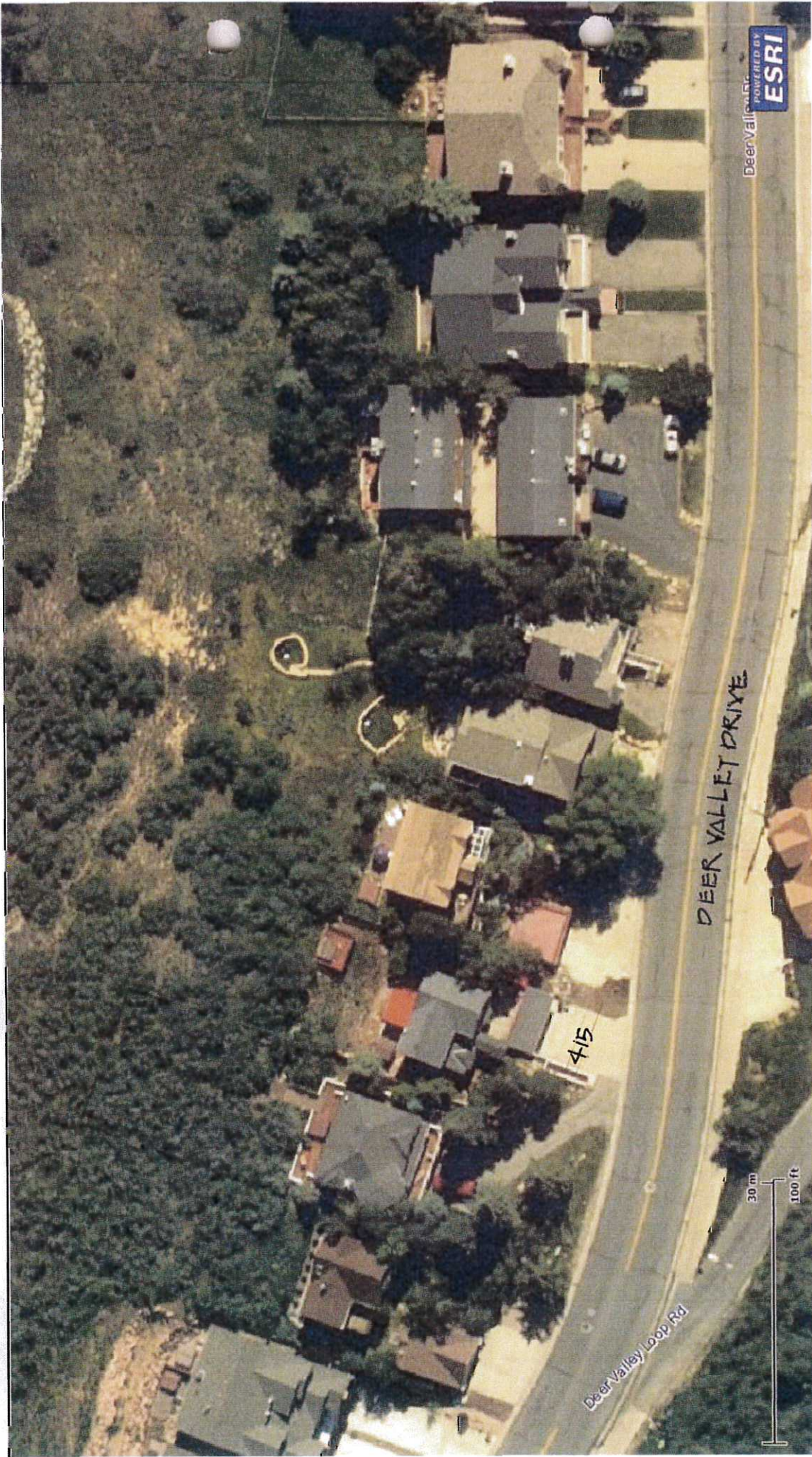
My commission expires: _____
NOTARY PUBLIC
RESIDING IN _____ COUNTY, _____



Alpine Surveyors, Inc.
100 West 100th Street
Park City, Utah 84302
(435) 734-1111

Park City Map

Provided by Park City GIS



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PARK CITY
PLANNING DEPT.





3. The proposal is not historically compatible with other buildings within the HRL District, or areas nearby with respect to setbacks, height, mass or scale.
4. The proposed development does not meet the intent of the maximum height requirement restriction of no more than three (3) stories as required in LMC §15-2.1-5(B).
5. The reasonably anticipated detrimental effects of the proposed home and garage buildings on a steep slope cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with the applicable standards specifically LMC §15-2.1-6(B)(1-2) and (6-9).

Order

The Steep Slope Conditional Use Permit for the proposed new single-family dwelling 30 Sampson Avenue is hereby denied for the reason specified within the Findings of Fact and Conclusions of Law listed herein.

**2. 415 Deer Valley Drive – Plat Amendment
(Application PL-13-01910)**

Planner Matt Evans reviewed the application for a plat amendment to combine four Park City Lots and two partial lots into one new lot of approximately 8200 square feet. There is an existing home on the property and the applicant is contemplating an addition to the home. In order to achieve the addition the applicant is required to consolidate the lots into one parcel.

Planner Evans distributed copies of an illustration and noted that the green color identified what exists on the site and the blue color indicated what was being proposed. He had also added a proposed deck.

Planner Evans stated that the applicant was also aware that the back part of the property, which has frontage on to platted, but unbuilt Coalville Avenue, is a steep area and they do not contemplate future development in that area. Therefore, the applicant proposes a non-building limit just beyond the hot tub. The area is approximately 3,375 square feet or 60' x 56.25 feet.

Planner Evans noted that page 189 of the Staff report incorrectly showed the lot width as 50 feet. The correct lot width is 56.25.

Commissioner Savage asked if the unbuildable area described included the setback areas. Planner Evans replied that this was correct. He explained that the setback area was shown on the illustration to give an idea of how the house fits within the setback area now, as well as what the applicant was proposing. He stated that the setbacks were the typical 5-foot, 10-foot rear, 15-foot front yard setbacks as required by the zone.

Planner Evans remarked that the garage encroaches over the front property line. As indicated in the Staff report, there is a discrepancy between the built right-of-way and the actual platted right-of-

way of approximately 30 feet, and it occurs where Deer Valley and Heber Avenue meet. Planner Evans believed the house was built around 1977. The applicant would be required to obtain an encroachment agreement from the City Engineer for the garage as it currently extends over the front property line.

David White, the project architect, was available to answer questions on behalf of the applicant.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Hontz stated that if the plat amendment was approved and the applicant proposed new additions, with the garage already has a zero setback, she asked if they would be further impacting a non-conforming use. Planner Evans stated that if the applicant wanted to do anything with the garage, including tearing it down, she would be required to conform to the setback requirement.

Assistant City Attorney McLean explained that under there is a non-conforming use section under the Code which states that the degree of non-conformity cannot be increased. Any change to the garage would have to comply with that Code section.

Commissioner Hontz asked about fencing. She noted that one of the neighbors had fenced around their entire hillside and it is an eyesore and it impedes wildlife movement. She recommended that they prohibit fencing along the proposed non-buildable area or behind the deck.

David White noted that the original site plan shows a fence along both sides of the property line. He asked if the existing fence would have to be taken down. Commissioner Hontz pointed out that the existing fence belongs to the neighbor. Diana Thompson, the applicant, stated that there are stacks of wood in areas where the fence has come down. She was unsure who owned the fence. Mr. White informed Ms. Thompson that the fence was shown on her property. He noted that on the east side the fence was shown going up as far as the hot tub. On the west side it was shown going all the way up.

Director Eddington thought it looked like the neighbor's fence was on Ms. Thompson's property. The Commissioners agreed. Commissioner Hontz assumed that the applicant would not want the neighbor to rebuild the fence on her property. Therefore, the neighborhood would have to go through the process to build the fence on their property.

Assistant City Attorney McLean pointed out that the Code only requires permits for fencing over 4 feet.

Commissioner Hontz referred to page 193 of the Staff report, Finding of Fact #11. She felt the language was confusing and the finding should be revised to indicate that future development must meet the setback requirements at the time of application. Commissioner Hontz corrected Condition

of Approval #6 to indicate that there was only one ten foot (10') wide public snow storage easement. The word "easements" should be changed to "easement."

Commissioner Strachan thought Finding of Fact #11 could be deleted because the Code would address the setbacks for future development. Commissioner Hontz agreed.

Director Eddington suggested a revision to Finding # 7 to replace the word "non-conforming to with "non-complying". The revised Finding would read, "The homes is **non-complying** with respect to the front yard setback requirement, and the existing garage has a zero foot setback where fifteen feet is required."

Commissioner Hontz asked if the Commissioners thought Condition #4 needed further clarification regarding the non-buildable area and fencing. Director Eddington recommended adding a sentence to Condition #4 stating that, "This no-build area shall include all structures (e.g. buildings, fencing, etc.). No vegetation shall be disturbed in this area." The Commissioners were comfortable with the revision to Condition #4 as stated.

MOTION: Commissioner Thomas moved to forward a POSITIVE recommendation to the City Council for the plat amendment a 415 Deer Valley Drive based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance and as amended. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 415 Deer Valley Drive

1. The property is located at 415 Deer Valley Drive within the Residential (R-1) District.
2. The overall property is made up of four (4) full Park City Survey Lots and two partial lots totaling 8,437 square feet.
3. There is an existing home on the property that straddles two lots.
4. The applicant is proposing to combine the lots in order to construct a rear addition to the home, as well as an interior remodel. The plat amendment is necessary due to the fact the home straddles two lot lines and the required setbacks would encroach on the other two lots (as well as the partial lots).
5. Although the existing home is near Old Town, it is not historic and is not identified on the Historic Sites Inventory.
6. There is a discrepancy between the platted location of where the Heber Avenue and Deer Valley Drive rights-of-way converge and the physical location of Deer Valley Drive, which has left a gap of approximately twenty-five to thirty feet (25'-30') between the street and the garage.

7. The home is non-complying with respect to the front yard setback requirement, and the existing garage has a zero foot (0') setback where fifteen feet is required.

8. The property has frontage onto both Deer Valley Drive and Coalville Avenue. However, Coalville Avenue is not a built roadway, and is likely never to be built due to the steep terrain of its location.

9. The proposed lot meets and exceeds the minimum lot size established in the R-1 District, as the minimum lot size is 2,812, and the proposed plat amendment will create a lot of 8,437 square feet.

10. Potential development on the property is limited by the steep terrain in the rear. For this reason, the applicant has voluntarily agreed to limit the potential development area within the back 60 feet of the proposed lot.

Conclusions of Law – 415 Deer Valley Drive

1. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.

2. Neither the public nor any person will be materially injured by the proposed plat amendment.

3. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

4. There is Good Cause to approve the proposed plat amendment as the plat does not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

Conditions of Approval – 415 Deer Valley Drive

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.

3. Modified 13-D sprinklers will be required for new construction as required by the

Chief Building Official at the time of review of the building permit.

4. A proposed no-build area shall be shown on the final mylar which delineates the rear sixty feet (60') of the lot as a "non-buildable area." This no-build area shall include all structures (e.g. buildings, fencing, etc.). No vegetation shall be disturbed in this area.

5. The garage encroachment agreement from the City Engineer will be required prior to the recording of the plat.

6. A ten foot (10') wide public snow storage easement will be required along the Deer Valley Drive side of the property only.

**3. 124 Norfolk Avenue – Plat Amendment
(Application PL-13-01880)**

Commissioner Thomas recused himself and left the room.

Planner Astorga reviewed the application for a plat amendment to accommodate an addition to an existing non-historic structure at 124 Norfolk. The request was to combine 2-1/2 Old Town lots into one lot of record. Summit County records indicated that the existing structure was built in 1981 and it was constructed over two lot lines.

Planner Astorga reported that the applicant had also submitted a Historic District Design review for a proposed remodel and a small 46 square foot addition to the existing house, but within the current footprint, which is 2-1/2 lots of record. Planner Astorga pointed out that the applicant could not move forward with a remodel or the addition until the platted lot lines are moved.

Jonathan DeGray was present to answer questions on behalf of the applicant.

The Staff recommended that the Planning Commission conduct a public hearing, review the application and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law and conditions of approval found in the Staff report.

Chair Worel asked about the encroachment of the retaining wall onto 52 King Road, as stated in the Staff report. Planner Astorga replied that a wood tie retaining wall encroaches onto the property by a foot or less. He noted that a condition of approval requires the applicant to resolve the issue by working out an encroachment agreement with the neighboring property owner. Removing the retaining wall would be another option if the applicant and the neighbor could not come to an agreement. Chair Worel asked if removing the retaining wall was realistic. Planner Astorga replied that it was not a realistic solution, but the adjacent property has to approve the encroachment of the wall in its existing location. He noted that it could become a civil issue between the two owners. Planner Astorga pointed out that if the applicant could not resolve the issue with the neighbor, the retaining wall would need to be moved and relocated fully on their property.