PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
March 12, 2014

COMMISSIONERS IN ATTENDANCE:

Chair Nann Worel, Preston Campbell, Stewart Gross, Steve Joyce, John Phillips, Adam Strachan, Clay Stuard

EX OFFICIO:

Planning Director, Thomas Eddington; Planning Manager, Kayla Sintz; Kirsten Whetstone, Planner; Christy Alexander, Planner; Polly Samuels McLean, Assistant City Attorney
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REGULAR MEETING

ROLL CALL

Chair Worel called the meeting to order at 5:30 p.m. and noted that all Commissioners were present.

ADOPTION OF MINUTES

February 26, 2014

Chair Worel noted that at the last meeting she had referred to page 17 of the February 12th minutes and requested that City Attorney Matt Cassel be corrected to read, **City Engineer Matt Cassel.** She noted that it was still incorrect on the first page of the minutes of February 26th and she reiterated her request to make the correction.

Commissioner Phillips referred to page 5, second paragraph under 1049 Park Avenue, and changed 48 feet to read 48 **square feet.**

Commissioner Joyce referred to page 18, first paragraph, and removed the "s" from Summit Land**s** Conservancy.

Commissioner Stuard referred to page 24, condition of Approval #7, second line, and replaced the word even with **event**.

Commissioner Stuard asked for the intention of Condition #7. He did not recall that the host needed to be staying at the project when an event takes place. As written, the language says, "…all of the invited guests or the host of the event owns a unit."

Commissioner Strachan had the same question. He understood that all the invited guests were staying at the project. The other Commissioners had the same understanding.

Commissioner Gross asked if the host needed to be present. Commissioner Strachan did not believe it mattered as long as all the guests were staying at the project. Chair Worel questioned how they could have an event without an occupant of the unit.

Assistant City Attorney asked if the language was part of what was negotiated between the neighbors and the applicant. She was told that it was. The Commissioners believed the intended language would be easy to verify. Chair Worel thought the concern could be addressed by saying "and the host".

Director Eddington thought it should be "and the host of the event", and the Staff could confirm that. Assistant City Attorney McLean thought it could be "or the host…." Director Eddington offered to confirm the correct language.

Planner Whetstone noted that if a change is made to condition #7, it should also be changed on page 31 under the Conditions of Approval.

MOTION: Commissioner Strachan moved to APPROVE the minutes of February 26th, 2014 as amended. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

Lisa Wilson stated that she was unable to attend the meeting on February 26th and she wanted to take this opportunity to comment on the Stein Eriksen residential recorded plat that the Planning Commission approved. Ms. Wilson introduced herself to the new Commissioners. She has lived in Deer Valley for 20 years and she has actively followed the North Silver Lake project for a long time. Ms. Wilson noted that the plat on the project is dated 2005 and it was only for six homes. The estimated value since 2005 was $1.2 million. She remarked that the Planning Commission approved the plat, which made the building footprint increase from .92 acres to 2.865. She believes that allows for a hotel. Ms. Wilson stated that the Planning Commission turned a project that had an estimated value of $1.2 million into a parcel for a hotel that is worth over $100 million.

Ms. Wilson stated that she did attend the work session in November and she provided information showing tax records and other documents. She also sent a number of letters. The most important letter she sent was from the Summit County Tax Assessor and the Summit County Recorder, and both said that the lot was worth $1.2 million based on six

homes. The rest of the lot was common area and there is not a tax ID on common area. Ms. Wilson stated that if the building footprint is allowed to be increased to 2.865 acres, they would have approved 4.03 acres of dedicated open space to be used for this hotel.

Ms. Wilson noted that there was an appeal hearing, at which time she questioned the use of dedicated open space towards the project. At the appeal hearing the former Mayor, Dana Williams, said there was a conservation easement. He also had an opinion from the Utah State Ombudsman for abatement. Ms. Wilson noted that the last page of the Ombudsman opinion says it can be used in a legal action. She also had a letter written by Brooks Robinson which said there was no conservation easement. She also had confirmation from Cheryl Fox with the Summit Land Conservancy that there is no conservation easement to use 4.03 acres of Deer Valley dedicated open space for this project. Ms. Wilson stated that the conditional use permit now has 9.99 acres. The breakdown is 5.96 acres on the lot and 4.03 acres is dedicated open space. If they take away the dedicated open space, the open space is reduced to 42%, which is below the 60% open space requirement.

Ms. Wilson stated that the Planning Commission approved a project that was not compatible with the Code and that uses dedicated open space. Their approval also increased the value of a project from $1.2 million to $100 million. She pointed out that it is a big deal because they took the money from the children. Ms. Wilson had tax records showing that the lot used to pay $100,000 in property taxes. In 2005 a new plat was recorded that turned it into six units, and the property taxes went from $100,000 to $11,000. The tax record also showed that Deer Valley pays $55 in property tax for the dedicated open space. She believed the calculations show that $14 million in property tax revenue has been lost. Ms. Wilson remarked that the Park City School District has started experiencing shortfalls because people record plats to avoid paying taxes. This lot alone lost $14 million. She questioned how many other recorded plats are being done and allowing money to be taken from the children, the teachers, Summit County and municipal employees.

Ms. Wilson informed the Planning Commission that she had filed an appeal because she attended the meeting on December 11th, 2013 and after staying until 10:00, the public was informed that the item would be continued because the General Plan discussion went longer than expected. Ms. Wilson stated that the developer and the attorneys were allowed to speak, and then the decision was made to continue the discussion to February 12th. Ms. Wilson noted that on February 12th she received a call from Planning Manager, Kayla Sintz, informing her that Planner Astorga had a family emergency and the developer had requested another continuance. Ms. Wilson reiterated she never had the opportunity to speak at the public hearing and that was her reason for speaking this evening. She

clarified that she comes from a developer family and she is not anti-development, but she objects when money is taken from kids for a major development.

Ms. Wilson stated that her appeal was short. She thought she would be appealing to the Planning Commission; however, she has since been informed that her appeal would go before the City Council.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Director Eddington reported that the General Plan was approved and adopted by the City Council on Thursday, March 6th. The next step is to address all the strategies and other aspects of the General Plan.

Commissioner Joyce asked if the Planning Commission would be given a final approved copy of the General Plan. Director Eddington stated that the Staff would be sending an email to find out who wanted a printed copy versus those who prefer to access the General Plan electronically.

Director Eddington stated that historically the Planning Department delivers printed hard copies of the Staff report to the Planning Commission based on preference of the previous Planning Commissions. However, with the change in Commissioners, some have indicated that they do not need printed copies and prefer reading the Staff report on their electronic devices. Director Eddington asked the Planning Commission to comment on their personal preferences in terms of paper packets versus electronic packets.

Chair Worel stated that at this particular time it was easier for her to receive a paper packet; however, she was willing to move towards electronic. Director Eddington noted that the City Council uses City provided iPads for their Staff report. He pointed out that the Planning Commission packets are much longer and contain a number of exhibits.

Director Eddington asked the Commissioners to raise their hands if they preferred to read the packet electronically. Four Commissioners raised their hand. The remaining three Commissioners preferred paper copies. Commissioner Joyce pointed out that even with electronic copies, it is sometimes better to see a larger map or site plan. The suggestion was made to provide those copies on paper prior to the meeting. Planning Manager Sintz asked if the Commissioners would be willing to pick up the printed material from a lockbox outside of the Marsac Building. Planner Whetstone also suggested making the copies available at the Library.

Director Eddington asked if the four Commissioners who preferred the electronic version had their own device or would need to have one provided. Commissioner Stuard stated

that he uses a combination of a desktop computer and a tablet. He would not need a device. Commissioner Phillips stated that he was currently using his daughter's tablet because he did not have one of his own. Commissioners Joyce and Campbell had their own devices. Commissioner Strachan did not have a strong preference either way, and he did have his own device.

Commissioner Joyce stated that if the packet can be downloaded to a dropbox it would automatically show up on their tablet.

Director Eddington stated that the Planning Department would start with a bifurcated approach and look for opportunities to use a lockbox. Director Eddington asked how many Commissioners would be interested in having an iPad or tablet if the City Council were to approve providing them to the Commissioners. All the Commissioners would like one if it was offered.

Commissioner Strachan asked how a City provided device would work in conjunction with personal documents in terms of being City property. Assistant City Attorney McLean explained that when the City Council members received their device, it was given as a stipend in the form of an iPad and they would keep it. Director Eddington stated that the Council member or Commissioner would keep the iPad and the City would not be held accountable or responsible for the content. Commissioner Strachan asked if the City could search it. He keeps client files on his device and he needed to be careful about who would have access to those files. Director Eddington replied that it could be a problem if his device was ever requisitioned. Commissioner Strachan emphasized that he would need a City provided device for Planning Commission packets.

Director Eddington stated that the Staff would do more research and report back to the Planning Commission. In the interim, those who prefer hard copy packets would receive them and the others would obtain theirs electronically. If there is a complex plat they would be given a blown-up version. Chair Worel and Commissioner Strachan offered to pick up their packets from a specified location instead of having them delivered.

Chair Worel asked about the site visit to Round Valley that was talked about at the last meeting. Planner Whetstone stated that the site visit could not be coordinated for this meeting. The Commissioners would still visit the site at a later date but the scheduled time was uncertain. She assumed it would be April 9th. She noted that the ground was still too muddy to walk the site.

Commissioner Campbell disclosed that he would be recusing himself from the 300 Deer Valley Loop matter this evening due to a potential business relationship if the project is approved.

Commissioner Phillips disclosed that he would be recusing himself from the Belles at Empire Pass item due to a contractual agreement.

CONTINUATION(S) – Public Hearing and Continuation to date specified.

1. 901Norfolk Avenue – Plat Amendment. (Application PL-13-02180)

Chair Worel opened the public hearing. There were no comments. Chair Worel closed the public hearing.

MOTION: Commissioner Strachan moved to CONTINUE the public hearing on 901 Norfolk Avenue – Plat Amendment to April 9th, 2014. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA – Discussion, Public Hearing and Possible Action

1. Election of New Chair Person and Vice-Chair

Director Eddington reported that Nann Worel has served as Chair Person of the Planning Commission for one year, and she was eligible for a second term. He noted that Jack Thomas was the prior Vice-Chair. Since Mr. Thomas is now the Mayor, the Planning Commission needed to fill that position as well. Director Eddington outlined the responsibilities and time commitment of the Chair.

Director Eddington noted that the Chair only votes to break a tie. The Vice-Chair fills in for the Chair and always votes, even when acting as the Chair.

Commissioner Strachan stated that Commissioner Worel has done a great job as Chairwoman. With so many new Commissioners he thought it was important to have continuity on the Board. Commissioner Joyce agreed that Commissioner Worel should remain as Chair. He also suggested that either Commissioner Strachan or Commissioner Gross would be the right choice for Vice-Chair. He believed the new Commissioners needed more time in their position before taking on that role. Commissioners Phillips, Stuard and Campbell concurred.

Commissioner Strachan deferred to Commissioner Gross for Vice-Chair.

MOTION: Commissioner Strachan moved to nominate Nann Worel as Chair of the Planning Commission and Stewart Gross as Vice-Chair. Clay Stuard seconded the motion.

VOTE: The motion passed unanimously.

2. <u>2519 Lucky John Drive – Plat Amendment</u>
(Application PL-13-010980)

Planner Whetstone reviewed the request to re-establish Lots 30 and 31 of the Holiday Ranchettes Subdivision as they were platted in the 1980's. She stated that in 1999 a lot line adjustment to combine the two lots into one two acre lot was approved through an administrative hearing process. The owner at that time constructed an accessory building and created a wider driveway to access the structure. The current owner would like to re-establish the lot. However, at this time they have no plans to build a new house or make changes to the driveway or access.

Planner Whetstone noted that the owner hired Alliance Engineering to submit the plat and request a plat amendment. The property was posted and notices were sent to property owners within 300 feet. A public hearing was held in the Fall of 2013 and the HOA attended in mass. The HOA requested to meet with the owner to express their concerns and the Planning Commission continued the application to a date uncertain to allow the owners to meet with the HOA to address some of the issues. The owners met with the HOA and the application was back before the Planning Commission. The HOA was not opposed to the plat amendment to re-establish the lot, but they wanted an agreement with the owners to make sure that when they build or make changes to the driveway access that it meets the CC&Rs.

The Staff recommended that the Planning Commission forward a positive recommendation to the City Council to allow the two lots to be re-established with the findings of fact, conclusions of law, and conditions of approval found in the draft ordinance. Planner Whetstone stated that the notes that were recommended as conditions of approval had not been added to the plat, but they would be included prior to recordation.

Planner Whetstone remarked that the CC&R issues were not enforceable by the Planning Department or the Planning Commission. However, any conditions that everyone agreed to could be added on the plat.

Steve Schueler, representing the applicant, stated that when this application was presented to the Planning Commission in September there were issues relative to the HOA. Since then he has met with Steve Swanson and the HOA several times, and most recently with Paul Marsh, the HOA President. Mr. Schueler understood that the HOA did not intend to oppose the proposed plat this evening, but they wanted an agreement with the owner regarding the future condition of the property to make sure any plans would meet the CC&Rs prior to approval by the City Council.

Chair Worel referred to a letter from Steve Schueler dated February 24th that was included in the Staff report, but she did not see a response from the HOA. Planner Whetstone replied that she had not received a response from the HOA. Mr. Schueler stated that he had received a response which prompted the meeting with Mr. Marsh and Steve Swanson yesterday relative to resolving the issues and concerns. Mr. Schueler clarified that for now the current owner intends to keep the property in its existing condition since it has been that way since 1999, and he has no plans to sell the property for several years. The HOA wanted to make sure that if the owner ever sells the property or makes any improvements to the property that he would follow the process of meeting with the HOA architectural committee for compliance with the CC&Rs or any variances.

Planner Whetstone clarified that the reference to variances are only variances to the CC&Rs. The plat amendment as proposed would not create any non-conforming issues with the LMC. For a future house, the Building Department would require a letter from the HOA indicating that the HOA had received the plans. Mr. Schueler had conveyed to the owner the HOA request for an agreement, and he received an email response saying that he agreed to the terms. Mr. Marsh would have an outline of the terms of the agreement by Friday.

Commissioner Stuard asked if the parcel was currently two lots as originally configured, whether the guest house on Lot 31 would be an allowed use. Planner Whetstone replied that it was not a guest house. It is a garage/barn rather than living quarters. She pointed out that an accessory use is allowed in a secondary structure. Commissioner Stuard remarked that an accessory use is an accessory to a main building. In this case, there is not a main building. Planner Whetstone stated that it could be accessory to the lot, such as a barn is accessory to a lot. Commissioner Stuard asked if it was possible to build a barn without a primary structure. Planner Whetstone answered yes, a barn would be an allowed use.

Commissioner Joyce understood that they were dealing with an agreement between the HOA and the developer that did not physically exist and was still in the process. Mr. Schueler remarked that the agreement is a condition that is contingent on two parties and it was separate from the land use issues regulated by the Planning Commission. Planner

Whetstone clarified that if the two parties agree with the terms of the agreement, it could be added as a condition of approval prior to the City Council meeting in April. Planner Whetstone noted that because this item has been continued a number of times, the applicant had provided envelopes so it could be re-noticed. If the Planning Commission continued the item again this evening, the City Council meeting would have to be continued to a date in May.

Commissioner Campbell clarified that if the Planning Commission voted this evening it would be to forward a positive recommendation to the City Council on the proposed plat on the assumption that the applicant and the HOA could reach an agreement. Planner Whetstone recommended that the Planning Commission forward their recommendation on the ordinance contained in the packet, aside from the agreement between the Owners and the HOA.

Mr. Schueler reiterated that the owner was willing to stipulate to compliance with the CC&Rs set forth by the HOA. Planner Whetstone understood that the issue was the driveway. If there is a second house the driveways cannot be shared per a regulation of the Holiday Ranchettes development.

Commissioner Joyce understood that per the LMC a shared driveway would be allowed. Planner Whetstone replied that this was correct.

Mr. Stuard noted in the LMC that the purpose statement of the zone was to maintain existing, predominantly single family residential neighborhoods, and to allow for single family development compatible with existing developments. Mr. Stuard asked how a barn/garage/guest house satisfies the purpose of the zone. Planner Whetstone replied that physically there would be a change on the property with this structure. However, the physical characteristics of the two lots would not change until someone purchases the other lot or the owner decides to build a house on that lot.

Mr. Stuard wanted to know why it was necessary to split the parcel before those incidents occur. Mr. Schueler remarked that the owner of the property would like to split them now. He pointed out that it is an allowed use in the zone and the owner intends to maintain the property as it has existed for the past 15 years.

Chair Worel opened the public hearing.

Steve Swanson, a resident at 2524 Lucky John Drive, representing the HOA architectural committee, stated that when they attended the previous public hearing they were thankfully granted a reprieve to collect their thoughts. Mr. Swanson noted that the HOA has met with Mr. Schueler three times and they were making progress. The meeting yesterday with

Paul Marsh addressed many of the issues raised by the Planning Commission, such as the garage, the driveway, the disposition of the two properties. They were working on trying to be good neighbors and include the owner's representative in the discussion. Mr. Swanson stated that what they have accomplished so far is getting the representatives from both parties to broad stroke the issues. He believed there was agreement that they could work together, but he wanted it clear that there was not an agreement at this time. The HOA had not received any communication from the owner.

Mr. Swanson requested that the Planning Commission continue the item again this evening to a date certain to allow the HOA and the owners to solidify a compromise. Mr. Swanson stated that it is sometimes difficult to get all the parties together, particularly since the applicant is out-of-state. He noted that sending a positive recommendation to the City Council tonight might hamstring the HOA process. Mr. Swanson clarified that he was not trying to delay the approval, but it was important to keep the process in the right order. He did not believe there was any urgency since the applicant did not have immediate plans for the property. The HOA was negotiating in good faith and they would appreciate the extra time.

Mr. Swanson commented on some of the points in the Staff report regarding the garage. He referred to the plat on page 73 of the Staff report which overlays the current site and shows the overlay of the Holiday CC&R plat which shows the building pads. In 1999 when the property was owned by the Cummings, they put in a variance request to the HOA. It was reviewed by the architectural committee and they were allowed to build the larger barn. The original pad was the cross-hatched square behind the existing residence. It was a 30' x 40' pad which is standard for outbuildings in the neighborhood. Mr. Swanson stated that there were varying sizes of building pads, but the barn pads always the same size. Mr. Swanson stated that the lot line removal creating one property allowed the previous owner to move the garage to its current location on Lot 31. At that point there was considerable re-creating of the lot and it was raised between 4 to 5 feet. He felt that was significant because as they look at splitting the lots, there is an existing building on a raised pad and anybody who develops that lot would be beholding to only being granted height from the original grades. Mr. Swanson thought it should be taken one step further. The HOA and the architectural committee surveyed the residents and no one is in favor of the garage remaining because it creates too many problems.

Mr. Swanson noted that Mr. Schueler had drawn several iterations of how to potentially access the new garage, which included the possibility of building a house with an attached garage. Mr. Swanson stated that the garage is raised and any access would require it to be brought to the slab level and the driveway would have to slope up steeply, and implies that the house already has a raised floor level, when it should actually be down further. Mr. Swanson remarked that most of the Holiday Ranch lots in that area have driveways that

are close to grade. Each lot is a little different and there is no requirement, but as part of the architectural committee, he is tasked with ensuring a harmonious development of driveways, front yards, open space and homes.

Mr. Swanson Finding #13 on page 43 of the Staff report, "A shared driveway provides access to Lots 30 and 31." He agreed that it was true to some extent, but he was concerned that it could create problems in the future. He reiterated for the record that the HOA was interested in working with the applicant. It was previously requested in a previous meeting that if the owner wanted to split the lots, the changes needed to be made now. However, since then the HOA has taken a different position. If this plat is approved, the HOA would agree that the owner should have the right to enjoy the use of the shared driveway and the outbuilding since he owns both properties. The HOA would stipulate to similar language if an agreement is negotiated with Steve Schueler as the owner's representative. In the meantime, the HOA would not like the Planning Commission, as a quasi-judicial body, to enforce a statement of fact that would create something in the future that may disincentivize the owner to negotiate in good faith.

Focusing on the driveway, Mr. Swanson stated that unless there was a legal reason to include Finding #13 in the Findings of Fact, he would like it stricken. He requested that Finding #14 be stricken as well. In pointed out that the lots in Holiday Ranch are large and there is no need to share driveways. Driveways are not an issue but the orderly development of the street is an issue and the HOA may have definite ideas on how the driveway should be placed. Mr. Swanson could see where a future owner could be negatively impacted if the existing garage is allowed to remain.

Mr. Swanson reiterated his request for a continuance to allow time to resolve some of the issues so it can move forward to the City Council with a good recommendation.

Mr. Schueler stated that he specifically met with Mr. Marsh yesterday, and as the President of the HOA, Mr. Marsh told him that the HOA would not oppose the plat at the Planning Commission meeting.

Chair Worel requested that Mr. Schueler and Mr. Swanson have that discussion amongst themselves away from this meeting.

Mr. Swanson clarified that the HOA was not opposed to splitting the lots as proposed in the plat amendment, and they agreed to work harmoniously with the owner to create a path for future development.

Commissioner Stuard asked if Mr. Swanson was specifically requesting that the Planning Commission continue this project. Mr. Swanson answered yes. However, if the Planning

Commission chose to move forward with a positive recommendation, he would request that they remove Findings 13 and 14 from the Findings of Fact, as well as any conditions of approval that relate to a shared driveway.

Chair Worel understood that Mr. Swanson was speaking on behalf of the architectural committee and not the HOA. Mr. Swanson replied that this was correct.

Chair Worel closed the public hearing.

Mr. Schueler wanted the Planning Commission to be aware that the site plan that currently exists was approved by the HOA. It has been the same for 15 years and it would continue to stay the same for the foreseeable future. Mr. Schueler was unsure what a continuance would accomplish. The owner is entitled to due process. He submitted his application more than nine months ago and he would like a decision.

Commissioner Campbell understood that even in the worst case scenario, where the City Council approves the plat amendment and two weeks later the owner sells the lot, the new owner would have to meet with the HOA for an architectural review before anything could be built. He believed the safeguards were already in place, and he could not understand why the owner needed to negotiate additional safeguards that would make it more onerous for him or another owner to build. Mr. Schueler stated that the owner was willing to stipulate in writing to agreement with the HOA. Commissioner Campbell did not believe the owner should have to stipulate to an agreement. Mr. Schueler clarified that the owner was willing to do it to expedite the process. Commissioner Campbell stated that the owner was currently under the same HOA requirements of his neighbors, but the HOA was asking him to sign and agreement that would put additional restrictions on his particular lot. Mr. Schueler clarified that he had not seen the particular terms of the agreement and he was not sure what it would entail. He was supposed to receive those from Mr. Marsh on Friday.

Commissioner Campbell noted that the Planning Commission is not in the position of enforcing HOA CC&Rs. In addition, it is impossible for a property owner to obtain a building permit unless the HOA approves the plans. It was clarified that the Building Department needs proof that the architectural committee was notified, but the Building Department does not require approval by the HOA as a condition to a building permit.

Commissioner Strachan agreed that the owner is subject to the CC&Rs and to the architectural review committee, but the City does not enforce CC&Rs. However, the HOA could enforce the CC&Rs against the owner at any time. Commissioner Strachan stated that the Planning Commission does not get involved in arbitrary disputes between the HOA and a member of the HOA. There are a number of avenues that enable them to resolve

the dispute among themselves. The role of the Planning Commission is to determine whether or not there is good cause for the requested plat amendment.

Commissioner Stuard stated that both parties continually refer to the intentions of the owner and the future intentions of the owner of the new lot. In his opinion, that could not be relied on because the future ownership of the lot is unknown. Commissioner Stuard thought the Planning Commission needed to look at the effect of creating two new lots. In his mind, the effect of creating two lots is that the use on Lot 31 is not consistent with the rest of the neighborhood and would likely interfere with future development of Lot 31since the existing structure takes up so much of the pad area. He believed they would be creating an incompatible situation for the neighborhood. Commissioner Stuard did not think the plat amendment was necessary until someone comes forward with an actual proposal to change the status quo. Commissioner Stuard was not opposed to approving a subdivision plat with conditions that address the barn prior to the recordation of the plat.

Commissioner Joyce did not understand Commissioner Stuard's position since the barn is an allowed use. As a landowner, the applicant does not have to wait until there are building plans to amend the plat. The Planning Commission should not need to be involved with the particulars. Their task is to decide whether or not it is reasonable to re-subdivide the two lots to their original form. Commissioner Joyce stated that he would agree with Commissioner Stuard if the barn was not an accepted use, but from all indications, it is allowed on the lot without a primary residence per the LMC.

Commissioner Stuard stated that his thinking was based on his belief that the nature of the LMC places an allowed use within any given zone; however, that use may not meet the purpose statement. In his opinion, the purpose statement is the overriding policy for that particular zone.

Assistant City Attorney McLean stated that the purpose statements have importance, but generally the specific provisions of the Code are more enforceable than the interpretation of the purpose statement.

Commissioner Campbell pointed out that if somebody were to purchase the second lot, they would have to tear down the barn in order to build a house. He believed the problem would correct itself. Regardless, the owner would have to work with the HOA before he could build.

Commissioner Phillips concurred with Commissioner Joyce. He read from the minutes of September 25th, "Commissioner Wintzer asked for clarification on the sideyard setback in the zone and what was permitted in the setbacks." "Director Eddington stated that driveways could be three feet from the property line or one foot from the property line if it is

deemed as assistance to help a car back in or out." "Commissioner Wintzer was concerned that allowing the subdivision would create something that would not meet Code." Commissioner Phillips wanted to know what was concluded from that discussion and whether the current driveway location was legitimate if the plat amendment were approved this evening.

Planner Whetstone explained that independent driveways are required to have a one-foot setback. Shared driveways are encouraged in the LMC; however, this may be an area where a shared driveway would not be encouraged. Planner Whetstone stated that because a shared driveway is on a property line the setback goes away.

Commissioner Phillips noticed that the current property has columns in the fence. If the lot was to be subdivided and a structure is built on the other lot in the future, he would like the fence to be removed so it would not appear to be a large compound with multiple buildings.

Commissioner Gross read from the LMC regarding shared driveways, "A minimum 15 feet spacing between single family driveways is required. In historic districts a minimum of 10-feet spacing between driveways is recommended. Shared driveways are always strongly recommended." Commissioner Gross stated that his interpretation of the LMC is that shared driveways are encouraged in Historic Districts but not in other areas. He did not believe the existing driveway in its current location met the Code.

Planner Whetstone replied that shared driveways are encouraged in all districts. The difference is the spacing of driveways in the historic district. A separate section in Chapter 3 of the LMC addresses parking in the historic district. She noted that the language read by Commissioner Gross was specific to driveways. Commissioner Gross clarified that the Planning Commission was only talking about the driveway. Planner Whetstone noted that the CC&R exhibit shows the two driveways together, but they were built apart. In another exhibit the driveways were supposed to be together but they did not meet the spacing requirement. If the driveways are to be independent, the LMC would require a separation of 15-feet. Planner Whetstone clarified that the CC&R exhibits were from the original plat many years ago.

Commissioner Gross stated that if the lot is divided, the existing driveway would encroach on or over the property line and there would be no setback or open space between the two driveways. With the configuration of the driveway, it would be impossible for Lot 30 to access a house if the driveway is separated. Commissioner Gross noted that the existing driveway has radiant heat. He would like an agreement in place to make sure that whoever owns the property is a party to keeping the radiant heat on and keeping the driveway free of debris. Commissioner Gross remarked that footnotes two and three in the LMC under 15-2.1-2(A) specifically address Holiday Ranchettes in terms of detached

homes, guest houses, and other things that are prohibited. He was uncomfortable with the language on page 38 of the Staff report that talks about the detached garage. He could foresee the existing garage becoming a guest house or another use that is not allowed by the HOA. He understood that the City could not enforce the CC&Rs, but it is addressed in the footnotes of the LMC. Planner Whetstone stated that the Planning Commission could add a plat note requiring a minimum house size. It would keep the detached structure or any structure from ever becoming a dwelling unit unless it meets the minimum house size and is compatible with the neighborhood.

Commissioner Gross stated that his personal preference would be to allow the HOA and the owners to address the issues and work out their agreement before the Planning Commission votes on the plat amendment. Commissioner Stuard concurred. He noted that the HOA has requested a continuance and they should be given the chance to complete their dialogue.

MOTION: Commissioner Gross moved to CONTINUE the plat amendment to re-establish Lot 30 and 31 of the Holiday Ranchettes Subdivision at 2519 Lucky John Drive to a date uncertain. Commissioner Stuard seconded the motion.

Planner Whetstone requested that the Planning Commission continue to a date certain to avoid having to send another noticing to the public within 300 feet. Commissioner Gross did not want this to come back to the Planning Commission until an agreement was reached between the HOA and the owner. Planner Whetstone remarked that Commissioner Gross was asking for a third party agreement on an issue that is not within the Planning Commission purview.

Commissioner Strachan thought the Planning Commission should establish a date and give the HOA the time they requested. Commissioner Gross was willing to say that the HOA and the owner needed to come to some agreement within the next 90 days. Planner Whetstone pointed out that the two parties may never reach an agreement.

Mr. Schueler asked Assistant City Attorney McLean about the due process for his client. Ms. McLean stated that the owner can request to move forward on an application, even though it could result in a negative recommendation. Under the State Code a Rip Cord provision entitles the owner to be given a decision within a certain time period. To her knowledge the Rip Cord has not been pulled, but it could be if someone wanted a resolution.

Planner Whetstone reiterated her request for a date certain and suggested the second meeting in April. Commissioner Stuard stated that his second to the motion was for a meeting date closest to 90 days. Commissioner Gross was willing to make it sooner if the

issues were resolved. Ms. McLean stated that the idea of a date certain is to give notice to the public when it would be on the agenda again. Commissioner Gross could not understand the time constraint since the owner had no immediate plans to build or sell. He supports subdividing the lot, but he was uncomfortable with the other issues involved.

Commissioner Gross amended his motion to Continue to April 23, 2014. Commissioner Stuard seconded the amendment to the motion.

Chair Worel called for a vote on the motion as amended.

VOTE: Commissioners Gross, Stuard and Strachan voted in favor of the motion. Commissioners Campbell, Phillips and Joyce voted against the motion.

Commissioner Campbell clarified that he voted against the motion because the owner has the right to subdivide the lot to its original configuration. He was concerned that the Planning Commission was getting into the business of pushing HOA CC&Rs, which they all agree are outside of their purview to restrict or enforce. The issue is between the owner and the HOA. If the owner wants to build on the lot he would have to go before the HOA Architectural Committee and have his plans reviewed.

Commissioner Phillips believed the Planning Commission has given the HOA and the owner additional time and they still have not been able to work out the terms of the agreement. There is the possibility that they may never work out an agreement.

Chair Worel believed there was enough check and balances in place for the HOA to come to agreement with the applicant whenever they decide to build on the property. As the Chair she could vote to break a tie and she voted against the motion.

The motion to Continue FAILED. Commissioners Gross, Stuard and Strachan voted in favor of the motion. Commissioners Campbell, Phillips, Joyce and Worel voted against the motion.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for the plat amendment to re-establish Lots 30 and 31 of the Holiday Ranchettes Subdivision plat based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Phillips seconded the motion.

VOTE: The motion passed 4-2. Commissioners Strachan, Phillips, Joyce and Campbell voted in favor of the motion. Commissioners Gross and Stuard voted against the motion.

<u>Findings of Fact - 2519 Lucky John Drive</u>

1. The property is located at 2519 and 2545 Lucky John Drive in the Single-Family (SF) zoning district.

2. The property consists of a two-acre lot, known as Lot 1 of the 2519 Lucky John Drive Replat approved and recorded on September 2, 1999. Lot 1 was created when a lot line adjustment removing the common lot line between Lots 30 and 31 of the Holiday Ranchettes Subdivision (recorded on May 31, 1974) was approved and recorded at Summit County on September 2, 1999.

3. The owners wish to re-establish the original platted lot configuration of Lots 30 and 31 of the 1974 Holiday Ranchettes Subdivision.

4. Each lot will be one-acre in area, consistent with the 1974 Holiday Ranchettes Subdivision platted configuration.

5. The proposed density for this plat amendment is one (1) dwelling unit per acre.

6. There are no house size limitations within the Holiday Ranchettes subdivision.

7. The minimum setback requirements are twenty feet (20') for the front yard and twelve feet (12') for the side yards. Front facing garages require a twenty-five (25') foot front setback. The rear setback requirement of fifteen feet (15') is not applicable due to the double frontage nature of both lots.

8. There is an existing single family house on Lot 30 that complies with all required setbacks.

9. There is an existing garage/storage structure built on Lot 31 that complies with all required setbacks.

10. Both Lots 30 and 31 have double frontage onto Lucky John Drive and Holiday Ranch Loop Road. The 1974 Holiday Ranchettes Subdivision plat includes notes restricting access from Lucky John Drive.

11. The pattern of development in the neighborhood includes primary access to these double frontage lots from Lucky John Drive and not from Holiday Ranch Loop Road, providing consistent building setback areas along Lucky John Drive and Holiday Ranch Loop.

12. The plat provides for a restriction of access to Lucky John Drive and protects the

safe routes to school pedestrian and bike path from additional primary access across it.

13. A shared driveway provides access to Lots 30 and 31.

14. The LMC (Section 15-3-3 (H)) states that shared driveways are strongly recommended. Shared driveways decrease impervious surface, and storm water run-off. Shared drives provide for greater landscaping/open space areas and provide opportunities for designs that lessen visual impacts of garages, while decreasing the number of curb cuts on streets. Shared driveways necessitate access easements and maintenance agreements between property owners.

15. The proposed plat re-establishes the original two-lot configuration.

16. The proposed plat causes no nonconformities with respect to setbacks, lot size, maximum density, or otherwise.

17. All original drainage and utility easements will be re-established.

18. New snow storage easements and easements to address shared access and encroaching utilities will be provided.

19. Conditions banning access from Holiday Ranch Loop will be re-instated with this plat.

20. There is Good Cause to approve the proposed plat amendment as conditioned as the plat amendment does not cause undo harm on any adjacent property owners, the built conditions are consistent with requirements of the Land Management Code, future development will be reviewed for compliance with requisite Building and Land Management Code requirements with review by the HOA, cross access easements and utility relocation and/or utility easements will be recorded to resolve encroachment issues, and public snow storage easements will be provided along Lucky John Drive and Holiday Ranch Loop Road.

21. The proposed plat, as conditioned, is consistent with the approved 1974 Holiday Ranchettes Subdivison plat, meets the requirements of the Land Management Code.

22. Proposed conditions of approval require the applicant to provide to the City a letter from the HOA outlining concerns and recommendations regarding any proposed changes to the property, prior to issuance of any building permits.

23. The existing house is typical of the existing development in Park Meadows, and the subdivision will allow for another home of similar size to be built in the subdivision as originally planned when the Holiday Ranchettes Subdivision was approved.

Conclusions of Law – 2519 Lucky John 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.

Conditions of Approval – 2519 Lucky John 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. Prior to making any physical changes to the property and prior to occupancy of the detached garage located on Lot 31, for any use other than as a detached garage and storage building, the applicant shall meet with the HOA (provided that there is an established HOA at the time of the building permit application) and shall provide to the City, with any building permit application, a detailed letter from the HOA outlining the HOA's concerns and recommendations with said building permit application. This shall be noted on the plat.

4. A certificate of occupancy, issued by the City, is a condition precedent to occupation of the garage on Lot 31 for any use other than as a detached garage or storage building. This shall be noted on the plat.

5. Any construction on Lots 30 and 31 shall use the original existing grade (USGS

topography that existing prior to any construction on the lots) in the calculation of Building Height. This shall be noted on the plat.

6. The garage structure on Lot 31 may not be used as a dwelling unit until separate utilities and sewer services are provided for this lot, as required by the various utility providers, and until a certificate of occupancy is issued by the City. Utility work, including grading and landscape changes, requires a building permit. A letter from said HOA, stating that the HOA is aware of the proposed work and outlining any concerns and recommendations, shall be provided to the City prior to issuance of any permits for this work. This shall be noted on the plat.

7. Prior to recordation of this plat amendment, cross access easements for the shared driveway shall be recorded at Summit County and reflected on the plat. Cross access easements would not be required if the shared driveway is modified and the access encroachments are removed prior to plat recordation. This shall be noted on the plat.

8. Prior to recordation of the plat, any existing utilities that cross the common property line, shall be relocated as required by the utility providers. If relocation is not required, then encroachment easements shall be recorded at the County.

9. Prior to proposed construction on Lots 30 and 31, including additions, remodels, driveway re-locations, grading, landscaping, fencing, and any other construction that requires a permit from the City, a letter from said HOA, stating that the HOA is aware of the proposed work, and outlining any concerns and recommendations, shall be provided to the City prior to issuance of any permits for utility work. This shall be noted on the plat.

10. No access to Lots 30 and 31 is permitted from Holiday Ranch Road. This shall be noted on the plat.

11. A ten foot (10') wide public snow storage easement is required along the frontage of the Lots on both the Holiday Ranch Road and Lucky John Drive frontages.

12. A note shall be added to the plat that 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.

3. Risner Ridge Subdivision 1 & 2 – Plat Amendment (Application PL-13-02021)

Planner Whetstone reported that the applicant's representative was unable to attend due to an emergency. She noted that the Risner Ridge HOA was the applicant and they were satisfied with the Staff report and the conditions of approval.

Planner Whetstone reported that this application was a request to amend both Risner Ridge and Risner Ridge No.2 Subdivision plats to include as plat notes, language that has already been approved by the City Council of Park City and is reflected in City Ordinance No. 90-28 and 04-09. She clarified that the Ordinances were recorded; but the plat reflecting the notes never was. The requested plat amendments memorialize language that has been approved and clarified by recorded Ordinances.

Planner Whetstone provided a brief background. Two subdivisions, the Risner Ridge and Risner Ridge 2, were approved in 1988. When Risner Ridge 1 was approved, house size limitations were placed, as well as a way to measure the house size to include the basement as part of the maximum house size. The maximum house size was 5500 square feet. Planner Whetstone pointed out that the City was not as careful about placing notes on plats at that time assuming that it was understood as a part of the CC&Rs. When Risner Ridge 2 was approved, the same language was included.

Planner Whetstone explained that over time the architects designed homes that excluded the basement because the LMC excludes a truly buried basement from the square footage. The HOA caught the mistakes in the fully-developed plans and the plans had to be redone. In 1990 the City adopted Ordinance 90-28 that said the language when the subdivision was approved counted the basements and every lot has the same 5500 square feet limitation. Setback issues were also addressed through plat amendments, and the note regarding setbacks were different from the CC&Rs and how the subdivision was approved. Planner Whetstone noted that the note was placed on an actual plat and was recorded with Summit County. However, the notes regarding house size and how it was measured was never placed on a plat. It was not a problem with paper plats because the Staff had a process to identify note plats. However, now that everything is obtained electronically, the notes are missing on the plats. She pointed out that the title for each lot is subject to the ordinances, but when the plat is pulled at the County, the ordinance does not pull up.

Planner Whetstone stated that in an effort to clear up the confusion, the plat amendment, if approved, would record the plat note and it would be included on the County Recorded plat. When someone pulls up Risner Ridge all the plat notes would show. She clarified

that the plat amendment would not change any previous approval. The purpose was only to clean up the record.

Chair Worel opened the public hearing.

Alex Butwinski, a resident at Risner Ridge, stated that it has been the historical view of the HOA that the total maximum house size was 6100 square feet. However, if someone built a 4,000 square foot house they could use the remaining 2100 square feet as a garage. If they move ahead with this plat amendment, he thought the ability to continue doing that should be tied to it. Mr. Butwinski was bothered by the overall restriction of changing how basements are measured in the LMC. However, if the language is in the existing ordinance he understood why it would be included. Mr. Butwinski emphasized that his biggest issue is the ability for owners to add the square footage left over from a smaller house to the garage. He noted that it would still need to go through the HOA architectural review committee.

Commissioner Strachan asked Mr. Butwinski if there was anything in the proposed plat note that would prevent an owner from transferring the square footage from the house to the garage. Mr. Butwinski stated that the language did not prevent it, but the proposed wording was vague about allowing the HOA to make the decision. He preferred that it be clarified and codified in the plat note to give future owners the same ability.

Commissioner Gross asked if Mr. Butwinski would be comfortable changing the language to say a maximum of 6100 square feet including the garage, as opposed to specifying a 5500 square foot house. Mr. Butwinski suggested adding a second line stating that the owner has the option of trading residential space for a garage.

Commissioner Strachan referred to the language and suggested changing “any” to “all” and adding the word “structures” shall be no greater than 5500 square feet. He noted that the floor area excludes 600 square feet for the garage. Therefore, the 6100 square foot number would not be necessary.

Assistant City Attorney McLean stated that if the Planning Commission was considering a change to the plat note language, they should continue this item until they can get input from the HOA as the applicant. She explained that the language contemplated was merely putting a note on the plat to reflect what was exactly in the ordinance and what was approved. The applicant was not contemplating any changes beyond the exact ordinance.

Mr. Butwinski stated that the current HOA leadership has allowed the garage square footage in the past and as the leadership changes it becomes less clear. As recommended by Ms. McLean, he would request a continuance to give the HOA the

opportunity to provide input. Mr. Butwinski stated that he has never been invited to a meeting where this plat amendment was discussed at the HOA level. He thought the issue was significant enough for the current leadership of the HOA to consider preserving the option and clarifying it for the future leadership and owners.

Commissioner Joyce believed that the application before the Planning Commission was a simple procedure to memorialize language that already exists in an adopted ordinance and to place it on a recorded plat to stop the confusion. He thought Mr. Butwinski's request was a different matter that should involve the HOA getting together to decide if they all agree with Mr. Butwinski. Commissioner Joyce was uncomfortable changing the language to reflect one person's request. He did not believe the Planning Commission should hold up this application because the HOA could always request another amendment to include the language if they choose to; or they could update their guidelines without coming back to the Planning Commission.

Chair Worel closed the public hearing.

Commissioner Strachan agreed with Commissioner Joyce and he withdrew his intention to change the language as he previously suggested.

Planner Whetstone noted that the language on the plat did not exactly mirror the language in the ordinance and she suggested that it should be the same. She stated that the language on page 94 of the Staff report under Section 1 is the language that should be on the plat.

Commissioner Stuard stated that this application was requested by the HOA to make enforcement of their CC&Rs easier and clearer. He believed that the Planning Commission did the complete opposite by the action they took on the previous item. He understood the issue with the ordinance and that this was a ministerial action, but in the end they were supporting an HOA enforcing their CC&Rs.

Planner Whetstone noted that the language was stated in the minutes of the subdivision when the subdivision was approved by the City Council. She clarified that the HOA was requesting the plat note because they were the ones who previously requested the ordinance. The language was in the ordinance of the subdivision but it was never on the plat.

Mr. Campbell stated that the Planning Commission was being asked to clarify the ordinance and not the CC&Rs of the HOA, and that was different from the previous action.

MOTION: Commissioner Phillips moved to forward a positive recommendation to the City Council regarding the Risner Ridge and Risner Ridge #2 subdivision plat amendments based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance.

Commissioner Strachan requested to amend the motion to add Condition of Approval #3, stating that the amended plat submitted by the applicant shall contain verbatim the language of Section 1 of Ordinance 90-28.

Commissioner Joyce seconded the motion as amended.

VOTE: The motion passed unanimously.

Findings of Fact – Risner Ridge Subdivision

1. The property is known as the Risner Ridge Subdivision.

2. The property is located in the Residential Development (RD) District.

3. Risner Ridge Subdivision plat was approved by City Council on May 26, 1988, and recorded at Summit County on June 1, 1988.

4. Risner Ridge No. 2 Subdivision plat was approved by City Council on March 16, 1989, and recorded at Summit County on March 21, 1989.

5. On October 11, 1990 the City Council approved an Ordinance adding previously approved language to the Risner Ridge Subdivision plat limiting square footage of houses. This Ordinance, known as Ordinance 90-28, was recorded at Summit County on October 16, 1990. There was not a plat recorded with this Ordinance.

6. On March 4, 2004, the City Council approved an amendment to Ordinance 90-28 clarifying that the language limiting square footage of houses and describing how square footage is to be calculated was to apply to both Risner Ridge Subdivisions and Risner Ridge No. 2 Subdivision. There was no plat recorded with this Ordinance.

7. The Ordinance approved on March 4, 2004, known as Ordinance 04-09, was recorded at Summit County on April 16, 2004. There were no plats recorded with this Ordinance.

8. On September 11, 2008, the City Council amended both plats in a similar manner to address similar issues of inconsistency with setback requirements. The

September 11, 2008, approval expired before the plats were recorded and the applicant was required to re-submit an application for the previous plat amendments.

9. On August 26, 2010 the Risner Ridge Subdivision plat was amended to include plat notes related to setbacks. The First Amended Risner Ridge Subdivision plat was recorded at Summit County on February 7, 2011.

10.On August 26, 2010 the Risner Ridge No. 2 Subdivision plat was amended to include plat notes related to setbacks. The First Amended Risner Ridge No. 2 Subdivision plat was recorded at Summit County on February 7, 2011.

11.The recorded Risner Ridge and Risner Ridge No. 2 Subdivision plats on record at Summit County do not include notes regarding house sizes because only Ordinance were recorded, not actually plat notes to physical plats, and when County recorder plats are searched the Ordinances do not come up.

12. The applicant proposes to add a plat note, consistent with Ordinances 90-28 and Ordinance 04-09, to both Risner Ridge and Risner Ridge No. 2 plats and record these amended plats at Summit County, memorializing the house size restrictions that were originally approved with the Risner Ridge and Risner Ridge No. 2 Subdivisions as approved by the City Council as stated in the Ordinances.

13.The note being added states the following: Pursuant to Park City Ordinance No. 90-28, dated October 11, 1990, as amended on March 18, 2004, the maximum floor area of any structure in the subdivision shall be 5,500 square feet. The floor area is defined as the area of a building that is enclosed by surrounding walls, excluding a 600 square foot allowance for garages. Floor area includes basements, whether finished or unfinished, and excludes porches, patios, and decks.

14.The plat note will provide consistency between the plat notes and the Risner Ridge Subdivision approval as well as the CC&Rs and house sizes will be calculated stricter than with the Land Management Code. The CCRs include the entire basement area in the total floor area as was approved with the original subdivision approvals.

15.This note will not create any known non-complying structures. If there are situations that surface in the future where a house was constructed in compliance with the Land Management Code in effect at the time of building permit issuance, then such structures shall be considered legal non-complying structures by the

City.

16.The City does not enforce Covenants, Conditions, and Restrictions (CC&Rs), but does enforce notes and instructions on a recorded subdivision plat.

Conclusions of Law – Risner Ridge Subdivision

1. There is good cause for this plat amendment.

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

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

4. 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.

Conditions of Approval – Risner Ridge Subdivision

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

2. The applicant will submit the amended plat to the City for recordation 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 will expire, unless a written request for an extension is submitted prior to the expiration and the extension request is granted by the City Council.

3. The amended plat submitted by the applicant shall contain verbatim the language of Section 1 of Ordinance 90-28.

Findings of Fact – Risner Ridge 2 Subdivision

1. The property is known as the Risner Ridge No. 2 Subdivision.

2. The property is located in the Residential Development (RD) District.

3. Risner Ridge Subdivision plat was approved by City Council on May 26, 1988, and recorded at Summit County on June 1, 1988.

4. Risner Ridge No. 2 Subdivision plat was approved by City Council on March 16, 1989, and recorded at Summit County on March 21, 1989.

5. On October 11, 1990 the City Council approved an Ordinance adding previously approved language to the Risner Ridge Subdivision plat limiting square footage of houses. This Ordinance, known as Ordinance 90-28, was recorded at Summit County on October 16, 1990. There was not a plat recorded with this Ordinance.

6. On March 4, 2004, the City Council approved an amendment to Ordinance 90-28 clarifying that the language limiting square footage of houses and describing how square footage is to be calculated was to apply to both Risner Ridge Subdivision and Risner Ridge No. 2 Subdivision.

7. The Ordinance approved on March 4, 2004, known as Ordinance 04-09, was recorded at Summit County on April 16, 2004. There were no plats recorded with this Ordinance.

8. On September 11, 2008, the City Council amended both plats in a similar manner to address similar issues of inconsistency with setback requirements. The September 11, 2008, approval expired before the plats were recorded and the applicant was required to re-submit an application for the previous plat amendments.

9. On August 26, 2010 the Risner Ridge Subdivision plat was amended to include plat notes related to setbacks. The First Amended Risner Ridge Subdivision plat was recorded at Summit County on February 7, 2011.

10. On August 26, 2010 the Risner Ridge No. 2 Subdivision plat was amended to include plat notes related to setbacks. The First Amended Risner Ridge No. 2 Subdivision plat was recorded at Summit County on February 7, 2011.

11. The recorded Risner Ridge and Risner Ridge No. 2 Subdivision plats on record at Summit County do not include notes regarding house sizes because only Ordinance were recorded, not actually plat notes to physical plats, and when County recorder plats are searched the Ordinances do not come up.

12. The applicant proposes to add a plat note, consistent with Ordinances 90-28 and Ordinance 04-09, to both Risner Ridge and Risner Ridge No. 2 plats and record these amended plats at Summit County, memorializing the house size restrictions that were originally approved with the Risner Ridge and Risner Ridge No. 2

Subdivisions as approved by the City Council as stated in the Ordinances.

13. The note being added states the following: Pursuant to Park City Ordinance No. 90-28, dated October 11, 1990, as amended on March 18, 2004, the maximum floor area of any structure in the subdivision shall be 5,500 square feet. The floor area is defined as the area of a building that is enclosed by surrounding walls, excluding a 600 square foot allowance for garages. Floor area includes basements, whether finished or unfinished, and excludes porches, patios, and decks.

14. The plat note will provide consistency between the plat notes and the Risner Ridge Subdivision approval as well as the CC&Rs and house sizes will be calculated stricter than with the Land Management Code. The CCRs include the entire basement area in the total floor area as was approved with the original subdivision approvals.

15. This note will not create any known non-complying structures. If there are situations that surface in the future where a house was constructed in compliance with the Land Management Code in effect at the time of building permit issuance, then such structures shall be considered legal non-complying structures by the City.

16. The City does not enforce Covenants, Conditions, and Restrictions (CC&Rs), but does enforce notes and instructions on a recorded subdivision plat.

Conclusions of Law – Risner Ridge 2 Subdivision

1. There is good cause for this plat amendment.

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

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

4. 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.

Conditions of Approval – Risner Ridge 2 Subdivision

1. The City Attorney and City Engineer will review and approve the final form and

content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will submit the amended plat to the City for recordation 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 will expire, unless a written request for an extension is submitted prior to the expiration and the extension request is granted by the City Council.

3. The amended plat submitted by the applicant shall contain verbatim the language of Section 1 of Ordinance 90-28.

4. 65/71/70 Silver Strike Trail – Belles at Empire Pass ROS Amendment for Units 7/8/17 (Application PL-14-02239)

Commissioner Phillips recused himself and left the room.

Planner Christy Alexander reviewed the application to plat as-built conditions for constructed units 7, 8 and 18 of the Belles at Empire Pass. This is the Sixth Supplemental Plat for the Belles at Empire Pass. This request is compatible with the previous supplemental plat that were approved and recorded for the previous constructed units.

The purpose of the application is to plat the as-built conditions. Recordation is a condition precedent to issuance of a final certificate of occupancy.

Planner Alexander reviewed the plat and noted that Units 7 and 8 were in a duplex and Unit 17 was a single family dwelling. All the conditions were consistent with the underlying Silver Strike Subdivision plat, as well as the Amended, Consolidated and Restated condominium plat at the Belles at Empire Pass.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Strachan noted that as-built requests come up all the time; however, they need to be checked carefully because sometimes the as-built conditions are substantially

different from what was approved. In some cases it is intentional rather than a mistake. He did not believe that was the case with this application.

Commissioner Campbell stated that he is always curious as to the background of an as-built and why it was built differently. Assistant City Attorney McLean stated that these particular units were stand-alone, similar to single family homes that were individual units. These were done with the condition that when they were built the as-built would come back. It is not a case of where the condominium was approved and then there were significant changes to what was actually supposed to be built. Ms. McLean agreed with Commissioner Strachan that it is always good to have fresh eyes look at these as-builts.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the Condominium Plat Amendment for 65, 71 and 70 Silver Strike Trail, according to the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously. Commissioner Phillips was recused.

Findings of Fact – Silver Strike Trail

1. The property, Units 7, 8, and 17 of the Amended, Consolidated, and Restated Condominium Plat of The Belles at Empire Pass and associated common area, are located at 65, 71, and 70 Silver Strike Trail.

2. The property is located on Lots 1 and 2 of the Silver Strike subdivision and is within Pod A of the Flagstaff Mountain Development, in an area known as the Village at Empire Pass.

3. The property is located within the RD –MPD zoning district and is subject to the Flagstaff Mountain Development Agreement and Village of Empire Pass MPD.

4. The City Council approved the Flagstaff Mountain Development Agreement and Annexation Resolution 99-30 on June 24, 1999. The Development Agreement is the equivalent of a Large-Scale Master Plan. The Development Agreement sets forth maximum densities, location of densities, and developer-offered amenities.

5. On July 28, 2004, the Planning Commission approved a Master Planned Development (MPD) for the Village at Empire Pass, aka Pod A. The MPD identified the area of the proposed condominium plat as the location for 17 PUD –style detached single family homes and duplexes.

6. On June 29, 2006, the City Council approved the Silver Strike Subdivision creating two lots of record. Units 7 and 8 are located on Lot 2 and Unit 17 is located on Lot 1 of the Silver Strike Subdivision.

7. March 24, 2011, the City Council approved the Amended, Consolidated, and Restated Condominium Plat of The Belles at Empire Pass amending, consolidating, and restating the previously recorded Christopher Homes at Empire Pass. Also on March 24, 2011, the City Council approved the First Supplemental Plat for Constructed Units 1, 2, and 12 of the Belles at Empire Pass Condominiums. These plats were recorded November 28, 2011.

8. On June 28, 2012, the City Council approved the Second Supplemental Plat for Constructed Unit 9. This plat was recorded on November 20, 2012.

9. On May 9, 2013, the City Council approved the Third Supplemental Plat for Constructed Unit 4 and the Fourth Supplemental Plat for Constructed Unit 5 and 6. These plats were recorded on October 28, 2013.

10.On February 6, 2014, the City Council approved the Fifth Supplemental Plat for Constructed Units 10 and 11.

11.On January 16, 2014, the Planning Department received a complete application for the Sixth Supplemental Plat for Constructed Units 7, 8, and 17.

12.The purpose of the supplemental plat is to describe and document the as-built conditions and the UE calculations for constructed Units 7, 8, and 17 at the Belles Condominiums prior to issuance of a certificate of occupancy and to identify private, limited common and common area for this unit.

13.The supplemental plat complies with the conditions of approval of the underlying plats, namely the Silver Strike subdivision plat and the Amended, Consolidated, and Restated Condominium plat of The Belles at Empire Pass. The plat is consistent with the development pattern envisioned by the Village at Empire Pass MPD and the 14 Technical Reports of the MPD and the Flagstaff Development Agreement.

14.Units 7 and 8 are located on Lot 2 and Unit 17 is located on Lot 1 of the Silver Strike subdivision plat.

15.The approved maximum house size is 5,000 square feet of Gross Floor Area, as defined by the LMC. Gross Floor Area exempts basement areas below final grade and 600 square feet of garage area. Unit 7 contains 4,585.3 sf Gross Floor Area,

Unit 8 contains 3,922.8 sf Gross Floor Area and Unit 17 contains 4,926.6 sf Gross Floor Area.

16. The Flagstaff Development Agreement requires calculation of unit equivalents (UE) for all Belles units, in addition to the maximum house size. The UE formula includes all interior square footage "calculated from the inside surfaces of the interior boundary wall of each completed unit, excluding all structural walls and components, as well as all shafts, ducts, flues, pipes, conduits and the wall enclosing such facilities. Unit Equivalent floor area includes all basement areas. Also excluded from the UE square footage are garage space up to 600 square feet per unit and all space designated as non-habitable on this plat." Within the Flagstaff Development Agreement one residential unit equivalent equals 2,000 sf.

17.Unit 7 contains a total of 4,585.3 square feet and utilizes 2.393 UE. Unit 8 contains a total of 3,922.5 square feet and utilizes 1.961 UE. Unit 17 contains a total of 5,629 square feet and utilizes 2.815 UE. The total UE for Units 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 17 is 31.49 Unit Equivalents of the 45 total UE allocated for the Belles at Empire Pass.

18. As conditioned, this supplemental plat is consistent with the approved Flagstaff Development Agreement, the Village at Empire Pass MPD, and the conditions of approval of the Silver Strike Subdivision.

19. The findings in the analysis section are incorporated herein.

Conclusions of Law – Silver Strike Trail

1. There is good cause for this supplemental plat as it memorializes the as-built conditions for Units 7, 8, and 17.

2. The supplemental plat is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.

3. Neither the public nor any person will be materially injured by the proposed supplemental plat.

4. Approval of the supplemental plat, subject to the conditions of approval stated below, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – Silver Strike Trail

1. The City Attorney and City Engineer will review and approve the final form of the supplemental plat 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 at Summit County within one (1) year from the date of City Council approval. If recordation has not occurred within the one year timeframe, this approval 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. All conditions of approval of the Village at Empire Pass Master Planned Development, the Silver Strike Subdivision plat, and the Amended, Consolidated, and Restated Condominium Plat of The Belles at Empire Pass shall continue to apply.

4. As a condition precedent to issuance of a final certificate of occupancy for Units 7, 8, and 17, the supplemental plat shall be recorded at Summit County.

5. A note shall be added to the plat prior to recordation stating the following, “At the time of resurfacing of Silver Strike Trail, the Master Association shall be responsible to adjust wastewater manholes to grade according to Snyderville Basin Water Reclamation District Standards”.

6. The Unit sizes and UEs shall be reflected on the plat as they are to reflect the actual size and UE of the Units.

Commissioner Phillips returned to the meeting.

5. <u>300 Deer Valley Loop – Roundabout Subdivision ROS</u>
(Application PL-13-02147)

Commissioner Campbell recused himself and left the room.

Planner Alexander reviewed the application to amend the existing Roundabout Subdivision Plat that came before the Planning Commission in 2007, consisting of two duplexes on two lots. The request is to remove the lot line and create one condominium plat with a total of four units; two units in each building.

Planner Alexander noted that this proposal was a significant change from the last plat that was approved in 2007 and recorded in 2008. The applicant is proposing to build an

underground parking structure which would eliminate the four garages that would have been visible along Deer Valley Drive. There would be one access and a common shared driveway coming off of Deer Valley Drive entering the parking structure. Two parking spaces per unit would be provided, as well as six additional guest parking spaces. There would be a requirement to exit the parking structure front facing on to Deer Valley Drive. The Staff and the applicant have been working with the City Engineer. The bus pull out would be moved slightly to the west in order to accommodate the driveway. The Staff thought it was too difficult and dangerous to access off of Deer Valley Loop Road. Planner Alexander stated that the architecture currently being proposed has changed significantly; however, the density is less than what is permitted within the R-1 zone. All the setbacks are met.

Planner Alexander reported on existing encroachments from 510 Ontario that would need to be resolved either through an encroachment agreement or removal of the encroachment prior to plat recordation.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council.

Blake Henderson, the applicant, stated that they worked hard to recognize the challenges in Old Town. They were not challenging height in the zone or the footprint, and the requested plat proposes less density for the land than what the zone would allowed. Mr. Henderson stated that they tried to design a project that limits congestion, traffic, parking and massing in keeping with Old Town.

Commissioner Gross had a hard time following the site plan to understand the driveway location and ingress and egress. Planner Alexander stated that the driveway entrance would to the east of the bus pullout. Cars would enter the driveway and go underground to parking below the units. There would be room to turn around in the parking structure and exit out on to Deer Valley in the same location they came in.

Commissioner Joyce thought page 142 showed the opposite. Planner Alexander stated that page142 showed the previous proposal before the City Engineer asked them to place the entrance on the other side and move the bus pullout. She noted that the drawings needed to be updated.

Commissioner Stuard believed the proposal was a better solution than the previous proposal; however he was concerned with how it was being wedged into the slope. He thought the top of the building appeared to be several feet below the natural grade. He stated that there would need to be a 44-foot vertical cut during the excavation in order to build the back retaining wall; and then a step and another 10 feet at the very back of the

building. Mr. Henderson believed the vertical cut in back was 20 feet and setback 20 feet for a total of slightly over 40 feet. Commissioner Stuard disagreed with the numbers. He noted that the parking lot elevation was 7094. In looking at the topo line in the southeast corner of the building the elevation is 7138, which is 44 feet from the garage elevation to the top floor.
Commissioner Stuard had safety concerns. He was unsure how they could safely make a 44 foot high cut and then go up another 10 feet without having the slopes collapse. In addition, it would create a large amount of dirt and the amount of hauling would be significant. He suggested the possibility of adding a condition of approval that addresses the hours and methods of hauling.

Planner Alexander stated that a construction mitigation plan would be required when the applicant applies for a building permit.

Commissioner Strachan wanted to know why this application did not require a Steep Slope CUP. Planner Alexander replied that it was not in the Historic District. Commissioner Stuard stated that if it the currently LMC did not deal with steep slopes in a more comprehensive way, it should be a consideration for the LMC rewrite.

Commissioner Stuard remarked that this project would be highly visible approaching the traffic circle and beyond on Deer Valley Drive.

Chair Worel opened the public hearing.

David Constable stated that he lives at 375 Deer Valley Drive across the street from this property. A month ago when he heard that this project was coming back to the Planning Commission he went to the Planning Department and was told that a steep slope conditional use permit was not required because it was not in the Historic District. Mr. Constable thought there was a real disconnect because it was only 100 feet away from the Historic District. He pointed out that he was required to go through the steep slope process for his project and he, too, was only 100 feet away. This site is much steeper than his site. Mr. Constable could not understand why there was an arbitrary line where on one side people were held to specific restrictions, but on the other side the restrictions did not apply. Mr. Constable urged the Commissioners to visit the site and look up the hill to understand what he was talking about. It is steep and massive and it is right on Deer Valley Drive.

Bill Tink stated that he the owner of 408, 410 and 412 Deer Valley Loop, which abuts to Third Street, right behind the property at 300 Deer Valley Loop. Mr. Tink referred to some discrepancies in the plan. One was the driveway and the exhibit shown on page 142. Mr. Tink referred to the side elevation on Exhibit H. From the drawing the height above grade

appeared to be 22 feet. However, on page 119 there was a proposed height of 32 feet and he questioned the difference or whether 32 feet may have been a typo.

Mr. Henderson believed it was a typo because the actual number was 22 feet above existing grade.

Assistant City Attorney McLean stated that the plans have to match the actual drawings that are being approved as part of the ordinance. Planner Alexander presented the drawings that were part of the approval. Exhibit H was not included in the documents for approval. It was part of the supplemental documents for additional information.

Mr. Tink asked if the Planning Department had standard vertical data that they use to calculate the elevation, or whether they were using multiple vertical data that does not match. Director Eddington stated that they typically use the current survey from the licensed engineer to obtain that information. The survey should reflect what is on the ground. Mr. Tink found the vertical data on all the maps, but he could not find anything that provided vertical data on this application. Director Eddington noted that the current survey by Evergreen Engineering on page 135 should reflect the current vertical data.

Mr. Tink was not satisfied with the vertical data and suggested that he could discuss his issues with the applicant rather than take the time this evening.

Mr. Tink noted that there are six significant pine trees that would probably need to come down for construction. He asked if those trees could possibly be moved and replanted on Third Street as part of the construction mitigation plan. He also wanted to make sure that there would be no parking along Deer Valley Loop because the road is narrow.

Planner Alexander stated that parking would not be allowed on Deer Valley Loop. She pointed out that typically the City requires significant trees to be replaced with a like-wise significant tree or with two trees, depending on the Arborist's recommendation.

Patricia Constable wanted to know where the construction vehicles would park. They have been contending with parking from other projects and vehicles are parked everywhere. She anticipated this project to take several years. She believed parking would be a problem and that Deer Valley Loop would have to be used. Ms. Constable stated that this was the most intensely vigorous sections of Deer Valley Drive and pulling on to the road requires extreme caution. She found the concept of building on that hill to be ludicrous. She understood that it was improved but she was personally disturbed by it.

Chair Worel closed the public hearing.

Commissioner Strachan stated that having been reminded that this would not go through the CUP process and after reading the Staff report more thoroughly, this was their only opportunity to regulate this property. He thought it should be subject to the Steep Slope Analysis. Commissioner Strachan remarked that on steep slopes the Planning Commission needs to see a detailed height analysis. There were obvious problems with the surveys and other discrepancies. The exhibits needed to be larger showing the topographical data, the existing grade, and the planned finished, as well as the heights to each floor and each setback level. Commissioner Strachan stated that this was one of the more complicated pieces of property in Park City. He advised the applicant to come back with more materials when he is asked to do so because the Planning Commission cannot approve what they do not have.

Planner Alexander stated that the larger set of plans were submitted by the applicant and they were available in the Planning Department. Commissioner Strachan requested that the plans be provided to the Planning Commission on 11 x 17 sheets so they could be read. Commissioner Strachan also requested an estimation of the amount of dirt that would be removed.

Mr. Henderson believed the requests were part of a Steep Slope Analysis which was not required in the R-1 zone. Commissioner Strachan read from LMC Section 15-7.3, "for land that due to steep slopes or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Planning Commission to solve the problems created by the unsuitable land conditions." Mr. Henderson thought the language pertained to construction mitigation. He noted that through the original approval process it was determined that there was no Steep Slope Ordinance on this property. Commissioner Strachan informed Mr. Henderson that he could build what was approved if he did not want to provide the additional information being requested. Commissioner Strachan emphasized that Mr. Henderson needed to provide an estimate of the amount of excavation, particularly with the new proposal of an underground parking garage, and the amount that would have to be required for the grading.

Commissioner Strachan remarked that the purpose statements in the R-1 District were very clear that the project has to be stepped to the topography of the grade. He noted that the drawing provided on page 146 shows two steps and an existing grade and a front of the façade that has no stepping. He pointed out that Mr. Henderson stepped the retaining wall but not the front façade. Mr. Henderson replied that the façade steps back three times at different angles.

Commissioner Strachan asked Mr. Henderson to provide the Planning Commission with the construction mitigation plan. He agreed with the concerns regarding construction parking on Deer Valley Drive. Mr. Henderson stated that the Deer Valley Drive construction project was staged on a large, flat area of his property. He intends to stage this project on his property as well. Commissioner Strachan stated that 15-7.3 entitles the Planning Commission is review the construction mitigation plan to see how they could address the unsuitable land conditions. Mr. Henderson disagreed. Commissioner Strachan did not believe that was an unreasonable request, and noted that on other complicated projects the Planning Commission was able to see the construction mitigation plan before it was given to the Building Department.

Commissioner Strachan stated that even though the other properties have not shown any potential problems geo-technically, he would like to have a geo-tech opinion on the cumulative effect of all the homes going on this steep slope.

Commissioner Gross concurred with Commissioner Strachan's.

Commissioner Joyce stated that his struggle was with the construction mitigation. He could see this as being catastrophic.

Commissioner Stuard agreed with all the comments. He referred to the site plans on pages 133 and 145 of the Staff report, both of which had topographic lines. He stated that the outside retaining wall configuration were quite different. Page 133 showed a series of three walls behind the back of the building. They are not shown on page 145, but alternatively there are two curved linear single rock wall type retaining walls on either end of the building. He noted that the one on the southeast elevation starts at 9 feet and climbs up to 15 feet by the time it arcs back into the next element of the building. Commissioner Stuard did not believe that could be accomplished with a single rock wall type of construction. He requested an accurate site plan that accurately depicts the locations and heights of all the retaining walls on the site.

Mr. Henderson stated that if he is held to the restrictions of the R-1 zone, he could not understand why other zoning restrictions were being put on this project. He used the Steep Slope study as an example. Commissioner Strachan clarified that Mr. Henderson was not being subjected to the Steep Slope Analysis. If he were it would be much more rigorous than what they were requesting. Planner Alexander read from LMC Section 15-7.3-1(D) to help Mr. Henderson understand what the Planning Commission was asking for and why.

Commissioner Strachan remarked that LMC Section 15-7.3 applies and the language suggests that the land is unsuitable. However, unsuitable does not mean unbuildable. It

only means that adequate methods must be imposed to solve the problems that are created by the unsuitable condition.

Mr. Henderson was confused by the comments because he has an approved buildable lot with an approved plat. The approved plan was a worse proposal than what he is proposing today. He has made a tremendous effort to mitigate all the issues with this new plan. Commissioner Strachan stated that Mr. Henderson needed to show the Planning Commission that it was a better plan. With adequate and detailed information the Planning Commission would probably approve it.

Commissioner Phillips commended Mr. Henderson for what he has done to this point. The Planning Commission was asking for more information because this new proposal was different from the original approval. He believed that with the proper information the Planning Commission could look favorably on the project.

MOTION: Commissioner Strachan moved to CONTINUE the plat amendment for 300 Deer Valley Loop to April 9th, 2014. Commissioner Stuard seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Campbell returned to the meeting.

6. <u>1138 Lowell Avenue Plat Amendment</u>
(Application PL-14-02246)

Planner Alexander reviewed the request to combine two existing lots at the 1138 Lowell Avenue Subdivision into one lot of record. The applicant currently owns both lots and they would like to build an addition to their existing single family home on 1138 Lowell Avenue. Currently, one lot is vacant.

Planner Alexander noted that the applicant has not provided any details on the size of the proposed addition. She reviewed the analysis on page 173 of the Staff report showing that the existing building footprint was 808 square feet. By combining the lots they could be permitted up to 1,519 square feet for a single family home.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation on the requested plat amendment.

Commissioner Strachan asked if the permitted 1,519 square feet included the 808 square feet of the existing home. Planner Alexander answered yes. She clarified that 1,519 square feet was the maximum size of a home over two lots.

Planner Alexander noted that the zone allows a conditional use for duplexes. The applicant could build an addition and convert it to a duplex. Therefore, if the Planning Commission preferred, they could place a condition of approval restricting the structure to single family or a specific size.

Chair Worel referred to page 173 and the reference to larger homes in the area. She asked if Planner Alexander knew the square footage of those homes. Planner Alexander was unsure of the square footage, but noted that there are large homes and duplexes on the other side of the street.

Commissioner Stuard noticed that Purpose Statement D on page 171 of the Staff report encourages development on combinations of 25' x 75' lots. Director Eddington stated that in the past there was a theory that combining lots would reduce density in Old Town. For that reason lot combinations were not discouraged and actually encouraged in many cases. As LMC revisions were made over the years it became evident that building on lot combinations produces very large houses, and the recommendation was made to move towards the preservation of single family lots and/or placing a maximum on the number of lot combinations.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Campbell stated that if the intention is to rewrite the LMC to sync it with the recently adopted General Plan, he wanted to know where they look for guidance in the interim. He felt this was a perfect example of encouraging something that might be discouraged in the near future. Director Eddington replied that the Planning Commission needed to utilize the current LMC.

Assistant City Attorney McLean clarified that the lot owners would be vested under the current LMC regardless of when the LMC would change.

Commissioner Phillips agreed that the surrounding structures were very large and he did not believe the addition would look out of place. He had no objection to this request.

Commissioner Strachan preferred to place a limitation on the size of the dwelling that could be built on the second lot in the interest of controlling the creep effect of giant homes. He believed the size of the addition should be restricted but he did not have a specific number

in mind. He suggested half of the size of the existing lot, which is 808 square feet. The addition could be 404 square feet.

Commissioner Campbell thought Commissioner Strachan was just pulling out numbers without any basis. Commissioner Strachan stated that the Planning Commission has the purview to place limitations. There was no definition of compatibility and it was left to the Planning Commission to determine.

Commissioner Stuard did not believe 50% was an arbitrary number. In many of the subdivisions that were platted in the later stages of Park Meadows, there was language that said if you combine two lots you are only allowed to have 150% of what was allowed on one lot. He thought there was precedent for what Commission Strachan suggested.

Commissioner Campbell did not think they should restrict further than the LMC restriction. Commissioner Strachan felt there was no question that the Planning Commission has the right under the LMC to restrict the footprint further than the LMC restriction. However, they cannot be arbitrary and capricious. It must be done to reach a compatibility standard.

Assistant City Attorney McLean reminded the Commissioners that this was not a historic home and the applicants could conceivably knock down the existing home and rebuild a new home on the combined lots. She pointed out that it was also on a steep slope and any building larger than 1,000 square feet would come back to the Planning Commission for a Steep Slope CUP. Director Eddington noted that the second lot is a steep slope.

Commissioner Strachan remarked that restricting the size was easier at this point when defining the footprint of the lot than it is during the CUP process. The footprint of the lot dictates the size of the structure size. Once the footprint is established it is much more difficult.

Commissioner Campbell felt it was very arbitrary for the Planning Commission to determine the number when the LMC has an exact calculation and formula.

Commissioner Joyce created a scenario under the LMC that would produce a house size on combined lots that would be incompatible with the neighborhood. The question was not whether they could restrict beyond the LMC in certain circumstances because their job is compatibility. In his opinion, given that this particular project is on two lots, the existing house is not historic and there are larger houses across the street, this was less likely to cause compatibility issues.

Commissioner Campbell was more comfortable with a rigid number that people could count on without it appearing to be arbitrary. Commissioner Strachan stated that the Planning

Commission could have a work session on the proposed LMC amendments to codify what compatibility means to the Commissioners. Commissioner Campbell recognized that three of the Commissioners had years of experience and that he may be venturing into an area that he did not understand. Commissioner Campbell used Google Maps to show four or five gigantic houses across the street.

Commissioner Gross asked if the Commissioners wanted to restrict it from a duplex. He recalled a previous issue with a duplex in the area. Commissioner Strachan thought duplexes should be put to rest in the zone. Director Eddington clarified that currently a duplex is a conditional use. If the applicant wanted to build a duplex it would have to come before the Planning Commission for a CUP. He agreed that there have been challenges with duplexes in Old Town.

Commissioner Strachan suggested that they let it play out to see what happens. Commission Campbell was comfortable letting it play out because the applicant was vested under the current LMC, which does not restrict duplexes. If the Planning Commission wanted to restrict duplexes moving forward, they needed to update the LMC so people know what to expect.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the plat amendment at 1138 Lowell Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Phillips seconded the motion.

VOTE: The motion passed 5-1. Commissioner Stuard voted against the motion.

<u>Findings of Fact – 1138 Lowell Avenue</u>

1. The property is located at 1138 Lowell Avenue within the Historic Residential (HR-1) District.

2. The 1138 Lowell Avenue Subdivision was approved by City Council on May 1, 2003 and recorded on April 19, 2004.

3. The City Council approved the 1138 Lowell Avenue Subdivision First Amended plat on August 24, 2006 and was recorded on June 4, 2007.

4. On January 29, 2014, the applicants submitted an application for a plat amendment to combine two (2) lots containing a total of 3,750 square feet into one (1) lot of record.

5. The application was deemed complete on February 13, 2014.

6. The HR-1 zone requires a minimum lot area of 1,875 square feet for a single family dwelling and 3,750 square feet for a duplex.

7. The maximum footprint allowed in the HR-1 zone is 1,519 square feet for the proposed lot based on the lot area of the lot.

8. The property has frontage on and access from Lowell Avenue.

9. As conditioned, the proposed plat amendment does not create any new noncomplying or non-conforming situations except for the existing non-conforming southerly side yard setback of 2.82 feet.

10.The existing non-conforming northerly side yard setback of 2.76 feet will be eliminated with the approval of the proposed plat amendment.

11.The plat amendment secures public snow storage easements across the frontage of the lot.

Conclusions of Law – 1138 Lowell Avenue

1. There is good cause for this plat amendment.

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

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

4. 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.

Conditions of Approval – 1138 Lowell Avenue

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. No building permit for any work shall be issued unless the applicant has first made application for a Historic District Design Review and a Steep Slope CUP application if applicable.

4. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation.

5. A 10 foot (10') wide public snow storage easement is required along the frontage of the lots with Lowell Avenue and shall be shown on the plat.

7. 345 Deer Valley Drive ROS Amendment, Units 5 & 6 (Application PL-14-02237)

Planner Alexander reviewed the application to amend the Deer Valley Drive Condominium Plat for Units 5 and 6 at 345 Deer Valley Drive. The purpose of the request is to amend the condominium plat in order to record a revised plat that is consistent with the as-built conditions of the property.

Planner Alexander reported that the properties never received a certificate of final occupancy due to construction errors made by the previous builder and lack of funding to complete the project. The units were recently purchased by Equity Resources and they were trying to fix the errors and interior malfunctions. In addition, because the stairwells were never built, the applicant was proposing to adjust the stairway access and the square footage of Units 5 and 6. They were also opening a loft area on the seventh floor.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation for the condominium plat amendment at 345 Deer Valley Drive, Units 5 and 6, according to the

Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact 345 Deer Valley Drive

1. The property, Units 5 and 6 of the Amended DVD Condominiums Plat, are located at 345 Deer Valley Drive.

2. The property is located within the R-1 zoning district.

3. March 24, 2011, the City Council approved the DVD Condominiums Plat. This plat was recorded June 8, 2006.

4. On January 30, 2014, the Planning Department received a complete application for the Amended DVD Condominiums Plat amending Units 5 and 6.

5. The purpose of the supplemental plat is to describe and document the as-built conditions for constructed Units 5 and 6 at the DVD Condominiums prior to issuance of a certificate of occupancy.

6. The supplemental plat complies with the conditions of approval of the underlying plats, namely the DVD Condominiums plat.

7. Unit 5 contains a total of 6,052 square feet. Unit 6 contains a total of 2,828 square feet.

8. As conditioned, this supplemental plat is consistent with the conditions of approval of the DVD Condominium plat.

Conclusions of Law – 345 Deer Valley Drive

1. There is good cause for this supplemental plat as it memorializes the as-built conditions for Units 5 and 6.

2. The supplemental plat is consistent with the Park City Land Management Code and applicable State law regarding condominium plats.

3. Neither the public nor any person will be materially injured by the proposed supplemental plat.

4. Approval of the supplemental plat, subject to the conditions of approval stated below, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 345 Deer Valley Drive

1. The City Attorney and City Engineer will review and approve the final form of the supplemental plat 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 at Summit County within one (1) year from the date of City Council approval. If recordation has not occurred within the one year timeframe, this approval 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. All conditions of approval of the DVD Condominiums plat shall continue to apply.

4. As a condition precedent to issuance of a final certificate of occupancy for Units 5 and 6, the supplemental plat shall be recorded at Summit County.

5. Units 5 and 6 will maintain a 50-foot limit of disturbance area from the rear yard setback.

6. The existing disturbed area in the rear yard setback shall not be improved with any structures, patios, decks or similar improvements.

7. The Unit sizes shall be reflected on the plat as they are to reflect the actual size of the Units.

The Park City Planning Commission meeting adjourned at 9:00 p.m.

Approved by Planning Commission: _____