

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
SEPTEMBER 12, 2012

COMMISSIONERS IN ATTENDANCE:

Nann Worel, Brooke Hontz, Stewart Gross, Adam Strachan, Jack Thomas, Nann Worel

EX OFFICIO:

Planning Director, Thomas Eddington; Kirsten Whetstone, Planner; Matt Evans, Planner; Francisco Astorga; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

Chair Worel called the meeting to order at 5:35 p.m. and noted that all Commissioners were present except Commissioners Wintzer and Savage, who were excused.

ADOPTION OF MINUTES

August 22, 2012

Commissioner Gross corrected the minutes to add his name to the list of Commissioners in attendance.

Commissioner Strachan referred to Condition of Approval #5 on the Washington School Inn approval and corrected 2012 to 2013 regarding the yearly review.

MOTION: Commissioner Hontz moved to APPROVE the minutes of August 22, 2012 as amended. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

Jim Teford, was representing a group called Preserve Historic Main Street. Mr. Teford read their mission statement, which was emailed to the Planning Department. The group supports the Kimball Arts Center and the need for an addition to their current facilities. However, they believe the expansion can and should be accomplished within the existing Land Management Code and the Historic District Design Guidelines as of August 2012.

Mr. Teford had read the proposed LMC amendments outlined for discussion in the Staff report. The report indicates that the amendments were part of the annual review; however, it appears that several of the changes were drafted specifically to accommodate the Kimball Arts Center. He

understood that the Kimball Arts Center would like to apply under an MPD because it allows more flexibility. Mr. Teford and the group he represents believed the Kimball Arts Center should abide by the current Code where an MPD is not allowed in this specific zone. If they begin making exceptions for one group, where would it stop. If they keep changing the guidelines to accommodate specific projects, eventually historic Main Street would become less historic. The proposed addition to the Kimball Arts Center is not historic. They try to compare it with the Old Coalition Building as a way to justify the height, but there is no resemblance whatsoever. Mr. Teford remarked that Main Street in Park City is a historic gem and a main tourist attraction, and it should be maintained. On behalf of the Preserve Historic Main Street group, he urged the Planning Commission not to change the Land Management Code process to accommodate one special interest group and to keep the Code and historic guidelines as they exist today.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planner Astorga stated that the Staff would come back to the Planning Commission at a future meeting to show additional diagrams that were prepared for the work session this evening, as well as additional diagrams that relate to the effects of the 2009 changes. That discussion would be scheduled as a work session item.

Commissioner Gross disclosed that he would be recusing himself from 811 Norfolk and 817 Norfolk based on prior involvement with the Board of Adjustment on those matters.

Director Eddington reported that the Staff was still trying to schedule a regional meeting with the Snyderville Planning Commission. The tentative dates previously reported did not work out and they were now looking at the second or third week in October.

124 Daly Avenue – Staff Update (Application #PL-05-00075)

Planner Matt Evans stated that the home at 124 Daly Avenue was currently listed on the Historic Sites Inventory as a significant structure. It went through an HDDR that was approved in August of 2005. Since the home has been under construction, citizens have raised concerns with reason. The Staff approached the architect and the owner and asked them to reconsider a design for the project that was more in line with current standards. Planner Evans remarked that the owners graciously agreed to do that. He noted that the project was not required to make full compliance with current standards because they have already have an approved active building permit, as well as HDDR approval.

Planner Evans reviewed proposed changes to the front elevation of the house. The applicant was proposing to remove the deck that is directly adjacent to the garage and have an additional set of stairs coming up to the front porch. The other stairs that connect to the adjoining property were there historically, and the applicant was allowed to keep those stairs and rebuild them. Planner Evans pointed out that the applicant was willing to consider the possibility of removing one set of stairs if that was more desirable. The Staff was very supportive of the applicant's efforts to improve

the project. Planner Evans had presented the revised project to the Design Review Team as an information item, and they were also very supportive of the proposed changes.

Planner Evans explained that the revisions did not require action by the Planning Commission. It was brought to them this evening as an information item only. He believed the applicant was interested in hearing feedback on the proposed design.

David White, the project architect, stated that the second set of stairs shown on the elevation was added at the time of approval at the request of the Chief Building Official, because the historic set of stairs was coming off the other property. Since the two properties would eventually be separately owned, it was determined that the second set of stairs would be necessary.

Commissioner Thomas remarked that adding the stairs improved the elevation. Commissioner Thomas understood that the revisions also down scaled the columns. Mr. White replied that this was correct. He was the first to admit that a mistake was made with the design in 2005 and he was amendable to correcting it. Planner Evans pointed out that this project was designed and approved under the previous design guidelines. Commissioner Thomas thought it was a great effort and he supported the changes. The Commissioners concurred.

Director Eddington remarked that David White worked hard with the Planning Department on these solutions and he believed they did a great job.

CONTINUATIONS – PUBLIC HEARING AND MOTION TO CONTINUE

1. Richards/PCMC Parcel – Annexation Petition
(Application #PL-12-01482)

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

MOTION: Commission Thomas moved to CONTINUE the Richards/PCMC Parcel Annexation Petition to June 27, 2012. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. 811 Norfolk Avenue – Plat Amendment
(Application #PL-10-00988)

Commissioner Gross recused himself and left the room.

Chair Worel informed the applicant that with two Commissioner absent and Commissioner Gross recused, only three Commissioners would be voting on this item. The applicant had the option to ask for a continuance or to move forward this evening. Jeff Love, the applicant, preferred to move

forward, and asked why only three members would vote when four were present. Chair Worel explained that as the Chair she only votes in the event of a tie.

Planner Evans reported that this application came before the Planning Commission on April 27th, 2011. The request was for a plat amendment to combine 1-1/2 lots. One of those lots currently traverses through an existing historic house shown on the Historic Sites Inventory as a landmark structure. The plat amendment would combine the north half of Lot 2 and Lot 3 of Block 14 of the Snyder's Addition to Park City. The existing home is a landmark structure. At the time the applicant submitted the application for the plat amendment, they also submitted a historic district design review application, which included a proposal to move the home, since it encroaches onto the adjacent property. That request was ultimately approved and upheld in Third District Court, and the applicant planned to move forward with the project as proposed.

The Staff recommended that the Planning Commission forward a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance. Planner Evans reported that public input he received had been forwarded to the Planning Commission. He believed the input came from the same people who gave public comment earlier in the process.

Planner Evans stated that the applicant had contacted Staff with concerns related to Condition of Approval #5 and the public snow storage. Planner Evans spoke with the City Engineer and it is a standard condition that is placed on Old Town plat amendments, because it allows the City to put snow within that area off the street. He believed the applicant misunderstood the intent of the easement and believed it was an easement that allowed the public to put snow on his property.

Planner Evans noted that the requirement for Modified 13-D sprinklers should be numbered as Condition #6 in the conditions of approval.

Mark Kozac stated that he was legal counsel representing Jeff Love. Mr. Love remarked that the condition says a "public snow storage easement". If it is not public snow storage easement and the condition is consistent with other applications, he was not opposed to a snow storage easement for the use of Park City Municipal Corp. in the event of a snow emergency. However, he was concerned with the wording.

Assistant City Attorney, Polly Samuels McLean, explained that a public snow storage easement is for the use of the City and it is public in the same way utilities are public. City Engineer, Matt Cassel clarified that the word "public" was added because without that word people thought it could be used as a private snow storage easement. Mr. Love was comfortable with the language as explained.

Mr. Love read from page 62 of the Staff report under the Analysis, "If a historic structure exists across a property line, either an encroachment agreement must be recorded or the historic home must be relocated to remove the encroachment." He asked if that was a planning or building policy, because over the course of the past 28 months this was the first time the issue came up.

Planner Evans believed the sentence addresses the property in its current status, and the plat amendment would take care of the issue. Mr. Love replied that the HDDR would take care of it but not the plat amendment. His understanding after doing some research, was that it came from the Building Department because the International Building Code does not allow the Building Department to issue building permits over existing property lines. If that is correct, the Staff report basically says there are two ways to resolve the issue. One is for the adjacent property owner to give an encroachment agreement. If that person does not give the encroachment agreement, and they have the right to decline, then the house must be moved, because the building department will not issue a building permit. Mr. Love stated that under his denial the Chief Building Official denied his application for the movement of the house. The Chief Building Official did not determine that unique conditions exist to warrant the proposed relocation and/or reorientation of the existing site. There were no unique building code conditions on the site. Mr. Love thought it appeared from the Staff report that there were unique building conditions on the site. It seemed contradictory and he asked for an explanation.

Director Eddington stated that the language in the Staff report was saying that if the structure does not obtain an encroachment agreement, then the house needs to be moved or the lot line needs to be relocated. Mr. Love remarked that relocating the lot line was not mentioned. It only talks about obtaining an encroachment agreement or moving the house. It is one or the other. When his application was denied, they said there were no unique building code conditions. He still questioned the contradiction.

Director Eddington clarified that it was not a unique condition, and it is utilized throughout Old Town. The Building Department will not issue a permit on a house that crosses over a property line. Mr. Love pointed out that he could not renovate the existing structure as it currently exists because it sits on a property line. The Building Department will not issue a building permit in that situation, and in his opinion, that is unique. Mr. Love stated that the Chief Building Official at the time was Roger Evans. In July he met with Mr. Evans and the current Chief Building Official. When he read the denial issued by Roger Evans in that meeting, Mr. Evans stated that he had not made the denial. He had never seen it before and did not agree with it. Mr. Love was curious as to who actually made the denial.

Assistant City Attorney McLean informed Mr. Love that the plat amendment concerning the removal of lot lines was the item before the Planning Commission, and their criteria for review did not encompass the questions he was raising. A condition of approval discusses the fact that the encroachment and removing the lot line needs to be addressed, but beyond that, the Planning Commission can only use the criteria laid out in the Staff report. Mr. Love disagreed with that assessment.

Mr. Love stated that since Judge Kelly ruled in his favor on July 20th, he has been speaking to the City Council through his attorney and correspondence, and have repeatedly requested that they have an independent investigation done on the review of his application, because he believes misconduct occurred. Mr. Love noted that so far the City Council had declined. However, Mayor Williams wrote him a letter stating the following, "While we recognize that you disagree with the outcomes of various land use decisions, you have raised no evidence of actual misconduct, corruption or discrimination. Most, if not all of the issues you raised could have been addressed in

the course of public administrative processes.” Mr. Love stated that this evening he was at a public administrative process and he was asking questions about the current Staff report, and why it contradicts with the denial of his application. He was told by his Mayor to ask his questions in these public administrative application processes and; therefore, he wanted to know why he could not get an answer.

Commissioner Strachan did not believe this Planning Commission meeting was the right forum for his question. He asked if Mr. Love wanted the Planning Commission to apply the Code to the plat amendment application. Mr. Love replied that he wanted the Planning Commission to move forward with the plat amendment, but he also wanted his denial investigated and no one in the City appeared to care. Mr. Strachan explained that the plat amendment application was not the proper context to address that request, and that Mr. Love should direct his questions to the Legal Department.

Mr. Kosac stated that the City’s Legal Counsel showed up in a court of law and argued that Mr. Love was in the wrong proper place and should come back before the City’s administrative processes. Mr. Love prevailed in court and he was now back in the administrative process. Mr. Kosac requested that the City take one position or the other. When Mr. Love shows up in one place he is told to go somewhere else. Commissioner Strachan clarified that the Planning Commission was telling Mr. Love that he should be in front of them having his plat amendment heard, so the Commissioners could determine whether there is good cause for the plat amendment as instructed by the Land Management Code. Mr. Love stated that he was doing what the Mayor directed him to do. He asked the question but no one wanted to answer.

Commissioner Strachan recommended that Mr. Love and the Planning Commission focus on the Land Management Code and the application.

Chair Worel opened the public hearing.

There was no comment.

Chair Worel closed the public hearing.

Commissioner Strachan felt it was an unfortunate circumstance, but the good cause standard in the Land Management Code would not prohibit the requested plat amendment. In his opinion, there were no grounds under the Land Management Code to deny the plat amendment. Mr. Love has a lot line issue and he is moving the house pursuant to the HDDR ruling. Commissioner Thomas concurred.

Commissioner Hontz stated in order to support the application the Planning Commission has to make findings of good cause. One of the findings is that the application would preserve the character of the neighborhood and Park City. She struggled with making that finding, along with another part of good cause that says the plat amendment would resolve existing issues and non-conformities. Commissioner Hontz felt that was the sticking point because it is not an existing issue when the property line issue is caused by the applicant himself. She was not convinced that

moving the structure would preserve the character of the neighborhood and Park City and continues to support the fabric of that part of Old Town.

Mr. Love stated that the plat amendment application had nothing to do with movement of the structure. The movement of the structure has been approved by a court order of Third District Court. Commissioner Hontz clarified that her comments did not pertain to the movement of the structure. Her intent was to point out that the lot combination, aside from anything else regarding structures on the property, would not continue to preserve the character of the neighborhood.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the plat amendment proposed for 811 Norfolk, in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Staff report, as amended with the addition of Condition #6 to require modified 13-D sprinklers.

Commissioner Hontz asked to amend the motion to add a period at the end of Condition 5.

Commissioner Thomas seconded the motion as amended.

VOTE: The motion passed 2-1. Commissioners Strachan and Thomas voted in favor of the motion. Commissioner Hontz voted against the motion. Commissioner Gross was recused.

Findings of Fact – 811 Norfolk Avenue

1. The property is located at 811 Norfolk Avenue within the HR-1 zoning district.
2. The plat amendment is for the existing Lot 3 and the north half of Lot 2 in Block 14, Snyder's Addition to the Park City Survey.
3. The proposed plat amendment will create one lot of record that is 37.5 feet wide by approximately 80 feet deep. The minimum lot width in the HR-1 zone is 25 feet.
4. The area of the proposed lot is 3007 square feet. The minimum lot size in the HR-1 zoning district is 1875 square feet.
5. The applicant cannot obtain a building permit to build an addition across an internal lot line. A plat amendment must be recorded prior to issuance of a building permit for a future addition.
6. There is an existing historic Landmark structure on the property that is listed on the Park City Historic Sites Inventory.
7. Historically, the existing Landmark structure has existed across the lot line between Lots 3 and 4 in Block 14 of Snyder's Addition to the Park City survey.
8. The north half of Lot 2 has likely been associated with Lot 3 since the historic home was built, as the home on Lot 1 straddles the lot line between Lots 1 and 2.

9. The Landmark Structure encroaches 3.5 feet onto Lot 4 to the north. The approved Historic District Design Review application allows moving the historic home 6.5 feet to the south. The encroachment will no longer exist once the home is moved and all setbacks will be complied with.
10. Maximum footprint with the plat amendment is 11270 square feet. The footprint of the existing landmark structure is 668 square feet. The proposed footprint from the existing structure with the new addition is 1258.25 square feet.
11. The neighborhood is characterized by a mix of single family historic homes, single family non-historic homes and multi-family homes.
12. All findings within the Analysis section are incorporated herein.

Conclusions of Law – 811 Norfolk 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.
3. The public will not be materially injured by the proposed plat amendment.
4. As conditioned, the plat amendment is consistent with the Park City General Plan.

Conditions of Approval – Norfolk Avenue

1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the amended record of survey.
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 request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The plat may not be recorded until the Landmark Structure is moved onto Lot 3 or an encroachment agreement is signed by the property owner of Lot 4 to the North.
4. The plat must be recorded prior to issuance of a building permit for any addition to the structure. A permit for movement of the structure will be permitted prior to the recordation of the plat.
5. A 10-foot wide public snow storage easement will be located along the property's frontage.

6. Modified 13-D sprinklers will be required.

**2. 817 Norfolk Avenue – Plat Amendment
(Application #PL-10-00989)**

Commissioner Gross was recused.

Planner Evans reviewed the request to combine one Old Town Lot with a three-foot portion of an adjacent lot, which is Lot 5, Block 14 of the Snyder's Addition to Park City. The application was a typical lot combination. The partial lot meets or exceeds the minimum lot size requirement. The proposed lot area is 2223 square feet, which exceeds the minimum lot size requirement of 1875 square feet. A historic structure that currently exists on the lot is listed on the Historic Sites Inventory as a Landmark structure. The structure was previously deemed a dangerous building. The applicant had submitted a Historic District Design Review application to reconstruct the garage, as well as a request for a new single family dwelling to be constructed on the same property.

Planner Evans pointed out that the single family dwelling was not being reviewed this evening; however the applicant had provided drawings of the proposed dwelling for illustration and information purposes.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council for the plat amendment based on the findings of fact, conclusions of law and conditions of approval found in the Staff report.

Mark Kosac, representing the applicant, Rod Ludlow, remarked that this was similar to the previous plat amendment for 811 Norfolk Avenue. He clarified for the record that in the previous item the City Engineer explained that the word "public easement" does not mean for the benefit of the public at large, and that the neighbors are not granted authority to put snow on the property at will. Mr. Kosac understood that the language of public snow shed easement means for the benefit of the City and its municipal snow removal operations.

With respect to the 817 Norfolk address listed at the top of the ordinance, Mr. Kosac did not believe the Building Department had granted an official address to this property, pending completion of numerous administrative processes dealing with this property and adjacent parcels. He did not object to having that street address for the property, but it was not an official designation.

Mr. Kosac noted that the historic building on the property crosses over the boundary lines of the two parcels, and this plat amendment would eliminate that lot line.

Commissioner Strachan asked if a motion should identify the parcel number rather than a physical address. Commissioner Hontz read the Tax ID number as SA139-A. City Engineer Cassel stated that once the plat is recorded it becomes the official address. If 817 Norfolk is put on the plat, that would be the address moving forward.

Chair Worel opened the public hearing.

There was no comment.

Chair Worel closed the public hearing.

Commissioner Strachan stated that his comments from the last application were reiterated for this application. Commissioner Hontz indicated the same correction to Condition #5, which was to remove the comma and add a period at the end of the sentence. Commissioner Strachan noted that Condition #5 should also be changed to read a "10 foot public snow storage easement", to be consistent with the last application.

Commissioner Hontz reiterated her same comments from the last application as they also applied to this application.

MOTION: Commissioner Thomas moved to forward a POSITIVE recommendation to the City Council for 817 Norfolk Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Staff report, with the corrections to Condition #5 as stated. Commissioner Strachan seconded the motion.

VOTE: The motion passed 2-1. Commissioners Strachan and Thomas voted in favor of the motion. Commissioner Hontz voted against the motion. Commissioner Gross was recused.

Findings of Fact – 817 Norfolk Avenue

1. The property is located at 817 Norfolk Avenue within the HR-1 zoning district.
2. The plat amendment is to combine the existing Lot 4 and the southerly 3 feet of Lot 5 in Block 14, Snyder's Addition to the Park City Survey.
3. The proposed plat amendment will create one lot of record that is 28 feet wide by approximately 79 feet deep. The minimum lot width in the HR-1 zone is 25 feet.
4. The area of the proposed lot is 2,223.7 square feet. The minimum lot size in the HR-1 zoning district is 1875 square feet.
5. The applicant cannot obtain a building permit to build across an internal lot line.
6. There is an existing historic Landmark structure that encroaches approximately 3.5 feet onto Lot 4. The Landmark Structure is listed in the Park City Historic Sites Inventory.
7. The approved Historic District Design Review application for 811 Norfolk allows moving the historic home 6.5 feet to the south. The encroachment on Lot 4 will no longer exist once the home is moved.
8. There is an existing historic accessory structure (garage) located on Lot 4 and the southerly 3 feet portion of Lot 5. The garage straddles the lot line.

9. Accessory buildings listed in the Park City Historic Structures Inventory that are not expanded, enlarged or incorporated into the Main Building do not count toward the building footprint as stated in the definition of building footprint. (LMC Section 15-15.1.34).
10. Maximum footprint with the plat amendment is 983 square feet.
11. The 262 square foot detached historic garage does not count against the allowed maximum footprint due to its status as a "Landmark" structure on the Historic Sites Inventory.
12. The neighborhood is characterized by a mix of single family historic homes, single family non-historic homes and multi-family homes.
13. All findings within the Analysis section are incorporated herein.
14. There is Good Cause to approve the proposed plat amendment.

Conclusions of Law – 817 Norfolk 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.
3. The public will not be materially injured by the proposed plat amendment.
4. As conditioned, the plat amendment is consistent with the Park City General Plan.

Conditions of Approval – 817 Norfolk Avenue

1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the amended plat.
2. The applicant will record the amended plat 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 request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The plat may not be recorded until the Landmark Structure that encroaches 3.5 feet onto Lot 4 is moved onto Lot 3 or an encroachment agreement is signed by the property owner of Lot 4.
4. The plat amendment must be recorded prior to issuance of a building permit for 817 Norfolk.
5. A 10-foot public snow storage easement will be granted along the front of the property.

6. Modified 13-D sprinklers will be required for all new and reconstruction.

3. 429 Woodside Avenue – Plat Amendment

Planner Kirsten Whetstone reviewed the request for a plat amendment at 429 Woodside, located directly south of the Quittin' Time Condominium complex. A historic house with an addition is under construction. The request is to amend the Elder Park Subdivision to combine 429 Woodside, which is Lot B of the Elder Subdivision, with an adjacent metes and bounds parcel to the west of approximately 6,853 square feet. The parcel is a vacant remnant parcel that was separately owned when the Elder Subdivision was approved. It was not owned by the Sweeney Family when they did the Treasure Hill subdivision; however, it became part of the Sweeney Master Plan and was designated as open space. The parcel is zoned HR-1, and other than access through 429 Woodside, it does not have access on a public street.

Planner Whetstone remarked that the owner of 429 Woodside purchased the remnant parcel and came into the City for a plat amendment to create one large lot owned in common. When the application came in, the Staff spent considerable time negotiating a reduction in the possible building footprint, as well as agreement by the owner to grant an access easement for Quittin' Time to access the open space. Another concession made by the applicant was to allow seasonal ski-in access on the hillside.

Planner Whetstone noted that the applicant had agreed to all the conditions outlined in the draft ordinance in the Staff report. She noted that Condition #4 addresses a reduction in the footprint that would be allowed in the rear, and a limit of 270 square feet additional footprint that could be added to the rear of the existing house.

Planner Whetstone reported that any construction of more than at 1,000 square feet of floor area in the HR-1 zone requires a Steep Slope Conditional Use permit. The applicant proposes to build larger than 1,000 square feet and intends to apply for a Steep Slope CUP. Any issues related to cross canyon views or construction on a steep slope could be addressed at the time of the Steep Slope CUP. The Planning Commissioner was only being asked to review the plat amendment this evening.

Planner Whetstone noted that the Planning Commission previously reviewed this application and requested additional information. The Staff had provided the requested information and the Staff provided minutes on the Steep Slope CUP for the house under construction. At the last meeting the issue was raised as to whether the detached structure would be an additional story. Planner Whetstone remarked that based on the Staff interpretation, the the Code only talks about stories within a structure.

The Staff recommended that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council with the findings of fact, conclusions of law and the conditions of approval outlined in the draft ordinance.

Commissioner Thomas asked if the conditions of approval addressed a second story. Planner Whetstone replied that a 24-foot height limit was specified in the conditions and agreed to by the applicant. The height is measured from existing natural grade. Commissioner Gross noted that Condition #7 mentioned the height limit and a maximum two-story restriction.

David White, the project architect, had nothing new to add to the comments he made in the previous meetings, and he believed Planner Whetstone had adequately restated the proposal. Mr. White was prepared to answer questions.

Commissioner Hontz read Condition of Approval 11, "The plat shall include an encroachment easement for the Quittin' Time Condominium wood step and footpath from the south to the north property line." She also read Condition of Approval 12, "The plat shall contain a note indicating that the northwest area of the Lot is identified as winter ski access permitted". Planner Whetstone identified the area on the plat that would be designated for ski access. Commissioner Hontz asked if it was currently a year-round access.

Joe Tesch, representing the owner, replied that the area is privately owned. He thought the diagram on page 118 of the Staff report would help clarify. Commissioner Hontz questioned whether it should be winter access only or if there was value to allow year-round access. Mr. White believed that area was also designated as a no-build area. Planner Whetstone replied that this was correct. It is also quite steep and heavily vegetated. Commissioner Hontz asked if the applicant specifically wanted to allow access only in the winter. Mr. Tesch was comfortable allowing year-round access. The applicant had specified winter ski access because the snow covers the thick oak brush that is difficult to maneuver. Planner Whetstone clarified that the Staff intended for it to be an encroachment easement that could be accessed any time.

Mr. White used the vicinity map to identify a stand of tall oak brush in the center of the remnant lot that is 15-20 feet high and very thick. He pointed out that the proposed future building area was totally to the south and the stand of trees would not be disturbed. Mr. Tesch stated that the applicant had agreed to keep the trees, and it would serve as a buffer for Quittin' Time.

Mr. Tesch stated that if you run a line straight back on the original lot and stop approximately two-thirds of the way, everything to the left and up from that point is no build zone. It is private property designated as open space. Mr. Tesch referred to the cross canyon view on page 177 of the Staff report. While it is not mandated for this type of application, he pointed out that the existing house was the least visible house viewed from across the canyon. If a 24-foot high accessory structure is built behind the existing structure, it would stick up approximately 6 feet above the existing roof line. The accessory building would be a maximum of 600 square feet and approximately 6 feet above the ridgeline, which is lower than the top of the tree. Mr. Tesch stated that the accessory building would be significantly hidden from Quittin' Time and the view from across the canyon. Mr. Tesch referred to the street elevation on page 163 of the Staff report and noted that the accessory building would not be seen looking from across the canyon to the front of the house. He explained why he believed the size of the home with the added footprint would not be out of scale with the neighborhood.

Commissioner Thomas thought Mr. White had done a great job of minimizing the footprint and he supported the plat amendment. However, he cautioned against getting ahead of themselves in terms of the approval process. The new building behind the existing structure would have to go through the Steep Slope conditional use permit process where they would talk about height, stories, mass, scale, etc. Commissioner Thomas was uncomfortable approving the number of stories and height before the Steep Slope CUP process. He recommended that they modify the conditions of approval by eliminating Condition #7, which referenced the height and the two-story limitation, and address those issues with the conditional use permit process.

Commissioner Thomas was comfortable with the footprint; however, he preferred not to see the story higher than the fourth story of the existing structure. Mr. White pointed out that everything was an assumption at this point. He recalled that Commissioner Thomas had requested to see a side section, and the single line schematic was to show what could occur with the reduction in height and footprint.

Mr. Tesch clarified that the applicant understood that nothing other than the lot combination would be approved with this plat amendment. They thought it would be a benefit to show potential examples of what could be built with a reduced footprint and restricted height.

Assistant City Attorney McLean stated that the Planning Commission could add a condition of approval stating that the above conditions in no way guarantee any subsequent approval. Commissioners Strachan and Thomas felt it was best to strike Condition 7. Ms. McLean reminded the Commissioners that the Steep Slope CUP only applies if the structure is greater than 1,000 square feet.

Commissioner Strachan did not think a structure less than 1,000 square feet would present the same cross canyon issues. Commissioner Thomas stated that the fourth story was his concern in looking at the photographic cross section on page 125 of the Staff report. If the fourth story is extended to where it was approximately equal to existing natural grade, and set that as the maximum floor height of the structure, they would be assured that it would not stick above the existing building. He was uncomfortable with the idea of seeing the second structure six feet above the existing four story building. Mr. White pointed out that the site keeps going up and a much taller house could be built.

Commissioner Strachan preferred to discuss these details in the CUP process when floor plans and cross canyon views are provided to help with their determination. Commissioner Thomas reiterated that the Planning Commission would not see the plans if the structure was under 1,000 square feet.

Mr. White stated that he would be surprised if the structure was under 1,000. Commissioner Strachan suggested lowering the number to 600 square feet for requiring a Steep Slope CUP. He felt it was difficult to envision all the possible scenarios. He preferred the advantages of the CUP so they could address the architectural elements.

Commissioner Thomas questioned whether the Planning Commission could set a different square footage for a Steep Slope CUP. Ms. McLean stated that if the applicant agrees, the Planning Commission could set conditions linked to good cause of the approval. Mr. Tesch agreed that it

would be allowed if the applicant stipulates to it. He would not be opposed if the Planning Commission felt the need for a different restriction.

Planner Whetstone noted that 660 square feet would be one story. The Planning Commission and the applicant's representatives agreed to 660 square feet as the minimum square footage required for a Steep Slope CUP.

Commissioner Strachan recommended modifying Condition #6 to clarify that the no build zone would remain true open space without decks, patios, etc. The second sentence of Condition #6 was revised to read, "Any area outside of the LOD is a no-build zone and must remain in its natural state."

Chair Worel opened the public hearing.

Kelley Green, understood that the plat amendment was strictly to allow the applicant to enclose an open area in the current structure. He asked if this plat amendment was required to put a roof over the existing building area. Mr. Green was concerned that the application had gone from a simple enclosure to removing a property line and creating a new avenue for more building and more issues.

Director Eddington clarified that the existing house was at its maximum footprint size based on the lot. Therefore, the applicant did not have the capacity to expand and fill in open areas and he acquired additional property. A lot consolidation would allow a larger footprint opportunity and the ability to fill in the areas. As part of that, the applicant came in with an accessory structure.

Chair Worel closed the public hearing.

Commissioner Hontz stated that when she reviewed the comments from the 2008 Minutes that were provided, she could not get a sense of what the prior Planning Commission was thinking; however, there was indication that they were concerned about the size, mass and scale of the previous application in this part of town. The current application continues to creep the size, mass and scales across property lines into other parts of town. Recognizing that previous approvals cannot be reversed, she believed the conditions of approval for this application would limit some of the creep that would occur.

Commissioner Hontz added the word "public" in Condition of Approval #3 regarding a 10-foot public snow storage easement, to remain consistent with the same change in earlier applications this evening. As an extra precaution, she modified Condition #5 to read, If the 270 sf of footprint allocated for the existing house is not utilized for the existing house, it may not be transferred to the rear parcel, to any structure, or any other lot. Commissioner Hontz referred to Condition #12 and changed "winter access" to "year round access permitted to adjacent neighbors."

Commissioner Thomas summarized that Condition #7 would be deleted and revisions were made to Conditions 3, 5, 6, 8 and 12. The Conditions would be re-numbered due to the deletion of Condition #7.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the 429 Woodside Avenue plat amendment in accordance with Findings of Fact, Conclusions of Law and Conditions of Approval with the modifications to Conditions 3, 5, 6, 8 and 12 and deletion of Condition #7. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 429 Woodside Avenue

1. The property is located at 429 Woodside Avenue.
2. The property is located in the Historic Residential (HR-1) District.
3. The property is subject to the conditions of the Elder Park Subdivision, recorded on January 4, 1996, combined Lots 5 and 6, Block 1 with Lots 1-4 of Block 29, Park City Survey creating a Lot A (39' by 75') at 421 Woodside and the subject Lot B (60.98' by 75') at 429 Woodside.
4. Access to the property is from Woodside Avenue.
5. The proposed plat amendment combines the 4,573 sf Lot B of the Elder Park Subdivision with a 6,853 sf adjacent metes and bounds described Parcel (PC-364-A-1), resulting in an 11,426 sf lot. The property is located in Block 29 of the Park City Survey.
6. The minimum lot size within the HR-1 District is 1,875 square feet.
7. The minimum lot width within the HR-1 District is twenty-five feet (25').
8. The width of the proposed combined lot does not change with the addition of the Parcel to the rear.
9. The maximum allowed building footprint for the combined lot is 3,006 square feet. The plat restricts the maximum building footprint to 2,698 sf. The existing Historic house, including proposed additions is restricted to a maximum footprint of 2,038 sq. ft. (1,768 sf existing and 270 sf of future additions as outlined in the plat amendment application). A future accessory structure is allowed a maximum of 660 sq. ft. of footprint to be located within the platted building envelope.
10. There is a Significant historic home located on Lot B. The home is being reconstructed with an addition, approved in September of 2008, under the previous Historic Design Guidelines and LMC. A Steep Slope CUP was approved by the Planning Commission on September 10, 2008.
11. The submitted certified survey of existing conditions indicates that there is a wooden step associated with the Quittin' Time condominiums that encroaches on the Parcel. There is also an informal foot path on the Parcel that is used by Quittin' Time to access the open

space to the north. The applicant agrees to plat an encroachment easement for the wooden step and path and to allow winter ski access across the northwest corner of the Parcel. The survey identifies three evergreen trees on the Parcel that are outside of the building pad.

12. The Snyderville Basin Water Reclamation District (SBWRD) has reviewed the proposed plat and identified that all services for any future accessory structure on the Parcel will have to be extended from the existing house. No individual or separate services, meters, or hook-ups, including water, sewer or electricity will be allowed.
13. The property owner will need to comply with the requirements of the Snyderville Basin Water Reclamation District (SBWRD) before the District will sign the plat.
14. Any future accessory structure shall be a detached extension of the main house. The structure may not be attached or separately rented, leased, or sold. Any future accessory structure shall not be used as an accessory dwelling unit, guest house, secondary quarters, or accessory apartment, and all uses shall be accessory to the main house.
15. No remnant parcels of land are created with this plat amendment.
16. Any future construction on the rear parcel that is greater than 1,000 square feet in floor area and proposed on a slope of 30% or greater requires a Conditional Use Permit Application with review by the Planning Commission.
17. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.
18. This application is only to combine the properties and remove the interior lot line and does not provide approvals for the construction of any Structure or addition on the property.
19. Staff finds good cause for the plat amendment as conditioned, including footprint and height restrictions; proposed ski access allowance for historic use by the public; trail and wooden step encroachment easements for the neighbors; and designation of "no-build" zone behind the Quittin' Time condominium units.
20. Staff finds good cause in that much of the property will continue to be used as it is today, as visual open space behind the Quittin' Time condos and for winter ski access to Woodside.
21. Staff finds good cause that the plat amendment and easements granted through the amendment resolve an existing issue and non-conforming situation (that a land locked remnant parcel is combined with a lot with access to Woodside and giving an easement to Quittin' Time Condominiums for access to the Ski Resort behind their property).
22. Staff finds good cause that proposed restrictions on building footprint, building location, and building height are specifically recommended to address density and preservation of the character of the neighborhood.

23. The applicant consents to all conditions of approval.

Conclusions of Law – 429 Woodside Avenue

1. There is good cause for this plat amendment in that the combined lot will remove the lot line between the commonly owned Lot and Parcel and will combine into one lot all of the Property owned by this owner at this location. The plat notes and restrictions resolve encroachments and access issues, limit building pad and footprint, increase setbacks and preserve significant vegetation.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding lot combinations.
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 – 429 Woodside 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 request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A 10' (ten foot) public snow storage easement shall be dedicated to Park City across the property's frontage on Woodside Avenue.
4. The maximum building floor area on the combined Lot shall be restricted to 2,698.5 square feet with a maximum additional footprint for the existing house of 270 sf and a maximum floor area of 660 sf for the accessory structure on the rear parcel.
5. If the 270 sf of footprint allocated for the existing house is not utilized for the existing house, it may not be transferred to the rear parcel, to any structure or any other lot.
6. The building pad is limited to an area of 804 square feet as depicted on the plat. Any area outside of the LOD is a no-build zone and must remain in its natural state.
7. If the accessory structure contains more than 660 square feet of Floor Area, as defined by the Land Management Code at the time of building permit application, the a Steep Slope Conditional Use permit is required prior to permit issuance.

8. Modified residential 13-D sprinklers shall be required for all new construction.
9. The property owner shall comply with applicable requirements of the Snyderville Basin Water Reclamation District (SBWRD).
10. The plat shall include an encroachment easement for the Quittin' Time condominiums wood step and foot path from the step to the north property line.
11. The plat shall contain a note indicating that the northwest area of the Lot is identified as year-round access to adjacent neighbors.
12. Receipt and approval of a Construction Mitigation Plan (CMP) by the Building Department is a condition precedent to the issuance of any building permit. The CMP shall include the method and means of protecting the historic house during construction.
13. All utility services (water, sewer, power, etc.) for any future use or accessory structure are required to be extended from the existing house.
14. A note shall be added to the plat indicating that any detached, accessory structure constructed on the rear portion of the Lot must be used as a part of the existing house and may not be rented, sold, or leased separately from the main house.
15. Conditions of Approval of the Elder Subdivision (Ordinance 95-7) and the 429 Woodside HDDR and Steep Slope Conditional Use Permit continue to apply.
16. All Standard conditions of approval shall apply.
17. The applicant stipulates to these conditions of approval.

**4. Echo Spur, Lots 17-19 – Plat Amendment
(Application #PL-12-01629)**

Planner Francisco Astorga reviewed the application to reconfigure Lots 17, 18 and 19 of Block 58 of the Park City Survey. The site is located north of the intersection of Rossi Hill Drive and platted McHenry. The street is currently platted as McHenry Avenue and that will be the official address until the City Engineer changes the name to Echo Spur. Per the City Engineer, this plat amendment is to be referred to as Lots 17, 18 and 19, Echo Spur development replat. The applicant, Leeto Tlou purchased the property in August and is now the owner of Lots 17, 18 and 19.

Mr. Astorga stated that Mr. Tlou filed an application for a plat amendment to combine the three lots of record into one lot. These lots are part of the Historic Park City Survey. The proposed lot would contain 5,625 square feet.

Planner Astorga reviewed the history of the 2007 and 2010 applications that were submitted by the previous property owner. He noted that both applications were eventually withdrawn and no official action was taken. One of the previous applications included up to 16 lots. The other application started with 16 and was later revised to the same three lots as the current application.

Planner Astorga reported that the minimum lot area for a single family dwelling is 1875 square feet, and the standard configuration of a 25' x 75' lot. The minimum lot area for a duplex is 3750 square feet. Planner Astorga stated that the current proposed lot area was 5,625 square feet, which meets the criteria for a duplex. However, a duplex is a conditional use and would require approval by the Planning Commission. At this point, the applicant was not requesting a duplex.

Planner Astorga reviewed the requirements of the HR-1 zone, as outlined on page 181 of the Staff report. He stated that the building footprint formula would trigger approximately 2,000 square feet maximum due to the lot combination.

Planner Astorga outlined three discussion items for the Planning Commission. Due to the regulation of the building footprint and the limit of three stories under the current Code, they could potentially see a 6,000 square foot building. Gross floor area is not regulated in the HR-1 District, but it is indirectly regulated through the footprint and the maximum number of stories. The Staff report contained an analysis of the sites on Ontario Avenue, where most of the properties have a combination of 1-1/2 lots, which triggers a footprint of 1,200 square feet. Given that number, times the number of stories, the Staff recommends adding a regulation that would cap the gross floor area to approximately 3600 square feet to be more compatible with the Ontario Avenue area. Planner Astorga pointed out that there were larger lots of record east of the subject area which trigger a larger footprint.

Planner Astorga reported that the applicant disagreed with his recommendation and he would let Mr. Tlou explain his plan. Planner Astorga requested input from the Planning Commission on whether the additional limitation was appropriate in conjunction with this plat amendment.

Planner Astorga commented on the second discussion item. Ridgeline development per the LMC indicates that the Planning Commission may add additional restrictions in specific ridgelines. He pointed out that these were historic platted lots of record and the City has approved development in the past on both the Ontario side of this neighborhood and Silver Pointe MPD that was approved with the larger lots on the west side of McHenry. However, in order to mitigate for proper drainage, steep slopes, etc., the Staff requests that the north side yard minimum be increased to 15' on that side, plus the other five per Code. The Code requires 18' total, however, the Staff was requesting 20' on the north side.

The third discussion item related to height and topography. The Staff was able to find a survey dated 2006, which indicated that the older survey had a different highest point on this site, mainly due to the construction of the road. The Staff recommended measuring the maximum height from the older survey because it has a lower elevation.

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

Leeto Tlou, the applicant, has lived in Park City for ten years. He did not have issues with the Staff report and the disagreement with Planner Astorga was actually a minor conversation. Mr. Tlou commented on the setbacks. He stated that the designs were not set at this point and he was unsure how the setbacks would work. He asked if the 15' setback increase would be set with the plat amendment or not until the CUP. Mr. Tlou referred to the 3600 square foot maximum. He was not interested in building a 6,000 square foot home, but as indicated in the Staff report, he was considering a 3,000 to 4,000 square foot house. When he communicated that to the Staff, he neglected to communicate conditioned versus unconditioned space. He was unsure whether additional square footage for a garage would be available.

Planner Astorga remarked that Criteria 7 of the Steep Slope Conditional Use permit indicates that the Planning Commission may add additional setbacks to designs through the CUP.

Commissioner Hontz asked if the roundabout at Deer Valley Drive was a designated vantage point. Planner Astorga looked it up in the Land Management Code and found that it was not a vantage point.

Commissioner Hontz understood that the improvements and the conditions regarding the road had not been dedicated to the City. City Engineer, Matt Cassel, replied that the road had not been dedicated yet. He explained that the applicant is currently in a warranty period that ends in November. If everything goes well, it would go before the City Council for dedication in December or January. Commissioner Hontz commented on past issues with retaining. She understood that if everything goes well, the City would accept those improvements and it would become a public street. Mr. Cassel replied that this was correct. Commissioner Hontz wanted to know what could happen with platted Third Street to the north of Lot 17. Mr. Cassel stated that it is too steep for a road, but it could be used as a utility corridor. Commissioner Hontz clarified that access to those lots would not take place off of that street, and she suggested making that a condition of approval. Commissioner Hontz thought the retaining wall was very noticeable from the Deer Valley roundabout and looked extremely tall. Mr. Cassel assumed she was talking about the lower concrete retaining wall at the bottom. He could not recall the height of the retaining wall. However, the landscaping that was put in had died and new landscaping would need to be established. The purpose of the landscaping is to help hide the retaining wall. Commissioner Hontz asked how the lot would gain access. Mr. Cassel stated that there is enough space to get on to Lot 19 and access from there. Commissioner Hontz stated that until the time when the City accepts the improvements to make that Echo Spur, she assumed they could still access along the private road. Commissioner Hontz asked if there was a bond for replanting the landscaping. Mr. Cassel answered yes.

Chair Worel opened the public hearing.

There was no comment.

Chair Worel closed the public hearing.

Commissioner Hontz stated that in researching the public data base, she found a development in the land use agreements related to lots in this vicinity that could potentially affect access or relationship with the Echo Spur lot. She had presented the information she found to the Legal Department. Commissioner Hontz recommended that the Planning Commission continue this item to allow time for our legal counsel to review and confirm that it may or may not have impacts to the relationship with these properties. Her interpretation is that it does and that causes her concern.

Commissioner Hontz rejected the notion that this was not part of a ridgeline, based on the Land Management Code. She stated that LMC 15-7.3-1(D) is important when taking into account the very sensitive nature of this particular area. She understood that the surrounding area has been developed and much of that occurred prior to the most recent LMC amendments. Commissioner Hontz concurred with the Staff recommendation regarding the setback area. Commissioner Hontz also concurred with the Staff request for additional limitations on maximum square footage. She was very concerned about the vantage point because it is very abrupt looking from the roundabout. If you can see the retaining wall, the house would be much more visible.

Commissioner Hontz pointed out that these are lots at the end of what may be a future subdivision. As shown in the Staff report, it comes with a variety of configurations. She felt it was difficult to take the step to look at these lots with an existing land use agreement in place that would affect the lots, but secondly, it would set precedent for five to six lots leading up to this. She did not understand the impacts to the neighborhood and the surrounding area and that should be taken into account based on what the Planning Commission is allowed to do under good cause and the purpose statements of the HR-1 District.

Commissioner Thomas believed the issues warranted a group site visit, and possibly looking at the property with balloons flying from the site at a reasonable structure height to consider the visual impacts.

Commissioner Strachan agreed that a site visit would be worthwhile. He would like to see exactly where the building footprint would be with the new proposed setbacks. He was particularly concerned with the north side. In addition to view issues, there were also major issues in terms of drainage and topography that a site visit would allow them to digest. Commissioner Strachan echoed Commissioner Hontz regarding a precedent that could be set for nearby lots. One of the requirements for good cause for plat amendments is to utilize best planning practices. A best planning practice would be to see how this would align with the other lots that may be developable in the Echo Spur area. He was unsure how to look that far into the future. Commissioner Strachan did not think they could say that Lot 17, 18, and 19 could be combined into one lot and disregard Lots 20, 21 and 22 when they will probably end up using the same access point of the newly constructed and to be dedicated road. Commissioner Strachan believed the plat amendment needed to be looked at from a larger perspective than just lots 17, 18 and 19. The Code allows it and directs them to use best planning and design practices, resolve existing issues and non-conformities and to provide positive benefits and mitigate negative impacts. Commissioner Strachan directed the Staff to look at the status of Lots 20 and 21 and what implication this plat amendment would have for those lots.

Planner Astorga stated that the Staff would look at the land use agreement Commissioner Hontz mentioned. He noted that Lot 20 is currently owned by Mike Green and he plans to build one single family dwelling. Lots 21-32 are currently owned by Sean Kelleher. He has come in many times, but has not committed to submitting a plat amendment to combine lots to build single family dwellings.

Commissioner Strachan thought it would be worthwhile for the Planning Commission to look at the old plat amendment submittals from Kelleher and Bilbrey. It would at least give them an idea of what could be done and how it would work with the plat amendment to combine Lots 17, 18 and 19. Commissioner Strachan stated that the impact of a home on Lots 17, 18 and 19 may not be significant in and of itself, but the homes that could be built on the rest of the lots cumulatively could significantly disrupt the vantage point on Deer Valley Drive.

Commissioner Strachan recommended that the Staff bring this back for a work session. The suggestion was made to schedule a site visit and the work session on the same night. Planner Astorga requested that the item be continued to a date uncertain to give the applicant and his architect time to come up with a preliminary design for the Planning Commission to review.

MOTION: Commissioner Strachan moved to CONTINUE this item to a date uncertain. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

**5. 200 Ridge Avenue - Subdivision
(Application #PL-10-00977)**

Planner Evans reviewed the request for a plat amendment to combine 9 Old Town lots and approximately 21 partial lots to create a six lot subdivision. The Planning Commission reviewed this application at three previous meetings. The applicant was proposing to create six lots ranging in size from 3,700 square feet to 6100 square feet. The minimum lot size in the HRL Zone is 3,750 square feet. Therefore, each proposed lot would meet or exceed the minimum.

Planner Evans reported that the application first came before the Planning Commission in June 2010 as a work session item. At that time the Planning Commission raised a series of issues outlined in the Staff report. The applicant came back on April 24, 2012 and the Planning Commission had additional concerns. The first was that the slope of each lot was very steep and questioned whether homes could be built on each lot without a variance. The second issue was that unplatted Ridge Avenue is very narrow and raised concerns regarding emergency access. The third issue related to mitigation and preservation of the existing vegetation on the site to accommodate six lots. There was concern about destabilizing the hillside and impacts to the homes on Daly Avenue. The fourth issue was that the concerns raised during the 2010 work session had not been addressed or mitigated. The fifth issue was that the proposed subdivision did not meet the purpose of the HRL zone, particularly with consideration to Section A of the purpose statement, which says to reduce density that is accessible only by substandard streets so the streets are not impacted beyond their reasonable carrying capacity. The last issue was that this

application was not a true reduction in density based on the minimum lot size of the HRL zone, and that the lots do not currently meet the HRL standards for lot size.

The applicant proposes to move forward with the six lot application as originally presented. Planner Evans noted that a previous application for three lots was approved in 2007. That application was never recorded and it is now void. Planner Evans had confirmed the future proposal for Ridge Avenue with the City Engineer. Mr. Cassel stated that money was available to widen Ridge Avenue, but not to the width of a typical City street. The anticipated widening is only to mitigate existing public safety concerns. As noted in the Staff report, with the exception of one or two homes, Ridge Avenue is not used for direct access. It is viewed and used as secondary access to King Road and Sampson Avenue.

Planner Evans remarked that over the course of reviewing this application, a main concern for the Planning Commission is that each home is required to provide off-street parking. It is a difficult site and the land slopes away from the street and down to a flat spot, which is the old Anchor Avenue right-of-way. Gaining access to each lot would be a difficult challenge for the applicant.

The Staff recommended that the Planning Commission forward a negative recommendation to the City Council for this application, based on the issues raised during the last review of this proposal and the fact that the applicant had not proposed any type of mitigation to address those concerns. Findings of fact and conclusions of law to support denial were included in the Staff report.

Jason Gyllenskog and Ron Spratling represented the applicant, Market Consortium, LLC for the purpose of this plat amendment application.

Mr. Gyllenskog provided a brief history of the parcel and the process. He noted that the parcel has had several different approvals from previous Planning Commission, including a four lot approval, a six lot approval and a three lot approval. He was involved with the most recent approval for three lots. The applicant decided not to move forward with the three-lot approval because of the reaction to the King Ridge project directly to the north of this project. It became apparent from Planning Commission meetings and public input that the community did not want larger homes. Therefore, Market Consortium decided to rethink their project. They thought smaller houses made more sense for the community and for the changing economic market. In the meantime, the City passed a TDR proposal and the Ridge Avenue site was one of the trade-out zones. The applicant waited for the outcome of the TDR process because they would consider potentially transferring the development rights if it was economically viable. Mr. Gyllenskog stated that when the trade-in zone was reduced to the Prospector Area only, they could not find a market for that product and trading out was not a viable option. It was an all or nothing trade-out zone. They could not reduce density and it all had to be dedicated as open space.

Mr. Gyllenskog pointed out that currently the parcel is 9 full lots and a number of partial lots. The application is for a plat amendment to create six lots. Houses have not been designed because the restrictions are still unknown. Mr. Gyllenskog believed the applicant had addressed all the issues outlined, and it should be in the file on the initial submittals.

Mr. Gyllenskog stated that he had presented one site section with a house in the middle of the project and Commissioner Strachan had requested to see multiple sections. In response to his request, the same engineer cut in a different site section through the middle of each of the six proposed lots. Mr. Gyllenskog believed the site sections showed that it was relatively uniform throughout project. He clarified that the flat spot Planner Evans mentioned was never Anchor Avenue. It is a spot where historic homes were built. The area is not challenging to build by today's standards.

Mr. Gyllenskog noted that he has held three site visits with the Planning Commission on the lot. In the original proposal they explored the option of putting an access behind the houses, but that was not acceptable. The Planning Commission wanted a streetscape and access off the front. Mr. Gyllenskog noted that the applicant had proposed dedicating land to the City to widen the road beyond the City's plan. The feedback was that substandard streets are the fabric of Old Town and they wanted that maintained. Mr. Gyllenskog believed the applicant has worked hard to reach a point of mitigating some of the issues.

Regarding density, Mr. Gyllenskog stated that there was massive resistance to the large houses. Based on the last approval, and under the old Land Management Code, there would be three large houses ranging in size from 5,000 to 6,500 square feet and four stories. Mr. Gyllenskog remarked that reducing the mass and scale on those parcels was in line with what the community and the previous Planning Commission had wanted.

Mr. Gyllenskog stated that this application has been ongoing for two years and they were anxious to move it forward. He pointed out that when someone purchases property, part of the decision to purchase is based on what is defined in the LMC and the belief that the regulations are not arbitrarily applied and enforced. Mr. Gyllenskog believed this proposal meets all the criteria. If the Planning Commission thinks otherwise, he would like them to explain where it does not meet the criteria and what could be done to meet it.

Mr. Gyllenskog reviewed a power point presentation that addressed the main purposes in the Land Management Code. He presented an aerial view of the site in 2005, as well as a cross canyon view of the site from Prospect Avenue. Mr. Gyllenskog reviewed the purpose statements of the HRL and explained why this proposal meets the requirements of the zone. His presentation also included a traffic study, visual nature of the area, vantage point views, community benefits and a conclusion to support the project. Mr. Gyllenskog noted that the density is established. These were platted lots and they were combining lots, not creating new lots. The lots have to be combined the zoning change in the area increased the minimum lot requirement. He asked the Planning Commission to define why this application was not a decrease in density. He noted that all the lots would be single-family residential use. He stated that historically there were several residences on these parcels, and the six lot proposal is consistent with preserving and restoring the historic character of the area. Mr. Gyllenskog stated that the six lot proposal would create an average size lot of 4193 square feet, which is compatible with the area per the Ridge Avenue study that was done by the Planning Department. With changes to the LMC in regards to three total levels and limiting the grade changes, the size of the houses would be moderate for that area. He believed this proposal meets the criteria for new development on steep slopes, including a comprehensive utility plan, a drainage plan, access and a design that minimizes the grading of the natural topography and reduces the need for large retaining walls, as well as decreasing overall building scale.

Mr. Gyllenskog remarked that the community benefits from this project would include a safer road, improved fire protection, additional parking, underground utilities, and stabilization of the hillside. He noted that the houses would require a Steep Slope CUP and the design issues could be addressed through that process.

Chair Worel opened the public hearing.

Chelsea Deckert Jones, a long time resident of Park City and Daly Avenue, stated that her father, Steve Deckert, built their family home on Daly Avenue in 1981. Her family has lived at that address for 31 years. Her mother still lives there and her father passed away last year. Ms. Jones recalled that her father came before the Planning Commission several years ago to fight a proposed project on Ridge Avenue, based on concerns for the impact it would have on his house and the neighbors, as well as the quality of life in Daly Canyon.

Ms. Jones noted that her mother had sent a letter to the Planning Commission and she read points in the letter because she shared her mother's concerns.

Ms. Jones stated that a major point was the idea of six lots instead of three. She believed a six lot subdivision violates the intention of the HRL zone to maintain the character, density and integrity of the Historic District. The parcel is open space and any development is increasing density. Regardless of whether it is a three or six lot application, they would like to see zero lots approved. Ms. Jones commented on the substandard capacity of Ridge Avenue to accommodate the impact of increased traffic, particularly construction traffic. She noted that the house at 124 Daly took three years to build and their neighborhood was impacted for three years by the construction. She was certain that building six houses would take much longer than three years. With construction comes noise pollution and the disruption of wildlife habitat. Loss of vegetation was a factor and she requested that saving the cottonwood trees be part of the proposal if this was approved. Ms. Jones read a quote from her mother's letter, "The presence of nature is one of the very appealing aspects of Empire Canyon and provides the public with quiet spaces that exist around Park City and are necessary to balance the impact of the commercial district of Main Street." Ms. Jones stated that this was the reason the City preserved the open space on the east side of Daly Avenue on Prospect Ridge. The unimpacted spaces and hills that exist on the slopes above existing structures in town, preserve the mountain feel and soul of Park City. Ms. Jones expressed concerns regarding the logistics of snow removal, sewer line connections, and the protection of the properties on the downhill side in the excavation process. Loss of sunlight was another issue and the proposed homes would impact their view and privacy and the ability to enjoy the property around their house.

Ms. Jones requested that the Planning Commission act in accordance to protect and further the quality of life at this end of Old Town, and to uphold the integrity and intention of the HRL zone.

Mary Demkowitz noted that Mr. Gyllenskog built next to her on Deer Valley Drive. She recalled that it was supposed to be two duplex units that are now 5,000 square foot condominiums with inadequate parking. The argument at the time was that it was only two units as opposed to a lot of houses. Ms. Demkowitz asked Mr. Gyllenskog why the project changed.

Chair Worel asked Ms. Demkowitz to keep her comments focused on the Ridge Avenue project.

Ms. Demkowitz had no further comments, other than to say that the project on Deer Valley Drive changed and impacts occurred.

Hillary Reiter, a resident on Daly Avenue for nine years, stated that her biggest concern with the project was the narrowness of Ridge Avenue. Residents on Daly who walk dogs, hike or bike, use Ridge Avenue to get to a lot of trails in the area. When she walks her dogs and a car comes by, she has to dive off the side of the road to avoid being hit by a car. She was concerned about increased traffic and the number of trips that would be generated by six additional homes. Construction traffic combined with the regular traffic would significantly impacts the lifestyle of those who live on Daly Avenue.

Chair Worel closed the public hearing.

Commissioner Hontz felt the Staff report did an excellent job of setting up the project and the reasons for denial. The Findings of Fact and Conclusions of Law reflected why this project did not meet the Code and could not be approved. Commissioner Hontz disagreed with all the community benefits listed. She referred to page 222 of the Staff report. She did not find that the sections provided at the request of the Planning Commission were representative of what they had asked. In her opinion, none of the structures could be built under the existing Code. They do not show access off of Ridge Avenue and they do not show any representation of a structure. Finished grade was shown to be 20 feet below the garage slab that is off the back of the house where it cannot be accessed in all three drawings. Commissioner Hontz stated that one of the items referenced as being requested by the Planning Commission and identified as being completed, did not represent anything that could be built on the site today.

Commissioner Hontz stated that because the Staff report was thorough and all of the minutes and research from previous meetings was evident, she would review the findings of fact and make revisions.

Finding of Fact #1 stated that Ridge Avenue currently has very few homes that use the road for primary access. As a point of clarification, Commissioner Hontz felt it was arguable that while there are two homes, one only one home, which is unoccupied, accesses that road. Therefore, in her opinion, no homes currently use Ridge Avenue as the primary access. That is the reason why there is no traffic and why the road in its current condition is not unsafe.

Commissioner Hontz added additional findings after Finding 10, and renumbered the findings in the Staff report accordingly.

New Finding of Fact 11 - Ridge Avenue is a road built outside its platted location.

New Finding of Fact 12 - Ridge Avenue is currently used by the public as a prescriptive easement.

New Finding of Fact 13 – Ridge Avenue has been identified in the Streets Master Plan to remain narrow.

New Finding of Fact 14 – Ridge Avenue should remain narrow to protect the pattern of development in Old Town while also protecting public health, safety and welfare by keeping traffic limited and speed low.

Add Finding #19 to cite LMC Section 15-7.3-1(D), related to the character of the land. Under the Planning Commission purview to find land unsuitable for subdivision or development, the LMC Section specifically identifies the reasons and she wanted the entire section cited as a finding.

Commissioner Hontz stated that she was not on the previous Planning Commissions where configurations were approved. However, Conclusion of Law #2 indicates that there might not be sewer available to the site. She believed that would have been an issue in the previous approvals and it was not thoroughly vetted. Regardless of what previously occurred, those things were null and void and no longer exist. Commissioner Hontz felt it was important to recognize that the Planning Commission has the opportunity say that public health, safety and welfare are dramatically affected by this proposal and that the applicant may not have the ability to get sewer to the site. She was pleased that the Planning Commission had the opportunity to address those issues before anything moved forward.

Commissioner Hontz was unsure when the HRL Code was in place, but she was certain it was before 2005, which public record indicates was when Market Consortium, LLC, actually acquired these properties.

Commissioner Thomas concurred with the comments made by Commissioner Hontz.

Commissioner Strachan reiterated and incorporated the comments he made in the past Planning Commission meetings, which were expressed in the minutes of those meeting and in the Staff report. Commissioner Strachan also incorporated Commissioner Pettit's comments from the last meeting, and the Findings of Fact in the draft denial letter.

Commissioner Gross concurred with his fellow Commissioners.

Commissioner Hontz asked for comments regarding the finding of facts she had proposed. Commissioner Strachan had concerns with the finding of fact regarding the prescriptive easement. He was unsure if the Planning Commission had that ability. Commissioner Hontz stated that she took the language from the Staff report; however, she was comfortable striking the proposed finding as long as they kept the finding that states that Ridge Avenue is a road built outside of its platted location.

City Engineer Matt Cassel commented on the finding of fact that the road remain narrow. He stated that in the 1984 report it was recommended to widen the road 2-1/2 feet. In 2004, Ridge Avenue was allocated funds to expand and widen the road. Mr. Cassel clarified that the road was never meant to remain narrow and there are plans to widen it to 20 feet.

Commissioner Hontz referred to the Park City Master Plan and language that talks about specifically keeping Ridge Avenue and other Old Town streets narrow to protect the pattern of development in Old Town. She was willing to strike the reference of 15' or less if the City Engineer preferred. She pointed out that the City would have to purchase property from private owners in order to widen the road to 20 feet. She was not comfortable putting the City in the position of having to take land from other people to accommodate this development.

Commissioner Hontz revised her proposed findings by removing the finding referencing the prescriptive easement and omitting the reference to the 15' feet width.

Commissioner Strachan corrected a typo in the last sentence of Conclusion of Law #1. He corrected the sentence to read, "There are significant issues related to traffic and environmental concerns."

MOTION: Commissioner Hontz moved to forward a NEGATIVE recommendation to the City Council for the 200 Ridge Avenue Subdivision to the City Council based on the Findings of Fact and Conclusions of Law as modified. Commissioner Thomas seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 200 Ridge Avenue

1. The property is located at approximately 200 Ridge Avenue in the Historic Residential-Low (HRL) Zone District.
2. The proposal includes a plat combination of all or portions of Lots 75-89 and 27-32, Block 75 of the Millsite Reservation to Park City, and the vacated half of Anchor Avenue adjacent to the proposed development into six (6) platted lots of record.
3. The site was previously approved for a three (3) lot plat amendment subdivision under a different applicant and owner. The previous three (3) lot subdivision was never recorded and is void.
4. The slope of each of the proposed lots is very steep and it is questionable whether or not a home could be built on each of the six (6) proposed lots.
5. Future development of the property may require future variances to the Land Management Code due to the difficulty of development on the proposed lots.
6. Ridge Avenue currently has very few homes that use the road for primary access and is a substandard street that is extremely narrow and acts as a secondary access to King Road.
7. Ridge Avenue is a narrow street that is often covered by debris and mud during certain times of the year, namely winter and spring.

8. Snow removal on Ridge Avenue may be difficult or delayed during winter months.
9. The current Streets Master Plan indicates that Ridge Avenue, in the section where the proposed subdivision is located, should remain narrow, and that the Streets Master Plan designates Ridge Avenue as alternate route for streets such as Sampson Avenue, Upper Norfolk Avenue, King Road and Daly Avenue, in an event of an emergency and that the street was not meant to carry a significant amount of traffic.
10. Ridge Avenue is adjacent to a very steep cliff or ridge and more traffic on the road could likely lead to un-mitigate Public Safety and Welfare impacts.
11. Ridge Avenue is a road built outside its platted location.
12. Ridge Avenue has been identified in the Street Master Plan to remain narrow.
13. Ridge Avenue should remain narrow to protect the pattern of development in Old Town while also protecting public health, safety and welfare by keeping traffic limited and speed low.
14. The current site has a significant amount of vegetation and trees, many of which are also providing stabilization of soil. The proposed density of six (6) lots would likely involve the removal of most of the existing trees and a significant amount of the existing vegetation, which could have negative impacts to those who live below the proposed projects on Daly Avenue.
15. Potential environmental impacts have not been mitigated or contemplated. It is unclear how much soil would be excavated from the site of the hill to the detriment of those living below the site, and there is no estimate as to how much vegetation would be disturbed.
16. The proposed project does not meet the purpose of the HRL zone, especially the first purpose as listed in LMC Section 15-2.1-1(A), which states: "Reduce density that is accessible only by substandard Streets so that Streets are not impacted beyond their reasonable carrying capacity..."
17. The applicant did not provide a Traffic Study for the proposed subdivision, but rather is asking to rely on an existing Traffic Study from the "Upper Ridge Subdivision" proposal.
18. Sewer service to this location may be difficult due to the fact that there are no existing sewer lines on Ridge Avenue, and that the Snyderville Basin Water Reclamation District has indicated that they will not approve a private sewer line to extend from an easement to Daly Avenue, and the fact that individual pumps will not be approved by the City Engineer.
19. Land Management Code Section 15-7.3-1(D) shall apply, and states: "Land which the Planning Commission finds to be unsuitable for Subdivision or Development due to flooding, improper drainage, Steep Slopes, rock formations, Physical Mine Hazards, potentially toxic wastes, adverse earth formations or topography, wetlands, geologic

hazards, utility easements, or other features, including ridge lines, which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the Subdivision and/or its surrounding Areas, shall not be subdivided or developed unless adequate methods are formulated by the Developer and approved by the Planning Commission, upon recommendation of a qualified engineer, to solve the problems created by the unsuitable land conditions. The burden of the proof shall lie with the Developer. Such land shall be set aside or reserved for Uses as shall not involve such a danger.”

Conclusions of Law – 200 Ridge Avenue

1. There is no good cause for this plat amendment given that the six (6) combined proposed lots could not be supported by the existing road. Access from Ridge Avenue would be extremely difficult due to the steepness of the slope off of Ridge Avenue to the proposed lots. There are significant issues related to traffic and environmental concerns.
2. It is unknown at this time whether sewer service can be provided to the proposed lots due to the lack of sewer infrastructure on Ridge Avenue, and due to the fact that the Snyderville Basin Water Reclamation District will not allow a private sewer lateral to service the proposed six (6) lots to be placed on a private sewer line that connects to the sewer main on Daly Avenue.
3. The plat amendment is not consistent with the Park City Land Management Code and applicable State law regarding lot combinations.
6. **Land Management Code Amendments – Chapter 1–General Provision and Procedures; Chapter 2–Zoning; Chapter 3–Off-Street Parking; Chapter 4-, Supplemental Regulations; Chapter 5–Architecture Review; Chapter 6– Master Planned Development; Chapter 7–Subdivisions; Chapter 8–Annexation; Chapter 10- Board of Adjustment; Chapter 11-Historic Preservation; Chapter 12-Planning Commission; Chapter 15-Definitions (Application #PL-12-01631)**

Planner Whetstone reported that the Staff was working on an annual update to the Land Management Code. The proposed amendments were before the Planning Commission for review. Based on input this evening, the Staff would finalize the amendments and prepare a recommendation for consideration on September 26th. Additional amendments were being prepared for review in October.

Planner Whetstone noted that page 222 of the Staff report identified changes in the different chapters.

Clarification of Exception to Roof Pitch Requirements in the Historic District.

Planner Whetstone noted that the proposed change was a clarification of roof pitches to address instances in roof styles where the main roof would not be a 7/12 or 12/12 pitch. The Staff proposed to leave the language that the roof pitch be between and 7/12 to 12/12, but then allow an exception to the roof pitch that allows roof pitches consistent with certain historic styles where the main roof pitch is less than 7/12, such as hips, pyramids and other architectural styles. The exception would be approved at the time of the design review.

Commissioner Thomas understood that if someone proposes a hip roof with a different configuration, the Staff would accept a 5/12 pitch because it is consistent with the design vernacular of a hip roof. He asked if the exception would pertain to all of the roof or a portion of the roof. Commissioner Thomas clarified that if they move forward with the modification to the number of stories, as discussed during the work session, or the height of 37-1/2 feet to the ridgeline, it would not impact this proposed amendment. He pointed out that this was an example of an unintended consequence of not restricting the number of stories, because someone could crowd another story.

Assistant City Attorney McLean stated that currently the Code does not count attics as long as they are not habitable. Commissioner Thomas remarked that if the roof slope was changed, it could be habitable.

Commissioner Strachan stated that prior to amending the LMC in 2009, there was not a steepness provision in the LMC. They saw the same problems they were describing this evening and that was the reason for adding the 7/12 pitch.

Commissioner Hontz clarified that the proposed change was only to allow an exception to the roof pitch. Planner Whetstone replied that this was correct. Commissioner Thomas was comfortable with the 5/12 pitch as long as it would not become the predominant form.

Commissioner Thomas thought a 5/12 pitch was a reasonable exception on a historic building, but he would not favor it for new construction. Director Eddington agreed that a 5/12 pitch should be a challenging exception because it allows more use of space. He believed most of the 5/12 pitch construction had to be new construction because people have utilized that space. He remarked that in some cases the higher pitched roofs have worked as a benefit, but in other situations it was an awkward result.

Commissioner Strachan stated that regardless of what they did, they would avoid the awkward results because every home is different and every compatibility analysis is on a case by case basis. He recalled clearly that in 2009 the 7/12 pitch was recommended to the Planning Commission because it was the predominant roof pitch of historic structures throughout the HR zones. Director Eddington remarked that it was still the predominant pitch, with the exception of hip roofs.

Planner Whetstone stated that the exception could only apply for additions to historic structures. Commissioner Thomas remarked that if the height is limited to a maximum of 37-1/2 feet and the number of stories is limited to three, he would not care about the roof pitch. Director Eddington reiterated that obtaining the 5/12 exception should be difficult because the result is the appearance of greater mass.

Commissioner Hontz was completely opposed to having a 5/12 exception and she preferred to strike the entire last paragraph of the proposed language. Commissioner Thomas suggested allowing a 5/12 on a historic structure. Commissioner Gross thought it should be for structures on the Historic Sites Inventory, as opposed to "historic style". Commissioner Thomas concurred.

Planner Whetstone read the exact language from Exhibit B in the Staff report.

The Commissioners discussed whether the exception should apply to additions to historic structures. Director Eddington clarified that additions are considered new construction in the design guidelines.

The Planning Commission revised the language and agreed on the following:

Exceptions to the minimum roof pitch requirements may be granted by the Planning Director during the Historic District Design Review approval process based on compliance with review criteria as stated in the park City Design Guidelines for Historic Districts and Historic Sites. Such exceptions to roof pitch may be granted to allow original roof forms for historic structures, and for new construction when the proposed roof pitch is consistent with the historic structure. Roof pitch for new construction shall be visually compatible with the roof shapes and orientation of surrounding historic sites.

Director Eddington noted that currently the LMC allows an exception for flat roofs if they are green roofs; "green" meaning that they are vegetated flat roofs. He asked if the Planning Commission wanted to consider flat roofs if the house starts to achieve net zero energy use, and encourage that kind of sustainability within the historic district. Commissioner Thomas pointed out that flat roofs are allowed in many areas of the community, and in that condition the height is reduced. Director Eddington agreed that having a flat roof is not all bad, because it accentuates the historic fabric. Commissioner Thomas suggested that they look at other Districts and the reduction for anything under a certain roof slope.

Using Echo Spur as an example, Director Eddington asked if flat roofs would be acceptable on that development if there were energy efficient designs. Commissioner Thomas replied that flat roofs would be acceptable if it reduces the height and the visual impact.

Commissioner Strachan suggested that they hold the flat roof discussion to a later time. He asked if the Commissioners were comfortable with the revised language regarding roof pitch. Director Eddington noted that it was a starting point for the Staff and the Planning Commission would have the opportunity to review and/ or revise the language again at the next meeting.

Require building permits for driveways, parking, patios, and other non-bearing construction.

Planner Whetstone remarked that because these items do not always require approval there is no site plan review. Without a building permit the Staff does not have the opportunity to look at materials and design or address setback issues. This was a request to add the requirement for a building permit to Chapters 4 and 5.

Commissioner Hontz thought the building permit requirement might help with the issue of people removing landscaping to put in parking pads. She has seen a number of cases where people use their garage for living space and remove vegetation on the property to put in a parking pad. That is currently prohibited by the LMC, but unless a neighbor files a complaint, it is not enforced. Director Eddington clarified that the LMC was not strong on that issue. Currently, the only mechanism is HDDR in the Historic District. There is no other permit, which is why the Staff recommends a building permit requirement.

Commissioner Strachan remarked that increasing the square footage of living space inside the structure should trigger the building permit requirement. He did not think people should need a building permit to build a patio or deck on their property. The City should encourage improvements to homes. Director Eddington stated that decks and patios already come in for building permits if they are greater than 30 inches off the ground. The bigger issue is parking areas and driveways that gradually get expanded to where the entire front yard is paved. Those situations create run-off and aesthetic issues. Commissioner Strachan pointed out that the proposed language did not address those situations. Director Eddington stated that the Staff would rework the language to make sure it includes flatwork and addresses those issues.

After further discussion, Assistant City Attorney McLean stated that she had received feedback from the Building Department and the City Engineer suggesting this amendment. She recalled an application where someone paved over the right-of-way and it turned into an enforcement issue. The Building Department felt it could have been caught earlier and easier if a permit had been required.

Commissioner Thomas cautioned them to be careful about specifying impervious surfaces because a number of surfaces that would not apply could be considered impervious. Director Eddington remarked that the problems are primarily in the Historic District. Director Eddington remarked that they could look at the issue more holistically and start to talk about an impervious percent of lot coverage. Commissioner Thomas favored that approach.

Commissioner Hontz thought the requirement could be as simple as a checklist. Someone would pay \$15.00 and check off the list of criteria.

Commissioner Strachan thought it was appropriate to place the requirement in the HR zones to see how it plays out. It was obviously a bigger problem there than in the other zones and it was a good place to start. Commissioner Thomas suggested that they could add specific conditions and limit it to the front property. Director Eddington stated that it could be limited to parking, driveways, entry walkways, etc. Patios and decks would be taken out of the requirement.

The Planning Commission agreed to start with a requirement in the historic zones and to refine the language regarding impervious surfaces.

Master Planned Developments in the Historic District

Commissioner Hontz did not think the language as written was clear and reflected the intent. There needed to be some clarification of where the actual MPD is allowed.

Director Eddington explained that the intent, which is currently stated, is that the MPD is allowed everywhere except HR-1, HR-2, HRC, HCB and HRL. A large scale master plan project over 10,000 square feet or ten residential units is required to do an MPD. An MPD is allowed, but not required, in the HR-1 and HR-2 zones, but only when the property in question is combined with an HRC or HCB zone. He clarified that in all cases, the mitigating MPD criteria must be met. Commissioner Hontz clarified that an MPD was only required for the four items listed in the Staff report. Director Eddington answered yes, and noted that the Code has always read that way. Director Eddington noted that the next section of the redlined language states that an MPD is only allowed if you cross over a historic residential and commercial zone.

Commissioner Hontz reiterated that the language should be revised for clarity in Section (A). Director Eddington understood her concern and offered to wordsmith the language. He understood that the Planning Commission was comfortable with the intent of the language to require MPDs in all zones except the historic zones.

Commissioner Hontz asked about the Heber Avenue subzone. Director Eddington replied that the Heber Avenue subzone is the 150 feet that is north of Heber Avenue. The Subzone goes from Park Avenue to the west and over to Deer Valley on the east. It includes Poison Creek, Mercantile, Sky Lodge and Kimball Arts Center. He noted that the Sky Lodge came in under an MPD.

Commissioner Strachan asked for the history behind why they have MPDs only when projects span zones. Based on past minutes, Director Eddington assumed it was because there were no big projects in the historic residential zones and MPDs were not applicable. Commissioner Strachan thought it would be beneficial for the Planning Commission to see those minutes to understand the history and the reasoning. Others before them thought this out and they should not reinvent the wheel. Director Eddington remarked that MPDs started out in all zones and over the years some zones were added and others were taken out. Commissioner Strachan believed a Staff analysis of the history would be worth looking at.

Director Eddington reported that the City Council addressed the issue of the Kimball Arts Center during a work session. There was a discussion with regard to the fact that the current proposal as it exists could not come before the Planning Commission or the City Council in the form of an application. If it was submitted to the Planning Department as proposed, it would not meet the zone. If an MPD was allowed, the Staff could at least consider it and work with the Kimball Arts Center on a collaborative win/win situation. Commissioner Strachan stated that if the proposal could not come before the Planning Commission as proposed, they have time to get this right before an application is submitted.

Commissioner Hontz wanted to know how the City Council had responded. Director Eddington stated that the City Council was generally in favor of looking at an opportunity to work with the Kimball Arts Center and expand the MPD. He clarified that the direction did not mean the City Council liked that particular concept or design, but they thought there should be a collaborative opportunity to work with them. The Council suggested that the 32 foot height limit was overly restrictive for what Kimball could do.

Commissioner Hontz stated that after a thorough analysis, if the Planning Commission did not agree with the language stated in Section 3 and forwards that recommendation to the City Council, the Council could make the decision to put the MPD language back in. Director Eddington agreed that the Planning Commission makes the recommendation and the City Council has the final vote.

Commissioner Strachan stated that the Planning Commission has talked about amending the MPD provision in the LMC for years, and now may be the right time to do it. The Kimball Arts Center may be taken out of their hands by the City Council, but at least they would have good LMC language for MPDs for all other applications.

Commissioner Hontz stated that once they open the discussion everything else follows, for example, open space. In looking at an MPD in the historic core or in Bonanza Park, there is a lot of value for not having a significant amount of grass or landscaping where you should be having commercial, residential or mixed uses. However, the question is the trade-off. Commissioner Hontz thought there may be some opportunities for reduced open space with the proper solutions, such as TDRs. A public roof top garden is not the value she would want to see as an open space trade-off.

Director Eddington stated that Gateway Planning is invited to the October 24th meeting. The Staff will try to make it a joint meeting with the City Council so Gateway can do one presentation on the Form Base Code. He thought they would see the challenges related to open space when the Form Base Code is presented.

Special Exception – Board of Adjustment

Planner Whetstone noted that the revised language was straightforward and removed the special exceptions reviewed by the Board of Adjustment from the Code.

Given the late hour, Chair Worel suggested that the Planning Commission open the public hearing and continue the discussion at the next meeting.

Chair Worel opened the public hearing.

Hope Melville, an Old Town resident, commented on the change to the MPD. The City Council wanted to consider whether an MPD would work for the Kimball Arts Center specifically for the idea of more public input. As pointed out, the Planning Department could not accept an application on the current proposal. Ms. Melville was concerned about changing the rules for one specific project and the precedent it creates. In terms of open space, she questioned the justification for the idea to decrease open space for all MPDs from 30% to 20%. She also questioned the justification for defining rooftop gardens as open space.

Jeff Love wanted to comment on the amendment regarding the appeals process.

Planner Whetstone reported that at the last meeting Assistant Attorney McLean gave a summary of some of the issues and problems with the appeals process. Based on that information, the Staff recommended an amendment for compliance with the State Code. The amendment changes the

process to eliminate the double appeal process. Planner Whetstone stated that an action by the Planning Staff would be appealed to the appropriate Board. If that decision was appealed, it would go to the Court system instead of the Board of Adjustment.

Assistant City Attorney McLean stated that the streamlined review stemmed out of a law suit. The court found that as the appeal process was applied in that case, the City has excessive appeals in terms of an appeal from Staff review to HPB to the Board of Adjustment. The Court did not address another section of the State Code, which allows for a streamline review. If the streamline review is contested, it goes to a Board or a land use authority, and from there it requires an appeal. The recommended Code changes are meant to comport with the section of the State Code to allow for that streamlined review, which is basically what the City does already. The amendment better clarifies the process and makes it closer to State Code. Ms. McLean stated that the amendment is most applicable to Historic District Design Review and Administrative CUPs.

Jeff Love, 615 Woodside Avenue, disagreed with Ms. McLean's explanation. It was his application that was denied by Staff and appealed to the HPB. He successfully won at the HPB, after which several neighbors appealed it to the Board of Adjustment. When he went to court he had three strong arguments. One of the arguments was that the City appeals process violates State law. State law says that a municipality cannot require an adversely affected party to go through multiple appeals before they get relief in District Court. Mr. Love stated that Judge Kelly, over the course of one year, determined that the City's ordinance violates State law and it is currently illegal. Mr. Love remarked that the other two arguments in court were never ruled upon because Judge Kelly determined that the Board of Adjustment was illegal. Mr. Love stated that the Park City Legal Department is proposing to change the name of the Historic Preservation Board's appeal from an "appeal" to "formal consideration". He reiterated that Judge Kelly determined that the process is illegal, not the name of the process. In his opinion, playing a semantics game and creating a loophole for yourself to make an illegal process legal is wrong, and it will not hold up in District court if it gets challenged. The way to make the process legal is to eliminate one of the two appeals. In his opinion, the one to remove is the Board of Adjustment. It makes more sense for the Historic Preservation Board to be the appeal authority for HDDRs. If someone appeals to that Board and they do not like the decision, it goes to District Court. Changing the name is making a mockery of Third District Court and Judge Kelly. Mr. Love encouraged the City to make it right and do it legal.

Chair Worel closed the public hearing.

MOTION: Commissioner Thomas moved to CONTINUE the Land Management Code Amendments to September 26, 2012. Commissioner Hontz seconded the motion.

VOTE: The motion passed unanimously.

The Planning Commission met in work session prior to the regular meeting for an LMC discussion regarding story and height. That discussion can be found in the Work Session Minutes dated September 12, 2012.

Planning Commission Meeting
September 12, 2012
Page 38

The Park City Planning Commission meeting adjourned at 10:15 p.m.

Approved by Planning Commission: _____