

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
JULY 22, 2015

COMMISSIONERS IN ATTENDANCE:

Vice-Chair Steve Joyce, Melissa Band, Preston Campbell, John Phillips, Nann Worel

EX OFFICIO:

Bruce Erickson, Interim Planning Director; Kirsten Whetstone, Planner; Francisco Astorga, Planner; Christy Alexander, Planner; Polly Samuels McLean, Assistant City Attorney; Chad Root, Chief Building Official; Matt Cassel, City Engineer

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REGULAR MEETING

ROLL CALL

Vice-Chair Joyce called the meeting to order at 5:40 p.m. and noted that all Commissioners were present except Commissioners Strachan and Thimm who were excused.

ADOPTION OF MINUTES

July 8, 2015

Commissioner Worel stated that she was present for the meeting on July 8, 2015; however, her name was not listed under the Commissioners in Attendance. She corrected the minutes to add her name to the list.

MOTION: Commissioner Phillips moved to APPROVE the minutes of July 8, 2015 as amended. Commissioner Worel seconded the motion.

VOTE: The motion passed. Commissioner Campbell abstained since she was absent on July 8th.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Bruce Erickson introduced himself to the Commissioners. Mr. Erickson is a professional planner and he was asked to be the Interim Planning Director until the City selects a new Community Development Director. Mr. Erickson stated that he and the Staff were working on larger items that would come before the Planning Commission in the future.

Commissioner Phillips disclosed that he would be recusing himself from the Alice Claim applications due to a prior work related relationship with the applicant.

WORK SESSION

Construction Mitigation Plans – The Building Department recommends that the Planning Commission discuss the current process for addressing construction mitigation.

Chad Root, the Chief Building Official, provided an educational update on Construction Mitigation Plans, how they affect the City, and the role of the Planning Commission regarding the CMP.

Mr. Root stated that there are two types of Construction Mitigation plans. One is a residential construction mitigation plan, which is a basic plan that has a handout and packet. The primary revision was to add language, “subject to change at any time.” Mr. Root stated that the added language allows the City to be more restrictive in terms of hours of operation, types of tools, parking, etc., if they receive complaints from the neighbors.

Mr. Root noted that toilet screening was another change to the CMP. There were a lot of complaints from the neighbors regarding the habits of the construction workers. Therefore, regulations were set in place to screen the toilets or to place them on the back end of the job site to keep them from being as visible to the neighbors. He pointed out that in Old Town it is more difficult to place the toilets at the back of the site because of the limited building space. In those cases they would be placed towards the front and screened as best as possible.

Mr. Root stated that another change was the perimeter scrim. In most of the commercial areas they started requiring printed scrim, which usually has a Park City historic theme, instead of the basic green screen.

Mr. Root reported that they have started working on parking plans to address the issue of contractors using China Bridge and other parts of Old Town to park. There is a definite plan prohibiting contractors from parking on public streets or public parking lots. They need to contract with Deer Valley or possibly use Richardson Flats for parking.

Mr. Root remarked that requirements for the hours of operation on holidays or special event days are very stringent. The contractors might only be able to work until noon on those days.

Mr. Root commented on Construction Mitigation Plans for commercial projects. Instead of the standard handout the plan is drafted specifically to the site. Code Enforcement visits the site and considers the circumstances such as number of contractors on-site at one time, parking, whether shuttle vans are provided from off-site parking areas, and the use of cranes. He explained that in the case of one project a crane was parked on the street for a long period of time. The new requirement states that construction in historic Old Town must have on-site cranes if cranes are used.

Mr. Root summarized the list of basic issues that are addressed in a CMP, which include hours of operation, festivals, parking, deliveries, stockpile staging. He noted that currently staging is not allowed in the public right-of-ways unless the space is tight, and then it is allowed only for a certain amount of time. Other issues are construction phasing for larger projects, trash and recycling, control of dust and mud, a noise limit of 65 decibels, grading and excavating hours of operation, temporary lighting, construction signs, and erosion control. For larger projects these issues are addressed above and beyond the basic requirements.

Mr. Root stated that the Building Department is responsible for approving the Construction Mitigation Plan. If the Planning Commission reviews a project and wants to place additional criteria for the CMP, they could do it; however, it needs to be considered by the Building Department to make sure it can be enforced, and that the additional requirement is fair and consistent City-wide.

Commissioner Worel read from the basic criteria in the Staff report, Item 12, "Information shall be provided to neighboring property owners to help them be aware of the project and to keep the lines of communication open." She asked if the developer has the responsibility to communicate with the neighbors.

Mr. Root stated that the developer or the contractor usually has the open line of communication in terms of what is occurring and the contact information. He preferred to have the owners contact the contractor because they are usually quick to respond. It is a better process than contacting the City and waiting for the City to contact the contractor.

Mr. Erickson stated that going forward the Planning Commission should expect to hear from the neighbors about construction impacts. He explained that the Construction Mitigation Plan is part of the Conditional Use Permit standard approval. The Commissioners could speed up the approval process by referencing the CMP, and knowing that it will be there with every application. Rather than having to reconstruct the CMP with every motion, the Project Planner will include it in the Staff report. The Planning Commission could add criteria if needed and the Building Department will make sure it is carried out.

Vice-Chair Joyce thought the issue that was creating the most angst is when equipment or vehicles block a sidewalk or street. He believed there were several examples in recent projects on Main Street. Vice-Chair Joyce asked if it was possible to limit the duration of time for blocking sidewalks and roads. Mr. Root stated that if it is on public right-of-way he could work with the City Engineer and set a time frame for how long it could be blocked. He explained that they no longer allow cranes in Old Town or Historic Park City for that same reason. If cranes need to be brought in, but there is a very small window of time that it can be used.

Vice-Chair Joyce stated that he lives in April Mountain and a crane has been sitting on a property for four months. He personally was not affected, but it can be seen all over town and the residences directly behind it have a red crane as their view shed. Mr. Root replied that Utah is not a Home Rule state and they follow the State Code. Per State Code, the permit expires in 180 days if no work is down. However, if the City does one inspection and 165 days later they do another inspection it restarts the clock. Mr. Root clarified that there was no criteria for addressing that problem.

Vice-Chair Joyce asked if fines are applied to violations. Mr. Root stated that if the violation is erroneous he will issue a stop work order on the project. He has found that a stop work order is more effective than fines because it raises red flags and the owner typically gets involved.

Commissioner Phillips stated that the Planning Commission often talks about routes for construction traffic and which routes are preferred from a safety standpoint. He understood that if the Commissioners designated a preferred route, it would go to the Building Department and they would enforce it. Mr. Root answered yes. He used the Belle at the Ski Hut as an example of a designated construction route. He stated that typically they try to keep traffic on the State Highways as much as possible due to the impacts on City roads from heavy construction equipment. In addition, the State Highways are usually less residential. Commissioner Phillips asked if the Building Department considers the same for residential construction, because not all residential projects come before the Planning Commission. Mr. Root replied that for residential projects they look at the site because Historic Old Town is different than Park Meadows.

Commissioner Band asked if the Building Department modifies the standard residential agreement on a case by case basis. Mr. Root replied that they do when it becomes necessary for a specific situation.

Commissioner Worel thanked Mr. Root for his update because it was helpful for everyone to understand the rules. Mr. Root encouraged the Commissioners to call him if they had further questions.

Capital Improvement Projects – Yearly report given to the Planning Commission regarding the Capital Improvement Projects approved by City Council.

City Engineer Matt Cassel, noted that the list of CIP projects was provided to the Planning Commission at a previous meeting. He apologized for not being at that meeting. He understood that the Commissioners had some questions regarding the CIP list and he was prepared to answer them this evening.

Commissioner Worel wanted to know if the items on the list were prioritized and how the projects make it to the list. Mr. Cassel explained that the list was in numerical order, and they are prioritized from top to bottom through the evaluation process. He stated that the Budget Department determines the amount of available funding. There is a cut-off line and the items above the line are funded for this year and the ones below the line are not.

Vice-Chair Joyce asked Mr. Cassel to explain the different line items for affordable housing. Mr. Cassel stated that there was a huge request this year based on the City Council direction and goals for affordable housing. He recalled that most of the affordable housing requests were at the top of the priority list.

Commissioner Phillips referred to 1450-1460 Park Avenue and noted that a digit was missing in the development cost Item CP366. Mr. Cassel offered to look into it and insert the correct number.

Vice-Chair Joyce referred to CP318, which was the \$1.5 million for the power station. Since Form Based Code was currently off the table, he asked how that played out. Mr. Cassel stated that Nate Rockwood had kept that money aside. As they moved forward in the BOPA area there was a possibility of the City helping to support some of the construction of infrastructure, and Nate was hoping to earmark those funds for that purpose. With the new direction for BOPA, Mr. Cassel was unsure what Nate intended to do with the money. He assumed the City Council would decide how to spend the money.

CONTINUATIONS (Public Hearing and Continue to date specified.)

1. Land Management Code Amendments regarding vertical zoning storefront regulations in Chapter 15-2.5-2 Uses in Historic Recreation Commercial (HRC).

Chapter 15-3.6-2 Uses in Historic Commercial Business (HCB), and associated Definitions in Chapter 15-15 Defined Terms (Application PL-15-02810)

Planner Whetstone noted that the Staff was working on some of the language related to vertical zoning and she requested that this item be continued to August 26th.

Vice-Chair Joyce opened the public hearing.

Allison Butz with the Historic Park City Alliance Board, stated that Planner Whetstone had attended their Board meeting on Tuesday and provided a full overview of the zoning changes and amendments. Ms. Butz stated that the HPCA was pleased that both the Staff and the Planning Commission were looking at adding vibrancy and activity to Main Street, and encouraging tourism. With regards to the Staff report, the Board was comfortable with the revision of uses prohibited within the storefront properties in both the HCB and the HRC. They were also comfortable with the modifications to the definitions. She pointed out that there is a new definition for private plaza and because it is only a definition and does not have regulations within it, they were also comfortable with that definition. However, their concern is with the addition of public or private plazas within the definition of both property storefront and storefront property. They are two different definitions. Ms. Butz noted that it begins to add the Town Lift and the interior of Summit Watch into the understanding that only retail and restaurant type uses are allowed. Office and other accessory uses would then be prohibited. Ms. Butz understood that those areas are lacking activity and that it is difficult to draw people in, but they feel that the success that is seen by allowing those spaces within the interior spaces to remain office allows for use of those spaces. Ms. Butz remarked that restricting the spaces to restaurant and retail use within those plazas will not add activity. She believed additional things such as public amenities need to be included, which will take time to draw that in. She suggested that they come back in five years and look at restricting the type of uses. However, at this time the HPCA does not support the proposed restriction of uses.

Ms. Butz stated that in regards to vertical zoning the Board continues to support the location of sales tax generating businesses and storefronts along the public streets. They would like to explore with the City the opportunities to support the location of offices on second floors because they believe it could add additional vibrancy to the area, particularly during the daytime. Ms. Butz stated that the Board would also like to look at how to promote nightly rentals in the District because bed base and hot beds can draw more people to the area.

Ms. Butz remarked that the Board supports discussion regarding Special Event space on the street. She noted that a number of buildings are only occupied during the Sundance

Film Festival and they would like to see if those spaces could be activated during additional times of the year.

Mike Sweeney stated that he was speaking on behalf of the landowners on Lower Main Street, which included the Caldonian, the Sweeney Property, the owner of the Summit Watch commercial space, and the owner of the Sky Lodge. Mr. Sweeney pointed out that it included everything on Lower Main Street except for the Lift Lodge, which has two commercial spaces; a snowboard/ski shop and the Victory Ranch Clubhouse. Mr. Sweeney echoed the HPCA. He had concerns about the definition of public and about his private plaza, particularly given the easements that have been granted to the City for public use of his property, and how that may impact his ability to have a certain type of tenant. Mr. Sweeney stated that in 17 years the plaza has been available to the Town Lift and he worries about the kinds of business that could go into that particular location. He has already seen five or six businesses struggle to make it work. Mr. Sweeney stated that when they went through this process in 2006, the City Council agreed to exclude any kind of limitation on types of tenants. He did not want that to suddenly change because it was part of the conditional use permits and MPDs for all of these locations on lower Main Street. Mr. Sweeney believed the City was trying to cure the problem that occurred at 205 Main; however, the people on lower Main Street are the ones who will be affected.

Eric Nelson believed that this discussion over the LMC was absolutely triggered by what happened at 205 Main Street. Mr. Nelson commended Planner Whetstone for her work on the ordinance. However, in his view, the ordinance is not the problem. The process is the problem. When a project like 205 Main Street is not reviewed by the Planning Commission and the City Council, and there is no opportunity for public input, it is a real problem. Mr. Nelson stated that he was assured by a few Council members that the issue would be addressed; and he sincerely hoped that was true, because it is a real problem when one person on a planning staff can make that decision. Mr. Nelson was certain that 205 Main Street would have been dead on arrival if it had gone through the public review process.

Regarding the ordinance, Mr. Nelson remarked that currently there are owners on Main Street who make more money renting their property during Sundance than they do renting to a tenant all year. He believed that was a serious problem that needed to be addressed in the new ordinance. Mr. Nelson stated that it was becoming a trend and they would see more of it if they did nothing about it. Mr. Nelson commented on the Silver King, which is an iconic location, and noted that nothing has been done on the building for six months. He thought the public had a right to know what was going on and what the City was doing to move it forward.

Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Phillips moved to CONTINUE the LMC Amendments for vertical zoning and uses in the HRC and HCB to August 26, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

2. 281 & 283 Deer Valley Drive – Bee Plat Amendment to combine Lot 4 and Lot 26 and combine Lot 2 and Lot 27 to create two (2) lots of record in Block 66, of the Amended Plat of Park City Survey (Application PL-15-02808)

Vice-Chair Joyce opened the public hearing. There were no comments. Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Band moved to CONTINUE 281 and 283 Deer Valley Drive Bee Plat Amendment to a date uncertain. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

3. Land Management Code Amendment regarding Nightly Rentals use in the HR-L Chapter 2.1 and green roof definition and application in HR-L Chapter 2.1, HR-1, Chapter 2.2, HR-2 Chapter 2.3, RC Chapter 2.16, and Definitions of Chapter 15. (Application PL-15-02817)

Vice-Chair Joyce opened the public hearing. There were no comments. Chair Joyce closed the public hearing.

MOTION: Commissioner Phillips moved to CONTINUE the LMC Code Amendments regarding Nightly Rentals in the HRL and the green roof definition and the definitions in Chapter 15 to September 23rd. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

4. 162 Ridge Avenue – Steep Slope Conditional Use Permit for a new single-family home on a vacant lot. (Application PL-15-02761)

Vice Chair Joyce opened the public hearing. There were no comments. Chair Joyce closed the public hearing.

MOTION: Commissioner Band moved to CONTINUE 162 Ridge Avenue Steep Slope Conditional Use permit to August 12th, 2015. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Interim Planning Director Erickson stated that if the Commissioners had comments regarding the LMC Amendment they should send their comments to the Staff as soon as possible to be considered in drafting the amendments. He felt it was particularly important relative to the discussion regarding public and private plazas. Mr. Erickson stated that policy discussions will be important moving forward. Legislative discussion is the place to make the decisions so everything is already in place when they review conditional use permits.

Commissioner Band requested a site tour for the public plazas. Mr. Erickson stated that the Commissioners could visit the plazas on their own, or they could ask a Staff person to accompany them.

CONSENT AGENDA

1. 279 Daly Avenue – Steep Slope Conditional Use Permit for renovation of a landmark historic house and construction of a new addition. (Application PL-15-02766)
2. 533-537 Woodside Avenue Mountain Spirits Condominium plat replacing Hunter Villa Condominiums plat. (Application PL-15-02740)
3. 147 Grant Avenue – Thomas Replat – Plat Amendment to combine portions of Lots 21, 22, 23 & 24, Block 72, of the Millsite Reservation to Park City into one (1) lot of record. (Application PL-15-02633)
4. 950 Empire Avenue – 950 Empire Avenue Plat Amendment combining one and a half lots in order to remove the lot line under an existing non-historic home. (Application PL-15-02785)

Commissioner Worel noted that the City previously talked about making A-frame houses historic. Planner Alexander replied that the City Council decided against it.

Vice-Chair Joyce opened the public hearing for the Consent Agenda items.

There were no comments.

Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Phillips moved to APPROVE the Consent Agenda. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 279 Day Avenue

1. The property is located at 279 Daly Avenue.
2. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.
3. The property is described as Lot A of the 279 Daly Avenue Plat Subdivision. The lot area is 8,346.73 square feet.
4. A Historic District Design Review (HDDR) application is required and will be reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
5. Access to the property is from Daly Avenue, a public street.
6. The neighborhood is characterized primarily by non-historic and historic residential structures, single family homes and duplexes.
7. The proposal consists of a total of 2,641 total square feet, including the garage.
8. The applicant is proposing a footprint of 1,812 square feet, about 69% of the total allowed footprint of 2,610 square feet.
9. The minimum side yard setback is 5 feet. The applicant is providing 6.5 feet on the north and 10.5 feet on the south side yard setbacks.
10. The proposed driveway has a maximum width of ten feet (10') and is approximately 84 feet in length from the garage to the existing edge of street. The driveway is located on the north side of the property. The garage door complies with the maximum height and width of nine feet by nine feet (9'x9').

11. The proposed driveway has an overall slope of 14% as measured from the front of the garage to the edge of the paved street.

12. An overall combined building footprint with the existing Landmark historic house and new addition of 1,812 square feet is proposed. The maximum allowed footprint for this lot is 2,610.9 square feet. The proposed structure complies with all setbacks of 5 feet side yards (14 feet total) and 12 feet front and rear yards (25 feet total). The historic house and new addition will have a 24 feet setback on the front (west), 20.95 feet setback on the rear (east), 6.5 feet (north) and 10.5 feet (south) side yard setbacks.

13. The proposed structure complies with the twenty-seven feet (27') maximum building height requirement measured from existing grade.

14. The proposed structure complies with the LMC required total building height of 35 feet from the lowest floor plane to the highest wall plate and is in compliance with the LMC required step back of 10 feet at the building height of 23 feet at the front façade of the existing historic home.

15. The applicant submitted a visual analysis, cross valley views and a streetscape showing a contextual analysis of visual impacts of this home on the cross canyon views and the Daly Avenue streetscape.

16. Retaining walls will be constructed on the north, east, and south elevations of the house. The retaining walls have been incorporated into the design of the house to blend into the walls of the new addition and the hillside. The tallest of these retaining walls is seven feet (7'), and the wall acts as both a retaining wall and railing for the patio area above the garage on the north side. The north wall of the garage is only four feet (4') above final grade. All of these retaining walls are located within the necessary side yard setbacks. There will be no free-standing retaining walls.

17. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography.

18. The site design, stepping of the foundation and building mass, increased articulation, and decrease in the allowed difference between the existing and final grade mitigates impacts of construction on the 30% or greater slope areas at the rear half of the property, which requires the Steep Slope CUP.

19. Much of the bulk of the new addition will be located on the steep slope.

Nevertheless, much of this bulk is buried below ground so that only the wall of the garage will be exposed. The building steps with the natural grade, creating outdoor patio areas. The long west-facing shed roof also helps diminish the overall mass of the structure. The addition will measure approximately 18.5 feet or less above existing grade as it rises above the steep wall of the canyon. The low form of the addition allows it to be largely shielded by the historic house when viewed from the public right-of-way. The proposed massing and architectural design components are compatible with both the volume and massing of other buildings in the area. No wall effect is created with adjacent structures due to stepping, articulation, and placement of the house on the lot.

20. The proposed structure follows the predominant pattern of buildings along the street, maintaining traditional setbacks, orientation, and alignment. Lot coverage, site grading, and steep slope issues are also compatible with neighboring sites. The size and mass of the structure is compatible with surrounding sites, as are details such as foundation, roofing, materials, window and door openings, and single car garages.

21. No lighting has been proposed at this time. Lighting will be reviewed at the time of Building Permit application for compliance with the LMC lighting code standards.

22. The applicant submitted a visual analysis, cross canyon view, and streetscape showing a contextual analysis of visual impacts of the proposed structure on the adjacent streetscape.

23. The findings in the Analysis section of this report are incorporated herein.

24. The applicant stipulates to the conditions of approval.

25. The property is located in a FEMA Flood Zone A.

Conclusions of Law 279 Daly Avenue

1. The Steep Slope CUP application is consistent with the Park City General Plan.
2. The application is consistent with requirements of the Park City LMC, specifically Section 15-2.2-6 (B) (1-10) regarding development on Steep Slopes.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 279 Daly Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. A final utility plan, including a drainage plan, for utility installation, public improvements, and storm drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers, including Snyderville Basin Water Reclamation District, prior to issuance of a building permit.
4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
5. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
6. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit, the 2009 Design Guidelines for Historic Districts and Historic Sites (Historic District Design Review) and the Land Management Code.
7. If required by the Chief Building Official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issuance of a building permit. If required by the Chief Building official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer.
8. This approval will expire on July 22, 2016, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and the request is granted by the Planning Director.
9. Modified 13-D residential fire sprinklers are required for all new structures on the lot.
10. All exterior lighting, on porches, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way. Light trespass into the night sky is prohibited. Any new lighting shall be approved by the Planning

Department prior to installation.

11. Construction waste should be diverted from the landfill and recycled when possible.

12. All electrical service equipment and sub-panels and all mechanical equipment, except those owned and maintained by public utility companies and solar panels, shall be painted to match the surroundings.

13. Any significant vegetation that needs to be removed shall be replaced in-kind or a multiple of trees of the same caliper shall be provided to match the diameter of the existing tree

Findings of Fact – 533-537 Woodside Avenue

1. The property is located at 533-537 Woodside Avenue.

2. The property is in the Historic Residential (HR-1) Zoning District.

3. There is an existing non-historic 3 unit building located on the property that is an on-going remodel of a non-historic 4-plex condominium building, known as Hunter Villa Condominiums.

4. Hunter Villa Condominiums record of survey plat was recorded at Summit County on February 14, 1983.

5. The property consists of three (3) standard “Old Town” lots and a total of 5,625 square feet of lot area. The underlying lots are Lots 8, 9, and 10, Block 28, of the Park City Survey.

6. On June 28, 1979, a CUP application was submitted for a four unit building on the subject property. According to the CUP application and subsequent building permit the building complied with the Land Management Code in effect at that time (June 1978) for height, setbacks, minimum lot size and minimum lot width, building coverage, and parking.

7. In the June 1978 Land Management Code, four-plex buildings required a CUP and required a minimum lot area of 5,625 square feet. Minimum side setbacks of five feet (5'), front setbacks of fifteen feet (15') and rear setbacks of ten feet (10') were required. Maximum building height was 28' measured from the mid-point of the gable roof to natural grade. Minimum lot width of 75' was required.

8. Construction of the building started in 1980 with a building permit (#213-80) approved by Park City Building Department on October 29, 1980.
9. On October 2, 1986, upon completion of construction of the four-plex, a Certificate of Occupancy was issued by the Park City Building Department.
10. According to documents on file at the Planning and Building Departments, the building complied with the LMC at the time of the CUP, the Building Permit application, and Certificate of Occupancy.
11. According to the existing conditions survey submitted with this application, the actual front setback of the existing foundation is 15.33' at the northeast corner and 14.74' at the southeast corner. The current LMC requires a front setback of ten feet (10') based on the lot depth of seventy-five feet (75').
12. According to the existing conditions survey the actual rear setback for the existing foundation is 14.43' at the northwest corner and 15.01' at the southwest corner. The current LMC requires a rear setback of ten feet (10') based on the lot depth of seventy-five feet (75').
13. According to the existing conditions survey, the actual side setbacks of the existing foundation range from 3.92' to 4.72' along the south property line and 4.77' to 5.58' along the north property line. The current LMC requires side setbacks of 5' minimum (18') based on the combined lot width of 75'.
14. The building was approved with a 28' building height to the midpoint of the gable roof in compliance with the LMC at the time of construction. Prior to the remodel and modification of the roof the highest ridgeline was noted on the recorded plat at USGS elevation of 7142.5. The current highest roofline, as depicted on the proposed plat is at USGS elevation of 7132.4. The overall height of the building was reduced by ten feet.
15. The remodel did not increase the degree of non-compliance with the LMC in effect at the time of construction in terms of building height. The building permit was issued prior to the latest LMC amendments to Section 15-2.2-5 that require horizontal stepping and maximum overall building height. The building is noncomplying with regards to the current LMC Section 15- 2.2-5 (building height) because it was constructed prior to adoption of the current language.
16. The remodel did not increase the building footprint from what was approved with

the original building permit. No maximum building footprint was required at the time of construction. According to the CUP the building was approved with a maximum building coverage of 3,250 sf. The existing building footprint, according to the current survey is 2,999 sf.

17. According to the current LMC, the maximum allowed building footprint for the property is 2,050 sf based on the lot size.

18. The existing building continues to be a non-complying building according to the current Land Management Code in terms of side setbacks, building height, and building footprint and lot size and non-conforming in terms of use.

19. The existing building provided eight parking spaces for four units in compliance with the LMC at the time of construction. The remodel reduced the parking to six parking spaces for three units in compliance with the current LMC.

20. The proposed condominium Record of Survey plat memorializes each dwelling unit within the multi-unit dwelling as a separate unit that can be leased or owned separately.

21. A condominium is not a type of use but a form or ownership.

22. The current lot is 5,625 square feet. In the HR-1 Zoning District the minimum lot size for a single family house is 1,875 square feet and the minimum lot size for a duplex is 3,750 square feet. At the time of construction the minimum lot size for both a tri-plex and a four-plex was 5,625 square feet. The building complied with the LMC in effect at the time of construction and is currently non-complying with the current LMC in terms of minimum lot size.

23. The current lot width is 75' and complies with the minimum lot width of 25 feet in the Historic Residential Zoning District.

24. The requested form of ownership is not detrimental to the overall character of the neighborhood.

25. This application allows the following units to be platted as private ownership:

- a. Unit A – 1,763.9 sf
- b. Unit B – 1,691.2 sf
- c. Unit C – 4,320.9 sf

26. Common space is platted for the parking garage, common rear stairs,

mechanical room, roof, foundation, exterior walls, etc.

27. Limited common spaces include the storage areas specific to individual units, entrance stairs and landing for specific units, balconies, patios, etc.

28. On September 20, 2011, an application for a Historic District Design Review for a remodel of the building was submitted to the Planning Department.

29. The Historic District Design Review was approved on September 4, 2012, and included removing the steep pitched roof/chimney elements, replacing the fifth floor with an open roof top garden and deck, replacing all exterior siding and insulation, re-designed fenestration and glazing, providing new garage door, re-landscaping of the front and rear yard areas, removing the asphalt parking in the front yard and City ROW area, adding an elevator, modifying the interior unit spaces, and modifying the unit entrances and circulation areas.

30. Due to surveying methods there is a discrepancy between the new existing conditions survey and the recorded Hunter Villas plat in terms of foundation dimensions and setbacks. The proposed record of survey plat is based on a current survey of existing conditions and is not based on the Hunter Villas record of survey plat.

31. The number of units was reduced from four units to three units and parking within the garage was reduced from eight spaces to six spaces. The building requires five parking spaces and six spaces are provided in compliance with the current LMC Chapter 3 Off-Street Parking requirements.

32. A building permit for the remodel was issued on March 5, 2013. Construction is underway and the building permit is current.

33. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 533-537 Woodside Avenue

1. The Condominium Plat is consistent with the Park City Land Management Code and applicable State law regarding condominium record of survey plats.
2. Neither the public nor any person will be materially injured by the proposed Condominium Plat.
3. Approval of the Condominium Plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

4. The Condominium plat does not create any new non-compliance with the HR-1 requirements and the building remains a legal non-conforming building as a triplex and a legal non-complying structure with regards to side setbacks, building height, and building footprint according to the Land Management Code in effect at the time of construction, Building Permit #213-80, and the Certificate of Occupancy issued on October 2nd, 1986.

Conditions of Approval – 533-537 Woodside Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval or submit a written request for an extension, prior to expiration.
3. Prior to recordation of the proposed Mountain Spirits Condominiums record of survey plat, to replace the existing Hunter Villa Condominiums record of survey plat, the Planning and Building Departments shall verify that the structure complies with the current Building code and all required public improvements and landscaping are complete, or a financial security for completion of all requirements is in place.
4. The Hunter Villa Condominiums record of survey plat shall be retired prior to recordation of the Mountain Spirits Condominiums record of survey plat.
5. A ten foot (10') public snow storage easement across the lot frontage along Woodside Avenue shall be shown on the plat.
6. All recorded easements of record for utilities, access, encroachments, etc. associated with the property shall be noted on the plat.

Findings of Fact -147 Grant Avenue

1. The property is located at 147 Grant Avenue.
2. The property is in the Historic Residential-2 District.
3. The subject property consists of a portion of Lots 21, 22, 23, and 24, Block 72, Millisite Reservation to Park City Plat.

4. The site is currently vacant.
5. The proposed plat amendment creates one (1) lot of record from the existing lot portions consisting of 3,634 square feet.
6. A single-family dwelling is an allowed use in the Historic Residential-2 District.
7. The minimum lot area for a single-family dwelling is 1,875 square feet.
8. The proposed lot meets the minimum lot area for a single-family dwelling.
9. A duplex dwelling is a conditional use in the Historic Residential-2 District.
10. The minimum lot area for a duplex dwelling is 3,750 square feet.
11. The proposed lot does not meet the minimum lot area requirements for a duplex dwelling.
12. The minimum lot width allowed in the Historic Residential-2 District is twenty-five feet (25'), measured fifteen feet (15') back from the front lot line.
13. The proposed lot is approximately forty five feet (45') wide measured fifteen feet (15') back from the front lot line.
14. The proposed lot meets the minimum lot width requirement.
15. The maximum building footprint for a lot this size, 3,634 square feet, is 1,481.4 square feet.
16. The legal description as indicated on the survey, title report, and proposed plat, has specific language tied to two (2) fence lines.
17. In order to ensure appropriate property boundaries, Staff has been advised by the City Engineer to add a Condition of Approval that would have a Utah licensed surveyor address and resolve any possible discrepancies.
18. The site is located adjacent to City stairs to the North.
19. As indicated on the certified survey, these City stairs are not on the subject site.

20. The site is located within the Park City Landscaping and Maintenance of Soil Cover Ordinance, and is required to meet to Soils Ordinance capping requirements.

21. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 147 Grant Avenue

1. There is Good Cause for this Plat Amendment.
2. The Plat Amendment is consistent with the Park City Land Management Code and applicable State law regarding Subdivisions.
3. Neither the public nor any person will be materially injured by the proposed Plat Amendment.
4. Approval of the Plat Amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 147 Grant Avenue

1. The City Attorney and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' 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 ten foot (10') wide public snow storage easement will be required along the front of the property.
4. The Applicant shall submit appropriate documentation prepared by a Utah licensed Surveyor regarding property boundary to ensure that no discrepancies exist on the proposed Plat Amendment. The documentation may include reconciling quit claim deeds, warranty deeds, adjacent recorded Plat Amendments, etc. The City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.

Findings of Fact – 950 Empire Avenue

1. The plat amendment is located at 950 Empire Avenue within the Historic Residential (HR-1) District.
2. The 950 Empire Avenue plat amendment consists of Lots 21 & northerly ½ remnant lot of 22 of Block 15 of the Snyder's Addition to the Park City Survey.
3. On May 22, 2015, the applicants submitted an application for a plat amendment to combine one and a half (1.5) lots containing a total of 2,812.5 square feet into one (1) lot of record.
4. The application was deemed complete on May 22, 2015.
5. The lots at 950 Empire Avenue currently contain an existing A-frame single family home.
6. The HR-1 zone requires a minimum lot area of 1,875 square feet for a single family dwelling.
7. The maximum footprint allowed in the HR-1 zone is 1,201 square feet for the proposed lot based on the lot area of the lot.
8. The existing side yard setbacks to the north are 3.75 feet and 4.38 feet to the south which complies with the LMC.
9. The front yard setback is 30.63 feet which complies with the LMC but the rear yard setback is only 6.25 feet which makes this structure legal, non-conforming.
10. The plat amendment secures public snow storage easements of ten (10') feet across the frontage of the lot.

Conclusions of Law – 950 Empire Avenue

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. Approval of the plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 950 Empire 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 amendment.
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 amendment will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. Recordation of this plat amendment and completion and approval of a final Historic District Design Review (HDDR) and Steep Slope CUP, if required, applications are required prior to building permit issuance for any construction on the proposed lot.
4. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation.
5. All new construction shall meet the site and lot requirements in the Land Management Code current at the time of building permit application.
6. A ten foot (10') wide public snow storage easement is required along the frontage of the lots with Lowell Avenue and shall be shown on the plat amendment.
7. Snowshed agreements from each neighbor are required prior to building permit approval.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **Alice Claim south of intersection of King Road and Ridge Avenue – Alice Claim Subdivision and Plat Amendment.** (Application PL-08-00371)
2. **Alice Claim south of intersection of King Road and Ridge Avenue – Conditional Use Permit for retaining walls up to 10' in height.** (Application PL-15-02669)

Commissioner Phillips recused himself and left the room.

Planner Christy Alexander requested that the Planning Commission discuss the two Alice Claim items and open the public hearing on both items together. However, a separate action should be taken for each item.

Planner Alexander reported that the Planning Commission last heard this item on July 8th, at which time it was continued from the June 10th meeting where there were discussions regarding the subdivision and plat amendment and the CUP for retaining walls. On June 10th the applicant had requested time to submit a response to the comments and concerns expressed that evening. Planner Alexander stated that the applicant did not submit materials for the July 8th meeting. However, they submitted a letter on June 30th requesting a continuance from July 8th to this meeting on July 22nd. Planner Alexander stated that the applicant was granted the continuance with a deadline of July 13th to submit their responses to the Staff for this meeting. The applicant had met the July 13th deadline. Those were included in the Staff report as Exhibits B and C.

Planner Alexander recommended that the Planning Commission conduct a public hearing on the two items, and discuss the applicant's response, as well as the Staff analysis. She recalled from the June 10th meeting that some of the Commissioners decided to hold their comments until after hearing the applicant's response. She requested that the Commissioners provide all of their comments for the record this evening and direct the Staff to make findings for either approval or denial or both. Planner Alexander recommended that the Planning Commission continue the item to August 12th to allow time for the Staff to prepare the findings as directed for action at the next meeting.

Planner Alexander referred to the analysis section and noted that she had provided the definition of good cause from the LMC, and what the Planning Commission should consider when finding good cause: 1) does it meet or address the issues related to density; 2) does it preserve the character of the neighbor or resolve existing issues; 3) does it promote excellent design and utilize best planning practices. Planner Alexander stated that her analysis also discussed clustering, home size and compatibility with the HR-1 Zone. She had also prepared new tables and did some analysis from the County Assessor's website, as well as from the City GIS data. The table shows the average lot sizes, the average total building sizes, and average footprint sizes for Daly Avenue, King Road, Sampson Avenue, Ridge Avenue, as well as the HR-1, HR-L and Estate zones overall; and compares them with the Alice Claim proposal for the HR-1 lots. Planner Alexander noted that the comparison shows that the Alice Claim lots are much larger than the average lot sizes on the roads and in the zones mentioned. In addition, the total building size is much larger than the average building sizes, and the footprint is much larger as well.

Based upon further analysis, the Staff did not find compatibility. Planner Alexander stated that the Planning Commission could discuss the compatibility issue and make findings. If the Commissioners decided to forward a positive recommendation, she recommended that they place conditions to lower the lot size, building size, and footprint size.

Planner Alexander stated that the Staff report clarified some of the questions previously raised by the Planning Commission as to why it was zoned HR-1 instead of HR-L. The Staff report also outlined some of the subdivision procedures, as well as safety of the roads and access.

Planner Alexander noted that on June 10th the applicant had stated that additional time was needed to negotiate the access point and they would come back with an update. She pointed out that the access negotiation was not listed in the response letter. In discussing it with the applicant she was told that they were still in negotiations and that it may not go through for a few months.

Planner Alexander stated that the Staff report also clarified other items from the applicant's response letter regarding the retaining walls, concerns with the conditions of approval, and sensitive lands overlay.

Planner Alexander stated that the applicant had a presentation for the Planning Commission and that both the Staff and the applicant were prepared to answer questions.

Brad Cahoon, legal counsel representing the applicant, provided handouts to the Commissioners and had prepared a power point presentation. Assistant City Attorney McLean requested that Mr. Cahoon provide the Planning Department with a copy of his power point presentation in addition to the handouts.

Mr. Cahoon commented on the recommendation from Staff to conduct a public hearing this evening. He noted that page 209 of the Staff report confirms in the minutes that Chair Strachan closed the public hearing. Mr. Cahoon explained that it was difficult to respond when there is a continuing supply of comments. He remarked that the typical approach is for the applicant to present and then for the public and Staff to respond. The applicant is then given the opportunity to rebut the comments. When there is a continuing supply of comments there is no end to the discussion. Mr. Cahoon was not opposed if the Commissioners chose to move forward with a public hearing this evening, but he requested that the Planning Commission decide at which point they should bring it up for a vote.

Mr. Cahoon addressed the conditional use permit application for the entry wall. He presented photographs of several walls throughout the City that range from 30 to 50 feet high in some places. Many have attractive stone and are screened and landscaped.

However, many of the walls, including recent walls, are unsightly and out of character with Old Town and Park City. Mr. Cahoon explained that showing the walls was in response to comments on June 10th regarding their proposed wall and comparing it to existing walls around the City.

Mr. Cahoon stated that the main idea of this application is to have the walls be partially hidden through mitigation, design, stone veneer and landscaping. He noted that the June 10th Staff report recommended approval of the walls with minor adjustments for landscaping. Mr. Cahoon stated that both the LMC and the State Code require that the Planning Commission approve a conditional use permit when reasonable conditions in accordance with the Code mitigate anticipated detrimental effects from the walls. He believed the applicant had satisfied that requirement, particularly given the walls that were already approved and in place. The applicant was proposing a less intrusive wall that was more in keeping with the character of Old Town, and consistent with the walls they had previously built.

Mr. Cahoon addressed the subdivision application. Mr. Cahoon stated that the Staff report, under the section addressing the Sensitive Land Ordinance, mentions an official zoning map from 2005. For the record, he indicated that the applicant had requested a copy of that zoning map but they had not received it. The only map they were aware of that was in effect at the time of the application was the map that was provided with their materials. Mr. Cahoon noted that the applicant was accused of not submitting a Sensitive Lands analysis; however, that was not the case. It was submitted and the Staff has confirmed their compliance with that requirement. Mr. Cahoon pointed out that HR-1 zoning does not required SLO at all. It only applies to the Estate lot; however, for their Estate Lot it is considered an allowed use for this particular home. He also noted that the Estate lot home was moved down from the hill. Mr. Cahoon remarked that there was a legal contention that they were not subject to Sensitive Lands given the timing of the application and the map that was in effect that did not impose an SLO District over this property at that time. Mr. Cahoon wanted it clear that they had submitted the Sensitive Lands analysis and satisfied the requirements.

Mr. Cahoon referred to page 204 of the Staff report and the discussion regarding limit of disturbance, and the suggestion to limit the LOD to half the size of the lots or to the footprint of the homes. He found that suggestion to be unreasonable and unrealistic; and he did not believe that has been imposed on other developers. Mr. Cahoon stated that vegetation would be disturbed beyond the edge of the homes during construction and that could not be avoided. In considering patios, decks, driveways and walkways, Mr. Cahoon did not believe it was a realistic requirement.

Jerry Fiat, representing the applicant, commented on a current development on Ridge Avenue. He stated that typically in Old Town the lots are relatively small and the disturbance is typically lot line to lot line. By the time they complete the excavation and dig for walkways, stairways, etc., there is no way to limit it to footprint size. It would be impossible to build. Mr. Cahoon requested that the limit of disturbance remain as set forth on the proposed plat.

Mr. Cahoon referred to page 203 of the Staff report and noted that the first paragraph references a statement from the City Engineer that a couple of dump trucks in the past have fallen over on the roads as they came down King Road turning left on to Lower King Road below Ridge Avenue; and that it concerned him. Mr. Cahoon wanted it clear that the City Engineer's actual statement was that they had a couple of dump trucks tip over at that intersection as they go from King and then come down and take that corner. He pointed out that it was actually looking at the whole intersection and trying to make it better. He thought the key language was, "...and right now there are not any fatal flaws." Mr. Cahoon stated that the City Engineer goes on to state, "I don't see any fatal flaws in any of the alternatives right now. They will all work". Mr. Cahoon asked Mr. Fiat to address the truck tipping since he had personal knowledge of the incident.

Mr. Fiat stated that it was only one truck and it was not a dump truck. It was a semi-trailer that was overloaded with dirt. Mr. Fiat pointed out that careless driving cannot be stopped and it can happen anywhere. The driver clipped the corner, got stuck, tried to move himself out and in the process he dumped his load. Mr. Fiat clarified that they were cleaning the Alice Lode at that time and over a thousand trucks came out of Alice Lode without a single complaint or problem. He believed the incident with the semi-trailer resulted from a lack of common sense, and fortunately no one was hurt.

Mr. Cahoon remarked that Tom Gadek had submitted public comment and in his comment he treats Ridge Avenue as the only egress for this project. Mr. Cahoon stated that Mr. Gadek was incorrect. He noted that the first paragraph on page 203 of the Staff report states that "As proposed, Ridge Avenue would be the only exit to the subdivision". He believed that should be corrected to insert the word "not", to read, "As proposed, Ridge Avenue would not be the only exit to the subdivision". Mr. Cahoon remarked that Ridge Avenue was not planned as an exit for the subdivision. There is a stop for the trail but that is all. He noted that both King Road and Sampson were both egress options for this development. They have never been required to connect to Ridge Avenue.

Planner Alexander referred to the sentence Mr. Cahoon had read and thought it should say that Alice Court would be the only exit. Mr. Cahoon clarified that instead of Ridge Avenue, the sentence should state that Alice Court would be the only exit. Planner Alexander answered yes.

Mr. Cahoon stated that page 202 of the Staff report identifies the issue of HR-1 zoning and why it was not zoned HRL. However, he did not believe the Staff report attempts to answer that question. He thought it was important to note because Alice Claim HR-1 is floating within an area of much lower density and much more organically organized homes that respond more to the topography than it does to a grid layout. Whether it was a mistake or an oversight, he thought it should be taken into account when reviewing this application, particularly in terms of compatibility with the neighborhood and how that plays out.

Regarding compatibility, Mr. Cahoon addressed some of the points in the Analysis on page 199 of the Staff report. The first was compatibility. Mr. Cahoon stated that in the record there is data that 30 Sampson was recently approved for 5,013 gross square feet. It was identified as Exhibit D in the materials submitted by the applicant. Mr. Cahoon remarked that data on 50 Sampson also shows a gross square footage of 5,000 square feet. He noted that these home sizes have already been determined to be compatible with the neighborhood. He believes it confirms that the house size proposed in their project is compatible with the surrounding neighborhood.

Mr. Cahoon stated that the general purpose of HR-1 is to encourage building of homes that contribute to and maintain the Old Town neighborhood. There is no definition of "preserving the character of the neighborhood" or "preserving the character of Park City". These are standards, and as written they are subjective and not mandatory. Mr. Cahoon thought it was difficult to define "neighborhood" other than by looking at what is already built or approved. He encouraged the Planning Commission to consider compatibility in that realm rather than just saying that the neighborhood is HR-1. Mr. Cahoon remarked that the nearest HR-1 neighborhood is Daly Avenue, which cannot be seen because it is blocked by the hill. What appears to be the neighborhood surrounding their project are the areas identified on Exhibit D.

Mr. Cahoon remarked that Park City is a variety of building shapes, looks, locations and sizes that constitute the look and feel of Park City. He believed their nine lot plan meets all of the objective criteria and that should be the focus. Alice Claim was a historic mining site and there are no historic structures to preserve. Homes at 123 and 135 Ridge Avenue are non-historic modern houses. Mr. Cahoon stated that another purpose of the HR-1 zone set out in the Code is to encourage single-family development on combinations of 25' x 75' historic lots. The pattern of development and the lot combinations that have already taken place have led to a reduction in density and larger homes, which is the standard purpose for HR-1.

Mr. Cahoon presented a slide that reflected the lot combinations and the expanded size from the 25' x 75' grid to the expanded lot sizes. He believed the three and four lot combinations were consistent with their proposal.

Mr. Cahoon noted that page 200 of the Staff report provided new data regarding lot, building and footprint sizes. However, he believed there were flaws in the data and it was important for the Commissioners to understand their position because the data was being used against them to support incompatibility. Mr. Cahoon referred to page 201 of the Staff report and the top three rows of the table, and pointed out that the footprint size was shown to be larger than the building size. He could not understand how that was possible. Mr. Cahoon stated that the assessor records do not always include the non-livable space in the calculation such as mechanical, garage, basement space, etc. He asked Mr. Fiat to provide comments based on his experience.

Mr. Fiat asked to go back to an earlier point regarding the homes on Sampson Avenue. It was stated that 50 Sampson Avenue was 5,000 square feet, and Mr. Fiat thought that was incorrect. He explained that 50 Sampson is the same subdivision as 30 Sampson and 40 Sampson, and the current approval on 30 Sampson is for a 5,000 square foot house. Mr. Fiat clarified that they did not know the actual size of the house built on 30 Sampson. The plat restriction limits it to 3,000 square feet of living space, and 50 Sampson has the same plat restriction. Mr. Fiat clarified that 30, 40 and 50 Sampson have the same plat restriction. He pointed out that 30 Sampson is 5,000 square feet, which means that there is 3,000 square feet of living space and 2,000 square feet of non-living space. Mr. Fiat had done a GRAMA request with the City and actually measured the plans for 50 Sampson. The actual correct square footage was shown on the Exhibits. Mr. Fiat emphasized that it was not 5,000 square feet.

Mr. Cahoon understood that the 5,000 square feet which was noted in Exhibit D for 50 Sampson was based on Mr. Fiat's estimate. Mr. Fiat replied that it was more of a statement. He explained that they were looking at a subdivision and what it allows them to build on their land. He clarified that they were not talking about the actual houses because the houses would have to go through a CUP and specific restrictions would apply. He believed the most apples to apples comparison is what can be built on the lot. Mr. Fiat clarified that he did not know the actual square footage for 50 Sampson when he made his statement, but after measuring the plans the actual dimension is 4,386 gross square feet. Mr. Cahoon stated that Exhibit D would be adjusted to reflect the correct square footage.

Mr. Cahoon stated that when they looked at the chart and the averages and noticed the discrepancy on the second page of the chart where the average footprint was larger than the building square footage, it caused them to question the data. He provided a handout of a slide showing the assessors total building size versus the actual building size for 50 and

60 Sampson, 147 Ridge, and 325 Daly. Mr. Cahoon asked Mr. Fiat to talk about his background on 325 Daly Avenue.

Mr. Fiat stated that in the past he was considering buying 325 Daly. At that time, both the City and County records showed 325 Daly as being 2,792 square feet; however, it was marketed as being 4,970+ livable, usable square feet. Mr. Fiat questioned the numbers and he had an appraiser measure the structure. The house measured more than 5,000 square feet. Mr. noted that the City and County number reflected the livable/usable square footage and not the gross building size. Mr. Fiat remarked that in all cases the sizes of the homes shown were significantly different than what actually exists.

Mr. Fiat reviewed copies of the County Assessor measurements, as well as a copy of the MLS listing they were referencing. He pointed out that the applicant was proposing a 5,000 square foot gross building square footage of the homes. However, the City made them commit that they would include all of the non-livable area inside of that 5,000 square feet, including the garage, basement and mechanical space. Mr. Cahoon stated that prior to the meeting he confirmed with Planner Alexander that the numbers she had listed was the living area from the Assessor's information. Her data did not include the basement area or the attached built-in garage area. Mr. Cahoon thought that was an important fact, because when all of those areas are included it shows that what they are proposing is compatible with the surrounding structures. It is even compatible with Daly Avenue, which they do not consider a comparison neighborhood.

Mr. Cahoon presented data regarding eight homes on Sampson Avenue. It showed the actual lots size, the maximum allowed footprint, and actual footprint, the actual gross building size, and the allowable building size per Code. Mr. Fiat explained that one of the reasons that the actual footprint size was missing in some cases was because some of the homes date back to when the City used an FAR rather than footprint. Therefore, the footprint was never identified or listed. Mr. Fiat noted that the current Code only talks about footprint. He remarked that a general rule of thumb is that it is somewhere between 2.5 to 2.75 of the footprint. He clarified that they used a 2.5 multiplier to calculate what they could put on the lot based on the existing Code and the allowable footprint.

Mr. Cahoon referred to the table on page 200 of the Staff report and noted that the average total building size for Sampson Avenue was shown as 1805 square feet. He believed that number only included the livable space in the calculation and not the entire size of the home which includes the non-livable area. Mr. Cahoon reiterated that the data was flawed and could not be used in generating a compatibility analysis.

Mr. Fiat thought it was physically impossible to get an 1800 square foot calculation out of what actually exists on Sampson. He pointed out that 115 Sampson was technically a

vacant lot. He estimated the homes at 121 Sampson and 99 Sampson to be approximately 2,500 square feet each. Mr. Fiat stated that if the numbers were averaged out and the basement and garage square footage were removed from the calculation, he thought it would still be over 3,000 square feet. He agreed that the numbers were flawed and they were not even close to the true numbers. Mr. Fiat explained that they used Sampson in their examples because Sampson represented a limited number of homes. One architect had designed four of the homes and it was easy to obtain the data.

Mr. Cahoon asked Mr. Fiat to compare the 5,000 square foot homes he was proposing. Mr. Fiat stated that it would be reasonable to expect that the actual living space is between 3,500 and 4,000 square feet. Mr. Fiat pointed out that the assessor does not count basements in the square footage, even though most basements are livable space. He felt that supported his reason for wanting to introduce a gross square foot number. Mr. Fiat stated that the intent is to create houses that have more articulation and better living areas that attract families. Using a gross square foot number would eliminate the argument of how to measure and what should be included. Gross is a multiplier and it would be a consistent measurement for everyone.

Mr. Cahoon noted that the past Staff reports addressed density; however, it was not addressed in the current Staff report. He stated that the maximum permitted density in HR-1 is 41 lots. Combined with the entire 8.2 acres, the entire maximum permitted density would be 56 lots. He pointed out that this applicant was proposing 8 lots in the HR-1 zone and one lot in the Estate Zone, which results in an 84% density reduction.

Mr. Fiat referred to the Code section that addresses lot combinations. He pointed out that all of Old Town was platted as 25' x 75' lots except for the Alice Lode. In his opinion, the intent of the Code was not to repeat the grid pattern of 25' x 75'. He believed the intent of the Code was to combine the lots to reduce density for the limited infrastructure that exists in town. From a design point of view, Mr. Fiat believed this proposal was a better design and transition into the open zone than towering it down in the gully. He noted that the homes would be subject to a conditional use permit and specific changes could be made during that process.

Mr. Fiat stated that the homes that were built as three and four stories on smaller footprints end up breaking up the bedrooms and sometimes living space on multiple levels. These homes by design are not always a good fit for families or elderly people or people with disabilities. Mr. Fiat remarked that the goal is to build sensible homes to attract full-time residents who live in Park City year around; yet they do not design structures for that purpose. Mr. Fiat pointed out that the single family home on the Estate lot is a permitted use and does not require an SLO submittal, even if it was in the SLO District.

Mr. Cahoon addressed good cause, since he did not have the opportunity to address it at the June 10th meeting. He stated that there was a requirement for finding of good cause; however, they have a legal argument that it is inconsistent with the State Code. His understanding of good cause is that they only have to satisfy the requirements of the subdivision ordinance and have it supported by substantial evidence. In this case, if they are required to demonstrate good cause, he believed there was significant evidence to support good cause. Mr. Cahoon noted that the general statement is, "Providing positive benefits and mitigating impacts". The Code then lists examples. He stated that materials in the Staff report and materials submitted by the applicant attempt to address good cause.

Mr. Cahoon emphasized that you cannot separate what happened with the Alice Lode property regarding the cleanup and the fact that it was a barren, polluted wasteland that the City did not want as open space but wanted it cleaned up. Now that it has been cleaned up and it is ready for residential use, the public suddenly cares about it. He felt that was an important consideration, as well as all of the facts leading up to the cleanup and all of the history.

Mr. Fiat stated that he knew about the Alice Lode and he lived nearby on Norfolk. The City owns the gully, which was the most contaminated portion of the land. The rest of the land has some contamination but it was a lower level contamination. Mr. Fiat noted that the City had applied for a Brownsfield grant and it was on the EPA radar. If it was not cleaned up the EPA would step in, but there was no funding for the cleanup. Mr. Fiat stated that it was the most visually polluted site in Park City. Mr. Fiat noted that he had not yet purchased the property, but he went to the City and asked if they could develop it if they cleaned it up. After several discussions with the City, he believed that they had a working plan. They anticipated minor changes and understood that it needed to go through the Planning Commission and the City Council. Mr. Fiat explained that they ran into a deadline because of the access. They were asked to try and get the existing access working, but being unable to reach a deal with the property owner put them against a deadline.

Mr. Fiat stated that most of the waste that left the property was from the City property in the gully. The deal that was made regarding Richardson Flat was arranged by the City before the land was purchased. Richardson Flat was closing, and if it closed the Alice Lode would be capped and left as a contaminated site. Mr. Fiat remarked that the cleanup of the Alice Lode not only cleaned up the visual blight and took out the contamination; but it helped the water quality problem and it helped the City with the EPA and potential grants. If they had waited to come before the Planning Commission before doing the cleanup, Richardson Flat would have been closed.

Mr. Cahoon presented before and after pictures of the cleanup.

Mr. Cahoon summarized that the cleanup was tied to the nine lot subdivision. The City entered into a Memorandum of Agreement to provide for the disposal of the contaminated soils at Richardson Flat. The City entered into a voluntary agreement with the developer, and the cleanup plan was attached as part of the plan. Mr. Cahoon stated that after going through initial reviews with the Planning Department and Building Department, this plan was ultimately used as a guide for the cleanup. Mr. Cahoon noted that there needed to be a plan for the future use, and since the property was zoned residential it was cleaned to a residential level to provide for the contemplated development.

Mr. Fiat noted that the cleanup efforts forced United Park City Mines to clean upstream. The Silver King was cleaned and UPCM rebuilt the stream above the Alice Lode. He pointed out that their cleanup efforts started a chain reaction that would never have happened otherwise. United Park City Mines would not want the risk of re-contaminating the land once the Alice Lode was cleaned up. Therefore, it ended up being a full upstream cleanup.

Mr. Cahoon presented the proposed plat that was the same version from May, which reflected the nine lot configuration that resulted from the cleanup.

Mr. Cahoon summarized key items that he believed supported a finding of good cause. He noted that the mine shaft located near the trail was filled in and the trail was moved. Other items included matching the cleanup to the zoning, the City's land being the most contaminated, the revegetation, the improvements to the water shed downstream, the reduction in density, a 73% commitment for open space that would be covered by a conservation easement, and hiking and biking trail easements. Mr. Cahoon disputed the assertions made at the last meeting about prescriptive right because permission has always been given for using the trails. He pointed out that putting them on the plat and dedicating the easements would resolve the question and show that it is a public benefit. Mr. Cahoon mentioned the donation of land as part of the plat amendment, the improved access, relocation of the water line wholly within the City's property, and the road connection.

Mr. Cahoon stated that in their materials the applicant provided a summary of the different work sessions this plan has gone through, as well as multiple iterations and fine tuning responses to multiple comments. He noted that the more recent public hearings have led to additional responses, such as moving two of the lots further down into the current configuration. They have submitted multiple studies and have multiple experts dealing with the City's experts on engineering, building, water, fire, sewer, etc.

Mr. Cahoon did not believe there were any outstanding material issues that would prevent an approval of this subdivision plat. He did not believe it made sense to treat this as if they were going to record a plat right now and go through the effort and expense of designing the sewer and other things at this stage in the process. He vigorously opposed any notion that the applicant needed to do all of that at this stage in the process. The focus should be on the design, factoring in the good cause he outlined, and understanding that they have used Best Planning and Design Practices. He thought DHM had done a phenomenal job in designing this subdivision around saving major vegetation, avoiding sensitive areas and providing vast open spaces and trails. Mr. Cahoon believed this plan preserves the character of the neighborhood. It is compatible and they have the evidence to support it.

Mr. Cahoon requested that the Planning Commission approve the CUP application for the entry wall. He also requested positive recommendations to the City Council on the subdivision and plat amendment applications. As requested, they needed the 10' setback adjustment for the Estate lot. He was comfortable with the preference for the historic access, and they were still in good faith negotiations with the property owner. Mr. Cahoon believed they were getting closer to reaching an agreement. Negotiations have been difficult but he felt it was still possible.

Mr. Cahoon commented on the need to move forward and he requested a vote by the Planning Commission that is supported by the evidence that was provided in the record.

Mr. Fiat stated that before they did the cleanup they were told that they would receive a permit for grading the roads. However, when they started the cleanup and went to pick up the permit, they were told that a permit was not needed and they could proceed without it. Mr. Fiat noted that throughout the process they have done studies for water, sewer, fire, etc.; and a significant amount of money has been spent on other requests for details. He thought it was clear that the subdivision would be approved with conditions and they would not be spending the money if they did not believe they could meet those conditions.

Mr. Fiat used the water model as an example. He noted that the City had them jump hoops to prove that the water would work. They did a water model and proved that it would work. They then lowered the houses further down because that seemed to be what everyone wanted. However, once they lowered the houses they were told that they needed to have a water model. Mr. Fiat pointed out that lowering the houses meant the water model would work better. Mr. Fiat remarked that they agreed to a condition that they would make it work, and he was beginning to feel it was bad faith because they are continually being asked to do the same things over or for things that were not asked of other developers. He felt they were being held to a different standard.

Mr. Cahoon commented on the unsigned statement that was submitted by the City Attorney's Office regarding the former Chief Building Official, Ron Ivie's, statements in response to Jerry Fiat's affidavit. Mr. Cahoon reiterated that it was prepared by Counsel but it was not signed. He pointed out that throughout the statement, it is repeated that the Planning Commission and City Council would still have to approve the subdivision. Mr. Cahoon emphasized that those statements in no way detract from the reasonableness of the reliance on what was said. Mr. Cahoon explained that Counsel only stated what the law requires. The City Council ultimately approves the plat. The applicant never took the statements to mean that there was no chance that the nine lot development could ever be approved. That was never said. And in his statement, Mr. Ivie had no objections to the plan. He pointed out that Mr. Ivie was tied to what was happening both before the applicant purchased the property, and then after the purchase and leading up to the cleanup. When the Planning Commission ordered the cleanup and the work to stop, Mr. Ivie disagreed with the Commission and said the work needed to proceed. Based on Mr. Ivie's statements the applicant finished the cleanup.

Mr. Cahoon stated that there were also written documents such as the Memorandum of Understanding and the joint cleanup plan that had the nine lot subdivision attached that went beyond verbal statements. He noted that the City Manager had signed the agreement to participate on the cleanup. Mr. Cahoon stated that in light of the cleanup of Alice Claim, their reliance on numerous representations, and the joint agreement with the City, it was unfair to deny the applicant this nine lot subdivision. In addition, they have demonstrated that they meet all of the objective requirements for a subdivision approval.

Planner Alexander noted that the City Engineer was present to answer questions.

Commissioner Worel asked City Engineer, Matt Cassel, to clarify his opinion regarding the roads. Mr. Cassel stated that in considering the location of the driveway access the applicant was asked to look at improving the intersection. He recalled his previous statement about trucks tipping over and that Mr. Fiat had further detailed once of the instances. Mr. Cassel explained that when he said there are no fatal flaws, it means that for all intents and purpose the intersection works right now. He stated that the goal has always been to try and improve the intersection. If this development moves forward and there is a possibility to make the intersection better, they need to do it. Mr. Cassel remarked that the developer has land on both sides of the road and they have been asked to look at any possible opportunity for improvement. Mr. Cassel noted that the intersection functions in its current condition. Even though it is not the best, there is nothing to indicate that there is a fatal flaw. The intersection does not work to the level he would like it to, but it works. The goal is to mitigate it as best as possible.

Vice-Chair Joyce stated when the Planning Commission looks at a subdivision approval they need to evaluate the safety issues. People continually talk about the road system up there being substandard. When Mr. Cassel previously talked about trucks rolling over, Vice-Chair Joyce took that to mean that there were already safety issues. His concern from a safety standpoint is making a new entry on to the road and basically making it more complex. Vice-Chair Joyce stated that the Planning Commission has an obligation from a safety aspect not to exacerbate a problem. If it was already at a low level with significant issues, he was concerned about adding traffic to that flow. Vice-Chair Joyce did not believe the Commissioners had voiced a concern about traffic from the standpoint of quantity, other than during construction. He felt the issue was more about having very narrow roads all come together.

Mr. Cassel stated that there are two parts to traffic. One is the construction traffic, which is controlled by the construction mitigation plan. The second part is the permanent traffic being created by development. Mr. Cassel noted that as part of the evaluation of the intersection, the developers had Fehr and Peers look at the impacts of the additional traffic from the development. It took it from Level Service A to Level Service A, which reflects an inconsequential difference to the traffic. Mr. Cassel stated that he wasn't looking at that specifically. As they look at putting an additional drive in this "funky" intersection, they need to make sure that the sightlines and the ability to see other traffic coming is as clear as possible. The sightlines on the King Road are not great and if it can be improved they would like to do so. In addition, as the applicant puts their drive and access into that intersection, they need to make sure their sightlines are clear and meet the Code to avoid creating new safety hazards or lowering the level of safety of the intersection.

Vice-Chair Joyce asked if Mr. Cassel was confident that it was achievable. In looking at the two alternatives for access to the development, Mr. Cassel thought they could keep the impacts to a negligible amount, particularly for sight distances and the ability to see uphill and downhill traffic. He would make sure that the driveways would not impact the ability of that intersection to work. Mr. Cassel pointed out that he was looking even deeper by asking the applicant to explore the possibility of improving the intersection as a whole and not just for their driveways.

Mr. Fiat clarified that they own the land in that location, as well as both sides of the road. They intend to deed that land to the City so the road could be significantly improved. He believed that one of the advantages of the non-preferred access is that they could widen the view corridor and the turning radius. Mr. Fiat remarked that the issue of the intersection was primarily the construction traffic going up to the Resort Center; and not the residential traffic on Sampson.

Commissioner Band referred to LMC 15-7.1(5)(d) Site Plan, which states that the Planning Commission shall study the preliminary plat, the report by Staff, and take into consideration the requirements of the LMC, master plan, sensitive lands, width of streets, etc. She asked how the Planning Commission could approve this application when they were still working on improvements. She did not have a sense that Mr. Cassel was confident about the intersection, but it could work and he was hoping to make it better. Commissioner Band stated that if the Commissioners were not looking at the actual improvements, she questioned whether they were looking at the preliminary plat approval properly.

Assistant City Attorney McLean remarked that it goes to the City Engineer's analysis of the intersection and what he means by making it better. Mr. Cassel replied that improving sightlines would make it better. Ms. McLean asked if the intersection would change. Mr. Cassel stated that it was addressed as part of the conditions. He explained that he appeared to be "wishy-washy" because currently there were two different accesses on the table and the applicant needed to decide where the access would be. One access is where they can continue down the road and the other is still in negotiations. Mr. Cassel stated that the access needed to be finalized before he could finish his evaluation.

Commissioner Band understood that the access they were looking at today was the one with the retaining wall that requires the CUP. Mr. Cassel answered yes. Commissioner Band clarified that since it was the only access on the table at this point, she wanted to know how Mr. Cassel felt about that access in terms of improvements. Mr. Cassel replied that it was the best secondary alternative. He still preferred the access to be straight on King Road, but he thought the secondary alternative would work, particularly since the applicants pushed the access further up the hillside and away from the intersection.

Mr. Cassel clarified that he was comfortable with the access proposed and that the proposed modifications would help the sightlines so everyone could see the traffic coming and going as they go through the intersection.

Commissioner Band asked Mr. Cassel to provide some history on the trucks that have tipped over in that area, and whether it was due to careless driving or a greater concern. Mr. Cassel stated that two vehicles had tipped over. Mr. Fiat mentioned one, and the other one was a dump truck. He could not recall the exact details, other than the trucks had tipped over and some cleanup was required.

Commissioner Band asked if there was a time when the City was not able to improve or mitigate roads or intersections. Mr. Cassel could not recall a time in the last eight years.

Commissioner Worel referred to a letter the Commissioners received from a member of the public who was concerned about inadequate roads in the event of a wildfire and the need

to evacuate, and the ability for emergency vehicles to access. She asked Mr. Cassel for his thoughts on this concern. Mr. Cassel stated that it was a difficult question and a battle that took place seven years ago. Hillside Avenue was built at substandard levels and they had to live with it. When people talk about emergency vehicles getting up and residents not being able to get out, it is more widespread than just the Alice Claim site. It also includes Daly, Empire Pass, Deer Valley and the City in general. Mr. Cassel agreed that it was a major issue the City deals with and it needs to be resolved. He did not believe nine homes at Alice Claim would tip the level and exacerbate the problem.

Vice-Chair Joyce opened the public hearing.

Planner Alexander stated for the record that she had received emails and letters of public comment from Brian Barrett, Carol Sletta, Tom Gadek, Brooke Hontz, and Jim Doilney. The written comments were provided to the Planning Commission.

Charlie Wintzer, a Park City resident, stated that the intent of the first part of the subdivision approval is the preliminary plat approval. He did not think the Planning Commission needed to get involved with the deals of house size, etc. at this time. The focus should be on the number of lots, where they should be located and how they fit on the site. Mr. Wintzer remarked that the more they get involved in the details the further away they get from the questions related to the preliminary plat approval process. Mr. Wintzer commented on the HRL and the HR-1. He stated that when Park City was platted and zoned it was all HR-1. The HRL zone was created on Rossi Hill and the neighborhood asked to be changed to HRL. The same thing occurred on that side of the mountain when the neighbors together decided they wanted to be HRL. Mr. Wintzer did not believe the way the lines were drawn was a mistake. It was a result of those who asked to be downzoned. The City did not have the right to downzone private land, which is why this property was never changed. Mr. Wintzer was unsure why they were looking at a retaining wall CUP for a subdivision that may or may not be approved. He thought the CUP request was out of sequence and they should be focusing on the subdivision. If the subdivision is approved, that would be the time to approve the CUP for the retaining wall. Mr. Wintzer referred to the comment from the applicant about how this project has gone on for eight work session in ten years. He pointed out that it was the applicant's choice and not the choice of the Planning Commission. The Planning Commission did not ask the applicant to come back every year for ten years and to submit another application.

Carol Sletta thanked the Planning Commission and the City Staff for their thoughtful work on this project. She has lived at 135 Sampson since 1980 and having lived in the area next to the proposed subdivision and reading all the information, she could not see good cause for allowing this project. Mr. Sletta did not believe it would preserve the character of this historic residential area. She was very familiar with the streets of Anchor, King,

Sampson and Ridge, and calculated that she has driven through that area a minimum of 15,000 times. Over the years she has seen trucks tip over and many other things happen. A lot inexperienced drivers block the intersection in the winter and during a bad winter the roads are nearly impassable. Ms. Sletta stated that she loves that corner because it makes Old Town Park City, Old Town Park City. When the City Engineer mentioned significantly improving the road, she thought it would be terrible because it is not what Old Town Park City is about. Ms. Sletta stated that if another road comes into that intersection she could see it becoming more unsafe. It is a fun, funky road and she would hate to lose that part of Old Town Park City.

Lee Gerstein, a resident adjacent to the proposed project, commented on the construction traffic going to PCMR and watching the vehicles do three, five, and seven point turns. He pointed out that two known accidents over the course of many years did not include the near misses. He watches the trucks get perilously close to the edge of Sampson. They do not always know what is behind them. Mr. Gerstein shared the concern of a five-way intersection with an emergency crew trying to get up as people are trying to flee houses during a fire. He was unsure how they could take what exists and add something to it that makes reasonable turns and angles and egress from there. Retaining walls are very pretty, but currently they have a forested, vegetated natural hillside that would be chopped down for this project. Mr. Gerstein keeps hearing the word construction mitigation but he questioned its actual meaning, because in looking around he does not see any construction mitigation. It is a great word to use during a meeting, but there is no mitigation for those with children and pets, and those who like to cycle or walk. He has seen several near misses between people and vehicles. Mr. Gerstein stated that the cleanup that was done on the site was laudible and tremendous. He hoped there was no quid pro quo from the town, because it was done with the expectation of building something. He suggested that in a different venue and under different circumstances the applicant should receive some recognition from the town for the cleanup effort.

Sherrie Levington Gerstein stated that she and her husband, Lee Gerstein, own 135 Ridge Avenue, the property that has been in negotiations. Ms. Gerstein opposed this project for all the reasons everyone else had stated. She also respectfully disagreed with the comments that they and the applicant have been in tough negotiations because she did not recall any tough negotiations in the last several months. Mr. Gerstein stated that negotiations went on six years ago, but she wanted it clear for the record that there have been no serious negotiations since that time.

Kathryn Deckert, a resident at 102 Daly Avenue, referenced one of the applicant's good cause for this project being approved in his letter dated July 13th. It talks about good cause being the relocation of water lines into the Park City parcel from the development within the Alice Claim, and also connection of a road into the Park City parcel. Ms. Deckert did not

see this as being good cause. It is about another parcel that has nothing to do with the Alice Claim. It is 20 lots and to think of having this approved in order to annex or develop another parcel in Old Town is not good for the current residents because it introduces more residential traffic and construction traffic. Ms. Deckert commented on the number of trucks going up Daly in the last month that create safety hazards for hikers, bikers, pedestrians, pets, and children. She was concerned that further development would continue these unsafe conditions for an unlimited time. Ms. Deckert also had issues with nine 5,000 square foot homes that do not reflect the character and scale of the historic district. In her opinion, character means diversity and over the last 30 years Old Town has evolved into a package of different sized homes. Some are still the small mining homes that were there 45 years ago. Having 5,000 square foot homes in one subdivision does not add to the diversity and it creates a disconnect between Old Town and this onclave of 5,000 square foot homes. Ms. Deckert did not believe the proposed project provided the most beneficial relationship for the use of land and circulation of traffic, and for the benefit of the people who live in Old Town.

Brooke Hontz had submitted a lengthy letter prior to the meeting. She did not intend to read the letter into the record but asked that it be incorporated into the minutes in its entirety. The letter can be found at the end of the Alice Claim discussion in the minutes.

Mr. Hontz, a resident on Daly Avenue, asked the Planning Commission to consider forwarding a negative recommendation to the City Council on the Alice Claim application citing substantial credible evidence against the project, and well-articulated reasons for denial. Ms. Hontz stated that in the first part of her letter she requested that the Planning Commission consider safeguarding the official record for this application. There is a lot of information that she had never heard before that is important. She also asked if there was a way to better share the information with the public, as well as for the sake of the applicant. Ms. Hontz stated that the letter from Snell and Wilmer, dated July 13th, 2015 references different visions of a plan, and possibly different applications, and multiple different Planning Commissions who have served. Throughout the letter it clearly demonstrates that over ten years the applicant has gone back and forth on a plan and not made substantial progress with the legislative process based on their volition. Ms. Hontz believed a historic timeline prepared by Staff of the applications would show large periods of inactivity by the applicant with an occasional update where no new information is provided to the Planning Commission, and no action was required to be requested of the Planning Commission. Ms. Hontz believed that issue was important. As a Planning Commission member for four and a half years she could speak to that with some authority that she never had the opportunity to provide a recommendation that would have been forwarded to the City Council. It was never asked the entire four and half years that she sat on the Planning Commission. Ms. Hontz noted that the public testimony that has been provided thus far has been educated, thoughtful and related to the requirements of the LMC and the

General Plan. The public has provided considerable evidence and anecdotal experience that the Planning Commission can use for their findings of denial. The input provided from the public can substantiate that the application does not meet the subdivision standards of the Land Management Code. The evidence provided is relevant and measureable. Ms. Hontz noted that on page 2 of her letter she talks about how the Snell Wilmer letter references that nine lots or the density had not been an issue for the Planning Commission. However, as a former Planning Commission she could say that it was patently untrue, and the entire record should reflect that fact. As indicated in her letter, Ms. Hontz thought it was unclear whether the current application was the same application. She suggested that the City Legal Staff should review the entire file and make a determination on the date this application was made, and which General Plan and LMC was applicable to this application. She thought it was important for the Planning Commission to have that specific General Plan and LMC in hand in order to make an accurate denial statement. Based on some of the information mentioned this evening or written in the Snell and Wilmer letter that has never been heard before, Ms. Hontz did not believe they could have it both ways. She did not believe the applicant could want to have the lots larger like the Estate or HRL lots, but then say they were reducing the density by 87% because they were HR-1. It has to be one or the other. Ms. Hontz believed that concept was argued both ways throughout the July 13th letter and also this evening. Ms. Hontz stated that an argument is made in the Snell and Wilmer letter talks about the authority of the City Council. In order for a subdivision to be approved by the City Council, acting under their authority as a land use authority, it must meet the legal standard established in the LMC for subdivisions. No density can be assigned to a parcel until it is subdivided and every box is checked in the checklist of the subdivision ordinance. Ms. Hontz referred to the last page of her letter and noted that one of the arguments made this evening was that the rectangular two-part area that would be dedicated to the City is a benefit to the City. She assumed that there may be a minor benefit in getting the roadway under City ownership. However, it additionally makes representation that a small home could be built within that area that is located under the current Sampson Avenue. Ms. Hontz did not believe that was possible based on current codes. Mr. Hontz stated that she personally met with the Sewer District and the Fire Chief to discuss this project. At the time of those meetings she found that there had been no face to face meetings from the applicant with those entities. Both entities have specific concerns about meeting the subdivision ordinance and being able to provide adequate service. Regarding traffic, Ms. Hontz thought they were wrong in saying that the amount of traffic did not matter. She was pleased to see that her calculation of 90 trips was less than the 114 trips calculated by the Traffic Engineer. She had contacted a traffic engineering firm and discussed all of the issues. She was told that total trips per day is a relevant and important way of looking at traffic for road and traffic engineers when they are trying to understand how to size a roadway. She thought it was ridiculous to say that it does not matter that there will 114 additional trips up that road every day. Based on the size of the road, the steepness,

the sightlines, and the construction that will continue to occur on the Mountain for the rest of their lifetime, it is impossible to think it was not an issue. Ms. Hontz stated that on pages 4, 5 and 6 of her letter she had provide the key elements of the Code that were applicable. Those elements were cited on pages 7, 8, 9 and 10, where she had created draft denial Findings of Fact and Conclusions of Law. She took the time to go through public record from many years on this project, including the most recent iteration, as well as Planning Commission comments, and put them into Findings. She also added which part of the Subdivision Code it supports. Ms. Hontz reiterated that she had done a lot of work to substantiate that the application did not meet the subdivision standards. She asked the Commissioners to take the time to review at least a portion of what she had done.

Mary Wintzer, a resident at 320 McHenry, recalled from the last meeting what she had heard on KPCW, which was Chair Strachan telling the applicant that he was facing a unanimous denial of the subdivision. The applicant was given a certain date that he could come back with a significant change in the subdivision applicant. Ms. Wintzer could not see a significant change this evening. She understood that the applicant wants to move forward, but she also believed the citizens of Old Town also deserved to move forward. Ms. Wintzer believed the applicant had been given more time than was permitted at the last meeting, and she asked the Planning Commission to vote for denial this evening.

Jim Doilney, a resident at 50 Sampson Avenue, asked the Planning Commission to consider whether their votes and comments would be consistent with the Park City Vision Statement which states that there should be no increase in density unless it is for Affordable Housing or in the context of TDRs. Mr. Doilney remarked that it was not happening in this process and the vision statement was not being met. Relative to density, he noted that the changes and subdivided density were discretionary matters. They are not a right. Alice Claim has the density for two lots, not nine lots. To justify the applicant's nine lot goal, Mr. Cahoon stated that there were 13 lots of record. The implied assertion is that King Development was asking for a four lot reduction. Mr. Doilney believed this assertion misrepresents the situation. He pointed out that King Development could demonstrate that it has 13 usable lots which could be serviced using those lots, boundary lines and adjacent platted streets. However, they have not done this because the existing lots are probably not buildable under those standards. Changes to lot lines are not a right, but rather occasionally like subdivisions granted by the City as a discretionary matter. King Development has no right to expect lot line changes incompatible with the City vision. Mr. Doilney stated that in addition, the underlying square footage rights of these 13 lots are likely much less than the square footages proposed in the nine lot application. Mr. Doilney stated that Mr. Cahoon offers that the developer's permitted density is 56 lots, which is only a mathematical equation of dividing the gross footage of the acreage by the minimum lot size. He did not believe that was a fair assertion. Regarding home size and compatibility, Mr. Doilney found it interesting to hear that the applicant and his consultant had calculated

his house at 4,300 square feet, and that the issue was confusion between gross and net square footage. He stated that he lives in an approved subdivision that is limited to 3,000 square feet, which is the size of his house according to the City building officials who looked at the plans. Given the fact that prior assertions did not prove to be true, he questions whether assertions by the developer's engineers should be accepted as fact. Mr. Doilney thanked the Commissioners for their time and consideration.

Anita Baer, a resident at 345 McHenry, stated that she has wonderful neighbors and she did not want the town to change that much anymore.

Vice-Chair Joyce closed the public hearing.

Commissioner Band stated that she sympathized with the amount of time and money the applicant had spent; however, it did not mitigate the obligation of the Planning Commission to look at this application solely on its merits. Commissioner Band pointed out that a lot of things have been compared to HRL zone, but it is in the HR-1 zone. Even though it is adjacent to HRL and the proposed homes feel like HRL does not change the fact that the property is zoned HR-1. She agreed that tax assessor data is often inaccurate because she sees the inaccuracies as a real estate agent. She appreciated the comments made by Charlie Wintzer about not getting into the details of lot and home sizes in this subdivision process; but she thought it was important to do it anyway because those details matter. Commissioner Band agreed that the Planning Commission did not have the authority to reduce lot sizes. However, the Staff has recommended that it be more in line with the HR-1 zoning and the Planning Commission can only approve or deny. Commissioner Band remarked that in walking around the HR-1 zone it is visually different from the HRL zone and from Sampson Avenue. That is also evidenced by looking at the plat and the numbers.

Commissioner Band read from LMC 15-7.1(5)(i), zoning regulations, "Every plat shall conform to existing zone regulations and subdivision regulations applicable at the time of proposed final approval." The purpose statement of HR-1 states, "Encourage construction of historically compatible structures that contribute to the character and scale and encourage single family development on combination lots of 25' x 75'". Commissioner Band believed they were seeing less density because more people are requesting to combine lots. She believed that double lots were probably the largest they would see, which is still substantially less than what this applicant was requesting. Commissioner Band noted that the applicant appears to take issue on this point and several others, and that the Planning Commission took into account what it calls "public clamor". She agreed that in some cases the input was public clamor, but there were also many excellent well-thought out and well-researched comments, including those by previous Planning Commissioners who provided information on previous history and issues that need to be

considered. She recalled from the October Staff report that the former Planning Commissioners consistently wanted the lots to be small and as low as possible.

Commissioner Band felt good cause was the most important issue. Regarding good cause versus substantial evidence, LMC 15-7.1-7C states that, "The Planning Commission shall make a finding as to good cause prior to making a positive recommendation to the City Council". She found that statement to be the overriding command to the Planning Commission. The LMC requires them to look at every aspect of a project coming up for approval and to make a finding as to good cause prior to making a positive recommendation.

Commissioner Band thought the term "blind right turn" was frightening. Regarding the comment about "no fatal flaws" she asked if they needed a fatality to have a fatal flaw. In driving up and down the roads she questioned whether they were doing justice to the public and their health, safety and welfare. If they did not take this into consideration the Planning Commission would not be doing everything they are asked to do as part of a subdivision approval.

Commissioner Band asked for clarification on whether the mine shaft was capped. Vice-Chair Joyce stated that the mine shaft has been filled but not capped. Commissioner Band pointed out that no studies have been done and she thought that was an important factor. She asked if anyone knew the closest a home has ever been built to a mine shaft. She had Googled the question but could not find an answer. She also wanted to know the difference between capping versus filling. Commissioner Band noted that they recently had a collapse in town and there is evidence of settling. They have also had sink holes in town. She thought this issue at least bears studying when they are looking at putting a home that close to a mine shaft since it has never been done in Park City.

Per the LMC, Commissioner Band did not believe the proposed subdivision substantially provided positive benefits and mitigated negative impacts for the zone or for health, safety and welfare. In looking at the pros and cons and looking to mitigate the negative impact of the large homes, the retaining walls, site disturbance and the frightening condition of the roads, she was unable to see adequate mitigation for good cause. She believed the cleanup and the tax revenue were the only benefits.

Commissioner Band stated that at the last meeting all the Commissioners indicated that they would deny this application if the proposal had not changed. She acknowledged that the applicant presented arguments responding to their comments; however, in her opinion, the Commissioner had been given more relevant information since the last meeting to support a denial.

Commissioner Campbell stated that his comments were the same as he expressed at the last meeting.

Commissioner Worel agreed with Commissioner Band's comments. Her concern with this project has always been about health and safety and the ability to navigate the roads. She was disappointed to hear from the neighbor that the negotiations regarding a different access were not occurring. She had asked for the status of the negotiations at a previous meeting and the applicant told her that they were in progress. After hearing from the neighbor this evening that was apparently not the case.

Commissioner Worel had tried to contact the Fire Chief earlier today without success. She wanted to hear his comments regarding the ability to get emergency vehicles to the area if an evacuation was ever necessary. She realized that this was a problem all over town, but that was not a reason to approve another project with the same implications. Commissioner Worel wanted the opportunity to review the letter from Brooke Hontz that was given to the Commissioners just before the meeting.

At the request of the interim Planning Director, Commissioner Campbell summarized his comments from the previous meeting for the record. Commissioner Campbell understood the applicant's position and he was sensitive to the rights they have and the time and energy they have expended. Based on their previous work in town he believes the applicant does good work and he was certain that the same quality and design would also be present in this project. Commissioner Campbell did not favor a denial of their right to build; however, his comments at the last meeting were that the proposal was not compatible with what exists in the HR-1. He believed the applicant would see a different outcome if their proposal was laid out to look more like HR-1. Commissioner Campbell believed in the vested rights that the applicant has and he suggested that the applicant look at the possibility of applying for a rezone to achieve what they were trying to build. Based on the sections shown he believed it was compatible with the hillside and he was not opposed to development in that area. He agreed with the comment that there is a need for diverse housing and not just three or four story structures that are not physically conducive for multi-generational families. Commissioner Campbell favored what the applicant was proposing; however, he could not support it based on his reading of the LMC.

Vice-Chair Joyce referred to the comment from Mary Wintzer about not seeing any changes to the plan. He pointed out that the applicant had made it clear in the June meeting that they had no intentions of revising the plan; and that they only intended to respond to the comments from both the Planning Commission and the public. In fairness to the applicant, Vice-Chair Joyce did not believe the Planning Commission had expected to see a revised plan.

Vice-Chair Joyce stated that in reading the July 13th letter from King Development, one of the items was that they had spent 10 years presenting a nine-lot plan with no objections. He researched past materials and found a number of places in past minutes, including his own comments in April, where he had asked the question about where nine lots came from. At that time there was a response about it being one less than what would be required for an MPD. Vice-Chair Joyce stated that the research shows that nine lots were consistently brought forward by King Development. He noted that page 239 of the Staff report includes a 2008 letter from Joe Tesch defending eight HR-1 lots and one Estate lot and why they could not reasonably ask for less density. Vice-Chair Joyce believed that the letter from 2008 clearly demonstrates that it has been an issue for quite a while. Vice-Chair Joyce clarified that 9 lots was neither the right nor wrong answer. His issue was having nine lots of that size in HR-1 on very steep slopes with the extensive retaining wall. He recognized that ten or 12 units might fit based on size and position on the lots. Vice-Chair Joyce disputed the claim that in ten years no one had disputed the nine lot plan because there was significant evidence showing otherwise.

Vice-Chair Joyce noted that the July 13th letter indicates that the applicant was asked to make several specific changes to the nine lot plan and that the changes were made. Vice-Chair Joyce appreciated that lot 7 was moved off the hillside, but over and over he has made reference to the very steep lots, with the worst being Lot 7. He did not believe there had ever been an agreement that everything else would be acceptable if Lot 7 was moved. However, he did recall a long list of discussions about cut and fill and the position of the lots on the hills.

Vice-Chair Joyce referred to the August 27, 2008 Planning Commission meeting minutes which stated, "During the meeting the Planning Commissioners expressed their satisfaction with the quality and results of the cleanup. At the same time the Commissioners expressed concerns that the future home sites were being cleaned up prior to the final approval of the development plan. They also insisted all proposed development should be close to the access road along the bottom of the valley." He pointed out that the same sentiment was expressed at several other Planning Commission meetings moving forward. Each time it was about smaller homes down at the base of the canyon. Commissioner Joyce did not believe the portrayal in the July 13th letter from King Development that there was suddenly a change of opinion from the Commissioners was accurate, because documentation from many work sessions and meetings document the fact that the Planning Commission had concerns. He understood that it was never brought to a vote, but the comments are consistent.

Vice-Chair Joyce pointed out that there has been a lot of discussion about how the applicant thinks they should be HRL. Commissioner Joyce emphasized that the property is

in the HR-1 zone and the Planning Commission has consistently held to that fact throughout the process. During the March 11, 2009 work session three alternatives were brought forth by the Planning Department; and one alternative referred to changing to HRL. In that same meeting Joe Tesch read from the HRL purpose and stated that, "He believed the development was more in the spirit with the HRL zone". He emphasized that contrary to what was stated in the July 13th letter from King Development, the suggestion of rezoning to HRL was not a new concept and it has been discussed repeatedly over the years.

Vice-Chair Joyce commented on the reference that the Planning Commission was trying to apply steep slope to structures rather than lots. He clarified that they were not trying to apply the Steep Slope Cup. They were actually trying to apply LMC 15-7-1.6C and 15-7-31, which directs them to consider the topography and the slopes along with lot size and lot placement.

Vice-Chair Joyce commented on the reference to density and the discussion that it should remain open space. He agreed that it was private property and not public open space. He recalled that the statement came out of public comment and it was not accurate. Vice-Chair Joyce stated that the applicant has the right to develop their land, but it needs to be appropriate development. Vice-Chair Joyce referred to the discussion regarding the 2500 square foot footprint, and the statement in the applicant's letter that it was disappointing that the Commissioners were unwilling to honor their agreement just one meeting later. He pointed out that it had been a Staff recommendation. He did not believe that the Planning Commission at any time gave the impression that they were committing to the Staff recommendation.

Vice-Chair Joyce read the statement from the applicant's letter stating, "It did not matter where we put the houses, the Commission was not going to give a positive recommendation." He had two issues with that statement. The first is that location of houses does matter. In all of the documents there has been continual discussion in either work session or regular meetings about moving houses off the very steep slopes and into the canyon. Despite the number of times those comments were made the applicant chose not to adopt that type of plan. He liked what they did in moving Lot 7 and the Estate lot, but there is still a hillside with 100% limit of disturbance on approximately two-thirds of the hill.

Vice-Chair Joyce referred to the 2009 meeting and the discussion that was brought forward by the Planning Department with three alternatives. One alternative pushed the lots to the bottom. When they asked the Planning Commission which of the alternatives they preferred, there was overwhelming support for Alternative B. He believed this current Planning Commission appeared to be going in the same direction as the Planning

Commissions of 2005-2011. They would like to see a plan that is more compact and down in the flatter area to reduce the amount of disturbance to the hillside.

Vice-Chair Joyce appreciated the work that was done on the environmental cleanup. He gave the applicant more credit for cleaning up their portion of the land for development; but less credit for cleaning up the City piece because the trade-off was the ability to use Richardson Flat.

Vice-Chair Joyce commented on the photos of walls around town that the applicant showed in their presentation. He agreed that there are large walls around town, but very few, if any, are in the HR-1 District. He pointed out that the walls proposed for this development are not only tall but they are also very wide and carve up the hillside.

Vice-Chair Joyce referred to the concern raised in the applicant's letter about the amount of time spent on the mine. He noted that the geo-tech report states that, "typically mines are closed by backfilling and capped with concrete. However, in the mine assessment it states that they can build within ten feet and the mine was filled with dirt. He explained that the statement in the geo-tech report was the reason why the Commissioners kept asking questions about the cap.

Vice-Chair Joyce noted the comment by the applicant about the Planning Commission listening to public clamor. However, based on the LMC issues of compatibility, scale and massing, and concern about cut, fill and vegetative disturbance, he thought it was interesting to see how consistent all of the Planning Commissions have been on these issues. Vice-Chair Joyce stated that the Commissioners listen to public input and they appreciate comments that point specifically to LMC issues, but in the end they are tasked with simply applying the LMC.

Vice-Chair Joyce was prepared to comment on some of the points that were held over from the June 10th meeting.

Interim Planning Director Erickson stated that the Staff would have to reset the Findings of Fact. If the main points were on the table, the Planning Commission would have the opportunity before the next meeting to review the Staff report to make sure it was what they wanted.

Assistant City Attorney McLean remarked that the Commissioners could submit their comments to the Staff to be incorporated into the Staff report. Mr. Erickson stated that the primary goal is to make sure that the Findings of Fact and Conclusions of Law were consistent with the LMC and with the comments and opinions of the Planning Commission.

Vice-Chair Joyce stated that he would submit his comments to Staff. He assumed the Staff would make it available to the applicant and the other Commissioners.

Vice-Chair Joyce referred to the information the applicant submitted regarding house sizes and compatibility. In what he has looked at so far, the most reliable aspects are lot size and footprint size. He noted that the larger homes in the comparison provided by the applicant were in the HRL zone. He questioned the accuracy of the calculations and he believed the applicants were very selective in the houses they chose when preparing their comparison. Vice-Chair Joyce could find no reason to move away from what the Planning Staff provided for footprint because it was the most consistent. Vice-Chair Joyce stated that personally he would feel more comfortable if the Planning Commission was looking at a plan that was down in the valley and off the hillside and was more compatible with HR1 in lot size and house size. He was not opposed to development but it has to be the right fit. His primary focus was on disturbance, cut and fill, very steep slopes, and the size and layout of the lots.

Mr. Erickson stated that it was more precise for the Staff to deal with building pad size, limits of disturbance and building height in calculating the house, as opposed to regulating the internal volumes of the house. He offered to look at building pad size and limits of disturbance to help regulate these issues in the future. Mr. Erickson asked if the Planning Commission wanted further analysis from the City Engineer on the intersection. He explained that engineering and traffic analyses work in ranges and bands. He clarified that what Mr. Cassel was trying to describe was that the density being proposed did not change the effective band of Level of Service A. That was the why Mr. Cassel said there is no fatal flaw. The intersection does not fail, but adding an additional 100 trips to the model may be significant. Mr. Erickson offered to work with the City Engineer to make sure his recommendations are clear to the Planning Commission, the public and the applicant. The Staff could also look at other mechanisms for regulating house sizes if this moves forward; however, if the Commissioners intend to forward a recommendation for denial the Staff would not spend the time on it.

Commissioner Worel stated that she would also like to hear from the Fire Chief. Mr. Erickson would make sure that the Staff gets an opinion from the Fire Chief.

Jerry Fiat asked to respond to some of the comments. He stated that they obtained two designs for the mine shaft. One was to fill it with soil and the other was to fill it and cap it. They were also given distances that they would have to setback. Mr. Fiat pointed out that it was not a matter of following the recommendation. They made a decision that the setback would be based on the engineer. In response to the question asked by Commissioner Band, Mr. Fiat stated that both the St. Regis and the Montage were built on top of mine shafts. One advantage of the Alice Lode is that they know exactly what mine

shafts are there. There are mine shafts throughout town and he has built homes where they ran into mine shafts because no one knew they were there. Mr. Fiat remarked that the debate about filling it or capping it is a minor issue. If pulling out dirt and capping it with concrete is required they would do it, but he felt the issue was blown out of proportion.

Mr. Fiat referred to the statement by Commissioner Worel indicating that he had said that negotiations regarding the access were progressing. He clarified that it was actually Lee Gerstein who made that statement during a previous public hearing. Mr. Fiat stated that negotiations were still going on, but there is a difference of opinion as to what they were willing to pay for the easement.

Mr. Fiat addressed the comment about the City doing them a favor by letting them put the contaminated soil on Richardson Flats. He stated that very little soil from their property went to Richardson Flats. It was used exclusively for cleaning up the City property.

Mr. Fiat explained that the nine-lot plan started with a conversation he had with Ron Ivie about what they could put on the property and have a dead-end road. He pointed out that the discussions have always been about nine lots because they did not want to go through a major subdivision or MPD. In looking at options A, B and C that were previously presented by Staff and referenced by Vice-Chair Joyce, Mr. Fiat noted that at that time the Planning Director recommended that they look at more lots. Mr. Fiat stated that they were asked to do specific studies and those studies were done and presented. He clarified that he had not drafted the letter submitted on July 13th; however, he had approved all of the work that was done at the request of the Planning Department over the years. He felt like they were always being asked for something and then when they give it they are asked for something else. They have complied with all the requests with no guarantee that it would be approved. Mr. Fiat stated that he was reluctant to make any changes to the plans when there is no guarantee that the changes would lead to an approval. They have already spent a significant amount of money on the plans and the cleanup.

Mr. Fiat clarified that they did not terrace the wall to avoid the CUP. They actually lowered the road and lowered the lots which allowed them to reduce the size of the walls significantly. He noted that all the remaining walls are typical of all the construction in Old Town. Mr. Fiat agreed that the entry wall was very large and not typical.

Mr. Cahoon noted that Vice-Chair Joyce had quoted from the geo-tech letter of 2006, which said that the typical approach for filling the mine shaft was to fill it and cap it with cement. He pointed out that the follow up letter confirmed that it was filled and that the 10' setback would be appropriate. Mr. Cahoon remarked that because the original guide was "typical" did not mean that filling was "atypical".

Mr. Cahoon commented on compatibility and noted that the Code says compatibility with the neighborhood. It does not say compatibility with HR-1. He thought it was incorrect to say that they have to ignore the neighborhood below them because it is HRL. Instead, they have been asked to drop all the way down to Daly Avenue for compatibility. Mr. Cahoon had driven down Woodside Avenue where there are very large homes in the HR-1 district that were not mentioned. There are also massive buildings that were recently approved on the other side of the City in the HR-1 zone. He believed that was an important clarification on what the Code required.

Mr. Fiat referred to the comment about how they were selective in the houses they showed in their comparison. He explained that the houses selected were the adjoining houses to their property. Mr. Fiat stated that because the Staff report had calculated numbers for Sampson Avenue and because he was familiar with a number of houses on Sampson, he had provided a complete list of Sampson. He did not include anything he could not substantiate, which is why some of the properties were missing from the list. Mr. Fiat stated that he could state as fact that 40 and 50 Sampson Avenue were 7,500 square foot lots. He recalled that 121 Sampson was a 6,000 square foot lot. Mr. Fiat emphasized that the list was not selective. It was meant to be complete.

Vice-Chair Joyce believed there was consensus among the Planning Commission to direct the Staff to prepare findings and conclusions for denial. Assistant City Attorney McLean clarified that the Planning Commission would be making a recommendation to the City Council. She suggested that it would be appropriate for them to provide input on the conditions of approval in the event that the City Council would not follow their recommendation and approve the application. Another alternative would be to submit their suggested changes to Planner Alexander and she could summarize them for the City Council.

Commissioner Band referred to Mr. Cahoon's comment about the Code referencing neighborhood compatibility and not zoning. She cited several places in the LMC that references zoning for new subdivisions.

Mr. Erickson stated that the Staff would focus on the subdivision characteristics; however, they would consider compatibility in a relative sense based on the comments from the Planning Commission.

Commissioner Worel felt her concerns had been adequately summarized and addressed in the direction to Staff.

Vice-Chair Joyce reiterated that his primary issues were compatibility of layout, moving off the steep slopes and down into the valley, and size more compatible with the HR-1 zone,

which was more in the realm of 4,000 to 5,000 square feet lots and 1,500 to 2,000 square feet footprints.

Vice-Chair Joyce noted that the Staff had requested that the Planning Commission continue these items to allow Staff time to prepare the appropriate findings for a vote at the next meeting.

MOTION: Commissioner Worel moved to CONTINUE Alice Claim South of intersection of King Road and Ridge Avenue - Alice Claim Subdivision and plat amendment to August 12, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Worel moved to CONTINUE Alice Claim South of intersection of King Road and Ridge Avenue – Conditional Use Permit for retaining walls up to 10 feet in height to August 12, 2015. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Cahoon asked if the Planning Commission intended to direct Staff to prepare findings and conclusions for the CUP application. Mr. Erickson explained that the CUP for the retaining wall is tied to the subdivision approval. If the Commissioners forward a negative recommendation for the subdivision approval they could not approve the CUP.

Assistant City Attorney McLean stated that she would advise the Staff on whether it was better to prepare findings for the CUP now or continue it to a date uncertain pending the City Council decision on the subdivision. She could discuss the options with Mr. Cahoon.

Mr. Cahoon asked if a decision was made not to provide conditions of approval in the event the City Council overturns the negative recommendation. Vice-Chair Joyce stated that the Planning Commission had provided guidance to the Staff and they would have the opportunity to review it prior to the next meeting. He personally intended to submit detailed comments from the June meeting to be incorporated.

Mr. Cahoon stated that the applicant has spent a lot of time with the Planning Commission and they were obviously going before the City Council. If an issue arises the Council could send them back to the Planning Commission. He thought it would be prudent to address the conditions as part of the recommendation. If the City Council had all the information and input from both sides, it could possibly avoid having to come back to the Planning Commission. Mr. Cahoon recommended that the Planning Commission forward that input with their recommendation.

Planner Alexander believed the Planning Commission had already stated what they would like to see changed before they could even consider an approval. She could base the conditions of approval on those comments.

Mr. Cahoon responded to the discussion about the length of time their application has been pending. He noted that the cleanup was conducted in the middle of the Great Recession of 2008. The real estate recovery was very slow and that was a big factor in the timing and the lapse between the time of the cleanup and when they came back to the Planning Department to move forward. Mr. Cahoon thought that was an important consideration in terms of economic history.

Letter submitted by Brooke Hontz

Brooke Hontz
PO Box 2128
Park City, Utah 84060
brooke@dalyssummit.com

7/22/2015

RE: "Alice Claim" aka "Alice Load" Subdivision and Plat Amendment Applications and CUP Application Arguments for a Recommendation of Denial and Rebuttal of Snell and Wilmer July 13, 2015 Letter to the Commission

Dear Planning Commission:

Please consider forwarding a negative recommendation to the City Council on the Alice Claim Applications citing substantial credible evidence against the projects and well-articulated reasons for denial.

Thank you for your thoughtful comments on the Applications during the June 10, 2015 meeting. The clear direction that the Applications did not meet the standards of our Land Management Code was delivered. I believe from your input on this iteration of the Application that began in the fall of 2014, a strong case can be made regarding a denial.

Additionally, in the interest of safeguarding the official record for this Application; I request that you create a file that the public can also access that contains all of the meetings (work session and public hearings) beginning with the first application (estimated in 2005 as Alice

Load) with all of the testimony provided (letters from the public, emails, submittal info, etc.) through the meeting minutes generated from today. Based on my knowledge of the time I served on the Planning Commission from July 2009 – December 2013, the Planning Commission did not review any application on Alice Claim at a Public Hearing where a decision could be made to forward a recommendation. The Applicant's own attorney references 8 Planning Commission work sessions and 2 public meetings over a 10 year period and provides evidence with two attachments that show the Planning Commission was not to provide direction or input at a minimum of two of those meetings. The July 13, 2015 letter from Snell and Wilmer references different versions of a Plan, possibly different applications, and multiple different Planning Commissions throughout the letter and clearly demonstrates that over 10 years, the Applicant has gone back and forth on a plan and not made substantial progress with the legislative process based on their own volition. I believe a historical timeline of the Applications will show large periods of inactivity by the applicant with an occasional "update" where no new information is provided to the Planning Commission and no action is required of the Commission.

I reject the statements and discussion in the July 13 S&W letter regarding "Public clamor". Utah case law, Federal case law and the Utah Office of the Property Ombudsman have provided some background for you on this matter. The public testimony provided thus far has been educated, thoughtful, and related to the requirements of the Land Management Code and General Plan. The public has provided considerable evidence that the Planning Commission can use for their findings for denial. The input provided from the public can substantiate that the Application does not meet the Subdivision Standards of the LMC. The evidence provided is relevant and measurable. Please see the Findings and Conclusions of Law below for a summary of some of the substantial evidence provided thus far by the public.

Here is a list of some of my additional concerns with the July 13 S&W submittal.
HR-1 Zone:

- a. The statement about nine lots or the density NOT being an issue for the Planning Commission over the past 10 years is patently untrue. I was on the Planning Commission for 4.5 years during that period and spoke about my concerns regarding this property and potential applications for the property during the TDR ordinance creation which affects this property, the update of the General Plan, and the one work session we had on the Alice Claim where we were told not to provide too much input as they were not there for a recommendation.
- b. The Application does not meet the standards in the Land Management Code HR-1 zone regardless of the year they chose to say it was active. If the Applicant would like to keep their design, which does not meet the standards of the zone it is in, they can rezone, and that has always been an option.

- c. It is unclear if this Application IS the same Application that was originally made in 2004. The legal staff for the City should review the entire file and make a determination on the date this Application was made and what LMC and General Plan, along with other codes are applicable. If it is true that this Application is still active since 2004 there are other ramifications that are not mentioned in the S&W letter that further restricting this Application.
- 2) Density:
 - a. In order for a Subdivision to be approved by the City Council acting under their authority as the Land Use Authority, it MUST meet the legal standard established in our Land Management Code for Subdivisions. No “density” can be assigned to a parcel until it is Subdivided and every single requirement in the checklist of the Subdivision Ordinance must be met.
 - b. On page 6 of Exhibit B to the July 13 S&W letter - from a 2008 legal memo to the applicant from his attorney the two issues with the Alice Claim Applications are well defined in the second paragraph and support a recommendation for denial. First, (referencing the 1980 legal case Western Land Equities, Inc. v City of Logan) “an applicant is entitled to a building permit or subdivision approval if his proposed development meets the zoning requirements in existence at the time of his application...”. The Alice Claim Applications do NOT meet the Subdivision Ordinance requirements as the public and Planning Commission has stated and is stated below in the summary. Second, (referencing the latter part of the sentence of the same 1980 legal case Western Land Equities, Inc v City of Logan) “...and if he proceeds with reasonable diligence, absent a compelling countervailing public interest”. Other evidence supplied by the public and Planning Commission has demonstrated that the Application is a harmful force on the public interest.
 - 3) Lot Locations: The July 13 S&W letter references “The Commission always wanted the houses to be lower down on the hill.” Not indicating what year, what plan and what Commission they are referring to. Due to the fact the Application never was Agenized for a Planning Commission to move forward with a recommendation because of the way the Applicant wanted to move through the Legislative process; the Applicant could not have been told if the houses could have been located anywhere on the site.
 - 4) Good Cause:
 - a. Good Cause is one of the standards the Planning Commission MUST find as part of the Subdivision and Platting Ordinances. After a decision is made, the record will reflect if “substantial evidence” was used to make the case. I believe this is one of

- the many arguments made in the letter that glosses over the matter of law and I understand the Utah statute differently than stated in the July 13 S&W letter.
- b. The environmental clean-up was required by the State and Federal governments for the site to even be considered for use as a residential development. Moving the contaminated material to a local site just a few miles from the Property to be reburied saved the Applicant significant funds and allowed them to participate in removing waste they might not have been able to afford. Good Cause is not removing the toxic remnants of the mining industry on the property so you can develop.
 - c. Land donation – Please see Image1 below. It would be extremely difficult, perhaps impossible if it had to meet Code, to build a house on the land the Applicant suggests is a portion of their good cause argument. The property proposed for a donation to the city for road r-o-w only makes their property better by cleaning up an issue related to the roads not being in platted locations.
 - d. The S&W letter mentions “innumerable meetings” with many departments and service providers including Sewer and Fire. It is impossible to count the meetings with those two entities because there have not been any with the Applicant. I personally met with the Sewer District and the Fire District Chief and discussed this project. At the time of my meetings in 2015, no face-to-face and little to no other contact has been made by the Applicant or his representatives with these service providers who **MUST SIGN OFF ON THE SUBDIVISION PLAT.**
 - e. The City does not have to approve a CUP for a retaining wall that is unnecessary because full mitigation of the impacts occurs with the alternative access solution. Additionally, since the Application does not meet the Subdivision Ordinance, a retaining wall and access to nowhere does not need an approval.
- 5) Mine Shaft and Geo Technical:
- a. The letter from the professional engineer with AGECE on July 8, 2015 indicates in their findings that “geotechnical investigations be performed for each of the proposed residences. Foundation excavations should also be observed at the time of construction.” This Engineer has not been asked by a homebuilder/owner if they should use a 10 foot standard or the at least 10 feet and study the site. I do not believe a professional engineer will stamp plans for the home locations near the mine until actual site work studying the stability of the soils and mine is confirmed. The Commission in the past has believed a higher standard was warranted for this site because it had at least one open mine and a long mining history and this standard was supported by the Utah office of the Ombudsman.
 - b. Recently, a historic mine structure over the top of a mine in Empire Canyon collapsed on itself, even though it had been in that location for over 100 years. It would seem based on the LMC’s mention of mine hazards and the existence of a

mine on the site, and the recent collapse; additional focus and study is warranted here.

- 6) Traffic:
 - a. My last letter and presentation using traffic engineers' traffic generator numbers from ITE trip generation manual 9th edition, had a calculation of 9 lots with one single-family residential home per lot generating 10 trips per day with 90 more vehicle trips per day. In the letter provided by Fehr and Peers transportation planner on July 7, 2015 to the Applicant, Fehr and Peers indicate there will be an additional 114 trips per day from the 9 lot development. My 90 vehicle trips per day figure obviously did not exaggerate the impact as it is LESS than 114 trips per day.
 - b. The Fehr and Peers transportation planner on July 7, 2015 letter does not indicate when the traffic counts were taken which is an important factor in determining if the figures are realistic to conditions in Park City.
 - c. Total trips per day IS a relevant way of looking at traffic for a road and traffic engineers are required to understand that element of the development in order to size a roadway appropriately. Peak hour counts are typically used when discussing intersections. While the intersections at the top and bottom of King and Hillside and Main are all important in this discussion; the roadway widths of King and Ridge and all of the roads to get to those substandard roads are the issue. I stand by my statement that 90 or 114 vehicle trips is an unacceptable amount of traffic for these roads. No additional traffic generation is safe in this area.
 - d. Typical roadway conditions used by the ITE and typical TIS utilize clear conditions with warm dry weather – think Phoenix AZ. They do not, unless stated in the assumptions of the report use cold, icy, snowy conditions which affect the report findings.
 - e. The snow, steep grades, length of steep grades, short sight lines/distance and narrowness of the road (which gets narrower in the winter) are all key elements that must be taken into account in a traffic impact study and reasonable analysis.
 - f. The clear issue with traffic remains as I previously stated that there is a lot of traffic generated by this Application for a one and a half lane sub-standard road with a long steep grade and no outlet. This traffic has to go to the end of a dead end and add additional traffic to our roads which residents of Park City found to have unsatisfactory levels of service this winter. Assuming this subdivision would open the door and access to other lots in the area; it is feasible to assume 390 additional vehicle trips a day up and down King, Ridge and Daly.

Key Portions of the Code to Utilize:

PARK CITY MUNICIPAL CODE - TITLE 15 LMC

TITLE 15 - LAND MANAGEMENT CODE (LMC) CHAPTER 1 - GENERAL PROVISIONS AND PROCEDURES Chapter adopted by Ordinance No. 00-25 CHAPTER 1 - GENERAL PROVISIONS AND PROCEDURES.

15-1 -2. STATEMENT OF PURPOSE. The LMC is designed, enacted, restated and reorganized to implement the goals and policies of the Park City General Plan, and for the following purposes:

- (A) To promote the general health, safety and welfare of the present and future inhabitants, Businesses, and visitors of the City,**
- (B) To protect and enhance the vitality of the City's resort-based economy, the overall quality of life, the Historic character, and unique mountain town community,**
- (C) To protect and preserve peace and good order, comfort, convenience, and aesthetics of the City,**
- (D) To protect the tax base and to secure economy in governmental expenditures,
- (E) To allow Development in a manner that encourages the preservation of scenic vistas, environmentally sensitive lands, Historic Structures, the integrity of Historic Districts, and the unique urban scale of original Park City,
- (F) To provide for well-planned commercial and residential centers, safe and efficient traffic and pedestrian circulation, preservation of night skies and efficient delivery of municipal services,
- (G) To prevent Development that adds to existing Geologic Hazards, erosion, flooding, degradation of air quality, wildfire danger or other conditions that create potential dangers to life and safety in the community or that detracts from the quality of life in the community,
- (H) To protect and ensure access to sunlight for solar energy devices, and
- (I) To protect or promote moderate income housing.

Chapter 7.1 - Subdivision Procedures

(D) PLANNING COMMISSION REVIEW OF PRELIMINARY PLAT. The Planning Commission shall study the Preliminary Plat and the report of the Staff, taking into consideration requirements of Land Management Code, any Master Plan, site plan, or Sensitive Land Analysis approved or pending approval on the subject Property. Particular attention will be to the arrangement, location and width of Streets, their relation to sewerage disposal, drainage, erosion, topography and natural features of the Property, location of Physical Mine Hazards and geologic hazards, Lot sizes and arrangement, the further Development of adjoining lands as yet un-subdivided, and the requirements of the Official Zoning Map, General Plan, and Streets Master Plan, as adopted by the Planning Commission and City Council. The Planning Commission shall make a finding as to whether there is Good Cause in approving the preliminary plat.

Chapter 7-3. POLICY. (A) It is hereby declared to be the policy of Park City to consider the Subdivision of land and the subsequent Development or amendment of the Subdivision plat, or the adjustment of Lot lines therein, as subject to the control of Park City pursuant to the official General Plan of Park City for the orderly, planned, efficient, and economical Development of Park City. (B) Land to be subdivided or resubdivided, or Lot lines that shall be adjusted therein, shall be of such character that it can be used safely for Building purposes without danger to health or peril from fire, flood, landslide, mine subsidence, geologic hazards, or other menace, and land shall not be subdivided, re-subdivided, or adjusted until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and improvements. (C) The existing and proposed public improvements shall conform and be properly related to the proposals shown in the General Plan, Streets Master Plan, Official Zoning Map, and the capital budget and program of Park City, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the adopted Uniform Building and Housing Codes, the Land Management Code, General Plan, Official Zoning Map, and capital budget and program of Park City.

1.112 GOOD CAUSE. Providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.

The Subdivision Plat does not meet the purpose statements of the Subdivision regulations, as described below:

(A) To protect and provide for the public health, safety, and general welfare of Park City.

(B) To guide the future growth and Development of Park City, in accordance with the General Plan.

(C) To provide for adequate light, air, and privacy, to secure safety from fire, flood, landslides and other geologic hazards, mine subsidence, mine tunnels, shafts, adits and dump Areas, and other danger, and to prevent overcrowding of the land and undue congestion of population.

(D) To protect the character and the social and economic stability of all parts of Park City and to encourage the orderly and beneficial Development of all parts of the municipality.

(E) To protect and conserve the value of land throughout the municipality and the value of Buildings and improvements upon the land, and to minimize the conflicts among the Uses of land and Buildings.

(F) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.

(G) To provide the most beneficial relationship between the Uses of land and Buildings and the circulation of traffic, throughout the municipality, having particular regard to the avoidance of congestion in the Streets and highways, and the pedestrian traffic movements appropriate to the various Uses of land and Buildings, and to provide for the proper location and width of Streets and Building lines.

(H) To establish reasonable standards of design and procedures for Subdivisions, Resubdivisions, and Lot Line Adjustments, in order to further the orderly layout and Use of land; and to insure proper legal descriptions and monumenting of subdivided land.

(I) To insure that public facilities are available and will have a sufficient capacity to serve the proposed Subdivision, Resubdivision, or Lot Line Adjustment,

(J) To prevent the pollution or degradation of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; to minimize Site disturbance, removal of native vegetation, and soil erosion; and to encourage the wise Use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land,

(K) To preserve the natural beauty and topography of Park City and to insure appropriate Development with regard to these natural features, and

(L) To provide for open spaces through the most efficient design and layout of the land, including the Use of flexible Density or cluster-type zoning in providing for minimum width and Area of Lots, while preserving the Density of land as established in the Land Management Code of Park City.

Draft Action Letter Denying the Alice Claim aka Alice Lode Subdivision and Plat Amendment
FINAL ACTION DENYING THE ALICE CLAIM AKA ALICE LODE SUBDIVISION PLAT AMENDMENT

SECTION 1. DENIAL. The Alice Claim aka Alice Lode Subdivision Plat Amendment as shown in Exhibit ____ is denied subject to the following Findings of Facts and Conclusions of Law:

Findings of Fact

1. The property is located south of the intersection of King Road, Ridge Avenue and Sampson Ave in the Historic Residential (HR-1) and Estate (E) Zoning Districts with Sensitive Lands Overlay (SLO).

2. The proposal includes one metes and bounds parcel containing x acres, creating nine (9) new platted lots of record.

For Findings 3-5: See Subdivision Ordinance Purpose: (C) To provide for adequate light, air, and privacy, to secure safety from fire, flood, landslides and other geologic hazards, mine subsidence, mine tunnels, shafts, adits and dump Areas, and other danger, and to prevent overcrowding of the land and undue congestion of population. (D) To protect the character and the social and economic stability of all parts of Park City and to encourage the orderly and beneficial Development of all parts of the municipality. (E) To protect and conserve the value of land throughout the municipality and the value of Buildings and improvements upon the land, and to minimize the conflicts among the Uses of land and Buildings.

3. No platted lots within this application meet the HR-1 zone or E zone standards and therefore none of the lots or metes and bounds parcel can be developed without a Plat or Plat Amendment. The x platted lots that do exist are all partial lots and/or located under the existing Ridge Ave built road. See Image 1 below.

4. The slope of the access road, the driveways and most of each of the proposed nine (9) lots is very steep and will require significant cuts and fills to complete the development.

5. Development of the nine (9) lots on the property may require future variances to the Land Management Code due to the difficulty of development on the proposed lots and the steep to very steep slopes.

For Findings 6-19: See Subdivision Ordinance Purpose: (I) To insure that public facilities are available and will have a sufficient capacity to serve the proposed Subdivision, Resubdivision, or Lot Line Adjustment. AND Land Management Code purpose: (G) To prevent Development that adds to existing Geologic Hazards, erosion, flooding, degradation of air quality, wildfire danger or other conditions that create potential dangers to life and safety in the community or that detracts from the quality of life in the community.

6. All roadways near the proposed subdivision are substandard streets. The Streets master plan says that “Roadways which are severely substandard pose real life and safety hazards, which should receive top priority. The most pressing problems exist in the old part of town. It may be appropriate in the most critical areas to prohibit additional development until roadway improvements are assured”.

7. King Road is the proposed main access to the nine lots (9). King Road is a steep and narrow street (x feet wide to x feet wide at the widest portion) that is mostly built outside its platted location.

8. To make King Road safe, the road would need to be widened. Widening King Road may not be possible due to required eminent domain procedure and the cost of the buyout of the land holders.

9. Ridge Avenue is the “secondary access” named in the staff report, and will be needed by all residents of the area during certain periods of the year for egress.

10. Ridge Avenue is a road built outside its platted location.

11. Ridge Avenue currently has one home that uses the road for primary access and is a substandard street that is extremely narrow and acts currently as a secondary access to King Road.

12. Ridge Avenue is a narrow street that is often covered by debris and mud during the year, especially during runoff in the winter and spring.

13. Snow removal on both King Road and Ridge Avenue may be difficult or delayed during winter months.

14. Hazardous vehicle and pedestrian conditions exist on King Road and Ridge Ave when snow and/or slippery conditions are present.

15. The Streets Master Plan indicates that Ridge Avenue, in the section where the proposed subdivision is located, should be widened by 7.5 feet; however the City does not own the land on either side of the road to enlarge it and would need to spend taxpayer money to support the private developers need to widen the road.

16. 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 and as specified in the Streets Master Plan.

17. Built Ridge Avenue is adjacent to a very steep cliff and the reasonably anticipated detrimental effects of more traffic on the road cannot be substantially mitigated by the application to achieve compliance with Public Safety and Welfare standards.

18. The desire for a second ingress and egress into this site; while important for life, health, safety and welfare, also demonstrate the unsuitable nature of development in the area where the home sites are placed. The creation of another access in and out add a new access for other adjacent lots to potentially develop, further increasing the fuel level and the number of homes in a substandard location.

19. The proposed Sampson Ave/King Road right of way versus the existing private driveway is not an acceptable solution to provide access to the site. The proposed layout creates a 5th point of convergence of four existing non-standard streets and creates the need for significant excavation, vegetation removal and a large retaining wall. Also see: Subdivision Purpose (G) To provide the most beneficial relationship between the Uses of land and Buildings and the circulation of traffic, throughout the municipality, having particular regard to the avoidance of congestion in the Streets and highways, and the pedestrian traffic movements appropriate to the various Uses of land and Buildings, and to provide for the proper location and width of Streets and Building lines.

20. The Traffic Impact Study and Traffic Considerations Letter dated July 7, 2015 from Fehr and Peers do not discuss how the total day trips will affect the width and safety of King Road and Ridge Ave. Peak travel is not the only, or the most important, factor for a development located at the end of a very steep dead end street with icy and slippery hazardous conditions during the winter months.

For Findings 21-23: See Subdivision Ordinance Purpose: (A) To protect and provide for the public health, safety, and general welfare of Park City. (B) To guide the future growth and Development of Park City, in accordance with the General Plan. (F) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities. (H) To establish reasonable standards of design and procedures for Subdivisions, Resubdivisions, and Lot Line Adjustments, in order to further the orderly layout and Use of land; and to insure proper legal descriptions and monumenting of subdivided land.

21. The City recently imposed an additional fee for water users located at _____ (7,000?) feet or higher in elevation. The stress and cost on the existing water delivery system is not covered by the current impact fees or usage fees charged. Adding more users at higher elevations where not already permitted causes undue additional strain.

22. The City (also via the State Standards and Fire Flow requirements) determined that the low water pressure to service these nine (9) lots as designed is unacceptable for the users, to meet the state drinking water standards and for fire flow.

23. The Sewer District has concerns regarding the placement of the sewer in relation to the retaining walls and in relation to other utilities. The sewer design could affect the entire layout of the subdivision and if any changes are made to the layout of the subdivision upon SBWRD's approval. The Application cannot be supported with its current sewer solution.

For Findings 24-25: See Subdivision Ordinance Purpose: (L) To provide for open spaces through the most efficient design and layout of the land, including the Use of flexible Density or cluster-type zoning in providing for minimum width and Area of Lots, while preserving the Density of land as established in the Land Management Code of Park City. AND GOOD CAUSE. Providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.

24. The Application shows a lack of clustering and the nine lot layout does not echo the surroundings nor the HR-1 purpose requirements.

25. 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." See also: Subdivision Ordinance Purpose (J) To prevent the pollution or degradation of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; to minimize Site disturbance, removal of native vegetation, and soil erosion; and to encourage the wise Use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land. (K) To preserve the natural beauty and topography of Park City and to insure appropriate Development with regard to these natural features.

Conclusions of Law

1. There is no good cause for this plat amendment given the arguments raised and discussed above including that it does not meet the Subdivision Code 15-7-3 Policy (b) as discussed above. Policy B states: Land to be subdivided or resubdivided, or Lot lines that shall be adjusted therein, shall be of such character that it can be used safely for Building purposes without danger to health or peril from fire, flood, landslide, mine subsidence, geologic hazards, or other menace, and land shall not be subdivided, re-subdivided, or adjusted until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and improvements.
2. It is unknown at this time whether appropriate sewer service or adequate water service can be provided to the proposed lots.
3. Per specific reasons stated above, the plat amendment is not consistent with the Park City Land Management Code, the General Plan, and the Streets Master Plan. See LMC 15-7-3. Policy (c) the proposed public improvements shall conform and be properly related to the proposals shown in the General Plan, Streets Master Plan, Official Zoning Map, and the capital budget and program of Park City.



The Park City Planning Commission Meeting adjourned at 9:15 p.m.

Approved by Planning Commission: _____