

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
AUGUST 12, 2015

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Melissa Band, Preston Campbell, Steve Joyce, John Phillips, Doug Thimm,

EX OFFICIO:

Bruce Erickson, Interim Planning Director, Francisco Astorga, Planner; Christy Alexander, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

**ROLL CALL**

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

**ADOPTION OF MINUTES**

July 22, 2015

Commissioner Joyce referred to page 3 of the Staff report, the motion to approve the minutes, and noted that the language, "Commissioner Campbell abstained since she was absent" should be corrected to "...since **he** was absent...."

Commissioner Joyce referred to page 36, bottom paragraph, and changed, "for all intense and purposes" to correctly read, "for all **intents** and purposes."

MOTION: Commissioner Phillips moved to APPROVE the minutes of July 22, 2015 as amended. Commissioner Joyce seconded the motion.

VOTE: The motion passed. Commissioner Thimm abstained since he was absent on July 22<sup>nd</sup>.

**PUBLIC INPUT**

There were no comments.

**STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Interim Planning Director, Bruce Erickson, reported on changes to the Historic Preservation Board and pending changes to the LMC that addresses the protection of historic structures. Mr. Erickson commented on recent discussions regarding the precision required to do correct historic preservation, as well as precision in language.

Mr. Erickson reported that the City Council directed the Planning Department to prepare a pending ordinance that extends some of the protections to historic structures. Given the pending ordinance, the Historic Preservation Board would review each building when an application is submitted for repanelization, reconstruction or demolition. The HPB would review a building early in the process prior to an HDDR review. Mr. Erickson remarked that the pending ordinance includes items that were not previously included in demolition, which includes other structures as a defined term; such as decks, stairways, windows, and other items that fell between the cracks under the previous process.

Mr. Erickson stated that the City has scheduled special meetings and more frequent meetings with the Historic Preservation Board. He estimated that approximately 40 reviews need to be accomplished in the near term. The number is high because the City Council expanded the definition of historic. If a structure previously received a historic grant it is now covered under the historic protection regulations. If a structure was previously listed on a Historic Sites Inventory and was taken off through the normal process of the HPB, the structure would be considered historic again. The expanded definition also includes structures that were listed as significant or contributory on any other reconnaissance or historic survey. Lastly, a historic structure with non-significant historic modifications would fall under the set of protections in the pending ordinance.

Mr. Erickson stated that the City Council has cast a wide net and he believed it would go a long way towards preserving historic character. They were still working through the process and definition clauses. It was scheduled to come before the Planning Commission on September 9<sup>th</sup> as an LMC Amendment, and then forwarded to the City Council. Mr. Erickson anticipated significant discussion with the Planning Commission, as well as public comment.

Assistant City Attorney McLean clarified that the pending ordinance was an attempt to capture the structures that have dropped off the Inventory since 2009. It was not expanding the historic district or making it overly inclusive. She pointed out that the details would be refined when it becomes an actual ordinance.

Commissioner Joyce pointed out discrepancies in what was provided in the Staff report regarding age of structures and dates. Mr. Erickson explained that 50 years is what the National Parks Service and State Historic office uses as the definition of "Historic". The Staff was trying to give some flexibility for review within the 40 to 50 year time frame,

because other things may be contributory to the District and they want to look at those as well. In addition, there may be structures from the skiing era to consider in the future. Mr. Erickson stated that the intent is to make sure they maintain the integrity of the formal documents, which are the Landmark and Significant sites, and create a new pocket of items that are contributory to the District and should be protected. He pointed that they were trying to create a ten year window between the State and Federal regulations and the City's review. Mr. Erickson remarked that the original document did not have a 1975 clause in it. The City wants the ability to look at everything in the districts, including construction from the 1990's and 2000's.

Assistant City Attorney McLean preferred that the Commissioners hold their comments and questions until the September 9th meeting when it would be properly noticed to the public. Mr. Erickson remarked that early comments from the Planning Commission would be helpful to the Staff. Ms. McLean recommended that the Commissioners submit their comments to the Staff in writing prior to the September 9th meeting.

Assistant City Attorney McLean noted that the reason for special meetings is to give the HPB the opportunity to capture and review applications for demolition in a timely manner.

Commissioner Phillips asked if the Staff would be reaching out to the individual owners of the particular sites affected by the ordinance. Mr. Erickson stated that once the system is operational, each site that would be considered by the HPB would be part of the noticing. Commissioner Campbell believed Commissioner Phillips was talking about the people who purchased a house with the understanding that they have the right to tear it down. Assistant City Attorney McLean thought it was a good point. She would recommend that the Staff reach out to homes that they know would be caught in the expanded definition.

Chair Strachan stated that the Snyderville Basin Planning Commission has expressed interest in having a joint meeting with the Park City Planning Commission. He noted that a joint meeting was held in the past. He was on the Planning Commission at that time and he found the joint meeting to be helpful and enlightening. He understood that it creates a scheduling burden for the Staff, but he thought it would be worthwhile. If the other Commissioners were in agreement he would like Mr. Erickson to reach out to the Snyderville Basin Staff to schedule a joint meeting.

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

## **CONSENT AGENDA**

1. 162 Ridge Avenue – Steep Slope Conditional Use Permit for a new single-family home on a vacant lot (Application PL-15-02761)

MOTION: Commissioner Phillips made a motion to remove 162 Ridge Avenue from the Consent Agenda and move it to the regular agenda for further discussion. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

#### **REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION**

1. 162 Ridge Avenue – Steep Slope Conditional Use Permit for a new single-family home on a vacant lot (Application PL-15-02761)

Planner Christy Alexander reviewed the application for a Steep Slope CUP at 162 Ridge Avenue. The Staff was in the process of the HDDR review and the applicant had submitted updated plans. The Staff found that the plans comply and they were ready to approve the HDDR.

Planner Alexander noted that 166 Ridge Avenue came in last year for the Steep Slope CUP and that application was approved. The structure at 162 Ridge Avenue is very similar and it meets all the requirements from the LMC.

The Staff recommended that the Planning Commission conduct a public hearing and approve the Steep Slope CUP.

Commissioner Phillips stated that he originally had two items of concern; however, he had spoken with Planner Alexander prior to the meeting about the portion of the roof that goes above the 27' height limit. When she explained that the purpose was for circulation, he recalled that they had that same discussion when 166 Ridge Avenue was approved. Planner Alexander noted that the Planning Director can grant an exception for height on a garage on a downhill lot.

Commissioner Phillips referred to page 94 of the Staff report and expressed a concern with the north elevation. He thought the existing grade line appeared to be more than 4' from existing grade to final grade. If that was the case, he wanted to know how that was allowed, since the LMC requires that the final grade be no more than 4' off of existing grade.

Jonathan DeGray, representing the applicant, stated that the other side was terraced as well and none of the walls exceed four feet in height. However, they do stair step up the hill. Commissioner Phillips clarified that the Code does not specify a four foot wall, but rather 4 feet from existing grade to final grade. In his opinion, from the existing line down looked like 6 feet or more. Mr. DeGray stated that there was room in the elevation to manipulate the wall if it was a problem. Commissioner Phillips asked if the window was critical for egress. Mr. DeGray replied that it was an egress window. Commissioner Phillips asked if the other Commissioners shared his concern.

Planner Alexander stated that the Planning Commission could add a condition of approval requiring the applicant to meet the 4' requirement. If the Staff determines that it exceeds the requirement, Mr. DeGray could change the design to be in compliance. Mr. DeGray was comfortable with that approach. It was changed on the other side and he could easily do the same on the north side. Commissioner Phillips did not want to cause problems with egress, but they could not approve it if it did not meet Code. Mr. DeGray stated that there is a large side yard and it would be possible to do a light well if necessary.

Commissioner Phillips had reviewed the minutes from 166 Ridge Avenue where the Planning Commission added a condition of approval directing traffic for the excavation only to use King Road and to stay off Daly. He thought it was important to add the same condition for 162 Ridge Avenue. Planner Alexander stated that it was already added as Condition #16. "Access during construction shall be limited to one direction, up either Daly Avenue to Ridge Avenue and down King Road, or vice versa, so that one single road will not be impacted with access occurring in both directions." Commissioner Phillips pointed out that for 166 they specifically kept the truck traffic on King Road just for the excavation portion. Planner Alexander offered to change the condition.

Mr. DeGray was not opposed because the contractor for 166 Ridge had said the route was working fine. Commissioner Phillips had no other issues as long as the two conditions were added.

Mr. DeGray was comfortable with the conditions as discussed. If the Planning Commission was willing to approve this evening he would work with Planner Alexander to draft the language. Commissioner Phillips thought they could mirror the language from 166 Ridge Avenue.

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

MOTION: Commissioner Phillips moved to APPROVE the 162 Ridge Avenue Steep Slope Conditional Use Permit with the Findings of Fact, Conclusions of Law and Conditions of Approval as amended with the two additional conditions of approval as discussed. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 162 Ridge Avenue

1. The property is located at 162 Ridge Avenue.
2. The property is described as a Lot 2, King Ridge Estates, a portion of Block 75, Millsite Reservation to Park City.
3. The lot is 131.07' in length on both sides, with a width of 45'; the lot contains 5,898 sf of area. The allowable building footprint is 2,117 sf for a lot of this size and the proposed building footprint is 1,460 sf.
4. The King Ridge Estates Subdivision plat states the maximum floor area cannot exceed 3,030 sf; the proposed home has a floor area of 3,030 sf (excluding a 324 sf garage as the Plat Notes state garages up to 600 sf are not included in the overall floor area).
5. The vacant site is not listed as historically significant on the Park City Historic Sites Inventory and there are no structures on the lot.
6. The property is located in the HRL zoning district and is subject to all requirements of the Park City Land Management Code (LMC) and the 2009 Design Guidelines for Historic Districts and Historic Sites.
7. Access to the property is from Ridge Avenue, an unbuilt right-of-way to be built by the applicant. The access drive is being built concurrently with development of each lot. Currently the drive is being constructed for Lot 1 as that home is under development and will continue to Lot 2 upon building permit approval for Lot 2. The lot is a downhill lot. Two parking spaces are proposed on site. One space is proposed within an attached garage and the second is on the driveway in a tandem configuration to the garage.
8. The neighborhood is characterized by primarily historic and non-historic single family houses and vacant lots.

9. A Historic District Design Review (HDDR) application was reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009. The design was found to comply with the Guidelines.

10. The lot is an undeveloped lot containing primarily grasses, weeds, and shrubs that are not classified as significant vegetation.

11. The driveway is proposed to be a maximum of 14 feet in width and 20 feet in length from the edge of the street to the garage in order to place the entire length of the second parking space entirely within the lot. The garage door complies with the maximum width and height of nine feet (9') and the grade of the driveway complies at 12.1% slope.

12. The garage does not exceed 18 feet in height above the garage floor.

13. The proposed structure complies with all setbacks.

14. The proposed structure complies with allowable height limits and height envelopes for the HR-L zoning district as the house measures less than 27 feet in height from existing grade, the structure is less than the maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters, and the design includes a 12 foot step back at a height slightly below 23 feet.

15. The proposal, as conditioned, complies with the Historic District Design Guidelines as well as the requirements of 15-5-5 of the LMC.

16. The proposed materials reflect the historic character of Park City's Historic Sites, incorporating simple forms, unadorned materials, and restrained ornamentation. The exterior elements are of human scale and the scale and height follows the predominant pattern of the neighborhood.

17. 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 the foundation, roofing, materials, as well as window and door openings. The single car attached garage and off-street parking area also comply with the Design Guidelines.

18. No lighting has been proposed at this time. Lighting will be reviewed by the Planning Department at the time of the building permit for compliance with the Land Management Code lighting standards.

19. The applicant submitted a visual analysis/ perspective, cross canyon view from the east, and a streetscape showing a contextual analysis of visual impacts on adjacent streetscape.

20. There will be no free-standing retaining walls that exceed four feet in height. 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.

21. The site design, stepping of the building mass, articulation, and decrease in the allowed difference between the existing and final grade for much of the structure mitigates impacts of construction on the 30% or greater slope areas.

22. The plans include setback variations, increased setbacks, decreased building heights and an overall decrease in building volume and massing.

23. The proposed massing, articulation, and architectural design components are compatible with the massing of other single family dwellings in the area. No wall effect is created with adjacent structures due to the stepping, articulation, and placement of the house.

24. The garage height is 34 feet on a downhill lot; garage height may exceed up to 35' on a downhill lot subject to Planning Director approval.

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

26. The applicant stipulates to the conditions of approval.

27. The Planning Commission held a public hearing at the July 22, 2015 meeting for this item and continued the item to August 12, 2015 to allow the applicant to update the design of the home with revisions requested by staff.

#### Conclusions of Law – 162 Ridge Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.1-6(B).

2. The CUP, as conditioned, is consistent with the Park City General Plan.

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 – 162 Ridge 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 to the City for review prior to building permit issuance. Such plan will include water efficient landscaping and drip irrigation, and shall mitigate the visual effects of the retaining walls. Lawn area shall be limited in area.

6. 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 issue 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.

7. This approval will expire on August 12, 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 is granted by the Planning Director.

8. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission and the Final HDDR Design.

9. All retaining walls within any of the setback areas shall not exceed more than four feet (4') in height measured from final grade, unless an exception is granted by the City Engineer per the LMC, Chapter 4.

10. Modified 13-D residential fire sprinklers are required for all new construction on this lot.

11. All exterior lighting, on porches, decks, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way and shall be subdued in nature. Light trespass into the night sky is prohibited. Final lighting details will be reviewed by the Planning Staff prior to installation.

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

13. 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 surrounding wall color or painted and screened to blend with the surrounding natural terrain.

14. Parking is only allowed on the private driveway in front of the garage for 162 Ridge Avenue; parking is prohibited on the private drive (extending from Ridge Avenue).

15. The contractor shall provide and place signage such as Heavy Truck Traffic, etc. along access routes.

16. Truck access during excavation phase shall be limited to King Road.

17. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells and emergency egress.

2. **1105 Lowell Avenue – Steep Slope Conditional Use Permit for construction of a new single family dwelling** (Application PL-15-02729)

3. **1103 Lowell Avenue – Steep Slope Conditional Use Permit for construction of a new single-family dwelling.** (Application PL-15-02728)

Planner Francisco Astorga requested that the Planning Commission discuss these two applications together and conduct a public hearing for both. Two separate actions were required. Planner Astorga noted that both properties are owned by the same entity and were designed by the same architect.

Planner Astorga stated that this was the Barbara subdivision which was approved by the City Council in October 2014. A duplex is on site. He noted that several years ago the Planning Commission had the opportunity to visit the property. At that time it was under a different owner and a different design and subdivision layout. The current property owner decided to keep the approved subdivision, and the plat would be recorded very soon. Planner Astorga noted that a condition of approval of the plat was that the duplex had to be removed. He pointed out that the property owner pulled a demolition permit in May of this year and, therefore, the duplex structure was not captured in the pending ordinance.

Planner Astorga presented the approved layout showing the smaller lot at 1105 Lowell, located towards the front half of the property. The second lot, 1103 Lowell, is located towards the back. Planner Astorga was hesitant to call these flag lots because it implies that the pole or the stem is thinner than standard, since most municipalities identify flag lots as having a 10 or 15 foot stem or pole. Planner Astorga remarked that the lot met the standard minimum lot width of 25 feet.

Planner Astorga reported that the owner would like to build one single-family dwelling on each lot. He thought the Exhibit on page 235 of the Staff report would help the Commissioners understand the context of compatibility with surrounding structures. Planner Astorga explained that the Planning Department thinks of Lowell Avenue as two separate neighborhoods; the North Star subdivision neighborhood versus Lowell Avenue West, due to the development pattern that has taken place in the last 25 years. The pattern of homes on Lowell Avenue west is larger homes, and most are duplex dwellings of a wider width. The exact opposite takes place on Lowell Avenue east, which follows a traditional 25'x 75' development pattern.

Planner Astorga introduced Jack Lopez, representing the LLC that owns the two sites; and James Carroll, the project architect.

Planner Astorga stated that the Staff and the project architect worked through various design scenarios to achieve a design for both lots that meets all parts of the Code, including side yard setbacks, footprint calculations, maximum building height and specific building height parameters such as the 35' rules, the 10' stepback at 23 feet, etc.

The Staff finds that all impacts have been properly mitigated. Once the duplex is removed, one building will essentially hide the other through the very long driveway that is approximately 70' from the front property line.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the Steep Slope Conditional Use permits for 1103 and 1105 Lowell Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Staff report.

Jack Lopez, representing the applicant, believed that everyone in Park City would be pleased to see the duplex removed. The applicant was excited to begin the project and they looked forward to working with everyone in Park City.

Chair Strachan pointed out that per the application the driveway is a 13.9% grade, which is very close to the restricted 14% grade for a driveway. He asked how the applicant could guarantee that it would not go beyond 14% as built.

Mr. Lopez stated that they would be held to the 14% requirement and they would do what needed to be done to make sure they get the slope where it should be. Mr. Lopez remarked that they recently found out that the City plans to rebuild Lowell Avenue next year and it will be narrowed by 3.5 feet on the high side. That would mitigate the terrible drive approach that currently exists and provide another 3 feet of run to allow them to drop the uphill side and make it more of a gentle slope. Mr. Lopez noted that the existing drive approach is 37' wide and they can keep the width. The plan is to include a heated driveway in the entire drive system.

Mr. Erickson noted that the Planning Commission could add a condition of approval that requires a survey of the driveway before it is constructed. He stated that it was a two-part issue. One is the limits of accuracy of the topography that it is sited on. If it is on a one-foot interval it would be plus or minus a foot, which is inside the tolerance of the 13.9% grade. Another way it could vary is that if the floor plate of the building varied, the driveway slope would vary. Mr. Erickson remarked that the control mechanism would be to have a survey when the applicant was ready to build the driveway, and the Building Inspector could look at it and proceed.

Commissioner Campbell stated that the Engineering Department already does that prior to issuing a Certificate of Occupancy. Mr. Erickson replied that if the Engineering Department requires an actual survey, that would be satisfactory. Commissioner Campbell clarified that the Engineering Department reserves the right to request a survey if the slope is steep. He believed a survey would be requested in this case.

Commissioner Phillips was more comfortable adding language in the conditions to draw attention to the fact that a survey should probably be done. Commissioner Campbell was hesitant to add conditions that were already addressed in the Code.

Chair Strachan felt that this particular application was a problem because Lowell is already narrow and this driveway would be a straight shot down. If someone slides down it they could end up in the house across the street or at least into traffic.

Commissioner Thimm pointed out that the plans as drawn indicate 13.9% right on an arrow. James Carroll, the project architect, stated that 13.9% was a short portion of the driveway. Before that down the hill is 13.4% and it flattens off as it goes into the garage. Commissioner Thimm asked if the 13.9% grade was right at the arrow. Mr. Carroll stated that the dark solid line was a regrade line. Commissioner Thimm clarified that it would be absolutely perpendicular to that line. Mr. Carroll answered yes. Mr. Carroll indicated that it would gradually go from 13.2% to 13.4%, with one short section at 13.9% before it levels off into the garage turnaround. He believed they had some leeway to work with if necessary.

Commissioner Campbell shared Chair Strachan's concern about a car sliding down the driveway and into traffic. Mr. Carroll replied that they could add a curb on the other side of the driveway or add boulders to prevent people from sliding off. Chair Strachan questioned whether boulders would actually stop a car. He noted that his concern was one of the reasons why they established the 14% driveway restriction.

Planner Astorga drafted a condition to read, "The contractor shall work with the City Engineer and the Planning Department prior to construction of the driveway to ensure that the driveway will not exceed the maximum driveway grade of 14%."

Commissioner Strachan favored having a condition to require a survey to ensure that it would not exceed 14%. He was concerned that the as-built condition could put the driveway over the restriction. He thought it was a good idea to have another set of eyes look at it before the driveway is laid. Chair Strachan remarked that Lowell Avenue will be more heavily trafficked in the future and the stresses on it would be greater.

Commissioner Band asked if the Planning Commission would amend an as-built condition over 14%. Planner Astorga replied that it would have to be a variance approved by the Board of Adjustment. It would hold up the Certificate of Occupancy until there was a variance, and there was no guarantee that the variance would be granted.

Assistant City Attorney McLean remarked that there have been those issues in the past and it is difficult to rectify once something is built. She commented on one situation where

the driveway was too steep and the owner had to move the garage one floor up in order to meet grade.

Mr. Lopez suggested language for a condition of approval stating that the applicant will engage the services of a registered surveyor to verify the as-built elevations for compliance with the City Code. Chair Strachan was comfortable with that language.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Band moved to APPROVE 1105 Lowell Avenue Steep Slope Conditional Use Permit based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the Staff report. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Joyce moved to APPROVE the 1103 Lowell Avenue Steep Slope Conditional Use Permit based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – 1105 Lowell Avenue

1. The property is located at 1105 Lowell Avenue.
2. The property is located within the Historic Residential (HR-1) District.
3. A single-family dwelling is an allowed use in the Historic Residential (HR-1) District.
4. The property is described as Lot 1 of Barbara's Subdivision.
5. The lot area is 2,590 square feet.
6. The lot currently contains approximately one-half of a duplex.
7. 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.

8. Access to the property is from Lowell Avenue, a public street.

9. Two (2) parking spaces are proposed on site. Both spaces are located inside a side-by-side two (2) car garage.

10. The neighborhood is characterized by a mix of non-historic residential structures, single-family homes and duplexes.

11. The proposal consists of a single-family dwelling of 3,136 square feet, including the basement area and a two car garage.

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

13. An overall building footprint of 1,118 square feet is proposed. The maximum allowed footprint for this lot is 1,119.6 square feet.

14. The proposed structure complies with the minimum front and rear setbacks of ten feet (10').

15. The proposed structure complies with the minimum side setbacks of three feet (3').

16. The proposed structure complies with the twenty-seven feet (27') maximum building height requirement measured from existing grade. Portions of the house are less than 27' in height.

17. The applicant submitted a visual analysis, cross valley views and a streetscape showing a contextual analysis of visual impacts of this house on the cross canyon views and the Lowell Avenue streetscape.

18. The proposed single-family dwelling is compatible with the surrounding structures as viewed from the submitted Streetscape consisting of the Lowell Avenue West area.

19. 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.

20. 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% slope areas.

21. The design includes setback variations in the front and back and lower building heights for portions of the structure in both the front and back where facades are less than twenty-seven feet in height.
22. The proposed massing and architectural design components are compatible with both the volume and massing of other single-family dwellings in the area.
23. No wall effect is created with adjacent structures due to stepping, articulation, and placement of the house on the lot.
24. The proposed structure follows the predominant pattern of buildings along the street, maintaining traditional setbacks, orientation, and alignment.
25. Lot coverage, site grading, and steep slope issues are also compatible with neighboring sites.
26. No lighting has been proposed at this time. Lighting will be reviewed at the time of the HDDR and Building Permit application for compliance with the LMC lighting code standards.
27. The findings in the Analysis section of this report are incorporated herein.

#### Conclusions of Law – 1105 Lowell Avenue

1. The Steep Slope Conditional Use Permit application is consistent with requirements of the Park City Land Management Code, specifically Section 15-2.2 for the HR-1 zoning district.
2. The Steep Slope Conditional Use Permit application is consistent with the Park City General Plan.
3. 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.
4. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
5. The effects of any differences in use or scale have been mitigated through careful planning.



Conditions of Approval – 1105 Lowell 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. Separate, individual utility service is required for 1105 Lowell Avenue.
5. 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.
6. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
7. 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.
8. 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 issue 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. The shoring plan shall take into consideration protection of the historic structure to the north and existing retaining wall on the south property line.
9. This approval will expire on August 12, 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.
10. Modified 13-D residential fire sprinklers are required for all new structures on the lot.

11. 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.

Findings of Fact – 1103 Lowell Avenue

1. The property is located at 1103 Lowell Avenue.
2. The property is located within the Historic Residential (HR-1) District.
3. A single-family dwelling is an allowed use in the HR-1 District.
4. The property is described as Lot 2 of Barbara's Subdivision.
5. The lot area is 6,090 square feet.
6. The lot currently contains approximately one-half of a duplex.
7. 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.
8. Access to the property is from Lowell Avenue, a public street.
9. Two parking spaces are proposed on site. Both spaces are located inside a side-by-side two (2) car garage.
10. The neighborhood is characterized by a mix of historic and non-historic residential structures, single family homes and duplexes.
11. The proposed driveway has an overall slope of 13.9% as measured from the front of the garage to the edge of the paved street.
12. An overall building footprint of 2,161.33 square feet is proposed. The maximum allowed footprint for this lot is 2,162.6 square feet.
13. The proposed structure complies with all setbacks.
14. The proposed structure complies with the twenty-seven feet (27') maximum building height requirement measured from existing grade. Portions of the house are less

than 27' in height.

15. The applicant submitted a visual analysis, cross valley views and a streetscape showing a contextual analysis of visual impacts of this house on the cross canyon views and the Lowell Avenue streetscape. Staff finds that the proposed house is compatible with the surrounding structures.

16. The proposed single-family dwelling is compatible with the surrounding structures as viewed from the submitted Streetscape consisting of the Lowell Avenue West area.

17. 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% slope areas.

18. 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.

19. The design includes setback variations in the front and back and lower building heights for portions of the structure in both the front and back where facades are less than twenty-seven feet in height.

20. The proposed massing and architectural design components are compatible with both the volume and massing of other single-family dwellings in the area. No wall effect is created with adjacent structures due to stepping, articulation, and placement of the house on the lot.

21. 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.

22. This property is required to have independent utility services for water, sewer, power, etc. Stubbing of these utilities was completed during the Lowell Avenue reconstruction project.

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

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

Conclusions of Law – 1103 Lowell Avenue

1. The Steep Slope Conditional Use Permit application is consistent with requirements of the Park City Land Management Code, specifically Section 15-2.2 for the HR-1 zoning district.
2. The Steep Slope Conditional Use Permit application is consistent with the Park City General Plan.
3. 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.
4. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.
5. The effects of any differences in use or scale have been mitigated through careful planning.

Conditions of Approval – 1103 Lowell 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. Separate, individual utility service is required for 1103 Lowell Avenue.
5. 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.
6. A final landscape plan shall be submitted for review and approval by the City Planning Department, prior to building permit issuance.
7. 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.

8. 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 issue 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.

9. This approval will expire on August 12, 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.

10. Modified 13-D residential fire sprinklers are required for all new structures on the lot.

11. 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.

12. The applicant shall engage the services of a certified surveyor to confirm the as-built elevations of the driveway to ensure compliance with applicable City codes.

4. **Alice Claim south of intersection of King Road and Ridge Avenue – Alice Claim Subdivision and plat Amendment.** (Application PL-08-00371)
5. **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 Alexander stated that after the meetings on June 10<sup>th</sup> and July 22<sup>nd</sup>, the Staff directed Staff to prepare findings for denial for a negative recommendation on the Subdivision and Plat Amendment and denial on the CUP. She had drafted Staff reports for the Subdivision and the CUP based on that direction.

Planner Alexander had forwarded to the Planning Commission the comments she received from Commissioner Joyce. She had also sent comments she received from Commissioner

Band clarifying some of her LMC references that were reflected in the minutes. In addition, the applicant had requested that Planner Alexander clarify language in the Staff Report and the Minutes of what he believed were incorrect LMC references. She handed out a list of what she had prepared based on the applicant's request.

Chair Strachan assumed that all of the Commissioners had received a letter from Heather Smith, who is Brad Cahoon's legal secretary at Snell and Wilmer. The letter was dated today, August 12, 2015.

Assistant City Attorney McLean clarified on the record that if there was a noticing failure that the State Code requires that a Staff report be provided at least three business days before the public hearing. She stated that if the City did fail to comply with the requirements, an applicant may waive the failure so the application may stay on the public hearing or public meeting agenda and be considered as if the requirements had been met.

Assistant City Attorney McLean explained that if the applicant chose to waive it, the Planning Commission could proceed this evening. If they did not wish to waive it, she recommended a continuance. Ms. McLean noted that the applicant had indicated to her earlier in the day that they wanted to proceed forward; however, she wanted a decision to be on the record in light of the letter that was sent to the Planning Commission.

Brad Cahoon, legal counsel for the applicant, waived in order to proceed.

Planner Alexander noted that a public hearing was scheduled this evening because the process is to consistently hold a public hearing until the Planning Commission makes a decision. She asked to go through the findings of fact and the conclusions of law with the Planning Commission in case they needed clarification or wanted to add additional language.

Planner Alexander stated that the last attachment she submitted were conditions of approval. In the event that the Planning Commission forwards a negative recommendation and the City Council chooses not to follow their recommendation, the attached conditions could be considered by the Council. Planner Alexander requested that the Planning Commission review the conditions of approval prior to voting this evening.

Since Chair Strachan was not present at the last meeting, Commissioner Joyce summarized that the Planning Commission heard comments from the applicant and all the Commissioners who were present. Commissioner Joyce stated that all the issues and comments were on the table and the only reason they continued a vote to this meeting was because they wanted to give the Staff time to prepare appropriate Findings and Conclusions for denial. He recalled that the discussions were completed and the intention

was to pull the notes and comments together. Commissioner Joyce was unsure whether a public hearing was necessary this evening.

Assistant City McLean pointed out that the item was noticed for public hearing. Chair Strachan agreed. However, he informed the public that the applicant has indicated that if the public comment is still open and new things are said at this meeting, they would not have enough time to respond and that would be unfair. Chair Strachan cautioned the public to think carefully before making new comments. For anyone who made comments at the previous public hearings, their comments were already on the record. Since it was noticed, he still intended to open the public hearing.

Chair Strachan opened the public hearing.

Brooke Hontz, a resident on Daly Avenue, stated that there was a third category that Chair Strachan had not mentioned that would not set back the process this evening. She noted that the record reflects her previous comments; however, she asked the Commissioners to consider incorporating some of the Findings of Fact that were in her letter that was submitted into the record at the last meeting and included in the minutes, into the Findings drafted by the Staff. Ms. Hontz noted that everyone, including the applicant, had received a copy of her letter. Ms. Hontz stated that two Conclusions of Law related to subdivision Code Section 15-7-3, Policy B and Policy C was not new information and should not be a surprise to anyone. She encouraged the Planning Commission to add those to the drafted Conclusions of Law as limitations and things that are not met by this application. Ms. Hontz referred to her letter submitted at the last meeting; specifically, Findings 6-17, related to streets; 18, 19, and 20, related to access and traffic; and 23, which was an expanded sewer discussion. She reiterated that all of the items were on the record but they were not addressed in the Findings of Fact drafted by Staff. She thought the Staff had had missed the public health, safety and welfare portion of the project that the public had participated in extensively. Ms. Hontz also encouraged the Staff to consider adding the items from her letter to conditions of approval because they were important issues to be addressed if the City Council did not follow the recommendation for denial.

Chair Strachan clarified that Ms. Hontz was asking the Planning Commission to consider adding Findings 6-17, 18-20 and 23 from her letter. Ms. Hontz stated that she would also like the Commissioners to consider adding the suggested Conclusions of Law outlined in her letter. Chair Strachan noted that the letter Ms. Hontz had submitted could be found beginning on page 54 of the July 22<sup>nd</sup> meeting minutes.

Chair Strachan asked if Mr. Cahoon had the opportunity to review the Findings Ms. Hontz was suggesting. Mr. Cahoon replied that he had read the minutes of July 22<sup>nd</sup>, and he

generally objected to what Mr. Hontz was requesting. Mr. Cahoon had nothing further to add on any issue.

Jess Walker, representing Lee Gurstein and Sherry Leviton, reiterated their opposition for the reasons previously stated by his clients and others, as well as the reasons stated in the Planning Commission Staff report.

Chair Strachan closed the public hearing.

Mr. Cahoon noted that page 169 of the Staff report for the Conditional Use Permit makes reference to the General Plan. He asked if the Staff was quoting from the 1997 General Plan. Planner Alexander answered yes. Mr. Cahoon had been unable to access the 1997 General Plan online and he requested that Planner Alexander provide him with an electronic copy.

Chair Strachan was not opposed to looking at the proposed findings that Ms. Hontz had specified in her letter. He suggested that the Planning Commission take a ten minute break to allow the Commissioners to read through her Findings. He did not want to include items that were not needed, but he also wanted to make sure they did not overlook something that should be included. The Board agreed. Chair Strachan reiterated that the suggested items were 6-17, 18-20 and 23, which were listed on pages 63 through 65 of the Staff report. Assistant City Attorney McLean pointed out that Ms. Hontz had also asked the Commissioners to consider Conclusions of Law 15-7-3B and 15-7-3C.

The meeting was briefly adjourned and re-opened.

Chair Strachan had a question regarding the citation to 15-7-3 Policy Statements B and C. If the Planning Commission decided to include those, he asked if they should be Conclusions of Law and phrased accordingly, or whether they should be Findings.

Assistant City Attorney McLean stated that if the Commissioners find that the policies are not met, it would be a Conclusion of Law. However, there should be Findings of Fact to support that conclusion.

Commissioner Joyce was comfortable with the Findings and Conclusions of Law drafted in the Staff report. He refuted all the points in Ms. Hontz's letter, particularly the Findings of Facts 16-20 and 23, which fell into two categories. The first was roads. Commissioner Joyce believed the Planning Commission had discussed road safety at length and the City Engineer had attended several meetings to answer their many questions and explain the road situation. Commissioner Joyce questioned whether the City Engineer would agree with a number of the items Ms. Hontz had mentioned because they were definitively



contradictory. He thought the comments about Ridge Avenue were irrelevant because nothing in the proposed plan touches Ridge Avenue. Commissioner Joyce did not agree with Ms. Hontz about the sewer district and the water pressure being missing pieces. He noted that representatives from the Water Department spoke to the Planning Commission and assured them that the water pressure meets the standards. A finding of fact indicates that the applicant had not updated the water model since the plan was changed; however, the lots were moved further down the hill, and in his opinion, that should make the pressure better. Commissioner Joyce remarked that regardless, it would have to be approved by the Sewer District and the Water District.

Commissioner Joyce pointed out that traffic studies were done on the roads and it was determined that the level of service would not change. He believed the road issues had been thoroughly discussed.

Commissioner Band was comfortable with the Staff report. She supported adding 15-7-3 B and C from Mr. Hontz's letter as Findings of Fact and Conclusions of Law.

Commissioner Thimm concurred with his fellow Commissioners. He stated that even though he was absent from the last meeting he had closely read the minutes and reviewed the Staff report and any new information. In reading through the items in the letter, he questioned whether they had a basis to even state some of them. He understood that a traffic analysis was submitted and reviewed by the City Engineer, and he thought it was well documented in the materials. Commissioner Thimm stated that Item 10 could be added, but he did not think it was needed because it was well-documented in other information and in the mapping itself. He agreed with Commissioner Joyce that Ridge Avenue was irrelevant to the proposed plan. Commissioner Thimm would be comfortable adding 15-7-3 B and C.

Planner Alexander noted that 15-7-C discussed public improvements. She reminded the Planning Commission that the proposed roads would be private roads within the development and not public roads.

Chair Strachan asked if the Commissioners wanted to forward their recommendation with or without conditions of approval.

Commissioner Thimm stated that if the Planning Commission makes a finding that recommends denial, he would like to stand on that recommendation.

Commissioner Band concurred. She understood the reason for sending conditions of approval with their recommendation, but she believed that many of the points in the drafted

conditions were already addressed in the denial. She did not think it needed to be restated.

Commissioner Campbell thought the conditions would weaken their position. It might misrepresent their position to the City Council and send the message that they were close to approving it. Commissioner Campbell remarked that what the applicant proposed was so far away from what is allowed in HR-1 that the only condition of approval he would add would be to rezone.

Commissioner Joyce concurred with his fellow Commissioners. Chair Strachan also agreed. He hoped that if the City Council disagreed with their position that they would remand it back to the Planning Commission.

Chair Strachan thought the Planning Commission would be well-served to include Finding #6 from Ms. Hontz letter, which states, "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 ensured." Chair Strachan believed they could say those things with confidence and there was evidence in the record to support it. It quotes public documents and it bolsters the findings.

Chair Strachan also thought they should include 15-7-3B as a Conclusion of Law, with added language that, "simply this application fails to satisfy this requirement."

Commissioner Joyce referred to Chair Strachan's comment about adding Finding #6. He did not disagree that the roadway is substandard, but in their discussions with Matt Cassel he could not recall that as one of the reasons why they were denying this application. He understood Mr. Cassel's comments to mean that the road was not perfect and it would not make it much worse. In fact, with the land around it they may be able to fix some of the problems that currently exist and the road might actually be better. Commissioner Joyce was hesitant to add Finding #6 if it could be construed as a reason for denying this project.

Commissioner Campbell agreed with Commissioner Joyce. In his opinion, the streets had no bearing on his decision.

Commissioner Band thought roads were a factor. The Planning Commission is charged with looking at positive benefits and mitigating negative impacts, and that includes looking at roads when approving a new subdivision. She noted that the City Engineer had said there were no fatal flaws. Commissioner Band believed that Mr. Cassel did not want to go on record saying that the roads would not work when they obviously could work. In her

opinion it was not even close to an ideal situation. Commissioner Band was willing to defer to what the other Commissioners decided, but she personally favored adding the language.

Commissioner Campbell thought the language would dilute their argument. The language “prohibit additional development until roadway improvements are assured” implies that the Planning Commission would give approval to everything else once the roadway is fixed. However, if the roadway was magically fixed tomorrow, he would still be opposed to this application based on all the other reasons. Commissioner Band understood, but she still thought roads were an element to be considered. Commissioner Campbell stated that it was a temporary element that the City could fix.

Chair Strachan explained that he liked Finding #6 because the Planning Commission is the most powerful when they are acting on the health, safety and welfare of the community at large. He believed that having a finding that their consideration was based in part on health, safety and welfare of the community would probably strengthen their position.

Commissioner Joyce reiterated that everything stated in Finding #6 was factual and he would not be opposed to adding it if that was what the Commissioners decided.

Chair Strachan stated that he looks to the Conclusions of Law as the basis for whether to approve or deny an application. He pointed out that the Findings of Fact are factual statements and not necessarily reasons. If the Planning Commission agrees on the Conclusions of Law, it was not uncommon to disagree on some of the Findings.

Chair Strachan asked if the Planning Commission had any comments or changes regarding the CUP. The Commissioners were comfortable with the Findings of Fact and Conclusions of Law for the CUP as drafted by Staff.

Mr. Cahoon had nothing further to add.

**MOTION:** Commissioner Joyce moved to forward a NEGATIVE Recommendation to the City Council for Alice Claim south of intersection King Road and Ridge Avenue, the Alice Claim subdivision Plat Amendment based on the Findings of Fact and Conclusions of Law as amended. Commissioner Band seconded the motion.

**VOTE:** The motion passed unanimously.

**MOTION:** Commissioner Joyce moved to DENY the conditional use permit for retaining walls at Alice Claim based on the Findings of Fact and Conclusions of Law found in the Staff report. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

It was noted that this item was scheduled to go to City Council on September 17<sup>th</sup>. It would be publicly noticed and letters would be sent to property owners. Assistant City Attorney McLean recommended that the Planning Commission have a representative at the City Council meeting to be available to answer questions the Council may have regarding their discussions.

#### Findings of Fact – Alice Claim Subdivision & Plat Amendment

1. The property is located at the intersection of King Road , Ridge Avenue, Woodside Gulch, and Sampson Avenue (approximately), within the Historic Residential (HR-1), Estate (E), and Sensitive Lands Overlay (SLO) Districts.
2. The proposal includes a subdivision of nine (9) lots on 8.65 acres.
3. The property is a “metes and bounds” parcel with contiguous platted lots.
4. A City water tank and land owned by the City is adjacent to the subject property on the south end, and a City-owned parcel bisects the subject property. The City water line runs within the City owned property.
5. The applicant previously undertook a voluntary remediation of the regulated soils on the site, which included soil remediation both in the Alice Claim 8.49 acre portion and within a 1.7 acre portion of the adjoining City property.
6. The property can only be accessed through the platted King Avenue right-of-way as the owner has not secured legal access through the Woodside Gulch water tank access easement used by the City. The new roadway would require significant excavation and retaining walls in three (3) locations up to and possibly in excess of ten feet (10’) in height. The total excavation is proposed to be 30’ in linear height and the total length of the longest wall is approximately 196’ long. These retaining walls will be reviewed under a concurrent CUP.
7. The Woodside Gulch stream runs through the property and any changes to the stream will require a Stream Alteration Permit. The Applicant previously applied for this permit and will need to amend their existing Stream Alteration Permit from the Army Corp of Engineers. Any changes to the stream may also require an amendment to the Voluntary Clean-up Program remediation with the Utah Department of Environmental Quality.

8. The property, which was once the site of the Alice Load Mine, was previously the site of mining activities, which have since undergone recent remediation.

9. Huge amounts of significant vegetation and at least 4 significant deciduous trees are proposed to be removed by the layout of the lots, drives, and retaining walls.

10. Most of the remainder of the site has stands of oak, maple and aspen trees in addition to areas of smaller shrubs and grasses.

11. Adequate Water Service and Pressure may not be available to most of the proposed development sites (proposed Lots) within the development as currently designed. The applicant has not submitted an updated final water model for the most recent site plan dated May 18, 2015. The applicant will be responsible to determine what portion of the property is serviceable by the current water system, or propose acceptable mitigation.

12. A culvert for the stream is proposed for Lot 1 primarily in order to meet the 50' setback regulations from streams within the Estate and SLO lot, otherwise the culvert would not be necessary.

13. This development is located upstream of the FEMA Flood Plain Studies. Lots 1, 5, 6, 7, 8, and 9 at a minimum appear to be in the stream's flood plain. Until further study is complete, none of the proposed lots can be reasonably developed. A flood plain study still needs to be completed.

14. The applicant requests a setback reduction from the Planning Commission for Lot 1 to a 10' rear setback from the required 30' rear setback for this Estate District lot in order to allow the buildable area to be lower on the hill side and off of the Very Steep Slopes.

15. The utility plan submitted on May 18, 2015 does not show how each of the wet and dry utilities will be able to be placed within the drives with required separations or with special conditions as approved by the proper regulatory agencies and approved by the City Engineer as a final engineered utility plan has not been submitted.

16. A Debris Flow Study has not been completed for the stream to determine if a debris basin is required.

17. All drives are proposed over 10% grades and will not be eligible to be converted to public ROWs in the future. All drives must meet the 14% maximum grade

requirement.

18. Public trails are shown on the proposed plat with a 15' public recreational trail easement.

19. The proposed lots range in size from 3.01 acres within the Estate District and .18 acres (7,714-7,910 square feet) within the HR-1 District.

20. A geotechnical report has been reviewed by the City Engineer for the overall site but individual geotechnical reports have not been submitted for each lot.

21. The applicant owns other adjoining properties within the Historic Residential Low-Density (HRL) District. Two of these contiguous properties are lots 1 and 2 of the Ridge Avenue Subdivision.

22. The Estate District lot (Lot 1) is within the Sensitive Lands Overlay (SLO) and is subject to the regulations of LMC 15-2.21.

23. The proposed building pad areas on proposed Lots 2, 3, 4, 5, 6, 7, and 8 are all on Very Steep Slopes (over 40%). Only the proposed building pad area on Lot 9 is on slopes less than 30%. Lot 1 is 31%, Lot 2 is 48%, Lot 3 is 50%, Lot 4 is 44%, Lot 5 is 48%, Lot 6 is 50%, Lot 7 is 43%, Lot 8 is 47%, and Lot 9 is 26%.

24. The existing encumbered Lots 1-7 and 36-40, Block 77 are proposed to be dedicated to the City as right-of-way if the plat is recorded as they currently have a road over them.

25. The proposed location of the building pad on Lot 1 is on Steep Slopes (15% - 40%) and not on Very Steep Slopes (greater than 40%), and also more than 50' away from Very Steep Slopes .

26. LMC 15-7-1-6(C) directs the Planning Commission to consider the topography and the location of streets along with lot size and lot placement and other items during review of Final Subdivision Plat which the Planning Commission has continually expressed concern over the steep slopes, extension of streets into very steep slopes, incompatible clustering and layout and size of the lots and not placing all of the lots on the lowest point of the slopes along the gulch.

27. The existing mine shaft on the property is currently filled but not capped as stated on the site plan dated May 18, 2015. Any structures on this site must be setback at least 10 feet from the mine shaft.

28. The Applicant has shown on the plat the limits of disturbance as the proposed lot lines but does not show limits of disturbance for the proposed retaining walls.

29. The lots are positioned as proposed to avoid development on the ridgelines and allow for drives that contour with the topography in order to meet the required grades. However, the proposed height of the homes on Lots 8 and 9 will be visible over the eastside of the ridgeline and the excavation of the lots will require large amounts of cut and fill.

30. Very few homes within the Historic Districts compare in size to the total square footage, footprint and lot size as is proposed by the Alice Claim Subdivision. The layout of the homes is not compatible to the historic density and clustering of homes within the nearby HR-1 and HR-L districts and could be designed to meet the smaller average footprint size of other nearby HR-1 districts.

31. The proposed subdivision, as designed, does not incorporate a design that reflects the established development pattern of the neighborhood and nearby HR-1 District which includes a clustering of smaller lots situated side-by-side down in valleys and have direct access to the primary roadway that services the development,

32. The proposed development layout does not comply with the purpose statement of the HR-1 District, specifically 15-2.2-1(A), (C), and (D).

33. The average lot size in the HR-1 District as a whole is 4,607 square feet and the average lot size in the closest HR-1 neighborhood to the proposed development is Daly Avenue which is 4,356 square feet. The Applicant proposes lot sizes ranging from 7,714-7,910 square feet within the HR-1 District.

34. The average footprint size in the HR-1 District as a whole is 1,482.24 square feet and the average footprint size in the closest HR-1 neighborhood to the proposed development is Daly Avenue which is 1,465.44 square feet. The Applicant proposes footprint sizes of 2,500 square feet within the HR-1 District.

35. In all of the past Planning Commission work session and regular meeting minutes from 2008 discussing this project, there has been continual discussion about the Commission's concern to move proposed homes off the very steep slopes and into the bottom of the canyon (gulch). The current Commission at the July 22, 2015 meeting reiterated that they would be supportive of a plan that is more compact and down in the flatter area of the canyon to reduce the amount of

disturbance to the hillside. Also, based on the LMC issues of compatibility, scale and massing, and concern about cut, fill and vegetative disturbance, the Commissioners stated it was interesting to see how consistent all of the Planning Commissions from 2008 to 2015 have been on these issues.

36.LMC 15-7.1-5(I), Zoning Regulations state, "Every plat shall conform to existing zone regulations and subdivision regulations applicable at the time of proposed final approval."

37.The purpose statement of the HR-1 District 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'".

38.The application for the Alice Claim subdivision was deemed "complete" by the Planning Department on May 23, 2005.

39.Between 2006 and 2009, the Planning Commission conducted three work sessions to discuss the project and visited the property during two site visits.

40.On November 20, 2012, the Planning Department notified the applicant that the application would be closed due to inactivity by the applicant.

41.On November 30, 2012, an appeal of the closing of the file for the Alice Claim Subdivision is filed by the applicant's attorney. The closing of the file was later rescinded by the Planning Director with the stipulation that the applicant either bring the last plan submitted forward to the Planning Commission for action, or redesign the project and submit it within thirty (30) days. The applicant chose to go forward with the last submitted plan.

42.On October 8, 2014 the Planning Commission conducted a site visit and work session to discuss the history and 2009 site plan proposed for this project.

43.The Applicant submitted a revised site plan, plat and all required submittals for the subdivision and plat amendment on January 23, 2015.

44.The Applicant submitted further revisions to the plat to address some of the City's concerns and deficiencies in their application on March 16, 2015.

45.On April 8, 2015 the Planning Commission held a public hearing for this project and continued the item to May 27, 2015 to give the applicant sufficient time to submit revisions to the layout and clarify the concerns brought up by the



Commissioners.

46.The Applicant submitted a revised site plan, plat and all required submittals for the subdivision and plat amendment on May 4, 2015.

47.The Applicant submitted further revisions to the plat to correct discrepancies in the May 4, 2015 submittal on May 18, 2015.

48.On May 27, 2015 the Planning Commission held a public hearing for this project and continued the item to June 10, 2015 in order to give staff sufficient time to review the changes submitted on May 18, 2015.

49.On June 10, 2015 the Planning Commission held a public hearing for this project and continued the item to the July 8, 2015 meeting in order to give the Applicant sufficient time to respond to the Commission and public's comments from that meeting. The Applicant did not submit any comments or changes to the site plan by the deadline given of June 24, 2015.

50.On July 8, 2015 the Planning Commission held a public hearing for this project and continued the item to the July 22, 2015 meeting in order to give the Applicant more time to respond to the June 10, 2015 meeting comments. The Applicant submitted a response on July 13, 2015.

51.On July 22, 2015 the Planning Commission held a public hearing for this project and continued the item to the August 12, 2015 meeting in order to allow Staff time to prepare the appropriate findings for a vote at that meeting.

52. 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".

#### Conclusions of Law – Alice Claim Subdivision & Plat Amendment

1. There is no good cause for this proposed subdivision plat given that the proposed development does not meet the purpose of the Historic Residential (HR-1) District, nor does it meet specific requirements of the Subdivision Ordinance, nor does preserve the character of the neighborhood or existing development patterns established within the neighborhood.

2. The proposal does not cluster the development to meet the general subdivision requirements in Section 15-7.3-2(E) wherein the language states that “units should be clustered in the most developable and least visually sensitive portions of the site.” This does not meet the good cause standard as it does not utilize best planning practices of clustering development.

3. The proposed subdivision plat is not consistent with the Park City Land Management Code and applicable State law regarding lot combinations.

4. The proposed subdivision does not meet Subdivision regulations 15-7.3-1(D) which states: “Restrictions Due to Character of the Land: Land which the Planning Commission finds to be unsuitable for Subdivision or Development due to flooding, improper drainage, Steep Slopes, rock formations, mine hazards, potentially toxic wastes, adverse earth formations or topography, wetlands, geologic hazards, utility easements, or other features, including ridgelines, which will be reasonably 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 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”.

5. This application fails to meet [15-7-3.(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.

#### Findings of Fact – Alice Claim, CUP for retaining walls

1. The property is located at the intersection of King Road, Ridge Avenue, Woodside Gulch and Sampson Avenue (approximately), within the Historic Residential (HR-1) and Estate (E) Districts and Sensitive Lands Overlay (SLO).

2. The proposal includes a subdivision of nine (9) lots on 8.65 acres.

3. The property is a "metes and bounds" parcel with contiguous platted lots.
4. A City water tank and land owned by the City is adjacent to the subject property on the south end, and a City-owned parcel bisects the subject property. The City water line runs within the City owned property.
5. The applicant previously undertook a voluntary remediation of the regulated soils on the site, which included soil remediation both in the Alice Claim 8.49 acre portion and within a 1.7 acre portion of the adjoining City property.
6. The property can only be accessed through the platted King Avenue right-of-way as the owner has not secured legal access through the Woodside Gulch water tank access easement used by the City.
7. The new roadway would require significant excavation and retaining walls in three (3) locations up to ten feet (10') in height which require Conditional Use Permit approval and Historic District Design Review approval.
8. The 3 retaining walls would consist of blonde sandstone veneer up to ten feet (10') in height with four feet (4') of horizontal terracing in between each wall and up to approximately 196' in length, placed at the entrance to Alice Court which will create significant visual and massing/scale and cut and fill and loss of vegetation impacts to the neighborhood.
9. 10 other retaining walls up to six feet (6') in height and one wall up to four (4') feet in height are proposed elsewhere within the development but would not require a Conditional Use Permit. Any retaining walls would still be subject to the Historic District Design Review process.
10. The retaining walls have not been engineered as of the date of this report and would require the City Engineer to approve the engineered plans. This is an unmitigated impact as staff can't analyze exactly how much excavation will occur, and the applicant has not shown the footing and foundation size, and how much separation between the walls will be possible to plant vegetation with any footings or tiebacks that may be required.
11. Historic District Design Review applications are required for any construction of retaining walls within the historic districts or any lots adjacent to the historic district.
12. Snow storage, guardrails and lighting are elements of the retaining walls that require City Engineer and Planning Department approval.

13. There are impacts created by the proposed retaining walls which include:

- a) Size and location of the Site; the applicant has determined the three 10' walls must be placed in this location due to the access they are providing and this will create a significant visual impact to the community with the mass, scale and incompatibility to surrounding Historic structures.
- b) Utility capacity within the roads adjacent to the proposed walls as the Applicant has not properly engineered the roads or retaining walls. The impact of this is that the weight of the walls and/or placement of the utilities near the walls could significantly damage and negatively impact the public utilities and infrastructure;
- c) Screening and landscaping to separate the walls from adjoining uses. This creates a negative visual impact upon the historic district and surrounding neighborhoods if it cannot be mitigated adequately with landscaping. The Applicant has not shown engineered drawings to show that adequate landscaping can possibly be planted between the terraced walls;
- d) Building mass, bulk and orientation as the walls are 10' in height and width are not exact, which is considered massive, mass and orientation within the Historic District and approximately 2 times the height of the majority of retaining walls within the District which are typically 4' to 6' in height. This creates a negative visual impact upon the historic district and surrounding neighborhoods;
- e) Physical design and compatibility with surrounding structures as the walls are not compatible in size to other residential homes and retaining walls within the HR-1 District. This creates a negative visual impact upon the historic district and surrounding neighborhoods;
- f) Environmentally sensitive lands, physical mine hazards, historic mine waste and steep slopes have not been properly addressed in these locations with final engineered plans. This presents a negative health, safety and welfare impact if not addressed. Significant excavation, cut and fill, and loss of significant vegetation along the steep slopes is a negative environmental impact.

14. The applicant submitted draft utility plans dated May 18, 2015 that have not received final approval by the Snyderville Basin Water Reclamation District, Water Department, and City Engineer. The applicant will be responsible to determine what portion of the property is serviceable by the current water system and proposed sewer and storm drainage systems or propose acceptable mitigation and if the proposed walls will negatively impact the utilities. Proposed roads with utilities that are not private driveways next to the retaining walls are required to be 20' wide and are shown as such on the site plan.

15. The applicant has submitted a geotechnical report for the overall site but not for the individual lots or retaining wall locations. Previous mining activities, strong ground motion, slope stability, debris flow and avalanche, shallow bedrock and perched groundwater are the most significant engineering geology and geotechnical aspects which could affect design and construction at the site.

16. A Debris Flow Study has not been submitted to the City Engineer and may affect the construction of the retaining walls.

17. Significant vegetation and at least 4 deciduous trees are proposed to be removed by the layout of the lots, drives, and retaining walls and due to the steepness and height of the hillside, any structures or 10 foot retaining walls will be visible at the entry to Alice Claim. The retaining walls were not included in the cross canyon views that the Applicant submitted.

18. Most of the remainder of the site has stands of oak, maple and aspen trees in addition to areas of smaller shrubs and grasses.

19. All drives next to retaining walls are proposed over 10% grades and will not be eligible to be converted to public ROWs in the future. All drives must meet the 14% maximum grade requirement. Adequate and safe snow storage has not yet been addressed by the Applicant when snow is pushed over the sides of these retaining walls.

20. The proposed building pad areas near proposed retaining walls on proposed Lots 2, 3, 4, 5, 6, 7, and 8 are all on Very Steep Slopes (over 40%). Only the proposed building pad area on Lot 9 is on slopes less than 30%. Lot 1 is 31%, Lot 2 is 48%, Lot 3 is 50%, Lot 4 is 44%, Lot 5 is 48%, Lot 6 is 50%, Lot 7 is 43%, Lot 8 is 47%, and Lot 9 is 26%. The excavation of the steep slopes for these homes next to the retaining wall has not been addressed to ensure debris flow and the soils surrounding the proposed walls will not be impacted.

21. The Applicant has shown on the plat the limits of disturbance as the proposed lot lines but does not show limits of disturbance for the proposed retaining walls.

22. Several of the retaining walls will be visible from various points within the Historic Districts and are proposed to be twice as high as other retaining walls for private residential development within the Historic Districts.

23. Very few large walls around town, if any, are in the HR-1 District. The walls

proposed for this development are not only tall but they are also very wide and carve up the hillside.

24. The walls were not incorporated into the cross-valley visual analysis that the Applicant provided for the subdivision.

25. Proposed tree heights will only screen approximately 50% of the walls vertically where located and proposed spacing of trees will only screen approximately 25% of the walls horizontally which creates a visual impact.

26. Any footings or foundations of the walls could impact what vegetation can be planted to screen the walls and without final engineered plans the Applicant can't prove that the walls will be adequately visually mitigated.

27. The retaining walls proposed do not comply with the General Plan in maintaining compatibility with surrounding historic districts. Specifically page 56 Historic District states "Building height and mass of new structures should be compatible with the historic structures. Consider further limiting building heights and floor area ratios." The three 10' walls up to 196' in length are not compatible in mass, scale and height to historic structures in the historic district as they are much larger than any other private residential development that is not part of an MPD and therefore does not comply with the General Plan. Page 34 Environmental and Open Space Policies also states "Direct development to the "toe" of slopes, preserving the ridge tops, meadows and visible hillsides. Open space foregrounds should be incorporated in development proposals to enhance the visual experience of open space." This development is proposed on visible hillsides and not directed to the toe of slopes and therefore does not comply with the General Plan.

28. In all of the past Planning Commission work session and regular meeting minutes from 2008 discussing this project, there has been continual discussion about the Commission's concern to move proposed homes off the very steep slopes and into the bottom of the canyon (gulch). The current Commission at the July 22, 2015 meeting reiterated that they would be supportive of a plan that is more compact and down in the flatter area of the canyon to reduce the amount of disturbance to the hillside and the need for these large retaining walls.. Also, based on the LMC issues of compatibility, scale and massing, and concern about cut, fill and vegetative disturbance, the Commissioners stated it was interesting to see how consistent all of the Planning Commissions from 2008 to 2015 have been on these issues.

29. Between 2006 and 2009, the Planning Commission conducted three work sessions to discuss the project and visited the property during two site visits.

30. On November 20, 2012, the Planning Department notified the applicant that the application would be closed due to inactivity by the applicant.

31. On November 30, 2012, an appeal of the closing of the file for the Alice Claim Subdivision is filed by the applicant's attorney. The closing of the file was later rescinded by the Planning Director with the stipulation that the applicant either bring the last plan submitted forward to the Planning Commission for action, or redesign the project and submit it within thirty (30) days. The applicant chose to go forward with the last submitted plan.

32. On October 8, 2014 the Planning Commission conducted a site visit and work session to discuss the history and 2009 site plan proposed for this project.

33. The Applicant submitted a revised site plan, plat and all required submittals for the subdivision and plat amendment on January 23, 2015 as well as a new application for a CUP for the proposed retaining walls.

34. The application for the Alice Claim CUP corresponds with the Alice Claim subdivision application that was presented to Past Planning Commissions between 2008-2014 was deemed "complete" by the Planning Department on January 23, 2015.

35. The Applicant submitted on March 16, 2015 further revisions to the plat, site plan and retaining walls to address some of the City's concerns and deficiencies in their application.

36. On April 8, 2015 the Planning Commission held a public hearing for this project and continued the item to May 27, 2015 to give the applicant sufficient time to submit revisions to the layout and clarify the concerns brought up by the Commissioners.

37. The Applicant submitted a revised site plan, plat and all required submittals for the subdivision, plat amendment and CUP on May 4, 2015.

38. The Applicant submitted further revisions to the plat, site plan, and retaining walls to correct discrepancies in the May 4, 2015 submittal on May 18, 2015.

39. On May 27, 2015 the Planning Commission held a public hearing for this project and continued the item to June 10, 2015 in order to give staff sufficient time to review the changes submitted on May 18, 2015.

40. On June 10, 2015 the Planning Commission held a public hearing for this project and continued the item to the July 8, 2015 meeting in order to give the Applicant sufficient time to respond to the Commission and public's comments from that meeting. The Applicant did not submit any comments or changes to the site plan by the deadline given of June 24, 2015.

41. On July 8, 2015 the Planning Commission held a public hearing for this project and continued the item to the July 22, 2015 meeting in order to give the Applicant more time to respond to the June 10, 2015 meeting comments. The Applicant submitted a response on July 13, 2015.

42. On July 22, 2015 the Planning Commission held a public hearing for this project and continued the item to the August 12, 2015 meeting in order to allow Staff time to prepare the appropriate findings for a vote at that meeting.

#### Conclusions of Law – Alice Claim, CUP for retaining walls

1. The CUP is not consistent with all requirements of the Park City Land Management Code in regards to restrictions due to character of land, steep slopes, mine hazards, safety, health and welfare of the community.
  2. The CUP is not consistent with the Park City General Plan in maintaining compatibility with surrounding historic districts as defined in the Historic District Design Guidelines for New Construction.
  3. The proposed walls are not compatible with the surrounding structures in use, material, scale, mass, circulation and mitigation with the slope of the landscape.
  4. The effects of any differences in Use, material, scale, mass and landscaping of the proposed walls have not been properly mitigated through careful planning and compatible layout of the subdivision to the nearby HR-1 districts.
  5. The reasonable anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable standards, thus the Conditional Use is denied.
- Planning Commission

The Park City Planning Commission Meeting adjourned at 7:10 p.m.



Planning Commission Meeting  
August 12, 2015  
Page 41

Approved by Planning Commission: \_\_\_\_\_

## Christy Alexander

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**From:** Melissa Band  
**Sent:** Wednesday, August 12, 2015 2:17 PM  
**To:** Christy Alexander  
**Subject:** Alice Claim additional notes

Christy:

On page 217 of the packet it says "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 that it was incorrect to say that they have to ignore the neighborhood below them because it is HRL."

This is incorrect. Per 15-7.1-5 part (i) the code states: "Zoning Regulations: Every plat shall conform **to existing zoning** regulations and subdivision regulations..." This subdivision is clearly in HR-1 zone, not HR-L and thus, per the code, they must conform to their zone and its regulations.

Again in 15-7.1-5 part (C) "... Particular attention will be given to... And requirements of the official **zoning map** and streets master plan, as adopted by the planning commission city Council,"

### 15-7.3 Policy Part (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 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, the general plan, **official zoning Map**, and capital budget program of Park city."

### 15-14-2 occupancy permit

"Land, buildings, or premises **in any zoning district shall** hereafter be used **only for a purpose permitted in such a district in accordance with the appropriate regulations.**"

### Definitions 15-15-32 and 36

#### 1.256 subdivision.

"...Subdivision includes the division or development of residential and nonresidential **zoned** land."

(B) subdivision minor.

"Any subdivision containing not more than three lots fronting on an existing Street, not involving any new Street, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the general plan, **official zoning map**, Street master plan, or these regulations."

1.291 zoning district

**"An area identified on the official zoning map to which a uniform set of regulations applies as set forth herein**, which districts are conterminous with, and which are designed to implement the parts parks the general plan."

Though neighborhood compatibility is also mentioned in the LMC, when one looks at all of the references again and again to zoning, it is very clear the intent of the land management code is primarily to rely on zoning and that "neighborhood compatibility," though also a part of the process, is not referenced nearly as often and is intended to be part of a lesser and more subjective set of rules governing the creation of subdivision.

Thanks,

Melissa

Alice Claim - LMC references from 7.22.15 minutes and staff report for 8.12.15 Planning Commission meeting:

1. LMC 15-7.1-5(I), Zoning Regulations state, "Every plat shall conform to existing zone regulations and subdivision regulations applicable at the time of proposed final approval." The purpose statement of (found within the HR-1 zone regulations) 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.
2. LMC definition of good cause Section 15-15-1.112
3. LMC 15-7.1-6(C) 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. 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.
4. The Estate District lot (Lot 1) is within the Sensitive Lands Overlay (SLO) and is subject to the regulations of LMC 15-2.21.
5. LMC 15-7.1-6(C) directs the Planning Commission to consider the topography and the location of streets along with lot size and lot placement and other items during review of Final Subdivision Plat which the Planning Commission has continually expressed concern over the steep slopes, extension of streets into very steep slopes, incompatible clustering and layout and size of the lots and not placing all of the lots on the lowest point of the slopes along the gulch.
6. LMC 15-7.1-5(D) Planning Commission Review of Preliminary Plat, which states that "the Planning Commission shall study the preliminary plat, the report of the Staff, taking into consideration the requirements of LMC, any master plan, site plan, or sensitive lands analysis approved or pending approval on the subject property." 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.

7. 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. – See her comments sent 8/12/15