

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
MAY 25, 2016

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO: Planning Director, Bruce Erickson; Francisco Astorga, Planner; Makena Hawley, Planning Tech; Ashley Scarff, Planning Tech, 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.

ADOPTION OF MINUTES

May 11, 2016

Commissioner Thimm referred to page 10 of the Staff report, page 8 of the minutes, second paragraph from the bottom and changed volume of land to correctly read **value of land**. On page 28 of the Staff report, page 26 of the minutes, first paragraph, line 8, Commission Thimm changed to building up to read **building height**. On that same page, second paragraph, third line, Commissioner was changed to read **Commissioner Thimm**. In that same paragraph, third line from the bottom, Commissioner Thimm corrected depend what is easy to correctly read **beyond what is easy**.

Commissioner Phillips referred to page 22 of the Staff report, page 20 of the Minutes, last paragraph, line 10, and changed beautify mountains to correctly read, **beautiful mountains**.

MOTION: Commissioner Band moved to APPROVE the minutes of May 11, 2016 as amended. Commissioner Suesser seconded the motion.

VOTE: The motion passed. Commissioner Joyce abstained since he was absent from the May 11th meeting.

PUBLIC INPUT

There were no comments.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Director Bruce Erickson reported that the next Planning Commission on June 8th would be held in the Santy Auditorium at the Park City Library at 5:30. The main item on the agenda will be the introduction to the Conditional Use Permit for the Treasure Hill Project. Director Erickson noted that the Treasure Hill project website is up and it contains basic information for the public. The Planning Commission would be receiving an additional packet as well.

Community Development Director, Anne Laurent, stated that the link to the Treasure Hill website can be accessed from the City home page under "How Do I".

Assistant City Attorney McLean reported that the City was successful in defending against an appeal for 1440 Empire Avenue, which was a project that came before the Planning Commission in 2010. She noted that the case had a convoluted history and there were two applications; a conditional use permit and a subdivision. The CUP went to the District Court and the court ruled in favor of the City. That decision was not appealed to the Court of Appeals. The subdivision application went to the Court of Appeals on a procedural issue because it was filed 30 days after City Council action but within 30 days of the publication date. The Legal Department argued that it should have been 30 days from the time of City Council action. They lost that argument at the Court of Appeals and it was remanded back to the District Court. It was litigated at the District Court and the City was successful on the subdivision on the substantive matters. The opponents were arguing that because the underlying parcels together would not have allowed the same density as was permitted when it was converted to a lot of record and, therefore, the City was not abiding by the General Plan. The decision was appealed to the Court of Appeals and the City won that argument.

Assistant City Attorney McLean noted that the agenda was amended the day before to include a ratification of the Central Park City Development Agreement. However, they later discovered that the Planning Commission had already ratified the Agreement in November. The item would be withdrawn from the agenda.

Since Treasure Hill will be scheduled on their agendas, Chair Strachan reminded the Commissioners to avoid ex-parte conversations with anyone regarding that application.

Assistant City Attorney McLean advised the public that emails or correspondence regarding Treasure Hill should be sent to the Planning Department and it will be included in the Staff report for the Planning Commission.

Planner Astorga stated that occasionally members of the public will send an email directly to the Planning Commission or a specific Commissioner without sending a copy to the Planning Department or the project planner. In preparation for the Treasure Hill CUP scheduled for June 8th, the Planning Department created a special email address of treasure.comment@parkcity.org. If the Commissioner receive emails they could either send it directly to Planner Astorga or to the special email address.

Commissioner Joyce recalled that when Treasure Hill was being discussed years ago, the developer did an onsite visit and flew balloons to make it easier to visualize where building would be located. He requested that they consider doing that again at an appropriate time in the process. Planner Astorga stated that the Staff has already had internal conversations with the applicant regarding that request. He thought it would be appropriate for the Planning Commission to have that discussion with the applicant on June 8th.

Commissioner Band disclosed that she would be recusing herself from 7700 Stein Way, Stein Erickson Lodge, and 7815 Royal Street, the Chateau Deer Valley. Her office is in the Chateaux, and the Stein Erickson Lodging Management Company owns her brokerage.

Commissioner Phillips disclosed that he worked on the original house at 220 King Road, and he has since been hired to do maintenance. However, that association would not have any influence on his influence this evening.

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

Commissioner Phillips recalled a previous discussion about updating their iPads. Commissioners Strachan and Joyce were not present that evening and the other Commissioners wanted to hear their comments before making a decision. Chair Strachan stated that he was comfortable with the iPad he had and he did not have an opinion either way. Commissioner Joyce had sent his comments to the Planning Department agreeing with the other Commissioners to keep the iPads they currently have. Director Erickson clarified that the consensus was to keep the status quo.

Commissioner Phillips asked for an update on getting more sign posts. Director Erickson stated that Planner Astorga takes it upon himself to check all of the valid signs. Secondly, Director Erickson holds the record for bringing in invalid and out-of-date signs. Lastly, the City cancelled their order with the sign company and the signs were being re-designed. The wooden post signs would continue to be used until they achieve an adequate design. Commissioner Phillips noted that the posts have been posted very well.

Commissioner Thimm disclosed that several years ago he worked collaboratively with DHM Design, the planner for the Alice Claim project, on an out-of-state project. He was certain that it would have no bearing on his ability to discuss and vote on this project.

CONTINUATIONS (Public Hearing and Continue to date specified.)

1. Land Management Code (LMC) amendments- Various administrative and substantive amendments to the Park City Development Code. Chapter 1- regarding procedures, appeals, extensions, noticing, stayed and continued applications, revised applications, and standards of review (for Conditional Use Permits, plats, and other applications); Chapter 2- common wall development process (in HR-1, HR-2, HCB, PUT and CT Districts), exceptions to building height (horizontal step and overall height) for Historic Sites, and consistent language regarding screening of mechanical equipment (GC, LI, and other Districts); Chapter 5- landscape mulch and lighting requirements reducing glare; Chapters 2 and 5- add specifications for height of barrel roofs; Chapter 6- include information about mine sites in MPD applications; Chapter 11- historic preservation procedures; Chapter 15- definitions for barrel roof, billboard, intensive office, recreation facility, publicly accessible, and PODs; and other minor administrative corrections for consistency and clarity between Chapters and compliance with the State Code. (Application PL-16-03115)

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

Director Erickson suggested that the LMC Amendment be continued to June 22nd instead of June 8th as reflected on the agenda.

MOTION: Commissioner Joyce moved to CONTINUE the LMC Amendments to June 22, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **Central Park City Condominiums MPD Agreement Ratification.**

This item was withdrawn from the agenda for reasons stated under Staff Communications.

2. 1409 Kearns Boulevard – Conditional Use Permit application for a drive-up coffee kiosk within the Frontage Protection Zone Overlay of the General Commercial District (Application PL-16-03144)

Planning Tech, Ashley Scarff, reviewed the conditional use permit application for the existing Silver King coffee kiosk at 1409 Kearns. The property is within the General Commercial Zone with Frontage Protection Zone overlay. The applicant was requesting to continue the operation of the coffee kiosk, as well as to make a small addition to the existing coffee kiosk.

Planner Scarff reported that in the General Commercial District drive-up windows require a conditional use permit. Any construction in the Frontage Protections also requires a conditional use permit.

Planner Scarff provide a brief background on the reason for the request to continue the operation of the Kiosk. On March 31st the Staff received a building application permit to construct a 100 square feet addition to the kiosk. In looking through the files the Staff found that the original CUP was conditioned with a three year expiration date; and the CUP had expired in April of 2014. Because the applicant had not requested an extension prior to April 2014, he was required to apply for a new conditional use permit to continue the operation of the drive-up window within the General Commercial District.

The Staff recommended that the Planning Commission review the proposed CUP application for the continued operation of and the small addition to the existing coffee kiosk with drive-up windows at 1409 Kearns Blvd, conduct a public hearing and consider approving the conditional use permit based on the findings of fact, conclusions of law and conditions of approval found in the Staff report, including a two year expiration of the use.

Commissioner Band asked if the City had re-inspected the capping method. She understood that the applicant had a conditional use permit for three years which the City had not followed up on; and in addition, the City was supposed to re-inspect the capping every year. Director Erickson stated that the City had observations on the capping method, and there were a number of conditions of approval on this CUP request to update the capping. Director Erickson agreed that the City inspections had been lax. On a regular basis they would see gravel re-compacted into the potholes. However, with a soils and environmental team the City has come up with a new capping method.

City Engineer Matt Cassel confirmed that the City had not inspected the capping. Chair Strachan asked if there were plans to do so in the future. Mr. Cassel stated that it had fallen off the radar and he intended to monitor it better.

Commissioner Joyce commented on a number of items that have been debated by the Planning Commission and through careful decision-making they make specific requirements on a project. He noted that this was not the first time in his brief tenure where the City had not followed up. Commissioner Joyce asked if there was an improved process for tracking these items.

Community Development Director, Ann Laurent stated that it does come down to tracking. The City does a good job in some areas and they are working on process for other areas where they have been lax. In the absence of current technology, they were creating spreadsheets to keep track, as well as considering interns to help go through files and create a history. Ms. Laurent noted that the City was well aware of the problem and the need for better tracking.

Mike Sweeney, representing the property owners, stated that the applicant had reviewed the conditions of approval with the Staff and made a commitment to accomplish all eight conditions.

Board Member Suesser referred to the request for building expansion and asked if indoor seating was part of the expansion; and if so whether parking had been considered.

Ben Buehner, the owner, clarified that the request was only for storage expansion and working space. There would be no indoor seating.

Board Member Suesser noted that the applicant is required to repair some of the pavement around the kiosk as a condition of approval. She asked if there was a time frame associated with that work. Ms. Scarff stated that the condition of approval requires the applicant to bring the driveway area back into compliance with the LMC, but it does not specify a time frame to accomplish the work. Director Erickson stated that the Planning Commission could revise Condition #4 to include a specific date.

Commissioner Band asked what the applicant thought would be a reasonable time frame for the paving and the landscaping. Mr. Buehner assumed the repair related to the large potholes. He stated that due to the nature of the lease and the type of business they try to keep it in the best condition possible as finances permit. He stated that per the condition of approval the required improvement should last for a longer time. Mr. Buehner noted that some upgrades were recently done.

Commissioner Band asked what it means to bring it into compliance with the LMC. Director Erickson pointed out that Condition #4 references the specific section of the LMC that requires the parking to be hard surfaced, maintained in good condition, and clear of all

obstructions. That is interpreted to mean no potholes and no free range gravel.

Commissioner Suesser suggested a 6 month time frame in Conditions #4 and #8. Director Erickson remarked that Conditions #4 and #8 had different requirements. Mike Sweeney noted that Condition #8 refers to the landscaping and that was done this past fall. He explained that a small area to the east by the medical center still needs to be planted, and that would be done this Spring.

Commissioner Suesser asked if there was a drawing of the kiosk after the expansion. Chair Strachan believed it was shown in Exhibit D on page 59 of the Staff report.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to APPROVE the conditional use permit for 1409 Kearns Boulevard for a drive-up coffee kiosk based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1409 Kearns Boulevard

1. The property is located at 1409 Kearns Boulevard.
2. The property is in the General Commercial (GC) District within the Frontage Protection Zone (FPZ) Overlay.
3. The property is in the Bonanza Park area.
4. The site is currently undeveloped.
5. The applicant requests to build a small drive-up coffee kiosk structure with a footprint/floor area of 160 square feet.
6. Any construction within the Frontage Protection Zone Overlay requires a Conditional Use Permit.

7. A drive-up window is Conditional Use Permit within the General Commercial District.
8. The applicant requests to utilize the site as a short term use due to the property owner's desire to redevelop the area in the near future.
9. The property owner has authorized the coffee kiosk business owner to pursue this Conditional Use Permit request so that the land can be utilized concurrently with the master planning of the Bonanza Park area.
10. The proposed coffee kiosk is sixteen feet (16') by ten feet (10').
11. The proposed concrete pad is twenty-two feet (22') by ten feet (10').
12. The height of the proposed building is approximately eighteen feet (18').
13. The applicant submitted a UDOT approval letter which allows the connection onto Kearns Boulevard (SR 248).
14. As standard procedure the applicant will have to secure all the necessary utility permits to connect to the desire services.
15. The proposed structure and drive-thru are within hundred feet (100') of the right-of-way making access sufficient for emergency vehicle access.
16. The proposed kiosk is not designed to offer its services to pedestrians.
17. The proposed landscaping shall be in compliance with the Soils Ordinance related to landscaping care.
18. The proposed structure is compatible in mass, bulk, orientation and location with adjacent structures due to the size and design of the proposed structure.
19. The proposed structure is 220 square feet and the architecture has a mining motif.
20. The structure is designed to have a small covered area for loading and unloading.
21. The business will use the trash container shared by other businesses located on the same lot south of the coffee kiosk adjacent to the storage units.
22. The business owner will lease the land from the property owner.

23. The site is not within the Sensitive Land Overlay Zone.
24. The site is relatively flat land and requires no slope retention.
25. The site is within the Soil Ordinance Boundary and has been identified by the City as non-compliant with the Soil Ordinance.
26. The temporary capping proposal has been found adequate subject to adding a sealant to the proposed milling making it more impermeable and allowing the City Engineer to inspect the site on a yearly basis making sure that the millings are not detrimental to the environment or by changing the material to asphalt, concrete, or other paving material per the Soils Ordinance.
27. Staff recommends changing the location of the proposed coffee kiosk structure to the back drive which would put the structure approximately eight feet (80') from Kearns Blvd. allowing additional room to accommodate a total of eight (8) vehicles.
28. The applicant stipulates to the conditions of approval stated herein.

Conclusions of Law – 1409 Kearns Boulevard

1. The application complies with all requirements of the LMC;
2. The uses will be compatible with surrounding structures in use, scale, mass, and circulation;
3. The uses are consistent with the Park City General Plan, as amended; and
4. The effects of any differences in uses or scale have been mitigated through careful planning.

Conditions of Approval – 1409 Kearns Boulevard

1. This approval will expire three (3) years from the Planning Commission approval.
2. A building permit is required prior to construction of the kiosk and site improvements.
3. All landscaping and site improvements shall be installed prior to issuance of a certificate of occupancy.
4. No occupancy or use of the kiosk may occur until a certificate of occupancy is issued by the Building Department.
5. The applicant shall add a sealant to the proposed milling (temporary capping

proposal) to make it more impermeable. The City Engineer will inspect the site on a yearly basis making sure that the millings are not detrimental to the environment. The applicant may change the material to asphalt, concrete, or other paving material per the Park City Soils Ordinance.

6. The applicant shall change the location of the proposed coffee kiosk structure to the back drive which would put the structure approximately eight feet (80') from Kearns Blvd.

7. The applicant shall submit a letter of commitment from the property owner reiterating future commitment to clean up the site with his long range plans dealing with the full compliance with the Soil Ordinance prior to the City issuing a certificate of occupancy.

3. 7700 Stein Way – Stein Eriksen Lodge – Conditional Use Permit application for outdoor events (Application PL-16-03146)

Commissioner Band recused herself from this item and the next item concerning the Chateaux at Deer Valley and left the room.

Planning Tech Makena Hawley reviewed the application for a conditional use permit for the Stein Eriksen Lodge. She noted that the next item on the agenda was a conditional use permit for outdoor event at the Chateaux Deer Valley, and both applications were very similar.

Planner Hawley reported that the applicant was proposing temporary structures at four locations within the Stein Eriksen property to be used up to seven times per year for a maximum of four days.

The Staff recommended that the Planning Commission review and discuss the proposed Conditional Use Permit for a temporary structure, conduct a public hearing, and consider approving the CUP application in accordance with the findings of fact, Conclusions of Law and Conditions of Approval found in the Staff report.

Zane Holmquist from Stein Eriksen Lodge explained that the intent is not to expand the operational space or the current indoor space. The purpose would be to augment outdoor events. He noted that the use is primarily weddings where the ceremony is held outdoors and the remainder of the event takes place indoors. Mr. Holmquist clarified that it would not add additional guests, service space, volume or traffic to the area. A temporary structure would allow flexibility in inclement weather conditions to accommodate a bride

who is passionate about being married outside in Park City. Mr. Holmquist believed their request was different from other tent permits.

Mr. Holmquist remarked that the conditional use permit being requested for the Chateaux was slightly different because the temporary structure would be within the courtyard space. He clarified that like Stein Eriksen Lodge, it would not accommodate additional guests. When events are held downstairs many guest like to be outside in the courtyard and this would provide outdoor coverage to protect against inclement weather. The temporary structure would not create additional volume within the property itself.

Mr. Holmquist stated that they always remove the tents as quickly as possible to mitigate the impacts to the owners and other guests. If a tent is put up on a Saturday it does not come down until Monday morning.

Commissioner Phillips asked Mr. Holmquist if their operations for events would remain the same or if this would allow them to do something different. Mr. Holmquist replied that nothing would change. This conditional use permit would allow them to put up temporary structures without having to seek a permit for every event. He explained that Diamond puts up their tents and it requires a Fire Marshall Life Safety inspection each time. Sometimes it is a short window of two to three days when they realize that the weather might not cooperate, and it does not meet the Code minimum of 10 days. Mr. Holmquist clarified that they prefer to keep the number of tents to a bare minimum to keep from impacting their guests, the property or their neighbors.

Chair Strachan opened the public hearing.

Mike Sweeney stated that what this applicant was requesting was similar to what he had acquired for the Town Lift Plaza in 2006. The City has had a lot of experience in terms of how these CUPs work. He believed it was a good idea and he supported the request.

Chair Strachan closed the public hearing.

MOTION: Commissioner Thimm moved to APPROVE the Conditional Use Permit for the temporary tent structures located at Stein Eriksen Lodge in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval found in the Staff report. Commissioner Phillips seconded the motion.

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

Findings of Fact – Stein Eriksen Lodge

1. On May 4, 2016, the Planning Department received a complete application for a CUP to allow seven (7) fire permits to be pulled which may include up to four (4) temporary tent structures to be placed on the property per year, for a maximum period of 4 days at the Stein Eriksen Lodge.
2. Outdoor Events and Temporary Improvements require a CUP in the Residential Development (RD) Zone.
3. The property is located within the Residential Development as part of the Deer Valley Master Planned Development (RD-MPD).
4. No additional signs or lighting are proposed with this application.
5. In 2015, the hotel hosted five (5) separate events requiring temporary structures.
6. Within the Land Management Code (LMC) section 15-4-16(A)(7) a temporary structure may only be installed for a duration longer than fourteen (14) days and for more than five (5) times a year with an Administrative CUP and the Planning Commission must approve a CUP for any longer duration or greater frequency consistent with CUP criteria in LMC section 15-1-10(E) and the criteria for temporary structures in LMC section 15-4-16(C).
7. The applicant is requesting that the Planning Commission consider approving a CUP to allow the applicant to install four (4) different temporary structures up to seven (7) times per year for a maximum of four (4) days total for weddings and outdoor events. There may be occasions when more than one temporary structure is installed for an activity.
8. All four (4) tents may be included with one fire permit.
9. Stein Eriksen Lodge may be accessed via Stein Way. People using the temporary structures would have to abide by the same parking restrictions as other hotel guests.
10. The Stein Eriksen Lodge has four (4) locations for temporary tent structures: The Ballroom Deck: (40x50 sq. ft), 2 small tents on the Flagstaff Deck (40x40 sq. ft. and 10x20 sq. ft.), and The Bald Mountain Lawn (40x50 sq. ft.). (See Exhibit B & C).
11. According to a recent parking analysis, the Stein Eriksen holds 221 parking spaces in its underground parking lot. In addition the Chateaux Deer Valley, under the same owner, holds 400 parking spaces and the two hotels work together and offer a free

shuttle service in the event that one parking lot becomes crowded. The applicant conducted a parking study on the busiest day of the year where occupancy for both lots total was 80% and did not find full usage of the parking lots. Staff estimates that the addition of a temporary structure at maximum capacity would not increase parking usage because hotel events are typically for hotel guests. Police records indicate no parking-related complaints from events held at the Stein Eriksen Lodge. (See Exhibit A and D)

12. On May 11, 2016, the property was posted and notice was mailed to affected property owners within 300 feet. Legal notice was also published in the Park Record on May 11, 2016.

13. The Findings in the Analysis Section are incorporated herein.

14. This application is reviewed under Land Management Code Section 15-1-10 (E) and Section 15-4-16 (C).

Conclusions of Law – Stein Eriksen Lodge

1. The Use, as conditioned complies with all requirements of the Land Management Code, Section 15-1-10.
2. The Use, as conditioned complies with the Deer Valley Master Planned Development.
3. The Use, as conditioned is consistent with the Park City General Plan.
4. The Use, as conditioned is compatible with surrounding structures in use, scale, mass, and circulation.
5. The effects of any differences in use or scale have been mitigated through careful planning.
6. The Application complies with all requirements outlined in the applicable sections of the Land Management Code, specifically Sections 15-1-10 review criteria for Conditional Use Permits and 15-4-16(C) review criteria for temporary structures.

Conditions of Approval – Stein Eriksen Lodge

1. All temporary structures require a permit issued by the Building Department. All temporary structures must be inspected by the Building Department prior to occupancy. The Building Department will inspect the structure, circulation, emergency access, and all other applicable public safety measures.
2. A parking plan shall be required for each fire permit application in order to be approved by the Planning Department.

3. Prior to installing a temporary structure, the Planning Department must sign off on a fire permit and record the date within the CUP application folder.

4. A maximum of seven (7) events which include temporary structures per year are allowed.

5. A maximum duration of a temporary structure if four (4) days.

6. The use shall not violate the City noise or nuisance ordinance. Any violation of the City noise or nuisance ordinance may result in the CUP becoming void.

7. Exterior signage must be approved by the Planning Department consistent with the City Municipal Code. All exterior lighting must be approved by the Planning Department and comply with the Land Management Code.

8. Operation of the temporary structure with expired permits from any applicable City Department may result in the CUP becoming void. Building and Fire Permits must be up to date to operate the temporary structure.

9. In the case there are any complaints to the City regarding parking at the Stein Eriksen, this CUP shall return to the Planning Commission for re-review.

4. 7815 Royal Street – The Chateaux Deer Valley – Conditional Use Permit Application (Application PL-16-03147)

Planning Tech Hawley reviewed the application for a conditional use permit for the Chateaux Deer Valley for one temporary structure up to six times per year for four days each.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the application for the conditional use permit in accordance with the findings of fact, conclusions of law and conditions of approval in the Staff report.

Zane Holmquist representing the applicant stated that in the last three years they had only requested two permits per year. There is always an opportunity for more. Generally it is one Spring event for Governor Romney's event that he holds each year. The event is limited and held within the closed courtyard. It creates no obstructions for any other properties other than their own. Mr. Holmquist noted that the Fire Marshall has had no issues from the standpoint of life safety conditions.

Commissioner Phillips understood from the Staff report that the applicant has had a conditional use permit. Director Erickson explained that there are three levels of permitting for special events and outdoor uses. One process is to pull a permit every time they want to put up a tent, which requires the City to process an administrative CUP three or four times a year for this location. Director Erickson stated that this requested CUP is a long term land use permit under the terms of the approval, and the applicant would not have to pull a land use permit every time they wanted to put up a tent. However, they would still need to have a fire inspection each time the tent is erected. Commissioner Phillips asked if there was a sunset on the CUP. Director Erickson answered no. It is a land use decision and the public has been notified. He believed it was a better procedure from both an administrative standpoint and for how the applicant manages the property.

Commissioner Phillips clarified that he was not opposed to this CUP request. He was only trying to understand why they were just now coming in this this application. Director Erickson stated that over the winter the Staff has been working with all the major property owners to bring them into this process rather than doing individual permits. Due to the heavy workload of the Planning Department, the intent is to bring all of the properties who do this type of activity into compliance under this type of conditional use. He noted that Planner Hawley was rewriting sections of the Code to deregulate some of the smaller properties.

Chair Strachan thought these types of CUPs are different in that the use is limited to six events and a maximum of four days. Commissioner Phillips assumed that the Planning Commission would be seeing more of these CUP applications. Chair Strachan pointed out that someone could get this type of CUP and still come back for a per event basis. He believed that if the applicant was asking for a CUP for no longer than four days it would probably serve their needs.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to APPROVE the Conditional Use Permit for temporary structures no longer than 14 days or more than five times per year for 7815 Royal Street, the Chateaux Deer Valley, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the Staff report. Commissioner Suesser seconded the motion.

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

Findings of Fact – The Chateaux Deer Valley

1. On May 4, 2016, the Planning Department received a complete application for a CUP to allow six (6) fire permits to be pulled for a temporary tent structure on the property per year, each for a maximum period of four (4) days at the Chateaux Deer Valley.
2. Outdoor Events and Temporary Improvements require a CUP in the Residential Development (RD) Zone.
3. The property is located within the Residential Development as part of the Deer Valley Master Planned Development (RD-MPD).
4. No additional signs or lighting are proposed with this application.
5. In 2013 and 2014, the hotel hosted 4 events that required a temporary structure.
6. Within the Land Management Code (LMC) section 15-4-16(A)(7) a temporary structure may only be installed for a duration longer than fourteen (14) days and for more than five (5) times a year with an Administrative CUP and the Planning Commission must approve a CUP for any longer duration or greater frequency consistent with CUP criteria in LMC section 15-1-10(E) and the criteria for temporary structures in LMC section 15-4-16(C).
7. The applicant is requesting that the Planning Commission consider approving a CUP to allow the applicant to install one (1) temporary structure up to six (6) times per year for a maximum of four (4) days each for weddings and outdoor events.
8. The Chateaux Deer Valley has one (1) location for a temporary tent structure: The Courtyard Le Chateaux. It is located within the development; the tent is 8,072 square feet and measures 82.02 sq. ft. x 98.42 sq. ft. (See Exhibit B).
9. The Chateaux Deer Valley may be accessed via Royal Street. People using the temporary structures would have to abide by the same parking restrictions as other hotel guests.
10. According to a recent parking analysis, the Chateaux Deer Valley holds 400 parking spaces in its underground parking lot. In addition the Stein Eriksen, under the same owner, holds 221 parking spaces and the two hotels work together to offer a free shuttle service in the event that one parking lot becomes crowded. The applicant

conducted a parking study on the busiest day of the year where occupancy for both lots total was 80% and did not find full usage of the parking lots. Staff estimates that the addition of a temporary structure at maximum capacity would not increase parking usage because hotel events are typically for hotel guests. Police records indicate no parking-related complaints from events held at the Stein Eriksen Lodge. (See Exhibit A and D)

11. On May 11, 2016 the property was posted and notice was mailed to affected property owners within 300 feet. Legal notice was also published in the Park Record on May 11, 2016.

12. The Findings in the Analysis Section are incorporated herein.

13. This application is reviewed under Land Management Code Section 15-1-10 (E) and Section 15-4-16 (C).

Conclusions of Law – The Chateaux Deer Valley

1. The Use, as conditioned complies with all requirements of the Land Management Code, Section 15-1-10.
2. The Use, as conditioned complies with the Deer Valley Master Planned Development.
3. The Use, as conditioned is consistent with the Park City General Plan.
4. The Use, as conditioned is compatible with surrounding structures in use, scale, mass, and circulation.
5. The effects of any differences in use or scale have been mitigated through careful planning.
6. The Application complies with all requirements outlined in the applicable sections of the Land Management Code, specifically Sections 15-1-10 review criteria for Conditional Use Permits and 15-4-16(C) review criteria for temporary structures.

Conditions of Approval – The Chateaux Deer Valley

1. All temporary structures require a permit issued by the Building Department. All temporary structures must be inspected by the Building Department prior to occupancy. The Building Department will inspect the structure, circulation, emergency access, and all other applicable public safety measures.
2. A parking plan shall be required for each fire permit application in order to be approved by the Planning Department.

3. Prior to installing a temporary structure, the Planning Department must sign off on a fire permit and record the date within the CUP application folder.
 4. A maximum of six (6) events which include a temporary structure per year are allowed.
 5. A maximum duration of a temporary structure if four (4) days.
 6. The use shall not violate the City noise or nuisance ordinance. Any violation of the City noise or nuisance ordinance may result in the CUP becoming void.
 7. Exterior signage must be approved by the Planning Department consistent with the City Municipal Code. All exterior lighting must be approved by the Planning Department and comply with the Land Management Code.
 8. Operation of the temporary structure with expired permits from any applicable City Department may result in the CUP becoming void. Building and Fire Permits must be up to date to operate the temporary structure.
 9. In the case there are any complaints to the City regarding parking at the Chateaux Deer Valley, this CUP shall return to the Planning Commission for rereview.
5. **220 King Road, Second Amended Lot 2, Phase 1 Treasure Hill Division – Plat Amendment requesting two (2) lots from one (1) lot of record.**

Planner Francisco Astorga handed out public comments he had received. Of six written comments, five were in support of this plat amendment and one was opposed. The Commissioners took five minutes to read through the public comments.

Planner Astorga reviewed the application for a plat amendment identified as the second amended Lot 2, Phase 1 Treasure Hill Subdivision located at 220 King Road. The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a negative recommendation to the City Council based on the findings of fact and conclusions of law as found in the draft final action letter.

Planner Astorga replied that Robert Sfire submitted an application for the plat amendment to split the existing lot into two lots. The site is part of the Sweeney Properties Master Plan; however, it is not part of the hillside properties identified as the Mid-Station and Creole Gulch CUP on file with the Planning Department. Planner Astorga pointed out that Mr. Sfire's property at 220 King Road is part of the Sweeney Properties MPD which requires a conditional use permit for each type of construction improvement. Planner

Astorga noted that the applicant had moved forward with conditional use permits for the existing single family dwelling and the existing guest house that is currently on the property.

Planner Astorga had provided a brief history of the site on pages 109 and 110 of the Staff report, explaining how the master plan allocated one unit of density to be associated with this specific lot. He stated that one challenge is that the site currently has two separate Tax IDs currently recognized by Summit County for taxing purposes. The Staff was able to find paperwork where the former City Engineer, Eric DeHaan, identified this component in a specific memo that was forwarded to the Legal Department in the 1990s. In his memo Mr. DeHaan expressed his concern regarding the two separate Tax ID numbers. He understood that it was done for taxing purposes but he was concerned that it would be confusing in the event of a subdivision because someone might think it was two different lots of record. Mr. DeHaan expressed his wish that Summit County would discontinue the practice of issuing different Tax ID numbers on these specific lots of record.

Planner Astorga stated that further research found that the lot was originally owned by Beaulieu, Carlig and Sweeney Land Company. On April 15, 1996 the Sweeney entity was removed from ownership of this lot and it was transferred to Beaulieu and Carlig in its entire configuration, which is the legal description of Lot 2 of the Treasure Hill Subdivision. That same day warranty deeds were transferred over from Beaulieu and Carlig to Ms. Sfire. However, it was done in two separate deeds and the Staff believes that was the reason for the two separate Tax ID numbers. The property was deeded in two separate parts and not as part of the entire lot of record. Planner Astorga had looked at the legal description of the warranty deeds and it was verified by the City Engineer that the legal descriptions are accurate per the split into two Tax ID notices.

Planner Astorga had found a survey that was done by Alpine Survey, a registered land surveyor. He reviewed a copy of the survey that was included on page 126 of the Staff report. He indicated the deed line that follows the same legal description from the warranty deeds. Planner Astorga pointed out that the surveyor put a note on the survey which reads, "The legal validity of the interior lot line labeled here as the deed line is unresolved and not a component of this survey. It is shown here at the request of the owner." Planner Astorga explained that through specific survey and practices, the survey was only supposed to show the legal lot of record, which is probably why the surveyor added the disclaimer.

Planner Astorga stated that in reviewing the Treasure Hill plats as currently approved and recorded, the Staff finds the same language regarding the Master Plan. Those special restrictions were shown on pages 113 and 114 of the Staff report. The plat effective shows the approval of the master plan. Planner Astorga noted that the first restriction on page 113 talks about the maximum building footprint. He stated that through the subsequent

conditional use permits for the single family dwelling and the guest house, Mr. Sfire was in compliance with the maximum building footprint of 3500 square feet.

Planner Astorga remarked that the Staff made finding for a negative recommendation because the lot is governed by the Sweeney Properties Master Plan. The only way Mr. Sfire could receive two lots of record from this lot would be if the original Sweeney Properties Master Plan is amended to allocate another unit to Mr. Sfire. In discussions with Pat Sweeney, who controls the existing MPD, Mr. Sweeney has indicated that he is not willing to file an application to amend the approved MPD that was approved on October 16, 1986 and subsequently amended for other parts and components of that same governing master plan.

Planner Astorga noted that the property was properly noticed. Letters were mailed to property owners within 300 feet and a notice was published in the newspaper.

Jodi Hoffman, legal counsel representing Bob and Constance Sfire, stated that she was approached by Mr. Sfire four years ago asking for her help. He explained that he has owned property in Park City for 20 years and he just wanted to keep his property. He had not intentions of changing how the property was being used, but he needed advice on what to do. She advised him at the time that the biggest issue he faced was dealing with the Sweeney Master Plan. Ms. Hoffman stated that after four years the issues have not been resolved. Mr. Sfire and his wife have lived on the property for the past eleven years. They are good neighbors, they love Park City and they want to continue living here. Without this subdivision it may not be possible.

Ms. Hoffman stated that the proposed plat amendment creates no additional density, it lowers the currently improved intensity of use, and it rewards 20 years of double taxation on two separate parcels that the Sfire's have been paying. It also affects their original purchase of two large parcels that were limited by building footprint and height. Ms. Hoffman believed the key factor was the limitation on building footprint and height.

Ms. Hoffman noted that the Staff had forwarded a negative recommendation based on what she believes is one apparent mischaracterization of fact and an apparent mis-application of conditions of the CUP; as well as another mischaracterization of law that she suggested the Planning Commission correct this evening. Ms. Hoffman referred to page 111 of the packet which correctly points out that the Sfire's Lot 2 is taxed as two separate single family parcels; one includes the main home and the other includes the home in which they reside. Ms. Hoffman remarked that the Staff also included a 1997 memo from Eric DeHaan that identifies both parcels but indicates no harm resulting from this parcels. The letter proposes no attempt to address a misperception, or the double taxation benefit

that Park City has accrued for the last 20 years as a result of there being two identified parcels.

Ms. Hoffman stated that she looked through the entire record and the Sfire's purchased Lot 2A and 2B to affect a 1031 tax exchange for separate parcels they had sold in another location. Ms. Hoffman emphasized that the Sfire's purchased two parcels. The purchase warranty deeds for both parcels show that the title transferred to them before the plat recorded. Ms. Hoffman pointed out that the recorded plats note the separate parcels as reflected on 138 of the Staff report. Ms. Hoffman stated that the Sfire's were new to Park City in 1996 and they not only relied on the advice for the 1031 exchange, but they also relied on advice from a seated Planning Commissioner who was their title officer, and from the elected County Attorney at the time, or his partner, who were both in contract with the City.

Ms. Hoffman felt it was important to remove any implication that the parcels were split after the Sfire's acquired it because they purchased two separate lots described by metes and bounds. She stated that everyone knows this is not a legal subdivision. They also know that the Summit County Recorder will record whatever is presented because of State law, which raises the issue of consumer protection. Ms. Hoffman noted that for 20 years the Sfire's have paid taxes on both parcels as full single family residential lots.

Regarding the CUP, Ms. Hoffman noted that the Staff points to a deed restriction that was signed years later that restricts the sale or lease of the smaller home, which is the home the Sfire's currently live in. The deed restriction was provided on page 130 of the Staff report. Ms. Hoffman referred to the CUP conditions on page 114 indicating that no further subdivision of this lot is permitted. She reiterated that the larger home and the smaller home are already on separately identified parcels, and the Sfire's were not asking to further subdivide. They were only requesting to keep the structures on the parcels on which each one was constructed. Ms. Hoffman read Condition #3 of the CUP, "Notice of a conditional use permit and deed restriction prohibiting rental of the guest house separate from the main house shall be recorded at the County prior to issuance of a certificate of occupancy for the guest house. She believed that was the document that was supposed to be recorded saying that the guest house cannot be rented separately from the main house. Ms. Hoffman stated that what was actually recorded was a document that said they could not alienate these two parcels from one another or rent them separately. She pointed out that the restriction was much broader than what was restricted by the condition of approval.

Ms. Hoffman stated that the Sfire's were required to remove an accessory apartment from the main house as a condition of the CUP, which they did immediately, yet the deed restriction that the City required still remains. Ms. Hoffman noted that currently the Sfire's

offer nightly rental of the main house, but they were offering to preclude this intense use as a condition of separating the lots.

Ms. Hoffman pointed out that the Sfire's executed a deed restriction on the two separately taxed parcels well after the homes were completed per the CUP, upon assurance from his friend who was the title officer and a Planning Commissioner that she would take care of it for him. Ms. Hoffman recognized that it was not something that the Planning Commission could consider and the facts could not be verified. However, after researching the title documents she believed it to be true.

Regarding the Sweeney MPD, Ms. Hoffman suggested that there might be a mischaracterization of the MPD density and what the MPD does or does not allow. She did not blame the Sweeney's for not wanting to amend the MPD. She did not believe it was necessary because a single family use is allowed and both houses are single family homes. It is confined to a 3500 square feet footprint and a height of 25 feet. A basement and two stories results in 10,500 square feet of residence; or 5.25 UEs under the current unit equivalency. Ms. Hoffman pointed out that in the Sweeney master plan the single family homes are encouraged to be broken up to separate the structures to reduce massing and help scale the homes and the structures up the hill in a modest way. Ms. Hoffman noted that this has been done.

Ms. Hoffman stated that the two homes currently have a combined 3450 square foot footprint, which is less than the restriction from the MPD. There is 6965 square feet of living space within the two structures on three floors, which is under the 10,000 square feet maximum that is allowed. Ms. Hoffman commented on the intensity of use that is allowed; noting that renting the larger house could bring six to ten cars from B&B guests.

Mr. Hoffman clarified that Mr. Sfire was offering to effect the primary intent that was effected through a legitimate transaction not by him but by prior owners. The Planning Department received six letters in support, and Mr. Sfire had a petition signed by seven of his neighbors supporting the lot split. They acknowledge that no additional homes could be built and the intent is simply to separate the house from the guest house. Ms. Hoffman reiterated that with that separation the home would be taken off of the nightly rental program, which would lead to a betterment of the neighborhood.

Ms. Hoffman noted that there has been no opposition until the one letter that was handed out this evening from Mr. Murphy in Washington State. She suggested that Mr. Murphy made not understand that the split would reduce the in intensity use. Ms. Hoffman argued that there is no public harm and there would be a substantial public benefit in the reduced intensity of use, as well as a separate private access easement that would result from this plat amendment.

Chair Strachan asked if the separate tax ID numbers correspond to the deed line. Ms. Hoffman answered yes. She explained that to effect the 1031 exchange, two separate entities with two separate sales prior to the purchase had to purchase two separate properties. She reiterated that everyone knew this, including the seated Planning Commissioner, the County Attorney, and the property owners. Ms. Hoffman stated that this is only an issue because of the opinion that the Sweeney MPD needs to be amended before this split could occur. She reiterated why she did not share that opinion and why the separate ownership would result in a net benefit, not a net detriment.

Chair Strachan opened the public hearing.

Jeff Brabender, a resident at 283 Norfolk, stated that he does not know the Sfire's but he is a neighbor who could potentially be impacted by this application. He listened to the arguments on both sides this evening. Both arguments seemed valid and technical but he did not believe they had a lot of utility or use in making a decision. Mr. Brabender noted that there are two houses next to each other on adequate space with plenty of parking and access. He thought that should stand on its own merits without being tied to the Sweeney project or anything else. Mr. Brabender understood they needed to work through the legal issues, but it was important to look at who is harmed and who benefits. He personally would not be harmed and he did not see how his neighbors or the City would be harmed. He agreed that there would be benefits; one being that he might get a real neighbor. Mr. Brabender encouraged the Planning Commission to find a way to address this issue on its own merits rather than on the technicalities.

Bob Sfire, the property owner, offered an explanation of the deed restriction that was signed. He stated that two years after he built the house Diane Zimney called him in Michigan telling him that the deed restriction was never signed and he needed to sign it. When he told her that one day he would want to sell one of the house separately she offered to get him through it. Mr. Sfire noted that he has been a landowner in Park City for 20 years and he signed the deed restriction on Ms. Zimney's advice, realizing now that it should not have been signed. Mr. Sfire wanted the Planning Commission to understand that he signed the deed restriction thinking that he would have help getting it changed when he decided to sell one of the houses. Mr. Sfire pointed out that if he is allowed to split the houses he would give up the nightly rentals, which would completely change the use of the house. He has a good property manager and the house is rented a lot. Sometimes there are eight to ten cars in the driveway and eight or more people in the house. He stated that the lesser use for the house would be to return it to a single family home that can be owned by a family. Ms. Sfire stated that he has to sell one of the houses. If he is not allowed to split the property and sell one house separately, he will have to sell both houses. He and his family love their house and do not want to move. Ms.

Sfire pointed out that selling the entire property to someone could potentially mean that someone could tear down both houses and build a McMansion on the property. He asked the Planning Commission to find a way to allow him to split his houses and sell them separately so he can remain living in his house.

Chair Strachan closed the public hearing.

Commissioner Joyce stated that he was torn. On an emotional level he would love to help Mr. Sfire. It would be good for the community and his request was supported by the community. However, as Planning Commissioners their job is to enforce the Land Management Code. Commissioner Joyce stated that frequently what they would like to see happen is not what they can enforce with the LMC. He noted that Mr. Sfire's lot is part of a big, important MPD. The only way to change the situation would be to amend the MPD. The Sweeney MPD is a big agreement that was achieved with a lot of give and takes. The restrictions were carefully decided 30 years ago and the Planning Commission is always reluctant to unravel little pieces without understanding the discussion and the reasons for the decisions that were made. Commissioner Joyce pointed out that Mr. Sfire signed a legal document saying that one house could not be sold without the other. Commissioner Joyce clarified that he would like to help Mr. Sfire and he believes it would be good for the neighborhood, but from the standpoint of the Land Management Code he could not see how they could make it happen.

Commissioner Phillips shared the same sentiment. He lives nearby and he has witnessed and heard the impacts of the rentals and he agreed that eliminating nightly rentals would be a positive benefit to the neighborhood. Commissioner Phillips liked Mr. Sfire's intention and his willingness to add that to the deed was a good thing, but as a Planning Commission their job is to follow the Code. Commissioner Phillips questioned whether the Planning Commission could even legally grant this request. Assistant City Attorney McLean replied that the only way would be to amend the Sweeney MPD because they cannot manufacture density. Commissioner Phillips stated that splitting the lots would be great for the Sfire's and for the neighborhood, but there was no way the Planning Commission could legally defend a decision in Mr. Sfire's favor.

Commissioner Thimm agreed with Commissioners Joyce and Phillips. There is merit to splitting the lots, however, the Planning Commission cannot make a decision that renders the LMC meaningless. The LMC guides the Commissioners and he could see no way to change what is there and what has been put in place and actually signed.

Commissioner Band agreed that it would be great for the neighborhood and she would like to help the Sfire's. She suggested that Mr. Sfire talk with the Sweeney's and come back to

the Planning Commission if he is successful. She would love to keep the Sfire's in Park City.

Commissioner Suesser echoed the comments of her fellow Commissioners. She did not believe the Planning Commission had the authority to grant the requested plat amendment.

Commissioner Campbell agreed with the comments made by the other Commissioners and he had nothing further to add.

Planner Astorga stated that the Staff chose not to do an analysis regarding the nightly rental component because it was not indicated on the application that nightly rentals would be restricted. The Staff was not made aware of that restriction which is why it was not addressed in the Staff report. However, even with that information the Staff was not able to change the negative recommendation.

Planner Astorga pointed out that the current proposal did not match the warranty deed restrictions. He read from the last amendment to the plat that follows the legal description on page 138 of, "Deed line to be removed." That plat amendment was recorded in 1997.

MOTION: Commissioner Joyce moved to forward a NEGATIVE recommendation to the City Council for 220 King Road based on the Findings of Fact and Conclusions of Law as found in the draft final action letter. Commissioner Band seconded the motion.

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

Mr. Sfire understood that the Commissioners were in favor of splitting the houses, but the issue was with the MPD. Chair Strachan informed Mr. Sfire that the minutes would reflect their comments.

Commissioner Joyce clarified that because of the legal issues, he had not looked at the details of splitting the houses and what would be the conditions of approval. He was not prepared to say that he was ready to vote in favor if it had been legal. Commissioner Joyce wanted his comments to reflect that he was sympathetic with the issue and it seemed like there were reasonable considerations, but because of the legal issues they were not able to pursue the details to see if they could come to an agreement.

Findings of Fact – 220 King Road

1. The property is located at 220 King Road.
2. The property is zoned as an approved master plan.

3. The subject property consists of all of Lot 2, Phase 1, Treasure Hill Subdivision.
4. The entire subject area is recognized by Summit County as Parcel no: THILL-2-A-AM and THILL-2-B-AM (Tax IDs).
5. The site is part of the Sweeney Properties Master Plan (SPMP) approved on October 16, 1986, as part of the Miscellaneous Properties.
6. The Sweeney Properties Master Plan narrates Miscellaneous Properties as the following: In addition to the development areas described above, the proposed Master Plan identifies three distinct single-family lots; one of which is located above Woodside Avenue adjacent to and north of platted 5th Street, a second to be accessed from Upper Norfolk, and a third lot to be situated up on top of Treasure Mountain (possible future access predicated on United Park City Mines Company's plans for development off of King Road). Development would be restricted to single-family homes with no greater than 3500 square foot footprints and maximum building heights of 25 feet.
7. The Sweeney Properties Master Plan was amended on October 14, 1987. The amendment identified it as minor as it did not result in increased height in any of the development parcels.
8. The 1987 Sweeney Properties Master Plan modification included the following: Relocating 2 unit equivalents from the Sheen parcel and 2 from the MPE parcel. Two of these units would be relocated off the King Road, one off of Upper Norfolk, and one off of 5th Street.
9. The two (2) King Road unit equivalents are found at 200 and 220 King Road.
10. The site contains a single-family dwelling and a guest house.
11. The single-family dwelling was built in 1998 and has a combined area of 4,235 square feet.
12. The existing Building Footprint of the single-family dwelling is approximately 2,003 square feet.
13. The guest house was built in 2000 and has a combined area of 2,730 square feet.

14. The existing Building Footprint of the guest house dwelling is approximately 1,450 square feet.

15. In April 2000, the Park City Planning Commission approved a Conditional Use Permit for a 2,700 square foot detached guest house on the site.

16. In 2000, the site had an existing accessory apartment in the main residence that had to be removed prior to issuance of a certificate of occupancy for the guest house.

17. A notice of the guest house CUP and a deed restriction prohibiting rental of the guest house separate from the main house was listed as a condition of approval of the Guest House CUP.

18. The notice was recorded with Summit County in January 2003.

19. The approved guest house Conditional Use Permit indicated that no further subdivision of this lot is permitted.

20. The proposed Plat Amendment requests to create two (2) lots of record from the existing platted lot.

21. The applicant stated that they would like to split the properties so that they can sell one home and keep the other home for themselves.

22. The proposed Plat Amendment does not meet its allocated/permitted density.

23. The approved and amended master plan indicated that 220 King Road development would be restricted to one (1) single family home with no greater than 3,500 square foot footprint and maximum building heights of 25 feet.

24. The combined Building Footprints of the existing single-family dwelling and the guest house equates to approximately 3,453 square feet.

25. The approved and amended master plan is consistent with the approved, amended, and recorded Lot 2, Phase 1, Treasure Hill Subdivision.

26. The proposed Plat Amendment is not in compliance with the approved Master Plan as amended.

27. The site is allocated to one (1) single-family dwelling.

28. The applicant request to have (2) lots, each one (1) with a single-family dwelling.

29. Good Cause for the proposed Plat Amendment if not found as issues related to density are not addressed but rather intensified. Positive benefits are not provided and negative impacts are not mitigated.

30. The proposed Plat Amendment would create non-compliance with the approved master plan density as it would add one (1) dwelling unit to a parcel identified in the master planned as having only one (1) dwelling unit.

31. Master plans set forth Use, Density, height, parking, design theme and general Site planning criteria for larger and/or more complex projects having a variety of constraints and challenges, such as environmental issues, multiple zoning districts, location within or adjacent to transitional areas between different land Uses, and infill redevelopment.

32. There are numerous pedestrian/access easements across this property.

Conclusions of Law – 220 King Road

1. The proposed Plat Amendment is not consistent with the Park City Land Management Code and applicable State Law regarding Subdivisions as the approved allocated/permitted density is not observed.

2. The public would materially injured by granting of the proposed Plat Amendment.

3. The proposed Plat Amendment adversely affects health, safety, and welfare of the citizens of Park City.

4. There is Good Cause to deny the proposed Plat Amendment as the plat Amendment does cause undo harm on adjacent property owners because the proposal does not meet the requirements of the Land Management Code and approved the Master Plan.

5. The proposed Plat Amendment is not in conformance with the Sweeney Properties Master Planned Development, as amended.

6. **Alice Claim south of intersection of King Road and Ridge Avenue – Conditional Use Permit for Retaining Walls six feet (6') in height or more (Application PL-15-02669)**

7. **Alice Claim Gully Site Plan south of intersection of King Road and Ridge Avenue – Alice Claim Subdivision and Plat Amendment**
(Application PL-08-00371)
8. **123 Ridge Avenue, Alice Claim Gully Site Plan property swap – Ridge Avenue Plat Amendment** (Application PL-16-03069)

Commissioner Phillips recused himself from the three Alice Claim items and left the meeting.

Since the three Alice Claim applications were related, the Planning Commission addressed them in one discussion but took action on each one individually.

Planner Astorga introduced the applicant representatives Gregg Brown, Brad Cahoon, Jerry Fiat and Marc Diemer.

Planner Astorga noted that the Staff chose to prepare one Staff report for all three items because they are intertwined. He noted that the first application was the Alice Claim subdivision and plat amendment which was remanded back from the City Council on October 29th, 2015. Planner Astorga explained that this application was waiting for the conditional use permit application that was denied by the Planning Commission and appealed by the applicant. The applicant had amended the site plan and the application to the currently proposed Gully Site Plan. The appeal was then remanded back to the Planning Commission by the City Council last week. Planner Astorga reported that the third component was the Ridge Avenue Plat Amendment, which is a new plat amendment that involves swapping approximately 2,000 square feet from a neighboring site.

Planner Astorga noted that the Planning Department received a substantial number of exhibits equating to approximately 200 pages. For the Staff report he used hyperlinks to the exhibits. The Commissioners favored that format and encouraged the Staff to use hyperlinks in the future. Planner Astorga stated that the actual exhibits provided in the Staff report were limited to 30 pages.

Planner Astorga reported that the applicant amended their application for Gully Site, which is similar to Alternative B that was presented in 2009. He noted that the Planning Department had received complete applications for the three components of the Alice Claim project.

Planner Astorga referred to the exhibit on page 152 of the Staff report, which was the Gully Site Plan. He noted that the proposed plat matched the proposal. Planner Astorga

identified the eight lots in the HR-1 zone, four on each side of what was identified as the proposed Alice Court. The lot sizes were reduced to 4500 square feet, which equates to approximately 2-1/2 Old Town lots of record. Planner Astorga stated that there was a platted restriction of a maximum building footprint of 1750 square feet, which was the exact number currently identified in the building footprint. He pointed out that in the Historic Residential Districts the maximum footprint is governed by the size of the lot. Planner Astorga noted that Lot 1 is the Estate Lot and the minimum lot size is 3 acres.

Planner Astorga commented on the retaining walls. The exhibit showed a system of three retaining walls with a separation of approximately 5 feet in between. The maximum height of each retaining wall was 10'. Page 173 of the Staff report showed the proposed mitigation and the trees and shrubs in between each separation.

Chair Strachan asked if the trees with the x through it were the ones that would be eliminated. Planner Astorga answered yes. The trees would be eliminated to accommodate the access road into Alice Court. Chair Strachan asked if it was significant vegetation. Planner Astorga replied that it was. He indicated one tree that was not shown as being removed; however, the Staff was concerned about how to mitigate construction around it.

Planner Astorga reviewed the exhibit on page 179 which is referred to as the land swap. He stated that 123 Ridge Avenue is controlled by the applicant and it was brought in as part of the application. In order for the Gully Site Plan to work, they would exchange 2,057 from Lot 123 which was shown in yellow, and incorporate it into Lot 8 and 9. The area shown in green would be given to 123 Ridge Avenue. The three lots affected, Lots 8 and 9 and 123 Ridge Avenue, would follow the specific layout of a block lot that is more square or rectangular. He noted that the current layout of 123 Ridge Avenue is a triangle. Planner Astorga stated that if the City chooses to move forward on this plat amendment the easements for 123 Ridge Avenue would be moved on to the next parcel. He clarified that it would not be an issue because the applicant controls that lot.

Planner Astorga stated that the Staff was not concerned with the property exchange at this time. The plat amendment would make the layout of Lots 8 and 9 and Lot 1 of the Ridge Avenue subdivision cleaner.

Planner Astorga handed out one letter and one email with comments from nearby property owners. This was noticed for public hearing through letters, the newspaper and by posting the property. Planner Astorga clarified that because some components needed to be finalized and many of the exhibits were updated as late as last month, the Staff was not prepared to propose a specific recommendation this evening. In addition, they had to wait for the conditional use permit remand to come back from the City Council. Planner Astorga

remarked that the Staff wanted to spend more time looking at the layout of the Gully Site Plan before they come back to the Planning Commission.

Planner Astorga requested that the Planning Commission provide guidance and direction to both the Staff and the applicant this evening regarding the Alice Claim subdivision plat amendment and conditional use permit.

Gregg Brown with DHM noted that Scott Bolton from Stantec Engineering, and David Kagan from King Development were also part of their team and they were present this evening to answer questions if necessary.

Mr. Brown stated that the development proposal was a subdivision and a plat amendment. The subdivision was for the eight lots in the HR-1 District and one lot in the Estate District. The maximum size for the eight lots in HR-1 was reduced to one-tenth of an acre, which is smaller than the previous submittals that were seen last year. Mr. Brown stated that the Estate Zone would have a development envelope to limit the amount of disturbance within that 3 acre lot. Mr. Brown remarked that the plat amendment has a piece of the HRL zone and that piece would be dedicated to the City. Portions of King Road/Sampson Road are part of the property being dedicated property. He stated that the applicant would still like to control what occurs in terms of erosion control and landscaping.

Mr. Brown stated that the Conditional Use Permit is for the retaining walls for the currently proposed entry. Three terraced walls of a maximum of 10' height would be stoned veneer. He presented revisions from the previously shown retaining walls. They were proposing to wrap the bottom wall around the intersection and do some intersection improvements.

Mr. Brown reiterated that the last component was the Ridge Avenue plat amendment.

Mr. Brown stated that after the last meeting in December the team went through all the comments from the Planning Commission. They made two dramatic changes that they believe will resolve some of the issues and concerns. One change was to the Estate lot. They came up with a plan to save a tree that was previously going to be removed by development in that zone. Another concern was traffic safety at the intersection at King Road. Mr. Brown stated that in working with the City Engineer and the engineers at Stantec, as well as Fehr and Peers, they came up with a solution that he believes makes King Road much safer and helps with the intersection.

Mr. Brown presented the previously denied plan from last year which had the secondary road going up the hillside with the large lots and large building footprints. The team heard loud and clear that the plan was not acceptable. Therefore, they revised the plan to what is called the Gully Plan, moving all of the lots and homes sites down to the bottom of the

gully. This plan was looked at several years ago but the economics did not work at that time. Mr. Brown stated that economically it is still tight but they believe it is a plan that has a better chance of getting approved.

Mr. Brown noted that they addressed the concern regarding the Estate lot and the house. He recalled that last year they moved the Estate lot and flipped it to the other side of the existing access road up to the water tank. However, that configuration affected a significant evergreen tree. Mr. Brown stated that the plan was reconfigured and the Estate Lot was moved over in order to save the tree. A disturbance envelope would be created that excludes the tree. Fencing would be put up and the tree would be protected.

Mr. Brown showed an illustration of the plan that was denied last compared with the current plan. He believed it clearly showed how the house sites were clustered at the bottom of the gully and reduced in size. Mr. Brown thought the new layout was more in character with the historical layout of the City.

Mr. Brown presented a summary of the lot sizes and building footprints. The Gully Plan proposes 4510 square feet for the HR-1 lots resulting in an allowable building footprint of 1750 square feet. In comparison, the plan that was denied last year proposed over 7700 square feet and an allowable building footprint of 2500 square feet.

Mr. Brown stated that the open space and trails plan has not changed since the last meeting. There will still be trail access north/south through the project. The existing trail that comes in from the east will be connected through an easement down to Alice Court in the location of the access on the north/south.

Mr. Brown reported that the configuration on open space is similar to what they proposed in November. The overall open space for the entire site is 87%. Within the HR-1 area the open space is a little over 75%. In the HRL zone they took out the road and the rest is about 90% open space. The disturbance area was removed from the entire Estate Zone resulting in almost 95% open space.

Mr. Brown presented a new graphic of the current plan with the clean-up plan. The plan was done in 2008 after the clean-up was completed. It was to illustrate where the work had been done. The green area with the hatched pattern was an area that was capped. The current plan aligns with that capped area, including the home in the Estate Lot. The areas where they were currently proposing to put the lots and build the houses were all previously disturbed areas.

Mr. Brown recalled significant discussion in previous meeting about compatibility. At that time they were looking at the compatibility of their site with the neighboring property which

was HRL. There was pushback from the Staff and the Planning Commission that this was HR-1 zoning and it needed to be compatible with HR-1. Mr. Brown stated that he looked at the closest HR-1 area and within that small area there are 29 lots that are a tenth of an acre or larger. He noted that the current proposal was not compatible with every lot but with a great number of the lots in just this small area of the HR-1 zone.

Mr. Brown commented on access. He stated that they have not been able to reach an agreement with the owner on the existing gravel road that accesses their property. It is private property and they do not have legal access. The existing legal access to this property is the extension of platted King Road; however, it cuts through fairly steep slopes and will require retaining walls, which is part of the CUP application. Mr. Brown requested that the Planning Commission consider and approve the CUP application for the walls because it is the only access to the site at this time.

Mr. Brown noted that last year Fehr and Peers did a traffic study to address public concerns regarding traffic safety from the Alice Claim site and at the intersection of the property. He stated that Fehr and Peers looked at the traffic from the intersection of King Road and Ridge Avenue from October 30th to November 1st, and again on December 30th. They tried to choose days with fairly significant traffic. Fehr and Peers found that if they look at the existing conditions plus the additional traffic from nine homes, there would be no change in the level of service at the peak a.m. and peak p.m. times. Mr. Brown pointed out that the current level of service is a Level A. Mr. Brown referred to previous discussions regarding the intersection and whether anything could be done to improve the intersection. He stated that Stantec Engineers worked with Fehr and Peers and met with the City Engineer to come up with what they believe will be an improvement to the intersection. Mr. Brown remarked that the proposal improves the existing traffic condition on King Road. The addition of the intersection does not add safety issues and the traffic flow will be small coming out of there. The problem is that King Road is a 180 degree turn. Fairly large vehicles use that road and it is difficult to make the turn because the road is narrow.

Mr. Brown stated that the applicant was proposing to widen the asphalt template of King Road. In order to widen the road they would have to add a retaining wall. It is a steep slope that is heavily eroded and unstable. Therefore, the bottom retaining wall proposed for the entrance would be extended around the corner to lay the slope back enough to get the road width extended. Mr. Brown showed a photo of the existing slope. They were already proposing to do landscape improvements in the area and the retaining wall would help resolve some of the erosion control problems. In the new plan the wall would continue around the corner and there would be opportunities for landscaping in that area as well.

Mr. Brown reviewed an elevation sketch of the wall for the entry road. The wall coming into the project would be a series of three retaining walls at a maximum height of 10 feet with 5 feet of landscape planting between the walls. He indicated the three sections that were ten feet tall and how the wall tapers down at the end. The wall will be rock veneered and the proposed landscape buffer will help soften the appearance. It will be a soil nailed process to avoid the need for large footings.

Mr. Brown showed photos of historic areas in town with large retaining walls.

Mr. Brown commented on the application for the 123 property swap and their intent to swap some of the Ridge Avenue property owned by this applicant for some of the Alice Claim property. They would be trading equal square footage so there would be no change to the total square footage of the Ridge Avenue Subdivision. The swap would help square up the lots in keeping with the historic character of the town.

Mr. Brown noted that prior to his presentation he had passed out a summary sheet of the key points in terms of General Plan compliance issues and what they believed were findings of good cause. He stated that the proposed Gully Plan is a compact design that reduces the size of the lots, minimizes the impacts to the steep slopes, and creates a project that the town and the developer could be proud of.

Mr. Brown requested that the Planning Commission support this project and direct the Staff to produce findings of fact and conditions of approval for review.

Chair Strachan opened the public hearing on all three applications related to the Alice Claim proposal.

Carol Sletta, a resident at 135 Sampson, handed out a written copy of her comments this evening. She thanked the Planning Commission for the time they have taken to review and evaluate this project in the past and again this evening. As a member of the public who has made numerous comments on this project. Years of public testimony have been given by her and others, and she wanted to know how that information is made available to the current Planning Commission. Ms. Sletta stated that as she reviewed the packet for this meeting she questioned why all three items for Alice Claim were placed on the agenda because if the first item is not approved, there was no need for items two and three. Mr. Sletta could see no reason for the City to approve this project. Adding density would only benefit the developer. On the question of good cause they need to consider whether it benefits the City and the neighborhood. She understood it was one parcel that must meet very specific requirements to be subdivided into more lots; however, it is not a land use right to have more lots. Ms. Sletta stated that both the public and the Commissioners have made arguments that must be reviewed and resolved to meet the subdivision standards.

She believed that approving this project would set a precedent encouraging future developers to increase the density on remaining parcels and hillsides in historic Old Town Park City. On the issue of public safety, Ms. Sletta stated that the traffic study by Fehr and Peers showing the emergency vehicle turning movement confirms the inherent danger of this intersection by adding access to Alice Claim. The applicant dedicating land at the corner has no benefit. She pointed out that Exhibit J does not reference the steep pitch or grade of the intersection. Ms. Sletta remarked that adding a stop sign at the uphill corner of King Road and Ridge Avenue reconfirms that drawing something does not mean it works. It would be difficult, if not impossible, for dump trucks, cement trucks, or a PCMR vehicle to come to a complete stop on the uphill of King Road and then proceed either left or right in the winter. She questioned the ability of any large vehicle to stop on a dry day on the uphill and still safely proceed. Having lived on Sampson Avenue since 1980, Ms. Sletta respectfully disagreed with the traffic engineer and the City Engineer when they state that nine homes would have no negligible traffic impact in this area.

Ms. Sletta commented on the CUP for retaining walls. She thought they needed to see a realistic accurate drawing of the retaining walls from a vantage point of the center of the intersection. She believed that the photo Mr. Brown showed of the retaining wall that was not visible was set back and not on the street. Ms. Sletta was concerned that permitting these walls in historic Old Town would again set a precedent for future development. On the street stacked retaining walls would give the town an undesirable look.

Ms. Sletta understood that the property swap would not be an issue if the subdivision and the CUP are not approved. Ms. Sletta felt strongly that the Alice Claim Gully Subdivision did not belong in historic Old Town Park City.

Brooke Hontz, a resident on Daly Avenue, noted that she has given public input numerous times regarding this project. Considering the number of meetings she believed the project had only evolved minimally. She noted that they were looking at a plan that was similar to a plan presented in 2009. In all those years there has been very little progress. Ms. Hontz stated that she did not come this evening prepared with copious amounts of information and analysis because she had done the work over and over again, as well as other members of the community and multiple Planning Commissioners, to say that going from one metes and bounds parcel to eight carries significant impacts. She agreed that the presentation and the materials presented are compelling and makes everything look good, but the reality is that it is not even close to good. Mr. Hontz stated that the subdivision code empowers the Planning Commission to not only grant rights, which are associated with this property, but it also allows the Planning Commission to control density and provides various ways to accomplish it.

Ms. Hontz provided an exhibit showing all of the platted lots in the area. She pointed out that this site was a metes and bounds parcel and not a platted lot. All of the lots shown on her exhibit are above and adjacent to the Alice Claim property and they are all accessible through the same means as the Alice Claim project, on platted but unbuilt road. She believed that fact was hugely significant. Ms. Hontz appreciates the Staff and their good work, but she disagreed with Planner Astorga regarding his discussion on the layout of the lots. Going back to minutes from prior a meetings, she found that former Planner Ray Milner did a report for a work session that said the work session discussion should only focus on the layout and not density. Mr. Milner further indicated that the Staff had concerns about density but it was not to be talked about. Ms. Hontz believed that the policy ever since has been to talk about the location of the houses but not the impacts that accompany having nine lots instead of one lot.

Ms. Hontz understood that the City was faced with increased pressures in their most sensitive and challenging places. She encouraged the Planning Commission to focus on the Code and not set a precedent because many other projects will be coming before them that need to be treated fairly using the same procedures and policies.

Sherrie Leveton, the owner of 135 Ridge Avenue, stated concurred with Ms. Hontz. She has her husband have attended several meetings and they have owned the home at 135 Ridge Avenue for several years. As her husband commented last time, there is a gross misrepresentation that the applicant has been negotiating in good faith with them, but that has not happened. She understood that access is an important issue and she wanted the new Planning Commissioners to hear that firsthand. Ms. Leveton explained that there were negotiations in 2008 and since then she and her husband have not been involved in any real negotiations of any kind.

Tom Gaddick, a resident at 291 Daly, stated that he has spoken at previous public hearings and his concern regarding emergency egress access up Ridge and up King have not been addressed. Each road at their smallest point is 12' with not enough room for two cars to pass. Mr. Gaddick remarked that in the event of a wildland fire everyone would be driving their cars down while the fire trucks are trying to get up. He emphasized that it will not work.

Charlie Wintzer, a resident at 320 McHenry Avenue, stated that at the last meeting for this project Commissioner Joyce made a comment to the effect that this has been done on Sampson before and even though it does not work right they have let it happen in the past. Mr. Wintzer remarked that Sampson was created because of bad decisions by Planning Commissioners in the past, and it was also created because of entitlements that came with existing lots. Ms. Wintzer noted that this current Planning Commission and City Council will create new entitlements and new lots. He did not believe they should use what

occurred in the past as an excuse to move forward. Mr. Wintzer remarked that the HR-1 zone allowed building area is the lot minus setbacks. If they intend to create a lot, it should mimic that calculation. He noted that these are steep lots and ridgeline encroachments with this subdivision will be created. If they decide to allow this, they need to study each lot individually and with a section through each lot to identify the encroachments. Mr. Wintzer stated that retaining walls are considered a structure and the purpose statement of the HR1 says to create compatible structures with existing historic structures. He could find no compatibility. He did not believe the picture Mr. Brown showed was what they were proposing to build. Mr. Wintzer stated that when the applicant presents a bad project and then changes it to a slightly better project, everyone thinks they won. He pointed out that a better project is not necessarily the best that could be achieved. Mr. Wintzer referred to his previous comments about construction mitigation, but he has yet to see where that has been discussed or addressed. If they approve this project he believed they would be creating entitlements that would allow this applicant to further make the roads substandard due to the amount of construction traffic and the additional traffic generated once the project is completed. Commissioner Wintzer stated that when he was on the Planning Commission the Alice Claim project was reviewed several times; however, they never started at the beginning to determine whether or not this site was an appropriate place for a subdivision and whether or not it was the appropriate amount of density. The project was presented at a work session and it was presented in a way that did not allow the Commissioners to make those types of comments.

Chair Strachan closed the public hearing.

Commissioner Band stated that every time this came before them they asked the applicant to come back with a plan like Alternative B that was previously proposed. She believed they followed that direction and came back with a plan that was like Alternative B. She recalled one Planning Commissioner saying that if the applicant had brought in Alternative B they would be having a totally different discussion. Commissioner Band thought they were moving in the right direction. King Road has always been her primary concern. The roads are substandard and there are new subdivisions coming in. She felt the same way about Ridge Avenue and found it frightening that huge trucks go up and down those roads. Commissioner Band pointed out that they have not yet had a fatality but that did not mean it would never happen. She did favor the proposed improvements.

Commissioner Band stated that the retaining wall was still a concern and she thought it was unfortunate that access has not been addressed. She noted that when the previous site plan was proposed the Planning Commission visited the site to see exactly where the homes would be located. Given that the site plan has changed she thought that it would helpful to have another site visit.

Commissioner Thimm stated that there has been significant conversation regarding this site, and a comment was made that this plan keeps coming back but it never improves. He personally has seen an improvement in the last year and a half that he has been on the Planning Commission. He noted that the large sweep of road that went up the hill and wiped out a large portion of slope is gone. The lot size was reduced appropriately and seems to be consistent with many of the surrounding lots in the zoning district. Commissioner Thimm was pleased to see improvement in King Road and the access. He thought the plat shows the retaining wall going right into the right-of-way. He was unsure how that would work and whether or not it was the right solution. However, in looking at the photos and when he walks around the site, that portion of the slope appears to be failing. He believed the retaining wall would improve the erosion. Commissioner Thimm remarked that installing a soil nail wall is an expensive proposal, but it allows building from the top down without having to go back and over cut and damage more undisturbed ground to build the wall. He believed that building from the top down would mitigate some of the issues. Commissioner Thimm questioned the viability of the landscaping and how it could live within the five foot widths. He would like more information on specific planting materials and whether they could survive. In terms of access, Commissioner Thimm noted that there is a legitimate lot and whether there are one or nine homes, making provisions for access to a legal lot is an argument in favor of allowing something that can provide a solution that stabilizes the slope and still provides access.

Mr. Brown clarified that the retaining wall they were showing on King Road is on property that the applicant currently owns. He pointed out that there is no right-of-way for the road and the applicant would be dedicating that land to the City. Commissioner Thimm appreciated the clarification.

Commissioner Suesser stated that as the newest Planning Commissioner she was also new to this project. However, in going through the discussion items that the Staff asked them to address, she thought the current proposal is compatible with the HR-1 District. She referred to public comment about whether the amount of density is appropriate, and requested that the Staff look into that issue. With regard to whether the impacts of this proposal have been properly mitigated, Commissioner Suesser had concerns with traffic impacts. She agreed that the impact of one home versus nine homes is significant. Commissioner Suesser thought the Staff should also look at the platted lots above this project and consider those with respect to this project. She did not believe that emergency access had been properly mitigated. She agreed that construction mitigation needed to be looked at, particularly because of the substandard roads. Commissioner Suesser thought the comment about making the substandard roads more substandard should be directly addressed in this proposal.

Commissioner Joyce stated that he was much happier than where they started with this project. He believed the question of nine lots was proposed in the beginning and that number was never changed or discussed. Commissioner Joyce thought the question was whether nine is a reasonable number. He stated that if other subdivision plats proposed 80% open space he would be very happy. In talking about nine lots, he focuses on the fact that they were looking at a plan that is mostly open space. Commissioner Joyce clarified that his biggest issues in previous meetings was that the project did not fit with the HR-1 zone in size or appearance. The applicant heard his comments and revised the plan to address his concerns. He also liked the fact that everything was moved off of the hillside and into the gully to reduce the amount of excavation and the amount of disturbance, which were major issues. Commissioner Joyce favored the proposal to improve King Road as it goes up the hill. He understood the concerns regarding traffic, but the traffic engineers and the City Engineer agree that the thresholds remain the same and the level of service would not change; and he was not in a position to challenge their professional expertise. Commissioner Joyce stated that he has driven up this property several times and a lot of times he is the only car on the road.

Commissioner Joyce remarked that to do a subdivision there has to be good cause. When he looks at photos from previous years this site was a mine disaster. No one cared when it looked like a pig sty, but the applicant cleaned it up and it looks gorgeous and now everybody cares. Commissioner Joyce still had concerns with the wall. He asked the applicant to clarify the issue with negotiating the easement for access. The applicant reports that the property owner will not negotiate and the property owner has said they have not been contacted in years. Someone was not completely forthright and he wanted to understand the issue. Commissioner Joyce stated that if they could negotiate the access and eliminate the retaining wall it would be easier to approve the project. Commissioner Joyce had no issues with the land swap if the subdivision and CUP are approved.

Commissioner Campbell agreed that it would be nice to eliminate the wall. He believed that if the Planning Commission gave approval to build the wall it might put the applicant in a better position to negotiate the easement agreement. Commissioner Campbell stated that the owner has the right to access their property and if building the wall is the only way to obtain access they should be allowed to do it. Commissioner Campbell stated that when an applicant comes before the Planning Commission with an idea and the Planning Commission prefers to have it be something else, if the applicant comes back with what they asked for and the Planning Commission requests further changes, the process can drag on for years. Commissioner Campbell did not believe that was a fair process. He thought the applicant addressed all of the points that were raised at the last meeting and he could not see how the Planning Commission could vote against it in good conscience.

Chair Strachan stated that his biggest issue was the CUP request for the retaining wall. There is nothing in Old Town even similar to 30 feet of retaining wall that was being proposed. It can be tiered, stepped and vegetated but it still creates a substantial visual impact. Chair Strachan remarked that he had not seen any evidence that the wall would be mitigated in any way. He pointed out that significant vegetation would have to be removed in order to put in the road and build the wall. His reading of the Code in the HR-1 is that significant vegetation "must" be protected. He noted that by moving the Estate lot, the applicant admitted that significant vegetation is a valid concern. Chair Strachan stated that the applicant needed to figure out how to get around the issue of significant vegetation. He noted that trees are being removed under this plan and he was not sure it was allowed by Code. Chair Strachan put the burden on the applicant to convince him that this obvious and substantial impact could be mitigated. Chair Strachan remarked that widening King Road was like a wolf in sheep's clothing. They were doing it to mitigate an impact, but widening the road creates more impact because it goes into a very steep slope as defined by the Code. It was like trying to mitigate an impact with a worse impact.

Chair Strachan agreed with other Commissioners in terms of the site plan and the subdivision application. The Gully Plan is far more compatible with the surrounding zone and it is closer to meeting the LMC. Chair Strachan clarified that the issue is the CUP request which is a high standard to meet under the LMC. At this point he did not believe they had met that standard. Chair Strachan stated that if the applicant could convince him, he would want to see visuals of what the walls would look like and a visual analysis. It was also important to know how the walls themselves and the staging would affect the significant vegetation. Chair Strachan remarked that the new plan of putting a retaining wall further up Sampson was not a solution because it creates a greater impact.

Planner Astorga believed the next step in the process would be to allow the applicant the opportunity to respond to the Commissioners comments and concerns and bring it back with a recommendation. Director Erickson agreed. He thought there needed to be more discussion regarding the density questions because the comments were mixed as to whether nine lots were appropriate. Mr. Erickson believed the site plan could move forward. He thought the applicant's burden of proof on the conditional use permit was the most critical issue. He had ideas for construction mitigation and making sure it is part of the conditional use process and the subdivision approval.

Chair Strachan assumed the Staff and the applicant had been given sufficient direction. At the applicant's request these items were continued to July 13th.

MOTION: Commissioner Joyce moved to CONTINUE the Alice Claim south of intersection King Road and Ridge Avenue Conditional Use Permit for retaining walls six feet in height or more to July 13th, 2016. Commissioner Thimm seconded the motion.

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

MOTION: Commissioner Joyce moved to CONTINUE the Alice Claim Gully Site Plan subdivision and plat amendment to July 13th, 2016. Commissioner Thimm seconded the motion.

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

MOTION: Commissioner Joyce moved to CONTINUE 123 Ridge Avenue Alice Claim Gully Site Plan property swap to July 13th, 2016. Commissioner Thimm seconded the motion.

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

The Park City Planning Commission Meeting adjourned at 8:15 p.m.

Approved by Planning Commission: _____