

# PARK CITY MUNICIPAL CORPORATION PLANNING COMMISSION

CITY HALL, COUNCIL CHAMBERS  
445 MARSAC AVENUE, PARK CITY

July 27, 2016



## AGENDA

**MEETING CALLED TO ORDER AT 5:30PM**

**ROLL CALL**

**PUBLIC COMMUNICATIONS – *Items not scheduled on the regular agenda***

**STAFF BOARD COMMUNICATIONS AND DISCLOSURES**

**CONTINUATIONS**

- |                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                             |    |
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| 8680 Empire Club Drive - A Conditional Use Permit for a 1,094 sf addition to the Talisker Tower Club restaurant.<br><i>Public hearing and continuation to August 10, 2016</i>                                                                                                                                                                                                                                                          | PL-16-03177<br><i>Planner<br/>Whetstone</i> | 03 |
| 7700 Stein Way – A Conditional Use Permit for an addition to the Stein Eriksen Lodge, consisting of a 3,600 sf for additional ski lockers, 4,050 sf for a guest recreational amenities, 918 sf for a guest movie and video viewing room, as well as improvements to the exterior pool and deck area and remodel of existing interior ski locker rooms and skier services.<br><i>Public hearing and continuation to August 24, 2016</i> | PL-16-03176<br><i>Planner<br/>Whetstone</i> | 04 |
| 7700 Stein Way- A condominium plat amendment to identify the additional amenity spaces requested in the Conditional Use Permit.<br><i>Public hearing and continuation to August 24, 2016</i>                                                                                                                                                                                                                                           | PL-16-03175<br><i>Planner<br/>Whetstone</i> | 05 |
| 3776 Rising Star Lane – Zone change from Recreation Open Space (ROS) Zone to Estate (E) Zone. In order to accommodate the proposed building pad the zone line delineating between two zoning districts is proposed to be moved with a Zone Change from Recreation Open Space (ROS) zone to Estate (E) zone.<br><i>Public hearing and continuation to August 10, 2016</i>                                                               | PL-16-03156<br><i>Planner<br/>Hawley</i>    | 06 |
| 3776 Rising Star Lane – Plat Amendment application to make an alteration to the existing building envelope and to address open space at the front of the existing lot.<br><i>Public hearing and continuation to August 10, 2016</i>                                                                                                                                                                                                    | PL-16-03051<br><i>Planner<br/>Hawley</i>    | 07 |
| 158 Ridge Avenue – Steep Slope Conditional Use Permit for a new Single Family Dwelling.<br><i>Public hearing and continuation to August 10, 2016</i>                                                                                                                                                                                                                                                                                   | PL-16-03149<br><i>Planner<br/>Hawley</i>    | 08 |

**CONSENT AGENDA** – *All items on the consent agenda shall be passed or denied by a single motion at the Commission meeting, unless a motion to remove a specific item is made. If a member of the public or a member of the Planning Commission requests a public hearing on a consent agenda item,*

A majority of Planning Commission members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.

*then the item shall be removed from the consent agenda and acted on at the same meeting.*

100 Daly Avenue – Steep Slope Conditional Use Permit (SS CUP) for the construction of a new single-family home with a Building Footprint in excess of 200 square feet, to be built upon an existing slope of 30% or greater. <i>Public hearing and possible action</i>	PL-16-03185 <i>Planner Scarff</i>	09
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**REGULAR AGENDA** – *Discussion, public hearing, and possible action as outlined below*

Alice Claim south of intersection of King Road and Ridge Avenue – Conditional Use Permit for Retaining Walls six feet (6') in height or more. <i>Public hearing and possible action</i>	PL-15-02669 <i>Planner Astorga</i>	37
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Alice Claim Gully Site Plan, south of intersection of King Road and Ridge Avenue – Alice Claim Subdivision and Plat Amendment. <i>Public hearing and possible recommendation to City Council</i>	PL-08-00371 <i>Planner Astorga</i>	37
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123 Ridge Avenue, Alice Claim Gully Site Plan property swap - Ridge Avenue Plat Amendment. <i>Public hearing and possible recommendation to City Council</i>	PL-16-03069 <i>Planner Astorga</i>	37
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## **ADJOURN**

A majority of Planning Commission members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.

# Planning Commission Staff Report



**Application:** PL-16-03177  
**Subject:** Tower Club CUP Phase I Amendment  
**Author:** Kirsten Whetstone, AICP, Sr. Planner  
**Date:** July 27, 2016  
**Type of Item:** Administrative - Conditional Use Permit amendment

## Summary Recommendations

Staff recommends Planning Commission conduct a public hearing and continue the hearing on the amended Tower Club Phase I Conditional Use Permit (aka Empire Club Phase I Conditional Use Permit) application to August 10, 2016, at the request of the applicant, who was unable to attend this meeting.

## Description

**Applicant:** Talisker Club LLC, Brian Straight, General Manager  
**Location:** 8680 Empire Club Drive- Pod A, Lot 9 Village at Empire Pass Phase 1 Subdivision (Building One)  
**Zoning:** Residential Development (RD) District as part of the Flagstaff Annexation and Master Planned Development (MPD)  
**Adjacent Land Uses:** Deer Valley Resort, condominiums, townhouses, and vacant development parcels of the Village at Empire Pass Pod A

## Summary of Proposal

On May 17, 2016, the Planning Department received an application for an amendment to the Tower Club Phase I Conditional Use Permit (CUP) requesting approval to expand the existing Tower Club private dining area by approximately 1,094 square feet by enclosing an existing patio area, constructing a new patio, and providing approximately 622 square feet of basement storage space below the new patio. The building, located on Lot 9 of the Village at Empire Pass Phase One Amended Subdivision plat, is currently known as the Talisker Club.

The existing Tower Club consists of private dining, fitness, concierge, ski lockers, restrooms, circulation, storage, and children's programming services consistent with the Village at Empire Pass Master Planned Development. A total of 2,524 square feet of the 8,880 square foot building are considered resort support commercial uses, including the dining area, kitchen, and store. The remaining areas and uses are residential accessory uses that do not require use of UEs, such as ski lockers; restrooms; mechanical; storage; pools, hot tubs, and saunas; changing rooms; administrative offices; hallways and circulation areas; lobbies; employee facilities; and other similar uses.

# Planning Commission Staff Report



**Application:** PL-16-03176  
**Subject:** Stein Eriksen Lodge CUP  
**Author:** Kirsten Whetstone, AICP, Sr. Planner  
**Date:** July 27, 2016  
**Type of Item:** Administrative - Conditional Use Permit amendment

## Summary Recommendations

Staff recommends the Planning Commission conducts a public hearing and continues the hearing on the amended Stein Eriksen Lodge Conditional Use Permit (CUP) application to August 24, 2016.

## Description

**Applicant:** Russ Olsen, CEO Stein Eriksen Lodge  
**Location:** 7700 Stein Way  
**Zoning:** Residential Development (RD) District as part of the Deer Valley Master Planned Development (MPD)  
**Adjacent Land Uses:** Deer Valley Resort, condominiums, single family houses, and support commercial uses.

## Summary of Proposal

On May 17, 2016, the Planning Department received an application for an amendment to the Stein Eriksen Lodge Conditional Use Permit (CUP) requesting approval of an addition to the Stein Eriksen Lodge, consisting of a 3,600 sf for additional guest ski lockers, 4,050 sf for a guest recreational amenities, 918 sf guest and employee video/conference room, as well as improvements to the exterior pool and deck area. Utility and fire protection issues are being coordinated with the adjacent property owner, City Engineer, and service providers. Staff will return to the Commission when the revised site and utility plans are submitted.

# Planning Commission Staff Report



**Application:** PL-16-03175  
**Subject:** Stein Eriksen Lodge Condominium plat amendment  
**Author:** Kirsten Whetstone, AICP, Sr. Planner  
**Date:** July 27, 2016  
**Type of Item:** Plat amendment

## Summary Recommendations

Staff recommends the Planning Commission conducts a public hearing and continues the hearing on proposed amendments to the Third Supplemental Sheet for all Phases of the Stein Eriksen Lodge Common Area condominium plat application, to August 24, 2016.

## Description

**Applicant:** Russ Olsen, CEO Stein Eriksen Lodge  
**Location:** 7700 Stein Way  
**Zoning:** Residential Development (RD) District as part of the Deer Valley Master Planned Development (MPD)  
**Adjacent Land Uses:** Deer Valley Resort, condominiums, single family houses, and support commercial uses.

## Summary of Proposal

On May 17, 2016, the Planning Department received an application for an amendment to the Third Supplemental Sheet for all Phases of the Stein Eriksen Lodge Common Area condominium plat to identify the structures and uses consistent with the amended Conditional Use permit application, submitted for concurrent review. Utility and fire protection issues are being coordinated with the adjacent property owner, City Engineer, and service providers. Staff will return to the Commission when the revised site and utility plans are submitted.

## **Planning Commission Staff Report**

**Subject:** Zoning Map Amendment Request  
**Author:** Makena Hawley, Planner  
**Project Number:** PL-16-03156  
**Date:** July 27, 2016  
**Type of Item:** Legislative – Zoning Map Amendment -Continuation

### **Summary Recommendations**

Staff recommends the Planning Commission hold a public hearing and continue the public hearing on a Zoning Map Amendment Request from Recreation Open Space (ROS) District to Estate (E) District (and vice versa) from Estate (E) District to Recreation Open Space (ROS) District, for portions of Lot 10 of the Morning Star Estates Subdivision, located at 3776 Rising Star Lane.

### **Description**

**Applicant:** Rising Star Lane, LLC,  
represented by Marshall King, Alliance Engineering, Inc.  
**Location:** 3776 Rising Star Lane  
**Existing Zoning:** Recreation and Open Space (ROS) District  
**Proposed Zoning:** Estate (E) District  
**Adjacent Land Uses:** Residential  
**Reason for Review:** Zoning Map Amendment applications require Planning Commission review and City Council review and action

### **Summary of Proposal**

Lot 10 of the Morning Star Estates Subdivision designates a majority of the lot as Recreation Open Space (ROS) and the building pad is designated as Estate (E). To accommodate the design of a proposed new house at 3776 Rising Star Lane, the applicant is requesting a plat amendment and zone amendment to alter the platted building pad, thus changing the zone designation in certain areas. The request is to change a portion of the Estate zone in the front of the lot to Recreation and Open Space and to change portion of Recreation Open Space at the rear of the lot to Estate zone. The proposed change maintains the same square footage of Estate zone and the same square footage of Recreation Open Space platted. Staff requests continuation to August 10, 2016, to finalize issues related to the plat, site plan, and areas proposed to be rezoned.

## Planning Commission Staff Report

**Subject:** Lots 9 and 10 Morning Star Estates Plat Amendment  
**Author:** Makena Hawley, Planner  
**Project Number:** PL-16-03051  
**Date:** July 27, 2016  
**Type of Item:** Legislative – plat amendment -Continuation

### Summary Recommendations

Staff recommends the Planning Commission holds a public hearing for the Morning Star Estates, First Amended Subdivision plat, amending Lots 9 and 10 at 3776 Rising Star Lane and continues the public hearing to August 10, 2016.

### Description

**Applicant:** Rising Star Lane, LLC, represented by Marshall King, Alliance Engineering, Inc.  
**Location:** 3776 Rising Star Lane  
**Existing Zoning:** Recreation and Open Space (ROS) District and Estate (E) District  
**Adjacent Land Uses:** Residential and open space  
**Reason for Review:** Plat Amendment applications require Planning Commission review and City Council review and action

### Summary of Proposal

Lots 9 and 10 of the Morning Star Estates Subdivision are owned by John and Robert Mazanec (Lot 9) and Alan Airth (Lot 10). The property owner of Lot 10 is requesting to reconfigure the platted building pad for Lot 10. Both owners are requesting removal of existing lot lines of platted “parcel 2” which crosses onto both lots and to add a lot line continuing between the two lots reaching to the road (Rising Star Lane). The property owner of Lot 10 is also requesting a Zone Change concurrent with this application.

Currently, Lot 9 contains a single-family dwelling. The single-family dwelling was built in 1995, after the property owner was able to obtain the proper development permits with the City. Currently Lot 10 is under construction with an approved building permit.

Staff requests continuation to August 10, 2016, to finalize issues related to the plat, site plan, and areas proposed to be rezoned.



# Planning Commission Staff Report

**Subject:** 158 Ridge Avenue  
**Author:** Makena Hawley, City Planner  
**Project #:** PL-16-03149  
**Date:** July 27, 2016  
**Type of Item:** Administrative - Conditional Use Permit

## Summary Recommendations

Staff recommends the Planning Commission conduct a public hearing and continue the item to August 10, 2016, to allow additional time for internal review of the lot's history.

## Description

**Applicant:** Thaynes Capital Park City LLC – Damon Navarro, represented by Jonathan DeGray  
**Location:** 158 Ridge Avenue  
**Zoning:** Historic Residential Low Density (HRL)  
**Adjacent Land Uses:** Vacant lots, two lots under construction, and residential.  
**Reason for Review:** Construction of structures with greater than 200 square feet of floor area and located on a steep slope (30% or greater) requires a Conditional Use Permit.



# Planning Commission Staff Report



**Subject:** 100 Daly Avenue  
**Project #:** PL-16-03185  
**Author:** Ashley Scarff, Planning Technician  
**Date:** July 27, 2016  
**Type of Item:** Administrative – Steep Slope Conditional Use Permit

## Summary Recommendations

Staff recommends the Planning Commission review the application for a Steep Slope Conditional Use Permit (CUP) at 100 Daly Avenue, conduct a public hearing, and consider approving the Steep Slope CUP for 100 Daly Avenue. Staff has prepared findings of fact, conclusions of law, and conditions of approval for the Commission’s consideration.

## Description

**Owner/Applicant:** 100 Daly Avenue Trust, represented by Matt Sneyd  
**Location:** 100 Daly Avenue  
**Zoning:** Historic Residential (HR-1) District  
**Adjacent Land Uses:** Residential  
**Reason for Review:** In the HR-1 District, a Steep Slope CUP is required for the construction of any Structure with a Building Footprint in excess of 200 square feet (sf), if located upon an existing Slope of thirty percent (30%) or greater.

## Proposal

This application is a request for a Steep Slope CUP for the construction of a single-family home with a Building Footprint in excess of 200 sf, to be built upon an existing Slope of 30% or greater. The applicant is proposing to build a new single-family dwelling with a footprint of 1,218.5 sf. The home will contain approximately 4,196 sf of total floor area, including the garage and basement areas. The uphill lot is currently vacant, measures 2,978.2 sf in area, and has an approximate overall slope of 50 percent (50%). The first 15 feet of the lot that fronts Daly Avenue has a slope of approximately 13 percent (13%). The middle of the lot (roughly 25 to 70 feet in) is the steepest part to be impacted by construction, with approximate grades ranging from 60 percent (60%) to 80 percent (80%).

## Background

On May 17, 2016, the City received an application for a Steep Slope CUP at 100 Daly Avenue; the application was deemed complete on June 10, 2016. This application is a request to construct a new single-family house on the lot. Because the proposed footprint of the new construction is in excess of 200 sf and the proposed footprint is located upon an existing slope that is greater than 30%, the applicant is required to file a Steep Slope CUP application for review by the Planning Commission, pursuant to Land Management Code (LMC) §15-2.2-6.

100 Daly Avenue is located in the Historic Residential (HR-1) District. The property contains 2,978.2 square feet and is a vacant, uphill lot. The Park City Council approved a plat amendment at this location on May 12, 2016, to combine Lot 14 of the Millsite Reservation and the Easterly ½ of vacated Anchor Avenue, Block 74, Park City Survey, to create one (1) legal lot of record. The plat has not yet been recorded. The plat amendment will expire in May 2017 if not yet recorded at Summit County.

A Historic District Design Review (HDDR) application was also submitted on May 17, 2016, and deemed complete on June 10, 2016. The application is being processed concurrently with this Steep Slope CUP, and staff has requested the applicant to make minor revisions so the plans initially submitted are in full compliance with the LMC and Historic District Design Guidelines.

**Purpose**

The purpose of the Historic Residential (HR-1) District is to:

- (A) preserve present land Uses and character of the Historic residential Areas of Park City,
- (B) encourage the preservation of Historic Structures,
- (C) encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- (D) encourage single family Development on combinations of 25' x 75' Historic Lots,
- (E) define Development parameters that are consistent with the General Plan policies for the Historic core, and
- (F) establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

**Analysis**

The proposed single-family home will have a building footprint of 1,218.5 sf, which is about 41 feet under the maximum allowable building footprint of 1,259.6 sf for the lot. As currently proposed, the new development complies with all setback, height, and parking requirements, as outlined in the following table. Staff reviewed the initial set of plans and made the following LMC-related findings:

<b>Requirement</b>	<b>LMC Requirement</b>	<b>Proposed</b>
Lot Size	Minimum of 1,875 square feet	2,978.2 square feet, <u>complies.</u>
Building Footprint	1,259.6 square feet maximum	1,218.5 square feet, <u>complies.</u>
Front/Rear Yards	12 feet minimum, 25 feet total	Front: 12 feet, <u>complies.</u> Rear: 13 feet, <u>complies.</u>
Side Yard	3 feet minimum, 6 feet total	4.5-4.6 feet on north side, 3 feet on south side, <u>complies.</u> Total of 7.5-7.6 feet, <u>complies.</u>
Height	27 feet above existing grade, maximum.	Approximately 26'-7.5" above existing grade at tallest point, <u>complies.</u>

Height (continued)	A Structure shall have a maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.	Approximately 34.9 feet, <u>complies.</u>
Final grade	Final grade must be within four (4) vertical feet of existing grade around the periphery of the structure.	Maximum difference is 4 feet on the north, south, and west elevations, <u>complies.</u>
Vertical articulation	A ten foot (10') minimum horizontal step in the downhill façade is required unless the First Story is located completely under the finish Grade on all sides of the Structure. The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback may encroach into the minimum 10 ft. setback but shall be limited to no more than 25% of the width of the building encroaching no more than 4 ft. into the setback.	Current plans show an approximate 9 ½ foot (9½') horizontal step in the downhill façade. The LMC requires a 10 foot step. Staff has added a condition of approval to this steep slope CUP to ensure compliance with the vertical articulation requirement of the LMC, <u>conditioned to comply.</u>
Roof Pitch	Between 7:12 and 12:12.	The main roof has a 7:12 pitch, <u>complies.</u>
Parking	Two (2) off-street parking spaces required.	One (1) interior space that meets code within garage and one (1) partially covered space on the driveway, within the lot area, compliant with required dimensions, <u>complies.</u>

100 Daly Avenue is not located within the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance); however, due to its proximity to areas with historic mining activities and mine waste impacts, soils with metals impacts may be encountered. If the property owner does encounter mine waste or mine waste impacted soils, he/she must handle the material in accordance to State and Federal law. Staff has included this as Condition of Approval #14.

LMC §15-2.2-6 requires a Steep Slope CUP for any new construction with a Building Footprint that exceeds 200 sf, if located upon an existing slope of 30% or greater. As previously noted, the new single-family home will have a footprint of 1,218.5 sf. The property has an overall slope of approximately 50%, measured from front to rear property lines. The first 15' of the lot that fronts Daly Avenue has an approximate grade of 13%. The steepest area to be impacted by construction occurs mid-lot (roughly 25 to 70 feet in), with grades ranging from 60 – 80%.

Criteria 1: Location of Development.

Development is located and designed to reduce visual and environmental impacts of the Structure. **No unmitigated impacts.**

*The proposed single-family dwelling is located on the lot in a manner that reduces potential visual and environmental impacts as much as possible, and steps with the topography to minimize the amount of excavation necessary for construction. As the steepest portion of the property to be impacted by construction is located in the center of the lot, staff finds that it is nearly impossible to develop the lot in a meaningful manner while avoiding that area. The current landscape plan indicates that the applicant will try to save two (2) of nine (9) significant trees identified on the survey of existing conditions, and will replace all removed trees in-kind. Following construction of the new house, the total footprint of the structure will be 1,218.5 sf; the total allowed footprint for a lot of its size is 1,259.6 sf. The proposed front, rear, and side yard setback areas meet all minimum requirements, with the northern side yard setback area exceeding minimum requirements by approximately 1.5 feet (1.5').*

Criteria 2: Visual Analysis.

The Applicant must provide the Planning Department with a visual analysis of the project from key Vantage Points to determine potential impacts of the proposed Access, Building mass and design, and to identify the potential for Screening, Slope stabilization, erosion mitigation, vegetation protection, and other design opportunities. **No unmitigated impacts.**

*The applicant has submitted a photographic visual analysis, including street views with and without the proposed structure, renderings of the streetscape on the western side of Daly Avenue, and 3D perspective drawings. The analysis shows that the proposed construction fits within the context of the slope, neighboring structures, and existing vegetation. The streetscape demonstrates that the proposed design is visually compatible with the neighborhood, similar in scale and mass to surrounding structures, and visual impacts are mitigated. By stepping the structure up the hill, the mass and scale have been broken up and largely minimized.*

*According to the survey of existing conditions, there are nine (9) existing trees that are either directly on the lot, or encroach onto it. The current landscape plan indicates that the applicant will try to save two (2) of nine (9) significant trees identified on the survey of existing conditions, and will replace all removed trees in-kind. The overall landscape plan doesn't include the addition of more trees, but shows ten (10) Karl Forrester grass plants to be planted in the front yard setback area. The proposed site plan also shows two (2) retaining structures on the north side of the lot, two (2) retaining structures on*

*the south side of the lot, and one (1) retaining structure that spans the entire width of the lot in the rear yard setback area, where the property begins to slope steeply upward. Each wall will be made of rocks small enough that a miner could carry, and are not to exceed four feet (4') in height.*

Criteria 3: Access.

Access points and driveways must be designed to minimize Grading of the natural topography and to reduce overall Building scale. Common driveways and Parking Areas, and side Access to garages are strongly encouraged **No unmitigated impacts.**

*The proposed design incorporates a single car driveway twelve feet (12') in width and approximately 23 feet (23') in length that runs from Daly Avenue to the single car garage. Due to the site's natural flatness where it fronts Daly Avenue (approximately 13% slope), grade will not need to be retained in the front yard setback area. The first retaining structures are located within the north and south side yard setback areas, in line with the front façade of the structure. Grading is minimized for the stepped foundation. No common driveway or side access garage is proposed; a side access garage would not be feasible due to the narrowness and steep grade of the lot.*

Criteria 4: Terracing.

The project may include terraced retaining Structures if necessary to regain Natural Grade. **No unmitigated impacts.**

*Most of the retaining of the hillside for the proposed structure is in the form of the rear foundation wall. Minor exterior retaining is necessary to regain natural grade around the proposed structure to provide for the lower level garage and emergency egress windows on the north and south elevations. A 4 foot retaining wall that spans the entire width of the lot (32.6 feet) will also be built in the rear yard setback to make room for a small backyard walkout area with space for a deck large enough for a hot tub to sit on. Finished grade will be within 4 feet of existing grade following completion of the project.*

Criteria 5: Building Location.

Buildings, access, and infrastructure must be located to minimize cut and fill that would alter the perceived natural topography of the Site. The Site design and Building Footprint must coordinate with adjacent properties to maximize opportunities for open Areas and preservation of natural vegetation, to minimize driveway and Parking Areas, and provide variation of the Front Yard. **No unmitigated impacts.**

*The new structure's building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography. As previously mentioned, the lot has minimal slope where it fronts Daly Avenue, with the greatest grade changes to be impacted by construction occurring mid-lot. The placement of the new construction and its design mitigates excavation-related impacts as much as possible, as avoiding building in the steep mid-lot area renders development of the property infeasible. Final Grade will be changed no more than four feet (4') from the Existing Grade.*

*The site design and reduced building footprint provide an increased northern side yard setback area. The remaining setback areas are consistent with the pattern of development and separation of structures in the neighborhood. The proposed driveway is twelve feet (12') in width, which is the maximum desired driveway width, as outlined in the Historic District Design Guidelines. Last, the landscape plan shows that at least two (2) existing aspen trees near the north and southeast corners of the lot will remain in place if feasible, with the remaining seven (7) affected significant trees replaced in-kind following construction.*

#### Criteria 6: Building Form and Scale.

Where Building masses orient against the Lot's existing contours, the Structures must be stepped with the Grade and broken into a series of individual smaller components that are Compatible with the District. Low profile Buildings that orient with existing contours are strongly encouraged. The garage must be subordinate in design to the main Building. In order to decrease the perceived bulk of the Main Building, the Planning Director and/or Planning Commission may require a garage separate from the main Structure or no garage. **No unmitigated impacts.**

*The main ridge of the roof orients with the contours. The existing house steps with the grade and is broken into a series of smaller components that are compatible with the HR-1 District. The mass and scale of the new house appears smaller in size because it steps with the topography. The stepping creates rear and side elevations that respect the adjacent properties. The overall footprint of the structure as proposed at 1,218.5 sf is less than the allowable 1,259.6 sf.*

*As outlined above, the structure as shown in the current plans has an approximate 9 ½ foot (9.5') vertical step in the downhill façade, which is 6 inches (6") short of the LMC requirement of a 10 foot (10') vertical step in the downhill façade. Staff has conditioned the approval of this steep slope CUP to ensure that revised plans are in compliance with the vertical articulation requirement of the LMC.*

*Staff finds that the proposed design is consistent with the Design Guidelines for New Construction within the Historic District. The Historic District Design Review (HDDR) application is currently in review. The applicant has designed a 12 foot (12') wide driveway in order to reduce the visual impact of the one-car garage element, consistent with the Design Guidelines. Exterior elements of the new development—roofs, entrances, eaves, porches, windows, doors, steps, retaining walls, garages, etc.—are of human scale and are compatible with the neighborhood and the style of architecture selected. The scale and height of the new structure follows the predominant pattern of the neighborhood. Further, the style of this house is consistent with the Design Guidelines.*

#### Criteria 7: Setbacks.

The Planning Department and/or Planning Commission may require an increase in one or more Setbacks to minimize the creation of a "wall effect" along the Street front and/or the Rear Lot Line. The Setback variation will be a function of the Site constraints, proposed Building scale, and Setbacks on adjacent Structures. **No unmitigated impacts.**

*The proposed structure meets the LMC-required setback areas for a lot of this size. Front/rear yard setbacks must be twelve feet (12') minimum, 25 feet (25') total. The front and rear setbacks as currently proposed are 12' and thirteen feet (13'), respectively. The minimum side yard setbacks are three feet (3') minimum and six feet (6') total. The northern side yard setback currently ranges from 4.5 feet (4.5') to 4.6 feet (4.6'), and the southern side yard setback is shown as 3'. The visual impacts of the new single-car garage and new entry way have been mitigated by changes in wall plane to prevent a wall effect. The side setbacks are consistent with the pattern of development and separation in the surrounding neighborhood. The articulation in the front facade reduces the overall mass of the new structure and does not create a wall effect along the street front.*

**Criteria 8: Dwelling Volume.**

The maximum volume of any Structure is a function of the Lot size, Building Height, Setbacks, and provisions set forth in this Chapter. The Planning Department and/or Planning Commission may further limit the volume of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing Structures. **No unmitigated impacts.**

*The proposed design is articulated and broken into compatible massing components. The design includes setback variations and lower building heights for portions of the structure. The proposed massing and architectural design components are compatible with both the volume and massing of other single-family dwellings in the area. The design minimizes the visual mass and mitigates the differences in scale between the proposed house and surrounding structures.*

**Criteria 9: Building Height (Steep Slope).**

The Zone Height in the HR-1 District is twenty-seven feet (27') and is restricted as stated above in Section 15-2.2-5. The Planning Department and/or Planning Commission may require a reduction in Building Height for all, or portions, of a proposed Structure to minimize its visual mass and/or to mitigate differences in scale between a proposed Structure and existing residential Structures. **No unmitigated impacts.**

*The proposed new construction meets the twenty-seven feet (27') maximum building height requirement measured from existing grade at the highest point. The height of the tallest gable is approximately twenty-six feet, 7.5 inches (26', 7.5") above existing grade, and the remainder of the building steps down the hillside toward Daly Avenue.*

*The construction meets the criteria outlined in LMC 15-2.2-5(A) stating that the structure shall have a maximum height of thirty-five feet (35') measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. The height from the lowest finished floor plane to the highest wall plate is approximately 34.9 feet. (34.9').*

### **Process**

Approval of this application constitutes Final Action that may be appealed to the City Council following appeal procedures found in LMC §15-1-18. The applicant has submitted a Historic District Design Review (HDDR) application; however, this has not yet been approved.

### **Department Review**

This project has gone through an interdepartmental review. No additional comments were brought up at that time.

### **Notice**

The property was posted and notice was mailed to property owners within 300 feet on July 13, 2016. Legal notice was also published in the Park Record in accordance with requirements of the LMC on July 9, 2016.

### **Public Input**

As of the time that this staff report was drafted, there was one verbal inquiry from a nearby property owner on Daly Avenue as to the accuracy of the survey of existing conditions of the subject property. The property owner indicated that they would provide more information in the future.

### **Alternatives**

- The Planning Commission may approve the Conditional Use Permit for 100 Daly Avenue as conditioned or amended, or
- The Planning Commission may deny the Conditional Use Permit and provide staff with Findings for this decision, or
- The Planning Commission may request specific additional information and may continue the discussion to a date certain or to a date uncertain.

### **Significant Impacts**

As conditioned, there are no significant fiscal or environmental impacts from this application. The lot is an existing platted, undeveloped residential lot that contains native grasses and shrubs, as well as nine (9) significant trees. All significant vegetation removed to make way for the new home will be replaced in-kind by the applicant.

### **Consequences of not taking the Suggested Recommendation**

The construction as proposed could not occur and the applicant would have to revise the plans, or ultimately not build on the lot at all.

### **Recommendation**

Staff recommends the Planning Commission review the application for a Steep Slope Conditional Use Permit at 100 Daly Avenue and conduct a public hearing. Staff has prepared findings of fact, conclusions of law, and conditions of approval for the Commission's consideration.



### **Findings of Fact:**

1. The subject property is located at 100 Daly Avenue. It consists of two (2) lots: Lot 14 of the Millsite Reservation and the Easterly ½ of vacated Anchor Avenue, Block 74, Park City Survey.
2. The Park City Council approved the 100 Daly Avenue Plat Amendment on May 12, 2016, to combine the two (2) lots into one; the plat has not yet been recorded.
3. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.
4. The lot is currently vacant, and the applicant is proposing to construct a new single-family home with a proposed footprint of 1,218.5 square feet.
5. A single family dwelling is an allowed use in the HR-1 District.
6. Following recording of the plat amendment, the lot will contain 2,978.3 square feet. This is an uphill lot with a 13 percent (13%) slope along the frontage of Daly Avenue, and grades ranging from 60 percent (60%) to 80 percent (80%) mid-lot.
7. A Historic District Design Review (HDDR) application is currently under review.
8. Access to the property is from Daly Avenue, a public street.
9. Two (2) off-street parking spaces are proposed on site. The applicant is proposing a single-car garage and one partially covered parking space in the driveway.
10. The neighborhood is characterized by a mix of historic and non-historic residential structures, single family homes, and duplexes.
11. The proposal will create a single family dwelling of approximately 4,196 square feet, including the garage and basement areas.
12. The overall proposed building footprint is 1,218.5 square feet; the maximum allowed footprint for this lot is 1,259.6 square feet.
13. The proposed construction complies with all minimum required setbacks. The minimum front and rear yard setbacks are twelve feet (12') minimum, twenty-five feet (25') total. The minimum side yard setbacks are three feet (3') minimum, six feet (6') total.
14. The proposed construction complies with the twenty-seven feet (27') maximum building height requirement measured from existing grade.
15. The applicant submitted a photographic visual analysis, including street views with and without the proposed structure, renderings of the streetscape on the western side of Daly Avenue, and 3D perspective drawings showing a contextual analysis of visual impacts of this house on the Daly Avenue streetscape. Staff finds that the proposed house is compatible with the surrounding structures based on this analysis.
16. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography. The submitted landscape plan shows that at least two (2) existing aspen trees near the north and southeast corners of the lot will remain in place if feasible, and all other affected significant trees will be replaced in-kind.
17. The site design, stepping of the foundation and building mass, increased articulation, and decrease in the allowed difference between the existing and final grade mitigates impacts of construction on the area that exceeds a 30% slope.
18. The design includes setback variations as well as lower building heights for portions of the structure on the front and side elevations where facades are less than twenty-seven feet (27') in height. The stepping of the mass and scale of the new structure follows the uphill topography of the lot.

19. The proposed massing and architectural design components are compatible with both the volume and massing of other single family dwellings in the area. No wall effect is created with adjacent structures due to stepping, articulation, and placement of the house on the lot.
20. The proposed structure follows the predominant pattern of buildings along the street, maintaining traditional setbacks, orientation, and alignment. Lot coverage, site grading, and steep slope issues are also compatible with neighboring sites. The size and mass of the structure is compatible with surrounding sites, as are details such as foundation, roofing, materials, window, door, and garage openings.
21. No lighting has been proposed at this time. Lighting will be reviewed at the time of the HDDR and Building Permit application for compliance with the LMC lighting code standards.
22. On May 17, 2016, the Planning Department received an application for a Steep Slope Conditional Use Permit (CUP); the application was deemed complete on June 10, 2016.
23. The property was posted and notice was mailed to property owners within 300 feet on July 13, 2016. Legal notice was also published in the Park Record in accordance with requirements of the LMC on July 9, 2016.
24. The property is located outside of the Soils Ordinance.
25. The findings in the Analysis section of this report are incorporated herein.

### **Conclusions of Law**

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6.
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed use will be compatible with the surrounding structures in use, scale, mass, and circulation.
4. The effects of any differences in use or scale have been mitigated through careful planning.

### **Conditions of Approval**

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The CMP shall include language regarding the method of protecting adjacent structures.
3. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. No building permit shall be issued until the 100 Daly Avenue Plat Amendment is recorded.
5. This approval will expire on July 27, 2017, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by the Planning Director.
6. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission on July 27, 2016, and the Final HDDR Design.
7. All retaining walls within any of the setback areas shall not exceed more than six feet

- (6') in height measured from final grade, except that retaining walls in the front yard shall not exceed four feet (4') in height, unless an exception is granted by the City Engineer per the LMC, Chapter 4.
8. A ten foot (10') minimum horizontal step in the downhill façade shall take place at a maximum height of 23 feet (23') from where the Building Footprint meets the lowest point of existing Grade.
  9. Modified 13-D residential fire sprinklers are required for all new construction on this lot.
  10. All exterior lighting, on porches, decks, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way and shall be subdued in nature. Light trespass into the night sky is prohibited. Final lighting details will be reviewed by the Planning Staff prior to installation.
  11. Construction waste should be diverted from the landfill and recycled when possible.
  12. All excavation work to construct the foundation shall start on or after April 15<sup>th</sup> and be completed on or prior to October 15<sup>th</sup>. The Planning Director may make a written determination to extend this period up to 30 additional days if, after consultation with the Historic Preservation Planner, Chief Building Official, and City Engineer, he determines that it is necessary based upon specific site conditions such as access, or lack thereof, exist, or in an effort to reduce impacts on adjacent properties.
  13. A final landscape plan shall be provided at the time of the building permit and shall include existing vegetation, and include a replacement plan for any significant vegetation proposed to be removed.
  14. The property is located outside the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance to State and Federal law.
  15. On-site storm water detention shall be required.

### **Exhibits**

Exhibit A - Survey of Existing Conditions

Exhibit B - Plans (site, landscape, elevations, roof, floor plans)

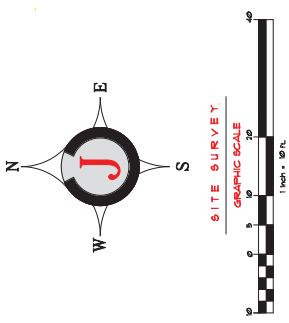
Exhibit C – Visual Analyses

# Exhibit A - Survey of Existing Conditions

## SITE SURVEY

100 DALY AVENUE  
 PARK CITY,  
 SUMMIT COUNTY, UTAH 84060  
 LOT 14, BLOCK 14, PARK CITY SURVEY  
 A PARCEL LOCATED WITHIN THE  
 SECTION 16,  
 TOWNSHIP 2 SOUTH, RANGE 4 EAST, S.L.B. 471.

Planning Commission Packet July 27, 2016



- LEGEND**
- SECTIONAL MONUMENT
  - FOUND STREET MONUMENT
  - FOUND PLUS
  - SURVEY REFERENCE PT.
  - LARGE TREES

**PROPERTY DESCRIPTION**  
 Real Advantage Title Insurance Agency, LLC  
 Order No. 100-002-1  
 Exhibit A

**SURVEYOR'S NARRATIVE**  
 This is a preliminary survey. Topographical survey was performed to locate existing TOPOGRAPHICAL FEATURES. The basis of bearing was derived from the Found Survey monument. The survey was run on a line of approximately 2' of snow cover, some ground features and improvements utilities etc. are not shown. THE SURVEYOR HAS NOT CONDUCTED A CALL BLUE STAKING FOR GROUND LOCATIONS. AS THEY MAY EXIST.

**TOPOGRAPHIC SURVEY**  
 SHOWN ARE 2' CONTOUR INTERVALS  
 HIGHLIGHTED AT A 10' CONTOUR INTERVAL  
 PROJECT BENCHMARK = SURVEY CONTROL PT.  
 PROJECT BENCHMARK ELEV. = (PARK CITY, DATUM)  
 (AS SHOWN HERE ON)

- THIS IS NOT A BOUNDARY & TITLE SURVEY.
- THIS IS A PARTIAL TOPOGRAPHIC SURVEY OF LOT 14 ONLY.
- THE SURVEYOR HAS NOT CONDUCTED A CALL BLUE STAKING FOR GROUND LOCATIONS. AS THEY MAY EXIST.
- PRELIMINARY FIELD SURVEY DONE ON FEB. 11th, 2016 WITH APPROXIMATELY 3 FEET OF SNOW COVER.

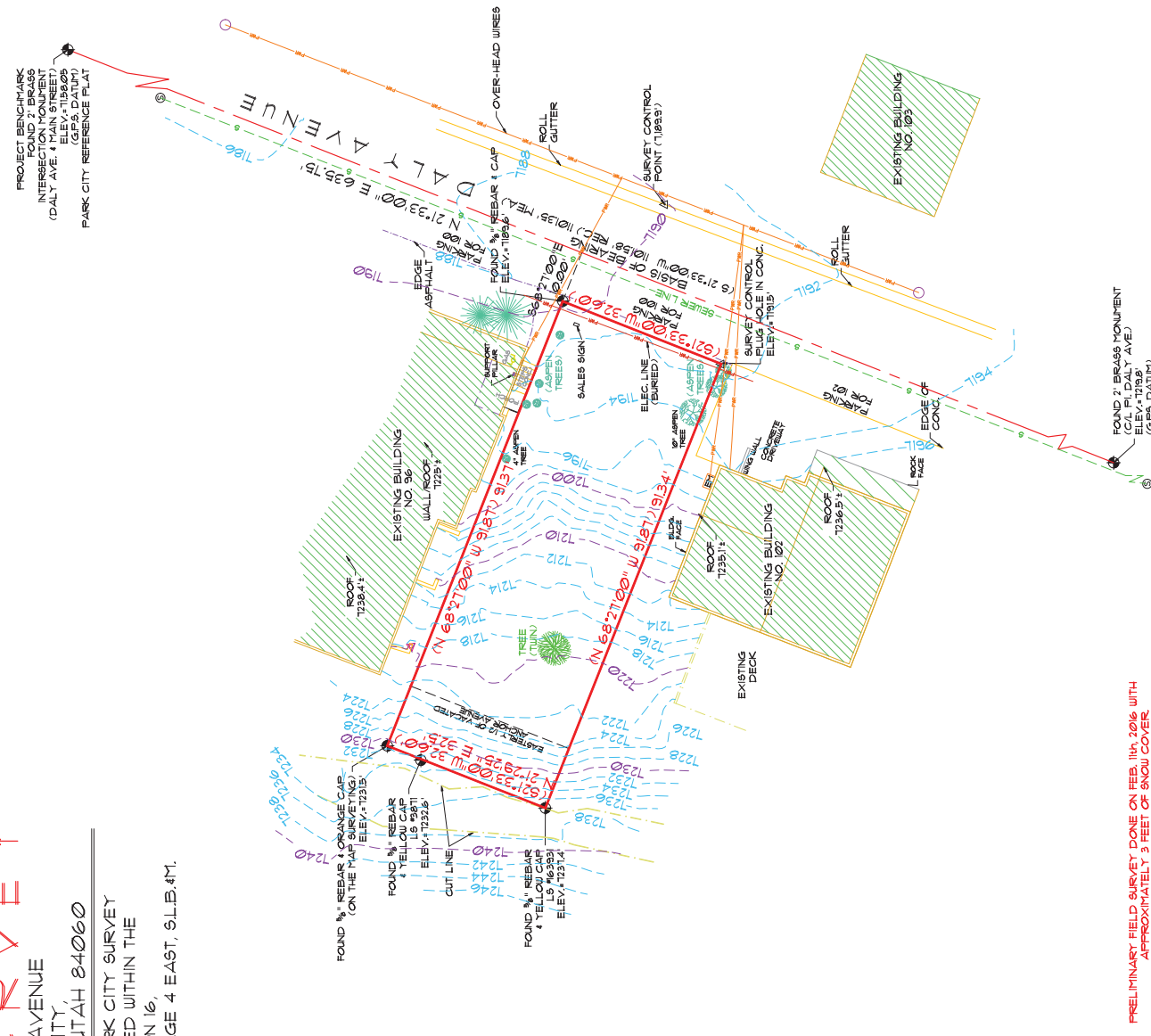
**SURVEYOR'S CERTIFICATE**  
 I, TIMOTHY R. JOHANSON Do hereby certify that I am a Registered Land Surveyor and that I hold certificate No. 5152650, as prescribed under the laws of the State of Utah and that I have made a survey of the tract of land shown on this plan.



**JOHANSON LAND CONSULTANTS**  
 SURVEYING - PLANNING - LAND DEVELOPMENT  
 770 EAST MAIN STREET  
 SUITE 131  
 LEHI, UTAH 84046  
 PHONE: 435-468-4444  
 PHOTOGRAPHY: jphoto.com

**COPYRIGHT**  
 All these results, the exclusive property of JOHANSON Land Consultants, LLC shall not be used in or out complete authorization and written approval.

PROJECT NO.	JLC-16-001 100 DALY AVE PARK
DATE	02-28-2016 REV.
DRAWN BY	TIMOTHY R. JOHANSON PLS
CHECK BY	02-28-2016
SHEET NUMBER	1
<b>SITE SURVEY</b>	



**SEE RECORD OF SURVEY**  
 ALLIANCE ENGINEERING INC.  
 515 S. 1100 E.  
 MARTIN A. MORRISON  
 PLS 4939139  
 DATE: 07-21-2013

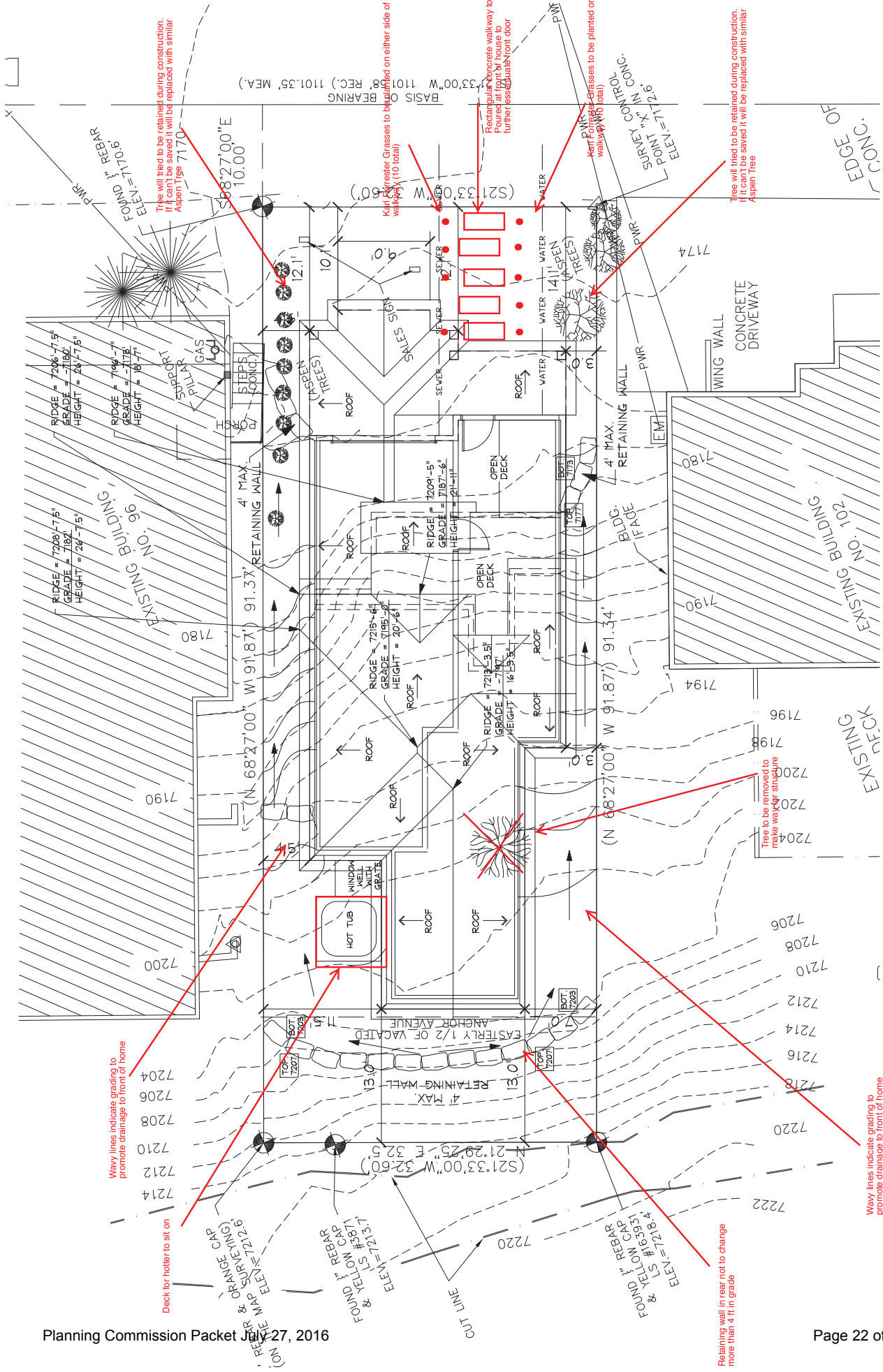
**PRELIMINARY FIELD SURVEY DONE ON FEB. 11th, 2016 WITH APPROXIMATELY 3 FEET OF SNOW COVER.**

**PROPERTY ADDRESS:**  
 100 DALY AVENUE  
 PARK CITY,  
 SUMMIT COUNTY, UTAH 84060

Page 20 of 20

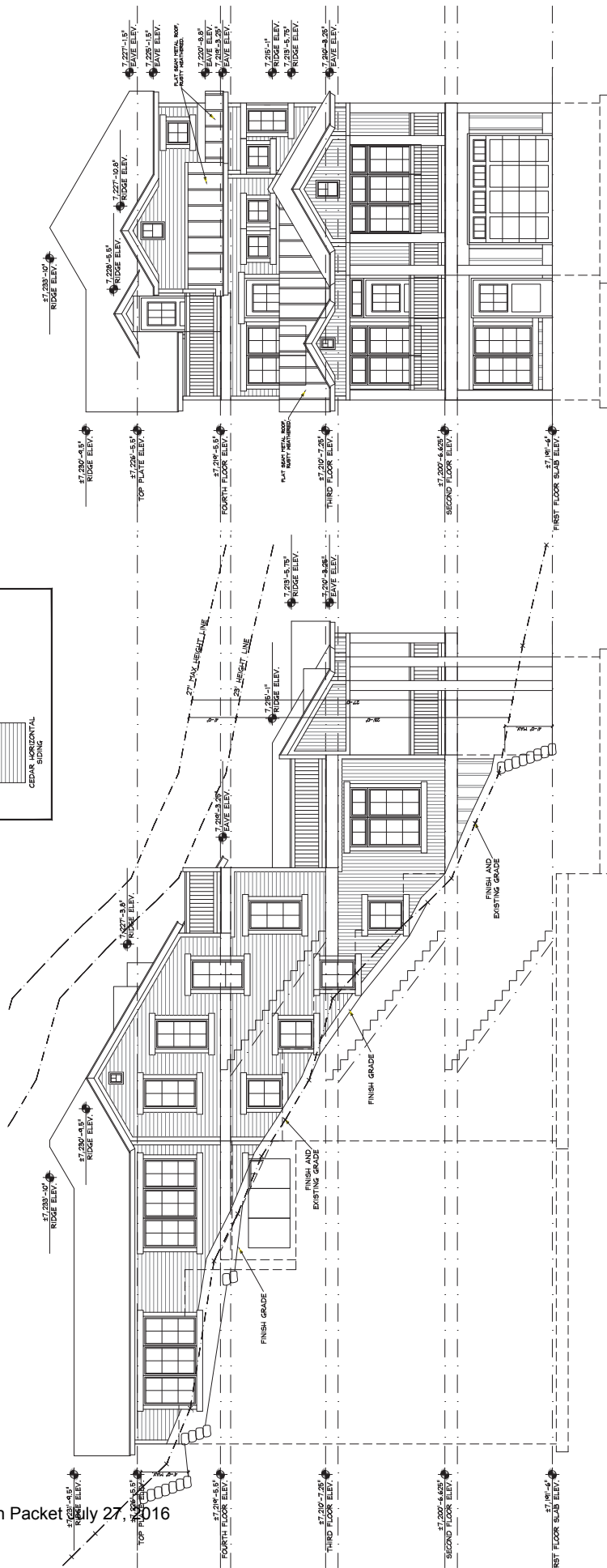
**GENERAL NOTES**  
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 2. EXISTING UTILITIES ARE SHOWN AS APPROXIMATE LOCATIONS. THE SURVEYOR HAS NOT CONDUCTED A CALL BLUE STAKING FOR GROUND LOCATIONS. AS THEY MAY EXIST.  
 3. EXISTING UTILITIES ARE SHOWN AS APPROXIMATE LOCATIONS. THE SURVEYOR HAS NOT CONDUCTED A CALL BLUE STAKING FOR GROUND LOCATIONS. AS THEY MAY EXIST.  
 4. SEE CITY AND COUNTY PLANNING AND ZONING MAPS FOR INFORMATION ON THE TRACT'S ZONING AND LOCAL ORDINANCES.  
 5. SEE CITY AND COUNTY PLANNING AND ZONING MAPS FOR INFORMATION ON THE TRACT'S ZONING AND LOCAL ORDINANCES.  
 6. SEE CITY AND COUNTY PLANNING AND ZONING MAPS FOR INFORMATION ON THE TRACT'S ZONING AND LOCAL ORDINANCES.





MATERIAL LEGEND FOR EXTERIOR

	CEDAR VERTICAL BOARD AND BATON SIDING
	CEDAR HORIZONTAL SIDING
	VERTICAL CORRUGATED STEEL SIDING



FRONT ELEVATION  
SCALE: 1/4" = 1'-0"

LEFT ELEVATION  
SCALE: 1/4" = 1'-0"

SEE SHEET BA-2 FOR ADD. NOTES

PRELIMINARY DESIGN ONLY  
NOT RELEASED FOR CONSTRUCTION

PROJECT # 0011

DATE PRINTED 07/19/2016

A 5

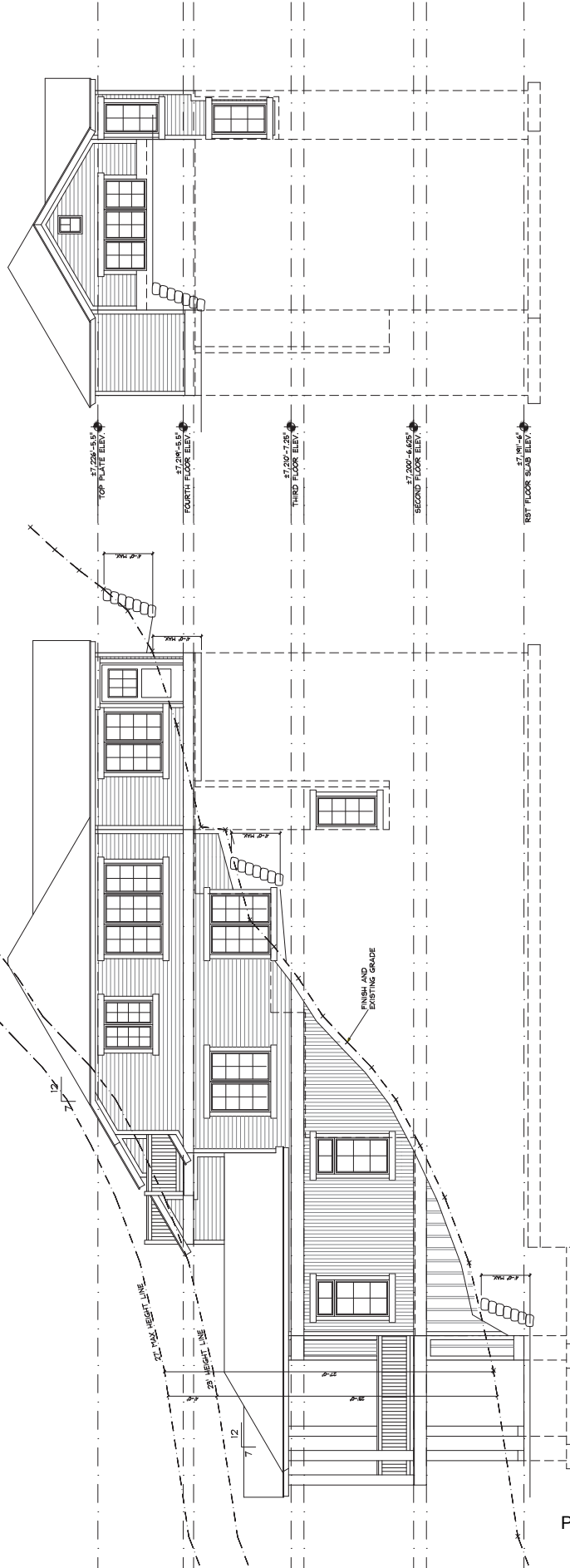
100 DALY AVENUE

PARK CITY, UTAH

Craig Kitterman & Associates Architects  
1079 E. Murry-Holladay Road Holiday, Utah 84117 Office 270-8606 Fax 263-3989

**MATERIAL LEGEND FOR EXTERIOR**

	VERTICAL GRANULATED BOARD AND BATTEN
	CEDAR HORIZONTAL SIDING



**RIGHT ELEVATION**  
SCALE: 1/4"=1'-0"

**REAR ELEVATION**  
SCALE: 1/4"=1'-0"

SEE SHEET RA-2 FOR ADD. NOTES

PRELIMINARY DRAWINGS ONLY  
NOT RELEASED FOR CONSTRUCTION

PROJECT # 001  
DATE PRINTED 07/19/2016

A 6

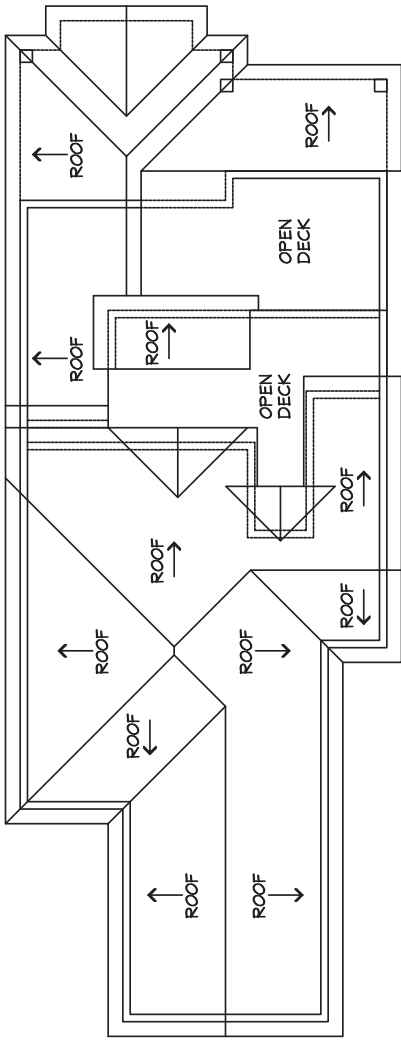
Craig Kitterman & Associates Architects  
1079 E. Murry-Holiday Road Holiday, Utah 84117 Office 270-8606 Fax 263-3989

100 DALY AVENUE  
PARK CITY, UTAH



SEE SHEET #A-2 FOR ADD. NOTES

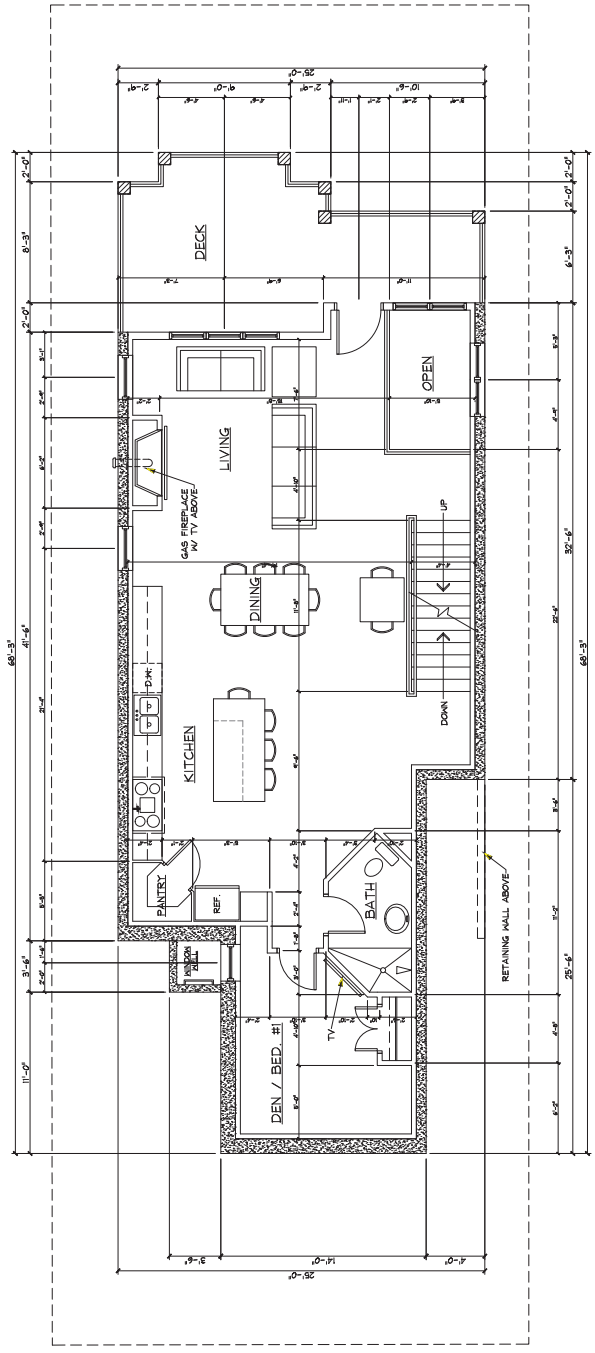
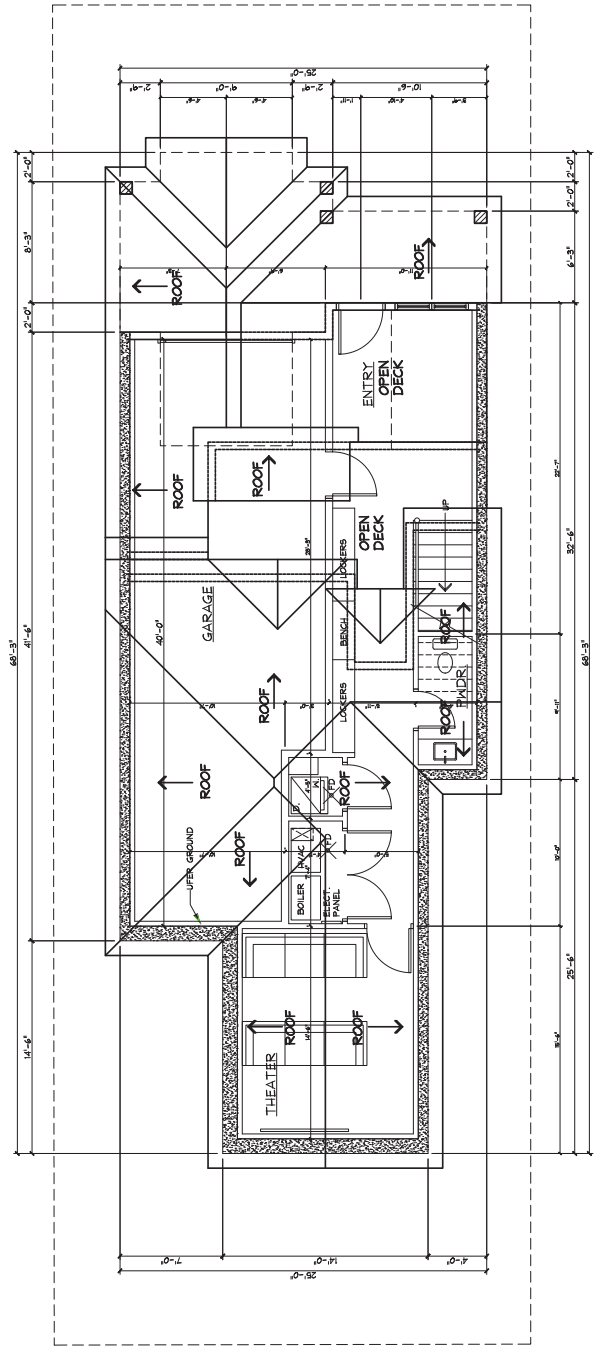
PRELIMINARY DRAWINGS ONLY  
NOT RELEASED FOR CONSTRUCTION



ROOF STUDY  
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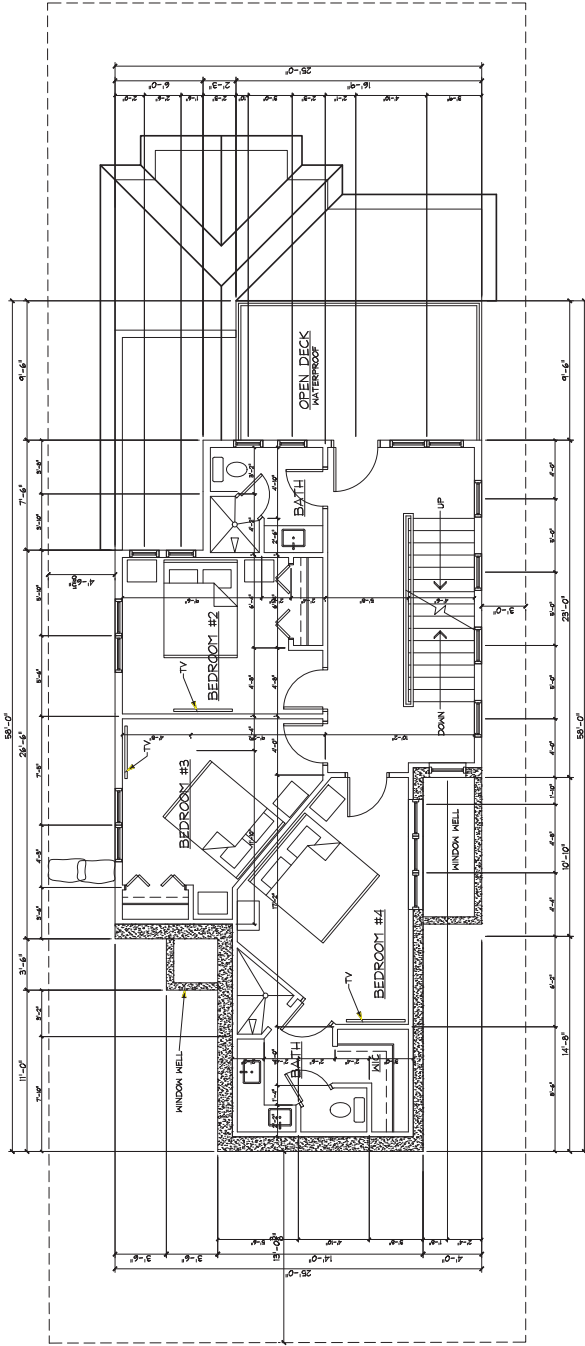
SEE SHEET #A-2 FOR ADD. NOTES

PRELIMINARY DRAWINGS ONLY  
 NOT RELEASED FOR CONSTRUCTION



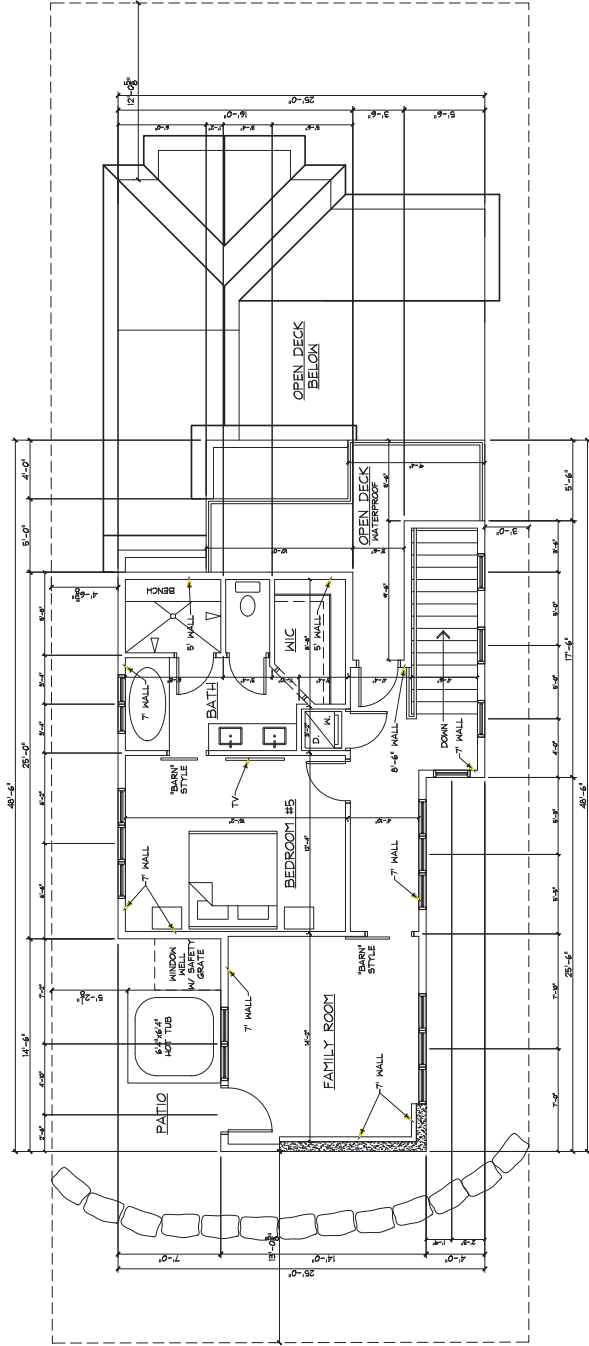
SEE SHEET #A-2 FOR ADD. NOTES

PRELIMINARY DRAWINGS ONLY AND NOT RELEASED FOR CONSTRUCTION



THIRD LEVEL PLAN

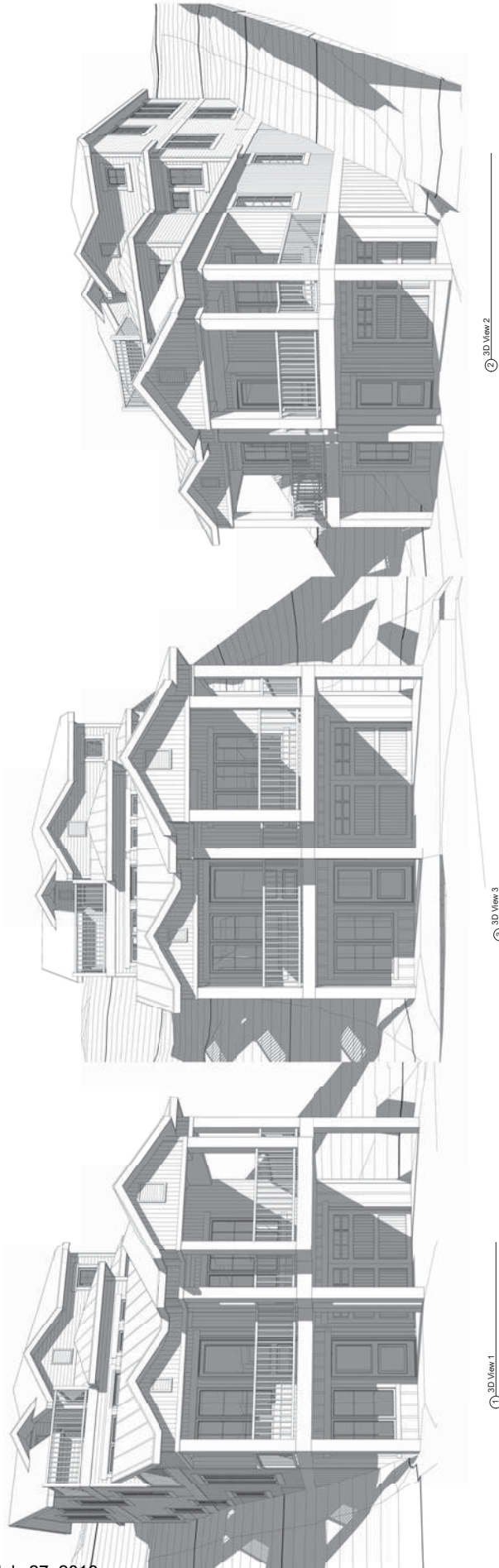
SCALE: 1/4"=1'-0" 96.4 #



FOURTH LEVEL PLAN

SCALE: 1/4"=1'-0" 85.9 #

# Exhibit C - Visual Analyses



100 DAILY AVE

Craig Kitterman & Associates Architects  
1079 E. Murray-Holiday Road Holiday, Fla 34117 Office 270-8606 Fax 263-9899

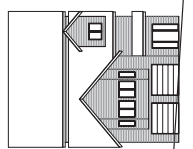
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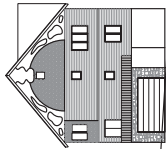
A1

ADDRESS	LIVING SQ. FT.
110 DALY	2875 SQ. FT.
124 DALY	2715 SQ. FT.
130 DALY	1924 SQ. FT.
136 DALY	2007 SQ. FT.
156 DALY	1004 SQ. FT.

110 DALY AVENUE  
LIVING SQ. FT. -2875±



124 DALY AVENUE  
LIVING SQ. FT. -2715±

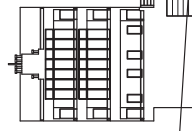


100 DALY AVENUE  
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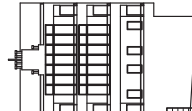


SUBJECT PROPERTY

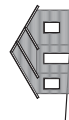
8621 / 8625 DALY AVENUE  
LIVING SQ. FT. -4025±



8624 / 8628 DALY AVENUE  
LIVING SQ. FT. -4025±



84 DALY AVENUE  
LIVING SQ. FT. -435±



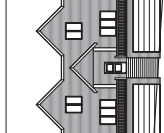
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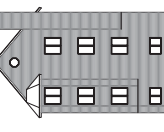
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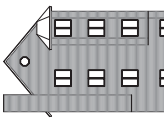
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LIVING SQ. FT. -2297±



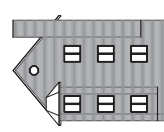
56 DALY AVENUE  
LIVING SQ. FT. -4468±



48 DALY AVENUE  
LIVING SQ. FT. -4566±



40 DALY AVENUE  
LIVING SQ. FT. -4566±



ADDRESS	LIVING SQ. FT.
32 DALY(-4)	4957 SQ. FT.
24 DALY	1022 SQ. FT.
10 DALY	2219 SQ. FT.



DALY AVE  
STREETSCAPE

SCALE: NTS

















## **Planning Commission Staff Report**

**Subject:** Alice Claim Subdivision & Plat Amendment  
CUP for Retaining Walls greater than six feet (6')  
Ridge Avenue Plat Amendment

**Project #:** PL-08-00371, PL-15-02669, and PL-16-03069

**Author:** Francisco Astorga, AICP, Senior Planner

**Date:** 27 July 2016

**Types of Item:** Legislative – Subdivision & Plat Amendment  
Administrative – Conditional Use Permit

### **Summary Recommendations**

Staff recommends that the Planning Commission hold a public hearing and review (1) Alice Claim Subdivision and Plat Amendment, (2) Remand of the Conditional Use Permit for retaining walls greater than six feet (6') in height, and (3) Ridge Avenue Plat Amendment located at approximately Alice Claim south of intersection of King Road, Ridge Avenue, and Sampson Avenue.

Staff recommends that the Planning Commission forward positive recommendations for the Alice Claim Subdivision and Plat Amendment and the Ridge Avenue Plat Amendment to the City Council based on the Findings of Fact, Conclusion of Law as found in the Draft Ordinance,

Staff recommends that the Planning Commission approve the proposed Conditional Use Permit Remand for the for the three (3) retaining walls up to ten feet (10') in height associated with the proposed Alice Claim Development based on the Findings of Fact Conclusions of Law, and Conditions of Approval outlined in this staff report.

### **Topic**

**Applicant:** King Development Group LLC  
123-129 Ridge LLC  
represented by Brad Cahoon, Marc Diemer, Gregg Brown,  
and Jerry Fiat

**Location:** Alice Claim south of intersection of King Road, Ridge  
Avenue and Sampson Avenue

**Zoning:** Historic Residential (HR-1) and Estate (E) Districts

**Adjacent Land Uses:** Open Space and Residential (developed and undeveloped)

**Reason for Review:** Subdivisions/Plat Amendments require Planning  
Commission review and recommendation to City Council.  
Conditional Use Permits require Planning Commission  
review and approval.

### **Proposal**

The applicant is proposing that the Planning Commission review the application of a nine (9) lot Preliminary and Final Subdivision and a Plat Amendment on 9.031 acres, located at approximately the intersection King Road and Sampson Avenue within the City's Historic Residential (HR-1) and Estate (E) Districts. Lot 1 is within the E District and is 3.01 acres (131,022 square feet) in size. Lots 2-9 are within the HR-1 District and are each 0.10 acres (4,150 square feet) in size, totaling 0.80 acres (33,200 square feet). See Exhibit Section 1 – Overall:

- Exhibit A - [Applicant's Project Intent Sub., Plat Amend., and CUP - April 2016](#)
- Exhibit B - [Gully Site Plan - May 2016](#)
- Exhibit C - [Panoramic Photographs - May 2016](#)
- Exhibit D - [Engineering Review of Gully Plan - April 2016](#)
- Exhibit E - [Open Space and Trails Plan - May 2016](#)
- Exhibit F - [Slope Analysis - February 2016](#)
- Exhibit G - [Vegetative Cover - February 2016](#)
- Exhibit H - [Vicinity & Zoning - February 2016](#)
- Exhibit I - [Zoning Map Diagram - May 2016](#)
- Exhibit J - [Emergency Vehicle Movement - May 2016](#)

The proposal also includes four (4) open space lots, totaling 4.634 acres consisting of Lot A, 1.96 acres; Lot B, 1.10 acres; Lot C, 0.004 acres; and Lot D, 1.57 acres. The proposal also includes a Plat Amendment, Parcel 4 which is 0.38 acres (16,486 square feet), that will remove existing lot lines on contiguous platted lots in the HR-L District encumbered by the existing King Road and Sampson Avenue. If approved, the property, Parcel 4, would be dedicated to the City for open space and roadway purposes. Parcel 5 consists of the Water Tank property as it extends from the tank down to Sampson Avenue and serves as the main access to the lots as the majority of proposed Alice Court sits on it. Parcel 5 is owned by Park City Municipal Corporation (PCMC) and is not included in this subdivision as no development is being proposed. The application requests to use this property to provide access. The applicant also requests Drive Lot A of 0.06 acres which connects platted Sampon Right-of-Way (ROW) with Parcel 5/Alice Court, and Drive Lot B of 0.12 acres which is the turn-around hammerhead area. The following table is a lot by lot breaking including its acreage:

Table 1:

Description	Acreage	Combined Acreage
Estate Lot 1 (one single-family dwelling)	3.01	<b>3.84</b>
HR-1 Lots 2-9 (8 single-family dwellings)	0.83	
Parcel A (open space)	1.96	<b>4.634</b>
Parcel B (open space)	1.10	
Parcel C (open space)	0.004	
Parcel D (open space)	1.57	
Drive Lot A (Sampson ROW Alice Ct. connector)	0.06	<b>0.18</b>
Drive Lot B (turn-around hammerhead)	0.12	

Parcel 4 (HRL Lots, to be open space and roadway)	0.38	<b>0.38</b>
Parcel 5 (City owned, not included in the subdivision)	1.54	<b>n/a</b>
	<b>Total</b>	<b>9.034</b>

See Exhibit Section 2 - Subdivision and Plat Amendment:

- Exhibit K - [Applicant Description and Comparison to Previous Proposal - February 2016](#)
- Exhibit L - [Proposed Alice Claim Sub. & Plat Amendment - February 2016](#)
- Exhibit M – [Alice Claim Topo Boundary](#)

The applicant is requesting approval of a Conditional Use Permit (CUP) for three (3) retaining walls up to 10' in height to stabilize cut and fill slopes for the main entry. The retaining walls are located on the west side of the development proposed on open space Parcel A. The lowest retaining wall is adjacent to Sampson Avenue on its north side and starts as a four foot (4') wall and then becomes a ten foot (10') retaining wall towards the development (south). The other two (2) retaining walls are next to the lowest wall and both walls measure ten feet (10') in height each. The three (3) walls reach their individual highest point of ten feet (10') each and are approximately five feet (5') apart. The proposed retaining walls contain landscaping area between each wall consisting of coniferous and deciduous trees as well as shrubs to soften the visual impacts. See Exhibit Section 3 - Conditional Use Permit:

- Exhibit N - [Applicant Intent – Modified CUP Application - April 2016](#)
- Exhibit O - [Landscape Mitigation of Retaining Walls - May 2016](#)
- Exhibit P - [Key Map - May 2016](#) and [Site Sections - May 2016](#)

The Ridge Avenue Plat Amendment consists of a triangular area exchanging 2,057 square feet from Lot 1 of the Ridge Avenue Subdivision, located at 123 Ridge Avenue, with the area adjacent to proposed Lot 9 and 8. This area exchange reconfigures platted Lot 1 of the Ridge Avenue Subdivision, and both of Lot 9 and 8 into a rectangular shape instead of the existing triangular configurations. See Exhibit Section 4 - Ridge Avenue Plat Amendment:

- Exhibit Q - [Applicant Intent – Ridge Avenue Plat Amendment - February 2016](#)
- Exhibit R - [123 Ridge Avenue Topo Survey - Feb./Mar. 2016](#)
- Exhibit S - [Proposed Ridge Avenue Plat Amendment - February 2016](#)
- Exhibit T - [Property Swap Diagram – February 2016](#)

### **Background**

Please reference prior Subdivision/Plat Amendment staff reports and minutes listed below for the history of this application, most recently being:

- October 8, 2014 [Planning Commission work session](#) and [minutes](#)
- April 8, 2015 [Planning Commission meeting](#) and [minutes](#)
- June 10, 2015 [Planning Commission meeting](#) and [minutes](#)

- July 8, 2015 [Planning Commission meeting](#) and [minutes](#)
- July 22, 2015 [Planning Commission meeting](#) and [minutes](#)
- August 12, 2015 [Planning Commission meeting](#) and [minutes](#) (Negative recommendation forwarded to City Council).
- October 8, 2015 [City Council work session meeting](#) and [minutes](#)
- October 29, 2015 [City Council meeting](#) and [minutes](#) (Application amended and remanded back to Planning Commission)
- December 9, 2015 [Planning Commission work session](#) and [minutes](#)
- May 25, 2016 [Planning Commission meeting](#) and [minutes](#)
- July 13, 2016 [Planning Commission meeting](#)

Please reference prior CUP staff reports and minutes listed below for the history of this application, most recently being:

- June 10, 2015 [Planning Commission meeting](#) and [minutes](#)
- July 8, 2015 [Planning Commission meeting](#) and [minutes](#)
- July 22, 2015 [Planning Commission meeting](#) and [minutes](#)
- August 12, 2015 [Planning Commission meeting](#) and [minutes](#) (Denial)
- May 19, 2016 [City Council meeting](#) (CUP Denial remanded back to Planning Commission)
- May 25, 2015 [Planning Commission meeting](#) and [minutes](#)
- July 13, 2016 [Planning Commission meeting](#)

Based on the discussions of the June 10, 2015, and July 22, 2015 Planning Commission meetings, staff prepared findings for denial. On August 12, 2015 the Planning Commission forwarded a negative recommendation to the City Council. Also on August 12, 2015, the Planning Commission denied the submitted Conditional Use Permit for retaining walls over six feet (6') in height. Within the ten (10) day appeal period, the applicant submitted an appeal of the denied CUP.

On October 8, 2015, the City Council held a work session discussion regarding the Subdivision/Plat Amendment. The applicant amended their application with an updated plan, the "Gully Site Plan" concept which was presented by the applicant to the City Council. Based upon the changes to the plan, the City Council remanded the application with the updated Gully Site Plan back to the Planning Commission on October 29, 2015. The Applicant has been working on updating their submittals based on the amended plan and asked for this first hearing to be schedule on May 25, 2016. On May 19, 2016, the City Council remanded the appeal of the denied CUP back to the Planning Commission for review and Action because the CUP and the Subdivision/Plat Amendment are inextricable intertwined. See published staff reports and adopted meeting minutes in the first two (2) paragraphs of this staff report section.

At the May 25, 2016 Planning Commission meeting the Commission focused on the following summarized concerns:

Commissioners Band, Thimm, Joyce, Campbell, & Strachan:



- Presented Gully Site Plan was similar to Alternative B presented years back, which was moving in the right direction.

Commissioners Band, Joyce, & Strachan:

- Concerns with the retaining wall.

Commissioner Band:

- Concerns with the substandard nature of King Road and Ridge Avenue.
- Appropriate time for another site visit.

Commissioners Thimm & Suesser:

- Lot size reduced appropriately and consistent with many surrounding lots.

Commissioner Thimm:

- Pleased to see improvements on King Road and the access.
- Retaining walls would improve with the erosion issues. Soil nails would also assist in mitigating issues.
- More information needed on specific planting materials and whether they could survive.
- In favor of allowing development that can provide a solution that stabilizes the slope and still provides access.

Commissioner Suesser:

- Concerns with traffic and emergency impacts.
- Construction mitigation needs to be looked due to sub-standard status of the roads.

Commissioner Joyce:

- Favored the proposal to improve King Road as it goes up the hill, and relied on traffic engineers/City Engineer expertise.
- Remarked that subdivisions require Good Cause.
- Requested clarification with the negotiations for the easement access and asked if the applicant could negotiate the access and eliminate the retaining wall.
- No issues with the Ridge Avenue land swap.

Commissioner Campbell:

- All points addressed and could not vote against the proposal.

Planning Commission Chair Strachan:

- Retaining wall can be tiered, stepped, and vegetated but it still creates a substantial visual impact.
- Significant vegetation would have to be removed. Not sure if code allowed the removal of significant vegetation.
- Concerns with the widening of King Road.
- Did not believe that the Retaining Wall could be mitigated.

- Requested to see visuals of what the walls would look like.

In preparation for the July 13, 2016 Planning Commission meeting, the applicant submitted four (4) separate responses addressing the Planning Commission concerns made on May 25, 2016. The applicant also submitted a draft ordinance for the two (2) plats and CUP approval document with findings of fact, conclusions of law, and conditions of approval. These responses and applicant drafted documents are found in Exhibit Section 5 - Applicant's Responses:

- Exhibit U - [Proposed Density/Number of Lots](#) (received 06.17.2016, modified 06.28.2016)
- Exhibit V - [Landscaped Walls Example](#) (received 06.17.2016)
- Exhibit W - [Negotiations with Levitin](#) (received 06.10.2016)
- Exhibit X - [CUP Significant Vegetation Mitigation](#) (received 06.17.2016)
- Exhibit Y - [Applicant's Draft CUP Approval](#) (received 06.29.2016 & updated 07.15.2016)
- Exhibit Z - [Applicant's Draft Plat/Subdivision Ordinance](#) (received 06.29.2016 & updated 07.15.2016)

During the July 13, 2016, Planning Commission meeting the Applicant presented the hyperlinked [presentation](#) which also included the following [simulation](#).

At the July 13, 2016 Planning Commission meeting the Commission focused on the following summarized items:

Commissioner Joyce:

- The applicant has revised the plan to address his concerns and he now supports the project. When the applicant first presented a former plan to put houses on the hillside he was not able to support it.
- Applicant has done a good job with the site cleanup.
- Indicated that he is not a traffic expert and trusts the City Engineer who has answered his questions regarding traffic.
- Favored the condition of approval regarding the certified landscape plan to alleviate some of the concerns about trying to mitigate the impacts of the wall.

Commissioner Band:

- Agreed with many of Commissioner Joyce's concerns.
- Biggest concern has been the substandard roads and safety. They need to defer to the City Engineer.
- Trees can grow in similar tight spaces as she inspected retaining walls around the Marsac Building.
- Pleased with the site cleanup, land to be dedicated, and large amount of open space.
- Would prefer access across the easement if it could be negotiated.

Commissioner Suesser:

- Primary concern that they were not looking at the various steep slopes conditions for the subdivision.
- Concerned that the very steep slope conditions of this area may not comply with the subdivision approval under the LMC.

Commissioner Campbell:

- Nice to try to negotiate easement with the neighboring property for access. Did not believe it was too late for that.
- Most collaborative project in his 2½ years on the Commission.
- Supports the project.

Planning Commission Chair Strachan:

- Did not necessarily agree with the density determination of nine (9) units.
- Impacts have been mitigated to some extent.
- Access point still sticking out.

Commissioner Thimm did not attend the July 13, 2016 meeting. Commissioner Phillips has recused himself from this project due to personal conflicts.

A motion was made during the July 13, 2016 Planning Commission meeting to continue the three applications to the July 27, 2016 Planning Commission meeting and to direct Staff to prepare Findings of Fact, Conclusions of Law, and Conditions of Approval for positive recommendation or approval. The drafted July 13, 2016 Planning Commission meeting minutes are attached as Exhibit DD under Exhibit Section 6.

### **District Purpose**

The purpose of the Historic Residential-1 District is to:

- A. preserve present land Uses and character of the Historic residential Areas of Park City,
- B. encourage the preservation of Historic Structures,
- C. encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- D. encourage single family Development on combinations of 25' x 75' Historic Lots,
- E. define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

The purpose of the Estate District is to:

- 1) allow very low density, environmentally sensitive residential Development which:
  - preserves ridge tops, meadows, and visible hillsides,
  - preserves large, cohesive, unbroken Areas of Open Space and undeveloped land,

- preserves and incorporates wetlands, drainage ways, and intermittent streams as amenities of Development,
  - mitigates geologic and flood hazards,
  - protects views along the City's entry corridors, and
  - decreases fire risk by keeping Development out of sensitive wild land interface Areas.
- 2) incorporate pedestrian trail linkages between and through neighborhoods; and
  - 3) encourage comprehensive, efficient, Compatible Development which results in distinct and cohesive neighborhoods through application of the Sensitive Lands Ordinance.

### **Analysis**

As indicated on Exhibit A, the applicant responded to concerns raised by the Planning Commission during the April 8, 2015 meeting questioning the '*build-ability*' of the proposal as it relates to LMC § 15-7.3(D) Requirements for Improvements, Reservations, and Design. The applicant wrote a response to the following items:

- |                         |                                          |
|-------------------------|------------------------------------------|
| • Flooding              | • Adverse Earth Formations or Topography |
| • Improper Drainage     | • Wetlands                               |
| • Slopes                | • Geologic Hazards                       |
| • Rock Formations       | • Utility Easements                      |
| • Mine Hazards          | • Ridgeline                              |
| • Potential Toxic Waste |                                          |

### **Subdivision/Plat Amendment**

The applicant requests that the City review and approve the modified development proposal for the Alice Claim property that has been coined the "Gully Site Plan." The Gully Site Plan illustrates

the lots to be relocated to the bottom of the canyon found onsite. The Gully Site Plan consists of nine (9) residential lots. The current Gully Site Plan is similar to previous Plan B which was the most preferred plan by the Planning Commission.

The resulting land pattern is more compatible with the pattern found throughout the Historic Districts. The Gully Plan proposes eight (8) lots of record at the bottom of the canyon with four (4) on each side. Each lot is exactly 0.10 acres (4,510 square feet) or 2.4 Old Town lots. A standard Old Town lot is 1,875 square feet, which is the minimum lot size in the HR-1. Each lot is restricted, as shown on the proposed plat, to a maximum Building Footprint of 1,750 square feet (which is equivalent to the maximum standard Building Footprint Formula found in the LMC). Proposed Lot 1 within the Estate District is 3.01 acres in size. The applicant indicates that it will have a disturbance area of approximately 0.15 acres.

The applicant notes that the Gully Plan preserves several existing large evergreen trees, moves home sites down into the bottom of the gully, clusters the home sites closer together, reduces the amount of disturbance within the subject property, provides

trail access, places the lots on less steep areas, and makes the lots compatible with the surrounding neighborhood.

Vehicular access to the property is via existing King Road and then using the platted but un-built road, which provides legal access to the property. The applicant requests the access road to align onto the existing City property along the existing gravel road that then crosses an easement over applicant's property to the water tank. The existing road is currently constructed at approximately 14% grade and the applicant requests to place asphalt on the road at the same gradient with a maximum of 14% slope. Access to all lots, and to re-platted lot 1 of the Ridge Avenue Subdivision, will be from this private road. The applicant shows a hammerhead turn-around designed for emergency vehicles proposed across from Lot 1 of Alice Claim.

With the remand of the appeal of the CUP denial, a modified CUP has been requested for the access road retaining walls at the entrance of the property as the three (3) walls are greater than 6' in height. The walls at their maximum height are ten feet (10') each with extensive landscape planting proposed between each wall. Applicant proposes the walls to have stone veneer. "Soil nails" technique is proposed to minimize and mitigate construction impacts of the walls while also eliminating the need for an extensive footing.

The applicant requests to dedicate to the City the 0.38 acre of platted City lots within the HRL District that contains the existing King Road and potentially developable land. The applicant also submitted a plan to make improvements to the existing intersection. According to the applicant, their traffic engineer has demonstrated that the addition of 9 homes in this area has negligible traffic impact.

The applicant states that as part of the cleanup project, the drainage channel that runs through the site and carries seasonal run off was completely relocated and reconstructed as a rip rap channel. That channel will be piped and relocated beyond 50' from the lot 1 home.

Utility services are located near the entry point to the site. The applicant's engineer has studied the projected water pressure to all home sites in the previous plans in detail and found that all lots will have adequate pressure for domestic use and fire suppression. The newly proposed Gully Site Plan lowers the homes, some by as much as 70' in elevation, further improving water pressure to the homes. The Applicant's engineer continues to work with the City Engineer to assure utilities for the Alice Claim subdivision will not conflict with other utilities and can be provided in accordance with the City standards.

The site is currently used by recreation enthusiasts to access several recreational trails. Access to these trails will be allowed to continue across Alice Claim and enhanced with trail signage and trailhead markers. Large portions of the site will be platted as open space or no disturbance areas, and prohibited for development.

### Estate Lot

In the E District, the proposed Subdivision creates one (1) lot of record consisting of 3.01 acres. A single-family dwelling is an allowed use in the E District. The minimum lot area for a single-family dwelling in the E District is 3 acres. The proposed lot meets the minimum lot area for single-family dwellings in the E District. A duplex dwelling is an allowed use in the E District. The minimum lot area for a duplex dwelling in the E District is 6 acres. The proposed lot does not meet the minimum lot area for duplex dwelling.

The minimum lot width allowed in the E District is one hundred feet (100'). The shortest lot width is approximately 235 feet. The proposed lot meets the minimum lot width requirement in the E District. Table 2 shows applicable development parameters in the E District:

Table 2:

<b>LMC Regulation</b>	<b>Requirements</b>
<b>Front/Side/Rear Yard Setbacks</b>	The minimum Front, Side and Rear Yard for all Structures is thirty feet (30'). The Planning Commission may vary required yards in Subdivisions and Master Planned Developments. In no case shall the Planning Commission reduce Side Yards to allow less than ten feet (10') between Structures.
<b>Building (Zone) Height</b>	No Structure shall be erected to a height greater than twenty-eight feet (28') from Existing Grade.
<b>Building Height Exception</b>	Gable, hip, and similar pitched roofs may extend up to five feet (5') above the Zone Height, if the roof pitch is 4:12 or greater.

### Historic Residential Lots

In the HR-1 District, the proposed Subdivision creates eight (8) lots of record consisting of 4,510 square feet. A single-family dwelling is an allowed use in the Historic Residential-1 District. The minimum lot area for a single-family dwelling in the HR-1 District is 1,875 square feet. The proposed lots meet the minimum lot area for single-family dwellings. A duplex dwelling is a conditional use in the Historic Residential-1 District. The minimum lot area for a duplex dwelling in the HR-1 District is 3,750 square feet. The proposed lot meets the minimum lot area for duplex dwellings. Conditional uses are reviewed and approved by the Planning Commission.

The minimum lot width allowed in the Historic Residential-1 District is twenty-five feet (25'). The proposed lot widths of the HR-1 District lots vary from 43.35 to 62.65 feet. The proposed lots meet the minimum lot width requirement. Table 3 shows applicable development parameters in the Historic Residential-1 District:

Table 3:

<b>LMC Regulation</b>	<b>Requirements</b>
<b>Building Footprint</b>	<b>All lots:</b> 1,750 square feet, maximum based on lot size.

<b>Front/Rear Yard Setbacks</b>	<b>Lot 2, 4, 5, 8, &amp; 9:</b> 10 feet minimum, 20 feet total. <b>Lot 3, 6, &amp; 7:</b> 12 feet minimum, 25 feet total. Based on lot depth per LMC table 15-2.2.
<b>Side Yard Setbacks</b>	<b>Lot 2, 3, 6 &amp; 7:</b> 5 feet minimum, 10 feet total. <b>Lot 8 &amp; 9:</b> 5 feet minimum, 14 feet total. <b>Lot 4 &amp; 5:</b> 5 feet minimum, 18 feet total. Based on lot width per LMC table 15-2.2a.
<b>Building (Zone) Height</b>	No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade.
<b>Final Grade</b>	Final Grade must be within four vertical feet (4') of Existing Grade around the periphery [...].
<b>Lowest Finish Floor Plane to Highest Wall Top Plate</b>	A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate [...].
<b>Vertical Articulation</b>	A ten foot (10') minimum horizontal step in the downhill façade is required [...].
<b>Roof Pitch</b>	Roof pitch must be between 7:12 and 12:12 for primary roofs. Non-primary roofs may be less than 7:12.

All dwellings in the HR-1 District will need to go through the Historic District Design Review (HDDR) process as described in the LMC. HDDRs are reviewed and approved by the Park City Planning Department. Staff anticipates, based on the submitted slope analysis (See Exhibit F - [Slope Analysis - February 2016](#)), that all lots, except Proposed Lot 2, will require Steep Slope CUP review. As indicated in the LMC are required for development over grades that are thirty percent (30%) or greater. Steep Slope CUPs are reviewed and approved by the Park City Planning Commission. Staff does not make this determination until specific site plans are prepared in conjunction with required site surveys for development of each lot through the HDDR application process.

#### Access

Currently, legal access to the property is proposed to be gained through the platted but un-built King Road ROW. This access point is approximately 50 feet west (off-set) of the King Road – Ridge Avenue intersection where King Road turns north. Ideally, the primary access would be through the existing Woodside Gulch, thus avoiding the need to build a new road; however, this access isn't possible because legal access has not been secured over the private property at 135 Ridge Avenue.

The applicant states that the King Road ROW access (north access) would create a driveway gradient of 14%. The proposed northern access would also require three (3) tiered retaining walls (upwards of 10 feet in height each) on the western side as the road would cut into the toe of the slope would protect the existing mature trees. Without access over the private property at 135 Ridge Avenue, the applicant's only proposed access is using the platted King Road ROW.

The proposed access to the Alice Claim Subdivision is at a point, although offset, where essentially four (4) existing roadways meet, King Road, Sampson Avenue, Ridge Avenue, and Woodside Gulch. The proposed Alice Court would be a fifth (5<sup>th</sup>) point of access in the existing intersection that would go around the Woodside Gulch entry.

As indicated on the June 10, 2016 Staff Report:

*The Applicant does not propose to dedicate streets within the proposed development to the City but will complete the proposed Alice Court to meet City Standards for emergency access and parking. If the Applicant decides to offer the streets for dedication at a later date, all of the streets will need to meet all City Standards, including right-of-way widths, minimum street widths, cul-de-sac standards, stubbed street standards, grading requirements, etc. (Even if the streets are offered for dedication, the City is not required to accept the dedication). All of the roads within the proposed subdivision are proposed to be private drives at this time. Private drives shall not exceed 14% gradients and the applicant has shown the drives meeting this requirement at 14%.*

The existing City's easement for access has been revised on the plat to incorporate trails and the City's access easement changed by the Alice Court road. The Applicant will need to receive City Council's approval to give them an access over the City's property through Alice Court, which will have water lines, storm drainage, sewer, etc. as well as use of the City Property for the Alice Court road. This will need to occur prior to plat recordation and is **listed as a condition of approval**.

Restriction due to Character of the Land  
[LMC § 15-7.3-19\(D\)](#) indicates the following:

**RESTRICTIONS DUE TO CHARACTER OF THE LAND.** *Land which the Planning Commission finds to be unsuitable for Subdivision or Development due to flooding, improper drainage, Steep Slopes, rock formations, Physical Mine Hazards, potentially toxic wastes, adverse earth formations or topography, wetlands, geologic hazards, utility easements, or other features, including ridge lines, which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the Subdivision and/or its surrounding Areas, shall not be subdivided or developed unless adequate methods are formulated by the Developer and approved by the Planning Commission, upon recommendation of a qualified engineer, to solve the problems created by the unsuitable land conditions. The burden of the proof shall lie with the Developer. Such land shall be set aside or reserved for Uses as shall not involve such a danger.*

The Applicant has provided information regarding the mitigation of potential hazards due to the Steep and Very Steep Slopes. Staff had previous concerns on developments over 40% slopes with the soils and massing of homes. The Geotechnical report reviewed by the City Engineer demonstrated that the soils are acceptable and staff finds



that the Steep Slope CUPs in the HR-1 District will mitigate the massing of homes on such steep slopes and the Planning Commission will have full review of those applications just as they have previously with other lots that are steep within the HR-1 District.

Staff had initial concerns for existing mine hazards that may be open as a historic mine shaft exists on this property to which the applicant submitted the Geotechnical Consultation Letter - December 2006 demonstrating that the mine shaft is filled. Any structures near the mine shaft shall be setback ten feet (10') if the mine shaft is filled, which the current plans and engineer's letter show that it is filled. The mine shaft needs to be shown on the plat. The City Engineer has reviewed the Geotechnical report (which addressed the site holistically considering all steep slopes and not individual home locations) and mine shaft conditions report (which is just about the mine) and indicates that the report shows the ground is stable, with bedrock below. The City Engineer found that the report reflects that the ground conditions, existing mine shaft, and slopes are safe to build upon. The City Engineer can answer any questions from Commissioners in this regard. Prior to Building permit approval, the applicant will be required to submit Geotechnical reports for individual sites which meet the City Engineer's approval. After the City Engineer reviews of the Geotechnical report and future review of each structure by the Planning Commission for Steep Slope CUPs, staff recommends allowing the applicant to develop on such steep slopes with the conditions of approval listed in the Draft Ordinance.

#### Ridgelines and Clustering

The proposed updated Gully Site Plan brings the eight (8) dwellings towards the bottom of the Woodside Gulch. Staff does not find that ridgeline development is requested. The Gully Site Plan complies with the General Subdivision Requirements (LMC 15-7.3-2(E)) Open Space which states:

*Units should be clustered in the most developable and least visually sensitive portions of the Site with common open space corridors separating clusters. This applies to both multi-family and single family projects. The open space corridors should be designed to coincide with Significant Vegetation and in many cases, should be left in the natural state.*

#### Water Delivery

The City's Department of Public Utilities has made the Planning Department aware that all of the Alice Claim property proposed for development may not be serviceable by the current City water system due to low water pressure. The low water pressure is due to the small elevation difference between the proposed development's elevation and the Woodside Tank's elevation. The applicant was informed about this issue and is responsible for modeling the water service to the development and if it is still insufficient they will need to provide a remedy. The applicant has prepared a water model addressing the limitations of the current water system on the proposed development (including factors such as the ability to meet: acceptable water system pressures and fire flow requirements to each home site (indoor and outdoor pressures are not

adequate), the Fire Marshal's site specific requirements, and Division of Drinking Water regulations).

The applicant is to confirm the elevation of each of the proposed building sites to determine the affected sites and either redesign the project accordingly, or work with the Department of Public Utilities to determine the best solution. At the time of this report, the Department of Public Utilities, Fire, Building and Engineering have received a revised letter from the applicant's engineer addressing the previously submitted Water Model that will meet the City's requirements. Any revisions to the previously submitted model will need to meet acceptable water pressure flows in order for the subdivision to meet water requirements. **This is listed as a specific condition of approval.**

#### Water Reclamation District

Snyderville Basin Water Reclamation District (SBWRD) has concerns regarding the placement of the sewer lines in relation to the retaining walls and in relations to other utilities. **This will need to be remedied before the proposed plat can be signed by SBWRD prior to plat recordation and is recommended as a specific condition of approval.** The Applicant is aware of SBWRD's concerns and will work to obtain a Line Extension Agreement upon approval of the plat. The utility design could affect the layout of the subdivision and if any changes are made to the layout of the subdivision upon SBWRD's approval, this approval shall be null and void and an application to amend the Ordinance and plat shall need to be submitted and be reviewed and go through the entire process including internal review, planning commission and city council review.

#### Density

On June 17, 2016, the applicant submitted Exhibit U - Proposed Density/Number of Lots, which contains the applicant's supporting documentation regarding this topic including the July 27, 2005 work session Staff Report, October 30, 2008 Applicant's Memo to the Legal Dept., January 20, 2009 City e-mail correspondence from Legal Dept. to the Applicant, and County Plat Maps with the outline of the site.

The entire project site consists of the following:

- 12 HRL Old town lots: Lot 1, 2, 3, 4, 5, 6, 7, 36, 38, 39 & 40, within Block 77 of the Millsite Reservation. None of these lots meet the minimum lot area required for development consisting of 3,750 square feet. This combined HRL area consists of 0.38 acres (16,486 SF).
- Parcel no. PC-S-55 consisting of approximately 8.65 acres (5.08 acres in the Estate District and 3.57 acres in the HR-1 District).
- Parcel no. PC-S-55-X (Parcel 5) is the City owned property consisting of 1.54 acres. A good portion of this site is in the Estate District while the other portion is in the HR-1 District. This parcel is not part of the project.

See Exhibit H - [Vicinity & Zoning - February 2016](#):



The density associated with these three (3) areas, excluding the City owned parcel, is as follows assuming that optimal conditions for development exist and that **every requirement** in the Land Management Code required can be met:

- HR-L Old Town platted lots consisting 16,486 SF. The minimum lot area is 3,750 SF. Hypothetically, based on minimum lot area only, the site could accommodate 4 HR-L lots.
- HR-1 area consisting of 3.57 acres or 155,509 SF. The minimum lot area is 1,875 SF. Hypothetically, based on minimum lot area only, this site could accommodate 82 HR-1 lots.
- Estate area consisting of 5.08 acres. The minimum lot area is 3.0 acres. Hypothetically, based on minimum lot area only, this site could accommodate 1 Estate lot.

One must understand that the entire site contains various challenges including, but not limited to, access, slope, ridgeline protection, etc., and that the density provided above is not vested or entitled as the entire Estate and HR-1 areas require subdivision approval. Development over the HR-L area requires plat amendment approval as not one lot of record currently meets the minimum lot area of that District.

**Conditional Use Permit**

LMC § [15-4-2 Fences And Retaining Walls](#) states the following:

- A. **LOCATION.** *Fences and retaining walls may be erected or allowed within the buildable Area, and as allowed in the Setback exceptions in Chapter 2.*

*Fences and retaining walls shall not exceed six feet (6') in height measured from Final Grade within any required Rear Yard or Side Yard. Within any required*

*Front Yard or Street Side Yard, Fences and retaining walls shall not exceed four feet (4') in height, measured from Final Grade.*

*Where a Fence or retaining wall occurs along a Property Line separating two (2) Lots and there is a difference in the Grade of the Properties, the Fence or retaining wall may be erected or allowed to the maximum height permitted on either side of the Property Line.*

1. **EXCEPTION.** *The height of retaining walls in the Front Yard may exceed four feet (4'), measured from Final Grade, subject to approval by the Planning Director and City Engineer, and may exceed six feet (6') in height subject to approval of an Administrative Conditional Use permit or as approved as part of a Master Planned Development (MPD) or Conditional Use permit. Prior to issuance of an Administrative Conditional Use permit the Property shall be posted and affected adjacent Property Owners shall be noticed ten (10) days prior to Final Action.*

*The height of retaining walls in the Side or Rear Yards may exceed six feet (6'), measured from Final Grade, subject to approval of an Administrative Conditional Use permit or as approved as part of a Master Planned Development or Conditional Use permit. Prior to issuance of an Administrative Conditional Use permit the Property shall be posted and affected adjacent Property Owners shall be noticed ten (10) days prior to Final Action.*

*[...]*

- B. **PERMIT.** *A Building Permit is required for construction of any Fence or retaining wall greater than six feet (6') in height. Within any of the Historic zoning districts construction of any Fence or retaining wall greater than four feet (4') in height requires a Building Permit.*

The applicant requests that the City review a modified CUP concurrently with the amended Alice Claim Subdivision (the Gully Site Plan) and corresponding Plat Amendment applications. The vehicular access road via platted King Road will require retaining walls that are greater than six feet (6') in height, thereby requiring a CUP per the LMC. The applicant notes that the CUP application has been modified in the following manner from the previous application that was denied in August 2015:

- The wall has been broken into three tiers that are each a maximum 10 feet tall with landscape planting areas between each wall section as suggested by Planning Staff as adequate visual mitigation.
- An additional 20% of the tree planting to what was originally identified is now proposed as suggested by Planning Staff as adequate visual mitigation.
- These walls will be constructed by the process of "soil nailing" and overlaid with a decorative stone veneer. This process is less disruptive to existing vegetation

above the walls and does not require extensive footings that could have interfered with utilities in Alice Court roadway at the base of the walls.

- The walls have been extended around the corner created by the intersection with King Road. This is proposed in order to widen King Road in the area with the goal of improving the existing condition of King Road as well as improving visibility for the proposed Alice Court entry drive.

**LMC § 15-1-10 Conditional Use Review Process** states the following:

*There are certain Uses that, because of unique characteristics or potential impacts on the municipality, surrounding neighbors, or adjacent land Uses, may not be Compatible in some Areas or may be Compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.*

*The Planning Department will evaluate all proposed Conditional Uses and may recommend conditions of approval to preserve the character of the zone, and to mitigate potential adverse effects of the Conditional Use.*

*A Conditional Use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed Use in accordance with applicable standards.*

*If the reasonable anticipated detrimental effects of a proposed Conditional Use cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable standards, the Conditional Use may be denied.*

[...]

D. **STANDARDS FOR REVIEW.** *The City shall not issue a Conditional Use permit unless the Planning Commission concludes that:*

1. *the Application complies with all requirements of this LMC;*
2. *the Use will be Compatible with surrounding Structures in Use, scale, mass and circulation;*
3. *the Use is consistent with the Park City General Plan, as amended; and*
4. *the effects of any differences in Use or scale have been mitigated through careful planning.*

[...]

Staff finds that the application **complies as conditioned** with the four (4) standards of review listed above and has been mitigated. LMC § 15-5-5. Architectural Design Guidelines sets the following standards for prohibited materials within the City:

*(B) (6) Synthetic stone products such as simulated stone or brick, cultured stone or brick, pre-cast stone or concrete imbedded with stone fragments.*

The applicant proposes to use a blonde sandstone veneer which is a real stone, allowed within the City.

The Design Guidelines for Historic Districts and Historic Sites (which are incorporated into the LMC by reference in LMC § 15-11-11) help define compatibility with surrounding structures, etc. This is a separate process and all retaining walls no matter their height will be required to go through the Historic District Design Review (HDDR) process. In order to comply with the HDDR criteria the applicant will need to comply with the following section within the Historic District Design Guidelines but these criteria aren't tied to the CUP: Specific Guidelines for new construction in Park City's Historic Districts A.4. Site Grading and Steep Slope Issues sets the following guidelines:

- *A.4.1. Building and site design should respond to natural features. New building should step down/up to follow the existing contours of steep slopes.*
- *A.4.2. The site's natural slope should be respected in a new building design in order to minimize cuts into hillsides, fill and retaining walls; excavation should generally not exceed one-story in depth.*
- *A.4.3. When retaining walls are necessary, the impact should be minimized by creating gradual steps or tiers, by using perennial plant materials to minimize visual impact, and by using forms and materials found on surrounding Historic Sites.*
- *B.2.5. Materials should be compatible in scale, proportion, texture, finish and color to those used on Historic Sites in the neighborhood.*
- *B.2.6. Materials, especially stone and masonry, should be used in the manner they were used historically.*

LMC 15-1-10. (E) Review indicates the following:

**REVIEW.** *The Planning Department and/or Planning Commission must review each of the following items when considering whether or not the proposed Conditional Use mitigates impacts of and addresses the following items:*

1. *Size and location of the Site.* **Complies as conditioned.**

The applicant has determined the three (3) ten foot (10') walls must be placed in this location due to the access they are providing. Should the applicant work through the access issues with the adjacent property owner, less retaining would be needed and that could be a significant factor to mitigating the visual impact to the community. If the applicant were to shorten the height of the walls and further terrace the walls, the visual impact would be the same; however the visual image of the retaining would actually be higher. Staff finds that with ten foot (10') retaining walls, ten foot (10') trees and shrubs can be planted in the terracing to visually mitigate the image of the walls.

2. *Traffic considerations including capacity of the existing Streets in the Area.* **Not applicable.**

3. *Utility capacity, including Storm Water run-off.* **Complies as conditioned.**

The weight of the walls and/or placement of the utilities near the walls may affect and negatively impact the public utilities and infrastructure. This could reasonably be mitigated with the following condition: City Engineer and SBWRD giving approval of the engineered plans of the walls and utility plan would show there will be no impacts to utilities and infrastructure. However, if any changes to the utilities or infrastructure change the location and heights of the walls, then the applicant will need to amend this CUP application which will require going through the full process (staff review and Planning Commission Review).

4. *Emergency vehicle Access.* **Not applicable.**

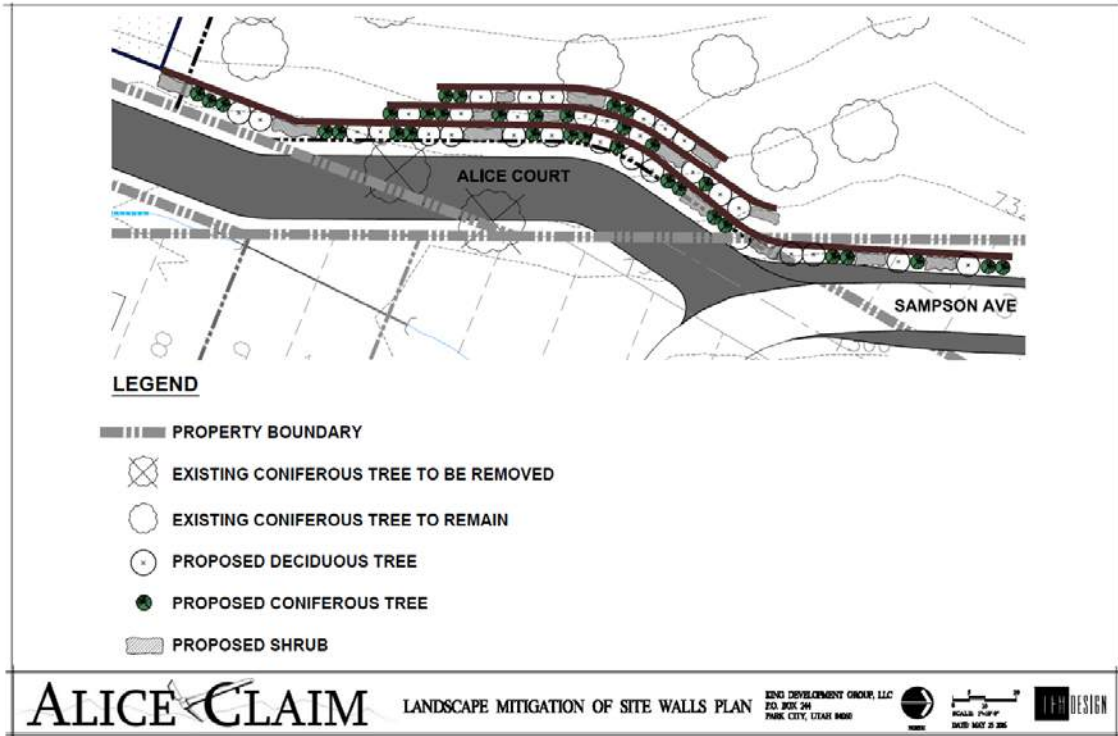
5. *Location and amount of off-Street parking.* **Not applicable.**

6. *Internal vehicular and pedestrian circulation system.* **Not applicable.**

7. *Fencing, Screening, and landscaping to separate the Use from adjoining Uses.* **Complies as conditioned.**

This creates a negative visual impact upon the historic district and surrounding neighborhoods. This could reasonably be mitigated with the following conditions: adding in 20% more trees than currently shown on [Exhibit B](#) on the June 10, 2015 Staff Report and trees with a minimum height of 10 feet.





The exhibit on this top page shows the updated [simulation](#) with the updated landscape plan with increase in trees from what was presented in June 2015. Staff finds that these two exhibits assist in mitigating the impacts of this CUP criterion.

8. *Building mass, bulk, and orientation, and the location of Buildings on the Site; including orientation to Buildings on adjoining Lots. **Complies as conditioned.***

The walls are ten feet (10') in height which is considered massive, mass and orientation within the Historic District and approximately 2 times the height of the majority of retaining walls within the District which are typically four to six feet (4' to 6') in height. This creates a negative visual impact upon the historic district and surrounding neighborhoods. This could be mitigated with the following condition: further landscaping the walls as discussed in (7) above and contouring the walls to the landscape;

9. *Usable Open Space. **Not applicable.***

10. *Signs and lighting. **Not applicable.***

11. *physical design and Compatibility with surrounding Structures in mass, scale, style, design, and architectural detailing. **Complies as conditioned.***

Physical design and compatibility with surrounding structures as the walls are not compatible in size. This creates a negative visual impact upon the historic district



and surrounding neighborhoods. This is mitigated by the addition of additional landscaping as shown on item (7) above a minimum height of 10 feet;

12. *Noise, vibration, odors, steam, or other mechanical factors that might affect people and Property Off-Site. **Not applicable.***
13. *Control of delivery and service vehicles, loading and unloading zones, and Screening of trash and recycling pickup Areas. **Not applicable.***
14. *Expected Ownership and management of the project as primary residences, Condominiums, time interval Ownership, Nightly Rental, or commercial tenancies, how the form of Ownership affects taxing entities. **Not applicable.***
15. *Within and adjoining the Site, Environmentally Sensitive Lands, Physical Mine Hazards, Historic Mine Waste and Park City Soils Ordinance, Steep Slopes, and appropriateness of the proposed Structure to the existing topography of the Site. **Complies as conditioned.***

Environmentally sensitive lands, physical mine hazards, historic mine waste and steep slopes have not been properly addressed in these locations with final engineered plans. This presents a negative health, safety and welfare impact if not addressed. This could reasonably be mitigated with the following condition: Receive a Certificate of Completion for the Voluntary Cleanup Program (VCP) from the Utah Department of Environmental Quality (UDEQ) and Steep Slope CUPs for the adjacent homes to ensure the walls are stepping to the contours of the land and will not negatively impact any future homes in that area.

Other large retaining walls within or nearby the historic district can be found along Hillside Drive, around the north side of City Hall, and at Echo Spur but do not compare in size to the proposed height of the Alice Claim retaining walls and none of these walls were for private development. They were completed for Public ROW improvements. Those walls were mitigated through multiple terracing, adequate landscaping or homes that completely hide the height of the walls.

Staff finds that the walls as proposed at ten feet (10') are twice in excess to those four to six feet (4' to 6') heights typically found within the residential historic district. There is some but not adequate mitigation to the adverse visual impacts upon the adjacent and neighboring community. The landscape screen of Aspen trees and columnar evergreens as proposed will not appropriately screen the heights of the walls as shown in [Exhibit B](#) on June 10, 2015 Staff Report. Staff recommends requiring the applicant to replace any existing mature trees which are being removed due to the retaining walls in kind or with 3 smaller trees equating to the same caliper size. Staff also recommends requiring that the walls be landscaped more with 20% more trees than is shown on those proposed plans as reflected on the current landscape plan and simulation.

Any approval or denial of the CUP should be concurrent with recommending approval or denial of the proposed subdivision/plat amendment, meaning one cannot be approved or denied without the Planning Commission finding the other acceptable for approval or denial. The reason being that if the CUP is not approved or needs modification then it may change the site plan of the subdivision layout regarding house or road placements. The subdivision will not be approved until City Council review. No building permit can be issued until the plat is recorded. The applicant is requesting an expiration date of one (1) year from the date the plat is recorded. Staff however, recommends a two (2) year expiration date in order to complete all of the conditions of approval that are associated with the plat.

On June 17, 2016 the applicant submitted Exhibit V - [Landscaped Walls Example](#) which contains the applicant's response to the concerns expressed by the Commission regarding the viability and effect of landscape planting between the proposed retaining walls. The current design places the retaining walls five feet (5') apart and plants that space with an unspecified mixture of evergreen and deciduous trees and shrubs. The applicant's response contains four (4) photographs of the retaining walls of the Marsac Building's North parking lot showing plants flourishing between retaining walls.

Staff recommends adding the following three (3) conditions of approval:

- The applicant shall submit a Landscape Plan prepared by a licensed landscape architect with the complete plant list showing botanical name, common name, quantity, size and spacing. All plant materials labeled or keyed to the plant list and the quantity for that group shown. The submitted Landscape Plan shall be wet-stamped.
- The applicant shall submit a letter from the Landscape Architect indicating that the requested trees, plants, vegetation, etc. between the retaining wall can be appropriately be accommodated to ensure a successful life span of each tree, plant, vegetation, etc.
- The Park City Planning Department will review the submitted Landscape Plan and Landscape Architect Letter and will be responsible of approving prior to receiving any building permit for the retaining wall.

On June 17, 2016 the applicant submitted a letter responding to concerns made regarding the significant vegetation found on site, See Exhibit X - [CUP Significant Vegetation Mitigation](#). The Land Management Code indicates the following regarding vegetation protection in the HR-1 District Chapter 2.2 and Estate District Chapter 2.10:

**15-2.2-10 Vegetation Protection & 15-2.10-10 Vegetation Protection**

The Property Owner must protect Significant Vegetation during any Development activity. Significant Vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4.5') above the ground, groves of smaller trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

Development plans must show all Significant Vegetation within twenty feet (20')

of a proposed Development. The Property Owner must demonstrate the health and viability of all large trees through a certified arborist. The Planning Director shall determine the Limits of Disturbance and may require mitigation for loss of Significant Vegetation consistent with Landscape Criteria in LMC [Chapter 15-3-3](#) and [Title 14](#).

The current proposal requests to remove two (2) large coniferous trees. Staff is concerned that a third (3<sup>rd</sup>) coniferous tree will also have to be removed as its drip-line is shown too close to the proposed retaining wall. Planning Staff acknowledges the practice that whenever an improvement is placed within the drip-line of a tree, it affects its life expectancy. Staff recommends that the applicant submit the caliper size of this tree to document its measurement.

The applicant wrote in their response that they cannot avoid removal of the two (2) trees described and should be permitted to mitigate their removal. In terms of mitigation the applicant proposes to plant 33 evergreen trees and 31 deciduous trees for a combined total of 212 inches of caliper while the two (2) trees to be removed are approximately 53 inches in caliper combined. The applicant points its replaced ratio of 4:1 and the extensive site clean-up and re-vegetation.

Staff finds the applicant's mitigation effort appropriate for the two (2) trees that are being requested to be removed to accommodate the access/retaining walls into their development. Staff recommends adding the following condition of approval:

- Existing Significant Vegetation and mature landscaping shall be preserved per a tree preservation plan completed by a certified arborist and approved by the City prior to issuance of a building permit. Significant Vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4.5') above the ground, groves of smaller trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

### **Ridge Avenue Plat Amendment**

The applicant requests that the City review the Ridge Avenue Plat Amendment. The applicant owns Lot 1 (#123) and Lot 2 (#129) of that Subdivision. Applicant proposes a change to adjust Lot 1. The proposed amendment swaps a 2,057 square foot triangular portion of Lot 1 with corresponding 2,057 square foot triangular portion of Lot 9 and Lot 8 of the proposed Alice Claim Subdivision. There is no increase or reduction in the size of either subdivision. The resulting reconfiguration allows the "squaring up" of these lots.

### **Good Cause**

The LMC defines Good Cause as the following:

Providing positive benefits and mitigating negative impacts, determined on a case by case basis to include such things as: providing public amenities and benefits, resolving existing issues and non-conformities, addressing issues

related to density, promoting excellent and sustainable design, utilizing best planning and design practices, preserving the character of the neighborhood and of Park City and furthering the health, safety, and welfare of the Park City community.

Planning Staff finds there is good cause for this subdivision/Plat Amendment with the appropriate items described in the analysis being incorporated as conditions of approval. There may be future geographical visual impacts to the City as a result of this application with respect to additional site stabilization, proposed retaining walls, and other unforeseen issues related to development within steep slope areas that can be addressed at the time of Steep Slope CUP applications.

### **Department Review**

SBWRD continues to express concern with lack of sewer lateral design but the applicant will need to continue to work with them until all requirements are satisfied in order for SBWRD to sign the plat. Each of these concerns have been incorporated into conditions of approval. The Planning Departments concerns are the visual impacts of such tall retaining walls in a historic residential district which the applicant has taken an attempt to mitigate.

### **Notice**

In preparation for the May 25, 2016 Planning Commission meeting, the property was posted on May 11, 2016, and the courtesy notice was mailed to property owners within 300 feet in accordance with requirements of the LMC on May 11, 2016. Legal notice was published in the Park Record on May 11, 2016 and on the public notice website in accordance with the requirements of the LMC on May 9, 2016.

During the May 25, 2016 Planning Commission meeting, the item was discussed and the public hearing was continued to the July 13, 2016 Planning Commission meeting. During the July 13, 2016 Planning Commission meeting, the item was discussed and the public hearing was continued to the July 27, 2016 Planning Commission meeting.

### **Public Input**

Public comment was taken during the various past meetings held to discuss the project. The various Planning Commission meeting minutes (see links provided above) reflect public input received on these proposals to date. Any [public comment](#) received prior to this meeting will be forwarded to the Planning Commission.

### **Alternatives**

The revised Conditional Use Permit is inextricably tied to the site plan which has been significantly amended currently associated with the Alice Claim Subdivision and Plat Amendment and the Ridge Avenue Plat Amendment.

### **Subdivision/Plat Alternatives**

- The Planning Commission may forward a positive recommendation to the City Council for the Alice Claim Subdivision/Plat Amendment and the Ridge Avenue Plat Amendment as conditioned or amended; or
- The Planning Commission may forward a negative recommendation to the City Council for the Alice Claim Subdivision/Plat Amendment and the Ridge Avenue Plat Amendment and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on the subdivision and plat amendment to a date certain and provide specific direction to the applicant and/or staff to provide additional information necessary to make a recommendation on this item.

#### Conditional Use Permit Alternatives

- The Planning Commission may approve the Conditional Use Permit for retaining walls greater than six feet (6') in height as conditioned or amended; or
- The Planning Commission may deny the Conditional Use Permit for retaining walls greater than six feet (6') in height and direct staff to make Findings for this decision; or
- The Planning Commission may continue the discussion on the Conditional Use Permit for retaining walls greater than six feet (6') in height to a date certain and provide specific direction to the applicant and/or staff to provide additional information necessary to make a recommendation on this item.

#### Process

This application is for a major Subdivision and Plat amendment as defined in LMC § 15-7.1-3(A)(2). A major Subdivision requires a Preliminary Plat and a Final Plat although the Planning Commission may, at its sole discretion, combine the required hearings for both preliminary and final Subdivision Plat approval. Staff is recommending the hearings be combined and a final Subdivision Plat is considered. The approval or denial of a subdivision and plat amendment application by the City Council constitutes Final Action that may be appealed following the procedures found in LMC § 1-18. Any retaining walls over six feet (6') within the setback area requires a CUP to be reviewed and approved by the Planning Commission as currently remanded. Any new structure may require a Steep Slope CUP and all will require a Historic District Design Review. A Building Permit is publicly noticed by posting of the permit.

#### Significant Impacts

There are no immediate significant fiscal impacts to the City from this application. If construction on the site were permitted, it will require a detailed Construction Mitigation Plan (CMP) to protect existing development located near the proposed subdivision. Site stabilization might also be an important consideration depending upon the amounts of vegetation proposed to be removed as a result of the proposed development. A geotechnical report has been previously submitted and reviewed. Previous mining activities, strong ground motion, slope stability, debris flow and avalanche, shallow bedrock and perched groundwater are the most significant engineering geology and geotechnical aspects which could affect design and construction at the site. Most, if not all of the lots in the HR-1 zone will require Steep Slope Conditional Use Permits. Each

home, including the home within the “Estate” zoning designation, will require a Historic District Design Review prior to home design and construction.

### **Consequences of not taking the Suggested Recommendation**

The lots and parcels would remain as is and no construction could take place.

### **Summary Recommendations**

Staff recommends that the Planning Commission hold a public hearing and review (1) Alice Claim Subdivision and Plat Amendment, (2) Remand of the Conditional Use Permit for retaining walls greater than six feet (6’) in height, and (3) Ridge Avenue Plat Amendment located at approximately Alice Claim south of intersection of King Road, Ridge Avenue, and Sampson Avenue.

Staff recommends that the Planning Commission forward positive recommendation for the Alice Claim Subdivision and Plat Amendment to the City Council based on the Findings of Fact, Conclusion of Law as found in the Draft Ordinance

Staff recommends that the Planning Commission forward positive recommendation for the Ridge Avenue Plat Amendment to the City Council based on the Findings of Fact, Conclusion of Law as found in the Draft Ordinance,

Staff recommends that the Planning Commission approve the proposed Conditional Use Permit Remand for the for the three (3) retaining walls up to ten feet (10’) in height associated with the proposed Alice Claim Development based on the Findings of Fact Conclusions of Law, and Conditions of Approval outlined in this staff report.

### **Exhibits**

#### **Exhibit Section 1 - Overall**

- Exhibit A - [Applicant’s Project Intent Sub., Plat Amendment, and CUP - April 2016](#)
- Exhibit B - [Gully Site Plan - May 2016](#)
- Exhibit C - [Panoramic Photographs - May 2016](#)
- Exhibit D - [Engineering Review of Gully Plan - April 2016](#)
- Exhibit E - [Open Space and Trails Plan - May 2016](#)
- Exhibit F - [Slope Analysis - February 2016](#)
- Exhibit G - [Vegetative Cover - February 2016](#)
- Exhibit H - [Vicinity & Zoning - February 2016](#)
- Exhibit I - [Zoning Map Diagram - May 2016](#)
- Exhibit J - [Emergency Vehicle Movement - May 2016](#)

#### **Exhibit Section 2 - Subdivision and Plat Amendment**

- Exhibit K - [Applicant Description and Comparison to Previous Proposal - February 2016](#)
- Exhibit L - [Proposed Alice Claim Sub. & Plat Amendment - February 2016](#)
- Exhibit M - [Alice Claim Topo Boundary](#)

#### **Exhibit Section 3 - Conditional Use Permit**

- Exhibit N - [Applicant Intent – Modified CUP Application - April 2016](#)

Exhibit O.1 - [Landscape Mitigation of Retaining Walls - May 2016](#)  
Exhibit O.2 - [Retaining Wall Photo Simulation – July 2016](#)  
Exhibit P - [Key Map - May 2016](#) and [Site Sections - May 2016](#)

#### Exhibit Section 4 - Ridge Avenue Plat Amendment

Exhibit Q - [Applicant Intent – Ridge Avenue Plat Amendment - February 2016](#)  
Exhibit R - [123 Ridge Avenue Topo Survey - Feb./Mar. 2016](#)  
Exhibit S - [Proposed Ridge Avenue Plat Amendment - February 2016](#)  
Exhibit T - [Property Swap Diagram – February 2016](#)

#### Exhibit Section 5 - Applicant's Responses

Exhibit U - [Proposed Density/Number of Lots](#)  
Exhibit V - [Landscaped Walls Example](#)  
Exhibit W - [Negotiations with Levitin](#)  
Exhibit X - [CUP Significant Vegetation Mitigation](#)  
Exhibit Y - [Applicant's Draft CUP Approval](#) (received 06.29.2016 & updated 07.15.2016)  
Exhibit Z - [Applicant's Draft Plat/Subdivision Ordinance](#) (received 06.29.2016 & updated 07.15.2016)

#### Exhibit Section 6 - Staff Draft Approvals

Exhibit AA - Draft CUP Findings of Fact, Conclusion of Law, and Conditions of Approval  
Exhibit BB - Draft Alice Claim Subdivision and Plat Amendment Ordinance  
Exhibit CC - Draft Ridge Avenue Plat Amendment Ordinance  
Exhibit DD - July 13, 2016 Planning Commission **Draft Minutes**

#### Links to Additional Exhibits

- [Public Input](#)
- [Aerial Image with Site Plan Overlay - May 2016](#)
- [Aerial Image with Site Plan Overlay-100 - May 2016](#)
- [Civil Engineering Plans - May 2016](#)
- [Storm Drainage Narrative \(revised for Gully Plan\) - April 2016](#)
- [Engineering Geology and Geotechnical Engineering Report - October 2014](#)
- [Geotechnical Consultation Letter - December 2006](#)
- [Mine Remediation Diagram - July 2008](#)
- [Site Mitigation 2008 Field Report-Voluntary Cleanup Program - June 2013](#)
- [Water Distribution Model - February 2016](#)
- [Aerial Image with 123 Ridge Avenue Plat Overlay – February 2016](#)
- [Applicant's Presentation May 25, 2016 Planning Commission](#)
- [June 10, 2015 Exhibit B](#)
- [Applicant's Presentation July 13, 2016 Planning Commission](#)
- [Source Water Protection Correspondence](#)

## Exhibit AA - Draft CUP Findings of Fact, Conclusions of Law and Conditions of Approval

### **Findings of Fact:**

1. The property is located at the intersection of King Road, Ridge Avenue, Woodside Gulch and Sampson Avenue (approximately), within the Historic Residential (HR-1) and Estate (E) Districts and Sensitive Lands Overlay (SLO).
2. The proposal includes nine (9) lots on 9.034 acres.
3. The property is a "metes and bounds" parcel with contiguous platted lots.
4. A City water tank and land owned by the City is adjacent to the subject property on the south end, and a City-owned parcel bisects the subject property. The City water line does not run within the City owned property, but rather is located within a prescriptive easement on the subject property.
5. The applicant previously undertook a voluntary remediation of the regulated soils on the site, which included soil remediation both in the Alice Claim 8.49 acre portion and within a 1.7 acre portion of the adjoining City property.
6. The property can only be accessed through the platted King Avenue right-of-way as the owner cannot secure legal access through the Woodside Gulch easement.
7. The new roadway would require excavation and 3 blonde sandstone veneer retaining walls of ten feet (10') in height with five foot (5') of horizontal terracing in between each wall, placed at the entrance to Alice Court. The five foot (5') of horizontal terracing will be landscaped with vegetation and various trees of ten feet in height to mitigate the visual and massing/scale impacts of the walls.
8. The retaining walls have not been engineered as of the date of this report and would require the City Engineer/Building Department approval to approve the engineered plans.
9. Historic District Design Review applications are required for any construction of retaining walls within the historic districts or any lots adjacent to the historic district.
10. Snow storage, guardrails and lighting are elements of the retaining walls that require City Engineer and Planning Department approval.
11. There are impacts created by the proposed retaining walls which include Size and location of the Site; the applicant has determined the three 10' walls must be placed in this location due to the access they are providing. Should the applicant work through the access issues with the adjacent neighbor, less retaining would be needed and that could be a significant factor to mitigating the visual impact to the community.
12. There are impacts created by the proposed retaining walls which include Utility capacity within the roads adjacent to the proposed walls as the Applicant has not properly engineered the roads or retaining walls. The impact of this is that the weight of the walls and/or placement of the utilities near the walls could significantly damage and negatively impact the public utilities and infrastructure. This could reasonably be mitigated with the following condition: City Engineer and SBWRD giving approval of the engineered plans of the walls and utility plan would show there will be no impacts to utilities and infrastructure. However, if any changes to the utilities or infrastructure change the location and heights of the walls, then the Applicant will need to apply for a new CUP.



13. There are impacts created by the proposed retaining walls regarding screening and landscaping to separate the walls from adjoining uses. This creates a negative visual impact upon the historic district and surrounding neighborhoods. This was reasonably mitigated with the addition of 20% more trees than shown on Exhibit B June 10, 2015, at a minimum height of 10 feet.
14. There are impacts created by the proposed retaining walls regarding building mass, bulk and orientation as the walls are 10' in height which is considered massive, mass and orientation within the Historic District and approximately 2 times the height of the majority of retaining walls within the District which are typically 4' to 6' in height. This creates a negative visual impact upon the historic district and surrounding neighborhoods. This is mitigated with further landscaping the walls as discussed in (13) above and contouring the walls to the landscape.
15. There are impacts created by the proposed retaining walls regarding the physical design and compatibility with surrounding structures as the walls are not compatible in size. This creates a negative visual impact upon the historic district and surrounding neighborhoods. This is mitigated with further landscaping the walls as discussed in (13) above and contouring the walls to the landscape.
16. There are impacts created by the proposed retaining walls regarding environmentally sensitive lands, physical mine hazards, historic mine waste and steep slopes have not been properly addressed in these locations with final engineered plans. This presents a negative health, safety and welfare impact if not addressed. This could reasonably be mitigated with the following condition: Receive a Certificate of Completion for the VCP from UDEQ and Steep Slope CUPs for the adjacent homes to ensure the walls are stepping to the contours of the land and will not negatively impact any future homes in that area.
17. The applicant submitted draft utility plans that have not received final approval by the Snyderville Basin Water Reclamation District, Water Department, and City Engineer. The applicant will be responsible to determine what portion of the property is serviceable by the current water system and proposed sewer and storm drainage systems or propose acceptable mitigation and if the proposed walls will negatively impact the utilities. Proposed roads with utilities that are not private driveways next to the retaining walls are required to be 20' wide and are shown as such on the site plan.
18. The application for the Alice Claim CUP was deemed "complete" by the Planning Department on January 23, 2015.
19. Staff findings in the Analysis section are incorporated herein.

### **Conclusions of Law**

1. The CUP, as conditioned, is consistent with all requirements of the Park City Land Management Code.
2. The CUP, as conditioned, is consistent with the Park City General Plan.
3. The proposed walls as conditioned will be compatible with the surrounding structures in use, material, scale, mass, circulation and mitigation with the slope of the landscape.

4. The effects of any differences in Use, material, scale, mass and landscaping of the proposed walls have been properly mitigated through careful planning and conditions of approval.

### **Conditions of Approval**

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The plan shall include a phasing, timing, staging, and coordination of construction with adjacent projects to address mitigation of neighborhood impacts due to the volume of construction in this neighborhood.
3. City Engineer review and approval of all construction, including grading, utility installation, public improvements and storm drainage plans, and all construction within the ROW, for compliance with City and Fire District standards, is a condition precedent to building permit issuance.
4. Planning Department and City Engineer will review the final design and materials for any necessary retaining walls and the proposed roads adjacent to the retaining walls. The maximum height of the retaining is not to exceed 10 feet in height.
5. Snyderville Basin Water Reclamation District review and approval of the utility plans near the retaining walls for compliance with SBWRD standards and procedures, is a condition precedent to building permit issuance.
6. A final utility plan for roads near any retaining walls is required to be approved by the City Engineer prior to issuance of a building permit. The City Engineer will review the final construction documents and confirm that all existing utilities will not be impacted near the retaining walls and anticipated utilities will be located in accordance with the site plans as submitted.
7. A Historic District Design Review application shall be submitted prior to submittal of a building permit application for the retaining walls and the Historic District Design Review must receive approval prior to receiving building permit approval.
8. A building permit will be required to build any drives and retaining walls.
9. A final landscape plan and guarantee shall be submitted with the Historic District Design Review for approval by the Planning Department prior to issuance of a building permit for the retaining walls. The landscaping shall be complete prior to issuance of a final certificate of occupancy for the lots within the Alice Claim subdivision. The landscape plan shall provide mitigation of the visual impacts of the retaining walls and mitigation for removal of any existing Significant Vegetation. Prior to removal of any trees, an arborist report shall be provided to the Planning Department for review. The arborist report shall include a recommendation regarding any Significant Vegetation proposed to be removed and appropriate mitigation for replacement vegetation. The guarantee shall address site restoration in the event there is a work stoppage in excess of 180 days, including removing any partially constructed retaining wall(s).
10. The Conditional Use Permit will expire on July 27, 2017, if an extension has not been granted prior to the expiration or a building permit has not been issued.

11. The Planning Department and City Engineer will review any proposed guardrail and lighting considerations at time of final design.
12. The City Engineer must approve any snow storage requirements near the retaining walls prior to building permit approval.
13. This CUP is conditioned upon the Alice Claim Subdivision receiving plat approval and plat recordation. All conditions of approval of the Alice Claim Subdivision Plat must be adhered to.
14. No building permits shall be issued until the Alice Claim Subdivision plat is recorded.
15. If any retaining walls disturb existing mature trees, the trees shall be replaced in kind as close to the original location as possible or with an equivalent number in caliper and size as determined by the City Arborist.
16. The applicant shall submit a Landscape Plan prepared by a licensed landscape architect with the complete plant list showing botanical name, common name, quantity, size and spacing. All plant materials labeled or keyed to the plant list and the quantity for that group shown. The submitted Landscape Plan shall be wet-stamped.
17. The applicant shall submit a letter from the Landscape Architect indicating that the requested trees, plants, vegetation, etc. between the retaining wall can be appropriately be accommodated to ensure a successful life span of each tree, plant, vegetation, etc.
18. The Park City Planning Department will review the submitted Landscape Plan and Landscape Architect Letter and will be responsible of approving prior to receiving any building permit for the retaining wall.
19. Existing Significant Vegetation and mature landscaping shall be preserved per a tree preservation plan completed by a certified arborist and approved by the City prior to issuance of a building permit. Significant Vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4.5') above the ground, groves of smaller trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.
20. The City Engineer must approve of the engineered plans for the walls and utility plan prior to building permit approval;
21. Any substantial changes as determined by the Planning Department to the proposed location or height of retaining walls or site plan of the Alice Claim Subdivision will void this approval and the applicant must amend this CUP application which will require going through the full process (staff review and Planning Commission Review);.
22. The Applicant will need to receive from the Utah Department of Environmental Quality ("UDEQ") under the UDEQ Voluntary Cleanup Program, a final Certificate of Completion for remediated soils within the Applicant's property prior to building permit approval.
23. If a Site Management Plan is required for the UDEQ Certificate of Completion for Alice Claim, the UDEQ approved Site Management Plan must be submitted to the Building Department prior to building permit approval.

## Exhibit BB - Draft Alice Claim Subdivision and Plat Amendment

### Ordinance 16-XX

AN ORDINANCE APPROVING THE ALICE CLAIM PLAT AMENDMENT AND SUBDIVISION PLAT, LOCATED AT THE INTERSECTION OF KING ROAD, RIDGE AVENUE, WOODSIDE GULCH AND SAMPSON AVENUE (APPROXIMATELY), PARK CITY, UTAH.

WHEREAS, the owners of the property known as the Alice Claim Subdivision located at the intersection of King Road, Ridge Avenue, Woodside Gulch and Sampson Avenue (approximately), have petitioned the City Council for approval of the Alice Claim Subdivision plat; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners according to the Land Management Code; and

WHEREAS, the Planning Commission held a public hearing on October 25, 2006, January 28, 2009, February 25, 2009, April 8, 2015, May 27, 2015, June 10, 2015, July 8, 2015, July 22, 2015, August 12, 2015, December 9, 2015, May 25, 2016, July 13, 2016, and July 27, 2016 to receive input on the proposed subdivision;

WHEREAS, on October 8, 2015, October 29, 2015, and \_\_\_\_\_ the City Council held a public hearing on the proposed Alice Claim Subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the proposed Alice Claim Subdivision plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

**SECTION 1. APPROVAL.** The above recitals are hereby incorporated as findings of fact. The Alice Claim Subdivision plat, as shown in Exhibit L, is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

#### **Findings of Fact**

1. The plat is located at the intersection of King Road, Ridge Avenue, Woodside Gulch and Sampson Avenue (approximately), within the Historic Residential (HR-1) and Estate (E) Districts.
2. The proposal includes nine (9) lots on approximately 9.034 acres which will not be allowed to be subdivided further.
3. The property is a "metes and bounds" parcel with contiguous platted lots.

4. A City water tank and land owned by the City is adjacent to the subject property on the south end, and a City-owned parcel bisects the subject property. The City water line does run within the City owned property.
5. The applicant previously undertook a voluntary remediation of the regulated soils on the site, which included soil remediation both in the Alice Claim 8.49 acre portion and within a 1.7 acre portion of the adjoining City property.
6. The property can only be accessed through the platted King Avenue right-of-way as the owner cannot secure legal access through the Woodside Gulch water tank access easement used by the City. The new roadway would require excavation and retaining walls up to and possibly in excess of ten feet (10') in height.
7. The Woodside Gulch stream runs through the property and any changes to the stream will require a Stream Alteration Permit. The Applicant previously applied for this permit and will need to amend their existing Stream Alteration Permit from the US Army Corp of Engineers. Any changes to the stream may also require an amendment to the Voluntary Clean-up Program remediation with the Utah Department of Environmental Quality.
8. The property, which was once the site of the Alice Load Mine, was previously the site of mining activities, which have since undergone recent remediation.
9. A Voluntary Clean Up of the property was initiated by the Applicant.
10. Most of the remainder of the site has mature stands of oak, maple and aspen trees in addition to areas of smaller shrubs and grasses.
11. A culvert for the stream is proposed in order to meet the 50' setback regulations from streams within the Estate District, otherwise the culvert would not be necessary.
12. The applicant has proposed retaining walls in 3 locations up to 10' in height that will be reviewed under a concurrent CUP.
13. This development is located upstream of the FEMA Flood Plain Studies.
14. The applicant does not request any setback reductions from the Planning Commission for the Estate Lot.
15. Water Service is available and as proposed can meet required water pressure to all of the proposed development sites (proposed Lots) within the development. The applicant will be responsible to propose acceptable mitigation should the water model or utility plans be further revised.
16. The utility plan does not show how each of the wet and dry utilities will be able to be placed within the drives with required separations or with special conditions as approved by the proper regulatory agencies and approved by the City Engineer.
17. A Debris Flow Study has not been completed for the stream to determine if a debris basin is required.
18. Existing trails are shown on the plat and granted a public easement.
19. Proposed utilities have not been engineered to meet City Engineer's approval but shall be prior to plat recordation.
20. All roads are proposed over 10% grades and will not be eligible to be converted to public ROWs in the future.
21. Building pads/limits of disturbance are shown in Exhibit L. All other property as open space should be protected by 3<sup>rd</sup> party conservation easement to maintain the land.

22. Applicant does not have an approved Sewer Service Plan. Sewer Service must be designed to service the proposed development sites in accordance with the Snyderville Basin Water Reclamation District's requirements. The applicant will be responsible to determine this with Snyderville Basin Water Reclamation District prior to plat recordation.
23. Proposed drives with utilities that are not private driveways are required to be 20' wide and are shown as such on the plat. The drive grades are proposed to be 14%. Drives must be 10% in order to be eligible to be converted to public ROWs.
24. Public trails are shown on Exhibit L with a 15' public recreational trail easement.
25. The proposed lot within the Estate District is 3.01 acres.
26. The proposed eight (8) proposed lots within the HR-1 District are 5410 square feet each.
27. A geotechnical report has been reviewed by the City Engineer for the overall site but individual geotechnical reports have not been submitted for each lot.
28. The applicant owns other adjoining properties within the Historic Residential Low-Density (HRL) District. Two of these contiguous properties are lots 1 and 2 of the Ridge Avenue Subdivision.
29. The existing encumbered Lots 1-7 and 36-40, Block 77 of the Millsite Reservation will be dedicated to the City as right-of-way upon plat recordation as they current have a road over them.
30. The lots are positioned as proposed to avoid ridgelines and allow for drives that contour with the topography in order to meet the required grades.
31. The existing mine shaft on the property is currently filled as stated on the site plan dated May 18, 2015.
32. The application for the Alice Claim subdivision was deemed "complete" by the Planning Department on May 23, 2005.
33. Between 2006 and 2009, the Planning Commission conducted three (3) work sessions to discuss the project and visited the property during two site visits.
34. On October 8, 2014 the Planning Commission conducted a site visit and work session to discuss the history and 2009 site plan proposed for this project.
35. The Applicant submitted a revised site plan, plat and all required submittals for the subdivision and plat amendment on January 23, 2015.
36. The Planning Commission reviewed the request and held public hearings on April 8, 2015, June 10, 2015, July 8, 2015, and July 22, 2015.
37. During this time consisting of October 2014 and July 2015 the applicant submitted further revisions to the plat to address City concerns as well as to address plat discrepancies.
38. On August 12, 2015 the Planning Commission forwarded a negative recommendation to the City Council.
39. On October 8, 2015 the City Council reviewed the proposal.
40. On October 29, 2015 the applicant submitted an amended site plan which moved the lots closer to the gully. The City Council reviewed that amended site plan and remanded the application back to Planning Commission for their review.
41. The Planning Commission held a work session on December 9, 2015.
42. The Planning Commission held public hearings and reviewed the updated proposal on May 25, 2016, July 13, 2016, and July 27, 2016.

43. In order to ensure all site improvements are made the applicant must either complete all Site Improvements prior to plat recordation, or if that is not possible, provide adequate financial Guarantees for completion, together with a right of entry to the Property to complete that work be granted to the City.

### **Conclusions of Law**

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

### **Conditions of Approval**

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council. If the plat is not recorded within this time period, it shall be null and void and any resubmittal shall be a new application which is subject to all review requirements, zoning restrictions and subdivision regulations at the time of the submittal.
3. Recordation of this plat and completion and approval of final Historic District Design Review (HDDR) and Steep Slope CUP, if required, applications are required prior to building permit issuance for any construction of buildings within this subdivision. Completion and approval of final HDDR applications are required prior to building permit issuance for any construction of retaining walls.
4. The architectural detail, height, building materials, and other design features of the development of the Estate Lot must show compatibility with adjacent properties when reviewed under the HDDR application process and will need to be part of the CC&Rs for the HOA. The applicant must adopt appropriate mitigation measures such as landscaping, screening, illumination standards, and other design features to buffer the adjacent properties from the developable land of the Estate Lot when reviewed under the HDDR application process and will need to be part of the CC&Rs for the HOA.
5. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation.

6. Snow storage of roads and private drives must be addressed and approved by the City Engineer throughout the development prior to plat recordation. Snow storage sites cannot discharge immediately into the stream.
7. Sewer lateral design and service will need to meet Snyderville Basin's requirements and receive written approval by SBWRD before the proposed plat can be signed by SBWRD. If the sewer lateral design requires a substantial change, as determined by the Planning Director, to the layout of this subdivision plat, this approval shall be null and void and an application to amend the Ordinance and plat shall need to be submitted and be reviewed and go through the entire process including internal review, planning commission and city council review.
8. The submitted water model will need to be revised with the submitted updates to the layout and receive written approval from the Water, Building, Engineering and Fire Departments in order for the subdivision to meet water requirements prior to plat recordation. If the water system requires a substantial change, as determined by the Planning Director, to the layout of this subdivision plat, this approval shall be null and void and an application to amend the Ordinance and plat shall need to be submitted and be reviewed and go through the entire process including internal review, planning commission and city council review.
9. There shall not be any further subdivision of any additional lots in this subdivision. A plat note shall reflect this condition.
10. All state requirements must be met, state permits must be obtained and the culvert must be fully installed prior to plat recordation and owned and maintained by the HOA.
11. This development is located upstream of the FEMA Flood Plain Studies. A study shall be completed extending the FEMA Flood Plains through this development prior to plat recordation. Any lots located in a FEMA Zone A will require an Elevation Certificate showing the lowest occupied floor is at or above base flood elevation prior to building permit approval.
12. A Stream Alteration Permit from the State will be required for the culvert along with the Flood Plain Study to identify the culverts upstream and downstream impacts prior to plat recordation. The Stream Alteration Permit and Flood Plain Study must be completed and approved prior to Planning and Engineering approval.
13. The culvert inlet shall be at least 50' away from any structure on Lot 1 and the culvert shall be owned and maintained by the HOA.
14. A Debris Flow Study must be completed prior to plat recordation for the stream to determine if a debris basin is required.
15. Limits of disturbance as shown on Exhibit L shall be clarified on the plat prior to plat recordation to be able to quantify the square footage upon which shall remain in place and no changes shall be made. All other property shall be restricted as open space and/or protected by 3<sup>rd</sup> party conservation easement.
16. The utility plan will need to be revised to show how each of the wet and dry utilities will be able to be placed within the drives with required separations or with special conditions as approved by the proper regulatory agencies and approved by the City Engineer prior to plat recordation.
17. Any roads over 10% grade will not be eligible to be converted to public ROWs in the future.



18. Drives must provide 20 feet wide of clear space to meet Fire Code. If parking impacts this 20 feet wide clear space, it will not be allowed and shall be signed No Parking.
19. Roads less than 26 feet wide shall be marked NO Parking on both sides of the road.
20. The Applicant will need to receive City Council's approval to give them an access over the City's property for Alice Court and where they may cross water lines, storm drainage, sewer, etc. This will need to occur prior to plat recordation.
21. Applicant must still provide recommendations to the City Engineer for which scenario most satisfies turning movements and minimizes conflicts and implement the recommendations prior to plat recordation.
22. The Applicant will need to receive, from the Utah Department of Environmental Quality ("UDEQ") under the UDEQ Voluntary Cleanup Program, a final Certificate of Completion for remediated soils within the Applicant's property prior to building permit approval.
23. If a Site Management Plan is required for the UDEQ Certificate of Completion for Alice Claim, the UDEQ approved Site Management Plan must be submitted to the Building Department prior to building permit approval.
24. The applicant will need to receive CUP approval for the proposed retaining walls over 6' prior to plat recordation.
25. The applicant shall obtain an easement for use of city property for Alice Court drive prior to plat recordation.
26. Public trails are shown with a 15' public recreational trail easement.
27. Any structures built near the existing mine shaft shall be setback at least 10' if the shaft is filled up to the ground surface with soil and/or gravel and 40' setback if the shaft is not filled. The mine shaft shall be shown on the plat and the setback noted.
28. If the site plan is substantially altered, as determined by the Planning Director, due to any utility redesign or retaining wall redesign or other unforeseen issues, this approval shall be null and void and an application to amend the Ordinance and plat shall need to be submitted and be reviewed and go through the entire process including internal review, planning commission and city council review.
29. All Site and Public Improvements shall be completed prior to plat recordation or if the Applicant submits a finalized and engineered design the Applicant may petition the Planning Commission to allow the Applicant to submit an adequate financial Guarantee for all Site and Public Improvements prior to the expiration of the plat approval.
30. City utility maintenance access is required across the drives for Lots A & C.
31. Individual water booster or fire sprinkler system pumps to increase water pressure will not be allowed.
32. Individual geotechnical reports will be required for each lot prior to issuance of a building permit.
33. All mature trees that will be lost due to the subdivision, retaining walls, addition of drives and building pads, shall be approved by the Planning Department and be replaced in kind or with three smaller trees as close to the original location as possible within 1 year of tree removal.

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this \_\_\_ day of \_\_\_\_\_, 2016

PARK CITY MUNICIPAL CORPORATION

\_\_\_\_\_  
Jack Thomas, MAYOR

ATTEST:

\_\_\_\_\_  
Marci Heil, City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
Mark Harrington, City Attorney

## Exhibit CC - Draft Ridge Avenue Plat Amendment Ordinance

### **Ordinance 16-XX**

AN ORDINANCE APPROVING THE RIDGE AVENUE PLAT AMENDMENT,  
LOCATED AT 123 RIDGE AVENUE, PARK CITY, UTAH.

WHEREAS, the owners of the property known as the Alice Claim Subdivision AND 123 Ridge Avenue, have petitioned the City Council for approval of the Ridge Avenue Plat Amendment; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners according to the Land Management Code; and

WHEREAS, the Planning Commission held a public hearing on May 25, 2016, July 13, 2016, and July 27, 2016 to receive input on the proposed subdivision;

WHEREAS, on \_\_\_\_\_ the City Council held a public hearing on the proposed Alice Claim Subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the proposed Alice Claim Subdivision plat.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

**SECTION 1. APPROVAL.** The above recitals are hereby incorporated as findings of fact. The Ridge Avenue Plat Amendment, as shown in Exhibit S, is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

#### **Findings of Fact**

1. The site is located 123 Ridge Avenue.
2. The site is Lot 1 of the Ridge Avenue Subdivision.
3. The site is within the HRL District.
4. The applicant requests that the City review the Ridge Avenue Plat Amendment.
5. The applicant proposes a change to adjust Lot 1.
6. The proposed amendment swaps a 2,057 square foot triangular portion of Lot 1 with corresponding 2,057 square foot triangular portion of Lot 9 and Lot 8 of the proposed Alice Claim Subdivision.
7. There is no increase or reduction in the size of either subdivision.
8. The resulting reconfiguration allows the “squaring up” of these lots.

#### **Conclusions of Law**

5. There is good cause for this subdivision and plat amendment.
6. The subdivision and plat amendment are consistent with the Park City Land Management Code and applicable State law regarding subdivisions and plat amendments.
7. Neither the public nor any person will be materially injured by the subdivision or plat amendment.
8. Approval of the subdivision plat and plat amendment, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

**Conditions of Approval**

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council. If the plat is not recorded within this time period, it shall be null and void and any resubmittal shall be a new application which is subject to all review requirements, zoning restrictions and subdivision regulations at the time of the submittal.

Exhibit DD – July 13, 2016 Planning Commission DRAFT Minutes

1. **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)**
2. **Alice Claim Gully Site Plan, south of intersection of King Road and Ridge Avenue – Alice Claim Subdivision and Plat Amendment. (Application PL-08-00371)**
3. **123 Ridge Avenue, Alice Claim Gully Site Plan property swap - Ridge Avenue Plat Amendment. (Application PL-16-03069)**

The Planning Commission addressed all three items together.

Commissioner Phillips recused himself and left the room.

Planner Astorga reviewed the applications for the Alice Claim subdivision and plat amendment, the Ridge Avenue plat amendment, and the remanded conditional use permit for retaining walls six feet and higher. He noted that Exhibits U through Z were recently updated by the applicant as follows: Exhibit U identified the proposed density and number of lots as presented or explained by the applicant. Exhibit V provided an example of landscaped walls. Exhibit W talked about the negotiations with the neighbor. Exhibit X was the conditional use permit significant vegetation mitigation. Exhibit Y was the applicant’s drafted findings of fact, conclusions of law and conditions of approval for CUP approval. Exhibit Z was the applicant’s drafted ordinance for both plat amendments.

Planner Astorga noted that the Staff report also included the Staff’s analysis of the density. He noted that a public hearing was noticed for all three items and he believed the Planning Commission could take public input on all three at the same time.

Planner Astorga stated that if the Planning Commission chooses to forward a positive recommendation for both the plat amendment and subdivision, the Staff could come back as early as July 27<sup>th</sup> with Findings of Fact, Conclusions of Law and Conditions of Approval. The same procedure would apply to the conditional use permit where the Planning Commission is now officially the land use authority on that conditional use.

Greg Brown with DHM Design, representing the applicant, introduced the other members of their team who were present to answer questions if necessary. Mr. Brown thanked Planner Astorga for his efforts on these applications.

Mr. Brown reported that the applicant has submitted three applications. One was a combined subdivision and plat amendment for 8 lots in the HR-1 zone with a maximum one-tenth of an acre. The maximum footprint for those homes is 1,750. One lot is in the Estate zone and it is clustered very closely to the HR-1 District. The Estate lot has a

maximum of 7,321 square feet of disturbance allowed. They created and platted a disturbance envelope within that Estate lot. Mr. Brown noted that overall they were able to save the majority of the large significant evergreen trees, which will help to screen the view of the homes. Mr. Brown stated that the applicant is proposing public roadway improvements to Sampson Road to assist with off-site traffic concerns.

Mr. Brown reported that the plat amendment is for the HR-L zone District which has existing platted lots. The applicant proposes to dedicate that land to the City with an allowance to do grading, erosion control, and landscape improvement.

Mr. Brown commented on the second application for a condition use permit for three terraced stone veneer soil nailed wall at a maximum of ten feet high. The intersection improvements caused them to extend that wall around the corner, and it will provide significant erosion control on a slope that he would talk about later in his presentation. Mr. Brown stated that the access where they are proposing the three terraced walls is the legal access for Alice Claim on to that site. The applicant was proposing substantial landscape mitigation on the walls.

Mr. Brown stated that the last application was a Ridge Avenue plat amendment for the purpose of adjusting the shape of Lot one, number 123 on the street. There is no change in the plat size for the Ridge Avenue subdivision or the Alice Claim plat.

Mr. Brown remarked that during the Planning Commission meeting on May 26, 2016 they heard positive feedback from the Commissioners on the revised Gully Plan that was presented; however, the Planning Commission also had concerns. Rather than going through the entire presentation that he gave in May, Mr. Brown preferred to spend the time addressing those concerns this evening. Mr. Brown outlined the concerns which related to density and why it was nine lots, the loss of significant vegetation, whether planting could be successfully done between the retaining walls, a request for a visual simulation of what those retaining walls would look like, a question of why the applicant was making improvements on King Road, a question about the negotiations on the existing gravel access road, and questions about construction mitigation.

Mr. Brown commented on the question regarding density and the reason for nine lots. He explained that this project started in 2005 and the Staff report from that time talks about the maximum allowed density of 56 lots, of which 41 were in the HR-1 zone. It was prefaced that site conditions may reduce the density and development must follow the LMC. Mr. Brown believed that the nine lots currently proposed are Code compliant. He noted that in 2008 Joe Tesch wrote a memo talking about vested rights from the 2005 application that was deemed complete. Mr. Brown explained that an underlying zoning sets the maximum number of lots, and the size and location of those lots is based on the LMC and Best Planning Practices. The 9 lots currently proposed are Code compliant and meet the direction provided by Staff and the Planning Commission for Best Planning Practices.

Mr. Brown stated that in January 2009 the applicant received an email from the City's Legal Department stating, "The Staff agrees that the underlying density allows for 9 lots; however, any lots must meet the subdivision and all other criteria of the Land Management Code and the location and potential development impacts need to be approved by the Planning Commission and City Council. The 9 lots currently proposed are Code compliant and meet the direction provided by Staff and Planning Commission for lot locations that minimize development impacts." Mr. Brown stated that an existing City plat that was included in the Staff report, and on that plat there are 12 full and partial lots within the HR-L parcel. There is one metes and bounds parcel. Mr. Brown clarified that he had used the wrong numbers in a letter he wrote to Planner Astorga six weeks ago. He had quoted 14 and 2 and he has since corrected that error. Mr. Brown stated that the HR-L parcel is encumbered by King and Sampson Road, but still has development potential under the existing plat. The applicant has offered to deed that parcel with the lots to the City.

Mr. Brown stated that in the Staff reported for this evening, the density associated with these three areas, excluding the City owned parcel is as follows, assuming that optimal conditions for development exists and that every requirement in the LMC can be met. With that idea in the HR-L, there is a maximum of four lots. In the HR-1 a maximum of 82 lots. There is one lot in the Estate zone.

Mr. Brown noted that during the hearings and work session in 2015 they talked a lot about the HR-1 land use pattern and what it should look like. At that time they had houses further up the hillside, but the Planning Commission felt it was not compatible with the HR-1. The applicant believes that the current plan creates a land use pattern that matches the HR-1 District and many of those areas within the City. They are smaller lots lined on the City street and they are clustered side by side. Mr. Brown believed that fewer lots would not achieve that same pattern. He pointed out that amending the Ridge Avenue subdivision and square out that lot further reinforces the HR-1 pattern.

Mr. Brown stated that density on this site is very low. Eight units are proposed in a cluster of 3.57 acres, which equates to a density of 2.2 dwelling units per acre. Mr. Brown commented on the amount of open space. Within the HR-1 it is 2.69 acres, which is 75% of the HR-1 area. Combining the HR-1 with the Estate zone, 7.85 or approximately 87% is open space.

Mr. Brown talked about equitable considerations. He noted that the voluntary cleanup cost was over \$1 million for this site. The City officials made assurances that a 9 lots subdivision was acceptable. The City was a co-applicant on the cleanup that showed 9 lots. He believed that manifests approval for development 9 lots.

Mr. Brown believed that 9 lots is well within the limits of the underlying zoning, meets the criteria of the Code, matches the HR-1 land use pattern, responds to Staff and Planning Commission concerns for Best Planning Practices, minimizes site disturbance, establishes and protects open space and trails, and it deeds the 12 HR-L lots to the City

and clears title for the existing public roads, King and Sampson, thereby eliminating partial lots in that area.

Mr. Brown commented on the question regarding the loss of significant vegetation. He noted that they would be removing two mature evergreen trees, considered significant vegetation, for the entry road coming into the project. It still leaves 27 large evergreen trees on the site. He stated that the entry road is the legal access Code for this project. Mr. Brown noted that within the Code the Planning Director is authorized to allow mitigation for loss; and there has been precedence for this in the past.

Mr. Brown explained that the proposed mitigation for new landscape is based on the Staff recommendation that they add 20% more trees from what was shown in 2015. That brings the count up to 33 Evergreen trees and 31 deciduous trees, for a total combined minimum 212" of caliper. That would replace the two removed evergreen trees which have a combined caliper of 53". Mr. Brown pointed out that many projects in Park City use a 3:1 ratio. They were proposing a 4:1 ratio of additional trees.

Mr. Brown thought the mine tailing and revegetation should also be a positive consideration because it is a major additional benefit to the community, as well as to the existing vegetation on the site and the water quality coming off of it.

Mr. Brown referred to the concern about successful planting between retaining walls stepping up the hillside. He stated that he has over 30 years of professional experience working in the Rocky Mountain West. He worked on a lot of projects with similar situations and he has been very successful and has seen a lot of successful projects that are planted in these area. The trees will be irrigated and they will bring in special planting soil. They plan to use fir and aspen for drought resistant planting. There would also be shrub planting at the base of those trees. Mr. Brown used the Marsac building as an example of successful planting. He noted that the planting proposed for Alice Claim is a much denser planting and the trees are closer together.

Mr. Brown presented a simulation of what the retaining walls look like. He noted that the simulation showed five years of growth. They would be planting 10-14' high trees in front of those ten foot walls. As those trees grow and fill in, they would substantially screen the visibility of the walls. He noted that the simulation did not show the shrubs that would be planted at the base of the trees, which would help mitigate the base of the wall.

Mr. Brown commented on the retaining wall height. He noted that the current Staff report states that, "The Staff finds that the walls as proposed at 10' are twice in excess of those four to six foot heights typically found within the residential historic district". Mr. Brown stated that during the meeting on July 22<sup>nd</sup>, 2015 they showed 30 photos of walls within the City, many within the residential historic district, that match or exceed what they were proposing for 10 feet walls. Many of those walls do not have any mitigation.



Mr. Brown referred to a question about the road coming into the project at King Road and why the applicant was proposing to improve it. Mr. Brown explained that the City Engineer requested these improvements primarily for King Road traffic. He stated that the primary purpose is that King Road has a 170 degree turn, and larger vehicles need additional space to make that tight turn. This was an opportunity to improve that section of King Road in conjunction with the construction of Alice Court and that entry. Mr. Brown pointed out that it would require additional retaining wall, but that would help resolve the existing erosion and debris flow problem that currently exists. Mr. Brown showed how the retaining wall would come around the corner and come down the slope; retaining the area and allowing for revegetation.

Mr. Brown commented on negotiations with the neighbor who owns the current roadway easement. He noted that at the meeting on May 25<sup>th</sup>, 2015, Ms. Levitan stated that, "There is a gross misrepresentation that the applicant has been negotiating in good faith us. It just hasn't happened. We haven't been involved in any real negotiations of any kind." Mr. Brown stated that the applicant was taken aback by her comment. The facts are that the applicant has made written and verbal offers, and written offers as recently as August of 2015. He noted that these offers were over four times the appraised value of the easement that the applicant obtained in May of last year. Mr. Brown pointed out that there was much more detail regarding this issue on page 194 of the Staff report.

Mr. Brown referred to the question regarding construction mitigation. He stated that there would be specific construction mitigation plans for infrastructure and each of the building permits on this site. Each of those plans will have specific and unique requirements. Mr. Brown remarked that this site has a lot of advantages over most of the lots in the Historic District. It is a large area of land and the adjacent lots can be used for storage and staging. Mr. Brown stated that there is very little through traffic on Alice Court, and materials can be delivered and stored on site. The daily material delivery seen for most sites in the Historic District will not be required for Alice Claim. They would be able to take larger deliveries once or twice a week and store the materials.

Mr. Brown stated that this applicant has a proven record of mitigating construction traffic, not only on this site when they did the cleanup project, but also on single family homes he built throughout the City.

Mr. Brown reiterated that all three applications meet the requirements of the LMC, including subdivision provisions, and they all meet the standards of good cause. Mr. Brown stated that the impacts from walls are reasonably mitigated by tiering, stepping back, adding vegetation, soil nailing and stone veneer.

On behalf of the applicant, Mr. Brown requested that the Planning Commission direct the Staff to prepare findings of fact, conclusions of law and conditions of approval for a positive recommendation for the subdivision and the plat amendments, and approve the CUP.

Chair Strachan opened the public hearing on all three applications.

Carol Sletta, a resident at 135 Sampson, stated that she had sent the Commissioners an email. She did not intend to read the entire email but wanted to highlight the key points. Ms. Sletta wanted to see what the retaining wall would look like at that five point intersection rather than a view from across the canyon. She noted that where the walls are proposed there are existing large evergreens and natural vegetation that naturally take care of erosion without artificial walls. Ms. Sletta stated that that currently that corner is a beautiful Old Town landscape and the proposed retaining walls would take away that landscape. Regarding the erosion issue that occurred with the water line going in, Ms. Sletta noted that she has lived at 135 Sampson since 1980 and that uphill side of King Road/Sampson has always looked that way except in the gutter area where the line was installed. The gravel that was left does erode and wash down on the street, but that is side of the hill has not eroded in her 40 year being a resident. Ms. Sletta commented on the five point intersection being proposed. She did not understand why they would put a stop sign at the top of an uphill road. Widening the street takes away the historic look of Old Town streets. Ms. Sletta wanted to know who makes the decision to change public streets to accommodate a private development project. She asked how much more developments the neighborhood of Sampson Avenue, King Road, Ridge and Upper Norfolk could withstand. Adding 9 more homes would bring an excessive number of vehicles to the neighborhood, especially during construction. After construction there would be additional garbage and recycling pickup. As of now a small truck is used for the pickup, but adding 9 more houses would require more trucks and larger trucks. Ms. Sletta was concerned about night pollution up Woodside Gulch with 9 additional houses. Ms. Sletta asked at what point does CUPs and subdivision developments take precedence over an established, historic Old Town neighborhood.

Tom Gannick, a resident on Daly Avenue, stated that throughout this process he has been trying to address the issue of public safety, particularly in the event of an emergency. With regard to this particular development, the LMC defines good cause as providing public amenities and benefits resolving existing issues and non-conformities, and ultimately furthering the health, safety and welfare of the Park City community. Mr. Gannick stated that the current substandard width of Ridge and King Road as primary access and egress to the Alice Claim development make it impossible for simultaneous passage of vehicles in opposite directions on these roads. They are 12' wide at the narrowest. Mr. Gannick remarked that in the case of an emergency vehicle going up trying to access an emergency, the risk is that the vehicle may not get by and the delayed response ultimately affects the safety of the residents living above Ridge and King Roads. They have a higher risk of loss of property, injury, and loss of life because it would be harder for emergency vehicles to reach them in the case of an emergency. Mr. Gannick tried to find a way to calculate the risk, and in his mail he received a conflagration from the City of Park with the same concern. He stated that the City has to set the rules for development on these substandard roads because there is no emergency access when in fact there is a major problem and everyone is trying to leave in their cars at the same time. Mr. Gannick noted that in previous meetings he cited a

fire in Oakland California that consumed 3,000 houses at an urban wildland interface. 20 houses were built on a substandard road and resulted in the death of 11 people caught in a traffic jam. Mr. Gannick believes the safety of residents living above these substandard roads are impacted negatively and that is not a benefit under the good cause definition of the LMC. Mr. Gannick suggested that the findings of fact, conclusions of law and conditions of approval require the Planning Commission to deny this subdivision at this point in time.

Brooke Hontz, a resident on Daly Avenue, thanked the Commissioners for all they do and for taking the time to listen to the public. She also thanked Planner Astorga for the detailed and linked Staff report. Ms. Hontz referred to page 132 and 133 in the July 13<sup>th</sup> Staff report and noted that the water and sewer issues that were continually raised by the public had finally been addressed in the Staff report. Ms. Hontz believed that at least 10 LMC and Subdivision issues remain outstanding and have not been appropriately addressed, and they were listed in the Staff report in various locations. Ms. Hontz focused her comments on the access and the retaining walls. As she sees it, the Alice Lode parcel requires meeting all aspects of the Land Management Code and subdivision standards to go from one to 9 homes, including compliance with the Streets Master Plan. She pointed out that this document was from 1984, not 1985.

Ms. Hontz noted that people could look at page 148 of the Staff report, which was the site plan; however, she was looking at a copy of the Streets Master Plan, Park City Utah that she was given years ago. On page 2-4 of that document, which the subdivision standard requires that it meets, it says, "The existing right-of-way owned by the City were laid out in a grid system that frequently did not reflect the topography of the area. Where roads were built to conform to the topography they are often outside the dedicated rights-of-way". Ms. Hontz believed there was clear evidence of where the rights-of-way and other platted and unplatted roads exist. "Many of the platted rights-of-way are on ground too steep to allow construction of safe roadways. Park City's long and sometimes harsh winters require that streets be passable when snow covered or icy. In many areas the cost of construction would be very expensive because of the need for extensive regrading and retaining walls. In these instances the platted rights-of-way should be deemed unbuildable and should be retained as pedestrian corridors, fire breaks, open spaces or pocket parks or utility easements. In limited cases the rights-of-way should be sold or traded to provide formal rights-of-way on existing prescriptive easements". Ms. Hontz noted that the document then goes on to detail those rights-of-way. Ms. Hontz stated that the location of the new widened five-way intersection would be confusing. The use of the right-of-way instead of another access, and removal of half of a hillside and the hillside vegetation to access a site in order to increase the density as stated from one to 9, and the impacts of the property, does not meet the standards of good cause. Separately, the retaining walls must be consistent per the CUP standard with scale, mass and circulation, among other requirements, in order to achieve the CUP approval. Ms. Hontz stated that they would be creating the impacts of the retaining walls artificially. They do not need a 14% grade, three-tiered wall structure stretching from a 5-way new intersection all the way up into the project, removing the hillside and vegetation. She noted that the Staff's original analysis

indicates the CUP walls are too tall and do not meet the vegetation requirements. Ms. Hontz pointed out that the walls are no better in design than they were the last time or at any time, because they do not need to exist at all. Further, traffic is indicated as a non-issue on page 138 of the Staff report. She disagreed as traffic and traffic patterns would significantly be changed by the new 14% grade, fifth entrance into a very steep and narrow intersection. Ms. Hontz requested that the Planning Commission utilize the mandatory review requirements to deny the applications and make findings that clearly show that good cause is not established, creating new negative impacts that are completely avoidable.

Jim Doilney stated that he authored the words that Ms. Hontz had read about when the City should give away public rights-of-way. He noted that this project would be impossible if the City did not give away public rights-of-way. There is no public benefit giving up these rights-of-way. Mr. Doilney remarked that he authored those words long before he lived in the neighborhood at 50 Sampson Avenue. Mr. Doilney believed the letter from the applicant starts with an assertion that is simply not true. The letter states that since the application was first filed in 2005, density has been raised and resolved in past work sessions and hearings with the Planning Commission, and also with the City's Legal Department. Mr. Doilney could not see how that was possible because it could not happen unless there was a vote and an approval by the Planning Commission. He believed that those types of assertions were misleading. He pointed out that there is no right to 9 lots and it is a presumption of everything that goes on in this application. Mr. Doilney stated that those lots are not buildable unless they are replatted. The applicant has a right to what is buildable. There is no right to unbuildable platted density. He pointed out that no City hearings or approvals occurred and; therefore, there was no granting of 9 lots or a consensus opinion. It could not be done. Mr. Doilney remarked that this approval would constitute a granting of density increases beyond what is buildable under current platting. Were this to be approved by the City Council following a positive recommendation by the Planning Commission, Mr. Doilney believed it would be depicted as a pro-growth vote because it is granting density that could otherwise not be achievable unless the City gave away land and replatted to accommodate that growth. Mr. Doilney requested that the Planning Commission forward a negative recommendation.

Tom Bennett stated that he is an attorney representing Sherry Levitan and Lee Guerstein, the property owners at 135 Ridge Avenue. Mr. Bennett recalled that the last time he attended a meeting was a year ago the biggest issue was the access issue. He failed to see how anything has been done to resolve the access issue. The biggest problem is that several roads come in at the same location. They are all steep and there is a big curve. By its nature it is a hugely dangerous intersection. Mr. Bennett noted that there were some provisions in the Code that were not addressed in the Staff report. He suggested that there may be compliance, but there was no way to know that because it had not been addressed.

Mr. Bennett stated that the first was from Code provision 15-7.3.4, Road Requirements and Design, subparagraph G1 and 2. G1 says no more than two streets shall intersect

at any one point unless specifically approved by the Planning Commission. He understood that the Planning Commission has the authority to grant it, but clearly there was a negative implication. Mr. Bennett stated that G2 says proposed new intersections along one side of an existing street shall, wherever practical, coincide with any existing intersections on the opposite side of the street. Mr. Bennett noted that the biggest problem is that it does not coincide with the intersection on the other side of the street if they use the proposed access. Mr. Bennett indicated that further language says that street jogs with center line offsets of less than 150 feet shall not be permitted. Mr. Bennett was unsure of the exact distance between the center line of those two roads, but at the very least it should be examined and addressed in the Staff report. Mr. Bennett noted that subparagraph 4 talks about in hilly or rolling areas at the approach to an intersection a leveling area shall be provided having not greater than 2% slope having not greater than 2% slope for a distance of 60 feet. He recognized that this was easier to comply with, but it needed to be addressed by Staff and the Planning Commission.

Mr. Bennett thought Brooke Hontz raised a very interesting question about the use of the platted right-of-way. There is an assumption that the platted right-of-way can be used for a street; however, he was not convinced that was the case. This is an usual situation where there was a historically platted road, but the actual road contours off to the west. Mr. Bennett stated that once the road gets built outside of the platted right-of-way and exists there over a significant period of time, he was not sure they could come back in and grab another piece that was never built and use it. He believed that question needed to be examined closely in more detail.

Mr. Bennett commented on the concern that the Levitan-Guerstein property potentially gets left as an isolated island. One of the provisions in the Code prohibits a lot from having frontage on, on two, on two streets unless it's a corner lot. He stated that potentially the home of Ms. Levitan and Mr. Guerstein could be surrounded by three streets. There is a platted street immediately to the west of Ms. Levitan's property that has not been built, but it does access historic lots that have not been developed. If that road, which runs along the ridge to the west of her home were to be built, she would be surrounded on three directions with roads. He believed this would violate Section 15.7.3.3, subsection E of the LMC, "Lot fronting two streets, except a corner lot, shall be avoided". Mr. Bennett was surprised that the issue of negotiations between the applicant and Ms. Levitan and Mr. Guerstein were part of this discussion, and thought it was inappropriate for them to be part of this discussion. They have had negotiations since 2008 but they have not been able to reach an acceptable agreement. Mr. Bennett understood why there was a rebuttal, but there should not be any implication whatsoever that Ms. Levitan and Mr. Guerstein are unwilling to negotiate and cut a fair deal.

Mr. Bennett noted that page 134 of the Staff had an interesting comment. "One must understand that the entire site contains various challenges including but not limited to access, slope, ridgeline protection, and that the numbers provided above having to do with lot size and numbers of lots are not vested or entitled as the entire estate and HR-1

areas required subdivision approval. Development over the HR-L area requires plat amendment approval as not one lot of record currently meets the minimum lot area of that District". Mr. Bennett believed it was odd that the Staff acknowledged that there were problems that had not been addressed, but they were willing to move ahead with consideration of plat approval, and the CUP to enable that consideration. Mr. Bennett argued that if there were that many problems with the project they should be resolved before this moves forward. Mr. Bennett recognized that it could be difficult from a legal standpoint to deny a conditional use permit. However, it can be denied if the Planning Commission concludes that there are not reasonable mitigation steps that can be taken to mitigate a negative impact. Mr. Bennett clearly believed the proposed retaining walls were a negative impact, and he questioned whether the impacts could be mitigated. Mr. Bennett was not convinced that there should be a presumption that a conditional use permit is appropriate. He urged the Planning Commission to deny or issue an unfavorable recommendation with respect to these applications.

Peter Marth, a resident at 27 Hillside, stated that his living room looks across the gully at Sampson Avenue and King Road. He walks through this property once or twice a week and he was trying to understand and visualize development in that area. He recognized that it was a difficult situation and he was unsure whether precedent has been set for a subdivision in upper Old Town that expands the boundaries of upper Old Town. Mr. Marth had concerns about that and the density being proposed. While he appreciated the applicant's work to clean up the area, he would like to see a smaller project that might open up the possibility for negotiations in that easement and eliminate the retaining walls. Understanding the applicant's right to build, he had a hard time accepting the size and scale and the volume and mass of what was being proposed. Mr. Marth believed more deliberation was needed between the applicant, the easement holders, and the City to come to some resolution for appropriate development.

Sherry Levitan addressed the negotiation issue. Their lawyer, Mark Gaylord sent a letter on July 7<sup>th</sup>. If the Planning Commission had any questions she believed the letter would shed some light on what has transpired.

Chair Strachan closed the public hearing.

Commissioner Joyce stated that he started this process very negative towards the project. However, the applicant has revised the plan to address his concerns and he now supported the project. Commissioner Joyce noted that people keep saying that one lot should not be divided into 9 lots, but that is a City Council decision. He pointed out that the County Council has done things to explicitly freeze density and not expand beyond what has already been allocated. Commissioner Joyce stated that he has spoken informally with the City Council but there is no evidence that the City would take that step. He was not comfortable as a Planning Commissioner overriding the City Council. He understood the public's desire, and if they truly believe the existing density should be frozen they need to take that issue to the City Council. Commissioner Joyce commented on why he believes that sometimes good cause is a weak excuse for allowing development. He noted that in public comment people have questioned why

the City would allow this development in such a beautiful area. He reminded everyone what this area looked like before this applicant spent a million dollars cleaning it up. In his opinion, that is legitimate good cause, along with fixing the mine, and giving land to the City to fix a disastrous intersection. Commissioner Joyce pointed out that people complain that the road is too narrow for fire trucks to pass, but when someone offers to widen the road they object to it. They cannot have it both ways. Commissioner Joyce clarified that when the applicant first presented plans to put nine houses on the hillside with steep slopes he could not support it. The applicant heard their concerns and did a good job doing what was asked of them. Commissioner Joyce commented on the comments regarding traffic. He is not a traffic expert but the City Engineer spoke to the Planning Commission a number of times and answered all their questions regarding traffic impacts and the overall rating of the road. The City Engineer believes that fixing the intersection would actually make it safer. Commissioner Joyce would not argue with the City Engineer since he does not have that expertise. Commissioner Joyce commented on the 30' retaining wall. He noted that the Planning Commission asked the applicant to break up the retaining wall and they broke it into 10' sections. They asked them to over-vegetate the wall and they complied. The Commissioners were concerned about the sewer lines going along the base of the wall and having to push back further into the hill, and the applicant soil nailed it to address that concern. In his time on the Planning Commission, Commissioner Joyce could not recall giving this level of scrutiny to any other projects, and he did not believe this applicant should be held to a different level than anyone else. Commissioner Joyce thought the retaining wall was the largest piece, and the proposed condition gives the Planning Department the ability to approve a certified landscape plan that would be inspected at some point. He favored that condition and believed it help alleviate some of the concerns about trying to mitigate the wall.

Commissioner Band agreed with many of Commissioner Joyce's comments. She stated that after many meetings the Commissioner asked the applicant to come back with the Gully Plan and they complied. She believed the City has been talking about the nine lots all along and she did not think it was fair at this point to question it. They have been moving forward with nine lots and she thought it was fair. Commissioner Band agreed that the applicant has made every attempt to do whatever they've been asked to do. Commissioner Band had visited the City's retaining wall that was shown on page 193 of the Staff report and she measured between the walls. One is 9'10" and another section is 7' wide. The trees are thriving and she did not think it looked bad. Commissioner Band stated that her biggest concern has always been the substandard roads and safety. However, at some point they need to defer to the City Engineer and he has approved the plan. She noted that they did get cleanup, they will get dedicated land and a large amount of open space. She would still prefer access across the easement if it would be negotiated because it would make for a better plan. Commissioner Band understood how the people who live in Old Town feel about this, but this is a reasonable plan and the applicant came to the table with everything the Planning Commission asked.

Commissioner Suesser still had concerns with this project. Being the newest Planning Commissioner and newer to this project she had not had the opportunity to look at this project as long and as closely as the other Commissioners. Her primary concern was that they were not looking at the various steep slope conditions for the subdivision. She felt they were kicking the can on that aspect of the approval to the CUPs for the homes to be built. Commissioner Suesser was concerned that the very steep slope conditions of this area may not comply with the subdivision approval under the Land Management Code. She also had concerns about the impact of that retaining wall and whether it could be fully mitigated. Commissioner Suesser had a remaining concern about the platted right-of-way being used for a street. She was not fully convinced that this projects was ready for approval.

Commissioner Campbell agreed that it would be nice if the applicant could negotiate the easement with the neighbors. At this point he did not believe those negotiations were not possible. Commissioner Campbell hoped that if the Planning Commission sends a positive recommendation to the City Council that it might encourage the applicant and the property owner to negotiate and come up with something that is better for the entire neighborhood. Commissioner Campbell stated that in his 2-1/2 years on the Planning Commission this is the most collaborative project he has seen. The applicant comes back each time with the revisions that the Planning Commission requested. It was impossible to maintain the ability to ask people to make changes if they reject this applicant after they revised the project as requested. Commissioner Campbell supported the project.

Chair Strachan stated that while he did not necessarily agreed with the density determination of 9 units, he has been on the Planning Commission long enough to be overturned several times by both the City Council and the courts when they try to limit something due to light pollution, emergency access or any other reasons raised by the public. In such a pro-property rights State it cannot be done. He found it to be a sad situation but true. He wished it were different, but for the purposes of getting a project to be as good as it could possibly be, this was as close as they would get. Chair Strachan thought the impacts had been mitigated to some extent. It was looking like a 3-1 vote and he was not going to fight it at this point. Chair Strachan believed the access point was still the sticking point. He agreed with Mr. Bennett that denying a CUP in Utah is incredibly difficult to do because in this State it is build, build, build all the time. Chair Strachan pointed out that as the Chairman he would not be voting.

Planner Astorga requested that the Planning Commission continue these items to the July 27<sup>th</sup> meeting where based on their direction the Staff would draft findings, conclusions and conditions for approval.

**MOTION:** Commissioner Joyce moved to CONTINUE the three applications for the Alice Claim; the CUP for the wall, the plat amendment, and the subdivision plat, to July 27<sup>th</sup>, 2016, and to direct the Staff to prepare Findings of Fact, Conclusions of Law and Conditions of Approval for a positive recommendation. Commissioner Band seconded the motion.



April 29, 2016

Via [fastorga@parkcity.org](mailto:fastorga@parkcity.org)

Francisco Astorga  
Park City Planning Department  
445 Marsac Ave  
Park City, UT 84060

***Re: Alice Claim Applications for Subdivision, Plat Amendment, and Conditional Use Permit***

Dear Mr. Astorga:

In response to concerns raised by the Planning Commission during the April 8<sup>th</sup> 2015 public hearing questioning the 'build-ability' of the site for the development plan specific to the LMC. Title 15 of the LMC, Chapter 7.3 – "Requirements for Improvements, Reservations, and Design" specifies the potential site hazards that could not allow approval of a development plan. That section reads:

(D) **RESTRICTIONS DUE TO CHARACTER OF THE LAND**. Land which the Planning Commission finds to be unsuitable for Subdivision or Development due to flooding, improper drainage, Steep Slopes, rock formations, Physical Mine Hazards, potentially toxic wastes, adverse earth formations or topography, wetlands, geologic hazards, utility easements, or other features, including ridge lines, which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the Subdivision and/or its surrounding Areas, shall not be subdivided or developed unless adequate methods are formulated by the Developer and approved by the Planning Commission, upon recommendation of a qualified engineer, to solve the problems created by the unsuitable land conditions. The burden of the proof shall lie with the Developer. Such land shall be set aside or reserved for Uses as shall not involve such a danger.

Set forth below is King Development's response to each of the hazards listed above in the LMC. Some items have been previously noted by Staff as potential hazards and have already been addressed for future verification in the Conditions of Approval.

**-Flooding: No Flooding**

FEMA mapping does not show flood hazard on the site. The Applicant's Engineer does not believe there is a flood hazard on this site. No flooding has been reported or seen in this location.

The applicant has agreed to a study extending the FEMA Flood Plains through this development prior to plat recordation. Any lots located in a FEMA Zone A will require an Elevation Certificate showing the lowest occupied floor is at or above base flood elevation prior to building permit approval. The Applicant accepts and expects to satisfy this condition.

## **-Improper Drainage: Drainage is correct**

See attached memo by Stantec titled Alice Claim Drainage Narrative. The site currently drains down into the reconstructed (as part of the remediation project) channel that runs south to north through the site. That channel carries small volumes of spring runoff and the drainage from the site and the small basin above the site. Minor drainage alterations are proposed to accommodate site development, but generally proposed site drainage remains consistent with existing conditions. A portion of the existing drainage channel will be carried in a culvert pipe as shown on the Engineering Plans prepared by Stantec Engineers.

The Applicant has agreed to prepare a "Debris Flow Study" to be completed for the stream to determine if a debris basin is required.

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

## **-Slopes: No Issues were identified that would prohibit development**

This item is addressed in the Geotechnical report which states: Active landslides were not identified in the office studies or during the field reconnaissance completed for the project. While each specific site was not addressed, the site as a whole was inspected and soil borings and sampling were taken. It is more appropriate to address specific site issues unique to each lot and mitigation of those issues, which may vary depending on the house design, after plat approval.

The Applicant suggests that a Geotechnical Engineer review each home design and site prior to issuance of a building permit by the City to determine if any additional measures and/or mitigation are needed.

## **-Rock Formations: No Development is proposed below rock outcrops**

This item is addressed in the Geotechnical report that cautions development below rock outcrops. A small rock outcrop is located on this site within the Estate Lot, but on the other side of the gully from the proposed home site. We do not believe there is any instability and/or risk from this outcrop; however, there will be no development below this outcrop. A Geotechnical Engineer will review each home site development prior to and during construction to determine if there are any specific measures and/or mitigation needed.

## **-Mine Hazards: Have all been addressed**

This item is addressed in the 2006 Geotechnical Report which recommends filling of the mine shaft as well as the follow up report from AGEC dated Dec 13, 2006, which outlines procedures for safely filling the mine shaft. The mine shaft was subsequently filled and compacted during the site remediation project in 2008 and is included in the mitigation report. As recommended by the AGEC report, home sites will be setback a minimum 10' from the mine shaft. All other mine related hazards were remediated in 2008.

## **-Potentially Toxic Wastes: Have all been addressed**

In 2008, the Applicant's property, and the City's property that bisects the project site, was remediated in the VCP to levels necessary for the proposed residential subdivision. Alice Claim investigation and cleanup activities are being completed under the Utah Division of Environmental Response and Remediation Voluntary Cleanup

# DHM DESIGN

Program. Mitigation of mine impacted soil was completed from July 2008 through September 2008 primarily by removal and proper disposal.

**-Adverse Earth Formations or Topography: We do not believe exists.**

The Geotechnical Report identifies "Surface Fault Rupture" and "Liquefaction" as two additional hazards for some developments but concludes that the conditions do not exist for either of these hazards.

The geo-tech report for each home will review these issues as well as evaluate avalanche potential and develop appropriate design impact pressures for structures.

**-Wetlands There are none**

In 2006, as part of the Stream Alteration Permit, the U.S. Army Corps of Engineers issued an email dated July 25, 2006 confirming that there are no wetlands onsite and that a wetland delineation is not required.

**-Geologic Hazards; Have been identified and accounted for by planned subdivision**

This item is addressed in the specific items above. The Engineering Geology and Geotechnical Engineering Report prepared by AMEC dated October 21, 2014 reviews many of the specific items listed above and provides guidance for construction specifications to address any potential concerns.

**-Utility Easements: All Accounted for**

All existing and proposed utility and access easements are included on the Plat that will be reviewed by the City Engineer in its final format prior to recordation. The City Engineer has not provided any negative reviews of the proposed easements.

**-Ridgelines: No Development on Ridgelines**

The City's Ridgeline Map indicates that there are no ridgelines within the property as defined by the Land Management Code. All homes have been moved to the bottom of the gully.

Thank you for your consideration on this item.

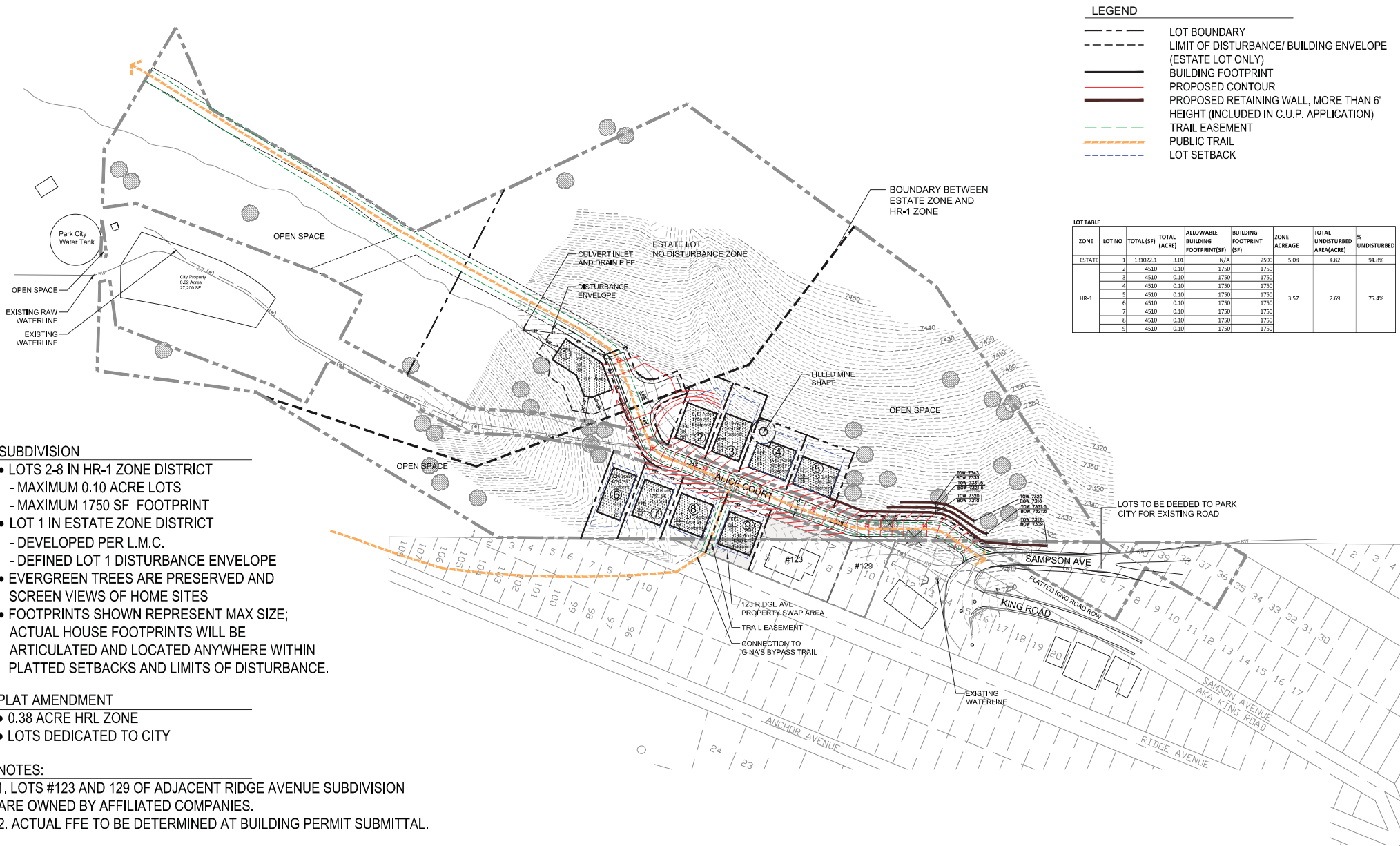
Respectfully,

DHM Design Corporation



Marc Diemer

Associate Principal



**SUBDIVISION**

- LOTS 2-8 IN HR-1 ZONE DISTRICT
  - MAXIMUM 0.10 ACRE LOTS
  - MAXIMUM 1750 SF FOOTPRINT
- LOT 1 IN ESTATE ZONE DISTRICT
  - DEVELOPED PER L.M.C.
  - DEFINED LOT 1 DISTURBANCE ENVELOPE
- EVERGREEN TREES ARE PRESERVED AND SCREEN VIEWS OF HOME SITES
- FOOTPRINTS SHOWN REPRESENT MAX SIZE; ACTUAL HOUSE FOOTPRINTS WILL BE ARTICULATED AND LOCATED ANYWHERE WITHIN PLATTED SETBACKS AND LIMITS OF DISTURBANCE.

**PLAT AMENDMENT**

- 0.38 ACRE HRL ZONE
- LOTS DEDICATED TO CITY

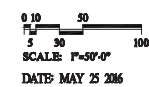
**NOTES:**

1. LOTS #123 AND 129 OF ADJACENT RIDGE AVENUE SUBDIVISION ARE OWNED BY AFFILIATED COMPANIES.
2. ACTUAL FFE TO BE DETERMINED AT BUILDING PERMIT SUBMITTAL.

**ALICE CLAIM**

**GULLY SITE PLAN**

KING DEVELOPMENT GROUP, LLC  
 P.O. BOX 244  
 PARK CITY, UTAH 84060

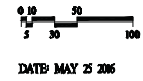




# ALICE CLAIM

## PANORAMIC PHOTO KEY PLAN

KING DEVELOPMENT GROUP, LLC  
P.O. BOX 244  
PARK CITY, UTAH 84060



DATE: MAY 25 2016





NORTH



SOUTH

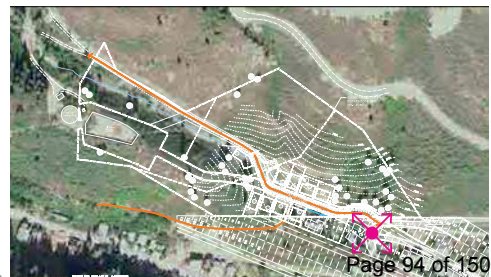


EAST



WEST

**LOCATION 1**  
VIEWS OF EXISTING PROPERTY





NORTH



SOUTH

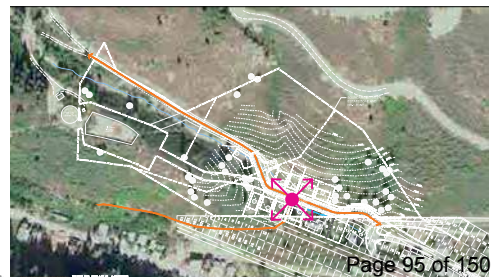


EAST



WEST

**LOCATION 2**  
VIEWS OF EXISTING PROPERTY





NORTH



SOUTH

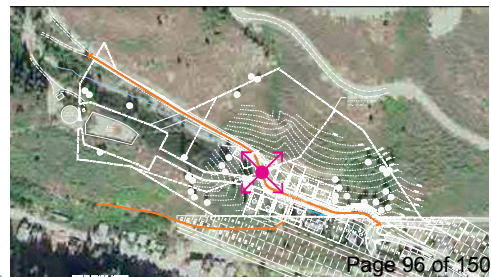


EAST



WEST

### LOCATION 3 VIEWS OF EXISTING PROPERTY







**Stantec Consulting Services Inc.**  
3995 South 700 East Suite 300, Salt Lake City UT 84107-2540

April 26, 2016  
File: 205303057

Marc Diemer, PLA  
DHM Design  
311 Main Street, Suite 102  
Carbondale, CO 81623

**Reference: Engineering Review of Proposed Alice Claim Site Plan Modifications – “Gully” Plan**

Dear Mr. Diemer,

The purpose of this letter is to provide engineering commentary related to the Proposed Alice Claim Plan currently in review by Park City staff. The plan is also known as the “Gully” plan. The following discusses the engineering improvements associated with the Gully plan:

**WATER PRESSURE**

Based on our analysis, the proposed water system now far exceeds the requirements laid out by the state for public drinking water systems. The Gully plan lowers the highest elevation lots significantly and removes the dead end water mains from the layout. The minimum expected pressures exceed the state required minimum pressures by 20-30 psi for all required modeling scenarios. Based on the findings in the *Alice Claim – Water Distribution Model*, dated February 19, 2016, water pressure is no longer an issue for the Alice Claim development

**STORM DRAINAGE**

The on-site drainage patterns will be roughly the same as the previous drainage concept prepared by Stantec. Detention is proposed for the storm water system as well as conveyance of Woodside Gulch flows. Under the Gully plan, total hardscape is reduced with the proposed plan based on less roadway and smaller proposed footprints.

**RETAINING WALLS**

The Gully plan further removes retaining walls from the proposed project. This reduction in the total retaining wall length and surface area is a direct result of the removal of the upper dead end lot shown on previous site plans.

Please let me know if you have any questions.

Regards,

**STANTEC CONSULTING SERVICES INC.**

  
Peter Duberow, PE  
Senior Associate

cc. Brad Cahoon, Snell & Wilmer L.L.P.  
Greg Brown, DHM Design

- LEGEND**
- LOT BOUNDARY
  - - - - - LIMIT OF DISTURBANCE/ BUILDING ENVELOPE (ESTATE LOT ONLY)
  - BUILDING FOOTPRINT
  - PROPOSED RETAINING WALL (INCLUDED IN C.U.P. APPLICATION)
  - LANDSCAPE RETAINING WALL (DO NOT REQUIRE C.U.P.)
  - - - - - PUBLIC TRAIL ACCESS
  - TRAIL EASEMENT
  - HR1: OPEN SPACE
  - HRL: OPEN SPACE
  - NO DISTURBANCE ZONE WITHIN ESTATE LOT BOUNDARIES
  - CITY PROPERTY



	ACRES	OPEN SPACE (ACRES)	% OPEN SPACE
ENTIRE SITE	9.03	7.853	86.97%

ZONE	ACRES	OPEN SPACE (ACRES)	% OPEN SPACE
HR1	3.57	2.69	75.35%
HRL	0.38	0.343	90.26%

ZONE	ACRES	NO DISTURBANCE/ OPEN SPACE (ACRES)	% NO DISTURBANCE /OPEN SPACE
ESTATE	5.08	4.82	94.88%

# ALICE CLAIM

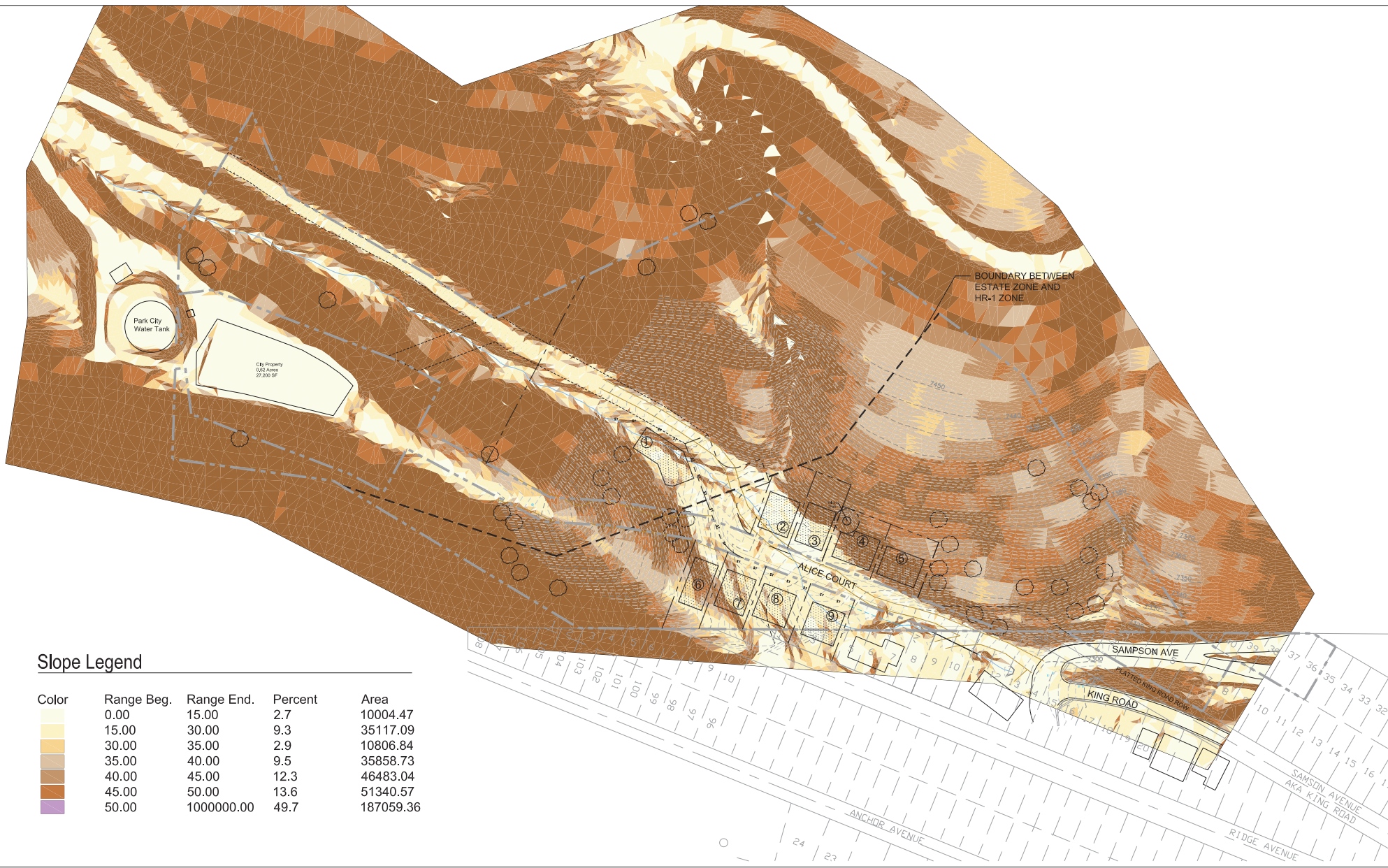
## OPEN SPACE AND TRAILS PLAN

KING DEVELOPMENT GROUP, LLC  
 P.O. BOX 244  
 PARK CITY, UTAH 84060



0 10 50  
 5 30 100  
 SCALE: 1"=50'-0"  
 DATE: MAY 25 2016





Slope Legend

Color	Range Beg.	Range End.	Percent	Area
	0.00	15.00	2.7	10004.47
	15.00	30.00	9.3	35117.09
	30.00	35.00	2.9	10806.84
	35.00	40.00	9.5	35858.73
	40.00	45.00	12.3	46483.04
	45.00	50.00	13.6	51340.57
	50.00	1000000.00	49.7	187059.36

# ALICE CLAIM

## SLOPE ANALYSIS

KING DEVELOPMENT GROUP, LLC  
 P.O. BOX 244  
 PARK CITY, UTAH 84060



0 10 50  
 5 30 100  
 SCALE: 1"=50'-0"  
 DATE: FEBRUARY 09 2016





- LEGEND**
- ① Disturbed Areas
  - ② Large Fir Trees, Grasses and Forbs
  - ③ Heavy Scrub Oak
  - ④ Grasses and Forbs
  - Existing Coniferous Tree

**ALICE CLAIM**

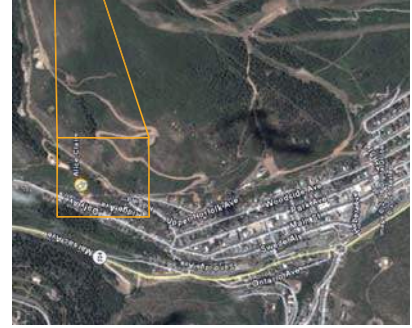
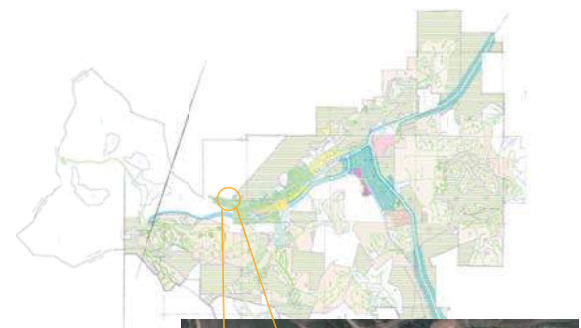
**VEGETATIVE COVER**

KING DEVELOPMENT GROUP, LLC  
 P.O. BOX 244  
 PARK CITY, UTAH 84060



0 10 50  
 5 30 100  
 SCALE: 1"=50'-0"  
 DATE: FEBRUARY 09 2016





VICINITY MAP NOT TO SCALE

**TOTAL PROPERTY ACREAGE**

ZONE	LOT NO	ACREAGE
HRL	0.38	
HR 1	3.57	
FSTATE	5.08	
<b>TOTAL</b>	<b>9.03</b>	

# ALICE CLAIM

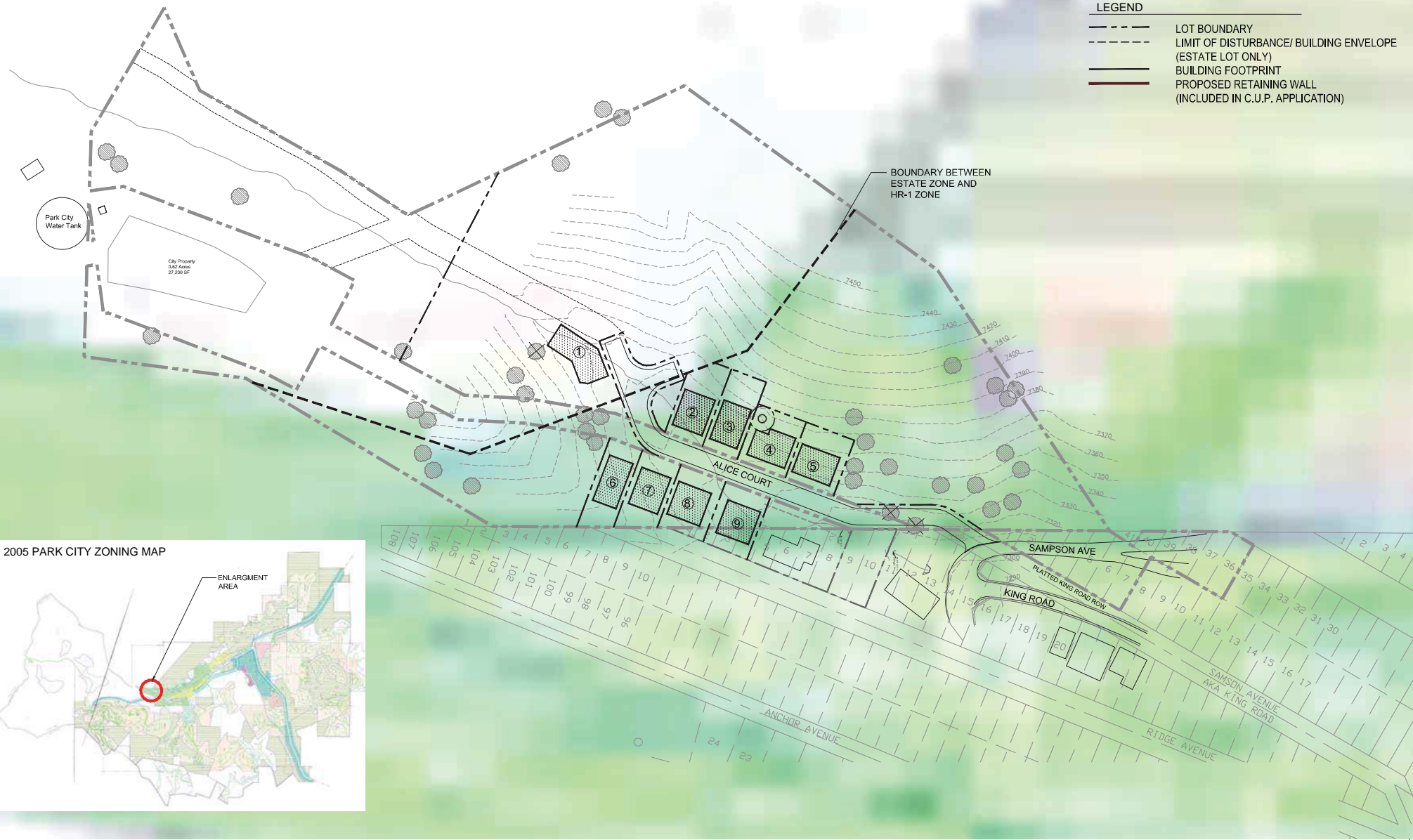
## VICINITY & ZONING MAP

KING DEVELOPMENT GROUP, LLC  
 P.O. BOX 244  
 PARK CITY, UTAH 84060



0 10 50  
 5 30 100  
 SCALE: 1"=50'-0"  
 DATE: FEBRUARY 09 2016





# ALICE CLAIM

## SITE PLAN WITH ZONING MAP

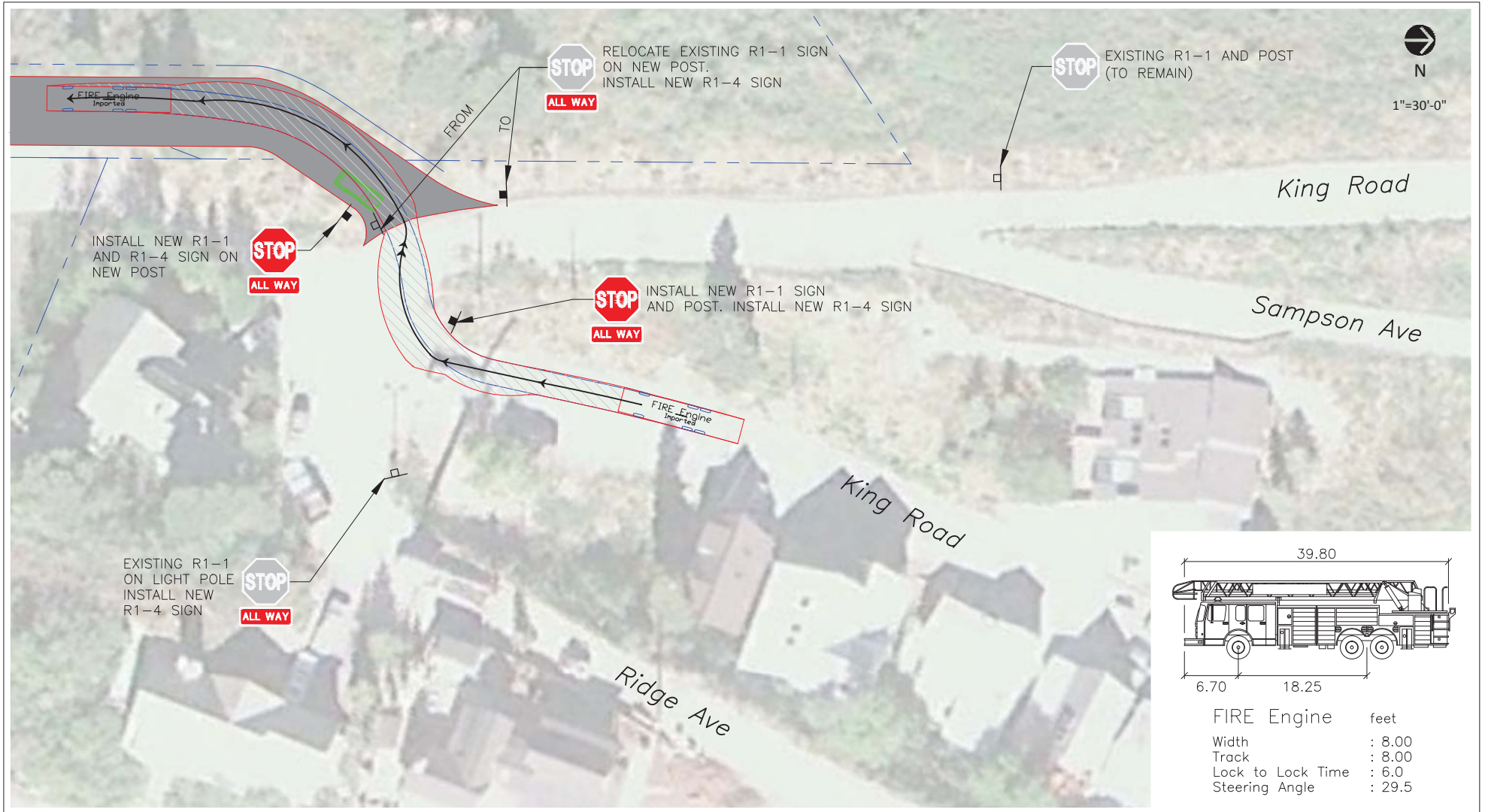
KING DEVELOPMENT GROUP, LLC  
 P.O. BOX 244  
 PARK CITY, UTAH 84060



0 10 50  
 5 30 100  
 SCALE: 1"=50'-0"  
 DATE: MAY 25 2016



Exhibit J



February 19, 2016

**Alice Claim (aka Alice Lode) Amended Subdivision & Plat Amendment Applications**  
**Project Description and Comparison to Previously Proposed Plans**

---

The Applicant, King Development Group, LLC, requests that the City Staff and Planning Commission review a modified development proposal for the Alice Claim property that has been coined the “Gully Plan.” In the December work session with Planning Commission, the Gully Plan illustrated how all the lots have been relocated to the bottom of the gully comprising the predominate landform of the Alice Claim.

The Gully Plan is for approval of a nine (9) residential lot Preliminary and Final Subdivision Plat on 8.65 acres and for a Plat Amendment on 0.38 acres, located at approximately the intersection of King Road and Sampson Avenue within the City’s Historic Residential Low Density (HRL), Historic Residential (HR-1) and Estate (E) Zone Districts. In addition, the Gully Plan proposes to amend the existing Ridge Avenue Subdivision to “square up” lot 1 (#123) of that subdivision and provide a land swap. The resulting land pattern is much more compatible with the pattern found throughout the historic districts in the City providing good cause for both subdivisions.

The Gully Plan proposes Lots 2-8 that are clustered within a very small portion of the HR-1 District area of the site, each 0.10 acres in size (reduced from 0.19 acres), and each restricted to a maximum 1,750 SF building footprint (reduced from 2,500 SF). Proposed Lot 1 in Alice Claim is within the Estate District, is 3 acres in size, will have a disturbance area of approximately 0.15 acres, has been moved down into the bottom of the gully, and is clustered closer to the other Lots 2-8 within the HR-1 District. The proposed location of the 9 home sites has resulted from input from City Staff and the Planning Commission over 11 years of discussion, nine work sessions, and five public hearings.

The Gully Plan preserves several existing large evergreen trees, moves home sites down into the bottom of the gully, clusters the home sites closely together, reduces the amount of disturbance within the 9 acres, maximizes the open space within the 9 acres, provides trail access, places the lots on less steep areas, and makes the lots compatible with the surrounding neighborhood.

Regarding the Estate Lot 1 building envelope, the applicant has relocated this to a lower, flatter location than shown in previous site plan submittals in response to feedback received from the Planning Staff and Planning Commission. The home site also has been shifted from the location shown at the December 2015 work session away from a large evergreen tree and more congruent with the Lots 2-8 in the HR-1 zone.



Each of the proposed home sites has been remediated with removal and capping of hazardous mine tailings that once polluted Alice Claim, including the City's parcel bisecting Alice Claim. That remediation project was a very successful public/private partnership between the Applicant and the City that cleaned up a heavily contaminated brownfield site for Park City. The City joined as co-applicant with King Development into the State Voluntary Cleanup Agreement, which was based on a nine home development plan consistent with the Gully Plan and had home sites located much farther up the hillside. In exchange, King Development funded 100% of the approximately \$1 million in cleanup costs for not only its land but the City's parcel as well, which had the highest levels of contamination. The joint cleanup has resulted in land that is now ready for the nine home residential development that will financially reimburse the cleanup effort. These Gully Plan home locations are within the area remediated by King Development.

Vehicular access to the property is via the existing platted King Road right of way, which provides legal access to the property. The access road then aligns onto the existing City property along the existing gravel road that then crosses an easement over Applicant's property to the water tank. This road is currently constructed at approximately 14% grade and will be improved within the subdivision with asphalt paving at the same gradient with a maximum of 14% slope. Access to all lots, and to re-platted lot 1 of the Ridge Avenue Subdivision, will be from this road. A 'hammerhead' turn-around designed for emergency vehicles is proposed across from lot 1 of Alice Claim. A modified Conditional Use Permit (CUP) has been requested for the access road retaining walls at the entrance of the property because the three walls are greater than 6' in height. The walls have been stepped back in increments of maximum 10' tall walls with extensive landscape planting proposed between each wall. The walls will be stone veneered as well. A technique using "soil nails" will be used to minimize construction impacts of the walls while also eliminating the need for an extensive footing.

The Applicant has offered to dedicate to the City the 0.38 acre of platted City lots (13 partial or full lots) within the HRL District that contains the existing King Road and potentially developable land. In addition, the Applicant has agreed to work with the City Engineer to make improvements to the existing intersection and potentially using Applicant's land for the same. The Applicant's traffic engineer has demonstrated that the addition of 9 homes in this area has negligible traffic impact. The City Engineer has confirmed this.

As part of the cleanup project, the drainage channel that runs through the site and carries seasonal run off was completely relocated and reconstructed as a rip rap channel. That channel will be piped and relocated beyond 50' from the lot 1 home.

Utility services are located near the entry point to the community and are easily extended onto the site. The Applicant's engineer has studied the projected water pressure to all home sites in the previous plans in

detail and found that all lots will have adequate pressure for domestic use and fire suppression. The newly proposed Gully Plan lowers the homes, some by as much as 70' in elevation, further improving water pressure to the homes. The Applicant's engineer continues to work with the City Engineer to assure utilities for the Alice Claim subdivision will not conflict with the new City water line in accordance with the City standards.

The site is currently used by recreation enthusiasts to access several recreational trails. Access to these trails will be allowed to continue across Alice Claim and enhanced with trail signage and trailhead markers. Additionally, large portions of the site will be platted as open space or no disturbance areas, and prohibited for development. Within the HR-1 zone district, 2.69 acres of land will be designated as no disturbance/open space; this represents 75.4% of the property's total 3.57 acres of HR-1 zone district land. Within the Estate zone district, 4.82 acres of land will be designated as no disturbance/open space; this represents 94.8% of the property's total 5.08 acres of Estate zone district land.

Please note that Lot 9 includes a triangle of land that is currently part of adjoining lot #123 of the Ridge Avenue subdivision. This triangle will be transferred into Alice Claim and become part of Lot 9. There is a corresponding triangle of land within Alice Claim that also is adjacent to lot #123 and will be transferred into lot #123. The owners of both parcels are affiliated companies and have agreed to these transfers, but the transfer will not be completed until after the subdivision plat has been approved by the City Council.

#### **Alice Claim Project Data**

- Existing Zoning: Historic Residential Low Density (HRL), Historic Residential (HR-1) and Estate (E) Zone Districts.
- Current Use of Property: Remediated brownfield mine scarred land ready for use as a residential single family home subdivision.
- Land has been previously platted, in part.
- 9.03 acres
- 9 Single family lots proposed; 8 within HR-1 Zone District and 1 within Estate Zone District
- Maximum Building Footprint of 1,750 SF in HR-1 Zone District
- Minimum 2 off-street parking spaces per lot
- Project Access via platted King Road ROW at intersection with Sampson Avenue
- Road within the community will be privately maintained by the HOA
- Utility services are currently available for the community
- Pedestrian trail access will be continued to be allowed and improved
- Proposed dedicated no disturbance/open space in HR1 zone is 2.69acres, which is 75.4% of property's total HR1 land area.

- Proposed no disturbance/open space area of the Estate zone is 4.82 acres, which is 94.8% of the total 5.08 acre Estate zone.

Consistent with past correspondence on this matter, please be advised that in amending its applications with the Gully Plan and presenting it to City Staff and the Planning Commission, King Development is not waiving or otherwise relinquishing any of its rights, claims, causes of action, defenses, or privileges relating to its "Current Plan" that on August 12, 2015 received a negative recommendation from the Planning Commission. In this respect, King Development acknowledges receipt of the email dated October 20, 2015 from Polly Samuels McLean of the Park City Legal Department stating that the "City agrees that you may amend your application back to the [Current] Plan so long as the application is pending."

Thank you for your consideration.

Sincerely,



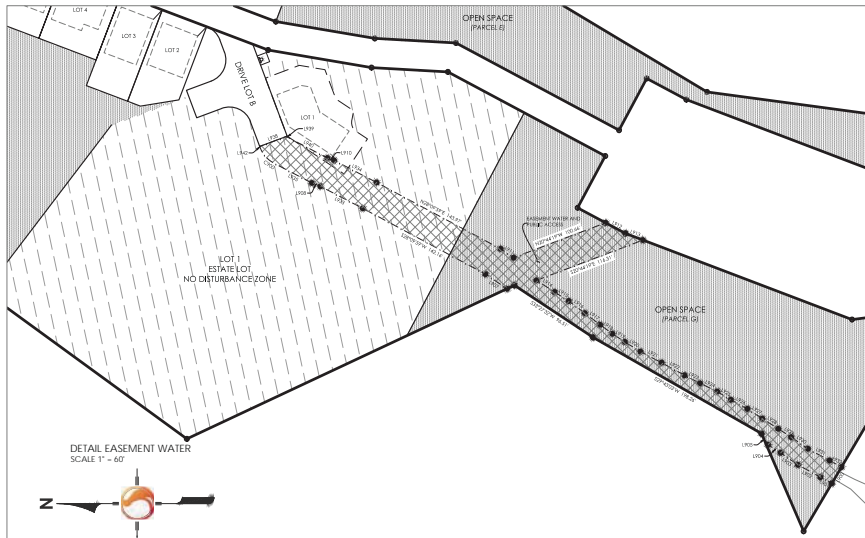
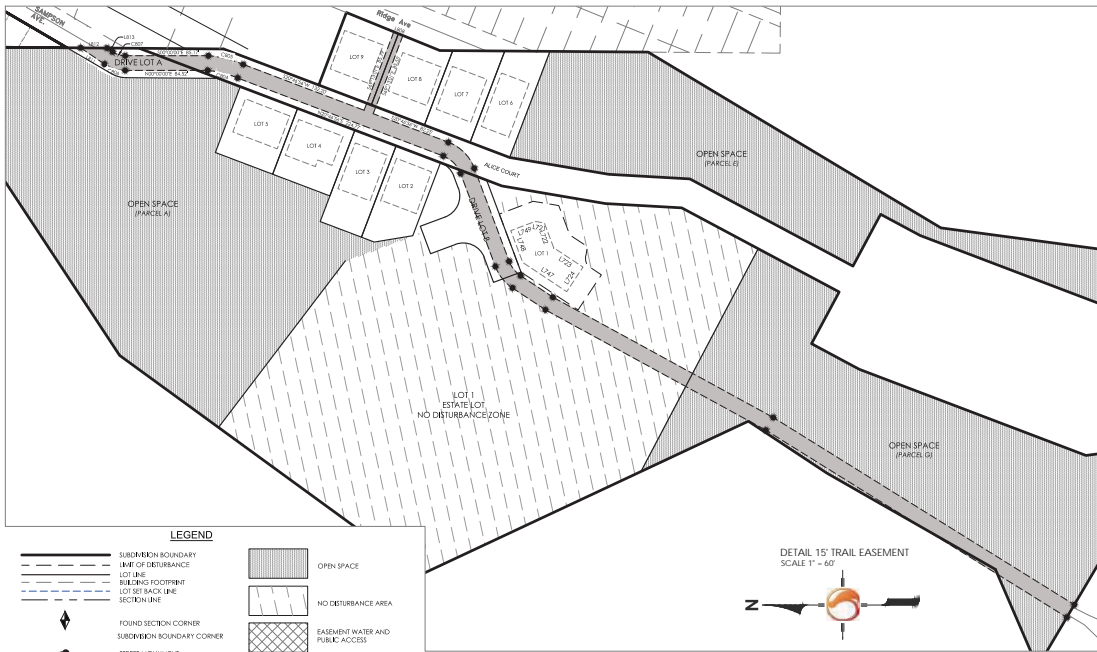
DHM Design Corporation  
Marc Diemer, Associate Principal

cc: King Development Group, LLC  
Bradley R. Cahoon, Esq.



# ALICE CLAIM

LOCATED IN THE NORTHEAST QUARTER OF SECTION 21,  
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN  
SUMMIT COUNTY, UTAH



LINE #	DESCRIPTION	LENGTH
1001	S87°15'00\"	110.07'
1002	N00°00'00\"	40.00'
1003	N00°00'00\"	29.84'
1004	N00°00'00\"	64.00'
1005	N00°00'00\"	50.00'
1006	N00°00'00\"	100.00'
1007	S00°00'00\"	11.00'
1008	N00°00'00\"	11.84'
1009	S00°00'00\"	22.00'
1010	N00°00'00\"	27.20'
1011	N00°00'00\"	13.00'
1012	S00°00'00\"	13.00'
1013	S00°00'00\"	1.71'

LINE #	DESCRIPTION	LENGTH
1001	S87°15'00\"	110.07'
1002	N00°00'00\"	40.00'
1003	N00°00'00\"	29.84'
1004	N00°00'00\"	64.00'
1005	N00°00'00\"	50.00'
1006	N00°00'00\"	100.00'
1007	S00°00'00\"	11.00'
1008	N00°00'00\"	11.84'
1009	S00°00'00\"	22.00'
1010	N00°00'00\"	27.20'
1011	N00°00'00\"	13.00'
1012	S00°00'00\"	13.00'
1013	S00°00'00\"	1.71'

LINE #	DESCRIPTION	LENGTH
1001	S87°15'00\"	110.07'
1002	N00°00'00\"	40.00'
1003	N00°00'00\"	29.84'
1004	N00°00'00\"	64.00'
1005	N00°00'00\"	50.00'
1006	N00°00'00\"	100.00'
1007	S00°00'00\"	11.00'
1008	N00°00'00\"	11.84'
1009	S00°00'00\"	22.00'
1010	N00°00'00\"	27.20'
1011	N00°00'00\"	13.00'
1012	S00°00'00\"	13.00'
1013	S00°00'00\"	1.71'

LINE #	DESCRIPTION	LENGTH	LINE #	DESCRIPTION	LENGTH
1001	S87°15'00\"	110.07'	1004	N00°00'00\"	16.40'
1002	N00°00'00\"	40.00'	1005	N00°00'00\"	19.20'
1003	N00°00'00\"	29.84'	1006	N00°00'00\"	19.20'
1004	N00°00'00\"	64.00'	1007	N00°00'00\"	16.13'
1005	N00°00'00\"	50.00'	1008	N00°00'00\"	19.20'
1006	N00°00'00\"	100.00'	1009	N00°00'00\"	19.20'
1007	S00°00'00\"	11.00'	1010	N00°00'00\"	20.83'
1008	N00°00'00\"	11.84'	1011	N00°00'00\"	23.17'
1009	S00°00'00\"	22.00'	1012	N00°00'00\"	19.20'
1010	N00°00'00\"	27.20'	1013	N00°00'00\"	46.40'
1011	N00°00'00\"	13.00'	1014	N00°00'00\"	30.00'
1012	S00°00'00\"	13.00'	1015	N00°00'00\"	1.00'
1013	S00°00'00\"	1.71'	1016	N00°00'00\"	44.80'
			1017	N00°00'00\"	19.20'
			1018	N00°00'00\"	18.80'
			1019	N00°00'00\"	18.80'
			1020	N00°00'00\"	18.84'
			1021	N00°00'00\"	20.40'
			1022	N00°00'00\"	20.00'
			1023	N00°00'00\"	17.87'

LINE #	DESCRIPTION	LENGTH	LINE #	DESCRIPTION	LENGTH
1001	S87°15'00\"	110.07'	1004	N00°00'00\"	16.40'
1002	N00°00'00\"	40.00'	1005	N00°00'00\"	19.20'
1003	N00°00'00\"	29.84'	1006	N00°00'00\"	19.20'

SHEET  
**2** of **2**

## ALICE CLAIM

LOCATED IN THE NORTHEAST QUARTER OF SECTION 21,  
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN  
SUMMIT COUNTY, UTAH

RECORDED # \_\_\_\_\_  
STATE OF UTAH, COUNTY OF SUMMIT, RECORDED AND FILED AT THE  
RECORDS OFFICE OF THE COUNTY CLERK  
DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ BOOK: \_\_\_\_\_ PAGE: \_\_\_\_\_  
FEE: \_\_\_\_\_ COUNTY RECORDER



Stantec Consulting Services Inc.  
3995 S. 700 E. Ste. 300  
Salt Lake City, UT  
84106-0280  
Tel: 801.261.0090  
Fax: 801.566.1671  
www.stantec.com

Project Number	PA	2016/0307
File Name	SB	
Designed By	BD	
Checked By	BD	
Date	DATE	
Scale	SCALE	
Date Plotted	DATE	
By	BD	
Date	DATE	
Revisions		

Exhibit M



3995 South 700 East, Suite 300
Salt Lake City, Utah 84107
www.stantec.com

Copyright Reserved
The Contractor shall verify and be responsible for all dimensions, DD,
NOTS and the drawing - any errors or omissions shall be reported to
Stantec without delay.

Owner/Project

KIND DEVELOPMENT GROUP LLC
P.O. BOX 244
PARK CITY, UTAH 84305



GRAPHIC SCALE

( IN FEET )
1 inch = 60 ft.
COUNTOUR INTERVAL = 2'
INDEX COUNTOUR INTERVAL = 10'

Legend

- CONTOUR MAJOR
CONTOUR MINOR
BOUNDARY LINE
SECTION LINE
BOUNDARY BE LINE
ROAD CUT
ROAD ASPHALT
EMING OVERHEAD POWER LINE
EMING WATER LINE
EMING STORM DRAIN LINE
EMING SEWER LINE
EMING GAS LINE
EMING PHONE LINE
EMING POWER POLE
EMING WATER MANHOLE
EMING WATER VALVE
EMING SEWER MANHOLE
EMING TREE
EMING VEGETATION
SECTION CORNER

Notes

SURVEYOR'S CERTIFICATE

I, SHAWN R. VERNON, A PROFESSIONAL LAND SURVEYOR HOLDING LICENSE
NUMBER 8746388 IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH
HEREBY CERTIFY THAT I MADE A TOPOGRAPHY SURVEY AREA SHOWN.

NARRATIVE
THE PURPOSE OF THIS SURVEY WAS TO MAP THE EXISTING TOPOGRAPHY
OF THE BOUNDARY OF ALICE CLAIM. THIS SURVEY WAS PREPARED USING
EXISTING TOPOGRAPHIC INFORMATION DATA FROM A 2005 SURVEY
COMPLETED BY COLIVARS AERIAL SURVEYS AND UPDATED IN OCTOBER 2014 BY
STANTEC CONSULTING INC.. THE ACCURACY OF THE 2-FOOT CONTOURS
SHOWN IS EQUAL TO ONE-HALF (OR BETTER) THAN THE CONTOUR INTERVAL.
THIS IS NOT A BOUNDARY SURVEY PLAN.

Table with columns: Revision, By, Appd., FY MM/DO

Table with columns: Date, Description, By, Appd., FY MM/DO

Table with columns: No, Name, SSI, JLI, SDI, LSI, FY MM/DO

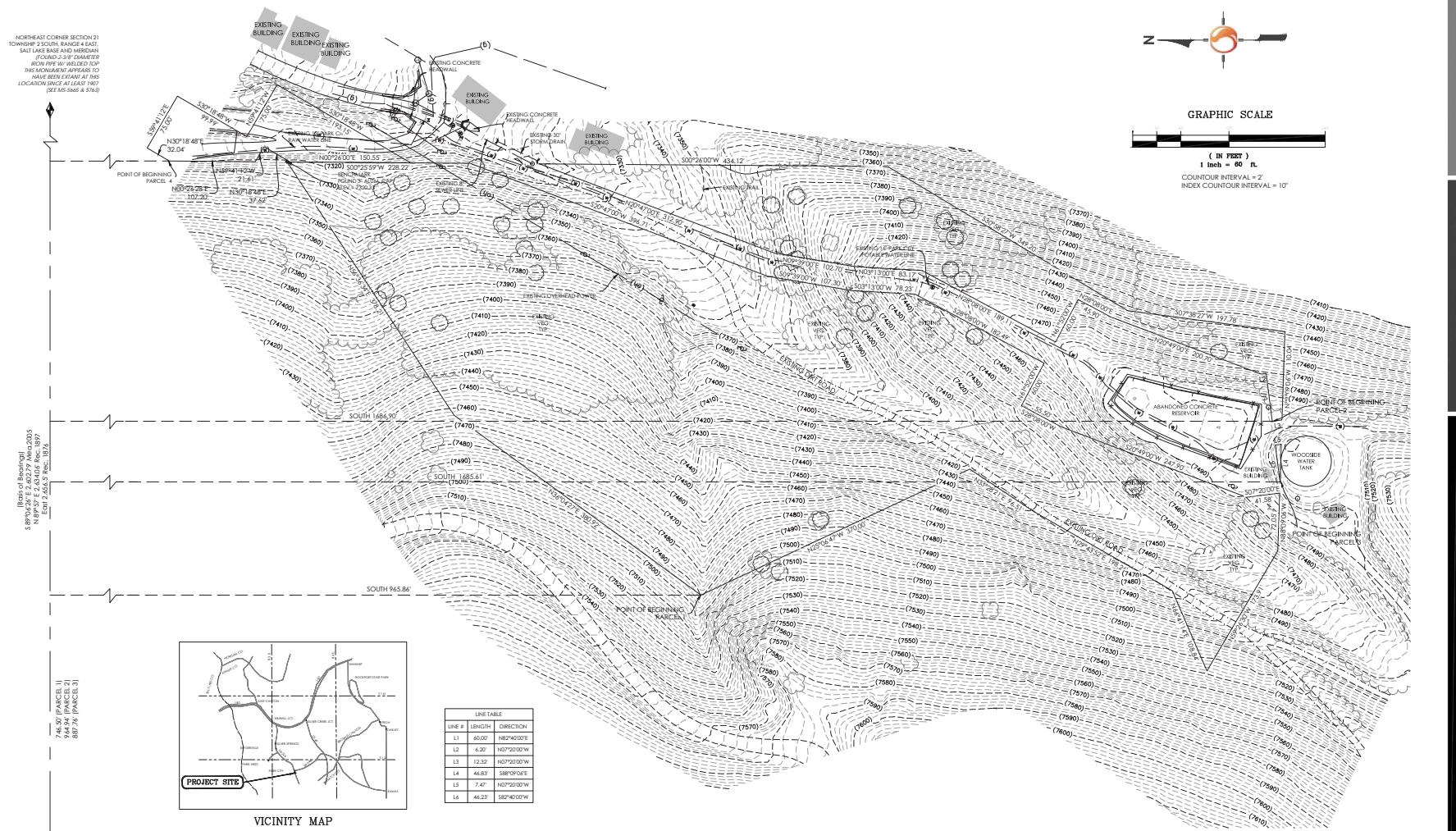
Permit Seal



Client/Project
ALICE CLAIM
CERTIFIED TOPOGRAPHICAL BOUNDARY SURVEY
PARK CITY, UTAH

Title

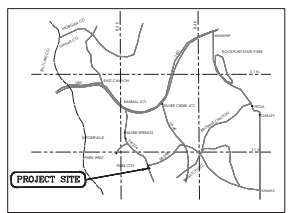
Table with columns: Project No., Scale, Drawing No., Sheet, Revision



NORTHEAST CORNER SECTION 21
TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN.

(Base of Beginning)
North 02°52'37.2" East, 1362.023'
East 76°55.9' North, 876.76'

748.50' (PARCEL 1)
748.50' (PARCEL 2)
887.76' (PARCEL 3)



VICINITY MAP

LINE/BREAK TABLE with columns: LINE #, LENGTH, DIRECTION

ORIGINAL SHEET NO.

April 29, 2016

## **Alice Claim (aka Alice Lode) Modified CUP Application**

---

### **Project Description and Comparison to Previously Proposed Plans**

The Applicant, King Development Group, LLC, requests that the City Staff and Planning Commission review a modified Conditional Use Permit (CUP) concurrently with an amended Alice Claim Subdivision (the Gully Plan) and corresponding Plat Amendment applications.

Vehicular access to the property is via the existing platted King Road right of way, which provides legal access to the property. This road will require retaining walls that are in some locations greater than 6 feet in height, thereby requiring a CUP per the Land Management Code (LMC). The CUP Application has been modified in the following manner from the previous application that was denied in October 2015:

- The wall has been broken into three tiers that are each a maximum 10 feet tall with landscape planting areas between each wall section as suggested by Planning Staff as adequate visual mitigation.
- An additional 20% of the tree planting to what was originally identified is now proposed as suggested by Planning Staff as adequate visual mitigation.
- These walls will be constructed by the process of “soil nailing” and overlaid with a decorative stone veneer. This process is less disruptive to existing vegetation above the walls and does not require extensive footings that could have interfered with utilities in Alice Court roadway at the base of the walls.
- The walls have been extended around the corner created by the intersection with King Road. This is proposed in order to widen King Road in the area with the goal of improving the existing condition of King Road as well as improving visibility for the proposed Alice Court entry drive.

The Applicant has offered to dedicate to the City the 0.38 acre of platted City lots (13 partial or full lots) within the HRL District that contains the existing King Road and potentially developable land. In addition, the Applicant has agreed to work with the City Engineer to make improvements to the existing intersection and potentially using Applicant’s land for the same. A proposed intersection improvements plan is included in the review packet. The Applicant’s traffic engineer has

demonstrated that the addition of 9 homes in this area has negligible traffic impact, and the City Engineer has confirmed this.

Consistent with past correspondence on this matter, please be advised that in amending its applications with the Gully Plan and presenting it to City Staff and the Planning Commission, King Development is not waiving or otherwise relinquishing any of its rights, claims, causes of action, defenses, or privileges relating to its "Current Plan" that on August 12, 2015 received a negative recommendation from the Planning Commission and its prior CUP application that was denied by the Planning Commission. In this respect, King Development acknowledges receipt of the email dated October 20, 2015 from Polly Samuels McLean of the Park City Legal Department stating that the "City agrees that you may amend your application back to the [Current] Plan so long as the application is pending."

Thank you for your consideration.

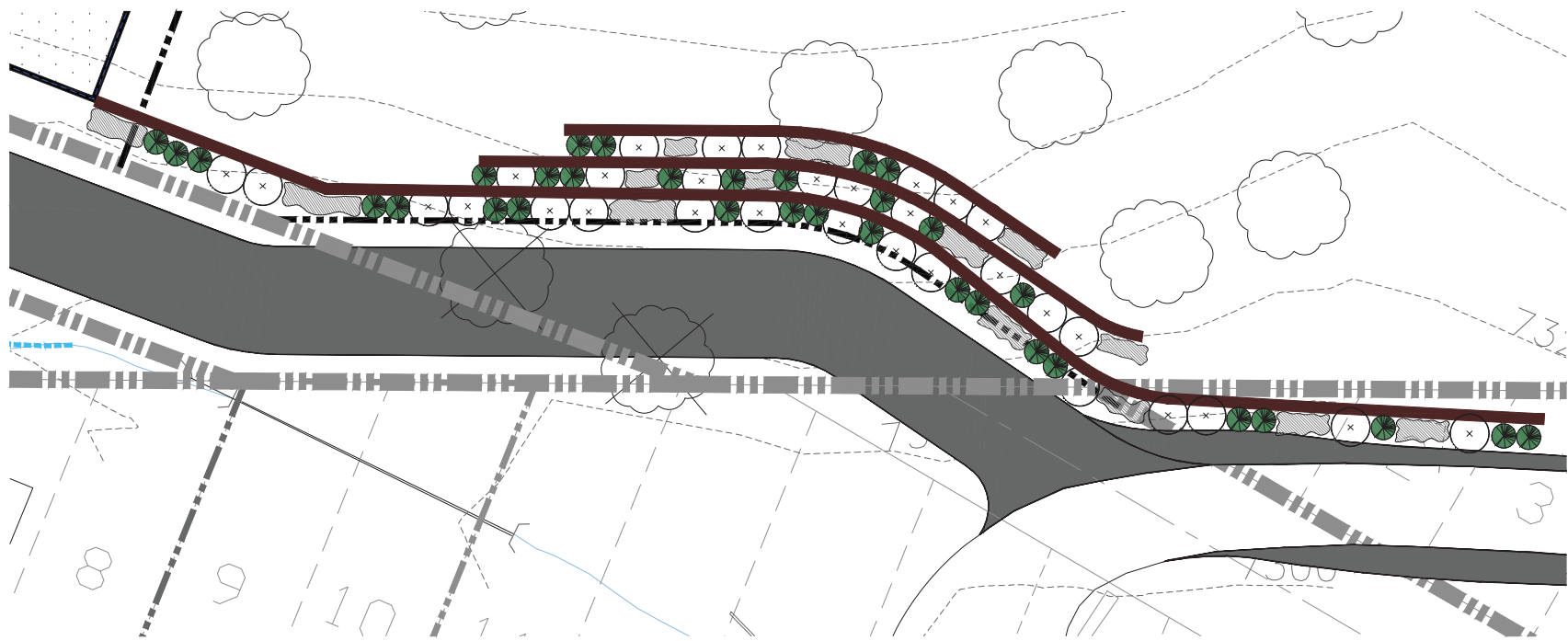
Sincerely,








DHM Design Corporation  
Marc Diemer, Associate Principal

cc: King Development Group, LLC  
Bradley R. Cahoon, Esq.





LEGEND

-  EXISTING CONIFEROUS TREE TO BE REMOVED
-  EXISTING CONIFEROUS TREE TO REMAIN
-  PROPOSED DECIDUOUS TREE
-  PROPOSED CONIFEROUS TREE
-  PROPOSED SHRUB

# ALICE CLAIM

## LANDSCAPE MITIGATION OF SITE WALLS PLAN

KING DEVELOPMENT GROUP, LLC  
 P.O. BOX 244  
 PARK CITY, UTAH 84060

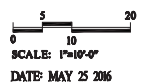
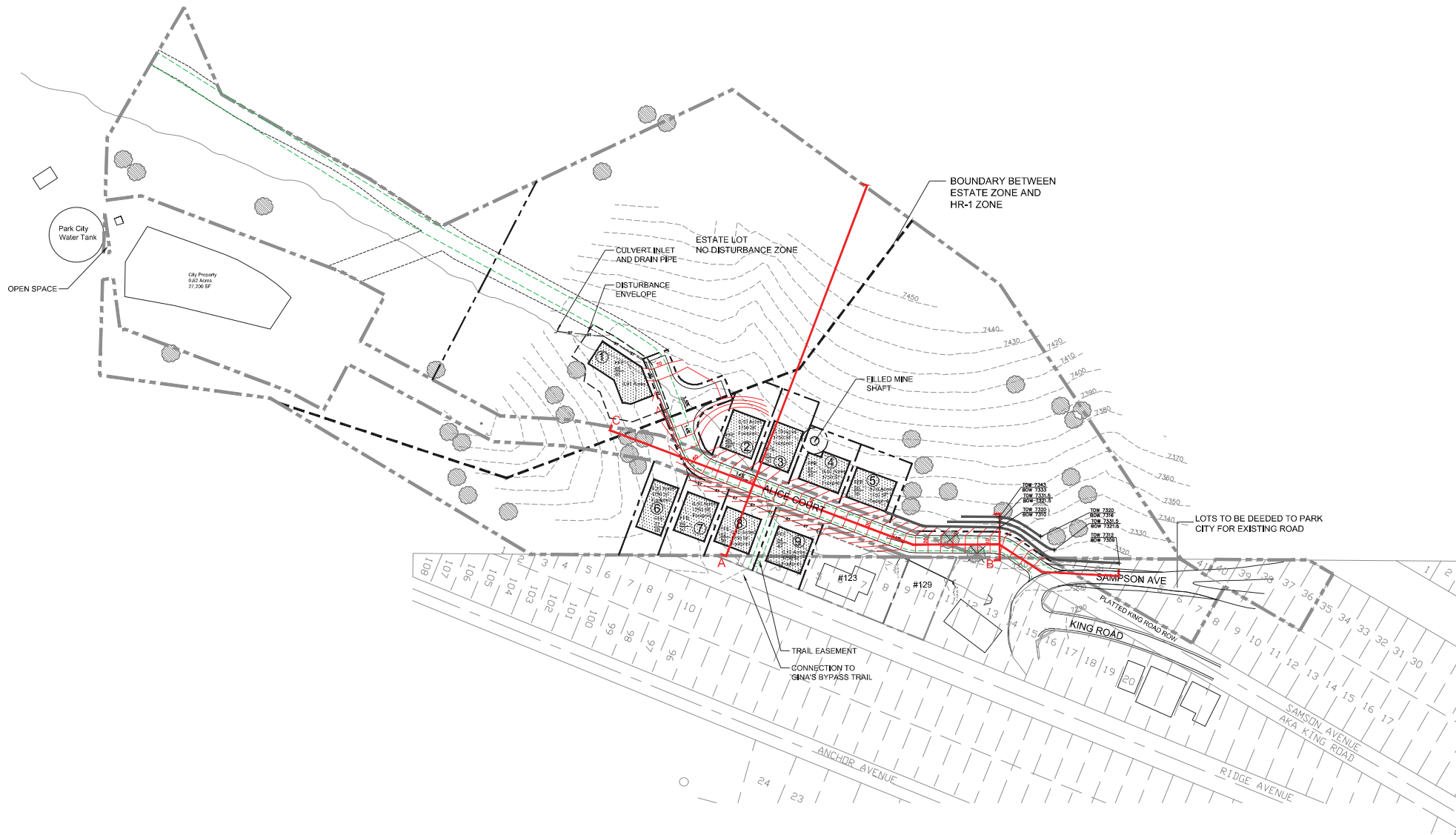


Exhibit O.2 - Retaining Wall Photo Simulation – July 2016





# ALICE CLAIM

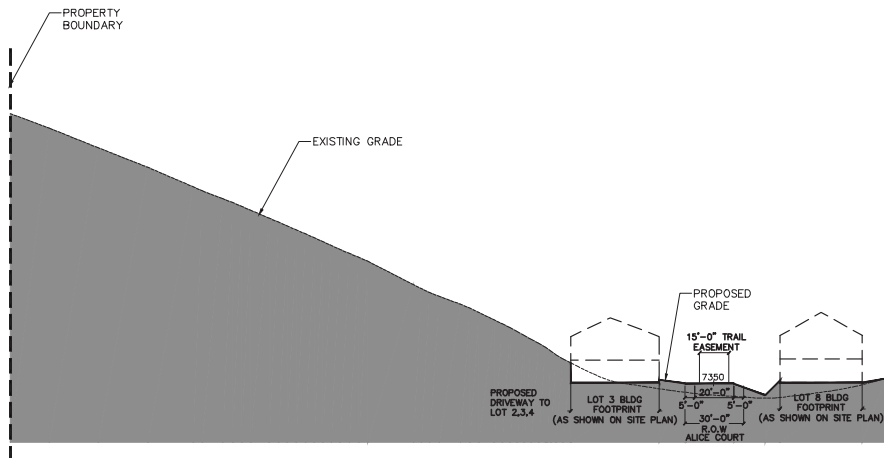
## SITE SECTIONS KEY MAP

KING DEVELOPMENT GROUP, LLC  
 P.O. BOX 244  
 PARK CITY, UTAH 84060



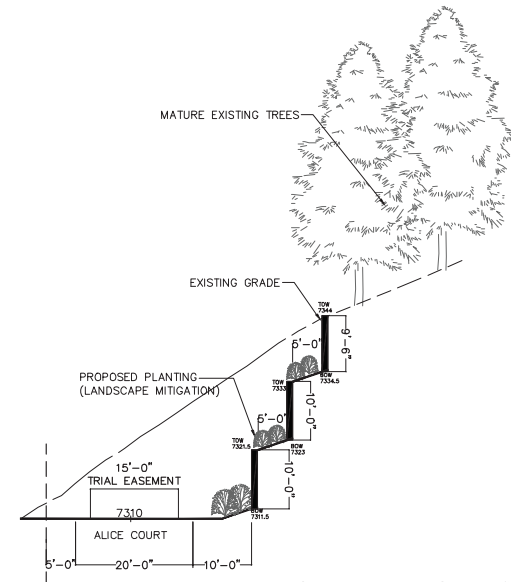
0 10 50  
 1" = 50'-0"  
 SCALE: 1"=50'-0"  
 DATE: MAY 25 2016





SECTION A

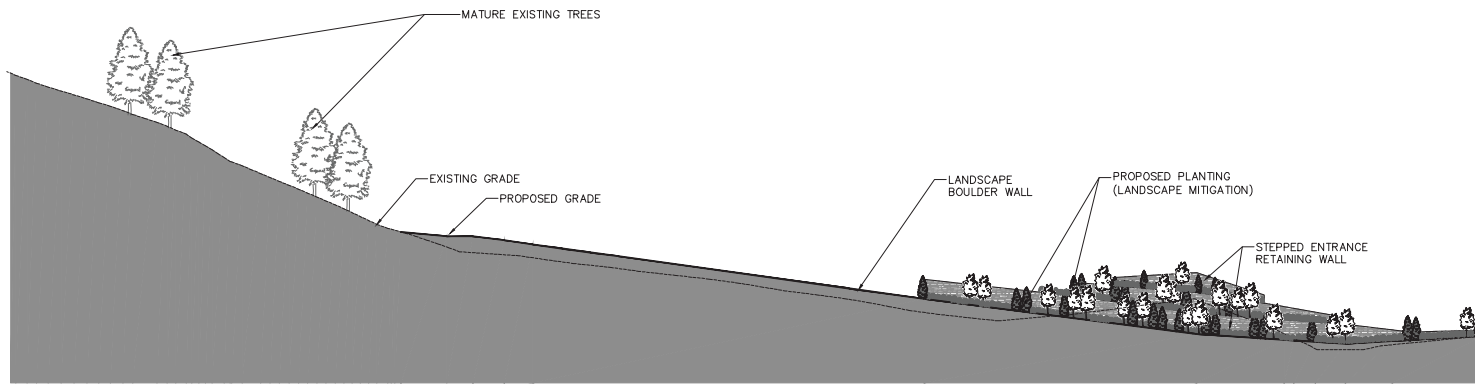
SCALE: 1"=30'



SECTION B (ENTRY WALL)

SCALE: 1"=10'

NOTE: CUP APPLICATION WALLS



SECTION C

SCALE: 1"=30'

**ALICE CLAIM**

SITE SECTIONS

KING DEVELOPMENT GROUP, LLC  
P.O. BOX 244  
PARK CITY, UTAH 84060



DATE: MAY 25 2016

February 19, 2016

**Ridge Avenue Subdivision Amendment Application associated with the  
Alice Claim (aka Alice Lode) Amended Subdivision & Plat Amendment Applications**

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**Project Description and Comparison to Previously Proposed Plans**

The Applicant, 123-129 Ridge, LLC , requests that the City Staff and Planning Commission review a Subdivision Plat Amendment for the Ridge Avenue Subdivision. Applicant owns Lot 1 (#123) and Lot 2 (#129) of that Subdivision. Applicant proposes a change to just Lot 1 (#123). Applicant is affiliated with King Development Group, LLC, the proponent of the Alice Claim Subdivision.

The proposed amendment “swaps” a 2,057 square foot triangular portion of Lot 1 (#230)) with corresponding 2,057 square foot triangular portion of Lot 9 of the proposed Alice Claim Subdivision.

Lot 9 includes a triangle of land that is currently part of adjoining lot #123 of the Ridge Avenue subdivision. This triangle will be transferred into Alice Claim and become part of Lot 9. There is a corresponding triangle of land within Alice Claim that also is adjacent to lot #123 and will be transferred into lot #123. The owners of both parcels are affiliated companies and have agreed to these transfers, but the transfer will not be completed until after the subdivision plat has been approved by the City Council.

There is no increase or reduction in the size of either subdivision. The resulting reconfiguration allows for more buildable and livable lots 8 and 9 in the Alice Claim Subdivision while at the same time “squaring up” these lots and lot #123 of the Ridge Avenue Subdivision. This land pattern is much more compatible with the pattern found throughout the historic districts in the City providing good cause for both subdivisions.

Thank you for your consideration.  
Sincerely,



DHM Design Corporation  
Marc Diemer, Associate Principal

cc: King Development Group, LLC  
Bradley R. Cahoon, Esq.

# RIDGE AVENUE SUBDIVISION AMENDING LOT 1

LOCATED IN THE NORTHEAST QUARTER OF SECTION 21,  
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN  
SUMMIT COUNTY, UTAH

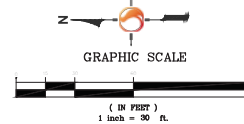
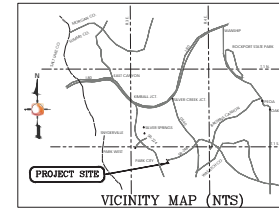
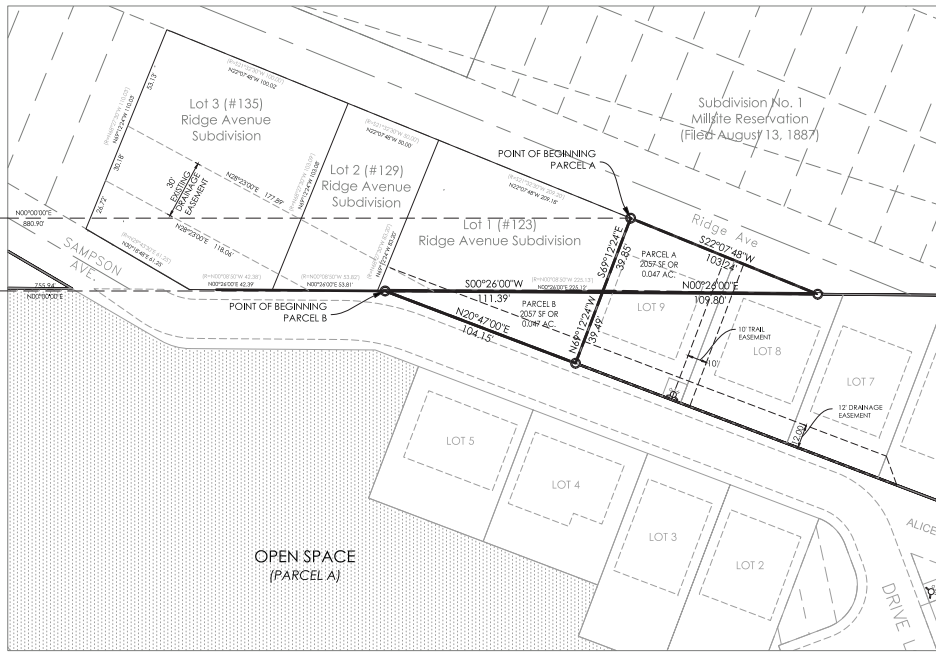
NORTHEAST CORNER SECTION 21,  
TOWNSHIP 2 SOUTH, RANGE 4 EAST,  
SALT LAKE BASE AND MERIDIAN.  
FOUND A 3/8" DIAMETER  
IRON NAIL WELL SET TOP  
THIS INSTRUMENT APPEARS TO  
HAVE BEEN SET AT THIS  
LOCATION SINCE AT LEAST 1907  
(SEE MS-5665 & 5760)

S 89°02'00" E 180.00' TO  
N 89°57' E 204.60' TO  
E 01°26'03" N 19.76'

1321.49'  
(PARCEL A)

1284.27'  
(PARCEL B)

NORTH 1/4 CORNER SECTIONS 21,  
TOWNSHIP 2 SOUTH, RANGE 4 EAST,  
SALT LAKE BASE & MERIDIAN  
E 1/4 IRON NAIL MARKER CORNER 2 1/2" DIA. ALUMINUM  
PIPE SET AUGUST 2005 BASED ON 1915 BY D. C. BURNEY BY  
1907 AND 1904 FROM CORNER 1 OF 86 AND 86A AND 7 BY  
86 AND 86B.



**SURVEYOR'S CERTIFICATE**

I, Greg Cates, do hereby certify that I am a Professional Land Surveyor, and that I hold certificate No. 161226 as prescribed under the laws of the State of Utah. I further certify that by authority of the Owners, I have made a survey of the tract of land shown on this plat and described below, and have subdivided said tract of land into lots and streets, hereafter to be known as:

**RIDGE AVENUE SUBDIVISION  
AMENDING LOT 1**

and that same has been surveyed and staked on the ground as shown on this plat.

**BOUNDARY DESCRIPTION**

**PARCEL A**  
A parcel of land located in the Northeast Quarter of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian, and parcel being more particularly described as follows:

Beginning at a point on the Southeastery Line of Lot 1, Ridge Avenue Subdivision as shown on the plat recorded December 15, 1995, Entry No. 444460 in the Summit County Recorder's Office, said point being also S89°06'20" E 1321.49 feet, along the Section Line, and South 890.90 feet from the North Quarter Corner of said Section 21, and running thence, along said Southeastery Line, S27°07'48" W 103.24 feet to the Southeastery Corner of said Lot 1; thence, along the West Line of said Lot 1, N00°26'00" E 110.09 feet; thence S69°12'42" E 40.71 feet to the Point of Beginning.

Contains: 2101 Square Feet or 0.048 Acres.

**PARCEL B**  
A parcel of land located in the Northeast Quarter of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian, and parcel being more particularly described as follows:

Beginning at a point on the West Line of Lot 1, Ridge Avenue Subdivision as shown on the plat recorded December 15, 1995, Entry No. 444460 in the Summit County Recorder's Office, said point being also S89°06'20" E 1284.27 feet, along the Section Line, and South 755.94 feet from the North Quarter Corner of said Section 21, and running thence, along said West Line, S07°26'10" W 111.09 feet; thence, N69°12'24" W 38.63 feet; thence N20°47'00" E 104.15 feet to the Point of Beginning.

Contains: 2012 Square Feet or 0.046 Acres.



Date \_\_\_\_\_ GREGORY A. CATES  
P.L.S. No. 161226

**OWNER'S DEDICATION**

Know all men by these presents that \_\_\_\_\_ the undersigned owner(s) of the above described tract of land, having caused the same to be subdivided into lots and streets to be hereafter known as:

**RIDGE AVENUE SUBDIVISION  
AMENDING LOT 1**

do hereby dedicate for perpetual use of the public all parcels of land and easements as shown on this plat as intended for Public Use:

In witness whereof \_\_\_\_\_ have hereunto set \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_

**CORPORATE ACKNOWLEDGMENT**

STATE OF UTAH }  
COUNTY OF UTAH } s.s.  
On the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_ personally appeared before me, \_\_\_\_\_, who being duly sworn or affirmed, did say that he/she is the \_\_\_\_\_ of \_\_\_\_\_ and that the within owner's dedication was signed by him/her in behalf of the said corporation by authority of its bylaws, or Board of Directors, and that said corporation executed the same.

My commission number: \_\_\_\_\_  
My commission expires: \_\_\_\_\_ Name: \_\_\_\_\_ Notary Public, commissioned in Utah

**NOTES**

1. The Basis of Bearings of this Plat is between two existing Section Corner Monuments, the bearing between the Northeast Corner and the North Quarter of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian, a N89°06'20" W, as measured in the field.
2. The purpose of this plat is to amend Lot 1 to include Parcel A, and to remove Parcel A shown on the original plat of Ridge Avenue Subdivision as recorded December 15, 1995, Entry No. 444460 in the Summit County Recorder's Office.
3. This amended plat is subject to all of the matters pertaining to the original recorded plat, other than any differences shown hereon. They include, but not limited to, easements, rights-of-way, covenants, conditions, restrictions, and other matters of record.
4. The dimensions shown as record on this plat are taken from said recorded Ridge Avenue Subdivision plat, which shows the distances to be call-outed, rather than measured or record.

**EASEMENT APPROVAL**

COUNTERPART	DATE
ROCKY MOUNTAIN POWER	
CENTURY LINK (EAST)	
COMCAST	

Questar approves this plat solely for the purpose of confirming that the plat contains public utility easements. Questar may require other easements in order to serve this development. This approval does not constitute abatement or waiver of any other existing rights, obligations or liabilities provided by law or equity. This approval does not constitute acceptance, approval or acknowledgment of any terms contained in the plat, including those set forth in the Owner's Dedication and the Notes and does not constitute a guarantee of particular terms of natural gas service. For further information please contact Questar's Right-of-Way department at 1-800-368-8532.



Stantec Consulting Services Inc.  
3995 S 700 E Ste. 300  
Salt Lake City, UT  
84107-2640  
Tel: 801-261-0000  
Fax: 801-264-1671  
www.stantec.com

No.	Revisions	By	Date
1			

Project Number: 26539957  
Plan Date: 08/28/14  
Client: Ridge Ave  
Designed By: [Signature]  
Checked By: [Signature]  
Scale: As Shown  
Date: 08/28/14

**OWNER/SUBDIVIDER:**  
123-129 Ridge, LLC  
P.O. BOX 244  
PARK CITY, UTAH  
84060

**SNYDERVILLE BASIN SEWER DISTRICT**  
REVIEW FOR CONFORMANCE ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

**MAYOR**  
APPROVED AND ACCEPTED BY THE SUMMIT COUNTY PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

**PARK CITY ENGINEER**  
I, \_\_\_\_\_ PARK CITY ENGINEER, HEREBY CERTIFY THAT THIS PLAT HAS BEEN EXAMINED BY THE OFFICE AND IS CORRECT IN ACCORDANCE WITH INFORMATION ON FILE IN THIS OFFICE.

**APPROVAL AS TO FORM**  
APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

**RECORDED #**  
STATE OF UTAH, COUNTY OF SALT LAKE, RECORDED AND FILED IN THE REGISTRY OF \_\_\_\_\_  
DATE \_\_\_\_\_ TIME \_\_\_\_\_ BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
FEE \$ \_\_\_\_\_  
SUMMIT COUNTY RECORDER

# TOPOGRAPHICAL BOUNDARY SURVEY

## RIDGE AVENUE SUBDIVISION LOT 1

LOCATED IN THE NORTHEAST QUARTER OF SECTION 21,  
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE & MERIDIAN  
PARK CITY, SUMMIT COUNTY, UTAH

### SURVEYOR'S CERTIFICATE

I, Gregory A. Cates, do hereby certify that I am a Professional Land Surveyor, and that I hold Certificate No. 161226 as prescribed by the laws of the State of Utah. I further certify that this survey was made by me or under my direct supervision, and I have made a survey of the tract of land as shown on this survey.



DATE \_\_\_\_\_ Gregory A. Cates  
P.L.S. 161226

### LEGAL DESCRIPTION

All of Lot 1 of the Ridge Avenue Subdivision recorded as Entry No. 444460 in the Summit County Recorder's Office, being more particularly described as follows:

A parcel of land located in the Northeast Quarter of Section 21, Township 2 South, Range 4 East, Salt Lake Base & Meridian, said parcel being more particularly described as follows:  
Beginning at a point on the West boundary line of said Ridge Avenue Subdivision, said point being also the Northwest Corner of said Lot 1, said point being also S89°06'26"E, along the Section Line, 1284.30 feet and South 752.00 feet from the North Quarter Corner of said Section 21 and running thence, along the Northeastly line of said Lot 1, S69°12'24"E 83.20 feet to the Northeastly Corner of said Lot 1 and the Westly Right-of-Way line of Ridge Avenue; thence, along said Westly Right-of-Way line, S22°07'46"W 207.18 feet to the Southwesterly Corner of said Lot 1; thence, along the Westly boundary line of said Ridge Avenue Subdivision, N02°04'07"E 225.12 feet to the Point of Beginning.

Contains: 3,703 Square Feet or 0.20 Acres.

### NARRATIVE

The Basis of Bearings of this Plat is between two existing Section Corner Monuments, the Bearing between the Northeast Corner and the North Quarter of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian, is N69°06'26"E, as measured in the field.

The purpose of this plat is to show Lot 1, as shown on the original plat of Ridge Avenue Subdivision as recorded December 15, 1995, Entry No. 444460 in the Summit County Recorder's Office.

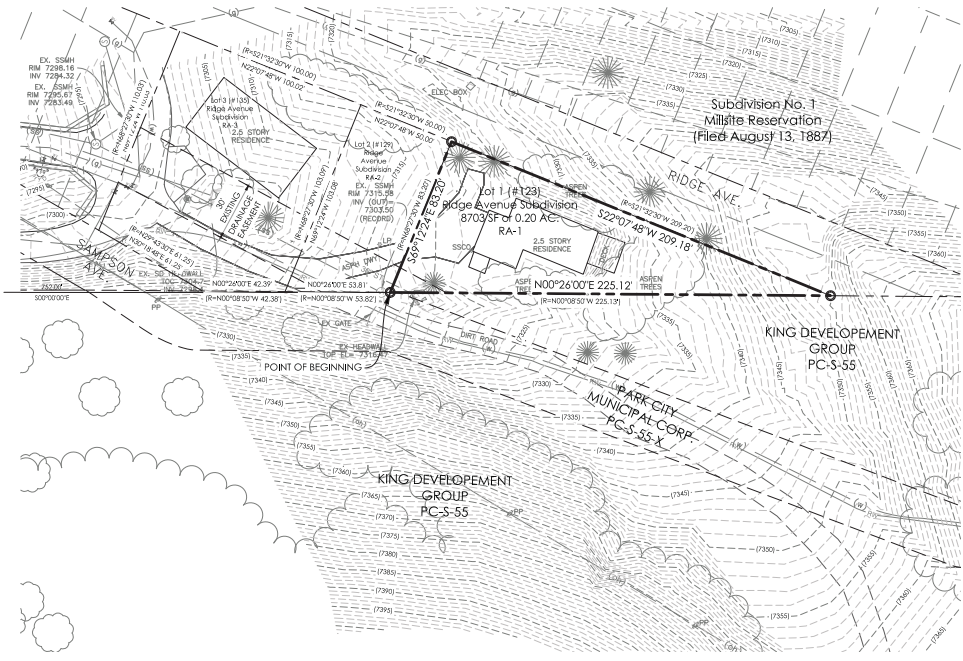
The dimensions shown in parentheses as record on this plat are taken from said recorded Ridge Avenue Subdivision plat, which shows the distances to be calculated, rather than measured or record.

NORTHEAST CORNER SECTION 21  
TOWNSHIP 2 SOUTH, RANGE 4 EAST,  
SALT LAKE BASE AND MERIDIAN  
FOUND 3-3/8" DIAMETER  
IRON PIPE BEING TOP  
THE MONUMENT APPEARS TO  
HAVE BEEN EXCAVATED AT THIS  
LOCATION SINCE AT LEAST 1907  
(SEE 88-5466 & 5742)

1/8" DIA. ALUMINUM CAP ON 2" CP ALUMINUM  
PIPE BEING EXCAVATED AND FOUND BY D.C. WARDEN IN  
1953 AND 1954 FROM CORNERS 1 OF RR NO. 3658 AND 1 OF  
AROUND 1953

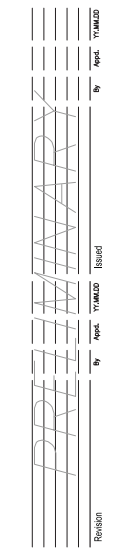
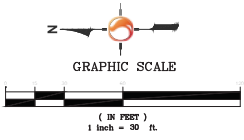
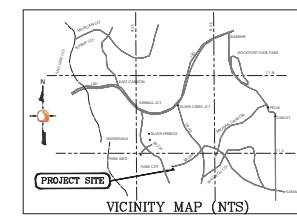
1284.30

NORTH 1/4 CORNER SECTION 21  
TOWNSHIP 2 SOUTH, RANGE 4 EAST,  
SALT LAKE BASE & MERIDIAN  
3/4" DIA. ALUMINUM CAP ON 2" CP ALUMINUM  
PIPE BEING EXCAVATED AND FOUND BY D.C. WARDEN IN  
1953 AND 1954 FROM CORNERS 1 OF RR NO. 3658 AND 1 OF  
AROUND 1953



**LEGEND:**

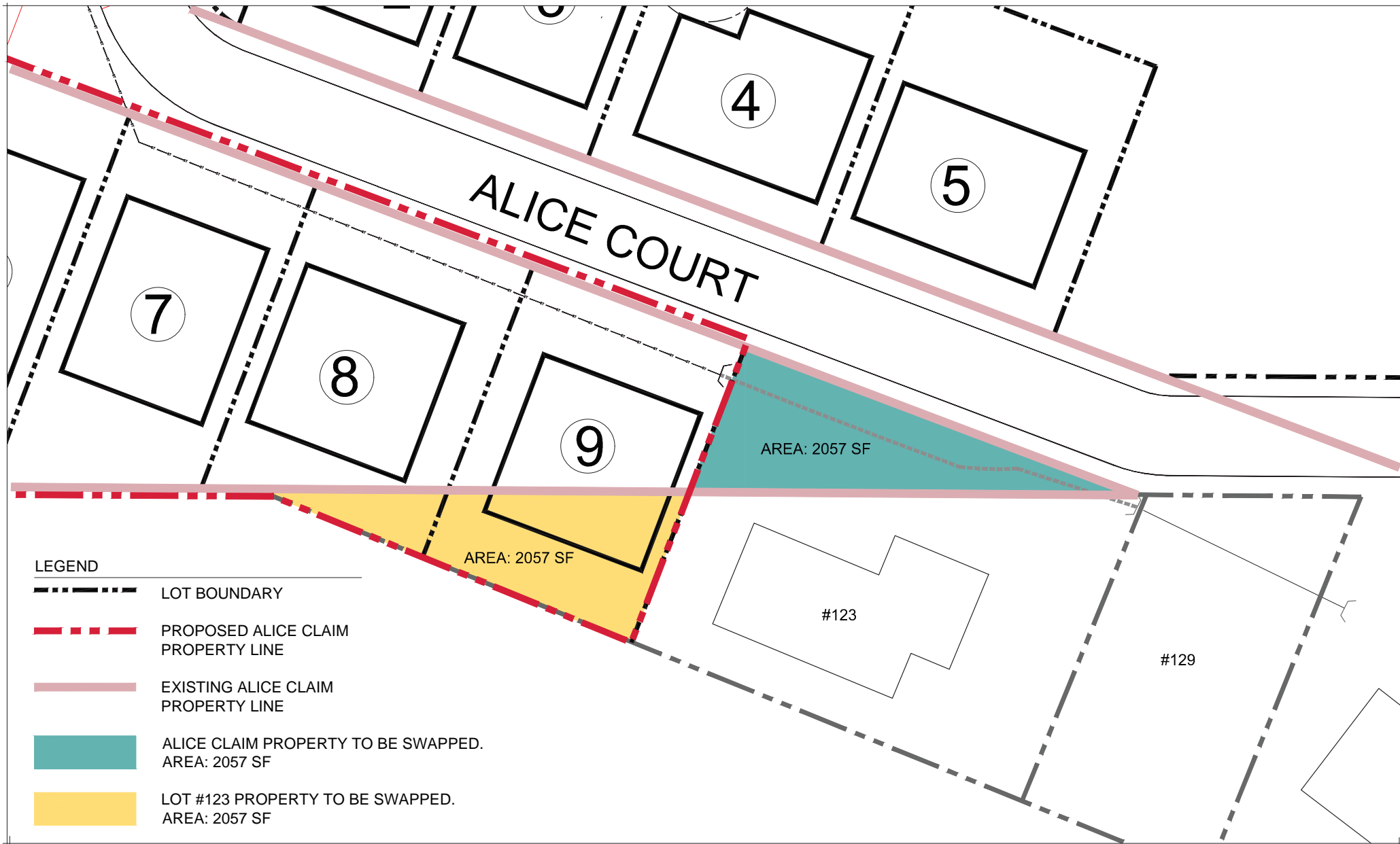
---	PROPERTY LINE
---	EASEMENT LINE
---	SANITARY SEWER
---	WATER LINE
---	RAW WATER LINE
---	OVERHEAD POWER LINE
---	GAS LINE
---	MAJOR CONTOUR
---	MINOR CONTOUR
●	PINE TREE








Client/Project  
Ridge Avenue Lot 1  
Teach Law Offices, PC  
Section 21, T2S, R4E, S16B&M  
Park City  
Summit County, Utah  
This  
TOPOGRAPHICAL BOUNDARY SURVEY

Project Number: 205303057  
File Name: 020716\_01.dwg  
GAC: SB GAC: 16/05/15  
Dwg: Chis: Cagn: YJMM/MD

Revision Sheet



LEGEND

-  LOT BOUNDARY
-  PROPOSED ALICE CLAIM PROPERTY LINE
-  EXISTING ALICE CLAIM PROPERTY LINE
-  ALICE CLAIM PROPERTY TO BE SWAPPED. AREA: 2057 SF
-  LOT #123 PROPERTY TO BE SWAPPED. AREA: 2057 SF

**ALICE CLAIM**

**PROPERTY SWAP  
DIAGRAM ENLARGEMENT**

KING DEVELOPMENT GROUP, LLC  
P.O. BOX 244  
PARK CITY, UTAH 84060



0 5 10 20  
SCALE: 1"=10'-0"  
DATE: FEBRUARY 09 2015





17 June 2016

Francisco Astorga  
Park City Planning Department  
Via email: [fastorga@parkcity.org](mailto:fastorga@parkcity.org)

*REGARDING: Proposed Density/Number of Lots for Alice Claim*

Dear Francisco,

I write on behalf of King Development Group, LLC. Since King first filed its application in 2005, density has been raised and resolved in past work sessions and hearings with the Commission and has been resolved with the City Legal Department, but perhaps planning staff and the current Commission is unfamiliar with that historical record. During the May 25, 2016 hearing on Alice Claim, Commissioners once again asked about allowed density and if 9 lots are allowed on this site. With that in mind, set forth below is a summary along with attached supporting documentation for your review and for inclusion into the Commissioner information packet for the July 13, 2016 hearing.

1. The Alice Claim application was deemed complete for purposes of vested rights in 2005 and is subject to the 2004 LMC provisions regarding density.
2. The Staff report dated July 27, 2005 (attached) tabulated a maximum allowed density of 56 lots for the project, 41 of those lots within the HR-1 zone district. The report provided clarification that factors such as grading, vegetation protection, steep slope and access will reduce the ultimate LMC/Subdivision Code compliant density. The Applicant has demonstrated that the 9 proposed lots are Code compliant and are clearly within the 56 lot maximum allowed density.
3. The memorandum dated October 30, 2008 by the Applicant's attorney (attached) provides a detailed analysis of the vested density at the time of the 2005 complete application. In summary, this memo concludes that the Planning Commission or City Council may not reduce density below that permitted in the underlying zones, but may only adjust the dimensions of lots, the location, and other adjustments for good, efficient planning. In other words, the underlying zoning sets the maximum number of lots, and the Planning Commission and City Council defines their size, and their location based on the Code and best planning practices. The Applicant has proven that the 9 lots proposed meet the requirements of the Code and the requested "Gully Plan" meets the direction provided by Staff and the Planning Commission to meet best planning practices.
4. The email dated January 20, 2009 from the City Legal Department (attached) states that "Staff agrees that the underlying density allows for the 9 lots" and continues "however any lots must meet the subdivision and all other criteria of the Land Management Code, and the location and potential development impacts need to be approved by the Planning Commission and City Council." The Applicant has proven that the 9 lots proposed meet the requirements of the Code and the requested "Gully Plan" meets the direction provided by Staff and the Planning Commission in regards to lot locations and minimizing potential development impacts.
5. The property currently has 16 lots of record made up of 14 full and partial lots within the platted HR-L zone district and 2 lots within the metes and bounds parcel (attached). The platted HR-L parcel is encumbered by existing unplatted roads, yet still retains space for potential home sites. The Applicant has offered to deed this land to the City, but until final approval, the property has vested rights to the existing plat.

# DHM DESIGN

In Planning Commission work sessions and hearings prior to presentation of the pending Gully Plan, the Commissioners have commented that the rejected plan was not compatible with the underlying zoning on grounds that it did not meet the land use pattern of the HR-1 lots within the city. Several Commissioners stated in the May 25 hearing that the new Gully Plan is now compatible. The Applicant contends that a certain density of homes are needed to provide the HR-1 land use pattern, and based on the site conditions, including existing homes in the adjoining subdivision, the 9 homes in the Gully Plan provides the land use pattern requested, as well as meeting the requirements of the Code. A lesser number of lots would not create the desirable land use pattern as currently zoned HR-1.

The proposed development is for 9 lots on 9.03 acres, a density of 1DU/acre. Within only the HR-1 zone district the plan proposes 8 lots on 3.57 acres, a density of 2.2DU/acre. These extremely low densities provide a significant amount of open space, 7.85 acres across the entire site which equates to 86.9%. Within only the HR-1 zone district, the area platted as open space equals 2.69 acres which equates to over 75% open space.

The Applicant contends that the proposed development plan provides a density that is well within the limits of the underlying zoning, meets the criteria of the Code, establishes the land pattern of the underlying HR-1 zoning, and yet still establishes and protects a significant portion of the site as open space.

Finally, the Applicant has explained many times to the Planning Commission, Legal Department, and Planning Staff that equitable considerations support the 9-home density for Alice Claim. The Applicant would never have spent \$1 million in the middle of The Great Recession to complete the voluntary cleanup if it had no assurance from Park City of developing nine homes to recover King's cleanup costs. As a Voluntary Cleanup Co-Applicant with King in cleaning up the Park City parcel in Alice Claim and King's property, the City manifested its approval of developing nine homes in Alice Claim. King Development's substantial change in position by incurring all of cleanup costs of \$1 million bars Park City from reducing the 9 lot density of the Gully Plan.

With this information we request that you clearly state in your staff report that the proposed density is well within the vested rights of the property.

Respectfully,  
Marc Diemer  
Associate Principal



DHM Design Corporation

Gregg E Brown  
Director of Special Projects



DHM Design SMA

cc: King Development Group, LLC  
Bradley R. Cahoon, Esq.

# Planning Commission Staff Report



**Subject:** ALICE LODGE  
**Date:** July 27, 2005  
**Type of Item:** Administrative; Subdivision

**RECOMMENDATION:** Staff recommends that the Planning Commission review the proposed subdivision as a work session item and provide the applicant and staff with direction.

## DESCRIPTION

**Project Name:** Alice Lode Subdivision  
**Project Planner:** Ray Milliner  
**Applicant:** Jerry Fiat  
**Location:** Woodside Gulch, from King Road  
**Zone:** Historic Residential (HR-1), Historic Residential Low (HRL), Estate (E).

## BACKGROUND

On May 23 2005, the applicant submitted a subdivision application for a 9 lot subdivision at the Alice Lode, located in Woodside Gulch above the intersection of Ridge Avenue and King Road. The property is currently a series of mining claims and metes and bounds parcels consisting of approximately 8.8 acres. It is located at an intersection of the HRL, HR-1 and Estate zones. Bisecting the property is the City owned water facility, including an abandoned water tank, an in-use water tank, and an active pipeline in a narrow strip of land leading to the intersection of Ridge and King (used for the pipeline). There is an existing gravel road running up Woodside Gulch to the City water tanks that provides access.

The property was historically used as a mining operation for ore extraction and processing from 1900-1920. The buildings and machinery used in the operation are now gone, but the hazardous tailings remain. In July of 2002 staff received an application for a 5 lot subdivision of the property (it was withdrawn prior to any hearing by the Planning Commission). At that time, an analysis of the property was conducted indicating that a large portion of the site exceeds minimum Federal regulations for hazardous materials. An application was filed for Brownfield (a federally funded grant program that provides communities with money to clean-up waste repositories) grant money to aid in the reclamation of the site. The application was denied by the Federal regulators.

## ANALYSIS

The applicant is proposing a 9 lot subdivision on 8.8 acres. The site rises from a flat canyon bed up a steeply pitched hillside with significant evergreen and deciduous vegetation. The applicant is proposing that access to the property come from a road/driveway that would be cut from the intersection of King Road and Sullivan Avenue, switching back and running south toward the City owned water tanks where it would terminate with a cul-de-sac (see attached subdivision plan). All proposed units would have access from that road. The applicant is proposing 6 lots in the HR-1 zone, 2 in the HRL zone and 1 in the Estate zone. Because the applicant is proposing 9 lots (10 lots trigger MPD review), the requirements of the MPD section of the LMC are not applicable; rather, the applicant will be subject to the review of the HR-1 zone, HRL zone, Estate zone, Chapter 7, Subdivision Requirements of the LMC and for the lot in the Estate zone,

the Sensitive Lands Ordinance. Staff has conducted an initial review of the project and has outlined its concerns in the analysis provided below.

**Waste Clean-Up**

As part of the development process, the applicant is proposing to remediate the site to acceptable local and federal standards solely at his cost. This would include the portion of the site owned by the City. The Alice Lode site is known to contain significant mine tailing waste, and therefore heavy metal constituents (i.e. lead, arsenic, mercury). Although the site is located within the Park City limits, it is outside of the Expanded Soils Ordinance Area, so the ordinance is not applicable. As a result, any soils generated from construction activities will have to be managed in accordance with State (UDEQ) and Federal (USEPA) RCRA and CERCLA Standards. Staff will require an approved UDEQ Work Plan that defines all operational and constructional procedures during the remediation. The Work Plan will need to include, but not limited to, the means and methods of mitigating any human and environmental exposures, the extent and location of soil movement on and off-site, and the proposed remediation of the area upon which the subdivision will reside.

**Density**

The applicant is proposing 9 single family units on the site. In the HR-1 zone he is proposing 6, in the HRL zone 2 and in the Estate zone 1.

The HR-1 section of the property is has 77,382 square feet of unplatted land with 4 platted lots and 8 platted partial lots located between King Road and Sampson Avenue, all of the lots are bisected by either Sampson Avenue or King Road. Section 15-2.2-3(A) sets the minimum lot size for the HR-1 zone at 1,875 square feet. Therefore, 77,382 square feet of land area divided by 1,875 square feet yields a theoretic maximum density of 41 lots.

The HRL section of the property has 39,697 square feet of unplatted land. LMC Section 15-2.1-3(A) sets the minimum lot size for the HRL zone at 3,750 square feet. Therefore, 39,697 square feet of land area divided by 3,750 square feet is 10 lots.

The Estate section of the property is 5.5 acres in size. LMC Section 15-2.10-3(A) sets the minimum lot size for a single family home in the Estate zone at 3 acres per unit. Therefore, 5.5 acres of land divided by 3 acres is 1 lot.

ZONE	AMOUNT OF LAND	POTENTIAL LOTS	PROPOSED
HR-1	77,382 square feet	41	6
HR-1 Platted	11,364 square feet	4 full 8 partial	0
HRL	39,697 square feet	10	2
ESTATE	5.5 acres	1	1
<b>TOTAL</b>	<b>8.82 acres</b>	<b>56</b>	<b>9</b>

The above described maximum density calculation reflects the maximum density allowable under ideal circumstances. Factors such as grading, vegetation protection, steep slope and access are all limiting aspects that will significantly reduce the ultimate LMC/Subdivision Code compliant density.

**Access / Grading**

The applicant is proposing a separate road access to the property that would enter approximately from the intersection of Sampson Avenue and King Road. This road would switch back from King Road running south toward the water tanks. It would provide access for all of the proposed units. In order to access the HRL lots, the driveways would

be required to cross the strip of land for the water pipeline owned by the City, and may interfere with the existing trail that enters the property in that general vicinity. To gain access to these lots, the City would have to grant an access easement over the pipeline property. Driveways for the HR-1 lots and Estate lots would access up-hill off the road. Access to the City owned water tower would also come from the new road.

One reason for the requested new road is that the applicant does not have clear access to the property from the existing access drive from the intersection of Ridge Avenue and King Road, as the property is owned by the City and another adjacent property owner.

Grading for the new drive would be significant. Preliminary drawings submitted by the applicant indicate that the drive would have cuts and fill ranging from 5 to more than 20 feet in height. This amount of grading in addition to the cuts necessary for the homes would have a significant impact on the existing topography and vegetation.

#### **Slope**

Approximately 67% of the property is sloped at 40% or greater. The lot in the Estate zone is within the Sensitive Lands Overlay, and would be subject to Planning Commission review for appropriateness for development prior to the approval of the subdivision plat. The lots within the HRL and HR-1 zones would be required to receive a CUP for construction on a slope of greater than 30% prior to the issue of a building permit. However, because subdivision plat approval would entitle the applicant to the density within the HR-1 zone staff recommends that the Commission consider the application for steep slope criteria in analysis of the final subdivision approval.

#### **Vegetation**

On the hill side above the mine reclamation site, there is a significant amount of natural vegetation including both deciduous and large coniferous trees. To develop the property in its current configuration would require that a significant amount of the existing vegetation be removed, including many of the large if not most of the evergreen trees on the site. Although much of the necessary remediation will require the removal of vegetation, it is not yet clear how much will be required on the hill side above the former mine site. Staff has significant concerns with the overall amount of site grading and tree loss associated with this plan. Should the project move forward, the applicant will need to demonstrate how the proposed units can be constructed without mass grading the site.

#### **QUESTIONS**

Staff is requesting that the Planning Commission review the proposed subdivision and provide staff and the applicant with direction on the following questions:

1. The proposed density, house size, access and lot layout appropriate for the site?
2. Which sections of the property are considered most important for vegetation preservation and slope protection?

#### **RECOMMENDATION**

Staff recommends that the Planning Commission review the proposed subdivision application as a work session item and provide the applicant and staff with direction.

#### **EXHIBITS**

- Exhibit A – Proposed Plat Amendment
- Exhibit B – Site Survey

# MEMO

To: Park City Attorney  
From: Joe Tesch & Stephanie Matsumura  
Date: October 30, 2008  
Re: Alice Claim —Vested Density

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We have researched the issue of whether the Planning Commission or City Council could reduce the density beyond that permitted in the underlying zones with regard to the application for a nine (9) lot Major Subdivision on the Alice Claim Property.

The Alice Claim Property consists of 8.8 acres located within the HR-1, HRL and Estate Zoning districts. The Major Subdivision application proposes to create eight (8) lots within the HR-1 Zone and one (1) lot within the Estate Zone. No lots are proposed within the HRL zone.

## Analysis

Based upon our review, we conclude that the Planning Commission or City Council may not reduce the density below that permitted in the underlying zones, but may only adjust the dimensions of lots, this location and other adjustments for good, efficient planning.

### 1. Density with the Zoning Districts:

- i. HR-1 Historic Residential District: According to the Planning Commission Staff Report of October 2006, there are 77,832 square feet of unplatted land within the HR-1 Zoning District between Sampson Avenue or King Road. The minimum Lot Area is 1,875 square feet (minimum width 25' x minimum depth of 75'). Therefore, the maximum density allowed equals 41.51 lots ( $77,832 \div 1,875$ ). The application is for only 8 lots in this zone, with a total square footage of significantly less than 77,832 sq. ft. Therefore, while some discretion exists concerning the location and size of those lots, the number of them cannot be reduced below eight (8) lots "while preserving the density" of the underlying zone.<sup>1</sup>

The Planning Director determines Lot width measurements for unusual Lot configurations. *Section 15-2.2-3 of the Park City Land Management Code* ("LMC" hereinafter). There are no maximum size restrictions within Section 15-2.2-3. The

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<sup>1</sup> In actuality there are 3.47 total acres in the HR1 Zone for a total of 151,153.2 square feet which translates into a base density of 80.62 residential lots. Alice Lode is requesting only 10% of the base density.

building pad, building footprint and height restrictions define the maximum building envelope within which all development must occur. *Section 15-2.2-3(B)*. The building pad, building footprint and setback requirements are defined in *Section 15-2.2-3* and provided in *Table 15-2.2* of the LMC. It should be noted that a Conditional Use permit is required for all structures with a proposed footprint of greater than 3,500 square feet. *Section 15-2.2-4*. Lot sizes determine the house size. However, the conditions imposed relate to specific lots, not to underlying density. The proposed use (i.e., single family dwellings) for the eight lots is considered an “allowed use” under *Section 15-2.2-2(A)(1)* of the LMC.

- ii. Estate Zoning District: The minimum Lot size for single family residences within the Estate Zoning District is three (3) acres. The Planning Commission may reduce the minimum Lot size during the review of a Major Subdivision Plat to encourage clustering of Density. The maximum density is one (1) unit per three (3) acres. In addition, the minimum Lot Width is one hundred feet (100'). The Planning Commission may reduce the minimum Lot Width during the review of the Major Subdivision Plat. Also, the minimum Front, Side and Rear Yards for all structures is thirty feet (30'). However, while the Planning Commission may vary the required yards, in no case shall it be reduced to less than ten feet (10') between structures. *Section 15-2.10-3*. There are other front yard, rear yard, and side yard exceptions that can be found in *Section 15-2.10-3* of the LMC. The single lot applied for that is located within the Estate Zoning District will be a single family dwelling and, therefore, it is an “allowed use” pursuant to *Section 15-2.10-2* of the LMC.
2. Subdivision Plat Approval Process: Under the LMC, an applicant has applied for a Major Subdivision. A Major Subdivision is one that contains “four (4) or more Lots [but not exceeding ten (10) lots], or any size Subdivision requiring any new Street.” As a result, since the Alice Claim Property application is for nine lots, it qualifies as a Major Subdivision.<sup>2</sup> As such, it is subject to the review process outlined in *Sections 15-7-1 et seq.* and *15-7.1-1 et seq.* of the LMC.

As part of the Major Subdivision review process and prior to subdividing land, the Planning Commission reviews the Preliminary Plat of the proposed subdivision giving “particular attention” to “Lot sizes and arrangement.” *Section 15-7.1-5(D)* of the LMC. While the Planning Commission is provided with the authority to review lot sizes and arrangement, there is no provision in the Land Management Code authorizing the Planning Commission to reduce the number of Lots, or more specifically, the density below that allowed in the underlying zone.

In fact, under the General Subdivision Provisions of the LMC, there is a general policy and stated intent to preserve the density assigned to each zoning district. More specifically, the stated purpose of the Subdivision regulations is to, *inter alia*, “provide for open spaces through the most efficient design and layout of the land, including the Use of flexible Density or cluster-type zoning in providing for minimum width and Areas of Lots, while preserving the Density of land as established in the Land Management Code of

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<sup>2</sup> Under the proposed development plan for eight lots within the HR-1 Zoning District and one lot within the Estate Zoning District, the application need not be submitted as a Master Planned Development.

**Park City.”** Section 15-7-2(L). (Emphasis Added) Clearly, the ordinances regulating Subdivisions are designed to preserve the density of the land as established in the LMC.

3. Zoning/ Lot Restrictions on HR-1 and Estate Zoning Districts: As previously mentioned, the Alice Claim Development proposes lots within the HR-1 and Estate Zoning Districts. The HR-1 Zoning District and Estate Zoning District are subject to different requirements and restrictions as follows:

- i. Lot Size Restrictions

- a. HR-1 Zoning District: Section 15-2.2: As established in Paragraph 1.i., the eight lots proposed in the HR-1 Zoning District comply with the zoning lot size requirements for the HR-1 Zoning District. There are no provisions within the HR-1 Zoning District restrictions that allow the Planning Commission and/ or Planning Department to require lots greater than the required minimum size dimensions.

However, it should be noted that under the HR-1 Zoning District Restrictions, Section 15-2.2-6 “Development on Steep Slopes,” a **conditional use permit is required** for any Structure<sup>3</sup> in excess of one thousand square feet (1,000 sq. ft.) if said Structure and/ or Access<sup>4</sup> is located upon any existing Slope<sup>5</sup> of thirty percent (30%) or greater.

As will be described in more detail below, under a conditional permit review the Planning Commission and/ or Planning Department are authorized to adjust the lot size, building height, and setback requirements. Again, there is no authority within this section for the Planning Commission and/ or Planning Department to reduce or make these adjustments to density below that allowed in the underlying zone. The review process for a Conditional Use permit is described in more detail below.

- b. Estate Zoning District: Section 15-2.10: As noted in Paragraph 1.iii, it appears that the one lot proposed in the Estate Zoning District meets the zoning restrictions and requirements. As previously mentioned in Paragraph 1.ii, the Lot Width and required setbacks may be reduced by the Planning Commission; however, there is no provision that allows the Planning Commission and/ or Planning Department to reduce density below that permitted in the underlying zone.

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<sup>3</sup> “Structure” is defined under the LMC as “anything constructed, the Use of which requires a fixed location on or in the ground or attached to something having a fixed location on the ground and which imposes an impervious material on or about the ground.” Section 15-15-1.224

<sup>4</sup> “Access” is defined under the LMC as “the provision of vehicular and/ or pedestrian ingress and egress to Structures, facilities or Property.” Section 15-15.1.1

<sup>5</sup> “Slope” is defined under the LMC as “the level of inclination of land from the horizontal plane determined by dividing the horizontal run or distance of the land into the vertical rise or distance of the same land and converting the resulting figure in a percentage value.” Section 15-15-1.215



ii. Whether Proposed Development is a Conditional or Allowed use:

- a. HR-1 Zoning District: Pursuant to Section 15-2.2-2(A), single family dwellings are an Allowed Use, and therefore not a Conditional Use, within the HR-1 Zoning District. Therefore, the eight lots proposed in the HR-1 Zoning District are not subject to the Conditional Use process.
- aa. Structures on Steep Slopes. However, as previously noted, if the proposed structure is greater than 1,000 square feet located on a slope greater than 30%, a conditional use permit is required. Based upon the previous Planning Commission Staff Reports (specifically of October 25, 2006), approximately 67% of the property is sloped at 40% or greater. The eight single family units proposed in the HR-1 Zoning District site may be in areas where the property is sloped at 40% or greater, and thus require a **conditional use permit**. See *October 25, 2006 Planning Commission Staff Report*.

The Planning Commission reviews a Conditional Use Permit application based upon criteria specified in Section 15-2.2.9(B) of the LMC. Among the criteria reviewed is the location of the development, visual analysis, building location, setbacks and dwelling volume. The Planning Department and/ or Planning Commission may require an applicant to adjust the building location, the building form and scale, the setbacks and the dwelling volume<sup>6</sup>. *Section 15-2.2-6 of the LMC*. However, there is no authority to eliminate density. The only authority is to place conditions on its use.

The “maximum volume of any Structure is a function of the Lot size, Building Height, and Setbacks.” *Section 15-2.2-10(8) of the LMC*. As part of the Conditional Use Application Review, the Planning Department and/ or Planning Commission “may further limit the **volume** of a proposed Structure to minimize the visual mass and/ or to mitigate differences in scale between a proposed Structure and existing Structures.” *Id.* Therefore, the Planning Department and/ or Planning Commission may limit the Lot size, Building Height, and Setbacks to minimize its visual mass and mitigate differences in scale; however, there is no provision that they may reduce density below the amount permitted in the underlying zone.

- bb. Structures less than 1,000 square feet on Slopes Less than 30%. For those lots on Alice claim with structures less than 1,000 square feet (including the garage) and/ or Access to said

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<sup>6</sup> We were unable to locate a section of the LMC that defines and sets forth how dwelling volume is determined beyond the general statement that it is a function of Lot Size, Building Height, and Setbacks.

Structure is located upon an existing Slope greater than thirty percent (30%), those lots are not subject to the Conditional Use process.

- b. Estate Zoning District: Similar to the HR-1 District, pursuant to Section 15-2.10-2(A), single family dwellings are among the Allowed Uses, within the Estate Zone District. **Only Conditional Uses** in the Estate District are subject to the Sensitive Lands Overlay Review. *Section 15-2.10-6 of the LMC*. The Sensitive Land Overlay Zone Regulations imposes further review, restrictions and regulations upon development that may affect the overall density.<sup>7</sup>
4. Planning Commission and City Council are without Authority to Reduce Density under these facts: Since there is no grant of authority to reduce density under these facts, the Planning Commission is prohibited from doing so. Municipalities are granted the authority to enact ordinances, rules, regulations, etc. with regard to, among other things, density. *Utah Code Ann. § 10-9a-102*. An owner of property holds it subject to zoning ordinances enacted pursuant to a city's police power. *Smith Investment Company v. Sandy City*, 958 P.2d 245 (Utah App. 1998) (citing to *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388, 390 (Utah 1980)). If a zoning regulation or other land use restriction is unreasonable or irrational, it may violate substantive due process rights of the property owner and not be upheld. *Smith Inv. Co.*, 958 P.2d 245. However, zoning ordinances that promote the general welfare, or demonstrate a reasonably debatable inherent interest of the general welfare will be upheld and the municipality's legislative judgment controls. *Id.*

Under Utah statute, 10-9a-509, "an applicant is entitled to approval of a land use application if the application conforms to the requirements of the municipality's land use maps, zoning maps, and applicable land use ordinance in effect when a complete application is submitted and all fees have been paid, unless: (1) the land use authority on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or (2) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted." In addition, under the Park City Land Management Code, vesting for purposes of zoning occurs upon the filing of a complete Application. *See Section 15-7.1-6 of the LMC*. The LMC also states that "an applicant is entitled to approval of a land Use Application if the Application conforms to the requirements of an applicable land Use ordinance in effect...unless...the land Use authority, on the record, finds that a compelling

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<sup>7</sup> It should be noted that the Planning Commission Staff Report of October 25, 2006 notes that the lot in the Estate zone is within the Sensitive Overlay Land Zone. Notably, however, the October 25, 2006 Planning Commission report accurately notes that the lots in the HR-1 zone are not subject to the Sensitive Overlay Land Zone. According to a telephone conversation with Planner Brooks Robinson on September 29, 2008, all Estate Property located within Old Town is subject to the Sensitive Land Overlay Zone restrictions. The current Zoning Map appears to show that the outer perimeter of the Estate Zoning District on the Alice Claim Property is part of the Sensitive Land Overlay Zone. However, this should be confirmed. Although the Planning Commission (as found in the October 25, 2006 Planning Commission Staff Report) suggests that the one lot within the Estate Zone is within the Sensitive Land Overlay Zone, this suggestion appears to be contrary to Section 15-2.10-6 of the LMC. Nonetheless, the following section discusses how the Sensitive Lands Review, if applied, could affect density.

countervailing public interest would be jeopardized by approving the Application.”  
*Section 15-1-17 of LMC.*

The case of *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980) is instructive as to a city’s authority to withhold approval of subdivision that meets all zoning requirements at the time of application. In *Western Land Equities*, applicant owners sought relief from the city’s refusal to approve a proposed single-family subdivision that met the minimum zoning requirements. Specifically, the applicants sought approval of a single family residential subdivision on land within a manufacturing zone which permitted single-family dwellings.

The court held that “an applicant is entitled to a building permit or subdivision approval if his proposed development meets the zoning requirements in existence at the time of his application and if he proceeds with reasonable diligence, absent a compelling, countervailing public interest.” *Id.* at 396. In its decision, the court noted that “[t]here may be instances when an application would for the first time draw attention to a serious problem that calls for an immediate amendment to a zoning ordinance, and such an amendment would be entitled to a valid retroactive effect.” But the court further stated that, “[i]t is incumbent upon a city, however, to act in good faith and not reject an application because the application itself triggers zoning reconsiderations that result in a substitution of the judgment of current city officials for that of their predecessors.” *Id.* The reasons provided by the city for withholding approval, specifically for the city’s belief that fire protection would be undermined because of limited access to roads and the city’s objections to inadequate sidewalks and other problems, were not so compelling to overcome the presumption that the applicants were entitled to affirmative official action if they met the zoning requirements in force at the time of application.<sup>8</sup> *Id.*

In addition to an applicant’s vested right to approval if the proposed development meets the zoning requirements, under Section 10-9a-509(2) of the Utah Code provides that, “a municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.” Park City’s stated policy for subdivisions is to “preserve the Density of land as established in the Land Management Code of Park City.” *Section 15-7-2(L) of LMC.* This mandatory provision is an expressed intent to preserve the density established through zoning ordinances. Accordingly, neither the Planning Commission nor the City Council has the authority to reduce the applied for density of nine (9) lots since this density is consistent with the provisions of the underlying zones.

Thank you for your review of these authorities.

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<sup>8</sup> It should be noted, however, that in the case of *Mouty v. The Sandy City Recorder*, 122 P.3d 521 (Utah 2005), the Utah Supreme Court recognized that the exercise of the people’s referendum right is of such importance that it properly overrides “individual economic interests” and constitutes a “compelling, countervailing public interest.”

## Thomas Eddington

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**From:** Polly Samuels McLean  
**Sent:** Tuesday, January 20, 2009 2:57 PM  
**To:** Gregg Brown; Brooks Robinson; Thomas Eddington; 'jerry fiat'; joet@teschlaw.com  
**Cc:** paullevy2242@yahoo.com; DAVID KAGAN  
**Subject:** RE: Meeting notes from 12 Jan

Gregg – I have some changes to your summary. As for 10, Tom E might have further clarification.

*5. "Staff agrees that 9 lots are allowed per the LMC, but the location and potential development impacts need to be approved by the Planning Commission and City Council. "*

Staff agrees that the underlying density allows for the 9 lots, however any lots must meet the subdivision and all other criteria of the Land Management Code, and the location and potential development impacts need to be approved by the Planning Commission and City Council.

*6. Staff agrees that the legal access to the property is through the existing, but undeveloped King Road ROW.*

Staff agrees that access to the property through the existing, but undeveloped King Road ROW is legal.

*7. DHM should explain to the PC why changes were made to the site plan that resulted in the current design. Also, how the remediation project affected the layout.*

Staff suggested that it might be helpful for PC if DHM explained why changes were made to the site plan that resulted in the current design. Also, how the remediation project affected the layout.

*10. The effect of the current LMC amendment on Alice Claim is uncertain. Tom believes, "this site has special and unique circumstances from the typical old town lots".*

The pending Steep Slope CUP LMC amendment would apply to the Alice Claim sight. Tom stated that these lots are unique from the typical old town lots due to their large lot size.

Polly Samuels McLean  
 Assistant City Attorney  
 Park City Municipal Corporation  
 445 Marsac, P.O. Box 1480  
 Park City, UT 84060-1480  
 (435) 615-5031

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**From:** Gregg Brown [mailto:gbrown@dhdmsdesign.com]  
**Sent:** Saturday, January 17, 2009 3:45 PM  
**To:** Brooks Robinson; Thomas Eddington; Polly Samuels McLean; 'jerry fiat'; joet@teschlaw.com  
**Cc:** paullevy2242@yahoo.com; DAVID KAGAN  
**Subject:** Meeting notes from 12 Jan

Please let me know if you have any additions or corrections. Thank you for taking the time to review the

project.

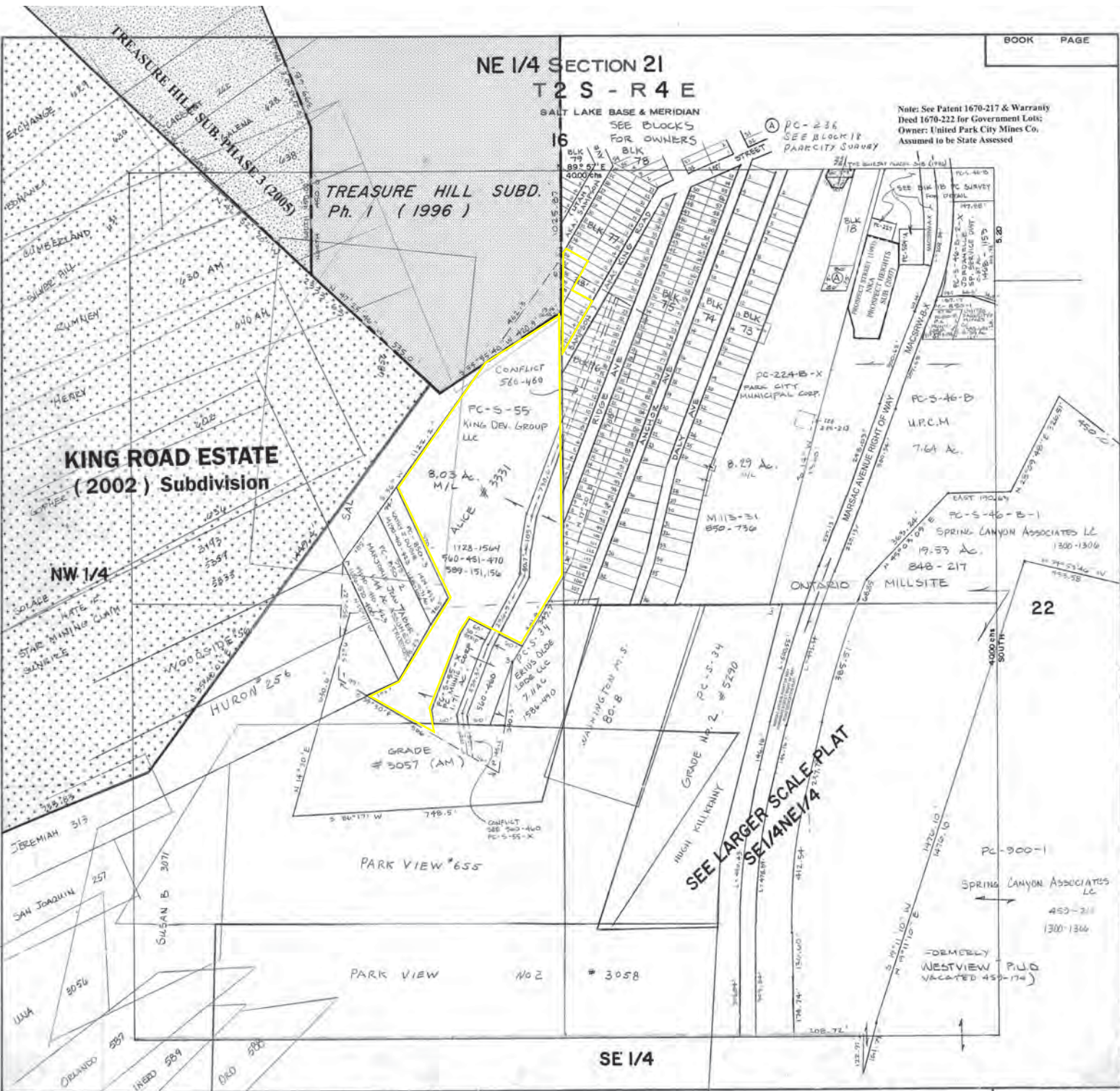
**Gregg Brown**  
Principal | **DHM Design**  
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Denver | Carbondale | Durango  
[gbrown@dhtmdesign.com](mailto:gbrown@dhtmdesign.com)  
<http://www.dhtmdesign.com>

NE 1/4 SECTION 21  
T2S - R4E

SALT LAKE BASE & MERIDIAN  
SEE BLOCKS  
FOR OWNERS

PC-236  
SEE BLOCK 18  
PARKCITY SURVEY

Note: See Patent 1670-217 & Warranty  
Deed 1670-222 for Government Lots;  
Owner: United Park City Mines Co.  
Assumed to be State Assessed



Approved	REVISIONS - DATE AND INITIAL	(In Pencil)
Utah State Tax Comm		

Date By  
Engineering Associates Inc.

SUMMIT COUNTY, UTAH

SCALE  
ONE INCH 200 FEET  
BOOK PAGE

13E/4 NE 1/4 21 17 23  
216





LANDSCAPE ARCHITECTURE | LAND PLANNING | ECOLOGICAL PLANNING | URBAN DESIGN

June 17, 2016

Via email: [fastorga@parkcity.org](mailto:fastorga@parkcity.org)

Mr. Francisco Astorga, AICP Planning Director  
Park City Planning Department  
445 Marsac Ave  
Park City, UT 84060

**Re: Alice Claim CUP Application - Landscaped Walls Example**

Dear Francisco:

I write on behalf of the applicant, King Development Group, LLC, to respond to a concern expressed by the Planning Commission regarding the viability and positive effect of landscape planting between the retaining walls proposed at the entry to the Alice Claim project. The current design places the retaining walls 5 feet apart and plants that space with a mixture of evergreen and deciduous trees and shrubs. Based upon my experience with landscape in the Rocky Mountains, I believe these plants will grow and be healthy, and naturalize the appearance of the proposed retaining walls. Within Park City there is a good example of healthy plant materials growing between retaining walls in confined spaces. I have attached below photos of these plants flourishing between retaining walls. The planting proposed for the walls at Alice Claim is much denser, meaning the spacing between plants is closer together and will visually screen much more of the proposed walls. The 5-foot growing space will not inhibit plant viability.

Respectfully,  
Marc Diemer  
Associate Principal



DHM Design Corporation

Gregg E Brown  
Director of Special Projects



DHM Design SMA

Attachments

cc: King Development Group, LLC  
Bradley R. Cahoon, Esq.



# DHM DESIGN





**ESCH**  
**LAW OFFICES**  
*A Professional Law Corporation*

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Joseph E. Tesch  
Stephanie K. Matsumura  
Jared W. Moss

314 Main Street - Suite 200  
PO Box 3390  
Park City, Utah 84060-3390  
Tel: (435) 649-0077  
Fax: (435) 649-2561

June 10, 2016

Park City Planning Commission  
PO Box 1480  
Park City, Utah 84060

Re: Alice Claim Applications, Negotiations with Shari Levitin

Dear Commission:

At your May 25, 2016 hearing on the Alice Claim matter, an allegation was made by Shari Levitin that since the year 2008, Applicant King Development Group has not been involved in any real negotiations with her.

This is inaccurate and misleading.

As an attorney representing Applicant, I have negotiated directly with Ms. Levitin in several telephone conversations and in email texts, and I have participated in written offers as early as the middle of July 2009 and as late as the summer of 2015. In addition, one of the members of Applicant's LLC has also had a telephone conversation and provided a written offer as late as August 12, 2015.

While these negotiations did not result in an offer that Ms. Levitin would accept, they were always conducted in good faith, generally with explanations and the bases for our positions. Similarly, we explained why we were not agreeable to her counteroffers.

We believe the detail of those negotiations should not be made public as they are generally considered protected. Suffice it to say that our rejected offers were for significant amounts of money, many times the fair market value of the requested easement.

Sincerely,  
TESCH LAW OFFICES, P.C.

  
Joseph E. Tesch

JET/tw



LANDSCAPE ARCHITECTURE | LAND PLANNING | ECOLOGICAL PLANNING | URBAN DESIGN

June 17, 2016

Via email: [fastorga@parkcity.org](mailto:fastorga@parkcity.org)

Mr. Francisco Astorga, AICP Planning Director  
Park City Planning Department  
445 Marsac Ave  
Park City, UT 84060

**Re: Alice Claim Application for Conditional Use Permit, Significant Vegetation Mitigation**

Francisco:

I write on behalf of the applicant, King Development Group, LLC, to clarify our understanding of the protection requirements of significant vegetation and the mitigation process for removal of significant vegetation, per LMC 15-2.1-9 Vegetation Protection.

As you are aware, the pending development application necessitates the removal of two mature evergreen trees (significant vegetation) due to their conflict with the proposed entry road that will be necessary to achieve legal access to our property over the platted King Road right-of-way.

During the Planning Commission hearing on May 25, 2016, Chairman Strachan stated correctly that we must protect significant vegetation but did not state that the Planning Director is authorized to allow mitigation for loss of significant vegetation.

The relevant LMC section is set forth below, for your convenience.

LMC: 15-2.1-9 Vegetation Protection

The Property Owner **must protect Significant Vegetation** during any Development activity. Significant Vegetation includes large trees six inches (6") in diameter or greater measured four and one-half feet (4½') above the ground, groves of smaller trees, or clumps of oak and maple covering an Area fifty square feet (50 sq. ft.) or more measured at the drip line.

Development plans must show all Significant Vegetation within twenty feet (20') of a proposed Development. The Property Owner must demonstrate the health and viability of all large trees through a certified arborist. The Planning Director shall determine the Limits of Disturbance and **may require mitigation for loss** of Significant Vegetation consistent with Landscape Criteria in LMC Chapter 15-3-3.... (Emphasis added.)

As shown on the latest development plan, we have protected all significant vegetation on the site; however, we cannot avoid removal of the two trees described above and should be permitted to mitigate their removal.

# DHM DESIGN

In the staff report for the June 10, 2015 Planning Commission hearing, a Condition of Approval was included that stated, "All mature trees that will be lost due to the subdivision, retaining walls, addition of drives and building pads, shall be approved by the Planning Department and be replaced in kind or with three smaller trees as close to the original location as possible within 1 year of tree removal."

In terms of mitigation, we propose to plant 33 evergreen trees and 31 deciduous trees for a combined (minimum) 212 inches of caliper while the two trees to be removed are approximately 53 inches in caliper combined. This is a 4:1 replacement ratio. Further, the extensive site clean-up and revegetation of Alice Claim property and the City's property completely changed the site from an unsightly polluted dump to a beautiful vegetated site with significant improvements to water quality. This public benefit should also be taken into account in allowing the removal and mitigation of the two trees.

Sincerely,

A handwritten signature in black ink on a light gray rectangular background. The signature is cursive and reads "M. Diemer".

DHM Design Corporation  
Marc Diemer, Associate Principal

cc: King Development Group, LLC  
Bradley R. Cahoon, Esq.

**Alice Claim CUP application**

**Findings of Fact**

1. The Alice Claim property is located approximately at the intersection of King Road, Ridge Avenue, Woodside Gulch and Sampson Avenue, within the Historic Residential (HR-1) and Estate (E) Districts.
2. The Alice Claim plat includes nine (9) single family home building lots on 8.65 acres and a plat amendment of 0.38 acres.
3. A City water tank and land owned by the City is adjacent to the property on the south end, and a City-owned parcel bisects the applicant's property.
4. The applicant previously undertook a voluntary remediation of contaminated soils within the Alice Claim property and the City's property. Following the cleanup, applicant revegetated the remediated areas.
5. The applicant would never have spent upwards of \$1 million in the middle of The Great Recession to complete the voluntary cleanup if it had no assurance from Park City of developing nine homes to recover applicant's cleanup costs.
6. As a Voluntary Cleanup Co-Applicant with King Development in cleaning up the Park City parcel in Alice Claim and applicant's property, the City manifested its approval of developing nine homes in Alice Claim.
7. The extensive cleanup and revegetation of Alice Claim property and the City's property completely changed the site from an unsightly polluted mine dump to a beautiful vegetated site with significant improvements to water quality.
8. The property can only be accessed through the platted Sampson Avenue aka King Road that is depicted and dedicated on the Plat of Subdivision No.1 of Millsite Reservation, Park City, Summit County, Utah recorded with the Summit County Recorder on August 13, 1884.
9. The applicant's entry way requires three retaining walls up to 10' in height each to stabilize cut and fill slopes. The first retaining wall will be adjacent to Sampson Avenue on its north side and starts as a four foot (4') wall and then gradually increases to a ten foot (10') wall towards the south. The other two (2) retaining walls will be next to the first wall, and each wall will not exceed ten feet (10') in height. The walls are designed to align to the contouring of the slope.
10. The walls will be separated by three (3) tiered landscaping areas between each wall consisting of coniferous and deciduous trees as well as shrubs. As recommended by Planning Staff, an additional 20% of tree planting with a minimum height of 10 feet has been added to what was originally identified. This applicant's May 25, 2016 landscape plan and these conditions will reasonably mitigate visual impacts of the walls.
11. The walls will be constructed by soil nailing and overlaid with decorative stone veneer. This process is less disruptive to existing vegetation above the walls and does not require extensive footings that could conflict with utilities at the base of the wall along roadway.
12. The lowest wall along the roadway will extend around the corner created by the intersection with King Road. This public improvement will widen King Road to improve the existing roadway turn movements at King Road, will improve visibility of the Alice Court entry way, and was designed in consultation with the City Engineer.
13. The application for the Alice Claim CUP was deemed "complete" by the Planning

## Exhibit Y - Applicant's Draft CUP Approval

Department on January 23, 2015 and the modified application was deemed complete on March 23, 2016.

14. The reasonably anticipated detrimental impacts of the CUP are reasonably mitigated by tiering walls, stepping back walls, substantial vegetation, soil nailing walls, and stone veneer.
15. The walls as conditioned, designed, and mitigated are compatible with walls within the HR-1 zone and the surrounding neighborhood.

### **Conclusions of Law**

1. The CUP, as conditioned, is consistent with all requirements of the Park City Land Management Code and is compatible with surrounding wall structures and the Park City General Plan.
2. The reasonably anticipated detrimental effects of the retaining walls are reasonably mitigated by the conditions imposed in accordance with applicable standards, including LMC § 15-1-10.E, by tiering, stepping back, substantial vegetation, soil nailing, and stone veneer.
3. The only legal access to the property is through the platted public road, Sampson Avenue aka King Road, as depicted and dedicated on the Plat of Subdivision No.1 of Millsite Reservation, Park City, Summit County, Utah recorded with the Summit County Recorder on August 13, 1884. This public road has not been vacated.
4. The Alice Court entry to Alice Claim requires the retaining walls. Applicant cannot place its property to economically viable use without approval of this CUP for the entry walls.
5. Equitable considerations support approval of the CUP. Applicant's substantial change in position by incurring all of \$1 million in costs to complete the cleanup of Alice Claim that included the City's property and the City's direct participation in the State Voluntary Cleanup as a Co-Applicant with King Development support approval of the CUP.

### **Conditions of Approval**

1. All Standard LMC Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. The City Engineer will need to approve the engineered construction plans for the walls prior to issuance of any building permit.
4. Historic District Design Review will be needed prior to issuance of a building permit.
5. City Engineer and SBWRD approval of the engineering plans of the walls and utility plan will confirm that there will be no material impacts to utilities and infrastructure. However, if any changes to the utilities or infrastructure significantly change the location and heights of the walls, as determined by the Planning Director, then the applicant will need to amend this CUP application which will require Planning Commission review.
6. Prior to issuance of a building permit, final landscape plan prepared and wet-stamped by a licensed landscape architect with the complete plant list showing botanical name, common name, quantity, size and spacing and guarantee shall be submitted for Historic District Design Review and approval by the Planning Department. All plant materials labeled or keyed to the plant list and the quantity for that group must be shown in the landscape plan. The applicant shall submit a

## Exhibit Y - Applicant's Draft CUP Approval

- letter from the landscape architect indicating that the requested plants and trees between the retaining walls can be appropriately accommodated to ensure a successful life span of each tree, plant, vegetation.
7. Prior to issuance of a building permit, existing Significant Vegetation and mature landscaping shall be preserved per a tree preservation plan completed by a certified arborist and approved by the Planning Department.
  8. The Conditional Use Permit will expire two years after the date of recording of the Alice Claim Subdivision Plat, unless (i) the Conditional Use construction has commenced; (ii) a building permit has been issued; or (iii) an extension is granted by the Planning Director in accordance with LMC §15-1-10.G.
  9. All significant trees that will be lost due to construction of the walls shall be replaced in kind with multiple smaller trees (3 to 1 ratio) the caliper size of the trees removed and located in the planting areas between the new walls within 1 year of tree removal or the spring planting season following 1 year of tree removal, whichever last occurs.
  10. The Applicant will need to receive from the Utah Department of Environmental Quality (“UDEQ”) under the UDEQ Voluntary Cleanup Program a final Certificate of Completion for remediated soils within Applicant’s property prior to building permit approval. In conjunction with its approval of this Application, if required by UDEQ, the City will cooperate in allowing for the Certificate of Completion to cover remediated soils inside the City’s property within the Alice Claim Subdivision.
  11. A Steep Slope CUP will be required for Lot 5, which is adjacent to the retaining walls to ensure that the walls are stepping to the contours of the land and will not negatively impact any future homes in that area.
  12. If a Site Management Plan is required for the UDEQ Certificate of Completion for Alice Claim, the UDEQ-approved Site Management Plan must be submitted to the Building Department prior to building permit approval.
  13. If the applicant secures alternate access over the historic roadway through Lot 3 of the Ridge Avenue Subdivision Plat (135 Ridge Avenue, Park City, Utah), then that change to the access depicted on the Alice Claim Plat may be approved solely by the Planning Director, and upon recording of the modified Alice Claim Plat, the Conditional Use Permit for the Alice Court entry walls will automatically vacate and become null and void.



Ordinance 15-

**AN ORDINANCE APPROVING THE ALICE CLAIM SUBDIVISION AND PLAT AMENDMENT AND RIDGE AVENUE SUBDIVISION PLAT AMENDMENT, LOCATED AT THE INTERSECTION OF KING ROAD, RIDGE AVENUE, WOODSIDE GULCH AND SAMPSON AVENUE (APPROXIMATELY), PARK CITY, UTAH.**

WHEREAS, the owners of the property known as the Alice Claim Subdivision located approximately at the intersection of King Road, Ridge Avenue, Woodside Gulch and Sampson Avenue, have petitioned the City Council for approval of the Alice Claim Subdivision Plat and Plat Amendment and Ridge Avenue Subdivision Plat Amendment; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners according to the Land Management Code; and

WHEREAS, the Planning Commission held work sessions on July 27, 2005, January 11, 2006, October 25, 2006, August 27, 2008, January 28, 2009, March 11, 2009, June 10, 2009, October 8, 2014, and December 9, 2015 and held public hearings on February 9, 2011, April 8, 2015, June 10, 2015, July 8, 2015, July 22, 2015, August 12, 2015, May 25, 2016, and July 13, 2016 to receive input on the proposed and multiple iterations and modifications of the subdivision and plat amendments;

WHEREAS, on July 27, 2016 the Planning Commission forwarded a positive recommendation to the City Council; and,

WHEREAS, on \_\_\_\_\_, 2016 the City Council held a public hearing on the proposed Alice Claim Subdivision Plat and Plat Amendments; and

WHEREAS, it is in the best interest of Park City, Utah to approve the proposed Alice Claim Subdivision Plat and Plat Amendments.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

**SECTION 1. APPROVAL.** The above recitals are hereby incorporated as findings of fact. The Alice Claim Subdivision Plat and Plat Amendment and Ridge Avenue Subdivision Plat Amendment, as shown in Exhibit A, are approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

**Findings of Fact:**

1. The Alice Claim property is located approximately at the intersection of King

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- Road, Ridge Avenue, Woodside Gulch and Sampson Avenue, within the Historic Residential (HR-1) and (HRL) and Estate (E) Districts.
2. The Alice Claim application was deemed complete in 2005. The Ridge Avenue Plat Amendment application was deemed complete in 2015.
  3. The applicant previously undertook a voluntary remediation of contaminated soils within the Alice Claim property and the City's property. Following the cleanup, applicant revegetated the remediated areas.
  4. The applicant would never have spent upwards of \$1 million in the middle of The Great Recession to complete the voluntary cleanup if it had no assurance from Park City of developing nine homes to recover applicant's cleanup costs.
  5. As a Voluntary Cleanup Co-Applicant with King Development in cleaning up the Park City parcel in Alice Claim and applicant's property, the City manifested its approval of developing nine homes in Alice Claim.
  6. The extensive cleanup and revegetation of Alice Claim property and the City's property completely changed the site from an unsightly polluted mine dump to a beautiful vegetated site with significant improvements to water quality.
  7. The property can only be accessed through the platted Sampson Avenue aka King Road that is depicted and dedicated on the Plat of Subdivision No.1 of Millsite Reservation, Park City, Summit County, Utah recorded with the Summit County Recorder on August 13, 1884. This public road has not been vacated.
  8. The Alice Claim Plat and Plat Amendment and Amendment to the Ridge Avenue Plat is set forth at Exhibit A.
  9. Water Service is available to meet required water pressure to all of 9 lots.
  10. Alice Court will not exceed 14% grade and will remain a private road. The City Engineering Department concurs with Alice Court driveway design and intersection and the planned improvements to the King Road/Sampson Avenue intersection.
  11. Trails are shown on Exhibit A with a 15' public recreational trail easement.
  12. Lots 2-9 in HR-1 zone are each 0.10 acre in size and have a maximum building footprint of 1,750 square feet. The E district Lot 1 is 3.01 acres in size.
  13. In response to Planning Commission, Planning Department and Public comments, applicant over the past decade has submitted multiple modifications to its site plans, plats and all required submittals for the subdivision and plat amendments. The Planning Commission considered these iterations during work sessions held on July 27, 2005, January 11, 2006, October 25, 2006, August 27, 2008, January 28, 2009, March 11, 2009, June 10, 2009, October 8, 2014, and December 9, 2015 and during public hearings held on February 9, 2011, April 8, 2015, June 10, 2015, July 8, 2015, July 22, 2015, August 12, 2015, May 25, 2016, and July 13, 2016 respectively.
  14. The final proposed subdivision and plat amendments locate home sites into the bottom of Alice Claim gully, preserve several existing large evergreens that will provide screening, substantially mitigate the removal of some significant vegetation, cluster home sites, minimize area of disturbance, place home sites on less steep slopes, avoid sensitive areas, and make homes sites compatible with the surrounding neighborhood and the HR-1 and Estate Districts zoning.
  15. The following facts support a finding that there is good cause for the Alice Claim Subdivision and Plat Amendment Applications:
    - a. Applicant's extensive \$1 million cleanup of the unsightly mine waste dump on City's and applicant's property and transformation of a

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- brownfield into a 9 home neighborhood is a significant benefit to health, safety and welfare of the Park City community.
- b. The project provides public amenities and benefits, including significant open space of 7.85 acres (86.9% of property), public trail access with formal easements, donation of 0.38 acre open space and safety improvements to King/Sampson Road intersection, closure of an open mine shaft, revegetation of remediated polluted areas where nothing would grow, cleanup to streambed and water shed, improved access to City water tank, 84% reduction in allowed density.
  - c. Project was vetted over a decade by Planning Commission , City Council and public input, a process that promoted excellent and sustainable design and applied best planning and design practices resulting in a plan that is compatible with the character of the neighborhood, zone districts, and General Plan.

### **Conclusions of Law:**

1. The Alice Claim application was deemed complete in 2005 for purposes of vested rights in 2005 and is subject to the 2004 LMC.
2. There is good cause for this subdivision and the plat amendments.
3. The subdivision and plat amendments are consistent with the Park City Land Management Code and applicable State law regarding subdivisions and plat amendments.
4. The only legal access to the property is through the platted public right of way, Sampson Avenue aka King Road, as depicted and dedicated on the Plat of Subdivision No.1 of Millsite Reservation, Park City, Summit County, Utah recorded with the Summit County Recorder on August 13, 1884. This public road has not been vacated.
5. Alice Court driveway and its extension through the platted public right of way and intersection with the existing Sampson Avenue aka King Road, meets the requirements of LMC §§ 15-7.3 and as will be finally approved by the City Council pursuant to LMC § 15-7.3-1.A.
6. Neither the public nor any person will be materially injured by the subdivision or plat amendments.
7. Approval of the subdivision plat and plat amendments, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.
8. Equitable considerations support approval of the Alice Claim Plat and Plat Amendment and Ridgeview Subdivision Application. Applicant's substantial change in position by incurring all of \$1 million in costs to complete the cleanup that included the City's property and the City's direct participation in the State Voluntary Cleanup as a Co-Applicant with King Development supports the City's approval of the Alice Claim applications.

### **Conditions of Approval:**

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

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2. The applicant will record the subdivision plat and plat amendments at the County within two (2) years from the date of City Council approval. If recordation has not occurred within two (2) year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted based on good cause by the City Council. If the plat is not recorded within this time period or an extension is not granted, it shall be null and void and any resubmittal shall be a new application which is subject to all review requirements, zoning restrictions and subdivision regulations at the time of the submittal.
3. Recordation of the subdivision plat and plat amendments and completion and approval of final Historic District Design Review and Steep Slope CUP for each individual lot, if applicable, are required prior to building permit issuance for each individual lot for any construction of buildings or retaining walls within this subdivision.
4. Snow storage for roads and private drives must meet the requirements of the LMC.
5. Sewer lateral design and service will need to meet Snyderville Basin's requirements and receive written approval by SBWRD before the subdivision plat can be signed by SBWRD.
6. Any revisions to the previously submitted water pressure model will need to meet acceptable water pressure flows in order for the subdivision to meet water requirements.
7. There shall not be any further subdivision of any additional lots in this subdivision. A plat note shall reflect this condition.
8. No building permits for house construction for the Estate Lot 1 shall be issued until the culvert on that lot is fully installed.
9. A study shall be completed extending the FEMA Flood Plains through this development prior to plat recordation.
10. A Stream Alteration Permit from the State may be required for the Estate Lot 1 culvert prior to plat recordation.
11. Prior to building permit approval, a Debris Flow Study will be completed for the ditch channel to determine if a debris basin is required. A debris flow basin and related improvements are allowed infrastructure within the Subdivision.
12. The utility plan will need to be revised to show how each of the main and dry utilities will be able to be placed within the Subdivision with required separations, or with special conditions approved by the City Engineer prior to plat recordation.
13. Any road over 10% grade will not be eligible to be converted to a public road in the future.
14. Drives must provide 20 feet wide of clear space to meet Fire Code. If parking impacts this 20 feet wide clear space, it will not be allowed and shall be signed No Parking.
15. Roads less than 26 feet wide shall be marked NO Parking on both sides of the road.
16. The Applicant will need to receive from the Utah Department of Environmental Quality ("UDEQ") under the UDEQ Voluntary Cleanup Program a final Certificate of Completion for remediated soils within Applicant's property prior to building permit approval. In conjunction with its approval of this Application, if required by UDEQ, the City will cooperate in allowing for the Certificate of Completion to cover remediated soils inside the City's property within the Alice Claim

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- Subdivision.
17. If a Site Management Plan is required for the UDEQ Certificate of Completion for Alice Claim, the UDEQ approved Site Management Plan must be submitted to the Building Department prior to building permit approval.
  18. The applicant will need to receive CUP approval for the proposed retaining walls over 6 feet tall at the project entry prior to plat recordation, unless alternate access is obtained over the historic roadway and is approved by the Planning Director.
  19. If the site plan is altered due to any utility redesign or retaining wall redesign or other unforeseen issues, any substantial change as determined by the Planning Director shall be subject to Planning Commission review and, if necessary, approval.
  20. Prior to plat recordation, the City and Applicant shall record with the County Recorder against their respective parcels of property in Alice Claim a reciprocal easement agreement granting the City an easement over the Applicant's property and granting the Applicant an easement over the City's property for the purpose of ingress, egress, infrastructure and utilities.
  21. If the applicant secures alternate access over the historic roadway through Lot 3 of the Ridge Avenue Subdivision Plat (135 Ridge Avenue, Park City, Utah), then that change to the access depicted on the Alice Claim Plat may be approved solely by the Planning Director, and upon recording of the modified Alice Claim Plat, the Conditional Use Permit for the Alice Court entry walls will automatically vacate and become null and void.

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this \_\_\_day of \_\_\_\_\_, 2016

PARK CITY MUNICIPAL CORPORATION

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Jack Thomas, MAYOR

ATTEST:

Exhibit Z - Applicant's Draft Plat/Subdivision Ordinance

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Marci Heil, City Recorder

APPROVED AS TO FORM:

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Mark Harrington, City Attorney