

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
JULY 27, 2016

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO: Planning Director, Bruce Erickson; Francisco Astorga, Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

**ROLL CALL**

Chair Strachan called the meeting to order at 5:35 p.m. and noted that all Commissioners were present.

**PUBLIC COMMUNICATIONS**

There were no comments.

**STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Planning Director Erickson commented on the number of items for Continuation this evening. He noted that the next Planning Commission meeting was schedule for August 10<sup>th</sup> at the Santy Auditorium. The Staff had tentatively scheduled a site tour for the Treasure Hill project on the August 10<sup>th</sup> agenda. The Staff was trying to determine how much of the unit equivalent back of house studies the Planning Commission would want before the site visit. Direct Erickson suggested that they could either have the site visit on August 10<sup>th</sup> as scheduled, or wait until the building by building analysis is completed for the meeting on September 14<sup>th</sup>. Another alternative would be to visit the site on August 10<sup>th</sup> to give the Commissioners an understanding of where each building would be located, and then have another site visit on September 14<sup>th</sup>.

Commissioner Phillips favored the idea of two site visits to get more familiar with the site. Chair Strachan asked if the applicants would fly balloons and stake the property. Director Erickson assumed that would occur for the September site visit. He noted that Planner Astorga's analysis would be building by building to show what each building contains.

Chair Strachan noted that site visits take a lot of time. If the property was not staked or ballooned, he questioned whether it would be very informative or productive. Considering the size of the agenda on August 10<sup>th</sup> he was unsure whether it was worth taking the time to do a site visit. Commissioner Phillips agreed.

Chair Strachan stated that if the applicant had a strong desire to do a site visit on August 10<sup>th</sup> then they should defer to the applicant. Otherwise, they should wait until September. Commissioner Joyce was comfortable waiting until September; however, he wanted to make sure the Commissioners would have enough time to get familiar with the site and be able to ask questions. Chair Strachan suggested that a site visit might have to be its own agenda item. They could schedule two hours on site and two hours at the Santy Auditorium for presentation and discussion.

Assistant City Attorney McLean stated that she always recommends some type of discussion or recap after the site visit. Since the site visit is not recorded it is a way to document what occurred. Commissioner Thimm agreed that it would be helpful to have that discussion after walking the site.

Commissioner Phillips disclosed that he would be recusing himself from the three Alice Claim items on the agenda this evening due to a prior working relationship with the applicant.

Commissioner Thimm disclosed that in the past he has worked collaboratively with Greg Brown of DHM on projects outside of Utah. He did not believe that collaboration would have any bearing on his decision regarding the Alice Claim project.

Chair Strachan disclosed that the Planning Commissioners would gather together on Friday for an informal social barbeque at his home. The public was welcome to attend, but no official business would be conducted.

**CONTINUATIONS (Public Hearing and Continue to date specified.)**

1. 8680 Empire Club Drive – A Conditional Use Permit for a 1,094 sf addition to the Talisker Tower Club Restaurant. (Application PL-16-03177)

Director Erickson reported that the applicant had requested a continuation to September 14<sup>th</sup> instead of August 10<sup>th</sup> as shown on the agenda.

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

MOTION: Commissioner Phillips moved to CONTINUE 8680 Empire Club Drive CUP to September 14<sup>th</sup>, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

2. 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, 4,060 sf for a guest recreation amenities, 918 sf for a guest movie and video viewing room, as well as improvement to the exterior pool and deck area and remodel of existing interior ski locker rooms and skier services. (Application PL-16-03176)

Chair Strachan opened the public hearing.

Dave Novak, a 30-year resident stated that he has been the property manager for Mont Cervin for 22 years. Mr. Novak noted that Mont Cervin condominiums shares a beautiful strand of trees between Mont Cervin and Stein Eriksen Lodge. He thought the legal notice was very general in terms of what the applicant was requesting. His instincts tell him that they were looking at a piece of property that borders Stein Eriksen Lodge and Mont Cervin condominiums. Mr. Novack reiterated that this property is a beautiful strand of trees that has been a buffer zone since Mont Cervin was built in 1990. He was concerned that the applicant was asking to use that piece of property and tear down that existing buffer zone of trees. Mr. Novak wanted clarification on the generalities that were presented in the legal notice as to where the expansion would occur and whether it jeopardizes that beautiful boundary of trees between the two properties. Mr. Novak stated that a couple of years ago under a recreational permit, Stein Eriksen was allowed to build their spa and a new swimming pool close to the same property he was referring to. Under the current legal notice there were generalities about improving the swimming pool area, but it does not specify what that is. Mr. Novak recommended that the Planning Commission schedule a site visit so they could see the area he is talking about, and that they also contact Stein Eriksen Lodge as to where the expansion of 10,000 sf would occur.

Chair Strachan informed Mr. Novak that a legal notice is a very general notice of what is being proposed. The applicant would file very detailed plans with drawings when this item comes before the Planning Commission on August 24<sup>th</sup>. At that time Mr. Novak would be able to see exactly where the expansion would occur and whether it will affect the trees. Mr. Novak could find that information on the City's website a week prior to the August 24<sup>th</sup> meeting. He suggested that Mr. Novak make his comments at that meeting if he still believes the plans jeopardize those trees, or if he has other concerns after reviewing the entire plan.

Director Erickson noted that Mr. Novak could also contact Kirsten Whetstone in the Planning Department. She is the project planner and has been involved in most of the Stein Eriksen projects.

Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to CONTINUE the 7700 Stein Way Conditional Use Permit for an addition to Stein Eriksen Lodge to August 24, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

3. 7700 Stein Way – A condominium plat amendment to identify the additional amenity spaces requested in the Conditional Use Permit. (Application PL-16-03175)

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

MOTION: Commissioner Phillips moved to CONTINUE 7700 Stein Way – condominium plat amendment to identify additional amenity spaces to August 24, 2016. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

4. 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.  
(Application PL-16-03156)

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

MOTION: Commissioner Phillips moved to CONTINUE 3776 Rising Star Lane Zone change to August 10, 2016. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

5. 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.  
(Application PL-16-03051)

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

MOTION: Commissioner Phillips moved to CONTINUE 3776 Rising Star Lane plat amendment regarding alterations to the building envelope to August 10, 2016. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

6. 158 Ridge Avenue – Steep Slope Conditional Use Permit for a new Single Family Dwelling. (Application PL-16-03149)

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

MOTION: Commissioner Phillips moved to CONTINUE 158 Ridge Avenue – Steep Slope Conditional Use Permit for a single family dwelling to August 10, 2016. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

### **CONSENT AGENDA**

1. 100 Daly Avenue – Steep Slope Conditional Use Permit 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.

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

VOTE: The motion passed unanimously.

#### Findings of Fact – 100 Daly Avenue

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 – 100 Daly Avenue

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 – 100 Daly Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. 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 15th and be completed on or prior to October 15th. 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.

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

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 – 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)**

Commissioner Phillips recused himself and left the room.

The Planning Commission addressed all three items together.

Planner Astorga noted that the Planning Commission had a good discussion on July 13<sup>th</sup> where they conducted a public hearing and reviewed the conditional use permit, the plat amendment and the subdivision for the Alice Claim project, as well as the secondary plat associated with the project. The Staff report for this meeting included some of those comments.

Planner Astorga stated that this has been a long process and the Staff was ready to provide specific findings of fact, conclusions of law and conditions of approval for the conditional use permit. The Staff was also ready to make a recommendation to the City Council regarding the subdivision and plat amendment.

Planner Astorga reported on public comment he received from Jim Doilney. Mr. Doilney was also present to make his comments this evening.

Planner Astorga stated that if the Planning Commission chooses to take action on the CUP this evening, he would recommend revising some of the findings and conditions for clarification.

The applicant did not have a presentation but they were present to answer questions. Planner Astorga introduced the applicant representatives, Greg Brown and Brad Cahoon.

Chair Strachan suggested that Planner Astorga present the proposed changes first before the Commissioners take public comment or ask questions.

Planner Astorga referred to the Findings of Fact for the CUP on page 63 of the Staff report.

He referred to Finding of Fact #4 and clarified the last sentence to say that the City Water Line **does** run within City owned property.

Assistant City Attorney McLean asked if Planner Astorga had confirmed that with Roger McLain. Planner Astorga replied that he was still in the process of getting it confirmed. Ms. McLean explained that at one point the water line was relocated. They believe it was relocated back into City-owned property and the old line was abandoned, but that needs to be verified with the Water Department. Planner Astorga asked if it would be appropriate to add, **to be confirmed by the Public Utilities Department**. Ms. McLean replied that it was appropriate from a legal standpoint. She noted that the Water Department could also confirm that there is no need for any use of the abandoned water line.

Greg Brown with DHM Design clarified that the easement is still in place. They were just correcting that the water line is now on City property rather than in the old easement.

Planner Astorga referred to Finding #9 and deleted **or any lots adjacent to the historic district**. He explained that the eight lots being requested in the HR-1 District require a Historic District Design Review. However, the adjacent lot in the Estate District does not require an HDDR. Ms. McLean clarified that this Finding was for the CUP and the language pertained to the retaining walls. The retaining walls would be subject to an HDDR. Planner Astorga pointed out that any construction in the Historic District requires an HDDR.

Planner Astorga referred to Finding #12. He noted that after extensive meetings with the City Engineer he wanted to clarify the language in the Finding as currently drafted. Assistant City Attorney McLean recalled that the Staff believed from the Planning Commission discussion that impacts are created. The second revised part of Finding #12 was more specific to the engineering.

Planner Astorga referred to Finding #15, and added **soil nailing the walls, and stone veneer** to the end of the sentence.

Planner Astorga referred to minor revisions in Finding #16 that were approved by the City Engineer.

Planner Astorga referred to Finding #19 and changed Analysis Section to correctly say **Review Section of the July 27, 2016 Staff Report**.

Planner Astorga stated that the Conclusions of Law were currently adopted in the LMC and there were no changes.

Planner Astorga reviewed the revisions to the Conditions of Approval for the CUP. He referred to Condition #4 and explained that because of the proximity from each wall it would be more appropriate to call it a **three tier retaining wall system**, as each retaining wall affects the following wall. He noted that the last part of the findings follows the LMC where retaining walls in supplemental regulations is to be measured from **final grade**. Planner Astorga clarified that they were mirroring the language in the LMC.

Planner Astorga referred to Condition #6 and revised the wording to say **final utility and road plans** near any retaining walls are required to be approved by the City Engineer.

Planner Astorga stated that those were the only changes proposed by Staff. He was prepared to answer any questions.

Brad Cahoon requested that they go back to Finding #4 regarding the location of the water line. He read from page 26 of the June 10<sup>th</sup>, 2015 Planning Commission meeting minutes. "Planner Alexander read Finding of Fact #4, The City water tank on land owned by the City is adjacent to the subject property on the south end, and the 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". Mr. Cahoon noted that the minutes reflect that Planner Alexander had asked Roger McLain, the Water Department Representative, to clarify the water line location. He further read that Mr. McLain stated that last year the Water Department relocated the existing water line through that section on the City property. Mr. Cahoon believed that should resolve the question regarding the location of the water line and needing confirmation from the Water Department.

Planner Astorga had forgotten another change to Finding #1. The language indicates that the property is within the SLO. He added language stating, **The entry wall property is not within the SLO.**

Greg Brown thanked the Planning Commission for their positive comments at the last meeting. The team has done a lot of work to steer this project in a direction that makes it more acceptable. Mr. Brown thanked Planner Astorga and Assistant City Attorney McLean for reacting quickly to some of the concerns raised by the applicant after reading the Staff report.

Mr. Brown was not opposed to the changes to the Findings and Conditions that were proposed by the Staff; however, the applicant had additional changes to propose. He referred to page 66 of the Staff report, Finding #10 which states, "The Conditional Use Permit will expire July 27<sup>th</sup> of 2017. Mr. Brown requested a two-year time limit on the conditional use permit due to the extensive amount of work that needs to be done. He pointed out that the plat needs to be recorded before they obtain a building permit for the wall, and a lot of engineering work still needs to be done. The applicant was concerned about being able to complete that work in one year and would like a two-year expiration.

Mr. Brown stated that there was also a lot of discussion regarding Condition #15 and what it means to disturb a tree. He requested that they add a definition in the Condition. Mr. Brown stated that it was a standard definition that he has worked with for existing trees within construction sites, as well as new plantings. Once a plant goes in, if there is any plant shock from a new plant going in they always use the 25% rule. He believed that would also be valid for the existing trees if they see disturbance that affects more than 25% of the tree, the tree would have to be replaced and mitigated. Mr. Brown requested that

they add **the term “disturb” means more than 25% of any existing mature tree dies within two years of construction.**

Mr. Brown made a grammatical change to Condition #16 to read, “All plant materials **shall be** labeled or keyed to the plant list....” Mr. Brown made minor grammatical changes to Conditions 17 and 18.

Mr. Brown referred to Finding #21 of the Subdivision and Plat Amendment regarding the idea of a third party to take the conservation easement. He stated that they were still searching for a third party. Because of the previous use of the site there is not a lot of interest due to liability concerns. He believed it was possible that the HOA might end up holding the easement for the non-disturbance areas and open space.

Chair Strachan recommended that they strike “3<sup>rd</sup> party” and say **conservation easement held by a third party or the HOA.** Director Erickson noted that there are circumstances where the City is a party to portions of an HOA agreement for the purposes of conservation easements. He suggested that language indicating partial participation by the City would be appropriate. Assistant City Attorney McLean clarified that the City would not monitor the conservation easement. The City would just be a party to the conservation easement.

Commissioner Joyce stated that he has raised this issue a number of times. He noted that in a subdivision space is laid out for buildings and other space is laid out as common area. He thought it was interesting that the applicant was offering an easement; however, he did not understand why they needed the unusual requirement of a third party conservation easement on what is platted as unbuildable space. Commissioner Joyce remarked that a conservation easement requires significant documentation and required uses. He did not understand why this was different from any other platted subdivision.

Assistant City Attorney McLean stated that having sat through most of this application, she recalled that it was offered by the applicant. However, they would not have to require it if the Planning Commission did not think it was necessary. Ms. McLean agreed with Commissioner Joyce that the City typically does not require it to be held by a third party.

Chair Strachan recalled that the conservation easement came from the past cleanup of the project. The applicant would clean it up with the stated intention of dedicating a vast majority of it to a conservation easement. That idea helped sell the cleanup and the application.

Commissioner Joyce disclosed that he is on the Board for the Summit Land Conservancy. He knows what they look for in third party easements, and in general it would not be this project. He personally never understood the need for it in this case.

Chair Strachan asked Commissioner Joyce if he would be more comfortable removing the language, **held by a third party**. He pointed out that if it is held by the HOA, by majority vote the HOA could decide to relinquish their easement rights. If the City is a partial holder of the easement, the City could weigh in on the HOA's decision. If the City is not a partial holder of the easement rights, then it would exclusively be the decision of the HOA. Commissioner Joyce explained the reasons why he did not see value in requiring a conservation easement.

Director Erickson stated that the City sees management of the open space as implementing portions of the General Plan, which limit the ability of property owners to extend roads to other properties; and to make sure the open space is protected in some form, particularly on the boundaries of conservation easements from Empire Pass and PCMR. He noted that it also extends the green space in the General Plan and it puts additional controls on the ability to extend road access. Director Erickson believed they could achieve those goals with the conservation easement and the City being a party to it.

Commissioner Joyce agreed with the logic. He favored removing the third party reference. Mr. Brown clarified that the recommendation was to remove third party and revised the language to say, ... shall be protected by a **conservation easement held by the City and the HOA to maintain the land**.

Mr. Brown referred to Condition #2, and added, The applicant will record the **subdivision and** plat amendment at the County within **two years** from the date of City Council approval. He noted that the change from one year to two years was to allow time to compile the cleanup documents as required by the State.

Planner Astorga referred to Condition #4 and noted that at one point the Planning Department was recommending that the Estate Lot go through a Historic District Design Review. After looking at the specific zoning, the Staff found that they could not require the applicant to go through the HDDR for the Estate Lot because the HDDR only takes place over the H zones in the Historic District. Planner Astorga requested that they remove Condition of Approval #4 and note that it was intentionally left blank.

Chair Strachan asked if the Estate lot would be subject to a CUP. Planner Astorga answered no, because the proposed single-family use is an allowed use and a steep slope CUP is only required in the H Districts. Chair Strachan asked if the Estate Lot was in the SLO. Planner Astorga stated that the Staff looked at the 2005 zoning map, which the application is vested on, and the map did not indicate that this property had any Sensitive Lands Overlay Zoning. Chair Strachan thought they needed to have that discussion.

Planner Astorga referred to Condition #10 and the requirement that the culvert gets built to City standards prior to plat recordation. After that, the culvert would be maintained by the City and not the HOA. Planner Astorga clarified that the culvert was the only improvement that is required to take place prior to plat recordation. He noted that as indicated in Condition #29, this is typical for a subdivision; and that the remaining public improvements are completed after the plat is recorded. Planner Astorga revised Condition #29 to read, All Public Improvements, **except the Lot 1 culvert**, shall be completed **after** plat recordation **but prior to the first home building permit**. An adequate financial Guarantee for all Public Improvements **shall be submitted prior to permitting**.

Assistant City Attorney McLean recalled that they had said that all engineered plans would be submitted prior to plat recordation. Planner Astorga stated that it was addressed in Condition #16. Mr. Brown agreed that all the engineering drawings and State requirements must be completed and reviewed by the Regulatory Agencies, the City and the State before recordation of the plat. It was another reason for requesting the second year. Once that work is completed and the plat is recorded they would apply for building permits.

Mr. Brown referred to the Condition of Approval for the Ridge Avenue plat amendment, and noted that they were requesting two years primarily to be consistent.

Commissioner Joyce noted that the proposed definition for disturbance equals 25% was something he has not seen before. He asked if the Planning Department concurred with that percentage. Ms. McLean noted that disturbed is not defined in the Code. However, under 15-21-9, Vegetation Protection, the Code states, "The property owner must protect significant vegetation during any development activity. Significant vegetation includes large trees 6" in diameter or greater measured 4-1/2 feet above the ground. Groves of smaller trees or clumps of oak or maple covering an acre, 50 square feet or more, measured at the drip line. Development plans must show all significant vegetation within 20 feet of proposed development. The property owner must demonstrate the health and viability of all large trees to 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 15-55(M)". Ms. McLean recommended that the condition of approval use the language of significant vegetation.

Commissioner Joyce did not believe the Code language addressed the issue. The issue is not significant vegetation but rather significant vegetation that is disturbed, and what that means. Ms. McLean stated that if a significant tree is killed, the applicant would have to replace it under the Code. Commissioner Joyce thought the language proposed by the applicant was stronger than the Code language. Planner Astorga stated that the Planning Department was comfortable with the definition proposed by the applicant.

Commissioner Band asked who would maintain the retaining wall. Mr. Brown replied that it would be the HOA. Commissioner Band requested a condition of approval stating that it would be maintained by the HOA. Mr. Brown was comfortable adding that as a condition of approval.

Commissioner Thimm noted that intensity of use has been a major component of discussion on this project. In reading the Staff report he noted that the HR-1 District would allow these sites to be duplexes. A conditional use of the duplex would have to come before the Planning Commission, but he wanted to know if there was a desire by the applicant to have duplexes. Commissioner Thimm pointed out that he always assumed one unit per lot; however, duplexes would increase the density and intensity of use, which was counter to previous discussions. He suggested that they prohibit duplexes as a condition of approval for this action. Mr. Brown was comfortable with prohibiting duplexes.

Chair Strachan could not find the Sensitive Lands Overlay exhibit in the Staff report. Planner Astorga stated that it was attached to the zoning map as Exhibit I, but it was not a separate exhibit. Assistant City Attorney McLean recalled from the SLO discussion that it was a gray area; and since the SLO requirements for the Estate Zone were met it was moot point. Chair Strachan asked if that was a known fact. Ms. McLean thought they had made that determination based on the analysis that Christy Alexander had done when she was the project planner.

Mr. Brown recalled significant discussion at that time as to whether or not there was an SLO on that lot. He noted that the map they are vested under does not indicate any SLO. It is mentioned in a legend but it was not shown on the map. Planner Astorga noted that they were vested under the 2001 map. He presented the 2001 map for their review. Planner Astorga stated that Mr. Brown was correct. The legend had SLO boundaries and the discrepancies, but nothing was labeled on the map. Mr. Brown stated that because there was some confusion at the time, the applicant submitted a binder with all of the documentation required for the SLO. It went through a Staff review and was found to be acceptable. Ms. McLean had the same recollection. Planner Astorga clarified that he has only been the project planner since December, which is why the SLO is not mentioned in his Staff reports.

Chair Strachan opened the public hearing.

Brooke Hontz, a resident on Daly Avenue, stated that the winds were blowing in a different direction than she had hoped, but that was made clear at the last meeting. However, she felt the need to state a few more things for the record. Ms. Hontz stated that when she was on the Planning Commission her role was to go through the conditions of approval with a fine tooth comb. She always found edits and items to add to the record. In this



case, she does not support this application, but if the Planning Commission chooses to forward a positive recommendation, she requested that they spend the time making sure that all the conditions are substantial enough and say what they want them to mean. Ms. Hontz pointed out that many times someone comes forward with an approved CUP, and when the neighbors express frustration over something, the City pulls the Conditions and often times find that while it seemed clear at the time, it did not go far enough. Ms. Hontz urged the Planning Commission to spend whatever time is necessary to make sure the Conditions say what they need to say.

Ms. Hontz thought it was both City and State law that public improvements such as sewer, water, and other public improvements necessary to build a home must be completed before someone could purchase a property. She understood from the comments that there was some wiggle room and that the plat could be recorded before all the public improvements are completed.

Planner Astorga replied that the LMC indicates that the plat could be recorded prior to completing the public improvements.

Ms. Hontz understood why the developer would want to push those costs out because they would be substantial. However, the last Staff report talked about how the service providers were saying that they might not sign off on that plat because they are not sure if they can provide the services, particularly for this site which has proven to be difficult to develop. The former planner told her that they have difficulties obtaining a checklist of things, and therefore, the plat could not be signed off. For that reason, the Planning Department was not worried about it because they did not believe it could be built. Ms. Hontz stated that the concept was absolutely inappropriate, and secondly, there is now a condition of approval that allows them to sell these properties before they know if they can build the necessary infrastructure to service these properties. Ms. Hontz thought everyone should be nervous about that and she asked the Commissioners to take that into consideration. Mr. Hontz disagreed with allowing the applicant a second year extension. She agreed that it would take time to design the walls, but they should be made to do it within the required one-year time frame. Ms. Hontz thought the conversation easements were very important. She believed there were two adjacent conservation easements that are nearby or might even touch this property, and they could easily be folded in. She believed there were huge repercussions about additional development in this area that could be serviced through an emergency ingress or egress. Ms. Hontz asked the Planning Commission to consider that, and to understand why the conservation easement is very important to include.

Ms. Hontz did not believe this project has or ever will meet the LMC or the subdivision requirements, even with the conditions proposed. She believed the significant testimony that has been provided and will continue to be provided in the future will stand when

reviewed against the standard. Ms. Hontz appreciated the time and effort that many members of the public had put forth on this application or any application where people took the time to do their homework and provide comment. At the past few meetings she has heard commentary from Commissioners and others about what the public is actually thinking. She thought the public has done a good job of portraying that themselves. The role of the Planning Commission is very specific and the public's role is very specific. The public should be allowed to have their voice and that should stand on it's own.

Jim Doilney thanked the Planning Commission for the opportunity to speak again. He had submitted a letter and apologized for raising a density question this late in the process. Mr. Doilney was shocked on July 13<sup>th</sup> when the Planning Commission comments swung from a discussion to talk about approving this project. Mr. Doilney clarified that his question came late in the process because he was not expecting an approval at this time. However, he recognized the process this applicant has gone through. Mr. Doilney asked how the right to have nine buildable lots was determined and who made the decision. That question has never been answered. He stated that granting this project nine lot would repeat the problem that was created when Treasure was approved, which is getting density rights well in excess of the buildable density possible without a new City approval. Mr. Doilney stated that when problems become apparent, Alice Claim may be seen as Treasure #2.

Mr. Doilney stated that if the Planning Commission was voting for the nine lot approval because the City Council had not directed them to avoid creating new buildable density, that should be noted because he intends to bring that to the City Council's attention. Mr. Doilney remarked that his appeal to Council will state that this approval creates new density contrary to what he believes and public feedback would indicate, as well as the standards in Summit County. Mr. Doilney pointed out that Summit County was not allowing new density like this project. He believed the citizens are opposed to Park City creating new density except for affordable housing and as part of the City approved TDR program. Mr. Doilney stated that nonetheless, King Development mitigation work merits granting additional density, perhaps enough to double its investment. He was not opposed to the applicant making money because they have been working on this project long enough. However, nine lots is way too many when the asking average list price on a property in Old Town is 985,000. Mr. Doilney asked the Planning Commission to direct the Staff to recommend the appropriate number of Alice lots based on King's cost basis and a careful third party appraisal process. If they did not do that, he suggested that they ask the Staff to prepare those materials prior to it going to City Council because he will be asking the City Council the same questions.

Lee Guernstein stated that he is the homeowner at 135 Ridge Avenue, which is at the intersection of Sampson/King Road/Daly and the entrance to the proposed project. Mr. Guernstein noted that at the last meeting the Planning Commission received a lengthy

legal argument of the violations of the proposed project from their attorney Mark Gaylord. It was a nine-page document dated June 20<sup>th</sup> that details the legal arguments that encompass many of their objections to this project. Mr. Guernstein stated that at the last Planning Commission meeting many of the Commissioners expressed their preference to use the Ridge access instead of building the large retaining wall and creating a new off-center intersection. He was enthusiastically approached by Joe Tesch to negotiate the issue but he has heard nothing since the last Planning Commission meeting. Mr. Guernstein clarified that he remains open to that resolution because it would be in everyone's best interest.

Chair Strachan closed the public hearing.

Commission Campbell stated that he had already made his comments and he had nothing further to add.

Commissioner Suesser thought the Planning Commission needed time to carefully review the redlined changes that were proposed this evening before taking action. She agreed that the conservation easement should remain in place. She also thought the utilities services issue needed to be resolved before any approval. Commissioner Suesser disagreed with the Staff that Condition of Approval #4 of the Subdivision and Plat should be deleted. She believed the Estate Lot should remain subject to HDDR and be part of the CC&Rs for the HOA.

Commissioner Thimm had nothing more to add to the comments he made in past meetings.

Commissioner Band agreed that the public services should be resolved prior to plat approval. She asked for the landscaping plan on the retaining wall in terms of bonding. Director Erickson stated that the key determination of appropriate mitigation for the conditional use permit for the size and scale of the wall is the performance of the landscape. He believed they should require additional guarantees that the landscaping will perform beyond the normal time horizon, since this site is subject to many years of construction impacting those trees and the trees are the crux mitigation of the wall. Director Erickson recommended that the Planning Commission consider a longer term of guarantee and replacement, especially if it falls to the HOA at a given time. Commissioner Band commented on the failed landscaping they have seen around town. She hoped the applicant and the neighbor could still negotiate an access that would not require this CUP. Commissioner Band stated that her previous comments stand and she had nothing more to add.

Commissioner Joyce reiterated his support for how this project ended up. He favored the idea of extending the duration of the landscape bond. He thought it should be considered for many of the major projects around town. Commissioner Joyce was not opposed to granting an extension. In response to public comment about holding the applicant to one year, he noted that in the past the Planning Commission has granted longer than one year when there are extenuating circumstances and it is unreasonable to expect the work to be completed in one year.

Commissioner Joyce understood the concern about the utilities but he thought it had been addressed. He read from a condition of approval, "Utility plan will need to be revised to show how each of the wet and dry utilities will be placed within the drives and required separations, or with the special conditions as approved by the proper regulatory agencies and approved by the City Engineer prior to plat recordation". Commissioner Joyce was unsure what else they would ask of the applicant because they cannot record the plat until the utility plan has been approved by several entities.

Commissioner Joyce understood the explanation regarding the conservation easement. He did not believe wrapping it under an existing conservation easement would ever occur, and putting protection on it was sufficient. Commissioner Joyce noted that the density issue has been raised several times. Regarding the question how 9 lots were determined, Commissioner Joyce pointed out that nine lots was a proposal from the applicant. In his opinion, nine lots, if located in the right place and in the right size and consistent with the Historic District, is appropriate. Commissioner Joyce stated that once the Gully Plan was presented, the amount of open space and the land that was cleaned up goes to good cause. Commissioner Joyce referred to public comment about how much the applicant paid and how much they should make. He stated that money and finances have nothing to do with the Land Management Code and it is not to be considered in Planning Commission decisions. On the question of whether nine lots were too much, Commissioner Joyce stated that when it was nine big houses on the hillside and the ridgeline, the answer was yes. However, when it became nine small, reasonably sized comparative historic district houses in a format that fit well with the Historic District, he was comfortable with it.

Commissioner Joyce appreciated that Mr. Guernstein was still willing to work with the applicant on the alternate access. He noted that the Planning Commission had before them a CUP application for a wall. The question is whether that wall meets the LMC Code the way it has been mitigated. Based on feedback from the last meeting, it was clear that the Commissioners preferred a negotiated access, but if that was not possible, the applicant would have mitigated the wall well enough to build it. Commissioner Joyce emphasized that the Planning Commission has the obligation to evaluate the CUP as it is without considering the alternative that might or might not happen. In terms of the Estate Lot HDDR requirement, Commissioner Joyce understood from Planner Astorga that an

HDDR could not be required for non-historic zoning. He reiterated that the Planning Commission has to follow what the LMC allows and requires.

Commissioner Band asked if it was possible to require an HDDR because the Estate Lot is part of the neighborhood, even though it falls in a different zone. Assistant City Attorney McLean replied that there needs to be a nexus between the condition of approval and the project. She pointed out that if the applicant stipulates, that supersedes the LMC. Planner Astorga stated that as an example, the applicant had stipulated to a prohibition on duplexes, even though it was an allowed use. Commissioner Joyce did not think the duplexes were a fair comparison because as Commissioner Thimm had pointed out, even though it was an allowed use it would have doubled the intensity of use on a lot.

Director Erickson stated that if the Planning Commission chooses to make a recommendation to the City Council on the plat, they could recommend that the City Council consider an HDDR on the Estate Lot and identify specific findings for that recommendation.

Chair Strachan concurred with Commissioner Joyce that the Planning Commission has granted two year expirations in other complicated projects. He agreed with Commissioner Band regarding a bond for the landscaping, and there needs to be findings for the basis of the bond. Chair Strachan thought Condition of Approval #4 regarding the Estate Lot should remain; primarily because it was part of the proposed findings they had seen in past meetings. He always understood that the Estate Lot would be subject to HDDR. Chair Strachan thought they could make findings that the Estate Lot is adjacent to other historic structures and it is highly visible from all historic vantage points in Old Town. In addition, due to the size of the lot, it has the potential to disrupt the flow of the historic structures in Old Town. Chair Strachan believed the potential for incompatibility, glare and disproportionate sizing supports making the Estate Lot subject to the HDDR.

Chair Strachan expressed concerns with Finding of Fact #11 of the CUP. He read, "Should the applicant work through the access issued with the adjacent neighbor, less retaining would be needed and that could be a significant factor to mitigating the visual impact to the community". He had concerns with "less retaining" without knowing what less retaining would be. If it were over six feet the applicant would have to come back to the Planning Commission, and he thought that should be spelled out in the Finding. Chair Strachan was uncomfortable agreeing to both an access agreement and a retaining wall as well. He could not recall seeing that particular language in any of the prior Staff report. He always assumed it was an either/or proposition. There was either an access agreement with the neighbor, in which case retaining would not be required; or if the applicant could not obtain an access agreement they would have to build retaining walls. At a minimum,

Chair Strachan suggested that the second sentence of Finding of Fact #11 be stricken.

Chair Strachan stated that the density issue has troubled him from the beginning. Unfortunately, the Code does not bar density increases, and every time the City has tried to put that prohibition in place, it is opposed by the public because they believe it will hurt the economic values. Therefore, the LMC remains un-amended on that issue and density continues to increase. Chair Strachan believed it was a major mistake that generations of Parkites have made for decades. Until a density prohibition is imposed under the Land Management Code and until the General Plan say to decrease density, there is no basis for the Planning Commission to push zero density.

Chair Strachan agreed with Commissioner Suesser that based on the number of revisions proposed, the Planning Commission should take another look at the Findings of Facts and Conditions of Approval to make sure all the Commissioners understand them fully before taking action. He is always uncomfortable taking action at the same meeting where findings or conditions are added or revised.

Assistant City Attorney McLean stated that because this was a shorter agenda and it was still early in the evening, she suggested that the Planning Commission take a recess and allow Planner Astorga and the applicant time to incorporate the changes and make clean copies for the Commissioners to review. Considering the length of upcoming agendas, she recommended that the Planning Commission take action this evening if possible, rather than continue to another meeting. She pointed out that it was only a suggestion and the Planning Commission could continue this if they were more comfortable doing so.

Chair Strachan noted that the Planning Commission has done that in the past and he thought it was a wise suggestion. Commissioner Joyce agreed. He pointed out that while there were a number of changes, only a few were substantive. Many were grammatical changes. Commissioner Campbell preferred to complete this tonight if possible. The Commissioners concurred.

Chair Strachan thought the Planning Commission should provide direction regarding the Estate Lot before the recess. He asked if the applicant was willing to leave in Condition #4. Mr. Brown replied that they would need to discuss that among themselves during the break.

Assistant City Attorney McLean referred to the Finding of Fact regarding the access. She asked the applicant if they would need retaining walls if the alternate access is negotiated. Mr. Brown stated that he did not have a factual answer. He recalled that when it was designed that way many years ago there were retaining walls. However, he did not believe

they were six feet tall. He noted that there were interesting grading changes at the entrance and he recalled three or four foot walls.

Commissioner Campbell did not think the Planning Commission should be concerned because they know the walls would be smaller than what they might approve this evening. Chair Strachan replied that smaller was a different issue. Where the walls are located and how they look could be problematic. Commissioner Joyce remarked that the Planning Commission was willing to approve a CUP for a specific 30' retaining wall in a specific location. However, if the applicant could craft an agreement for the entrance and any retaining walls were less than 6 feet, they would not need a CUP and it would be like any other retaining wall in town. Commissioner Joyce assumed that approval of this CUP would not carry over to a different retaining wall and that the applicant would have to come back for a separate CUP for a retaining wall over six feet. Chair Strachan agreed and suggested that they delete the second sentence of Finding #11 of the CUP because it was hypothetical.

The Planning Commission took a short recess.

Chair Strachan resumed the meeting.

Commissioner Thimm referred to Condition #4 of the subdivision and plat and asked if the language meant there would be a full HDDR application process for the Estate Lot. Planner Astorga stated that as stipulated by the applicant it would. The applicant would have to submit the HDDR application and it would be reviewed administratively by the Planning Department. If the Planning Commission was uncomfortable with the language, they could ask the applicant to revise the language to say, **Lot 1 in the Estate District shall be subject to the HDDR process.** Commissioner Thimm preferred that language.

Chair Strachan could foresee the Estate Lot overbearing the tiny historic structures below it without any buffer or landscaping to shield it. He questioned whether the HDDR process would address the transition between that the larger structure and the smaller ones. Mr. Brown noted that a platted disturbance envelope for the Estate lot will restrict the size of the house. Chair Strachan clarified that it was not the size of the house that caused him concern, but rather the impacts that were identified in the sentence that was deleted. In the interest of moving forward he was willing to rely on the HDDR process. Mr. Brown pointed out that the intent was to make the Estate lot part of the community of the other eight homes. To buffer or separate from those eight homes was the antithesis of what they were trying to accomplish. Mr. Brown preferred to include it into that community rather than buffer it.

Commissioner Band referred to Condition #24 of the CUP and read, "The HOA shall be responsible for maintaining or repairing the retaining walls." She requested adding language about maintaining the plants. After the two-year financial warranty bond expires and plants die off in the future she would hope that the HOA would want to maintain it, but she wanted language to require it. The new language should read, The HOA shall be responsible for maintaining and repairing the retaining walls **and vegetation**.

Commissioner Campbell asked for discussion on the 25% rule in Condition #15 of the CUP. He thought it was unclear and asked if it was 25% of the trees that die or 25% if one tree dies. Mr. Brown replied that it was 25% of each tree. Commissioner Suesser thought it should read **an existing mature tree** instead of "the" existing mature tree. Commissioner Campbell asked if that means that after 25% of the tree dies, the tree will be chopped down and replaced. Mr. Brown remarked that the applicant would have the responsibility to mitigate the tree is more than 25% looks dead. Commissioner Campbell thought they should say that the term "disturb" means more than 25% of **any** existing mature tree dies within two years of construction.

Assistant City Attorney McLean referred to Finding #12 of the CUP, and recommended that they leave the old language stating that there **are** impacts. The Commissioners questioned why they should be certain that there "are" impacts as opposed to "may be" impacts. Ms. McLean stated that the retaining walls are going to create impacts and they will have to be engineered to mitigate those impacts.

Chair Strachan stated that the walls create visual impacts, which are identified in Finding of Fact #11. There are also impacts that require screening and landscaping identified in Finding #13. There are impact regarding mass, bulk and orientation of the walls as addressed in Finding #14. However, he thought the language stating "in terms of the impact the retaining walls will have, which include utility capacity within the roads adjacent to the proposed walls" was more specific. Assistant City Attorney McLean noted that the next sentence says, "The impact of this is the weight of the walls and/or replacement of the utilities near the walls could significantly damage or negatively impact the public utilities and infrastructure. This could reasonably be mitigated with the following condition...." Commissioner Joyce pointed out that utility people have talked about concerns that might be an issue, but he could not recall either the City Engineer or anyone from the Water or Sewer Departments say it was broken and needed to be fixed. Director Erickson pointed out that neither the City Engineer nor the Water Department know exactly where the water line is located. Chair Strachan believed that was the reason for saying that there "may be" impacts as opposed to there "are" impacts. Unless there is evidence he did not believe they could say with certainty that there is an impact. Director Erickson agreed, and cited other impacts that may occur during construction.



Director Erickson referred to Finding #10 of the CUP and the reference to lighting. He asked if the Planning Commission intended to approve lighting on the wall. Assistant City Attorney McLean believed the language was to make sure those items would be approved by the City Engineer and Planning Department. Chair Strachan thought the language should be stricken because they do not want the wall to be lit. Commissioner Campbell pointed out that if lighting is not mentioned at all, someone could interpret that as being allowed. As written the Planning Department has to approve any lighting. The Commissioners agreed to remove "lighting" from the first sentence of Finding #10 and add a sentence stating that **lighting of the wall is prohibited**. Planner Astorga read finding as revised. "Snow storage and guardrails of the retaining walls require City Engineer and Planning Department Approval. Lighting of the proposed retaining wall is prohibited."

Commissioner Campbell referred to Finding #12 and questioned why a condition of approval was included in a finding of fact. Assistant City Attorney McLean believed those conditions were also included in the Conditions of Approval. Mr. Cahoon explained that Finding #12 is that the condition reasonably mitigates the impacts. He thought it was an important finding. Ms. McLean clarified that Commissioner Campbell was comfortable with the Finding but he wanted to make sure that condition in the Finding was also included in the Condition of Approval. Director Erickson pointed out that it was addressed in Conditions of Approval 4, 5 and 6.

MOTION: Commissioner Joyce moved to APPROVE the Alice Claim south of intersection of King Road and Ridge Avenue Conditional Use Permit for retaining walls 6 feet in height or more, based on the Findings of Fact, Conclusions of Law and Condition of Approval as amended. Commissioner Thimm seconded the motion.

VOTE: The motion passed 4-1. Commissioner Suesser voted against the motion. Commissioner Phillips was recused.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for Alice Claim Gully Site Plan south of intersection of King Road and Ridge Avenue; Alice Claim Subdivision and Plat Amendment based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Band seconded the motion.

VOTE: The motion passed 4-1. Commissioner Suesser voted against the motion. Commissioner Phillips was recused.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council for the 123 Ridge Avenue, Alice Claim Gully Site Plan property swap – Ridge

Avenue Plat Amendment, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously. Commissioner Phillips was recused.  
Draft CUP Findings of Fact, Conclusions of Law and Conditions of Approval

Findings of Fact – Alice Claim CUP

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). The entry wall property is not within the 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 run within the City owned property to be confirmed by the PCMC Public Utilities Department.
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.
10. Snow storage and guardrails of the retaining walls require City Engineer and Planning Department approval. Lighting of the proposed retaining wall is prohibited.

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.

12. There may be impacts created by the proposed retaining walls which include utility capacity within the roads adjacent to the proposed walls as the Applicant has not completed final engineering on 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, contouring the walls to the landscape, soil nailing the walls, and stone veneer.

16. There are impacts created by the proposed retaining walls regarding environmentally sensitive lands, physical mine hazards, historic mine waste and steep slopes that have not been 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 Review section of the July 27, 2016 Staff Report are incorporated herein.

#### Conclusions of Law – Alice Claim CUP

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 – Alice Claim CUP

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 each tier of the three-retaining wall system is not to exceed 10 feet in height above final grade.
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. Final utility and road plans near any retaining walls are 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, 2018, if an extension has not been granted by the Planning Commission 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. The term "disturb" means more than 25% of any existing mature tree dies within two years of construction.

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 shall be 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 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 for approving prior to receiving any building permit for the retaining walls.

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.

24. HOA shall be responsible for maintaining and repairing the retaining walls and vegetation.

25. Applicant shall provide a two-year financial warranty bond for plant materials associated with the CUP approved entry walls based upon estimated replacement costs to be determined by the Planning Director.

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

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 Lode 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 conservation easement held by the City and the HOA 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 – Subdivision and Plat Amendment

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 – Alice Claim Subdivision and Plat Amendment

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 subdivision and plat amendment at the County within two years from the date of City Council approval. If recordation has not occurred within two years' 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. Lot 1 in the Estate District shall be subject to HDDR process.
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 by the applicant prior to plat recordation, and the culvert will be owned and maintained by the City.

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 3rd 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 Public Improvements, except the Lot 1 culvert, shall be completed after plat recordation but prior to the first home building permit. An adequate financial Guarantee for all Public Improvements shall be submitted prior to permitting.

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.

34. No duplexes will be allowed.

#### Findings of Fact – Alice Claim Ridge Avenue Plat Amendment

1. The site is located at 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 – Alice Claim Ridge Avenue Plat Amendment

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 – Alice Claim Ridge Avenue Plat Amendment.

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 two years from the date of City Council approval. If recordation has not occurred within two years’ 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.

The Park City Planning Commission Meeting adjourned at 8:10 p.m.

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