

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
DECEMBER 9, 2015

COMMISSIONERS IN ATTENDANCE:

Chair Adam Strachan, Preston Campbell, Steve Joyce, John Phillips, Doug Thimm, Nann Worel

EX OFFICIO:

Planning Director, Bruce Erickson; Kirsten Whetstone, Planner; Francisco Astorga, Planner; Anya Grahn, Planner; Polly Samuels McLean, Assistant City Attorney

=====

REGULAR MEETING

**ROLL CALL**

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

**ADOPTION OF MINUTES**

November 11, 2015

Commissioner Worel referred to 22 of the Staff report and the Motion to Continue the density discussion on the IHC pre-MPD to December 9, 2015. She noted that she had made the motion and it was seconded by Commissioner Phillips; however, the minutes did not show that it was voted on. Commissioner Worel recalled that a vote was taken and the motion passed. She corrected the minutes to reflect their vote pending verification with the recording.

Commissioner Worel pointed out that the density discussion for the IHC pre-MPD was not on the agenda this evening even though it was continued to December 9<sup>th</sup>. Director Erickson stated that the item would be re-noticed when it is scheduled as an agenda item.

MOTION: Commissioner Phillips moved to APPROVE the minutes of November 11, 2015 as amended. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

**PUBLIC INPUT**

There were no comments.

## **STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Planning Director Erickson referred to the Steep Slope CUP applications on the agenda and noted that Condition #15 was a new condition of approval that was reviewed by the City Council three weeks ago. The condition prohibits excavation in the historic districts after October 15<sup>th</sup> and before April 15<sup>th</sup> on a Steep Slope CUP. The reason for the condition was to protect the neighborhoods because it is nearly impossible to do erosion control and minimize storm water runoff and materials. This would avoid having big open holes all winter long. Director Erickson clarified that the new policy is now a condition of approval for steep slope applications.

Director Erickson stated that another policy change implemented by the City Council was to change the criteria in the preservation plans for historic homes that are being lifted. The criteria requires that a structural engineer approve the shoring plan and approve any modifications to the shoring plan. In addition, a structure must be lifted and put back on the foundation within 60 days.

Commissioner Thimm disclosed that he previously worked with Greg Brown of DHM Design, who would be presenting the Alice Claim project this evening. His business relationship occurred several years ago outside of Utah and he did not believe that association would affect his decision on the Alice Claim project.

Commissioner Joyce asked about a second Planning Commission meeting in January. Director Erickson stated that currently the agendas were organized so there would not be a second meeting in January. However, depending on the outcome of the joint meeting with the Snyderville Basin Planning Commission on January 13<sup>th</sup>, a second meeting may be scheduled. Director Erickson remarked that it was also a matter of organizing Staff time to prepare the Staff reports.

Commissioner Joyce reported that the people at the National Ability Center heard that the Planning Commission needed a place to meet during Sundance. They were kind enough to offer their facilities if the decision is made to schedule a second meeting in January.

City Council Member Liza Simpson asked if the Planning Commission had questions about the recent City Council decision to reverse some of the recommendations for the sign code.

Chair Strachan stated that he was unaware of the changes, but he was not offended that their recommendation was changed. He remarked that the sign code is a thorny area of law and the Code and he was not surprised that the City Council had looked at it differently. He assumed the Council had specific reasons for making changes and he

respected that as the final decision. Chair Strachan appreciated the fact that Ms. Simpson had informed the Commissioners and gave them the opportunity to respond or ask questions.

Council Member Simpson thanked the Commissioners for their service. She has enjoyed her eight years on the City Council, but she would never want to be on the Planning Commission because it is hard work and very detail oriented. Ms. Simpson appreciated the care, consideration and thoughtfulness that all the Commissioners bring to their role.

Chair Strachan expressed appreciation to Ms. Simpson for her eight years on the City Council and he wished her well.

Commissioner Phillips disclosed that due to past working relationships with the applicant, he would be recusing himself from the Alice Claim matter this evening. He also disclosed that the architect for 347 Ontario had spoken with him regarding the project and there was a slight chance that he may be the contractor. For that reason he would recuse himself from that item on the Consent Agenda.

Assistant City Attorney McLean stated that 347 Ontario was on the Consent Agenda and it should be removed from the Consent Agenda for a separate vote.

Chair Strachan noted that this was Commissioner Worel's last meeting as a Planning Commissioner, as she would be moving on to the City Council. She will be missed. Chair Strachan stated that he has served with Commissioner Worel for a long time and he has nothing but respect and praise for her. He was certain she would do a great job on the City Council.

## **WORK SESSION**

Alice Claim aka Alice Lode Subdivision and Plat Amendment – Gully Site Plan Discussion  
(Application PL-08-00371)

Commissioner Phillips recused himself and left the room.

Planner Francisco Astorga stated that this was a work session discussion regarding the Alice Claim subdivision and Plat Amendment. He pointed out that in an effort to reduce the size of the Staff report he had included three hyperlinks to the previous Staff reports and Minutes. Unless the Planning Commission objected, the Staff would like to use this type of format moving forward since most of the Commissioners read the Staff report electronically. All of the Commissioners supported the new format.

Planner Astorga reported that the Planning Commission had forwarded a negative recommendation to the City Council on August 12, 2015. On October 8, 2015 the City Council conducted a work session/site visit and took public input. The City Council remanded this application back to the Planning Commission on October 29, 2015.

Planner Astorga explained that the negative recommendation that the Planning Commission had forwarded was not on the current proposal being presented this evening. The current proposal is an alternate plan that was submitted to the City following the negative recommendation.

Planner Astorga stated that pages 47 and 48 of the Staff report contained an analysis regarding compliance with the general provisions and development standards within the HR-1, as well as the Estate District. Planner Astorga had the negative recommendation plan available if the Commissioners needed it for reference. He also had the certified topo boundary survey, the slope analysis, the currently proposed Gully site plan. Planner Astorga also had the 2009 Gully site plan available if needed. He stated that the current proposal takes a sliver from the Ridge Avenue subdivision, and that was available; as well as two exhibits he had prepared showing the negative recommendation plan and the current plan on one sheet for comparison.

Planner Astorga remarked that the Planning Department had made an effort to be responsive and transparent. Letters were sent to property owners within 300 feet in addition to posting the site. They were not required to do so by State law since this was only a work session; however, based on the history of this application the Staff thought it was best to be transparent. As a result of the noticing, one letter was received from two neighbors and a second letter came in this afternoon. The letter had gone directly to the Commissioners and he had not had the opportunity to provide a copy to the applicant. Planner Astorga noted that the letters would become part of the public record and future Staff reports and public hearings will include all documents.

Planner Astorga requested that the Planning Commission focus their discussion this evening on the Gully Site Plan. The objective of the Staff and the applicant was to get significant input and direction from the Commissioners.

Greg Brown with DHM Design represented the applicant. He introduced Mark Deemer from his office and Joe Tesch, legal counsel. Jerry Fiat, the applicant, was also in attendance and he was prepared to make comments or answer questions as needed.

Mr. Brown stated that after receiving a negative recommendation from the Planning Commission they met with the City Staff to discuss a potential Gully Plan. He believed the

new plan resolves the concerns of the Planning Department and the Planning Commission that have been expressed over many years, and particularly this last year. Mr. Brown remarked that the Gully Plan was presented to the City Council and they were asked to come back to the Planning Commission with the new plan. The Gully Plan has significant changes from the previous plans, and he hoped it was a plan that the Commissioners could support.

Mr. Brown provided a brief presentation. He clarified that any mention of the “current plan” would actually be referencing the plan that the Commissioners previously saw and forwarded the negative recommendation.

Mr. Brown noted that the Staff report mentioned Site Plan B, which was done in 2009. There were actually three plans that that were drawn by the City Staff at that time. The plans were given to the applicant as something that might be more appropriate. Mr. Brown stated that in making the revisions to the current plan they pulled out Plan B and used it as a basis for the Gully Plan. He remarked that substantial changes were made to the Option B plan. The Gully Plan proposed smaller lots than what was shown in Option B, which also creates smaller building footprints. The houses are pushed further down the hill from what shown in that plan. Lot 1 is the Estate Lot location that was changed several months ago and they were showing that in a new location that was suggested by the Planning Commission. Lots 7 and 8 were moved further down the hillside.

Mr. Brown emphasized that the Gully Plan was an iteration of a plan that many people liked, and it also has added advantages beyond that plan.

Mr. Brown presented an overlay of the current plan and the gully plan. The red was the current plan and the gully plan sites were shown in blue. He thought the overlay comparison showed how the gully plan pulls everything down along the road, it eliminates the upper road completely, and it pulls all of the houses that were on the hillside down along the gully. Mr. Brown was prepared to explain how they proposed to accomplish some of that later in his presentation. He thought the gully plan was a more compact design.

Mr. Brown had data to show they had significantly reduced the disturbance on the site. He believed this plan addresses the compatibility issue that was previously discussed, because the Gully Plan is more compatible with the HR-1 zoning rather than the surrounding neighborhood. Mr. Brown presented a slide showing how all of the houses access off of Alice Court. An emergency vehicle turnout was provided at the transition between the HR-1 zone and the Estate Lot. He noted that the Fire Department has seen the plan but they were not far enough into the process to get their comments. The

applicant would go through the review process with the Fire Department to make sure it is designed to their satisfaction.

Mr. Brown summarized that the plan proposes 8 lots within the HR-1 District. The maximum lot size gives a maximum footprint of 1,750 square feet per the LMC. The one lot in the Estate Zone will be developed per the LMC and the defined disturbance envelope will be much smaller within the 3 acre parcel. Mr. Brown noted that more evergreen trees would be preserved than in the previous plan. However, two trees will be lost at the entry and one on the Estate lot. Mr. Brown stated that the footprints are the maximum size, but there will be more articulation within the façade of the house. He thought the houses could potentially end up smaller than what was actually shown.

Mr. Brown indicated the piece of property that would be dedicated to the City for the roadway. It is a little over a third of an acre. The lots that exit on that piece are zoned HRL, and that will be dedicated to the City. Mr. Brown noted that Lots 123 and 129 are owned by King Development. He clarified that Lot 123 is actually owned by an affiliate company of King Development. He pointed out that for the purposes of the proposed land swap, all parties were in agreement.

Mr. Brown presented a slide showing the open space and trails. They were still proposing trails through the project. The open space was increased because they pulled the houses down and made the lots smaller. The open space for the entire site was a little over 85% of the land, which is a 10% increase over the previous plan.

Mr. Brown noted that the site is 8.65 acres as mentioned in the Staff report. However, there was also .38 acres of HRL site. Combined the total was 9.03 acres for the entire project.

Mr. Brown indicated the area of the lower lots. He stated that Lot 123 was the triangular piece shown in white and tan. Alice Claim was the white area with Lots 8 and 9 and the blue area. They would like to swap the land that is now in the Alice Claim and add it on to Lot 123, and take the land that is in Lot 123 and add it on to Alice Claim. That would allow them to create two very nice building lots, Lots 8 and 9. It would be an even swap and the area would remain the same at 2,050 square feet.

Assistant City Attorney McLean clarified that it was not called Lot 123. It is Lot 1 of the existing Ridge Avenue Subdivision.

Mr. Brown outlined the key points of the gully plan. The homes are moved to the bottom of the gully, several of the upper homes are now 60 feet lower in elevation, all of the homes sites will access off the existing road alignment. The upper private drive has been eliminated. The HR1 lots were reduced to a tenth of an acre, which allows a maximum

building footprint of 1,750 square feet. The Estate Lot has a disturbance envelope of slightly more than 8,000 square feet that is carved within the three acre Estate Lot. Mr. Brown commented on General Plan compliance. He noted that the site was a brownfield and the General Plan talks about being green and Park City wants to be the leader in green development. Mr. Brown stated that a brownfield development is at the top of the list in being green. As seen in previous photos and those who experienced the site before the cleanup knows that it was a serious brownfield. Mr. Brown stated that the plan was clustered to preserve open space and all of the easements would be platted as open space. All of the development was moved to the toe of the slope, the homes will be Leed for Homes rated, and access will be provided to the City's gold rated trails system.

On the issue of finding for good cause, Mr. Brown stated that public amenities and benefits, resolutions of existing issues related to historic uses, and the mining cleanup were at the top of the list for good cause. The new plan was much more compact and it was a very low density plan considering the full size of the site. Open space and trails were benefits, as well as cleanup and minimal impact for health, safety and welfare.

Mr. Brown stated that the mine tailings were cleaned up, the open mine shaft was sealed, the areas were revegetated, and the stream bed was cleaned up which helped water quality in the City. The bike trail easements will be formalized. Access up to the City water tank is improved with a new road. The road was realigned on to City property during the cleanup. The density has been reduced from what would be allowed from a zoning standpoint. Mr. Brown noted that the applicants have been through a thorough Planning Commission and City Council process to achieve this plan. They used Best Planning Practices and Design for the new plan. All of the large evergreen trees will be preserved with the exception of two at the entry and one by the Estate lot. Mr. Brown noted that the compact design further reduced the development portion down to 16% of the site. The rest of the site is open space.

Mr. Brown stated that the applicants previously requested a CUP for the retaining walls. They would need to ask for the CUP again and follow whatever process is required to bring it back. They still plan on using the legal access off of Sampson. He provided an image showing the existing Sampson platted right-of-way where their road would come off of that and into the project. Mr. Brown noted that no other retaining walls over six feet were proposed for the project.

Mr. Brown requested that the Planning Commission support the Gully Plan as proposed and allow them to move quickly to redesign and resubmit this plan. He stated that all of the planning documents and all engineering documents would be redesigned for this new plan. The applicant's engineers and consultants have spoken with the City Engineer and some of the Districts and they all generally see this as an improvement from a utilities standpoint.

The current plat would have to be re-drawn and submitted to Staff for a thorough review. The next step would be to request a hearing before the Planning Commission as early as possible in 2016.

Chair Strachan understood that the new lot size was a tenth of an acre. He asked for the lot size under the 2009 plan. Mr. Brown was not completely sure but he thought it was .22. Chair Strachan asked if it was also .22 in what the applicant was calling the "current plan". Mr. Brown answered yes. He recalled that they were trying for the same size houses in the old Option B plan.

Chair Strachan noted that the Gully Plan moved the Estate Lot further up to the south. Mr. Brown stated that moving the Estate Lot helped from a circulation standpoint. He noted that the other plan had a T-intersection that connected to a specific area. The T-intersection was eliminated in order to pull the units down and create the emergency vehicle turnout. Chair Strachan asked if there was any reasoning for putting the lot where the tree is and on the steeper part of the slope. He thought they could move the lot closer to the road, which would save the tree and put the lot on a lesser slope. Mr. Brown agreed and offered to look at reconfiguring the lot.

Chair Strachan asked for the number of retaining walls and the heights under the Gully Plan. Mr. Brown stated that the retaining walls for the entry would not change. He recalled that they were three walls at 10' each. Chair Strachan clarified that it would be the same CUP request.

Commissioner Worel understood that there would be no parking on roads that are less than 26' wide. She asked Mr. Brown to show which roads would be less than 26' wide. Mr. Brown replied that it was potentially the road that goes up past the Estate lot. It is a gravel road that accesses the water tank. The roads within the development will be 26'.

Commissioner Thimm asked if the paving ends at the dashed line that goes across the road. Mr. Brown stated that the plan is to take the road improvement up to that area, and the driveway for Lot 1 would come off that improved road section. Commissioner Thimm clarified that anything beyond that would remain a gravel road. Mr. Brown replied that it would be the existing gravel road.

Commissioner Worel asked Assistant City Attorney McLean about the procedure for the CUP for the retaining wall since the Planning Commission already denied it. Ms. McLean stated that the CUP has been appealed to the City Council, and both parties have stipulated to have that be heard after a decision on the subdivision application. She remarked that the Planning Commission could review the subdivision with the

understanding that the entryway would have to be dealt with and that there is as an open appeal before the City Council.

Commissioner Joyce thought it would be nice for the Planning Commission to have the opportunity to review the CUP again and to provide comments to the City Council since the Planning Commission denied the CUP because they had not approved the subdivision plat. Commissioner Joyce clarified that when the Planning Commission denied the CUP they did not go through the CUP review process.

Assistant City Attorney McLean stated that the denial included Findings of Fact and Conclusions of Law that were not solely based on the fact of the subdivision being denied. She thought they could look at whether or not they could legally find a way to bring back the CUP. Commissioner Joyce stated that if there he a mechanism to re-examine the CUP he would like the opportunity to look at it as a relevant application separate from the subdivision. Ms. McLean reiterated that she would see if there is a legal way to bring it back. However, the current stance is that the Planning Commission made a decision on the CUP, it has been appealed and the City Council stipulated it to be heard after the subdivision. She pointed out that because the entrance way is part of the subdivision, the Planning Commission could provide input as part of their review of the Gully Plan. Ms. McLean clarified that she did not agree with Commissioner Joyce's assessment of the CUP because the Planning Commission voted with Findings of Fact and Conclusions of Law. It was associated with the subdivision and the two clearly go hand in hand. However, she understood his concern and she would look into it.

Commissioner Thimm recalled there were other walls in the earlier plan that were 6' or more in height. Mr. Brown replied that he was correct. Commissioner Thimm asked that if there was a change in the retaining walls in this newly proposed plat compared to the old plat. Mr. Brown stated that an earlier plan in July showed 6' walls within the development. However, the site was regraded and those walls were reduced to 6' and lower. Commissioner Thimm clarified that the walls as currently shown were in the same configurations in the "current" plan. Mr. Brown answered yes.

Assistant City Attorney McLean believed that even though the prior plan did not have retaining walls that required CUPs, there was still extensive retainage that is no longer needed. Mr. Brown agreed, but they were not part of the CUP. Ms. McLean clarified that the new plan removes a significant amount of the retaining walls. Mr. Brown replied that the entire upper road had retaining walls and they were redesigned at heights under 6'.

Planner Astorga noted that one retaining wall between Lots 3 and 4 is six-feet tall; and three retaining walls between Lots 4 and 5 range from four feet to six feet.

Commissioner Campbell pointed out that Mr. Brown first said the site was regraded to reduce the height of the retaining walls, but later said the walls were redesign to reduce the height. He asked for clarification and whether there has been grading since the Planning Commission last saw the plan. Mr. Brown explained that the plan that was recommended for denial had an upper road with retaining walls. At one time those retaining walls were larger than 6'. The road was regraded to achieve a series of smaller walls. Planner Astorga ask for clarification of regrading versus redesigning. Mr. Brown stated that it was regraded on paper. The site had not been regraded and still looked the same as what the Commissioners had seen.

Commissioner Joyce asked about the mechanism for approving a subdivision with a plat amendment/land swap. Ms. McLean explained that the applicant would submit a plat amendment to Lot 1 of the Ridge Avenue subdivision, which is the subdivision where Lot 123 sits, and that would be heard contemporaneously with this plat amendment. If the Alice Claim comes back under this gully plan with this concept, the Commissioners would also see an amendment to the other subdivision at the same time.

Chair Strachan opened the public hearing.

Charlie Wintzer, an Old Town resident, stated that he has attended every meeting for this process for the last ten years. He still has not heard the Staff address the issue of adding density to substandard roads. Mr. Wintzer had taken the square footage of the footprint of the buildings and multiplied it by ten feet, assuming that was the average cuts, the math calculates to 1500 loads of dirt that would be carried down on substandard roads. In addition, he factored in over-excavation for safety and working space, the importing of gravel, sand, bedding materials, deliveries of construction materials and other things that would result in thousands of truck trips up and down these substandard roads. It is the cost endured by the neighbors to have this project extended. Mr. Wintzer was unsure why they did not talk about the size and number of lots in the beginning. He had researched all the previous minutes and was never able to find where the question was proposed or a discussion on how to address the substandard roads. Mr. Wintzer stated that before they look at site plans the City needs to decide whether or not this piece of property and the streets that connect it to the town can support this kind of traffic.

Mr. Brown noted that the City Engineer has mentioned in previous meetings that he does not see any fatal flaws in the transportation up to the project. The applicant was working with the City Engineer on the intersection design in response to his request for further studies.

Tom Gannick, a resident on Daly Avenue, stated that his concerns were also related to substandard roads. He noted that it is impossible for a car to turn around on Ridge Road.

King Road is slightly better because you can pull into someone's driveway to turn around. In the interest of public safety and the presence of snow, ice and standard conditions, it will be very difficult for normal traffic to move through. If there is an emergency of a flood or fire, it would definitely not work and people could die.

Chair Strachan closed the public hearing.

Mr. Brown noted that dirt transport was also mentioned by Mr. Wintzer. He stated that during the cleanup project a lot of dirt was moved off the site without a single incident or complaint. Mr. Brown remarked that another advantage of this site is its size. It can accommodate staging areas with room to build.

Chair Strachan asked if the applicant had considered phasing. Mr. Brown replied that phasing had not been discussed with the gully plan. The applicant wanted to input from the Planning Commission on the plan itself before getting too far into the details. He assumed Mr. Fiat had thoughts on what he sees happening first. Mr. Brown remarked that the infrastructure needed to go in before anything else could be done. As far as which houses get built first has not been discussed.

Commissioner Worel thought it was a positive improvement to move the houses down and to eliminate the upper road. Her concerns have always been the intersection, the retaining walls, and the roads in and out of the site; and she did not believe those concerns were mitigated with the gully plan. From a safety standpoint her concerns with the "current" plan still exist.

Commissioner Joyce was happier with this proposal. He thought the plat map was more what the Commissioners had wanted with the previous plan in terms of moving the houses off the hill, more compact clustering, and smaller house sizes. He believed the 1750 square feet, the layout and the massing was compatible with the Historic District. In his opinion, the applicant had fixed most, if not all, of his issues on those matters. Commissioner Joyce thought it was still unfortunate that the retaining walls were still required at the entrance. It would be better if the applicants could find a way to bring the road in straight and eliminate the need to be a 30' retaining wall. Commissioner Joyce stated that in terms of other issues he thought filling in the mine had been resolved and the setbacks were the same. In terms of roads, he thought it was unfortunate that Park City has so many tiny roads, but they need to be careful because the City has never stopped people from building on Sampson, Norfolk and similar roads in the past. They have approved many subdivisions on Ridge Road and on steep slopes. Commissioner Joyce thought the important fact was that the City Engineer had given his professional opinion that did not believe the addition of nine houses would change the standards for the road. The City Engineer was also confident that an intersection could be built that makes it all

work. Commissioner Joyce stated that as a Planning Commissioner he trusts the City Engineer. He encouraged the applicant to continue to work with the City Engineer on a proposal to clean up the HRL section and utilize the extra space they have. In his mind, it would go a long way towards making him feel more comfortable with the entry way. In terms of the general plat map, Commissioner Joyce thought the applicants did all the right things and he thanked them for their efforts.

Mr. Brown asked for clarification on cleaning-up the HRL section. Commissioner Joyce replied that he was suggesting that they utilize the additional space as part of building the entryway to improve that little section from a traffic standpoint. Mr. Brown stated that the City Engineer is still not completely satisfied with their plan and he wants them to continue working on it. However, the City Engineer felt it was possible to achieve a satisfactory option. Commissioner Joyce requested that the applicants put a priority on resolving the road issue sooner rather than later.

Commissioner Thimm agreed with Commissioner Joyce with respect to the roadway and doing everything possible to improve the situation. He noted that in addition to the City Engineer, an outside traffic engineer had provided a report that was agreed to by the City Engineer indicating that there is not a fatal flaw. Recognizing that it is not a normal design goal, sometimes it is the best you can get under certain circumstances. Commissioner Thimm thought the plan appeared to be a more recognizable planning pattern in comparison to other HR-1 zoning district sites. With the ability to save more of the trees and not to disturb further up the slopes, he believed it was far superior to the original plan. Commissioner Thimm like the land swap and the idea of thinking out of the box because it softens the plan, which is also an improvement.

Commissioner Thimm understood from the presentation that the Fire Department still had not fully reviewed the plan. He assumed that review would take place before this comes back to the Planning Commission. He recalled a comment about there being room on-site to build and stage and being able to spoil soil on the site. He hoped they would not spoil any untouched site and leave the lesser disturbed areas in this plan to a bare minimum.

Commissioner Campbell thought this was a great example of how the process is supposed to work. It was evident that the applicants listened to what the Planning Commission tried to infer at the last meeting. This new plan feels more like the Historic District and it was much closer to something he could support. Commissioner Campbell agreed with comments from other Commissioners regarding the safety issues, and he would also like to see more done to mitigate those issues. Commissioner Campbell had pulled up Google maps which happened to catch a large dump truck trying to make the turn on King Road, and how the truck was all the way into the other lane. He believed that was a problem for everyone and not just the applicant. He was unsure whether the Planning Commission

had the right require the applicant to fix it, but they would appreciate it if the applicant could help find a good way to fix it.

Chair Strachan stated that substandard roads were his biggest concern. He believed that the City Engineer saying that there is not a fatal flaw was different than saying there are impacts that need to be mitigated under the Code. Chair Strachan remarked that the impacts are real and obvious. It is the increase of cars, the potential for cars sliding down the hill, snow plows and dump trucks getting in and out, and emergency vehicle access. He echoed Commissioner Preston in asking the applicants to show how they intend to mitigate those impacts. If that can be done, he believed the gully plan is a good plan that comes closer to the intent and design of the HRL zone; with the exception being the Estate Lot. Chair Strachan recalled that from the beginning he has always opposed the Estate Lot. The hill is too steep and he did not like the fact it kills the tree. Chair Strachan was not convinced that the Estate lot needed to be there. All of the houses are aligned as prescribed by the HRL zone, but the Estate house sticks out. He suggested that pulling it down toward the road might resolve some of the issues.

Chair Strachan stated that before they could get to the point of approval, the applicant needed to show serious evidence of what was done to mitigate the impacts on the substandard roads. Chair Strachan recommended that the applicant agree to bring back the CUP to the Planning Commission and either waive the appeal or give it up entirely. He pointed out that it could present a problem since the Planning Commission sent up a denial of a CUP for the exact same retaining walls that they were again being asked to approve. Chair Strachan thought the applicants were closer to getting through the process with the gully plan, and if that were the case they might get an approval of the CUP. For purposes of the Planning Commission and for clarity of the record it would be better to have the CUP approved by the Planning Commission rather than a denial of the CUP contrasted against a potential approval of the subdivision and plat amendment.

Commissioner Campbell referred to Chair Strachan's comment that he would be looking to the applicant to mitigate the substandard roads. He was unsure whether they could ask the applicant to fix all the roads leading up to the development. Chair Strachan clarified that he was only asking the applicant to show how they were mitigating the impacts. Commissioner Campbell and Chair Strachan agreed that the City did not have the right to prevent them from developing solely on the reason of not wanting 9 additional families traveling those roads.

Jerry Fiat stated that the dump trucks used for construction will be smaller than normal dump trucks and they will not have an issue negotiating the turn. He pointed out that the only two issues on the road were due to people trying to run oversized trucks on the roads. Mr. Fiat remarked that the problems have been with large equipment going to the resorts.

Assistant City Attorney McLean remarked that this item would be re-noticed if the applicants submit a complete amended application. Planner Astorga pointed out that it would also include the amendment to the Ridge Avenue Lot 1 application. Mr. Brown offered to work with the Staff to compile the correct documents for a full review.

8910 Empire Club Drive – One Empire Pass Conditional Use Permit for 27 residential units, one affordable unit and one ADA unit on Lot 15, the Village at Empire Mass MPD (Application PL-15-02983)

Commissioner Phillips returned to the meeting.

Planner Kirsten Whetstone reported that this was a work session item for 8910 Empire Club Drive. It was Pod A within the Village of Empire Pass west side subdivision, and part of the Flagstaff Master Plan Development. She noted that the Flagstaff development agreement was amended on March 2, 2007. The Sections that apply to the Mountain Village were outlined on page 123 and 124 of the Staff report. Also included was the approval of the Village at Empire Pass, a small scale MPD, of which this is a required conditional use permit for a single building.

Bill Fiveash, the managing partner for East/West Partners Utah, introduced Joe Drew with IBI architecture and Eric Debrew, the Vice President of Design and Development.

Mr. Fiveash stated that the objective this evening was to get input from the Planning Commission on some of the concerns they might have regarding the conditional use permit application that was submitted on October 27<sup>th</sup> and scheduled on the agenda for January 13<sup>th</sup>.

Mr. Fiveash provided a brief presentation. He noted that East/West Partners have been working on this project since 2002. The original entitlements were granted in 1999 to United Park City Mines. In 2002 East/West Partners purchased land from UPCM and began development in the Empire Pass area. In 2004 they finished the first townhome project, and subsequent condominium stacked flat buildings were completed in 2006, 2007, 2008 and 2009. The project that exists today was mostly completed by 2010, including the 191 residents of which East/West Partners was the developer on the majority of those, with the exception of Silver Strike Lodge. East/West Partners has owned Pad 5 since 2005, when the parcel was transferred to them. It was in the development cycle in 2007; however with the downturn of the economy it was put on hold. When the market started to return in 2014 they started the concepting of the building. By early 2015 they had the first meeting with Staff to make sure they understood all the parameters inside the MPD development rights. IBI Architecture was hired in early April 2015 and they have

been working on this project all summer. It was present to the Staff in August to make sure they were on track to get the project designed for approval. Mr. Fiveash stated that the official conditional use application was submitted on October 27<sup>th</sup> and between this work session and the January 13<sup>th</sup> meeting they hope to achieve approval for both the conditional use permit for the building, as well as the subsequent plat application.

Mr. Fiveash reviewed the Village at Empire Pass map to make sure everyone was familiar with the site. He indicated Pad 5 on the nose of the Empire Pass Village. All the buildings shown in gray were completed. The buildings in green and blue were proposed. He presented an aerial from June 2015. Mr. Fiveash stated that the parcel itself was cleared and grubbed in 2005 as part of the construction of the Flagstaff Building and the Silver Strike Building. He pointed out that the entire site has already been cleared. Mr. Fiveash stated that East/West Partners had figured out their entitlements and what they own, which is 65,537 square feet of residential use according to the MPD. The design parameter was to design a building with that residential component as well as support space for the Empire Pass ski experience, such as the lobby area, the ski valet area and parking. The shape of the building is subject to a volumetric study that was added to the MPD in 2004. and gave the parameters for height in addition to the initial RD zoning, based on the clustering of the density on that site. Mr. Fiveash stated that the design is also subject to the Empire Pass Design Guidelines. After meeting with the Staff in August they submitted the design to the Empire Pass HOA. A pre-requisite of the MPD is to obtain approval from the HOA. That HOA approval was granted and included in the Staff report.

Joe Drew with IBI Group, the project architect, noted that the site sits at the end of Empire Pass as the bookend to all of the buildings, and it has great views over Park City and the entire Valley. Mr. Drew presented an aerial showing how the site was cleared as a staging and lay down area for past buildings. Therefore, the perception of what exists today will not be changed other than to construct the building approved through the MPD. Mr. Drew pointed out that the infrastructure needed to service the building was already in place, such as sewer laterals and power transformers, and they would tie into what already exist. Mr. Drew stated that the strategy was to place a building on the site as sensitively as possible, with respect to the Marsac Road, and to make that the driveway into the underground parking garage is as minimal and subtle as possible. Mr. Drew reviewed the circulation and parking plan. The requirement is 42 parking stall for the number of units proposed, and currently they exceed that requirement. All of the mechanical and guts of the building were placed in the parking garage and underneath a small portion of an amenity deck.

Mr. Drew presented the floor plans, and noted that there were three grades to the project. The lower was the underground parking structure. Up one level a portion of the building starts to daylight around the perimeter units. The rest of the building would be service and ski locker areas. An amenity terrace comes out to a spa and hot tubs with a small fitness

area adjacent. The next floor plate is the skier entrance into the building. The rest of the floor plates are fairly repetitive all the way up to the upper floor. Mr. Drew reviewed the elevations and noted that they worked hard to respect the massing. The building steps down as it approaches the corners. The intent is to step down the building as it goes towards Marsac to avoid the appearance of a large building towering over the roadway. Mr. Drew remarked that the building was also designed with stepping to be sensitive to the neighbors. He indicated the grade difference between the ski lift location and the roadway.

Mr. Drew stated that the project has gone through the DRT review process and he believed it fully complied in terms of the materials and the craftsman look. Photo studies were conducted to show the how this building would look in context with the adjacent building.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Chair Strachan thought the proposal reflected the designs of the existing buildings. He was around during the Flagstaff Agreement, as well as Director Erickson; and he believed Mr. Erickson understood the agreement and the history as well as anyone. From his recollection, Chair Strachan did not believe this proposal runs afoul of the Agreement. However, he was still personally astounded at the density that was allowed under the Flagstaff agreement, but that was not a battle for this project.

Commissioner Thimm thought the building design appeared to be consistent and fitting, and part of a composition of buildings that will occur at Empire Pass. The fact that there would be further disturbance beyond what was already graded is an advantage. Commissioner Thimm commented on the volumetrics and asked if the building matched the number of stories on the end.

Mr. Drew replied that the volumetric was applied to several of the building in the MPD. However, it contemplates a number of things that were not feasible for the site as it currently sits. He explained that they looked at the volumetric and worked through the same questions and concerns with the Design Review Team. He referred to various portions of the building and noted that they were conforming to those heights and in most cases significantly less than the existing heights. Mr. Drew believed all of the existing buildings were steel frame buildings. If this building were to be steel frame it would most likely exceed those heights. He pointed out that the proposed building will be a concrete frame which allowed them to shrink down the building per floor plate and have a much thinner and narrower structure. Mr. Drew remarked that the setbacks would not allow a

third story piece on the building because of site constraints. The third story piece is missing but the rest of that element remains.

Commissioner Thimm asked if the actual submission would include building volumetrics that shows that compliance. Mr. Drew offered to do an overall massing comparison based on their analysis. Commissioner Thimm thought that comparison would be helpful.

Planner Whetstone noted that the Staff had not yet done their full analysis in terms of volumetrics. They first needed to work through the agreements to get this project to the point of a work session. Planner Whetstone stated that the Staff would review it against the volumetric guidelines and point out any issues or concerns when this comes back for a public hearing.

Commissioner Worel asked if the applicant intended to build more than the required 42 parking spaces. Mr. Drew stated that they were still in the design stages. They would at least build the required 42 spaces, and they were potentially looking at adding a few more. They would not know that for certain until the design and location of the mechanical system is finalized. Commissioner Worel stated that in an effort to keep cars off the road, her preference would be to only build what was required. Planner Whetstone pointed out that the 42 required spaces reflects the 25% reduction that is required in the Agreement. However, at the same time they need to make sure that the parking would be sufficient to keep cars off the street.

The Commissioners had no further comments. Assistant City Attorney McLean requested that the applicant provide Planner Whetstone with a copy of their presentation for the record.

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

1. 152 Sandridge Road, Plat Amendment – Subdivision to create a legal lot of record from a metes and bounds parcel (Application PL-15-02952)

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

MOTION: Commissioner Joyce moved to CONTINUE 152 Sandridge Road Plat Amendment to January 13, 2016. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

2. 2900 Deer Valley Drive, the Lodges at Deer Valley Phase 1, First Amended, Record of Survey Amendment - Proposal to change the 62 parking spaces from convertible space to common ownership (Application PL-15-02943)

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

MOTION: Commissioner Joyce moved to CONTINUE 2900 Deer Valley Drive, Lodges at Deer Valley Phase I to January 13, 2016. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

### **CONSENT AGENDA**

Chair Strachan moved 347 Ontario Avenue from the Consent Agenda for a separate motion.

347 Ontario Avenue, Steep Slope CUP – Addition to non-historic house on a slope greater than 30%. (Application PL-15-02940)

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

MOTION: Commissioner Joyce moved to APPROVE 347 Ontario Avenue Steep Slope CUP based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the Staff report. Commissioner Worel seconded the motion.

VOTE: The motion passed. Commissioner Phillips abstained from the vote.

#### Findings of Fact – 347 Ontario Avenue

1. The property is located on 347 Ontario Avenue. The legal description is Lot B of the Ontario Three Subdivision, recorded with Summit County on July 17, 2015.
2. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.
3. There is an existing single-family home on this site; the applicant is proposing to construct approximately 568 square feet of new space, not including the elevator. The proposed footprint of this addition is 212.75 square feet.

4. A single family dwelling is an allowed use in the HR-1 District.
5. The lot contains 2,273 square feet. This is a downhill lot with a slope of approximately 56%.
6. The lot currently contains an existing house, constructed in 2000. The applicant is proposing to construct an addition to the existing house.
7. A Historic District Design Review (HDDR) application is currently under review.
8. Access to the property is from Ontario Avenue, a public street.
9. Two (2) parking spaces are proposed on site. The applicant will renovate an existing entrance into garage space to create a two-car side-by-side parking configuration. A new entrance will be constructed as part of the addition.
10. The neighborhood is characterized by a mix of historic and non-historic residential structures, single family homes, and duplexes. The streetscape on the west, downhill side of the road, is dominated by garages and pedestrian entryways.
11. The proposal will create a single family dwelling of approximately 2,771 square feet, including the basement area and two-car garage.
12. The mouth of the existing driveway is 16.5 feet. The applicant does not propose to modify the existing driveway within the public right-of-way. The driveway within the property line will be extended to accommodate the two-car garage. A portion of the driveway bridge extends into the public right-of-way.
13. An overall building footprint of 937.75 square feet is proposed following construction of the addition. The maximum allowed footprint for this lot is 1,000.3 square feet.
14. The proposed addition complies with all setbacks. The minimum front and rear yard setbacks are ten feet (10'). The minimum side yard setbacks are three feet (3').
15. The proposed addition complies with the twenty-seven feet (27') maximum building height requirement measured from existing grade. Portions of the house are less than twenty seven feet (27') in height.
16. The applicant submitted a visual analysis, cross valley views, and a streetscape showing a contextual analysis of visual impacts of this house on the cross canyon views and the Norfolk Avenue streetscape. Staff finds that the proposed house is

compatible with the surrounding structures based on this analysis.

17. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography. There is no existing significant vegetation on the lot. The applicant will plant two (2) new trees in the front yard and re-vegetate the side yard following construction.

18. The site design, stepping of the foundation and building mass, increased articulation, and decrease in the allowed difference between the existing and final grade mitigates impacts of construction on the area that exceeds 30% slope.

19. The design includes setback variations as well as lower building heights for portions of the structure in both the front and back where facades are less than twenty-seven feet (27') in height. The rear roofline slopes west with the downhill slope.

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

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

22. 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.

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

24. On September 18, 2015, the Planning Department received an application for a Steep Slope Conditional Use Permit (CUP); the application was deemed complete on October 8, 2015.

25. The property was posted and notice was mailed to property owners within 300 feet on November 25, 2015. Legal notice was also published in the Park Record in accordance with requirements of the LMC on November 21, 2015.

Conclusions of Law – 347 Ontario Avenue

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

Conditions of Approval – 347 Ontario 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, including the historic house to the west from damage.
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. This approval will expire on December 9, 2016, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by the Planning Director.
5. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission on December 9, 2015, and the Final HDDR Design.
6. 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.
7. Modified 13-D residential fire sprinklers are required for all new construction on this lot.
8. 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.

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

10. All excavation work 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.

11. The applicant shall enter into an encroachment agreement with the City Engineer's Office for the existing bridge in the right-of-way.

**950 Empire Avenue, Steep Slope CUP – Construction of a new single-family dwelling on a vacant lot on a slope greater than 30%. (Application PL-15-02842)**

MOTION: Commissioner Thimm moved to APPROVE the remaining item on the Consent Agenda. Commissioner Joyce seconded the motion.

VOTE: The motion passed unanimously.

**Findings of Fact – 950 Empire Avenue**

1. The property is located at 950 Empire Avenue.
2. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.
3. On July 1, 2015 the City received an application for a Conditional Use Permit (CUP) for "Construction on a Steep Slope" at 950 Empire Avenue. The application was deemed complete on August 28, 2015.
4. The property was posted and notice was mailed to property owners within 300 feet on November 25, 2015. Legal notice was also published in the Park Record in accordance with requirements of the LMC on November 21, 2015.

5. A single family dwelling is an allowed use in the HR-1 District.
6. The property is described as Lots 21 and the northerly one-half ( $\frac{1}{2}$ ) remnant lot of Lot 22 of Block 15 of the Snyder's Addition to the Park City Survey.
7. The lot contains 2,812.5 square feet.
8. The total Building Footprint exceeds 200 square feet and the construction is proposed on a slope of 30% or greater.
9. The lot is currently vacant.
10. A Historic District Design Review (HDDR) application is currently being reviewed by the Planning Department and has not yet been approved.
11. There is minimal existing vegetation on this lot. This is a downhill lot.
12. Access to the property is from Empire Avenue, a public street.
13. Two (2) parking spaces are proposed on site. Two (2) separate single-car garage doors lead to a two (2) car garage compliant with the required dimensions.
14. The neighborhood is characterized by a mix of historic and non-historic residential structures, single-family homes and duplexes.
15. The proposal consists of a single-family dwelling of 3,586 square feet, including the basement area and garage.
16. The driveway is designed with a maximum width of twelve feet (12') before expanding to accommodate the two (2) single-car garages. The driveway is approximately twenty-four feet (24') in length from the garage(s) to the existing edge of Empire Avenue. The single-car garage doors comply with the maximum height and width. The proposed driveway has an overall slope of 7.6% as measured from the front of the garage to the edge of the paved street.
17. An overall building footprint of 1,201 square feet is proposed. The maximum allowed footprint for this lot is 1,201 square feet.
18. The proposed structure complies with all setbacks. The minimum front and rear yard setbacks are ten feet (10'). The minimum side yard setbacks are three feet (3').

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

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

21. 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.

22. 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 with a slope greater than 30%.

23. The design includes setback variations in the front and back and lower building heights for portions of the structure in both the front and back where facades are less than twenty-seven feet (27') in height.

24. 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.

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

26. This property is required to have independent utility services for water, sewer, power, etc.

27. Lighting will be reviewed at the time of the HDDR and Building Permit application for compliance with the LMC lighting code standards.

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

29. The applicant stipulates to the conditions of approval.

Conclusions of Law- 950 Empire Avenue

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

Conditions of Approval – 950 Empire 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 the historic house to the west from damage.
3. A final utility plan, including a drainage plan, for utility installation, public improvements, and storm drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers, including Snyderville Basin Water Reclamation District, prior to issuance of a building permit.
4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance. .
5. A final Landscape Plan shall be submitted to the City for review prior to building permit issuance. Such plan will include water efficient landscaping and drip irrigation. Lawn area shall be limited in area.
6. If required by the Chief Building Official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building Official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer. The shoring plan shall take into consideration protection of the historic structure to the west and the non-historic structure to the north.

7. This approval will expire on December 9, 2016, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by the Planning Director.

8. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission on December 9, 2015, and the Final HDDR Design.

9. 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.

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

11. The driveway width must be a minimum of ten feet (10') and will not exceed twelve feet (12') in width.

12. 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.

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

14. All electrical service equipment and sub-panels and all mechanical equipment, except those owned and maintained by public utility companies and solar panels, shall be painted to match the surrounding wall color or painted and screened to blend with the surrounding natural terrain.

15. All excavation work 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.

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

**1. 823 Norfolk Avenue, Plat Amendment – Combining Lot 6 and parts of Lots 5 and 7, Snyder’s Addition to the Park City Survey. (Application PL-15-02996)**

Planner Anya Grahn reviewed the plat amendment for Lots 5, 6 and a portion of Lot 7, Block 14 of Snyder’s Addition at 823 Norfolk Avenue. The plat will remove interior lot lines. An existing historic house encroaches over the lot lines. Snow storage easements will be obtained along Crescent Tram and Norfolk Avenue, as well as encroachment agreements to resolve existing encroachments.

Planner Grahn stated that the historic house is largely over footprint and the Staff was working with the applicant to find a way to reduce the footprint and possibly allow a second story addition.

Planner Grahn modified Finding of Fact #9 on page 189 of the Staff report to remove the duplicate “width is”.

The Staff recommended that the Planning Commission conduct a public hearing for the 823 Norfolk Plat Amendment located at the same address, and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

Chair Strachan requested that they not lose the chain link from the bicycle on the historic structure. If it was no longer there, he would like to see a bike fabrication.

**MOTION:** Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for the 823 Norfolk Avenue Plat Amendment based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance and as amended to remove the second “width is” from Finding #9. Commissioner Thimm seconded the motion.

**VOTE:** The motion passed unanimously.

Findings of Fact – 823 Norfolk Avenue

1. The property is located at 823 Norfolk Avenue.
2. The property is in the Historic Residential (HR-1) District.
3. The subject property consists of all of Lots 5 and 6 and a portion of Lot 7, Block 14, Snyder's Addition to Park City. The proposed plat amendment creates one (1) lot of record.
4. This site is listed on Park City's Historic Sites Inventory (HSI) and is designated as Landmark.
5. The Plat Amendment removes two (2) lot lines going through the historic structure.
6. The proposed Plat Amendment combines the property into one (1) lot measuring 3,925.25 square feet.
7. A single-family dwelling is an allowed use in the District.
8. The minimum lot area for a single-family dwelling is 1,875 square feet. The proposed lots meet the minimum lot area for single-family dwellings.
9. The proposed lot width is 50.01 feet along Norfolk Avenue and 50.00 along Crescent Tram; this property has two frontages.
10. The minimum lot width required is twenty-five feet (25'). The proposed lot meets the minimum lot width requirement.
11. The maximum building footprint allowed based on proposed lot size is 1,574.15 square feet. The house, historic shed, and non-historic shed equate to a footprint of approximately 1,830. The historic structures are valid non-complying.
12. The minimum front/rear yard setbacks are twelve feet (12'). The minimum total front/rear yard setbacks are twenty-five feet (25').
13. The minimum side yard setbacks are five feet (5').
14. The existing historic structure does not meet the north side yard setback or the west rear yard setback along Crescent Tram. Per LMC § 15-2.2-4 indicates that historic

structures that do not comply with building setbacks are valid complying structures.

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

Conclusions of Law – 823 Norfolk

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

Conditions of Approval – 823 Norfolk

1. The City Planner, City Attorney, and City Engineer will review and approve the final form and content of the plat for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat at the County within one year from the date of City Council approval. If recordation has not occurred within one (1) years' time, this approval for the plat will be void, unless a request for an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. A ten feet (10') wide public snow storage easement will be required along the Norfolk Avenue and Crescent Tram frontages of the property.
4. The property owner shall resolve the historic shed encroachment over the rear property line and concrete stairs, concrete retaining wall, and stone retaining wall over the front property line into the City Right-of-Way (ROW) by entering into an encroachment agreement with the City Engineer.
5. The remaining stone retaining walls and stone steps encroaching over the north and south property lines into private property shall either be removed or the applicant shall enter into an encroachment agreement with their neighbors for these improvements.
6. 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.

7. Ten foot (10') public snow storage easements shall be granted along the front and rear property lines on Norfolk Avenue and Crescent Tram.

8. No vehicular driveway access is permitted off of Crescent Tram.

**2. Land Management Code Amendments regarding vertical zoning storefront regulations in Chapter 15-2.5-2 Uses in Historic Recreation Commercial (HRC), Chapter 15-2.6-2 Uses in Historic Commercial Business (HCB) and associated definitions in Chapter 15-15, Defined Terms (Application PL-15-02810)**

Chair Strachan believed the Commissioners understood the proposed amendment, with the exception of which buildings would not be affected by the ordinance. He asked Planner Whetstone to identify which particular buildings would be under the ordinance and which ones would not. The buildings were pointed out on a map.

Planner Whetstone recalled that the Planning Commission had also talked about the private event facility. She explained that "private events" was removed and replaced with "private event facilities", which was added as a conditional use but prohibited in store fronts. Another primary change was the definition of "storefront" identified on page 310 of the Staff report.

Planner Whetstone noted that the addresses on the right-hand side of the map exhibit were within the Summit Watch project. It was the section where Main Street comes in from Deer Valley. All of the Summit Watch addresses are currently excluded because they either do not front on Main Street or they are more than 8-feet above. The only exception was 738 Main Street which is directly opposite the Caledonian.

Director Erickson explained that the idea was to regulate the Main Street side of the building but not the plaza side. Chair Strachan asked why they had carved out 804. Mr. Erickson stated that 804 was the entrance to the parking garage and that building plaza elevation is higher than 8' above the street, which is outside of the regulatory area. It was the same with 890 Main Street except where it comes back down to the road on Main and comes back to the street. Mr. Erickson noted that Mustang and Vinto are less than 8 feet above the street as it comes around the corner. The Staff did not want to over-regulate in the Marriott zones and they wanted to keep Vinto and Mustang in that location.

Planner Whetstone pointed out that those buildings are not currently within the vertical ordinance and Staff had originally proposed adding them to the regulations. Director Erickson stated that it was more consistent that once they crossed Harry Reid's bridge to

be out of the vertical zoning. The Staff thought it was best to keep the office uses to the south of Mustang and in 890 Main to remain in this particular operation. Planner Whetstone noted that 875 Main Street was primarily a condominium building; however, it has one commercial space on the elevated town lift plaza level above Main Street. It also has one space which received a conditional use permit for the private ski club. The windows in that space are higher and it is the only access on Main Street. Planner Whetstone stated that 820 Park Avenue was the new development Rio Grande CUP, which has an allowance for an office use in a storefront on Park Avenue. The Staff had left it out and she asked whether the Commissioners thought it should be included and subject to the vertical zoning. Planner Whetstone pointed out that another change since the last meeting is that the Flying Sumo and the Town Lift are proposed to be included in the vertical ordinance. She noted that the owner of the Flying Sumo agreed that it made sense to be regulated by vertical zoning because he did not anticipate anything but retail uses in those storefronts on Park Avenue and Main Street.

Chair Strachan asked the Commissioners for input on whether 900, 890, and 875 should or should not be included in the vertical zoning.

Commissioner Phillips agreed with what was proposed; however, he thought that 820 should also be included. He understood that there was an existing CUP, but if that were to change in the future he preferred to be pro-active. Director Erickson explained that the regulatory outcome would be a legal non-conforming use. Commissioner Campbell asked if the use changed whether the applicant would have to come back for another CUP. Director Erickson replied that they would not have to come back for a CUP. He pointed out that a new use might be a permitted use.

Planner Whetstone agreed that 820 should be included. Commissioner Joyce agreed with 820, but he was also struggling with 875 and 804. He gets nervous any time they talk about zoning that is aimed at a particular constituent or zoning that applies to one building but not another. Commissioner Joyce presented different scenarios to explain his concerns. He preferred to move 875, 820 and the Main Street side of 804 into the vertical zoning. Director Erickson understood Commissioner Joyce's logic. Extending the vertical zoning to 804 would address the private club use. Planner Whetstone was comfortable with his suggestion. She clarified that 804 is currently excluded; and 820 was not included because there is not a storefront there.

Commissioner Joyce clarified that it would be the Main Street side of 804 and all of 820 and 875. Planner Whetstone replied that he was correct, and it would bring the line up to 9th Street. Director Erickson stated that they were not negotiating, but rather moving vertical zoning across the platform.

Chair Strachan asked if the Commissioners had concerns with the language in the proposed changes to the LMC. There were no concerns or changes. Chair Strachan noted that the language needed to be changed to reflect the new boundary lines.

Chair Strachan opened the public hearing.

Mike Sweeney had read through the document and he complimented Planner Whetstone on a fabulous job. He thought the wordsmithing was clear and concise and he did not have any issues with it. Mr. Sweeney stated that he always thought his property on the west side of Main Street was commercial, and it was built that way for a reason. They did not put commercial on the top of the plaza. They essentially donated property to the City in the sense of protecting the view corridor by never building on the deck. Mr. Sweeney wants it to remain as it exists today and he was comfortable with the Code changes.

Chair Strachan asked if Mr. Sweeney had an issue with the boundary line change. Mr. Sweeney answered no.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to forward a positive recommendation to the City Council regarding LMC Amendments to Zoning Chapters 2.5, 2.6 and Chapter 15, according to the Findings of Fact and Conclusions of Law in the draft ordinance, and as amended to include 820, 875 and the Main Street side of 804 in the vertical zoning per the discussion this evening. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

**3. Land Management Code Amendments in Chapter 15-2.6-3(D) – Main Street Balcony Enclosures to allow Main Street restaurant owners to construct winter enclosures on balconies of non-historic buildings from November 15th – April 15th which will allow winter dining on those enclosed decks.**  
**(Application PL-15-02031)**

Planner Grahn reported that over the past year the Staff has been working with the City Council and the Historic Preservation Board to determine whether or not it was appropriate to enclose Main Street balconies over the winter months. All parties found that it was appropriate. Planner Grahn noted that the history of their discussions was outlined and documented with Exhibit in the Staff report. The intent is to create a pilot program to enclose the balconies with temporary but semi-permanent structures to replace white tents from November 15th through April 30th, and not to exceed 30 days. However, to do so requires an amendment to the Land Management Code.

Planner Grahn noted that the proposed changes were outlined on page 372 of the Staff report. The Staff requested that the Planning Commission review the changes and forward a positive recommendation to the City Council.

Commissioner Campbell asked if others besides Riverhorse were requesting this. Planner Grahn replied that it was only Riverhorse at this time. The balcony enclosure would have to be directly accessible to the restaurant space and; therefore, other than Riverhorse only Waso and 501 Main Street could currently meet that requirement.

Chair Strachan asked Planner Grahn to summarize the input from the HPB and the City Council. Planner Grahn stated that the first concern was whether or not it was appropriate on historic buildings, because removing and constructing the temporary structures creates a lot of wear and tear. Therefore, it was decided to limit it only to balconies that were on non-historic buildings. Planner Grahn reported that the HPB had mixed reactions, but the majority of the Board felt it was an improvement from the white tents that remain up all winter. The HPB was not concerned that the balcony enclosures would appear permanent and misleading to people viewing Main Street in the winter months. They also thought it would help enhance the level of customer service and the restaurant experience.

Commissioner Joyce understood that this was being proposed as a trial program. He noted that currently a CUP can be applied for to leave up a temporary structure for 180 days. He asked why the Staff was proposing a zoning change instead of the current CUP process. Planner Grahn replied that under the CUP process a structure could not be left up for 180 consecutive days. The applicant would come to the Planning Commission to have a tent approved for up to 14 days five times a year, or 70 days. She noted that exceptions have been made for some of the resorts to leave tents up for a longer period during the summer time for weddings, etc. Planner Grahn pointed out that the a balcony enclosures is different because it is attached to the building and not a freestanding tent.

Commissioner Joyce thought it was unusual to be making a zoning change for a trial. He thought a better approach would be to allow the same exception under the CUP that is made for wedding tents during the summer.

Assistant City Attorney McLean replied that the Code does not allow for balcony enclosures; therefore, it would not be allowed under the current CUP process. The only way for this temporary program to move forward is through a Code change.

Chair Strachan wanted to know if they would have to amend the Code again if they determine that the trial period is not successful. Ms. McLean explained that the City

Council could decide not to allow balcony enclosures in the right-of-way; or they could implement another Code change to reverse it.

Commissioner Worel questioned how the City Council could make that decision if it was allowed by Code. Ms. McLean understood that if someone applied for a balcony enclosure they would need an encroachment agreement. Planner Grahn explained that most of the balconies already encroach over the right-of-way and require an encroachment agreement. Some have an agreement and others do not. However, when people come in to make changes to their balcony, they are required to get an encroachment agreement if they do not already have one. Planner Grahn remarked that the City Council also has to review any changes to balconies regardless of whether it is a new balcony or a modification to an existing balcony. It also requires an HDDR by the Planning Department.

Planner Grahn explained that for the purpose of the pilot program, the process will be to do an Administrative CUP, which is consistent with the summer dining deck program. The CUP would run with the land but they would be required to apply for a building permit to construct it and to demolish it every year. It would involve two building permits. She pointed out that if someone came in with a request to enclose their balcony, they would get an encroachment agreement with the City at the same time.

Commissioner Thimm understood that an applicant would have to obtain CUP approval for the enclosure, put up the enclosure and take it down. He asked if the applicant would be covered under the same CUP to put it up again the next year. Planner Grahn replied that they would not have to reapply for the CUP but they would have to apply for new building permits. Chair Strachan asked about the encroachment agreement. Planner Grahn believed that the encroachment agreement also runs with the land. Ms. McLean explained that encroachment agreements are generally licenses which can be revoked at any time.

Commissioner Phillips asked if the CUP would expire with the trial period. Ms. McLean stated that the Staff could phrase it to have a sunset for the conditional use. Planner Grahn favored a sunset because they would want the opportunity to revoke balcony enclosures if it does not work out.

Commissioner Joyce asked if the Planning Department and the Historic Preservation Board were comfortable with enclosed balconies. Planner Grahn stated that the Planning Department was not in support. However, the HPB liked the idea because it was an improvement over white tents. The HPB supports it from the standpoint of aesthetics. Commissioner Joyce remarked that if white tents are the problem, he did not believe it made sense to fix the problem by allowing balcony enclosures. The City Council has put historic preservation as one of the top six priorities. There is a view walking down Main Street and they have tried to preserve that view. One balcony enclosure breaks the view

and changes everything. Commissioner Joyce remarked that everything he read about enclosing balconies states that they are not part of the historic look, they block off other buildings, and they should not be done. He referred to documents on page 413 of the Staff report showing that the Planning Department was opposed when this idea was previously presented. He pointed out that what was being presented this evening was the same exact plan. The only difference is that the City Council has now decided to try it.

Commissioner Joyce stated that if these things are not good because it hurts their historic image, making them temporary does not change anything. He believed that a permanent enclosure could be made to look more historic and fit in better than a plastic temporary enclosure. He pointed out that as proposed the balcony enclosures are only temporary, but they are allowed to be up during the four most important months in Park City. Those are the peak months with all the tourists. Commissioner Joyce noted that this proposal was being driven by one restaurant who fundamentally wants to accommodate 20 additional people for dinner. He thought it was counter to not only his view, but how the Planning Department viewed it and initially thought it should not be allowed. Commissioner Joyce was unsure at what point the City decided to give in to one constituent, because it was counter to everything the City has done to try to preserve the Main Street corridor.

Commissioner Phillips agreed with Commissioner Joyce, and added that it would also be an “energy hog”.

Commissioner Joyce was surprised when he read the minutes that the HPB was concerned about patrons being turned away from the restaurant during the peak season, and that was their logic for approving balcony enclosures. As a Board that is supposed to be preserving the historic character and mining heritage of Park City, he could not understand why the HPB would find this acceptable.

Planner Grahn stated that the Staff raised many of the same issues when they met with the Building Department. They also had concerns that it would look like the plexiglass tent on the Blue Plate Diner in Salt Lake. Planner Grahn remarked that the Planning Department has been working with Riverhorse and the enclosure will be glass and steel to blend in with the design of the buildings. Commissioner Joyce asked where there were other glass and steel buildings along Main Street. He questioned whether a glass and steel building would be approved under the current design guidelines. Planner Grahn clarified that if a balcony enclosure is requested it would have to compliment and be consistent with the design of the building. Since Riverhorse is already a steel and glass building, an enclosure would fit in better than if it was attached to a wood frame building.

Director Erickson clarified that the opinion of the HPB was that a balcony enclosure was aesthetically better than a white tent. He noted that it was an ongoing discussion with the

HPB and the City Council. Mr. Erickson suggested that the Planning Commission forward their opinion to the City Council to be considered when the Council makes the final decision. He noted that this was a difficult issue for the Planning Department because their mission is to preserve the street. Mr. Erickson pointed out the Staff's previous recommendation and he stood by the former Planning Director's recommendation. He emphasized that the Staff was following direction from the City Council to come up with a compromise for allowing enclosures.

Chair Strachan stated that he agreed with Commissioner Joyce substantively. However, he has never viewed his role on the Planning Commission to be looking at what is historic and what is not. He does not have the skill set or the knowledge to say one way or another whether a temporary structure fits with the form and feel of historic Main Street. Chair Strachan stated that from a planning perspective he did not believe balcony enclosures should be allowed. He was concerned that allowing one would open the door for many more.

Commissioner Joyce wanted to know why permanent balcony enclosures would not be allowed if temporary enclosures are allowed. If balcony enclosures are acceptable, why would they have to be removed in April. In his opinion it would be better to allow the owners to build a nice enclosure that fits in better, is insulated, and has good snow shed.

Director Erickson explained that the planning argument for taking down the enclosures is that during the summer the balconies would obscure the view of the other buildings and disrupt the rhythm and pace of the second floor. Mr. Erickson acknowledged that it could also be a reason for not allowing enclosures during the winter.

Chair Strachan thought it was a policy decision that the City Council would make. He did not believe it was an issue for the Planning Commission or a Code issue. He was not opposed to sending a recommendation to the City Council, recognizing that the Council decides what could occur on Main Street.

Commissioner Campbell asked if the Planning Commission could forward a neutral recommendation. Chair Strachan replied that it the vote had to be aye or nay or a continuation.

Chair Strachan opened the public hearing.

Seth Adams, representing the Riverhorse, clarified that the Riverhorse originally approached the idea for a permanent balcony enclosure; however, that was rejected because it is over City property and the City did not want something permanent in the right-of-way. That created the situation for a temporary enclosure for 180 days. Mr. Adams

noted that they do not have the capability for deck dining during the summer because they do not have a Main Street spot on the street. For that reason, they approached it as a winter time enclosure because they need it more in the winter. Mr. Adams noted that the enclosure would be built by a very reputable company. It was designed to be built as a permanent enclosure, but it was be redesigned to allow it to be put up and taken down. Mr. Adams remarked that it would be well-built and would not look cheap. His preference would be to leave it up 365 days, but since that was not an option he was willing to accept a temporary time period so they could prosper as a restaurant and accommodate larger crowds during the peak season.

Ruth Meintsma, a resident at 305 Woodside, focused on the energy issue related to the enclosures. She commented on an interview with Matt Abbott earlier that day where he spoke about the City's current effort towards zero carbon footprint. The City was also moving forward with sensitive issues such as outdoor fire pits and wood fireplaces. Ms. Meintsma did not believe the proposed balcony enclosures accomplish what the City is trying to accomplish. She had researched solariums and greenhouses, which was the closest she could find similar to what was being proposed, and they are very energy inefficient. Ms. Meintsma referred to language on page 5 of the Staff report which states, "A building permit will insure that the enclosure addresses energy efficiency". She thought that was vague and asked if standards or specific criteria would be adhered to. Page 6 of the Staff report under significant impacts states that there are no significant environmental impacts; however Ms. Meintsma did not believe they know at this point whether there would be environmental impacts. Ms. Meintsma referred to Exhibit 1 of the ordinance, and noted that the fourth Whereas states, "The City's goals include sustainability". This structure does not necessarily accomplish sustainability. The ninth Whereas states, "This amendment is consistent with the General Plan." Ms. Meintsma questioned whether it was consistent with the General Plan. She believed there were still a lot of unanswered questions that they could not know at this point. Ms. Meintsma referred to Item 10 which states that the design must address snow shedding. She pointed out that if the enclosure on the Riverhorse sheds at all it would shed on to the sidewalk. She thought aggressive snow melt should be included in the energy efficiency evaluation of the structure. Ms. Meintsma referred to number 19, materials, and thought it needed to go further than just materials that complement the existing structure. She suggested that the criteria should be a material that actually accomplishes a certain level of energy efficiency.

Mike Sweeney, stated that as a person sitting in the audience who has done a lot of permitting in front of the Planning Commission, he was offended by the outrage that Mr. Adams with the Riverhorse would build a "crappy" building. Mr. Sweeney did not believe that was fair.

Commissioner Joyce agreed and he apologized to Mr. Adams and Mr. Sweeney. Commissioner Joyce clarified that his frustration was more with the City not allowing a nice permanent structure that would meet normal development guidelines; and instead allowing one that must meet difficult requirements of being temporary and having the ability to be pulled apart and packed up. Commissioner Joyce stated that if Mr. Adams was allowed to build a permanent structure he was confident that he would build something that was nicer, solve more engineering problems, be better insulated to address energy concerns, and look better on the historic street. He acknowledged that he had used a poor choice of words.

Mr. Sweeney stated that with all the concerns about energy and everything else is involved for this type of structure, the Riverhorse was doing their best and using the best technology available. He understood that the Riverhorse is not the most energy efficient, and there are other buildings in the community that are less energy efficient than what the Riverhorse was trying to accomplish. Mr. Sweeney referred to Commissioner Joyce's comment about the historic district and whether or not it was acceptable to have balconies on Main Street. He stated that Main Street has had balconies since for as long as he could remember.

Commissioner Joyce stated that he was aware that balconies are allowed on Main Street and clarified that his comment related to enclosed balconies.

Mr. Sweeney remarked that if the real issue is enclosed balconies, he believed that in the 1800s people put up something to enclose their balconies to protect themselves.

Brian Markenan stated that he was an architect in town who was helping Mr. Adams move this request through the process. Mr. Markenan understood that energy was an issue for everyone. Since Mr. Adams would be paying for that energy, he was motivated to build and complement that building. Mr. Markenan pointed out that this was a pilot program to determine what will and will not work for the City and the Riverhorse. He remarked that snow shedding would be remedied. The enclosure will have a low pitch to avoid fast slides into the street. It would be held a foot and a half to two feet from the edge of the balcony so a lot of the snow will dump on the side. A lot of snow will melt off and they will be dealing with the runoff of the roof in a much different way than snow just sliding off. Mr. Markenan stated that they anticipate using cleats and snow bars to hold back much of the snow. He pointed out that it was not a cheap structure. It is an engineered metal and glass building with a polycarbonate top that will withstand snow loads. It is also built to IBC standards. Mr. Markenan stated that they have been working with the Building and Planning Departments and he felt they had come to a good place for this trial.

Commissioner Thimm asked if this type of structure would comply with the State Energy Code. Mr. Markenan was hesitant to say that it complies with the State Energy Code. He

pointed out that it is a stand-alone structure. Commissioner Thimm noted that the Code was a measuring stick in terms of sustainability that is required by the State. Mr. Markenon replied that it was lacking in terms of having an R-49 roof. He suggested the possibility of sliding in different panels in the future.

Chair Strachan closed the public hearing.

Commissioner Campbell did not believe the balcony enclosures would sweep all the way up Main Street, and he did not see it as a gigantic stain on the visual character of Main Street. Chair Strachan noted that some of the Commissioners differed in that opinion. He did not think there would be an abundance of enclosures but he felt certain that the number would increase if the pilot program is passed. Commissioner Campbell suggested crafting the language to limit the number. Commissioner Joyce asked how they could justify allowing it for one non-historic building to serve food and deny it for another person with a non-historic building who wants to enclose their balcony for storage or other uses. Commissioner Campbell thought it would be easy to make that distinction because the vibrancy a restaurant brings to the area benefits everyone. Chair Strachan thought it would put the Staff in a difficult position of saying yes to some and no to others based on vibrancy.

Planner Grahn noted that the City Council was only proposing the pilot program for restaurants. The program would have to be adjusted to expand it to retail, office space, private residences, etc.; and that would require going back to the HPB and the Planning Commission.

Commissioner Joyce remarked that at some level the City was making a judgment of whether or not to allow enclosed decks. Under the current constraints there was a possibility for three and only one was currently interested in doing it. However, once it is approved and the next person wants to enclose their balcony for a different entertainment use, it keeps growing and growing. He thought the decision the City Council should be making is whether or not enclosed balconies are okay. If the answer is yes, they should be allowed to be permanent and done well.

Commissioner Campbell suggested that if the pilot program runs for three years, after that time they could determine whether or not to allow permanent enclosures. He asked if Commissioner Joyce would be more comfortable with that approach. Commissioner Joyce clarified that he personally did not think enclosed balconies belong because they are not part of the Historic Design Guidelines. He thought the decision needed to be consistent. He could not justify saying it was fine for the five prime months but not for the rest of the year. If the City Council thinks enclosed balconies are fine, then they should be allowed all year long or not allowed at all.

Commissioner Phillips wanted to make sure that the CUP would have a sunset date. Assistant City Attorney McLean stated that they could make that recommendation as part of the motion.

**MOTION:** Commissioner Joyce moved to forward a Negative Recommendation to the City Council on the Main Street balcony enclosure amendments. Commissioner Worel seconded the motion.

**VOTE:** The motion passed 3-2. Commissioners Joyce, Thimm and Worel voted in favor of the motion. Commissioners Phillips and Campbell voted against the motion.

## **WORK SESSION**

The Planning Commission returned to work session for Annual Legal Training on the Public Meeting Act.

Assistant City Attorney McLean stated that the Open Meetings Act is primarily about the importance of transparency and openness in government so the constituents in the community understand that decisions are being made in the public and not behind closed doors.

Ms. McLean reminded the Commissioners to keep their disclosure forms updated with the City Recorder.

Ms. McLean clarified that "Open" means "in public". State Code requires the Planning Commission to follow the rules and requirements of the Open Public Meetings Act. She noted that the lesser Boards and Commissions follow the Act as well, including the Art Board.

Ms. McLean commented on what constitutes a meeting. For the Planning Commission, it is four members including the Chair. However, it was preferable to have more members than just a quorum making decisions. She thanked the Commissioners for their diligence in attending most meetings. Ms. McLean requested that they contact the Staff if they know they will not be attending to make sure they have a quorum. A meeting cannot be held without a quorum.

Chair Strachan asked the Commissioners to also let him know if they will not be attending; however, he preferred that they use his personal email because he does not check his

Park City email as often as he should. Ms. McLean suggested that they also email the Planning Director and Louis in the Planning Department.

Ms. McLean clarified that if the Vice-Chair is acting as the Chair, he or she can vote on all items. Chair Strachan asked if the Vice-Chair has to vote if it is not to break a tie. Ms. McLean replied that the Vice-Chair must vote on all items.

Ms. McLean discouraged the Commissioners from discussing any City business, even generally, if they are at a social gathering. She stated that email between the Commissioners is permitted but it should not be about substantive matters. Ms. McLean reminded the Planning Commission that their personal or business email could be subject to a Grama request if they use it to conduct City business. That was the reason for giving all the Commissioners a City email. She pointed out that the iPads they were given are not City equipment, but the emails on the iPad are subject to these laws. Ms. McLean stated that the Commissioners are allowed to text each other but not during a meeting.

Ms. McLean noted that electronic meetings are allowed as long as the City has an adopted policy. Chair Strachan recalled that the Planning Commission had rejected electronic participation. Ms. McLean thought the Planning Commission had a limited policy but it was not a preferred process. She offered to look into it. Chair Strachan thought electronic participation was a terrible idea. Commissioners Worel and Campbell agreed.

Ms. McLean discussed closed meetings, which typically do not occur at the Planning Commission level. If a Commissioner has an issue he or she is uncomfortable raising in a public meeting, they should contact her or City Attorney Mark Harrington prior to the meeting to discuss it.

Ms. McLean commented on noticing requirements and public hearings. All meetings are recorded and the recordings are kept indefinitely. Minutes are taken of all meetings. The only exception to recording is a site visit.

Ms. McLean stated that violation of the Public Meetings Act is a Class B misdemeanor and it would be enforced by the Attorney General or the County Attorney. She advised the Commissioners to keep their discussions clear and concise so their comments can be defended if necessary.

The Park City Planning Commission Meeting adjourned at 8:45 p.m.

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