

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
APRIL 8, 2015

COMMISSIONERS IN ATTENDANCE:

Vice-Chair Steve Joyce, Preston Campbell, John Phillips, Doug Thimm, Nann Worel

EX OFFICIO:

Kayla Sintz, Planning Manager; Francisco Astorga, Planner; Christy Alexander, Planner;
Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

ROLL CALL

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

ADOPTION OF MINUTES

March 25, 2015

Commissioner Worel stated that she had reached her term limits as Chair and that a new Chair and Vice-Chair were appointed at the last meeting. On page 13 of the minutes she was referred to as Chair Worel and that should be corrected to read **Commissioner Worel**.

MOTION: Commissioner Phillips moved to APPROVE the minutes of March 25, 2015 as amended. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC INPUT

Brooke Hontz stated that she is a former Commissioner who served on the Planning Commission for 4-1/2 years. She truly appreciated their service because she could speak from experience about the difficulty of the job and how much work it entails. Ms. Hontz was present this evening because of the recent Land Management Code discussions regarding TDRs. She had been unable to attend the previous meetings but to her knowledge and from reading the minutes she understood that a recommendation had not been finalized. Ms. Hontz stated that in her profession she represents development

clients and she has also worked as a consultant for other cities and counties. She writes Code and she has written some TDR ordinances.

Ms. Hontz stated that when she was a Commissioner the Planning Commission had the opportunity to put the Code together and the City Council made it an ordinance, and it was a major success. However, even at that time they were unsure whether they had the metrics right or whether the way they measured how TDRs would be calculated was good enough. The intent was to get something in an ordinance so it could be tested by time and people inquiring. She believed the test has shown that TDRs are not quite where they need to be.

Ms. Hontz remarked that the Planning Commission initially considered creating a TDR bank. At that time Planner Katie Cattan and some of the Commissioners were on board with moving forward with the bank. Ms. Hontz pointed out that through the process of creating the ordinance it was evident that a TDR bank was an extra step and it was complicated. All the moving parts needed to be more defined and it still needed more work, even though everyone had agreed that it was an important piece for moving forward.

Ms. Hontz believes the program can and will work, and it was more than just the measurement of value in terms of the number of TDRs that would be received. She thought they were relatively close, if not accurate. Ms. Hontz would like the Planning Commission to look into establishing the TDR bank, which is the fund that the City sets aside, and begin looking at TDRs to purchase. She explained her reasons for making that request and provided examples where a bank would be beneficial. Ms. Hontz stated that when Flagstaff was established a 1% real estate transfer tax clause was included in the Agreement. She ran the numbers from the previous 365 days on just the Montage and the 1% collected from that project, specifically for the City to fund open space and transit. She met with Nate in the Budget Department to see where the Empire Pass fund was, how much was in it, and whether it could be used for TDRs. She found that it could be used for TDRs. There is money in the fund and it has increased over the past 365 days. Knowing that there is money in the fund she would like the Planning Commission to ask the Staff to look into the possibility of bringing everything together. She recognized that it was more a matter for the City Council, but she felt the Planning Commission was only looking at part of TDRs and not the entire picture. She requested that they consider that as they move forward.

Neal Krasnick, stated that he has been a resident of Park City since 1988 and he owns a condominium on the North End of City Park. Mr. Krasnick stated that he has worked in different places and resources in Utah and California long enough to know that money and orders eventually come from the government in terms of what they want to support. Mr. Krasnick stated that when planners and developers come before the City Council, they

need to know that there needs to be very good hiking and biking trails. Park City's business is outdoor recreation and while it is primarily in the winter, there is no reason why they cannot expand that to outdoor recreation 12 months out of the year. He has built trails for the Forest Service in the Mirror Lake area and he knows that sustainable trails are possible and they do not have to be rebuilt continually. People can be attracted to Park City to hike and bike and recreate; and when they came they bring money into town. They can no longer rely on just ski vacations because the weather has changed.

On a separate issue, Mr. Krasnick stated that the City has been working on developing the Prospector Park subdivision. He lives in Snow Country and he received a letter in the mail saying that he now votes at the middle school rather than in the historic Old Town District. He looked to see what subdivision he was in and found that he is no longer in the Old Town District. Snow Country is now in the Prospect Subdivision in the General Commercial District. He understood that to mean that Snow Country Condominiums could potentially open a sexually oriented bar and restaurant because that use is allowed in the GC zone. He asked the Planning Commission to keep that in mind and to also consider his comments about hiking and biking trails to encourage tourism year-round.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

Planning Manager Sintz noted that the Planning Department had sent an email asking which Commissioners would be available for a joint City Council/Planning Commission/Planning Department dinner at the Mayor's house on Tuesday, June 16th. Only two Commissioners had responded and she asked the others to let her know if they planned to attend.

Planning Manager Sintz reported that four Staff members would be attending the National American Planning Association Conference in Seattle the following week.

Vice-Chair Joyce clarified that there would not be a Planning Commission meeting on April 22nd. Ms. Sintz answered yes. The next meeting would be May 13th. Vice-Chair Joyce stated that he would be out of town for the May 13th meeting.

Commissioner Thimm disclosed that he worked collaboratively with Greg Brown several years ago on a project outside of Utah. Mr. Brown was a representative on the Alice Claim project and despite their past working relationship, Commissioner Thimm felt certain that he could be objective in the Alice Claim discussion this evening.

Commissioner Phillips disclosed that he would be recusing himself from the Alice Claim items on the agenda.

Commissioner Phillips commented on on-site noticing and mentioned a number of properties where the signs were falling over or lying on the ground. He pointed out that the small white signs on a stick are not adequate and most are not visible. Commissioner Phillips asked why they were not using the glass signs that stand out.

Planning Manager Sintz stated that wood stake signs were used prior to the double metal signs with plexiglass. She noted that a considerable amount of money was spent on those signs and unfortunately they kept disappearing. Ms. Sintz offered to look into signage and come back with alternative options. She noted that a sign notification has been modified as more of an FYI for reconstruction, which was requested by the HPB. She suggested that the Staff could solicit bids again on a new type of custom sign based on the double stick with plexiglass.

CONTINUATIONS (Public Hearing and Continue to date specified.)

Vice-Chair Joyce opened the public hearing for 900 Round Valley Drive Pre-MPD, 550 Park Avenue- Steep Slope CUP, and the 550-560 Park Avenue & 545 Main Street Plat Amendment.

There were no comments.

Vice-Chair Joyce closed the public hearing.

Planning Manager Sintz requested that the Planning Commission continue 900 Round Valley to a date uncertain rather than May 13th as indicated on the agenda.

MOTION: Commissioner Worel moved to CONTINUE 900 Round Valley – Pre-Master Planned Development public hearing and discussion to a date uncertain. Commissioner Preston seconded the motion.

VOTE: The motion passed unanimously.

MOTION: Commissioner Thimm moved to CONTINUE the 550 Park Avenue Steep Slope CUP and the 550-560 Park Avenue & Main Street Plat Amendment to May 13, 2015. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

CONSENT AGENDA

Vice-Chair Joyce asked if the Planning Commission wanted any of the items removed from the Consent Agenda for discussion. There were none.

Vice-Chair Joyce opened the public hearing on the Consent Agenda: Fairway Village No. 1 PUD, 936 Empire Avenue-Steep Slope CUP, 823 Woodside Avenue – Plat Amendment, and 205 Main Street – Condominium Record of Survey.

There were no comments.

Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Phillips moved to APPROVE or forward a POSITIVE recommendation on all items on the Consent Agenda. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

1. Fairway Village No. 1 PUD – Fairway Village HOA Re-plat – Plat Amendment to memorialize existing building footprints. (Application PL-14-02569)

Findings of Fact – Fairway Village No. 1 PUD

1. The property is located at Fairway Village No. 1 PUD within the Residential Development (RD) Zoning District.
2. The Fairway Village No. 1 Planned Unit Development was originally approved by City Council on December 12, 1979 and recorded on December 17, 1979.
3. The total area of the Fairway Village No. 1 PUD is 3.19 acres.
4. There are twenty eight (28) units in the Fairway Village No. 1 PUD.
5. On December 8, 2014, the applicant submitted an application to amend the existing Fairway Village No. 1 subdivision plat.
6. The application was deemed complete on January 6, 2015.
7. The sixteen (16) units on the west side of Fairway Village Drive were built with hallways that connect the garage to the main unit.
8. The original Fairway Village No. 1 subdivision plat shows that the garages are detached from the main units.
9. The proposed plat amendment would memorialize the existing built environment of the Fairway Village No. 1 PUD.
10. As conditioned, the proposed plat amendment does not create any new noncomplying or non-conforming situations.
11. Fairway Village Drive is private and is not maintained by the City.

Conclusions of Law – Fairway Village No. 1 PUD

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 subdivisions.
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 – Fairway Village No. 1 PUD

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Land Management Code, and the conditions of approval, prior to recordation of the plat.
2. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless a complete application requesting an extension is made in writing prior to the expiration date and an extension is granted by the City Council.
3. The requested utility easements from the City Engineer, City Water Department, and Snyderville Basin Sewer Improvement District must be placed on the amended plat prior to recordation.
2. 936 Empire Avenue – Steep Slope Conditional Use Permit for a new single-family home on a vacant lot (Application PL-15-02618)

Findings of Fact – 936 Empire Avenue

1. The property is located at 936 Empire Avenue.
2. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.
3. The property is described as Lot 1 of the 936 Empire Avenue Subdivision. The lot area is 2,812.5 square feet.
4. A Historic District Design Review (HDDR) application was approved on March 31, 2015 for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
5. This is lot is a combination of one and a half "Old Town" lots, which was previously vacant. This is a downhill lot.
6. Access to the property is from Empire Avenue, a public street.
7. There is an existing home and retaining wall to the north that encroaches onto the

property 0.3 feet. There is a current application that has been submitted to the Planning and Building Departments requesting to demolish these structures.

8. Two parking spaces are proposed on site. Two spaces are proposed within an attached garage within the lot area.

9. The neighborhood is characterized by primarily non-historic and historic residential structures, single family homes, duplexes and condos.

10. The proposal consists of a total of 3,815 square feet, including the basement area and a double car garage.

11. The proposed driveway was designed with a maximum width of 16 feet and is approximately 12 feet in length from the garage to the existing edge of street with a minimum of 12 feet of driveway located on the property. The garage doors comply with the maximum height and width of nine feet by nine feet.

12. The proposed driveway has an overall slope is 0.14% as measured from the front of the garage to the edge of the paved street.

13. An overall combined building footprint of 1,201 square feet is proposed. The maximum allowed footprint for this lot is 1,201 square feet.

14. The proposed structure complies with all setbacks.

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

16. The proposed home complies with the LMC required total building height of 35' from the lowest floor plane to the highest wall plate and is in compliance with the LMC required step back of 10' at the building height of 23' at the rear façade.

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

18. Retaining is not necessary around the home on the upper, steeper portion of the lot. There will be no free-standing retaining walls. There are no window wells.

19. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography.

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

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

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

23. 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 double car garages.

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

25.The applicant submitted a visual analysis, cross canyon view, and streetscape showing a contextual analysis of visual impacts of the proposed structure on the adjacent streetscape.

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

27.The applicant stipulates to the conditions of approval.

Conclusions of Law – 936 Empire Avenue

1. The Steep Slope CUP application is consistent with the Park City General Plan.
2. The application is consistent with requirements of the Park City LMC, specifically Section 15-2.2-6 (B) (1-10) regarding development on Steep Slopes.
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 – 936 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.
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 for review and approval by the City Planning Department, prior to building permit issuance.
6. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit, the 2009 Design Guidelines for Historic Districts and

Historic Sites (Historic District Design Review) and the Land Management Code.

7. The existing home and retaining wall to the north that are encroaching on this property must be demolished prior to building permit approval. If the home and wall are not demolished the proposed home at 936 Empire Avenue will need to be redesigned to meet current LMC required setbacks and building code requirements from existing structures and this Steep Slope Approval shall be amended or voided.

8. The plat approved by City Council on February 12, 2015 shall be recorded at the County prior to February 12, 2016 and Building Permit approval.

9. 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.

10. This approval will expire on April 8, 2016, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and the request is granted by the Planning Director.

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

12. All exterior lighting, on porches, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way. Light trespass into the night sky is prohibited.

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.

3. 823 Woodside Avenue – Plat Amendment to combine one and a half lots into a single lot of record. (Application PL-15-02663)

Findings of Fact – 823 Woodside Avenue

1. The property is located at 823 Woodside Avenue.
2. The property is in the Historic Residential-1 District.
3. The subject property consists of the north one-half (½) of Lot 5 and all of lot 6, Block 11, Snyder's Addition to the Park City Survey.
4. The entire area is recognized by the County as Parcel SA-124.
5. The site is listed on Park City's Historic Site Inventory and is designated as a significant historic site.
6. The building footprint of the existing dwelling is approximately 1,000 square feet.
7. The proposed plat amendment creates one (1) lot of record from the existing area consisting of 2,558 square feet.

8. The maximum building footprint for a lot this size, 2,558 square feet, is 1,107.8 square feet.
9. A single-family dwelling is an allowed use in the Historic Residential-1 District.
10. The minimum lot area for a single-family dwelling is 1,875 square feet.
11. The proposed lot meets the minimum lot area for a single-family dwelling.
12. The minimum lot width allowed in the district is twenty-five feet (25').
13. The proposed lot is 37.68 feet wide.
14. The proposed lot meets the minimum lot width requirement.
15. The existing historic structure does not meet the north and south side yard setbacks.
16. The structure is less than one foot (1') from the north side yard property line.
17. The structure is just over four feet (4') from the south side yard property line.
18. The minimum side yard setbacks for a lot that is 37.68 feet wide is five feet (5').
19. Land Management Code § 15-2.2-4 indicates that historic structures that do not comply with building setbacks are valid complying structures.
20. Additions to historic structure must comply with building setbacks.
21. The existing remnant parcel, the half (½) lot will become part of a legal lot of record.
22. The other half (½) of Lot 5 is owned by another entity, recognized as parcel SA-23, 817 Woodside Avenue, and has not been incorporated into its own replat.
23. The existing historic structure straddles the lot line between Lot 5 and Lot 6.
24. The Plat Amendment would make the historic structure be in one (1) of lot of record instead of having most of the structure on Lot 6 and a small portion of the structure on half (½) of Lot 5, a separate remnant parcel.
25. The historic structure is less than one foot (1') from the north side property line and the overhang on that side encroaches 0.2 feet into the north neighboring property.
26. The historic structure on 817 Woodside Avenue, directly south of the subject property, is less than one foot (1') from the south property line and its roof overhang encroaches by 0.8 feet on to this property.
27. The historic roof eave encroachments are de minimus, and encroachment agreements are not required.
28. The retaining wall along the east property line encroaches into the City Right-of-Way. This encroachment must be addressed prior plat recordation.
29. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 823 Woodside Avenue

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 Subdivisions.

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 Woodside Avenue

1. The 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 front of the property.
4. 13-d sprinklers will be required per the Chief Building Official for any significant renovation.
5. The retaining wall along the east property line encroaches into the City Right-of-Way. This encroachment must be addressed prior plat recordation.

4. 205 Main Street – Condominium Record of Survey for 6 units in a multi-unit dwelling. (Application PL-14-02608)

Findings of Fact – 205 Main Street

1. The property is located at 205 Main Street.
2. The property is in the Historic Commercial Business District.
3. The property consists of Lot 1 of Park Place on Main Street Plat.
4. The proposed condominium Record of Survey plat memorializes each dwelling unit within the multi-unit dwelling as a separate unit that can be leased or owned separately.
5. A condominium is not a type of use but a form or ownership.
6. A multi-unit dwelling is an allowed use in the Historic Commercial Business District.
7. The current lot is 9,148 square feet and complies with the minimum lot area of 1250 square feet in the Historic Commercial Business District.
8. The current lot width is 119.8 feet and complies with the minimum lot width of 25 feet in the Historic Commercial Business District.

9. There are no minimum front, rear, or side yard dimensions in the Historic Commercial Business District.
10. The proposed Floor Area Ratio is 2.02 (18,148.49 divided by 8,985) and complies with the maximum Floor Area Ratio of 4.0 in the Historic Commercial Business District.
11. The proposal complies with the Maximum Building Volume and Height as described in Land Management Code § 15-2.6-5, as applicable.
12. Applicant proposes to build fifteen (15) parking spaces, all within the parking garage. The minimum number of parking spaces required by the Land Management Code based on the six (6) dwelling units is twelve (12).
13. The requested form of ownership is not detrimental to the overall character of the neighborhood.
14. This application allows the following units to be platted as private ownership:
 - a. Unit A – 2,961.81 sf
 - b. Unit B – 2,753.05 sf
 - c. Unit C – 3,308.74 sf
 - d. Unit D – 2,962.07 sf
 - e. Unit E – 3,256.11 sf
 - f. Unit F – 2,906.71 sf
 - g. Total – 18,144.09 sf
15. Common spaces include most of the parking garage, entry vestibule and stairs, elevator, roof, foundation, exterior walls, etc.
16. Limited common spaces include the mechanical areas, storage, balconies, patios, etc.
17. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – 205 Main Street

1. The Condominium Plat is consistent with the Park City Land Management Code and applicable State law regarding condominium record of survey plats.
2. Neither the public nor any person will be materially injured by the proposed Condominium Plat.
3. Approval of the Condominium Plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 205 Main Street

1. The 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 year's 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 tie breaker mechanism shall be included in the CC&Rs.
4. Required public improvements and landscaping, as applicable, shall be completed at the time of conversion or security provided to ensure completion as provided by ordinance.

REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **Alice Claim south of intersection of Kind Road and Ridge Avenue – Alice Claim Subdivision and Plat Amendment.** (Application PL-08-00371)
2. **Alice Claim south of intersection of King Road and Ridge Avenue – Conditional Use Permit for retaining walls up to 25' in height.**
(Application PL-15-02669)

Commissioner Phillips recused himself and left the room.

Planner Alexander requested that the Planning Commission combine the two applications for discussion and public hearing.

Planner Alexander stated that the applicant had reviewed the findings of fact and conditions of approval for both the subdivision and the CUP and requested some revisions. The Staff agreed to some of the revisions but not all, and a few additional conditions of approval were added.

Planner Alexander reported that the Alice claim property is at the top of King Road at the intersection where Ridge Avenue, Sampson Avenue and Gulch all come together. The subdivision is approximately 8.65 acres and a plat amendment on .38 acres. Eight of the homes are located within the HR-1 District. Lot 1 is located within the Estate Zone with a Sensitive Lands Overlay. Planner Alexander explained that because the proposal is less than 10 lots it is not a Master Planned Development.

Planner Alexander noted that the Planning Commission had visited the site and reviewed this application in October during work session. She noted that the applicants had been before the Planning Commission and City Council several times beginning in 2002 and the applicants were now looking at revising that plan.

Planner Alexander noted that at the last meeting the Planning Commission expressed comments and concerns and they requested additional information. They wanted to see what was above and around the site and how it was zoned and platted out. Some were concerned about development on the steep slopes, particularly in the Sensitive Lands Overlay and the Estate lot. The Commissioners had expressed concern regarding compatibility of the structures with surrounding HR-1 zones, as well as the adjacent HRL zone. Commissioner Thimm had requested to see cross sections of the homes. Planner Alexander had not been given cross sections and assumed they would be in the applicant's presentation this evening.

Planner Alexander reviewed the site plan from 2009 compared to the current site plan proposed. At the last meeting the Planning Commission requested that the applicants move the Estate lots down. Based on that recommendation the lots were moved further down closer to the City-owned property. Planner Alexander stated that the applicants were requesting additional items in the current site plan, which included a reduction in the setbacks for the Estate lot. Currently the Estate lot is required to have 30 feet on the front, side and rear of the homes. They were requesting a reduction down to 10 feet for the front, 10 feet for the side and 20 feet for the rear.

Planner Alexander referred to the table on page 188 of the Staff report which listed the individual lots and the percentage of slope across those lots. The Estate lot was moved off the very steep slope and the slope for the Estate lot was reduced to 31%. The rest of the open space would be left as is as a no disturb zone. She noted that the applicants would have to apply for a Steep Slope CUP for any lots over 30% slope in the HR-1 zone. Lot 7 was the steepest at 64%; Lot 6 was 55%; Lot 4 was 47%; Lot 2 was 45%; Lots 3 and 5 were 38%. Lot 1 was 31% and Lot 9 was 26%. Planner Alexander requested that the Planning Commission discuss the steep slopes and whether they were acceptable for development.

Planner Alexander reported that the Staff and the applicants had worked out solutions for the water pressure. The applicants have shown they can meet the minimum water pressure. She pointed out that it would be the minimum which may present an issue in the future. The applicants also met the requirements for access; however, the City Engineer has asked them to consider additional recommendations. Regarding sewer and utility issues, the Sewer Department has not received a finalized plan, but they were signers on the plat. Once the applicant receives approval from the City Council they must finalize everything with the Sewer Department. Planner Alexander noted that the Staff had drafted conditions of approval stating that if any redesign of the utilities pose issues or if the site plan is significantly altered as determined by the Planning Director, the applicant will be required to resubmit a new application and any approvals will be null and void.

Planner Alexander commented on clustering and asked the Planning Commission to provide input on whether or not it was compatible with the surrounding zone. She had included in the Staff report the footprint sizes of the homes along King Road, Sampson Avenue, Daly and Ridge Avenue to aid in their discussion this evening.

Planner Alexander noted that the applicants had stipulated to most of the conditions with the revisions submitted today, and she expected the applicant would discuss those revisions.

Greg Brown with DHM Design, introduced Jerry Fiat, representing King Development, Brad Cahoun, legal counsel, David Fagen from King Development, Joe Tesch, Tesch law, Mark Deemer with DHM Design Planning and Landscape Architecture, Seth Briggs from Stan-Tech Engineering, and Kathy Harris, Environmental Consultant. Mr. Brown thanked Planner Alexander and all of the City Staff for their efforts in this long process and for making sure the applicants had everything the Planning Commission needed to make what he hoped would be a positive decision.

Mr. Brown noted that DHM Design had prepared a site model. Vice-Chair Joyce stated that the Commissioners had the opportunity to look at the model prior to the meeting. Mr. Brown remarked that they would not be repeating the entire work session presentation they had given in October because Planner Alexander had assured him that it was already part of the record. The presentation this evening would primarily focus on the changes that were made to the site plan in response to the comments and concerns express by the Planning Commission in October.

Mr. Brown clarified that they were before the Planning Commission on four applications; the plat amendment, the subdivision, the side yard setback variance, and the conditional use permit retaining walls. They were four separate issues but they needed to be discussed together.

Mr. Brown outlined the five primary concerns they heard in October. One was a discussion about access for the open lands and having public access to the open space. There was a concern about the amount of site disturbance and trying to define how much site disturbance there would be. There was a need to further mitigate and study the entry retaining wall. The Staff had looked at compatibility with the surrounding neighborhoods and made recommendations regarding that issue. Mr. Brown believed the biggest discussion point was the location of the Estate lot.

Mr. Brown summarized their response to the issues. He noted that the HR-1 lots were significantly decreased in size, which created open space surrounding those lots. They were working with third parties, including the Summit Land Conservancy, to find someone

to deed that property to or who would hold the easement; or any other process that would hold the open space in perpetuity. Mr. Brown stated that they had shown disturbance envelopes and restrictions on the Estate lot and the eight lots on HR-1.

They did further terracing and landscaping to try to mitigate the retaining wall. In terms of building size and height, the Staff recommended further restrictions that they had agreed to. They also relocated the Estate lot to the bottom flatter portion of the gulch area on the site.

Mr. Brown presented the plan for the HR-1 lots that was shown in October, highlighting the lots that were proposed at that time. He presented the revised plan showing their current proposal for the eight lots and how they substantially decreased the size of the actual lots that would be sold. He reiterated that the surrounding space would be open space. Mr. Brown stated that a restriction would be placed on the Estate lot making the area outside of the building envelope and the road right-of-way a no disturb zone.

Mr. Brown noted that the entire site is a little over nine acres, and approximately 6.6 acres or 73% of the site is open space. The HR-1 zone is approximately 3.47 acres with 1.62 or 46% in open space. The Estate zone is 5.1 acres and 4.6 or 88% of that is open space for the Estate lot. Mr. Brown stated that the disturbance envelopes limit the amount of disturbance on all nine homes to 32,400 square feet, which is 8% of the site. He pointed out how they tried to limit the amount of disturbance to make sure people were comfortable with what they had planned for the site. Mr. Brown stated that most of the roadway or at least the disturbance zone parts already exist.

Mr. Brown remarked that the disturbance restriction on the nine lots is a platted requirement. He presented a slide showing the building envelope and the disturbance envelope around the building envelope. The limit of the disturbance envelope is 20 feet out from the building envelope.

Mr. Brown recalled significant discussion in October regarding the entry retaining wall, and noted that all the retaining walls were looked at as part of the CUP. One of the requests was to increase the landscaping. He presented the plan that was used to create the model. The landscaping shown assumed two-years of growth in an effort to be more realistic rather than exaggerated. Mr. Brown presented a drawing showing the entry wall as two-tiers. He noted that the Staff was recommending that it be broken up even further. Mr. Brown stated that one concern was the amount of landscaping that could fit and still accommodate snow storage, etc., and they tried to be practical in what was proposed. Mr. Brown presented a view of the site with the houses up above. He identified the existing evergreen trees. Another view was looking into the entry of the project with the houses behind the trees. Mr. Brown pointed out the entry wall, as well as the wall above, and

noted that houses would be built in front of that retaining wall. He and Mr. Fiat have discussed the possibility that the wall could become part of house. Mr. Brown identified the walls behind Lots 5 and 6. He presented a view looking up at the road coming up to Lot 7 and explained how they were bridging over the City property to access Lot 7. From the human scale view, the large evergreens trees would be saved to block the view of the retaining wall.

Mr. Brown commented on building size and height in the HR-1 District and further restrictions that were done based on Staff recommendations. As mentioned at the last meeting, the buildings were restricted to a maximum of two stories. The Staff asked that they further restrict the height to a maximum height of 25 feet.

Mr. Brown stated that the Estate lot was a main topic during the work session in October and there was an issue with the location on the hillside. In relooking at the plan they realized that the Estate lot could be moved down to where it was currently shown on the plat. The new location is in the gulch and has a much lower visibility. Mr. Brown noted that the site is very tight and for that reason the applicants have asked for a reduction in the setback from 30 feet required for Estate lots to 10 feet on the side and front and 20 feet on the back. The reduction would allow them to better fit a home on the lot given the constraints of the roads and the City property. Mr. Brown believed that moving the house off of the hillside to a much flatter portion of the gulch area was a good compromise.

Mr. Brown commented on the modifications that were worked out with the help of the Staff and Engineering, including the water issue. Mr. Brown provided the Commissioners with a copy of the power point presentation.

Planner Alexander noted that representatives from the Sewer District, the Water Department and the City Engineer were present to answer questions.

Mr. Brown clarified that the footprints were too scale but they were still working on the design details and architecture of the houses.

Vice-Chair Joyce confirmed that the utilities, sewer, environmental cleanup and other issues that could affect the design of the project were outside of the Planning Commission purview. He understood that if the Planning Commission were to forward a positive recommendation and it was approved by the City Council; but the applicant later found that a reasonable change was required, they would have to reapply for the conditional use permit. Planner Alexander replied that this was correct.

Jerry Fiat recognized that they would have to reapply, although he was not pleased with that requirement. Mr. Fiat stated that more engineering work was done on this project

regarding those issues than has been done on any other project. He noted that it was difficult to finish this project without having the site selections completed. Mr. Fiat was comfortable moving forward at this point; however, if the Planning Commission thought this was a good site plan he would also be comfortable with a continuance to allow time to finalize the design and all of the conditions before bringing it back to the Planning Commission. He estimated that it would take two to three months to complete but it would eliminate the unknowns. Mr. Fiat was uncomfortable with the idea that the Planning Director would have the discretion to determine what constitutes a significant change. He thought that terminology was vague.

Commissioner Worel wanted to know how they would address the issue if there were differences between what the applicant proposed for the findings of fact and conclusions of law versus what was proposed by Staff.

Assistant Attorney McLean explained that the Staff had reviewed the applicant's proposed changes, made their own changes, and then provided the Planning Commission with the new changes. She pointed out that the Planning Commission had the purview to accept, change or amend any of the findings or conditions presented by either the applicant or the Staff.

Commissioner Thimm stated that because the Commissioners were handed the revised redlined findings and conditions at the beginning of the meeting, he requested that Planner Alexander review the differences.

Planner Alexander reviewed the changes to the Findings of Fact as follows:

A Finding was inadvertently labeled as #1 between Findings 19 and 20. The #1 was replaced with #20 and the rest of the Findings were renumbered.

The language stating that the proposed 5,000 square feet, as well as the 25 foot maximum, should only be for the HR-1lots. The applicants were still proposing a 2,500 square foot footprint for the Estate Lot.

Newly numbered Finding 25 – There were minor errors with the differences of the submittals and calculations of the grid of the lots.

Findings 34 and 35 were new findings that correlate with the Conditions of Approval that were added stating that the applicant shall complete all site and public improvement prior to plat recordation. Or if the applicant submits a finalized or engineered design, the applicant may petition the Planning Commission to allow the applicant to submit an adequate financial guarantee for all site and public improvements.

Planner Alexander reviewed the revised Conditions of Approval as follows:

The #1 was inadvertently left out and the first condition was numbered #2. The Conditions were renumbered.

Planner Alexander referred to Condition #7 in the applicant's submitted conditions, and noted that the applicant was asking to come back before the Planning Commission if there was a substantial change to the site plan. However, because a subdivision is approved by the City Council, the applicant would not be allowed to come back to the Planning Commission. The Staff stands firm on their condition that if there is a substantial change as determined by the Planning Director, the approval shall be null and void, and the applicant would have to submit a new application.

Planner Alexander noted that the same applied for the next condition regarding the Sewer.

Planner Alexander referred to the newly numbered Condition #10 and noted that the Staff had removed the language, "no building permits shall be issued until the culvert is fully installed" and replaced it with "All State requirements must be obtained and the culvert must be fully installed prior to plat recordation." Planner Alexander explained that if the culvert is not put in, they could not meet the 50-foot setback from the streams required for the lot, which would change the entire site plan.

Planner Alexander referred to newly numbered Condition #15, and pointed out that the 25 foot height maximum was only for the HR-1 district. The same changed applied to #16 regarding the 5,000 square foot maximum total floor area.

Newly numbered Condition 17, change "main" utilities to "wet" utilities. Planner Alexander noted that the applicant had requested "or with special conditions." The Staff added that language with additional language, "as approved by the proper and regulatory agencies." She noted that in addition to the City Engineer approval, the State would have to approve a stream alteration permit and other requirements.

Planner Alexander referred to newly numbered Condition #21 which states that The Applicant will need to receive City Council's approval to give them an access over the City's property. She noted that the Applicant wanted to execute an agreement, but it was something the City Council would have to decide at the time of subdivision approval because approval of the subdivision is contingent on approving the access. Approving the subdivision would automatically grant the access.

Planner Alexander noted that newly numbered Condition #22 was cleaned up to require the applicant to provide recommendations to the City Engineer. Condition #23 regarding the Utah Department of Environmental Quality, the first part was what the applicant had requested. The second part "if required by UDOT the City will cooperate in allowing for the Certificate of Completion to cover remediated soils inside the City property." In speaking with the City soils person they were told that the language was not necessary and it was removed. Condition #24 - the applicant request adding "If the site management plan is required", which the Staff agreed to add. Condition #27, "if the site plan is substantially altered as determined by the Planning Director", Planner Alexander reiterated that the applicant had requested that it come back to the Planning Commission, but the previous explanation implied that it would be a City Council approval and the approval should be null and void.

Planner Alexander noted that three Conditions of Approval were added. Condition #28, "Off-site and public improvements shall be completed prior to plat recordation." If not, they could come back to the Planning Commission to allow the applicant to submit an adequate financial guarantee to make sure the improvements are put in before the lots are sold off.

Condition #29, "Utility maintenance access is required across lots A & C." This condition was requested by the Water Department. They also requested Condition #30, "The individual water booster or fire sprinkler system pumps to increase water pressure will not be allowed."

Vice-Chair Joyce understood that Lots A and C were under the roadway. Planner Alexander replied that this was correct.

Planner Alexander reviewed the revised Findings and Condition of the CUP application. She noted that there was a slight discrepancy in showing the walls. She stated that some of the walls were not showing the correct heights. She presented a slide identifying the correct wall heights. She noted that the wall heights were changed in Finding #7 to reflect the correct wall heights.

The language was cleaned up in Finding of Fact #11 to make the sentence more easily readable. Planner Alexander referred to Finding #14 and noted that because they did not have the plat as an exhibit, they changed the language to "site plan". Findings 17 & 18 were added today. Finding 17, "Proposed tree heights will only screen approximately 50% of the walls vertically where located. Proposed trees will only screen approximately 25% of the walls horizontally, which creates a visual impact that can be mitigated by Condition of Approval #17". Finding 18, "The walls as proposed create an unbroken massing that will be visibly clear from vantage points and create a visual impact that can be mitigated by Condition of Approval #18."

Planner Alexander reviewed the Conditions of Approval. Condition of Approval #8, the word "roads" was replaced with "drives".

Planner Alexander noted that the applicants were concerned with the stated expiration date in Condition #10 because if they did not get the plat recorded in time the CUP would expire. The applicant was requesting language stating that it would expire one year after the date of recording of the plat. The Code states that the CUP would expire after one year; however, the applicant can come back and request a year extension. Another option is that the Planning Commission may grant a two-year approval.

Planner Alexander noted that Condition #15 was removed because it was addressed in Conditions 17 and 18. The language in Condition #16 was clarified to say that if any of the existing mature trees are disturbed, they would have to be replaced in kind and with the equivalent number and caliper and size as determined by the City Arborist.

Regarding Condition 18, Planner Alexander stated that the applicant had requested that the Planning Director should have the discretion to determine terracing the walls between two and four tiers. The Staff recommended adding, "And they must show further terracing of the walls between two to six tiers at each location, with each wall to be limited to ten feet in height to be approved by the Planning Director." The Staff believed that a ten foot height could be properly mitigated with trees to cover the walls and reduce the visual impacts of the high walls.

Condition 19 was removed because it was not needed. Condition #21 was revised to include the language requested by the applicant, "Any substantial changes not contemplated by Condition of Approval 19 above." The condition also addresses the requirement for the applicant to submit a new application if the site plan is significantly altered.

Planner Alexander noted that Conditions were added to include the language suggested by the applicant, but without the language "the City will cooperate in allowing for the soils inside the City's property." Language requiring a site management plan was also added.

Planner Alexander stated that in January the applicant had submitted in each of their retaining wall locations one very large wall and different sizes at each location. She requested that they show alternatives with terracing. Planner Alexander clarified that the drawings shown included the terracing of the walls. She explained the terracing and noted that the Staff believed it was an improvement but thought that it could be mitigated further with more terracing and landscaping.

Mr. Fiat clarified that the applicants were comfortable with the Staff recommendations with the exception of minor housekeeping issues. Mr. Fiat requested that the Planning Commission grant the CUP approval for two years on the walls because logistically it was not possible to meet the one-year date.

Assistant City Attorney McLean explained that the Code states, "Unless otherwise indicated, Conditional Use Permits expire one year from the date of Planning Commission approval". A typical CUP is approved for one year and the Planning Commission can extend it for a second year. It would have to come back to the Planning Commission to be extended for the third year. However, the Planning Commission can indicate a special circumstance and initially approve the CUP for two years.

Vice-Chair Joyce opened the public hearing on both the plat amendment and the CUP for the retaining wall.

Planner Alexander had forwarded to the Planning Commission two public input emails she received that day from two neighbors, and she would submit those emails into the record.

Lee Gurstein addressed the access component of the proposal as discussed on page 184 of the Staff report. It talks about alternative access and alternative access problems and issues since the applicant does not have access to property at 135 Ridge Avenue. The problems include creating a five-way intersection, width of the roads, emergency access, creating a retaining wall, removing part of the mountain and protecting mature trees. Mr. Gurstein stated that he is one of the owners of 135 Ridge Avenue. Before he lived there he understood that there were some negotiations about sale or provision of access for this project. For some reason those negotiations were stopped. Prior to this meeting he had a brief conversation with legal representative Joe Tesch and Mr. Gurstein wanted it on the record that those negotiations will be resumed.

Carol Sletta a resident at 135 Sampson had concerns regarding the five-way intersection. She has traveled the road over 35 years and she was concerned about the public safety and functionality of the road. She encouraged them to make that part of the road safe for everyone and that it can be easily accessed by emergency vehicles and nightly renters.

Brooke Hontz requested that the Planning Commission asked that a letter she wrote earlier that day be submitted into the record in its entirety so she would not have to read it verbatim and could just highlight specific points. Mr. Hontz recalled that this project came before the Planning Commission when she was a Commissioner; however, a decision was never made and this Planning Commission was now faced with addressing the issues. Ms. Hontz stated that she reviewed the information that was submitted in October from the standpoint of a private citizen as well as a former Planning Commissioner. She asked

herself what she would be able to do on the site without the current applications. If no access is provided nothing could be done because some of the land is partial lots of record but another part is a metes and bounds parcel. She pointed out that where the development was occurring is really one big lot. Ms. Hontz thought it was imperative that the Planning Commission spend sufficient time on this subdivision application not only because of the mining history and steep slopes, but also to make sure that it fits within the LMC and the General Plan before moving forward. Ms. Hontz stated that in 2010 the Planning Commission saw a similar development nearby on Upper Ridge. Five comments at that time centered around whether they would be creating lots that are difficult to build or unbuildable based on current Codes; road widths and substandard roads; issues in terms of how this relates to the Streets Master Plan which is still in effect; geotechnical issues and sensitive lands. She noted that the Commissioners discussed these issues not only for the Alice Claim project but also for the surrounding areas. Ms. Hontz stated that access is a moving target and warrants looking at other solutions. She thought it was ridiculous to create an alternative access in that location and on a right-of-way that does not have to be approved by the City. Ms. Hontz noted that the definition of right-of-way in the LMC means it can actually be a ski lift, a stairway or a trail. So many things are related to access, including going against the purpose statements and the specifics of subdivision themselves that it should be looked at. Ms. Hontz was glad that people were concerned about reaching this project in the case of an emergency. She stated that what the Fire Department requires adds additional impacts of impervious surface, turnarounds and more vegetation removal. It is needed but it also speaks to the undevelopable nature of the site. Ms. Hontz stated that more concerning was the fact that it talks about secondary access and it references Ridge Avenue as a potential future secondary access. Ms. Hontz stated that her letter outlines ten points referencing the concerns related to even contemplating Ridge Avenue as a secondary access in the future.

Ms. Hontz agreed with the Staff analysis regarding clustering. She thought the lot configuration and density were in question. Regarding water delivery and sewer, Ms. Hontz thought things may have moved faster than what was identified in the packet. She recognized that there may be acceptable water solutions that make sense in some projects. It is logical to allow someone to sort out the water delivery details after the subdivision is approved. However, in this instance with all the other issues and the way the Conditions are written, she believed was setting up the City for failure. Too many pieces still need to be addressed and it is important to first understand whether the solution is feasible. Ms. Hontz remarked that another key are the restrictions due to the character of the land, which is LMC Section 15.7.3-1 Section D. It was also highlighted on page 188 of the Staff report. She encouraged the Commissioners to spend time on that section because she did not believe the information provided by the applicant addresses the concerns of the very steep slopes, which are significant issues. She commented on recent training the Commissioners had by Brent Bateman from Ombudsman's Office and the fact

that it is up to the Planning Commission and the City Council to make sure this subdivision meets all the standards and codes and that it is safe. She believed the Ombudsman's analysis throughout the State has brought problems to light in terms of dealing with steep slopes. Ms. Hontz stated that her conclusions of law differ from the Staff's, and she requested that the Planning Commission consider asking the Staff to prepare conditions for denial based on her information, as well as additional information that could be provided that proves there is no good cause for this plat amendment. It does not meet the Subdivision Code policy 15-7-3, Policy B, because the sewer and water service to be required as stated within that section are not clear enough. Additional proof is Policy C and the subdivision purpose statements.

Charlie Wintzer stated that the last time this project came before the public no public input was taken in the interest of time. He handed out copies of the statements he had prepared for that meeting. Mr. Wintzer stated that when he was on the Planning Commission and this project came before them, all the remediation work was done based on the hopes of getting the subdivision approved. He remarked that the project never reached the point of discussion where the Commissioners could ask questions about the details. Mr. Wintzer stated that whatever the Planning Commission does during this meeting would either strengthen or weaken the Code going forward. He stated that the comments he made in 2011 regarding the Ridge Subdivision hold true for this proposed subdivision. He stated that the City has spent time and energy protecting the open space around this area and around Old Town. They negotiated a deal with the Sweeney's to move Treasure off of the hill, density was moved off of the hill when they negotiated the Montage project, and the City purchased open space on the hill across the canyon. What they do here could jeopardize that work. This applicant wants to build on two hillsides and one ridgeline. Mr. Wintzer noted that this application falls under the old General Plan. He handed out pages from the old General Plan that talks about staying off of hillsides and ridgelines, which is reinforced by all the purpose statements. For this particular project the most important purpose statements are the ones for the SLO and the two purpose statements about subdivision, which talks about ridgelines and hillside. Mr. Wintzer stated that the LMC backs up the statements in the General Plan and in the purpose statements. He counted 30 different places that he did not believe the Staff had properly addressed. This project could be built on flat ground at the bottom of the hill, and both the General Plan and the LMC directs them to do that. The homes should be clustered together to keep them off the hillside, to reduce cuts and fills, and to create a sense of community. Mr. Wintzer also provided a handout with all the Code issues he had identified. He encouraged the Planning Commission to continue this project until Commissioner Strachan was present, since he was the only Commissioner on the Planning Commission who saw this project the last time. He thought it would be important for the new Commissioners to hear his perspective. Mr. Wintzer provided another handout that did not pertain to this project, but it was where he had gathered all the information on this project.

Peter Marth stated that he lives at 27 Hillside Avenue, which is a HR-1 street that is currently being overrun by commercial vehicles. He asked the applicants to think about how it was possible to mitigate construction traffic impacts for nine homes in a subdivision on a steep slope at the top of Old Town. Mr. Marth reminded the Planning Staff that you cannot mitigate impacts from construction traffic. What they do is mitigate the impacts for cars and trucks, but not for the people living in Old Town. He commented on a hole in the ground on the PCMR hillside that has been sitting there for two years and it is an eyesore. He wanted to know what guarantees that this would not happen again. Mr. Marth wanted to know what would guarantee that they could mitigate traffic impacts. These impacts affect the "quality of life" and those words are littered throughout the Building Code and the LMC. It is impossible to mitigate the impacts from a development of this size in Old Town. The streets are substandard and the slopes are steep. Mr. Marth requested significantly more discussion before any of this project could be considered. It was difficult enough contemplating this project living on Hillside Avenue, but he was very sensitive to the people in Upper Old Town who live on King Road and Sampson because they would be experiencing a decrease in quality of life which is a permanent loss that cannot be mitigated.

Vice-Chair Joyce closed the public hearing.

Commissioner Worel thanked the applicants for listening to their concerns and she appreciated having the model to see what they were proposing. She appreciated that they were willing to reduce the lot sizes to create more open space and that they moved the Estate lot down into the gulch. However, she had concerns about the retaining walls and the fact the City Engineer and the Sewer and Water Department had concerns about this project. Commissioner Worel asked the City Engineer to address questions regarding the traffic. She noted that the Staff report indicated that Mr. Cassel had expressed concerns about the proposed intersection and that his questions were not answered with the traffic study.

City Engineer Matt Cassel explained that the original traffic study looked at volumes, but he knows that the volumes up there would not exceed any limits they have. He stated that the issue was not about volume. It was about maneuverability of the intersection having five or six roads coming together, and whether there were ways to improve the intersection from the standpoint of health and safety. Mr. Cassel stated that the applicant had submitted a report and they have presented alternatives and recommendations. He was not completely comfortable with it yet, but he felt like they were making progress.

Commissioner Worel commented on the CUP application regarding the retaining walls. She understood from the Staff report that there were concerns that the retaining walls may

not work or might damage some of the infrastructure. City Engineer Cassel stated that at this point he did not know the exact design of the walls or whether there would be anything behind the retaining walls. He explained that the concern with utilities is having offsets. For example, water lines are supposed to be buried six feet in depth, but if they are placed two feet away from a retaining wall they are exposed the same as if they are not buried deep enough. He stated that the drives are narrow and the sewer and water need to be spaced at least 10 feet apart. Putting all the dry utilities together takes up a lot of space rather quickly. If retaining walls are placed next to the road it exposes the utilities to the environment. They were trying to make sure that all the utilities fit together and that the retaining walls do not cause impact to the utilities as they move forward.

Vice-Chair Joyce thought from earlier comments that they were close to resolving the safety piece of the traffic. However, he understood from Mr. Cassel that there was uncertainty as to whether or not it might work. Mr. Cassel replied that they were close to a resolution. He reiterated that volume of traffic was less of an issue than maneuverability. The applicant has ideas on the table and Mr. Cassel did not think they were far from resolving the issues.

Commissioner Worel had questions for Kyle MacArthur with the Water Department. Mr. MacArthur stated that he was the distribution manager and he was not entirely familiar with this project. He has been communicating with the Water Engineer who does all the plan reviews, and he would try to answer their questions.

Commissioner Worel commented on concerns expressed in the Staff report about getting enough water pressure. Mr. MacArthur stated that they were right at the bottom of the pressured required by the Division of Drinking Water. This project will meet the minimum requirements given the modifications proposed for the design. He stated that as future operators of the system, he could almost guarantee that the first person moving in would complain about the minimal water pressure and the Water Company will not be able to do anything. The remaining concern with the low pressure is the ability to meet the fire flow requirement.

Commissioner Thimm asked Mr. MacArthur if he was comfortable with the fire flow for that area. Mr. MacArthur replied that it was up to the Fire Marshall and he believed the Fire Marshall had made the determination that it was sufficient.

Commissioner Worel asked Brian Atwood, the District Engineer for the Water Reclamation District, if he was comfortable with the site regarding sewage. Mr. Atwood stated that a specific process must be followed to get to final design approval and construction before they can provide waste water service. The final design must be approved before they can move on to platting. However, all they have seen so far is a preliminary utilities plan, which

does not show a lot of detail. Based on review of the preliminary utilities plan the Water Reclamation District raised questions with the developer and their engineer, who was confident that all their concerns could be addressed. Until they have that information they could not determine whether or not the proposal would work.

Commissioner Worel was concerned that they may be creating unbuildable lots. She asked if there was a precedent for building on a 64% slope. Planner Alexander stated that there are many areas with varying amount of steep slopes within the Old Town District. She identified specific properties that were developed on steep slopes. She pointed out that 30% slope stated in the Steep Slope CUP is an average. A property may be steeper at the front of the lot and gradually decrease, but if it is a 30% slope overall it requires a Steep Slope CUP. Planner Alexander commented on 429 Woodside and noted that the first 50% of the lot was 80% slope and they were approved to build. Planner Alexander clarified that not every site is suitable for development. For the Alice Claim project the Staff made sure that no building would occur on a ridgeline. She offered to do a more in-depth analysis if requested by the Planning Commission to determine how buildable the 64% lot would be and whether there were any old mine sites.

Commissioner Worel thought the in-depth analysis would be helpful. Planner Alexander noted that the homes would come back for a Steep Slope CUPs and additional mitigation could be done with that process as well. Commissioner Worel reiterated that her concern was whether they were creating something that would not be buildable. Commissioner Worel stated that excellent points were made during the public hearing and the Commissioners were given a significant amount of material this evening that they had not had the opportunity to review. She favored a continuance to give the Commissioners time to read through the material and consider the input.

Commissioner Thimm agreed with Commissioner Worel. Considering the amount of written information they received and the information provided by the City Engineer and representatives from the Water and Sewer Departments, he would support a continuance to be able to study all the information. Commissioner Thimm commented on the discussion in the Staff report regarding the stream diversion and dealing with the Army Corp of Engineers. He has worked with other wetlands situations and it has never been easy. It appears that a lot of this subdivision depends on that diversion and he asked if there has been any discussion with the Army Corp of Engineers.

Jerry Fiat stated that it was a dry stream bed. The only time water runs down it is when they clear the water tank. The old road used to run down the stream bed. Mr. Fiat stated that they rebuilt the stream bed as part of the cleanup. Part of the cleanup plan is to culvert part of the stream and they already have a permit in place to do so.

Commissioner Thimm referred to page 188 of the Staff report which states that the applicant had not provided information regarding mitigation of potential hazards. It was after a statement that was quoted by the LMC which says that until hazards have been adequately addressed in terms of mitigation the land cannot be subdivided. Commissioner Thimm asked where they were in terms of looking at these potential hazards and whether it was even proper to be discussing this plat amendment before that was addressed.

Planner Alexander stated that these were issues that could be mitigated during the Steep Slope CUP process, but they could require a mitigation plan from the applicant now if the Planning Commission preferred. Assistant City Attorney McLean clarified that this section of the Code was talking about the actual site itself. A Steep Slope CUP is a conditional use but it is allowed. Things such as reducing the building pad, relocating the building pad or expressing how it could be done are the types of mitigations addressed in the LMC. Relying on the Steep Slope CUP would not address those issues.

Commissioner Thimm thought there appeared to be a general list in the Staff report rather than specific by lot. As part of moving forward he thought those should be identified to make sure the lots are not unbuildable because the hazards cannot be mitigated.

A representative for the applicant noted that a geo-technical report was submitted and there were generally no issues on the site. A geo-technical report had not been done for each building site. The applicant assumed that would be done as part of the submittals for the individual houses.

Commissioner Thimm asked if the conditions of approval could be specific enough to talk about making provision for mitigation for any of the houses. Planner Alexander stated that the City Engineer reviewed the draft technical report and nothing was flagged from his reading of the report. Assistant City Attorney McLean stated that the Planning Commission could request that the applicant come back with geo-tech reports for the individual lots if they have concerns related to the provision of the Code. She pointed out that once the site is divided into lots they are sellable and people are entitled to develop them. Commissioner Thimm clarified that his concern was that these hazards would not be mitigated and someone has a legal lot to build on. He thought they should find a way to address those issues since the Staff felt that adequate information had not yet been provided.

Mr. Brown asked if that could be accomplished with a plat note so when someone buys a parcel they have the information that a geo-technical report must be done for each lot. Assistant City Attorney McLean explained that if the geo-technical report concludes that the site is not suitable to build, they would be in the situation of having created a lot that was sold but not buildable. Ms. McLean remarked that a subdivision creates a lot of record and

essentially says those lots can be developed. The purpose of the subdivision process is to make sure the infrastructure is in place and that it meets the subdivision requirements.

Mr. Brown stated that the challenge was doing a geo-technical report for each site in the subdivision because that is typically not part of the subdivision process. Commissioner Thimm acknowledged that he said for each lot, but he would be satisfied with a general report that would cover the points in the Land Management Code holistically for the site. Mr. Brown offered to review the geo-tech report to make sure it aligns with the LMC.

Commissioner Thimm commented on the house size. It was noted that the lot size was reduced but the square footage of the homes is more than what exists in the neighborhood. The statement in the Staff report was that it did not comply with the intent of the purpose statement and he agreed with that statement. Commissioner Thimm thought the amount of square footage proposed was not compatible with the adjacent areas. He asked how the Planning Staff arrived at the suggested modifications considering that they were still larger than the adjacent homes.

Planner Alexander recognized that the square footage of the proposed homes for the footprint was much larger than the surrounding neighborhoods. The Staff wanted more clustering but it was an effort to find compromises on limiting the height and for the 5,000 square feet to include the basement and any garages. She noted that the Estate lot was not reduced because it was taken off the hill located into the gully. If the Planning Commission preferred, the Staff could look at bringing the homes off the hillside and clustered to be more compatible with the surrounding neighborhoods.

Mr. Brown commented on the concern regarding compatibility. He noted that they were proposing a maximum of two stories with a larger footprint, keeping in mind that most of the surrounding structures were more than two stories. From a massing standpoint they tried to push the mass down and locate the house on the contour rather than against the contour. Mr. Fiat stated that most of the houses in Old Town are uphill/downhill lots that are dug deep into the hill with multiple stories. Many have one bedroom per level and it is not conducive for family living. The purpose of the larger footprint was to allow multiple bedrooms on one level and the kitchen and living space on another level. A larger footprint also allows more articulation in the architectural design. Mr. Fiat remarked that the 5,000 square foot gross limit was proposed to eliminate the games being played about excluding garages or basements. He did not believe the numbers in the Staff report truly represent the true size of the houses in the neighborhood. Many of the houses are significantly larger than what they were proposing as a gross square footage. Mr. Fiat pointed out that 5,000 square feet was a cap because on some lots they would not be able to build that amount of square footage.

In terms of the retaining walls and terracing, Commissioner Thimm understood the maximum height would be 10' with the potential for additional terracing. When they terrace and create planting areas between walls, he asked what Mr. Brown thought would be a good distance to create healthy vegetated planting zones wall to wall as they go up the hillside. Mr. Brown thought it was a trade-off because they were chasing the slope. Wider planting beds are better for plants but it will result in more walls. He understood the Code specifies a minimum of four feet and it is possible to grow plants in four feet. Commissioner Thimm stated that if this is approved, he suggested a more organic flow with terracing as opposed to the long straight lines. He suggested that applicants give more thought to the wall design.

Commissioner Campbell thought the applicant was in a situation where they did not know how much money to invest in plans without knowing whether it would be approved. Their application appears to be incomplete because they did not want to spend the money on a more complete application until they heard direction from the Planning Commission. Commissioner Campbell was comfortable with the fact that the applicant was willing to use the Staff's conditions of approval rather than their own. He was unsure why the Commissioners were given two different versions this evening rather than consolidating it beforehand.

Commissioner Campbell referred to Condition #22 for the subdivision and felt that the language was vague. He had the same complaint about the rest of the conditions. He would like the conditions of approval to be more clear and concise so the applicants understand what the Planning Commission was asking and the consequences if the conditions are not met. Commissioner Campbell thought 30 conditions were too many and he would like to see it reduced to a more manageable number.

Commissioner Joyce appreciated the revisions the applicants had made in response to their concerns at the work session. One of his biggest concerns was the Sensitive Lands Overlay. It is the most protected land in the LMC and anything they can do to avoid digging and dredging and putting things on steep hillside is appreciated. From his perspective giving the setback reduction to get the Estate lot off the hill was a good trade-off. Commissioner Joyce noticed that the changes talked about in the findings of fact in the CUP of the houses being 2,500 square feet, 5,000 square feet in total size, and 25' in height were only for the HR-1 lots and not the Estate lot. For the Estate lot the 2,500 square foot footprint was mentioned but square footage and height were not addressed. He assumed the applicant would build whatever was allowed for the Estate lot within the footprint. Mr. Fiat answered yes. He noted that 28' was the height limit for the Estate lot.

Vice-Chair Joyce was concerned about having 30 feet of retaining wall at the entrance where it is most visible. He encouraged the applicant to do whatever they could to

negotiate an easement to be able to use the existing right-of-way. Vice-Chair Joyce understood from public comments that the previous Planning Commission had discussed various ideas; however in his reading of the minutes from those meetings he did not believe the Commissioners had reached the level of detail they were discussing this evening. Vice-Chair Joyce recognized that the applicant took a financial risk when they decided to do the environmental cleanup. However, he did not believe the Planning Commission has not had the opportunity to evaluate whether or not this was a legitimate plat layout for the property. He sees a neighborhood that is extremely difficult to develop for many reasons, and they were basically building in a steep gulch. In his eight months as a Commissioner he has never seen a situation where almost every house in the neighborhood is on very steep lot and he personally has not seen a 64% slope developed.

Vice-Chair Joyce stated that he walked the neighborhood and all the streets and this project did not have the same feel. There were a number of issues to be considered such as the steep slope requirements, size, clustering and mass and scale compatibility. He thought this proposal was something he would see in a Park Meadows subdivision. Vice-Chair Joyce believed the map clearly showed how different this project was from the rest of the HR-1 District. He did not have actual numbers to compare the square footage, but in looking at the footprint even the reduction to 2,500 square feet was still 80% larger than most of the houses in the neighborhood. Vice-Chair Joyce stated that if size was the only issue he might be able to consider it, but he was bothered by the decision not to cluster the houses as recommended by Staff.

Vice-Chair Joyce also questioned the ability to mitigate a 30' wall. In his opinion planting bushes and shrubs was not sufficient mitigation. Vice-Chair Joyce stated that the applicants decided the plat layout and the Planning Commission was being asked to make it work with retaining walls. He pointed out that if they were building more compatible with the HR-1 District, the buildings would be smaller and tightly clustered and retaining would not be a problem.

Vice-Chair Joyce had the biggest issue with Lot 7 and the proposal to build a raised road with a bridge as a driveway with two-thirds of it in the Sensitive Lands Overlay, and then building Lot 7 on a ridge on a 60% slope. He personally did not believe Lot 7 should be considered a buildable lot. Vice-Chair Joyce commented on the non-disturbance areas as defined and he did not believe the proposed lot layout was compatible with the requirements of the HR-1 zone. As a result, they were left to deal with other issues that may or may not be mitigated.

Vice-Chair Joyce requested that the applicants work with the Planning Department to make the houses more compatible from the standpoint of size and clustering. In addition to his concerns regarding Lot 7, he also had problems with Lots 2 and 3 because building n those

lots require multiple tiers of retaining walls that would not otherwise be required. He could not support the driveway and bridge on the Sensitive Land Overlay to access one lot. Vice-Chair Joyce would like the limits of disturbance reduced to a more reasonable number and he suggested approximately 75% of the lot size.

Vice-Chair Joyce was also interested in hearing more about the Planning Director's discretion to determine whether or not a change is significant enough to require a re-application. Planning Manager Sintz wanted to come back and have that discussion with the Planning Commission. She believed the difference between minor and major alterations actually rests with the specifics of the application.

Assistant City Attorney McLean stated that if the changes to the site plan pertain to retaining wall size, etc., those start to become significant. She stated that if this item is continued, the applicant would have the opportunity to provide more detail in terms of what the final site plan will be based on utility plans, sewer plans, etc.

Vice-Chair Joyce wanted more detail but he did not want the applicants spending a lot of money before the Commissioners could concur on giving specific direction on certain items. Vice-Chair Joyce understood that the applicants have the right to develop their property, but he wanted to see a different layout that clusters the houses more tightly, reduces the house size to be more compatible with the HR-1 District, and minimizes the need for retaining walls.

Vice-Chair Joyce pointed to the comment that the applicant was discussing a conservation easement with the Summit Lands Conservancy. He disclosed that he sits on the Summit Lands Conservancy Board and he had spoken with the Director who told him that she had spoken with the applicant but had not yet received a proposal. Vice-Chair Joyce requested something clearer than the word "open space" because someone has to own the land. It was not clear whether the applicant was willing to obtain conservation easements and deed transfers as part of this plat.

Vice-Chair Joyce clarified that his relationship with Summit Land Conservancy would not affect his ability to be fair in reviewing this application.

Commissioner Worel requested a conversation with the other land owner regarding access to the property. Mr. Fiat stated that they spent two years and hundreds of thousands of dollars on negotiations, and the other landowner backed out at the last minute. They would like to do it because it is a better access and more economically feasible, but they were not successful then and he did not want high expectations that it would happen now. Mr. Fiat offered to pursue it with the landowner because it would be beneficial to the community and the applicants, but he was not hopeful.

Assistant City Attorney McLean suggested that the Commissioners give a head nod on whether or not they agreed with the direction Vice-Chair Joyce had recommended to the applicants because it would affect what comes back at the next meeting.

Commissioner Campbell asked if Vice-Chair Joyce was suggesting that they carve the site into 25' x 75' lots to look like the rest of Old Town. Vice-Chair Joyce answered no, because that is not what the rest of Old Town looks like. He pointed out that the Staff analysis was on King Road and Sampson, which are not the smaller lots in the oldest part of town. Vice-Chair Joyce clarified that he would like the houses clustered more tightly to minimize the retaining walls and the driveways. If the lots were flatter he would not be so concerned.

Commissioner Thimm stated that when he looked at the contours of the ground and thought about the HR zone and the typical lots, he tried to visualize how the clustering could work to feel more like Old Town. He determined that it might be possible, but it would require compromise in terms of number of buildable lots they would achieve because of the amount of ground that is the slope. Commissioner Thimm had concerns with the massing compared to the Old Town model as outlined by the LMC. He would like the applicants to make an attempt to show how it could work, or possibly an attempt to show that it would not work and why.

Commissioner Campbell believed that when a development is on the edge of any of these Districts the rules should be different. He pointed out that this development would back up to what will be open space. Commissioner Campbell disagreed that it should look the rest of Old Town. In his opinion, it was a gateway to the open space that they all hope remains open space and he preferred to see the houses spread out rather than clustered.

Vice-Chair Joyce asked if Commissioner Campbell had a problem with the size and number of retaining walls. Commissioner Campbell stated that he was not pleased with the retaining walls but sometimes there is no way to get around it.

Commissioner Worel reiterated that her main concern was whether they were creating something that was not buildable. She believed the concerns they expressed and what they would like to see in the future would give them the answers. She did not favor the retaining walls, particularly since the width of the walls will require irrigation for the trees and vegetation. Commissioner Worel noted that there were already water issues and she was concerned about adding more irrigation. Mr. Fiat stated that the irrigation would only be until the vegetation was established. He commented on other examples around town where that has occurred on retaining walls. Commissioner Worel did not want the

applicants to go through the expense of redesigning the layout. However, she would like to see the geo-tech report to know whether the steep slopes are buildable.

Planner Alexander summarized the major issues as compatibility, whether the slopes are buildable, access, and terracing and mitigating the retaining walls.

Mr. Fiat believed they had a clear idea of what the Commissioners wanted to see and they would try to address their concerns. He thought they could complete their study and be ready to come back to the Planning Commission in May. Planner Alexander requested the second meeting in May.

MOTION: Commissioner Worel moved to CONTINUE both the Alice Claim South of Intersection of King Road and Ridge Avenue - Alice Claim Subdivision and Plat Amendment; and the Alice Claim South of Intersection of King Road and Ridge Avenue Conditional Use Permit for retaining walls up to 25 feet in height, to May 27th, 2015. Commissioner Thimm seconded the motion. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

Commissioner Phillips returned to the meeting.

3. 74 Daly Avenue – Steep Slope Conditional Use Permit for a new single-family home on a vacant lot. (Application PL-15-02684)

Planner Alexander noted that this item and the next item for 80 Daly Avenue have the same property owner and architect. The applicant previously came before the Planning Commission for a plat amendment for a subdivision into two lots. The Planning Commission had forwarded a positive recommendation and the request was approved by the City Council. Planner Alexander remarked that during the plat amendment process concerns were raised regarding neighborhood compatibility, size of the homes and the mass and scale. The Planning Commissioner requested that the applicant provide compatibility studies in relation to the streetscape, footprint and square footages in the area. The requested study was included in the Staff report.

Planner Alexander reviewed the proposal for a 2,304 square foot single family home on 74 Daly Avenue on a slope greater than 30%, which requires a Steep Slope CUP. Planner Alexander had not yet approved the HDDR pending concerns and possible revisions this evening. Planner Alexander stated that the applicant had revised the windows and some materials to address some of the concerns.

Planner Alexander had received public comment earlier in the day regarding the roof pitch. There is a requirement that the primary roof have a 7/12 pitch and the person inquiring questioned the slope of the gables. Planner Alexander explained that the Staff had deemed the roofline as the primary roof. However, the applicant could be directed to change the gables if they are determined to be more than just ornamental gables over windows. In looking at the right elevation she believed the gables protrude more than just an ornamental element.

Planner Alexander remarked that due to the shape and size of the home the applicants were proposing to build a smaller home with a small retaining wall in the rear and between the homes on the sides.

The Staff found that the application meets all the requirements and recommended that the Planning Commission conduct a public hearing and consider approving the Steep Slope CUP.

Vice-Chair Joyce opened the public hearing.

Ruth Meintsma, a resident at 305 Woods, stated that she had reviewed the Staff report with Carlene Riley.

Carlene Riley, a resident at 84 Daly Avenue, stated that Ms. Meintsma would be speaking on her behalf regarding the technical aspects. Ms. Riley would speak later about the personal impacts of this project.

Ms. Meintsma stated that she and Ms. Riley focused on the compatibility and she read from the Staff analysis on page 324 of the Staff report. The applicant had completed an analysis of the streetscape massing and livable square footage. There was a comment about comparison of lots size that they did not believe was appropriate. Ms. Meintsma reviewed the streetscape analysis provided by the applicant. Ms. Riley had noted that it compared the only single-family, which was Ms. Riley's home, to the non-existing new project single family. In terms of size comparison they were all multi-units. For that reason they thought the analysis was inaccurate. Ms. Meintsma noted that the spatial arrangement on the street was not correct. Next to Ms. Riley's house on the south, the space shown on the exhibit was not there because a multi-plex structure is directly next to her house. The same is true of the multi-plex to the left. The space shown is not there because the two structures are right next to each other. In finding those errors, Ms. Meintsma questioned what other things might be inaccurate in the compatibility analysis. The spatial incorrectness made them not trust the streetscape. Ms. Meintsma commented on language stating that the compatibility analysis was not representative of the homes sizes in lower Daly because there are smaller single family homes across the street that

are not included in this analysis. She noted that Ms. Riley was prepared to speak to those smaller houses.

Ms. Riley stated that there were three homes single-family homes across the street her that were under 900 square. Her house looks like a midget compared to the rest. Ms. Riley remarked that she has sunlight in her bathroom in the afternoon and that window will be block by the new construction. As proposed, this project will take everything away from there and from her living. Ms. Riley stated that she likes the design but she would like to see it smaller. She understood from the last meeting that the applicant intended to keep it smaller but what they have proposed is massive. She pointed out that this would be the first applicant to ever go back to Anchor Avenue and she wanted someone to make sure the soil is stable.

Planner Alexander pointed out that Ms. Riley was commenting more on the house at 80 Daly. She asked if Ms. Riley had issues with the house at 74 Daly.

Ms. Riley preferred that they have two smaller houses.

Delphine Comp, a resident across the street on 61 Daly Avenue, stated that she was not part of the compatibility study because the applicant only compared their side of the street. Ms. Comp stated that they have a family of three and they live in less than 500 square feet. She understood that 80 Daly Avenue would be almost 4,000 square feet, which is enormous compared to the rest of Daly. She noted that the applicant was proposing single family homes but they compared it multi-plex units. There are many eyesores on Daly Avenue that needs to be stopped if possible. The number of stories was also an issue. When she attended the last meeting she thought it was clear that the structure would be kept at two stories; however, it is now proposed to be four stories. She thought the height was massive and it would be painful to look at it from across the street.

Planner Alexander informed Ms. Comp that this public hearing was for 74 Daly and suggested that she hold her comments regarding 80 Daly until the public hearing for that item.

Vice-Chair Joyce closed the public hearing.

Commissioner Phillips stated that he also questioned how the analysis factored in the comparison to other types of buildings. Planner Alexander stated that they looked at lot sizes. She agreed that Ms. Riley had a significantly smaller home, but based on her lot size she could do an addition to make her home equally as large as what was being proposed. Commissioner Phillips clarified that he had noticed the comparisons but he did not believe it would change his opinion on this project.

Commissioner Phillips commented on the 7/12 pitch. He has seen this on other applications as well, where he would not be able to tell that it was a 7/12 pitch looking from the front elevation. The dominant roof is seen from the side, but his personal opinion is that the dominant roof is what is visible from the street. Commissioner Phillips did not have a particular objection, but he could see the potential to change around some of the pitches. Being a builder himself, he suggested that the bay walls to the left could be lowered to create a steeper pitch. He understood that the intent of the 7/12 pitch was to be in keeping with the historic homes.

Planner Alexander stated that her recommendation would be to change the pitch to 7/12 in the areas where the gables protrude. Commissioner Phillips thought that would be in keeping with the intent of the 7/12 pitched. Craig Kitterman, the architect, believed that could be easily accomplished. Planning Manager Sintz recommended that Mr. Kitterman look at the change holistically for the front façade.

Commissioner Worel stated that she had concerns about the size of the house in comparison to the size of the other houses on Daly Avenue. However, looking at it from the streetscape and the size of the box, she could not say it was out of line with the rest of the structures on the street. Commissioner Worel favored the idea of changing the roof pitch.

Commissioner Thimm stated that the size and massing of the house at 84 Daly did catch his eye, but he realized that it was the existing size but not the size that it could be if an addition was added. In terms of what is allowed and what has already occurred on the street, Commissioner Thimm thought the proposed house appeared to be compatible. Regarding the roof, he had a hard time coming to the conclusion that the dominant portion of the roof was a 7/12 pitch because of the shed extension on the rear. Commissioner Thimm agreed that if both of the front dormers could be a steeper pitch it would give the feeling that the roof is a 7/12 pitch. Commissioner Thimm liked the center gable because it breaks up the façade and he preferred that the center gable be left as is. He thought that overall, the way the elevation has been broken into pieces, what you see are historic relationships. Commissioner Thimm stated that he could support this application with the changes to the roof.

Commissioner Campbell asked if the Planning Commission could add a condition of approval requiring that the roof pitches come into compliance so the applicant would not have to come back. Assistant City Attorney McLean stated that the Planning Commission could make that decision. If they were comfortable that the recommended change would comply with Code then they could address it with a condition of approval.

Planner Alexander reiterated that she still needed to approve the HDDR and she would have the applicant make the revision to the roof before giving that approval.

Vice-Chair Joyce noted that at the last meeting Commissioner Strachan expressed concern about whether or not they should be allowed to build on top of the land that was deeded over for Anchor Avenue. Vice-Chair Joyce believed that with the plat approval that issue was resolved.

Vice-Chair Joyce stated that his primary concern was the scale and whether it was a duplex or single-family house. He thought the answer was the size of the box and he was surprised to find that it was smaller than most of the other boxes on that side of the street. Vice-Chair Joyce was comfortable with the change to the roof as suggested.

Planner Alexander drafted the condition to read, "The roof pitch of the two front gables shall be redesigned to have a 7/12 pitch."

MOTION: Commissioner Phillips moved to APPROVE the Steep Slope Conditional Use Permit for 74 Daly Avenue based on the Findings of Facts, Conclusions of Law and Conditions of Approval as amended. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 74 Daly Avenue

1. The property is located at 74 Daly Avenue.
2. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.
3. The property is described as Lot A of the 74 & 80 Daly Avenue Subdivision. The lot area is 2,200.8 square feet.
4. A Historic District Design Review (HDDR) application is required and will be reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
5. This lot is a combination of a portion of Lot 9, a portion of Lot 10, and a portion of the vacated Anchor Avenue located in Block 74 of the Park City Survey which was previously vacant. This is an uphill lot.
6. Access to the property is from Daly Avenue, a public street.

7. Two parking spaces are proposed on site. One space is proposed within an attached garage and the second is on the driveway in a tandem configuration to the garage, within the lot area.

8. The neighborhood is characterized by primarily non-historic and historic residential structures, single family homes, duplexes and condos.

9. The proposal consists of a total of 2,304 square feet, including the garage.

10. The proposed driveway was designed with a maximum width of twelve feet and is approximately 18 feet in length from the garage to the existing edge of street with a minimum of 18 feet of driveway located on the property. The garage door complies with the maximum height and width of nine feet by nine feet.

11. The proposed driveway has an overall slope of 0.06% as measured from the front of the garage to the edge of the paved street.

12. An overall combined building footprint of 930.9 square feet is proposed. The maximum allowed footprint for this lot is 972.4 square feet.

13. The proposed structure complies with all setbacks.

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

15. The proposed home complies with the LMC required total building height of 35' from the lowest floor plane to the highest wall plate and is in compliance with the LMC required step back of 10' at the building height of 23' at the rear façade.

16. The applicant submitted a visual analysis, cross valley views and a streetscape showing a contextual analysis of visual impacts of this home on the cross canyon views and the Daly Avenue streetscape.

17. Retaining is only necessary at the rear of the lot as shown on the left (south) elevation in between 74 & 80 Daly. This retaining wall is proposed at 4' in height which complies with the LMC. There are no window wells.

18. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography.

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

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

21.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.

22.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.

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

24.The applicant submitted a visual analysis, cross canyon view, and streetscape showing a contextual analysis of visual impacts of the proposed structure on the adjacent streetscape.

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

26.The applicant stipulates to the conditions of approval.

Conclusions of Law – 74 Daly Avenue

1. The Steep Slope CUP application is consistent with the Park City General Plan.
2. The application is consistent with requirements of the Park City LMC, specifically Section 15-2.2-6 (B) (1-10) regarding development on Steep Slopes.
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 – 74 Daly Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
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 for review and approval by the City Planning Department, prior to building permit issuance.
6. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit, the 2009 Design Guidelines for Historic Districts and Historic Sites (Historic District Design Review) and the Land Management Code.
7. No building permit shall be issued until the 74 & 80 Daly Avenue Subdivision is recorded.
8. If required by the Chief Building Official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer.
9. This approval will expire on April 8, 2016, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and the request is

granted by the Planning Director.

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

11. All exterior lighting, on porches, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way. Light trespass into the night sky is prohibited.

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

13. All electrical service equipment and sub-panels and all mechanical equipment, except those owned and maintained by public utility companies and solar panels, shall be painted to match the surrounding.

14. The roof pitch of the two front gables shall be redesigned to have a 7/12 pitch.

4. 80 Daly Avenue – Steep Slope Conditional Use Permit for a new single-family home on a vacant lot (Application PL-15-02683)

Planner Alexander noted that because 80 Daly was a larger lot size the proposed home was much larger. The house was designed to be four stories stepping with the hill. No retaining walls were required. The proposal met the design guidelines; however, the HDDR had not yet been approved.

The Staff found no issues with this application. Due to the size of the lot and the possibility that the lot next door could build an addition to their own home resulting in the same size as the proposed home, the Staff recommended that the Planning Commission conduct a public hearing and consider approving the Steep Slope CUP.

Vice-Chair Joyce opened the public hearing.

Carlene Riley asked that the same comments she had made during the public hearing for 74 Daly Avenue be applied to 80 Daly Avenue.

Delphine Comp remarked that 80 Daly Avenue was different from 74 Daly Avenue. The proposed structure is almost 4,000 square feet and it is huge. She asked someone to show her another single family home nearby that was close to being that large. Ms. Comp thought they were going to make a difference on Daly but they were faced with the same issues. Ms. Comp had a problem with four stories and the size of the house. She was disappointed to see what was proposed today versus what they had discussed last time in terms of making the houses smaller.

Vice-Chair Joyce closed the public hearing.

Commissioner Campbell stated that it is obviously upsetting when someone lives in a house and their views or light are blocked. However, he was unsure how the Planning Commission could address that issue and still keep with the rules of the LMC. Formulas and calculations are followed for a reason so applications are not judged emotionally. Commissioner Campbell remarked that unless this application violates a formula the Planning Commission has no choice but to approve it.

Planning Manager Sintz stated that Planner Astorga has done a number of different analysis in the neighborhood. If anyone wanted to see that information the Planning Department could provide it.

Vice-Chair Joyce commented on the difference between single-family or duplex. He understood that the comparison was based on size of structure and not whether one family or two families live in the structure. He pointed out that the proposed home was large, but it was still smaller than a lot of the buildings on the street. Vice-Chair Joyce asked if there would be any time when being a duplex, multi-plex, or single-family would make a difference when doing a size comparison.

Planning Manager Sintz replied that an existing non-conforming structure would probably not be included in the analysis.

Assistant City Attorney McLean advised the Planning Commission to always go back to the Steep Slope CUP criteria in terms of location of development, visual analysis, building form and scale, etc. She explained that the criteria are applied to the numbers to see how the impacts are mitigated.

Vice-Chair Joyce recalled that at the time of the plat approval the Commissioners had concerns about size and massing compared to other things on the street. And they agreed with the applicant to have those discussions as part of the CUP rather than hold up the plat. Vice-Chair Joyce understood that it was not an explicit part of the Steep Slope CUP, but it was something that was agreed to as part of the plat amendment.

Commissioner Worel stated that from a personal standpoint she was heartbroken to hear that sunlight would be blocked from coming into a neighbor's home. However, from the standpoint of the CUP and the visual analysis of the boxes on the street, she did not believe the proposed home was incompatible and she could find no reason to deny it.

Commissioner Phillips concurred with Commissioner Worel.

Commissioner Thimm stated that in looking at the elevation it was at the extreme edge of what he would be comfortable with; but in looking at it through the lens of the LMC and the zone he had to agree with Commissioner Worel that there was no reason to deny it.

Planner Alexander asked if the Planning Commission would add the condition regarding the roof pitch to this approval.

MOTION: Commissioner Phillips moved to APPROVE the Steep Slope Conditional Use Permit for 80 Daly Avenue based on the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Worel seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 80 Daly Avenue

1. The property is located at 80 Daly Avenue.
2. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.
3. The property is described as Lot B of the 74 & 80 Daly Avenue Subdivision. The lot area is 2,200.8 square feet.
4. A Historic District Design Review (HDDR) application is required and will be reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009.
5. This lot is a combination of a portion of Lot 9, a portion of Lot 10, and a portion of the vacated Anchor Avenue located in Block 74 of the Park City Survey, which was previously vacated. This is an uphill vacant lot.
6. Access to the property is from Daly Avenue, a public street.
7. Two parking spaces are proposed on site. One space is proposed within an attached garage and the second is on the driveway in a tandem configuration to the garage, within the lot area.
8. The neighborhood is characterized by primarily non-historic and historic residential structures, single family homes, duplexes and condos.

9. The proposal consists of a total of 4,207 square feet, including the garage.

10. The proposed driveway was designed with a maximum width of twelve feet and is approximately 22.5 feet in length from the garage to the existing edge of street and located on the property. The garage door complies with the maximum height and width of nine feet by nine feet.

11. The proposed driveway has an overall slope of 0% as measured from the front of the garage to the edge of the paved street.

12. An overall combined building footprint of 1,416 square feet is proposed. The maximum allowed footprint for this lot is 1,418.7 square feet.

13. The proposed structure complies with all setbacks.

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

15. The proposed home complies with the LMC required total building height of 35' from the lowest floor plane to the highest wall plate and is in compliance with the LMC required step back of 10' at the building height of 23' at the rear façade.

16. The applicant submitted a visual analysis, cross valley views and a streetscape showing a contextual analysis of visual impacts of this home on the cross canyon views and the Daly Avenue streetscape.

17. Retaining is not necessary around the home on the upper, steeper portion of the lot. There will be no free-standing retaining walls. There are no window wells.

18. The building pad location, access, and infrastructure are located in such a manner as to minimize cut and fill that would alter the perceived natural topography.

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

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

21. 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.

22. 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.

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

24. The applicant submitted a visual analysis, cross canyon view, and streetscape showing a contextual analysis of visual impacts of the proposed structure on the adjacent streetscape.

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

26. The applicant stipulates to the conditions of approval.

Conclusions of Law – 80 Daly Avenue

1. The Steep Slope CUP application is consistent with the Park City General Plan.
2. The application is consistent with requirements of the Park City LMC, specifically Section 15-2.2-6 (B) (1-10) regarding development on Steep Slopes.
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 – 80 Daly Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the

issuance of any building permits.

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 for review and approval by the City Planning Department, prior to building permit issuance.
6. No building permits shall be issued for this project unless and until the design is reviewed and approved by the Planning Department staff for compliance with this Conditional Use Permit, the 2009 Design Guidelines for Historic Districts and Historic Sites (Historic District Design Review) and the Land Management Code.
7. No building permit shall be issued until the 74 & 80 Daly Avenue Subdivision is recorded.
8. If required by the Chief Building Official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer.
9. This approval will expire on April 8, 2016, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and the request is granted by the Planning Director.
10. Modified 13-D residential fire sprinklers are required for all new structures on the lot.
11. All exterior lighting, on porches, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way. Light trespass into the night sky is prohibited.
12. Construction waste should be diverted from the landfill and recycled when possible.

13. All electrical service equipment and sub-panels and all mechanical equipment, except those owned and maintained by public utility companies and solar panels, shall be painted to match the surrounding

14. The roof pitch of the two front gables shall be redesigned to have a 7/12 pitch.

5. **1825 Three Kings Drive – The First Amended Silver Star Plaza Condominiums Buildings N, O, P, Q and R record of survey plat to add Building S as a commercial condominium space for an approved 1,888 sf office and commercial building. (Application PL-15-02655)**

Planner Whetstone introduced John Shirley, the project architect, and Alan Long, representing the two applicants. The applicants were the owner of the Silver Star Realty, which was a CUP approved in October, and the Silver Star Plaza Condominiums Owner Association.

Planner Whetstone reported that the applicants were requesting an amendment to the condominium record of survey plat for the Silver Star Plaza Buildings N, O, P, Q, R plat, to adding a Building S, which is a single-story building, 2200 square feet gross area, including the existing historic mine, the tunnel entrance and a future addition. The applicants included this as a commercial condominium unit with a designation as private area. The area is currently designated common area to the HOA. Changing the designation would allow the area to be sold separately.

Planner Whetstone noted that the uses were approved on October 22, 2014 as the Three Kings Realty at Silver Star conditional use permit. Building S is located between Buildings O and R. Building S was shown with the proposed addition. The property is located in the RDM District and is subject to the Spiro Tunnel Master Planned Development. Both the Master Planned Development and the Conditional Use Permit on this project approve the office uses. The purpose of the plat is to talk about ownership and to allow the common area to be converted to private area. The proposed plat amendment is consistent with the RDM zoning, the Spiro Tunnel Master Plan and the Three Kings Realty Conditional Use Permit and Land Management Code.

The Staff recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council based on the Findings of Fact, Conclusions of Law and Conditions of Approval found in the draft ordinance.

Planner Whetstone noted that the first Whereas of the Draft Ordinance talks about approval of an amended condominium plat to add Building F as an 1888 square foot

commercial condominium unit. She stated that 1888 square feet is on the plat; however the conditional use permit approved 2,260 square feet gross floor area. She pointed out that the numbers need to be consistent with the conditional use permit. Planner Whetstone stated that Finding of Fact #4 talks about 1888 square foot. The finding should be revised and 1888 square foot should be replaced with 2,260 square foot gross floor area. She stated that those numbers were consistent with the Findings and Approvals of the Conditional Use Permit.

Vice-Chair Joyce asked for clarification on the square footage numbers and what Planner Whetstone was proposing to change. Planner Whetstone read from page 367 of the Staff report, "WHEREAS, owners of the property known as Silver Star Plaza Condominiums Buildings "N", "O", "P", "Q", and "R", a Utah Condominium Project, (aka Silver Star Condominium project) located at 1825 Three Kings Drive, have petitioned the City Council for approval of an amended condominium plat to add Building "S" as a 1,888 square foot commercial condominium unit located between Buildings "O" and "R" and to change the ownership designation for Building "S" from common area to private area. She noted that 1,888 square feet was approved in the conditional use permit.

After re-reading the statement Planner Whetstone decided that a change was not necessary because 1,888 square feet is the actual net leasable area. She revised Finding of Fact #4 to read, "Building "S" is proposed to be located between buildings "O" and "R" and consists of a total of 1,888 square feet net and 2,260 gross floor area."

Commissioner Thimm referred to a narrative from the architect on page 383 of the Staff report that talks about a leasable area of 1,909 and a gross area of 1,991 square feet. He wanted to know which number were correct.

Craig Kitterman replied that 1,888 square feet net and 2,660 square feet gross were accurate numbers.

Vice-Chair Joyce opened the public hearing.

There were no comments.

Commissioner Phillips stated that when he was in the hallway he ran into Jeff Ward, the owner of the Café. Mr. Ward was not able to stay for the meeting and he asked Commissioner Phillips to say that he was in favor of the application. He also said it would be less of an impact on his business if the project could be started as soon as possible.

Vice-Chair Joyce closed the public hearing.

MOTION: Commissioner Worel moved to forward a POSITIVE recommendation to approve 1825 South Three Kings Drive, the First Amended Silver Star Plaza Condominiums, Buildings N, O, P, Q & R, record of survey plat, to add Building S as a commercial condominium space for an approved 1888 square foot office and commercial building, according to the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 1825 South Three Kings Drive

1. The property is located at 1825 Three Kings Drive.
2. The property is located in the Residential Development Medium density (RDM) zoning district and subject to the Spiro Tunnel Master Planned Development (MPD) (aka Silver Star MPD). Office uses are allowed within the Spiro Tunnel MPD.
3. The applicant's request for this plat amendment is to include a Building "S" as a commercial condominium unit with a designation as "private area". Building "S" includes office uses and storage for the Silver Star Café. These uses were approved on October 22, 2014, as the Three Kings Realty at Silver Star Conditional Use Permit. Building "S" also includes the existing historic mine tunnel entrance shed but not the covered tunnel leading to the mine.
4. Building "S" is proposed to be located between buildings "O" and "R" and consists of a total of 1,888 square feet net and 2,260 gross floor area.
5. Building "S" is located within the Park City Soils Ordinance Boundary.
6. On November 30, 2006, the City Council approved the Silver Star Plaza Condominiums Buildings "N", "O", "P", "Q", and "R", a Utah Condominium Project condominium record of survey plat. The plat was recorded at Summit County on February 19, 2008 and identifies the location and ownership of existing Buildings N, O, P, Q, and R.
7. This first amended plat adds Building "S" to the Silver Star Plaza Condominium Buildings "N", "O", "P", "Q", and "R", a Utah Condominium Project condominium record of survey plat in order to identify the building as a commercial condominium unit designated as private ownership. The building is currently identified as common area owned by the Silver Star Plaza Condominiums HOA.

8. On January 16, 2015, an application was submitted for the first amendment to the Silver Star Plaza Condominiums Buildings "N", "O", "P", "Q", and "R", a condominium record of survey plat. The application was deemed complete on February 24, 2015.

9. The condominium plat amendment is required in order to identify the location and ownership of existing Building "S" and to include the proposed addition.

10. The proposed uses and amended condominium plat are consistent with the Spiro Tunnel MPD and the Three Kings Realty CUP.

11. No non-complying situations are created with the plat amendment.

12. The existing building is listed on the Historic Sites Inventory as a Significant Historic Site.

13. On December 4, 2014, the Silver Star Plaza Owners Association met and voted unanimously to approve the real estate office project as proposed.

14. On October 27, 2004, the Planning Commission approved the Spiro Tunnel Master Planned Development and Conditional Use Permit for a mixed use development consisting of 97 residential unit equivalents (74 condominium units, 22 cottage units and one single family house with guest); an artist-in-residence campus with up to 14,500 sf of offices, studios, and gallery retail space; support commercial uses and support meeting space; and 16.11 (AUE) of affordable housing units (21 units in Buildings N and O).

15. Support commercial and support meeting space (up to 10% of the total residential floor area is 19,400 sf based on a total of 97 residential UE) was specifically allowed during the MPD approval for the Silver Star project, as the project was considered a nightly rental condominium project.

16. Currently there are 11,367 sf of commercial/office uses and 5,594 sf of support commercial uses. The addition of 1,325 sf of office space will bring total commercial/office to 12,692 sf which is less than 14,500 sf allowed and will bring the total support commercial uses to 5,914 sf. Up to 14,500 sf of commercial and office uses are allowed by the Spiro Tunnel MPD in addition to 19,400 sf of support commercial/meeting space based on 97 UE of residential uses.

17. Parking for the Spiro Tunnel MPD was built to accommodate all of the 14,500 sf of

allowed commercial and office uses. Management of parking is the responsibility of the Silver Star Homeowners Association and various updates have been presented to the Planning Commission.

18. A water line previously located under the historic shed was relocated during construction of the Silver Star project. Additional relocation of this water line may be necessary prior to construction of Building S.

19. The historic shed and a portion of the mine tunnel are located on a 30' nonexclusive utility easement on the current recorded plat. This easement will need to be modified on the amended plat with final approval of the easement subject to City Engineer and City Water Department review.

Conclusions of Law – 1825 South Three Kings Drive

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

Conditions of Approval – 1825 South Three Kings Drive

1. The City Attorney and City Engineer will review and approve the final form and content of the condominium plat for compliance with State law, the Land Management Code, and any conditions of approval, prior to recordation of the plat.
2. The applicant will record the condominium plat at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval for the plat will be void, unless an extension request is made in writing prior to the expiration date and the extension is granted by the City Council.
3. All conditions of approval of the Spiro Tunnel Master Planned Development shall continue to apply and a note shall be included on the plat referring to the Spiro Tunnel MPD prior to recordation.

4. All plat notes on the Silver Star Plaza Condominiums Buildings “N”, “O”, “P”, “Q”, and “R” record of survey plat shall be included on the plat prior to recordation.
5. All conditions of approval of the Three Kings Realty at Silver Star Conditional Use Permit approved on October 22, 2014, shall apply to this plat and shall be referred to with a plat note on the plat prior to recordation.
6. All required ADA access, occupancy loads, and other specific Building and Fire Code requirements for the new building shall be addressed prior to issuance of a building permit.
7. Historic District Design Review approval for the addition to the historic structure is a condition of building permit issuance.
8. All required access and utility easements as required by the City Engineer shall be identified on the plat prior to recordation.
9. All soil disturbance and proposed landscaping shall adhere to requirements of the Park City Soils Boundary Ordinance and Park City Municipal Code Section 11-15-1 and included in the building permit application.
10. A final utility and grading plan shall be submitted and approved by the City Engineer, City Water Department, Fire District, and SBWRD District prior to issuance of a building permit. Existing water service will need to be evaluated and may need to be upgraded to meet fire flow requirements for the proposed uses and required fire sprinkler system.
11. A storm water and drainage plan shall be submitted and approved by the City Engineer prior to issuance of a building permit for construction on this property.
12. A construction mitigation plan (CMP) shall be submitted with the building permit application and shall identify how construction activity and construction parking impacts on the residential units and commercial uses will be mitigated. The CMP shall indicate where the temporary storage building will be relocated to during construction of the permanent building.
13. Access to the tunnel shall be maintained at all times consistent with the easement and notes on the plat and conditions identified herein.
14. Access to the Spiro Tunnel shall be provided to Park City. Access shall facilitate equipment and vehicles as needed for operations and requires as a minimum:

- a. Clear unobstructed access to the proposed shed remodel for a minimum width of 15 feet.
- b. Paved access from the private drive to the proposed tunnel shed capable of supporting H2O loadings.
- c. Mine rail tracks shall extend to within 10 feet of the existing private drive and shall be fully functional for mine rail cars.
- d. Provide a 5 foot minimum clearance on either side of the mine rail tracks.
- e. Access to the proposed tunnel shed shall be restricted to Park City authorized personnel.

15. Proposed building improvements shall meet Utah DDW (Division of Drinking Water) and Park City's tunnel access security requirements. Building plans shall require Park City Water review and approval with respect to meeting all such security requirements.

16. A note shall be added to the plat indicating that the proposed shed remodel shall provide for adequate ventilation of the mine.

17. A note shall be added to the plat indicating that existing rails are the property of Park City for use in tunnel access maintenance.

18. The applicant is required to maintain security to the Spiro Tunnel during all proposed construction activities. The specifics of this security maintenance shall be provided with the building permit application.

19. A 30 feet wide, minimum, water line and tunnel access easement extending from the proposed shed remodel to the existing private drive shall be provided on the plat prior to recordation and a 10 feet wide, minimum, waterline and tunnel access easement within the proposed shed remodel to the tunnel entrance shall be provided on the plat prior to recordation. The final language shall be approved by the City Attorney and City Engineer prior to plat recordation.

20. The plat shall include language, in a form approved by the City Attorney, indicating that the tunnel access and operations may result in disturbances, such as construction activities, noise, fumes, etc., to the proposed office and storage uses, which may occur at any time and the City, shall be held harmless for such impacts.

21. Park City's access, for the purpose of water line operation and maintenance and for tunnel access, along with the existing private drive shall be clarified and noted on the plat prior to recordation.

22. Park City shall be held harmless from claims resulting from tunnel related occurrences, such as flooding and other such occurrences and this shall be noted on the plat prior to recordation.

23. If relocation of any water lines is necessary for construction of Building S the lines shall be relocated prior to building permit issuance and only upon approval of a final utility plan by the City Engineer.

24. All easements and encumbrances as identified in the current Title Report and as required by the City Engineer for utilities, access, and for exclusive use by the Park City Water Department shall be identified on the final mylar, to be verified and approved by the City Engineer prior to plat recordation.

**6. Land Management Code Amendment regarding Heber Avenue Sub-zone in the Historic Recreation Commercial District (Section 15-2.5-10)
(Application PL-15-02690)**

Planner Francisco Astorga reported that the Planning Department received an application from LCC properties Group for an amendment to the Heber Avenue subzone. He introduced Kevin Horne, David Luber and Tom Elliott, the representatives for the applicant.

Planner Astorga stated that the Heber Avenue Subzone was currently Heber Avenue to the north and all the properties that front Heber Avenue for an approximate distance of 150 feet. He presented a map illustrating the boundary of the Heber Avenue subzone, which included the Kimball Arts Center and other properties west of Main Street. Planner Astorga pointed out that only one site is vacant.

Planner Astorga clarified that the City does not receive many requests for LMC amendments from the public. However, this particular amendment was initiated by the public and not by Staff. Planner Astorga explained that as part of the application process, the applicant is required to write the Code as written on the application. He reviewed the current language for the Heber Avenue parameters. The first is that all of the allowed and conditional uses from the HRC District do not apply to this subzone. The language mimics that allowed and conditional uses from Main Street, in the HCB, Historic Commercial Business District. Planner Astorga noted that the applicant was not proposing to change that language and it would remain the same. The floor area ratio that exists in the HRC District, which is 1.0 FAR, does not apply to this subzone and there was no request to change the FAR.

Planner Astorga clarified that the request is to change Item D to mimic the height indicated for Main Street in the HBC District. He explained that the current height

parameter in the HRC measures height from existing grade up to 32 feet for a flat roof. A pitch roof allows for an additional five feet. Planner Astorga stated that the height parameters in the HCB is 45 feet. The applicant was requesting to extend the height from 32' to 45' in the Heber Subzone.

Planner Astorga noted that this was a legislative item and the City Council would have the final say. He stated that other than the specified policies already in place, there were no specific criteria for review as there would be with a conditional use permit or a plat amendment.

Planner Astorga reported on a phone call he received from the Executive Director of the Utah Heritage Foundation confirming that the Planning Commission had received his letter. The letter was included as Exhibit I in the Staff report. Planner Astorga stated that it was the only public input received prior to preparing the Staff report; however, over the weekend and up until this meeting he received 20 emails from concerned residents. The emails would be forwarded to the Commissioners and would become part of the record. Planner Astorga noted that none of the emails supported the requested LMC amendment.

The Staff recommended that the Planning Commission review the application, conduct a public hearing and forward a negative recommendation to the City Council based on the fact that the Staff finds that the intent of the Heber Avenue Subzone was to provide a transitional element from the HRC to the HCB zones, and that transition is a function of setbacks and height. Should they lose the height, the only difference would be the setback requirement. The Staff believes that mimicking the height of the HCB would lose that transition.

David Luber complimented Planner Astorga and the Staff for their efforts in working with the applicant, LLC Properties Group. As indicated in their overview and response to the Staff report, they are the contract purchaser for the Kimball Arts Center and they expected to close that transaction later in the month. Mr. Luber remarked that the applicant had submitted three applications to the Staff and this was one of those three. The other two applications were for the HDDR review, which was currently being done, and the other was a parking CUP that is subject to review by the Planning Commission on May 13th. Mr. Luber stated that the HDDR review was on hold pending a recommendation by the Planning Commission this evening. The parking CUP would not change regardless of whether or not there was a change in height.

Mr. Luber remarked that there have been comments about this request having been before the Planning Commission in the past. He believed this request was different in a number of respects from previous applicants. Mr. Luber explained that the previous application and documents were contained in the Staff report as an exhibit. It goes back to 2008 where the

applicant at that time sought a rezone to HCB for the new building area and to retain some of the dynamics of the existing Kimball Gallery in an HRC. Mr. Luber clarified that the zone text amendment they were proposing focuses exclusively on the height while keeping the rest of the HRC in place.

Mr. Luber referred to a statement in the Staff report indicating that the Staff did not believe that any objectives of the General Plan were being met by the zone text amendment. Since receiving the Staff report over the weekend, he found eight items that were directly on point towards meeting the objectives of the General Plan. They would explain that further in their presentation. Mr. Luber stated that the issue comes down to an interpretation of transition, continuity, scale and massing. He believed their presentation would show the proposed height of 45' in context to the surrounding zones, subzones and the structures and buildings that have been approved by the City Council and Planning Commission over many years. They were prepared to show that the transition they were proposing actually fits better than a 32' height building.

Mr. Luber reviewed a slide of the amendment procedures and explained how they had followed the requirements. On July 9, 2008 options were suggested that would address the applicant's objectives but would not entail rezone of the property and could extend the Heber Avenue subzone to the Main Street facing portion of the property. One of those suggested options was an LMC amendment. Mr. Luber remarked that it was exactly what this applicant was doing. They were taking the Staff recommendation from 2008 and applying it to the zone text amendment and the amendment to the LMC.

Mr. Luber presented a rendering showing that zeroed in on the Kimball Building at a 45' height, the elevation was at 7048. Looking north-south, east-west and the surrounding buildings, they would see that in the HRC by MPD 45' is basically the height that was built for the Marriott structure. The 692 building also received a fourth floor by using leftover MPD density in the HRC. Mr. Luber compared the MPD that was done for the Sky Lodge and noted that the elevation was 7064, compared to the 7048 with their fourth floor. He pointed out several other properties that were 45 feet and the associated elevations. Mr. Luber stated that in talking about the scale, uses and transition, they would submit that their project, based on the zone text amendment, provides a better transition and meets the bed base issues and policies in the Main Street Historic District. Mr. Luber presented another slide showing the number of building surrounding the Kimball that are already four stories. They were made exceptions through the MPD process and they were designed and approved in a process that allowed for more massing along the entire boulevard of zones. Mr. Luber believed that decision was already made and they were conforming to that continuity with respect to the surrounding zones. Mr. Luber reviewed another slide showing zones, uses and scale going north to south and west to east in what he would call the continuity.

Mr. Luber stated that their presentation would go into detail regarding the table of uses and scales. Looking at the various zones it goes from more permitted to less permitted. The more permitted is clearly the HCB which is 100% FAR. All the setbacks are zero with a 45' height. Mr. Luber remarked that taking the HRC/Heber Avenue, which is a less development, and put in a 10' front yard, 5' side yard, and 10' rear yard setbacks and project the project in terms of massing and density to FAR, he believed they were going in the right direction because the FAR is reduced from 100% to 81%. He compared the HRC zone and noted that they were 63% FAR. The HR-1 zone would be a 42% FAR. Mr. Luber stated that the most dramatic slide showed the elements he wanted to address this evening. He explained that the applicant decided to lower the amount of height and density over the existing garage to one story to keep a very low profile and keep the icon structure very visible. The intent is to restore the structure and keep it intact for ages and generations to come. They were looking at the fourth floor as added space because they were giving up space on the garage. Mr. Luber stated that in looking at the setbacks and side yards and how the building was imposed in terms of the HRC and the Heber amended, as well as the ZTA, the FAR would be 50% which was actually below the current HRC zone.

Assistant City Attorney McLean advised the Planning Commission to look at this only as a Code change. The specifics of the actual building were not applicable because it was unique to one building. The issue before them was an amendment to change the LMC and she recommended that they focus on that aspect.

Mr. Luber suggested that Ms. McLean allow the Planning Commission to look at the generalization of the percentages. Kevin Horn remarked that the percentages shown in their presentation were general numbers of a hypothetical 75' x 25' lot and those would be zone wide for all three zones. He noted that the density increases as they progress through the zones.

Mr. Horn reviewed the Purpose Statements of the HRC District and explained why he believed they were fulfilled by the text amendment. Purpose A is to maintain and enhance the character of the historic streetscape. He stated that there has always been an invisible barrier between upper Main and Lower Main and this would continue that streetscape according to Purpose A. Purpose B is pedestrian oriented scale. They recognize that construction along Main Street in the same scale of the surrounding buildings would continue that sense of place that is Main Street. Purpose C talks about minimizing the visual impact of automobiles and parking. Currently there are on-grade open parking areas. By applying this purpose of the zone they would be incorporating and enclosing that parking within the structure. Purpose D is to preserve and enhance landscape and public spaces adjacent to the streets. What was shown in blue was within the property and it

would be developed as public sidewalk. There were also five and ten foot setbacks in compliance with the zone. Purpose E talks about the transition of scale and uses between the HCB and HRC zone. There is some change from east to west; however, going from north to south goes from HCB zone through the HRC zone of which 32 feet is the exception and not the rule. Purpose F and G refer to the bed base at the town lift and allowing limited retail and commercial uses consistent with a resort bed base. Starting with the Town Lift all of the structures have been designed and approved for the purpose of contributing to the vitality of the Town Lift and its functionality. Mr. Horn stated that the closeness of this zone warrants that same treatment. Purpose H is to encourage preservation and rehabilitation of Historic Buildings. Three structures fall into this zone and the proposed increase in height would facilitate and strengthen the ability to provide that preservation of life safety as well as preservation of this resource for the City.

Mr. Luber outlined the objectives that he believed were complimentary to the general text amendment and what they were asking the Planning Commission to achieve. It would put infrastructure in place, lower the amount of on-site parking, contribute to the bed base, keep the iconic structure of the Kimball garage by only focusing height on the new building area facing Main Street, maintain regulatory consistency and continuity with surrounding structures that have four floors. In terms of incentives for adaptive re-use, Mr. Luber believed the incentives were quite clear. Being able to have the fourth floor would help them with the financial model of preserving the Kimball Art Gallery and iconic structure.

Mr. Luber stated that he has been asked whether this would provide any financial benefits to the City. He remarked that their project and the request for the amendment would maximize tax revenue to the City. As a non-profit the current ownership pays no taxes. He estimated that the increase in property taxes, sales tax and increased bed tax would result in significant funds to the City without any adverse economic impact or infrastructure.

Vice-Chair Joyce opened the public hearing.

Reed Foster, a Park City resident for nine years, stated that he is a builder and residential designer and has watched this project through its various phases. Mr. Reed had walked the site earlier that day and he did not understand the transitional zone between Upper and Lower Main. He did not think that keeping the height limit lower in any way helps that transition take place. In his opinion, everything being three stories did not help the transition at all. Mr. Reed thought there was precedent in the area for four stories and he urged the Planning Commission to allow the four stories as requested.

Sanford Melville, a resident on Park Avenue, urged the Planning Commission to deny this request to amend the LMC for the Heber Subzone. He agreed with the comment in the Staff report that there was no public benefit to increase the maximum zone height from 32

feet to 45 feet as requested by the applicant. Mr. Melville pointed out that it represented over a 40% increase in the allowed maximum zone height in this area. If allowed, he believed it would create a canyon-like in this very important corridor to the Historic District.

Ruth Meintsma, a resident at 305 Woodside, thought the picture presented was the telling story. She noted that there was no label of height on the Depot, which is a single story. In looking at the lower numbers she could see an oasis of transition zone. The structures are mostly one and two structures and the higher ones are separated. Ms. Meintsma pointed out that the little pocket where the Kimball is located the structures are lower stories. She thought the applicants only pulled out the highest buildings for their comparison. She suggested that they also pull the lowest buildings to put it all in context.

Jim Tedford, a Park City resident, stated that Historic Main Street continues to come under attack. Even though it is on the National Register of Historic Places and recognized as a unique attraction to locals and visitors, Mining Era Main Street was gradually changing to an anywhere USA version. Mr. Tedford remarked that over the years City Hall has spent thousands of hours and thousands of dollars writing the Park City General, the Land Management Code and the Historic District Design Guidelines in an effort to protect and preserve Park City's Heritage. He stated that the current language was not written in a vacuum and the public has always had the opportunity to participate. Mr. Tedford pointed out that people with personal residences and those with Main Street businesses abided by the rules and successfully made changes to their structures within the current LMC and Design Guidelines. They did so without attempting to change the laws or ignore them in hopes of convincing the local authorities that they deserved an exception. Mr. Tedford thought it was unfortunate that many developers design new buildings and additions that blatantly disregard the laws, and then try to convince the Planning Staff and/or Planning Commission to approve them. If that fails they try to change the laws to accommodate their design. Mr. Tedford stated that the group Preserve Historic Main Street was adamantly opposed to any changes in the current LMC that would allow additional height and change the zone to allow additional height. He emphasized that their objection referred to the entire zone and not one particular building. The zone was well-thought out over the years as a transitional zone and it should be maintained as a transition zone. Granting this request would set a terrible precedent of allowing developers to change the LMC to fit their plan.

Lynn Fey stated that he cares very much about the historic district and historic preservation. She understood that the purpose this evening was not to discuss the developer's plans for the historic Kimball structure; but what the developer was asking the Planning Commission to do was attached to the historic Kimball structure. Ms. Fey acknowledged that exceptions have been made for some buildings and there are height differentials; however, none of the buildings that were mentioned were attached to a

historic structure. Ms. Fey pointed out that in historic preservation you are not allowed to build a one-story addition on top of a historic structure. She asked the Commissioners to picture a one-story Kimball building with a four-story, massive addition to that one-story structure. She believed it was significantly out of scale. Ms. Fey assumed that some people would not be bothered by the change to the Kimball because it is just an old garage, but for those who live in Park City and care about historic preservation, they love the funky Kimball building and the history that goes with it. She was opposed to having a massive addition attached to that historic structure.

Mike Sweeney stated that he was responsible for creating some of the taller buildings when they decided in 1981 to put a ski lift into Old Town Park City. Mr. Sweeney noted that they were required by the Park City Mountain Resort to agree to develop that area as a bed base for the Town Lift. In 1983 the Planning Commission and the City Council approved the Town Lift, but it was not built until 1987 because his family, Park City Mountain Resort and the Huntsman family agreed with PCMR to acquire the land and make sure it would become the base for the Town Lift. It took from 1979 to 1987 to obtain a permit to do that, in addition to working with several other companies to acquire all of that property to make Park City the only place that has a ski lift to Main Street. Mr. Sweeney stated that he pays very close attention to Main Street. The most important thing they can do for Main Street is solve the parking problem and the lack of bed base on Main Street. Mr. Sweeney commented on the amount of office space on Main Street that was being converted to condominiums and not put into a rental pool. He supported this proposed amendment because it was the right thing to do to accomplish the needed bed base in Old Town.

Bill Coleman stated that many things have happened to help justify a change in this zone. He provided background and history on how the idea of the Town Lift was started, as well as other projects in the area. Mr. Coleman stated that at the time they needed height and density and they needed to have it around the Town Lift. He commented on the number of structures that were not commercial buildings when the zone was put into place. Mr. Coleman stated that there was a different sensitivity throughout the town. There was a time and place for the zone to occur, but that has changed. He believed the Planning Commission has every reason to consider a change. He stated that the height of the buildings on Main Street is 45' because in 1970 the fire truck could not reach anything over 45 feet. That was the reason for the 45' height limitation. Mr. Coleman thought it was important to think this same type of thinking throughout the town. They need to look at the resort bases where they want the density so people would not have to drive. They did not want to have the impact grow and not deal with making room for it. Mr. Coleman thought the Planning Commission should also be looking at ways to add height in the BoPa District. People are opposed to tall buildings, but in reality they need to look at everything and determine where it is easy to put them to minimize the transportation issues and to

maximize the resort base so people will not need a car. He also suggested putting them around the transit center. Mr. Coleman stated that if the gondola happens and they have the Town Lift and Main Street, there is no reason not to put height there. He pointed out that things have to evolve and it begins to evolve with the Planning Commission. Rules can be changed and this request is suggesting a change. Mr. Coleman believed there needed to be a broader way of thinking by both the Planning Commission and the City Council. He remarked that this amendment request was a great opportunity to begin fixing problems without affecting the residential uses that were there when the zone was created.

Dave Hanscom stated that he and his former neighbor have disagreed on many things for many years, including this application. Mr. Hanscom encouraged the Planning Commissioner to follow the Staff recommendation and deny the zoning change.

Alex Butwinski did not envy the Planning Commission because this situation is where the desire to remain historic rubs up against development. He asked the Planning Commission to look at that area of Main Street and the variations in height. An important factor is that they are not big boxes next to each other. Mr. Butwinski thought this site allowed the opportunity to create openness on that corner. He did not believe that a large, square, four-story building on that corner was in keeping with the plus side of Old Town, which is the historic character; recognizing the need to balance that with the development of hot beds on Main Street. It is a difficult equation to balance, but in this particular case he thought it was better to keep the open space and the variety of sense of place similar to what exists now. He did not favor allowing a larger building.

Matt Mullen, Chairman of the Board of the Kimball Arts Center, stated that he was asked by the Board to attend this meeting to listen to the proceedings, and to clear the air on several points. Mr. Mullen noted that the Kimball is leaving its historic home. It was unfortunate and sad, but they were leaving and the building is for sale. If this applicant who was under contract to buy it, it would be someone else. The Kimball is moving on and they found a site that better fits their needs. Mr. Mullen wanted to make sure that the Commissioners made their decision based on the facts of the application before them this evening and not on what the Kimball might do, because the Kimball ship has sailed.

Vice-Chair Joyce closed the public hearing.

Commissioner Worel asked if this zone change request was approved, whether the building on the opposite corner could be built to four stories. Planning Manager Sintz replied that it was an MPD and they would have to re-open the MPD and do that analysis. She clarified that the Kimball site is not eligible for an MPD. Planner Astorga agreed that the building Commissioner mentioned would have to re-open the MPD, but yes they could increase the height.

Commissioner Thimm asked to see the map showing the buildings within the sub-zone boundary. Commissioner Worel asked if Zoom was in the zone.

Kevin Horn clarified that the Heber Avenue sub-zone specifically says parcels that front Heber Avenue. Planner Astorga believed that the Zoom building did front Heber Avenue. The site itself was in the condo plat. He noted that the dash line was a record of survey. Therefore, it was not a lot, it was a unit within that area. Everything else would be common space. He remarked that 80% of the building would qualify.

Commissioner Thimm found this to be an interesting issue. One of his concerns about missed opportunities in Park City was the disconnect between upper and lower Main Street. He thought it was important to find a way to knit those together. Commissioner Thimm stated that a lot of planners talk about a million dollar corner, but in his opinion this was a multi-million dollar corner. From a planning standpoint he could see the value in creating height and anchoring a corner in this location. It is diagonally across the street from another four-story building and it makes sense. However, this was not just a proposal for a specific building design. The proposal is to change a zone and create changes that would potentially be disrespectful of important elements from a scaling standpoint in other areas along this face. For that reason he could not support it.

Commissioner Campbell believed the overwhelming issue of the future of Park City is traffic, and he favored anything that would get people out of their cars. He remarked that the City has paid lip service to that issue for a long time without doing anything to resolve it. Commissioner Campbell supports anything that provides a place for people to stay where they do not need a car. In his opinion that trumps everything else and he was in favor of this application for that one reason.

Vice-Chair Joyce stated that is always uncomfortable about changing a zone on behalf of one building. The fact that the applicant submitted their building plans as part of the rezone request reinforced the fact that this was all about adding a fourth story to their building. Vice-Chair Joyce thought the elevation comparisons the applicant presented showing the different building going up the street were nonsensical. In looking at the steepness of Main Street, the buildings at the top would have to be zero feet high and the ones at the bottom could be huge, yet the elevation would appear to be even. He remarked that the important thing was building height. He noted that many times there is a give and take for height, open space, affordable housing, etc., but they did not have that to consider from a rezoning standpoint. Vice-Chair Joyce had walked the area he thought the applicant was not forthcoming in showing all of the buildings. There were a number of buildings of varying heights that were not included in their presentation because they primarily pointed out the four story buildings. Vice-Chair Joyce stated that some people may choose to agree with Commissioner Campbell that adding density is the right thing

and it rules the decision. However, if they honor the reason the zone was put into place with the idea of transition, this building would pop up above everything around it because it is surrounded by one, two and three story buildings. Vice-Chair Joyce thought the question was whether they were willing to change the zoning and overrule the past intention of the sub-zone, or whether they should continue to honor it as the transition and keep it the same.

Commissioner Worel stated that she had visited the site and walked the area and she tried to get a perspective of what a four-story building would look like. While doing that she was standing next to a group of visitors to Park City. They all had their cameras out and were having a conversation about how amazing it was to be able to stand on the street and take a picture of the view corridor from the corner of the Tavern. One comment she heard was, "Can you imagine waking up and being able to look at this everyday". Commissioner Worel believed that speaks to the character of Main Street and the area. If they approve this zoning change they could potentially open the door to have the entire area four story buildings. She was not comfortable doing that and could not support this request.

Commissioner Phillips concurred with his fellow Commissioners. He tried to take his focus off of one specific property because they were talking about changing an entire zone. He also sees Heber Avenue as an entry corridor to Main Street and believes just as many cars enter there as any other part of Main Street. Commissioner Phillips noted that per the Code the HRC zone was created to transition the zones. He understood that the height was a compromise of the two zones and he could not find good cause to change what was put in place with the clear purpose of transitioning zones. Commissioner Phillips stated that Purpose Statement E was clear and changing the height exception would ignore that statement completely. He agreed with the importance of bed base, but he did not think it was a large enough trade-off to change the character of the zone.

Mr. Luber asked for the opportunity to respond to the comments made by the public and the Commissioners. Tony Tyler, the project manager, responded to the interpretation based on what the zone may or may not imply for other properties. He believed the elephant in the room was the fact that other properties within the Heber sub-zone have already been rezoned under an MPD. Mr. Tyler noted that there were trade-offs that allowed higher heights for additional considerations, but that is not an available tool in this particular case. Mr. Tyler asked the Planning Commission if there was a process the applicant could follow that would help achieve what seems to be a very clear transition east to west towards Park Avenue that steps down the building, as well as a continuous height distinction as it drops down towards Main Street, including the fourth story, that would achieve those goals without this particular type of movement that does in effect change one aspect of an individual zone. Mr. Tyler stated that in reality, it only affects this applicant. To open the door to additional properties that are already covered by an MPD is

not practical or feasible unless there was some catastrophic accident. Those properties have already been condominiumized and master planned. He did not believe they would come back to the Planning Commission and ask for a four-story building on the corner of Main and Heber. Mr. Tyler thought it was misguided to think of it in terms of a one property zone change. Mr. Tyler asked for guidance on how to achieve the objectives of maintaining the historic Kimball building, while at the same time making the project economically viable with the additional floor to height they would achieve on the Main Street portion of the property.

Vice-Chair Joyce stated in his experience they either change the zoning code or the zone itself, or get into the negotiations of an MPD where trade-offs can be made. Given the past failed rezone and the comments by the Commissioners this evening, he suggested that the applicants needed to work within the zone and the height of the zone.

Planner Astorga stated that the applicant has the right to request a variance; however, he would not recommend a variance and the Staff would not support it. He explained that the applicant could follow the course of this application and ask the Planning Commission to take a vote this evening, since they would have another chance to present their case to the City Council. Planner Astorga explained that in 2013 the City took away the ability in the HRC zone to have an MPD, which fluctuates the massing of a specific structure through a site suitability analysis. Those other sites were able to be developed through the MPD component, but this site does not have the MPD option. Planner Astorga stated that the applicant could also follow the same General Plan purpose statements and the financial benefit by building a three-story building.

Assistant City Attorney stated that based on the comments this evening, the Planning Commission should either vote to forward a recommendation to the City Council, or the applicant could withdraw the application. Mr. Luber stated that the applicant had no interest in withdrawing the application.

MOTION: Commissioner Worel moved to forward a **NEGATIVE** recommendation to the City Council for the LMC amendment regarding the Heber Avenue subzone in the HRC Zone.

VOTE: The motion passed 4-1. Commissioner Campbell voted against the motion.

The Park City Planning Commission Meeting adjourned at 10:30 p.m.

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Approved by Planning Commission: _____