



**PARK CITY BOARD OF ADJUSTMENT MEETING
SUMMIT COUNTY, UTAH
November 7, 2023**

The Board of Adjustment of Park City, Utah, will hold its regular meeting in person at the Marsac Municipal Building, Council Chambers, at 445 Marsac Avenue, Park City, Utah 84060. Meetings will also be available online with options to listen, watch, or participate virtually. [Click here for more information.](#)

- 1. MEETING CALLED TO ORDER AT 5:00PM**
- 2. ROLL CALL**
- 3. MINUTES APPROVAL**
 - 3.A. Consideration to Approve the Board of Adjustment Meeting Minutes from June 20, 2023
- 4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES**
- 5. PUBLIC COMMUNICATIONS**
- 6. REGULAR AGENDA**
 - 6.A. **Parcels PC-850-2 and PC-850-3 – Variance** – The Applicant Requests a Variance to the Required Lot Size in the Estate Zoning District to Combine Two Lots to Construct a Single-Family Dwelling. PL-23-05797
(A) Public Hearing; (B) Action
- 7. ADJOURNMENT**

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Planning Department at 435-615-5060 or planning@parkcity.org at least 24 hours prior to the meeting.

***Parking is available at no charge for Council meeting attendees who park in the China Bridge parking structure.**



**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT MEETING
MINUTES OF JUNE 20, 2023**

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius-Chair, Beth Armstrong, Jennifer Franklin, John Stafsholt, Stefanie Wilson, Mary Wintzer

STAFF: Spencer Cawley, City Planner; Senior City Attorney, Mark Harrington

1. ROLL CALL

Chair Ruth Gezelius called the meeting to order at 5:00 p.m. and noted that a quorum was present. She reported that the Board participated in a site visit of 395 Deer Valley Drive at 4:00 p.m.

2. MINUTES APPROVAL

A. Consideration to Approve the Board of Adjustment Meeting Minutes from March 21, 2023.

MOTION: Board Member Stafsholt moved to APPROVE the minutes as written. Board Member Armstrong seconded the motion. The motion passed with the unanimous consent of the Board.

3. PUBLIC COMMUNICATIONS

No comments were submitted.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

Board Member Wintzer announced that she would be recusing herself from the discussion and voting on the variance request to be heard tonight. After thinking about the case, she did not believe she could be impartial.

5. CONTINUATIONS

There were no continuations.

6. REGULAR AGENDA

A. 395 Deer Valley Drive - Variance - The Applicant Requests Variances to the Front Setback Requirements in the Residential-1 (R-1) Zoning District to Construct a New Driveway and a New Garage in Front of the Existing Single-Family Dwelling. PL-23- 05654.

City Planner, Spencer Cawley, reported that the applicant's representatives were present. He presented the Staff Report and stated that the subject property is located at 395 Deer Valley Drive in the Residential-1 Zoning District. The site contains a single-family dwelling that was built in 1978. The lot is 8,437 square feet in size and the existing driveway has a 19% slope. An image was presented showing the site as it currently exists. The garage sits 18.6 feet from the property line, which is also at the edge of the historic platted Heber Avenue Right-of-Way ("ROW"). The structure is approximately 51.6 feet from the constructed ROW. The applicant's narrative included approval of a 35.8-foot setback from the Deer Valley Drive ROW and a four-foot setback from the Heber Avenue ROW to allow for the construction of a garage that will bring the slope of the driveway into compliance with the Land Management Code ("LMC"). It was noted that the garage addition will sit lower on the site than what currently exists to achieve the 9% slope.

The garage addition will be four feet from the property line and approximately 35.8 feet from the platted ROW. It will be even further from the built ROW. Within the R-1 Zoning District, the minimum lot area is 2,812 square feet. The applicant has 8,437 square feet. The front setback is currently 15 feet for all structures and 20 feet for front-facing garages. If approved, the front setback will reduce the setback from 20 feet to four feet. The applicant's site plan also shows retaining walls greater than four feet in the front setback. An Administrative Conditional Use Permit must be obtained for the walls prior to construction. The rear setback is 10 feet and the single-family dwelling is 93 feet from the rear lot line. There is a standalone composite deck with a metal railing that is seven feet from the rear lot line of the back of the property. No changes were proposed to the rear setback. The side setback is five feet. The single-family dwelling is 7.9 feet from the west lot line and 10.9 feet from the east lot line.

Conditions of Approval were tied to the request including obtaining an Administrative Use Permit for retaining walls that exceed four feet in height. The garage also cannot exceed the zone height of 28 feet from the existing grade.

Planner Cawley reported that the current driveway has a slope of 19%, which is not compliant with the current Land Management Code. Driveways cannot currently exceed 14% slope. The new driveway will have a slope of 9%. With what exists today for impervious surfaces, there will be an increase of 77 square feet with the new driveway configuration. The applicant's proposal will remove vegetation, some of which is diseased or dying. One Condition of Approval requires the applicant to replace lost vegetation with water and fire-wise vegetation on the property.

The proposed driveway is 32 feet wide, which exceeds the allowed 27 feet for a single-family dwelling. A Condition of Approval was added to require the plans to show a reduced driveway width. The applicant bears the burden of proving the five variance criteria under the LMC and ensuring that those criteria are met. The applicant's reasoning for qualifying was detailed in the Staff Report, however, the applicant's representative will review the responses to the criteria.

The Development Review Committee ("DRC") met on May 23, 2023, and failed to identify additional issues with the application. The Engineering Department visited the site previously and supported the placement of a new driveway to increase safety. A memo was received from the Engineering Department that was provided in the Board Members' packets.

Planner Cawley reported that no public input was received prior to tonight's meeting. Staff recommended that the Board of Adjustment review the proposed variance, conduct a public hearing, and consider approving the variance subject to the Findings of Fact, Conclusions of Law, and Conditions of Approval set forth. Alternatives available to the Board included granting the variance, denying the variance and directing staff to make findings for the denial, or requesting additional information and continuing the discussion to a date certain.

A question was raised as to whether the home, which was built 45 years ago in 1978, included any parameters at the time it was built. Planner Cawley reported that the LMC that was in effect at the time the home was built was from 1968. For the R-1 Zoning District, there are requirements for off-street parking for single-family dwellings but there is nothing pertaining to a required slope for driveways. The home was deemed to have been conforming at the time.

Chair Gezelius clarified that there is no request for a height exception for the garage. The 28-foot height limit that is currently in place in the Historic District will be in effect. The width of the driveway will also conform to the current standard of 27 feet. It was noted that there will be an increase in impervious surface compared to what exists currently on the site. The existing garage will be converted into living space.

With regard to the City Engineer's letter and the emphasis on safety, a question was raised as to which pieces of the slope the City Engineer addressed in his safety analysis. Planner Cawley commented that the City Engineer is mostly concerned with the percentage of the slope and that it not exceed 14%. A question was raised as to whether the City Engineer addressed the diagonal entry and egress or the perpendicular entry and egress onto Deer Valley Drive. Planner Cawley stated that it was not brought up in the discussion but he was supportive of moving the driveway further down Deer Valley Drive so that it is not next to the neighbor's driveway.

Board Member Stafsholt did not see any mention of usage in the Conditions of Approval regarding the garage conversion. It will have an impact on setbacks and parking, which

are integral. He wondered if it would be turned into a duplex, triplex, or accessory apartment. Mr. Cawley explained that if they were to convert it to any other use such as a duplex, it would have to comply with the current Code. There is adequate lot area to do so but his understanding was that it is used as a nightly rental and the owner is not a full-time resident.

Marshall King from Alliance Engineering was present representing the applicant. He reported that adjustments were made to the driveway and the width was reduced to 25 ½ feet. Next to the garage will be a pedestrian door onto the driveway. It was considered to be a pad from the driveway to the stairs that will be about 56 square feet in size. Engineer King pointed out that the driveway will be narrower at the street and will meet the width requirements. They will also be reducing the impervious area by 60 to 70 square feet.

Engineer King commented that literal enforcement of the LMC causes an unreasonable hardship because the driveway is currently at a 19% slope, which does not comply with Code. The other owners in the area were able to have a much smaller slope. It would also move the driveway down Deer Valley Drive so that it won't be as close to the neighbor. When pulling out and trying to look up Deer Valley Drive, there are an additional 40 feet. Motorists traveling down Deer Valley Drive will come around the curve. He commented that very few people drive the speed limit on Deer Valley Drive.

Engineer King explained that there are circumstances on the property that do not generally apply because the natural topography of the land is great. The Heber Avenue ROW was platted over 100 years ago and likely came around the bottom of the slope. This property has the greatest distance between the Heber Avenue and Deer Valley Drive ROWs. There is a considerable amount of room between Deer Valley Drive and the subject property.

Engineer King commented that he has tried to come out of the driveway and it is nerve-racking. The other owners in the area can enjoy being able to come down their driveways and see up and down Deer Valley Drive without worrying about it being so steep. The proposed change will make the property more enjoyable and less treacherous, especially in the winter.

Engineer King stated that the variance will not substantially affect the General Plan and is not contrary to the public interest. It will still be well set back from the actual ROW of Deer Valley Drive. It will increase safety and prevent slipping in icy conditions. The spirit of the LMC will be observed since the idea of a front setback is the distance from the street.

Board Member Stafsholt asked about the height of the retaining walls. Engineer King stated that they will be on both sides and likely lower on the left side than the right side. On the east side, the height will likely be six to seven feet at the highest point. It will be similar to a wing wall and not as tall near Deer Valley Drive. A decision had not been

made as to whether the driveway will be heated. It is south facing and has a significant impact on how much snow remains and how quickly it melts.

A question was raised about impervious surface. Engineer King stated that from the existing driveway, it will be reduced. A planter will be placed on the east side next to the retaining wall. The current proposal will reduce the existing impervious surface by 60 to 70 square feet.

With regard to landscaping, a question was raised as to whether the applicant is required to post a bond. Engineer King had not heard that but stated that people sometimes are required to bond for landscaping. Planner Cawley's understanding was that the City can no longer require bonds for landscaping. Senior City Attorney, Mark Harrington, stated that they cannot require a bond for architectural design review but work that is done in the ROW can still be bonded for. Engineer King clarified that the landscaping will be in the ROW on either side of the garage but primarily on the west side. It will be in the Heber Avenue ROW and not the Deer Valley Drive ROW.

Board Member Stafsholt noted that the property line ends at the front property line and much of the existing driveway goes into the ROW currently. He asked if the applicant will take responsibility for landscaping that area. Engineer King suspected that the property owner will want to since it is to his advantage to have his property look nice. It was confirmed that it is a requirement that the architect is looking into.

Rob White from Sugarhouse Architects reported that on previous projects, property owners have been required to landscape from the property line to the ROW. There are several requirements regarding what can and cannot be done. They will extend from the property and landscape. The matter will be addressed at the next stage of the process.

A question was raised about the status of the rear deck. Engineer King stated that it has nothing to do with what is proposed, which deals only with the front of the home. There are no plans to make any changes to the deck. The deck was determined to be approximately seven feet from the property line with a 10-foot setback.

Chair Gezelius opened the public hearing. There were no public comments. The public hearing was closed.

Board Member Franklin asked if the drawings presented reflect the most updated drawings that include the narrower driveway entrance and less impermeable surface that was discussed. Engineer King confirmed that it was the most current.

Chair Gezelius commented that the Conditions of Approval specify that the applicant shall reduce the driveway width from 32 feet to a maximum of 27 feet as outlined in LMC §15-3-3(H)(1) prior to submitting a Building Permit application.

Board Member Stafsholt commented that he saw the Engineer's Report with respect to safety and the steepness of the driveway. Nothing was taken into account for retaining walls, snow storage, snow accumulation, and the tree that will block the view of oncoming traffic at the curve versus the unobstructed view that exists currently. He did not think the situation will be much safer and did not see much of a difference between the actual lots that are owned by the applicant and every other lot that is plotted the same way on the plat maps. He did not see how this situation was substantially different from any other lot and considered it an economic condition rather than a hardship.

Board Member Armstrong commented that the only difference appeared to be a change to the home extension to be a garage addition. Engineer King stated that the garage addition is what they are requesting the four-foot setback for. In response to a question raised, Engineer King stated that up at the door to the garage, the driveway is likely 24 feet wide.

Board Member Wilson commented that due to the distance between the home and the road, the request complies with the spirit of the LMC and does not create any issues. If she were backing down the driveway in the winter, she would be concerned and inclined to approve the variance.

Chair Gezelius concurred with Board Member Wilson's assessment and considered this to be an opportunity to address a 45-year-old property and improve safety. It will also provide the property owner with a similar situation to the adjacent properties. She considered it a reasonable request.

MOTION: Board Member Armstrong moved that the Board of Adjustment GRANT the Variance to reduce the front setback from 20 feet to four feet for a garage addition. The motion was subject to the following:

Findings of Fact:

1. The Property is located at 395 Deer Valley Drive in the Residential – 1 (R-1) Zoning District.
2. The Property is in Block 65, Amended Plat of Park City Survey, and consists of all of Lots 9 & 26, the westerly 18.75 feet of Lots 8 & 27, and the easterly one-half of Lots 10 & 25.
3. The Property contains a total of 0.194 acres or 8,437 square feet.
4. The Summit County parcel tax ID is PC-518-A-3.
5. The existing Single-Family Dwelling was built in 1978.

6. The Structure is 18.6 feet from the property line, which is also the edge of the historic platted Heber Avenue Right-of-Way (ROW).
7. The Deer Valley Road Section "A" is the ROW in use in this area.
8. The Single-Family Structure is 51.6 feet from the Deer Valley ROW.
9. The R-1 Zoning District requires a ten-foot rear setback. The existing Single-Family Dwelling is 93 feet from the rear Lot line.
10. The R-1 Zoning District requires a five-foot side setback. The existing Single-Family Dwelling is 7.9 feet from the west side Lot line and 10.9 feet from the east side Lot line.
11. Pursuant to LMC § 15-3-3, driveways cannot exceed a slope of 14% and can have a maximum width of 27 feet.
12. The site is accessed from Deer Valley Drive by a driveway that has a slope of approximately 19%.
13. Pursuant to LMC § 15-2.12-3, new Front Facing Garages for Single-Family Dwellings must be at least 20 feet from the Front Property Line in the R-1 Zoning District.
14. The Applicant requests a Variance to LMC § 15-2.12-3(B), the R-1 Zoning District Front Setback regulations, to reduce the required 20-foot Front Setback for a garage to four feet.
15. The Applicant's front property line is approximately 30 feet from Deer Valley Drive.
16. The Applicant does not propose to make any changes to the Side or Rear Setbacks.
17. The Applicant does not propose to change the Lot Area.
18. The new Front Facing Garage is proposed to be four feet from the property line.
19. LMC § 15-3-3 establishes a maximum driveway width of 27 feet.
20. LMC § 15-10-8(C) outlines the conditions necessary for the Board of Adjustment to grant a variance:

- a. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. A hardship has been created due to the topography from Deer Valley Drive up to the currently existing garage on the Property. The slope of the driveway is approximately 19%, and the Park City LMC restricts the maximum slope of a driveway to 14%. In addition, the north boundary of the Heber Avenue right-of-way (which is where the setback would be measured from if the LMC is literally enforced), as originally platted, is an average of 33 feet from the Deer Valley Drive right-of-way at the location of the subject Property, which is the right-of-way that is actually in use and follows the same curvature as Deer Valley Drive.
- b. There are special circumstances attached to this Property that do not generally apply to other Properties in the same zone. Other properties in the zone have garages that are closer to the elevation of the street than the garage at 395 Deer Valley Drive and therefore do not have driveway slopes as steep as the subject Property. Also, the existing garage is farther back from the Deer Valley Drive right-of-way than other properties in the area and therefore has ample room to allow for the Variance.
- c. Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. Other properties near 395 Deer Valley Drive are closer to the street, and the garages are either encroaching into the Heber Avenue right-of-way or have a smaller setback than the 4-foot setback the Applicant is requesting. Granting the Variance will allow the driveway to have a slope of approximately 9% and will be less hazardous backing out onto Deer Valley Drive.
- d. The Variance will not substantially affect the General Plan and will not be contrary to the public interest. The Variance will not affect the General Plan of the Land Management Code since the objective of a front setback is to prevent buildings from being too close to the public right-of-way that is used as a thoroughfare. The public interest will be enhanced due to the driveway entrance being moved approximately 40 feet down Deer Valley Drive to the west, which will allow for improved sight distance looking up Deer Valley Drive.
- e. The spirit of the LMC is observed, and substantial justice done. The proposed setback will be farther back from the Deer Valley Drive right-of-way than other buildings in the area and will exceed the required front-facing garage setback requirement by approximately 17 feet.

21. All other LMC-related Site and Lot criteria, including the Side and Rear Setbacks, Building Height, parking, uses, etc., must be met.
22. The Development Review Committee met on May 23, 2023, and did not identify any issues.
23. On June 13, 2023, the Engineering Department visited the site and provided a memorandum expressing support of the Variance because it will allow the Applicant to reduce the slope of the driveway and increase safety.
24. Notice was mailed to the property owner within 300 feet on June 6, 2023.
25. Staff published notice to the City's website, the Utah Public Notice Website, and the subject Property on June 6, 2023.
26. *The Park Record* published notice on June 6, 2023.

Conclusions of Law:

1. Literal enforcement of the R-1 District requirements for this Property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the Property that do not generally apply to other properties in the same district.
3. Granting the Variance is essential to the enjoyment of a substantial property right possessed by other Property in the same zone.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.

Conditions of Approval:

1. The Variance is limited to the construction of a two-car garage with a reduced Front Setback of four feet.
2. No portion of the new garage shall be used for living space.
3. Fences, walls, retaining walls, uncovered stairs leading to the Main Structure, decks, porches, roof overhangs, eaves, cornices, sidewalks, patios, and pathways in the front setback shall comply with LMC § 15-2.12-3(C)(1-7) Front Setback Exceptions.

4. The Applicant shall obtain permits for construction in the Right-of-Way from the Engineering Department prior to the issuance of a Building Permit.
5. An Encroachment Permit is required for any retaining walls or stairways built in the platted Rights-of-Way.
6. The Applicant shall obtain a building permit prior to the commencement of any construction.
7. The Applicant shall obtain an Administrative Conditional Use Permit for retaining walls exceeding four feet in height in the Front Setback prior to Building Permit application.
8. The new garage shall not exceed 28 feet in height from Existing Grade.
9. The Applicant shall replace any removed Significant Vegetation with similar types of vegetation that are both water and fire-wise on their Property.
10. The Applicant shall reduce the driveway width from 32 feet to a maximum of 27 feet as outlined in LMC § 15-3-3(H)(1) prior to submitting a Building Permit application.
11. If at some point in the future, Deer Valley Drive or Heber Avenue are widened, or re-aligned, the Applicant is responsible for the removal of retaining walls, stairs, and/or the driveway at the property owner's expense and in an expeditious manner (within 90 days of written notice).
12. City Engineer review and approval of all appropriate grading, utility installation, and public improvements is a condition precedent to building permit issuance. An approved shoring plan is required prior to excavation.
13. Prior to the issuance of a building permit, a Construction Mitigation Plan must be submitted to the Building Department for review by the Building, Engineering, and Planning Departments for final approval.

The motion was seconded by Board Member Wilson. Vote on motion: Board Member Armstrong-Aye, Board Member Franklin-Aye, Board Member Stafsholt-Nay, Board Member Wilson-Aye. The motion passed 3-to-1. Board Member Wintzer did not participate in the vote.

7. **ADJOURN**

MOTION: Board Member Franklin moved to ADJOURN the meeting. Board Member Armstrong seconded the motion. The motion passed with the unanimous consent of the Board.

The Board of Adjustment Meeting adjourned at approximately 5:45 p.m.

PENDING APPROVAL

Board of Adjustment Staff Report



Subject: Parcels PC-850-2 and PC-850-3
Application: PL-23-05797
Author: Lillian Zollinger, Planner II
Date: November 7, 2023
Type of Item: Administrative – Variance

Recommendation

(I) Review the proposed Variance; (II) conduct a public hearing; and (III) direct staff to prepare Findings of Fact, Conclusions of Law, and Conditions of Approval for final action on the Applicant’s request for a Variance from the Estate Zoning District’s minimum Lot size.

Description

Applicant: Kerry Spalding and Kathy J. Dubie
Location: Parcels PC-850-2 and PC-850-3
Zoning District: Estate and Sensitive Land Overlay
Adjacent Land Uses: Residential, Recreation Open Space
Reason for Review: Variances require Board of Adjustment review¹

BOA Board of Adjustment
E Estate
LMC Land Management Code
SLO Sensitive Land Overlay

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC § [15-15-1](#).

Background

The Applicant proposes combining two vacant Parcels into one Lot to construct a Single-Family Dwelling (SFD). Both vacant Parcels are within the Sensitive Land Overlay and Estate Zoning District. The minimum Lot size for a SFD in the Estate Zoning District is three acres.² Parcel PC-850-2 is 1.44 acres and Parcel PC-850-3 is 0.71 acres, for a total of 2.15 acres. Combining these



Approximate location of Parcels highlighted in green.

¹ LMC [§ 15-1-8](#)

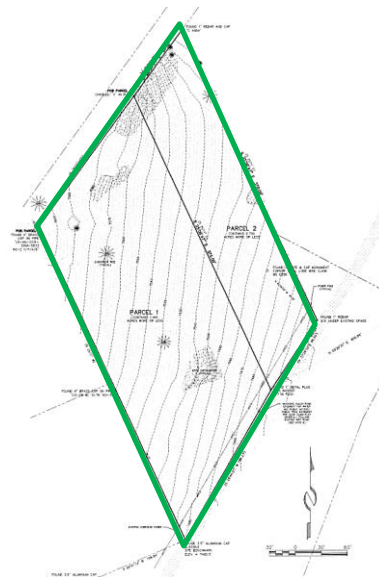
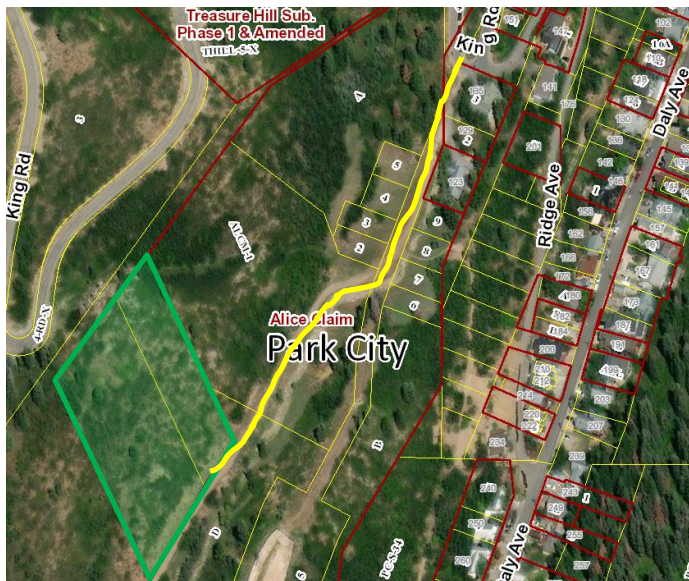
² LMC [§ 15-2.10-3\(A\)](#)

two vacant Parcels is therefore under the required three-acre Lot for a SFD in the Estate Zoning District by 0.85 acres. As a result, the Applicant seeks a Variance from the Estate Zoning District minimum Lot size.

The Applicant requests the Board of Adjustment (BOA) consider a Variance before pursuing additional permitting. If the BOA grants the Variance, the Applicant would still need to:

- Record a Plat creating one Lot
- Confirm access to the Lot
- Perform a Sensitive Land Overlay (SLO) Analysis

The parcels are located southwest of the Alice Claim Subdivision and East of King Road. Parcel PC-850-2 is south of and adjacent to Parcel PC-850-3; neither Parcel has access to a Public Right-of-Way.



Staff has concerns regarding access to the Parcels and requested the applicant provide information. The Applicant provided a short narrative on the access (see Exhibit C), which states, “Each of these [Quit Claim D]eeds reserves and contains an “ingress and egress” access easement benefiting the subject parcels on the existing dirt road, through the Alice Claim Subdivision and connecting to King’s road (the “Access Easement”).” The dirt road is highlighted in yellow above.

Staff recommended the Applicant provide a slope analysis for the length of the access, as the entire site has an approximate slope of 30% and is a Steep Slope. The Applicant provided a slope analysis for a portion of the access (see Exhibit D).

LMC [§ 15-1-11\(B\)](#) states “[t]he Board of Adjustment must review Applications for Variances. Such approval must be obtained from the Board of Adjustment prior to the issuance of any . . . approval by the Planning Commission or Planning Department. All

action on an Application shall be stayed upon the determination that a Board of Adjustment approval is required.” If the Board of Adjustment approves a Variance from the minimum Lot size requirements of the Estate Zoning District, the Applicant would then need to apply for a Subdivision to combine the two Parcels to create one 2.15-acre Lot.

Additionally, the property is within the SLO and pursuant to LMC [§ 15-2.21-2\(A\)](#) as part of the Subdivision application, the Applicant would be required to submit a Sensitive Lands Analysis to identify the property’s sensitive environmental and aesthetic areas such as steep slopes, ridge line areas, crest of hills, wetlands, stream corridors, wildland interface, and wildlife habitat areas.

If the BOA approves the Variance, the approval does not approve the creation of the new Lot. The Variance allows the applicant to propose the new subdivision without the minimum Lot size as a non-starter and allows them to move forward with the other required approvals. The approval authority must still approve or deny the application(s) in accordance with the applicable regulations.

Analysis

(I) The Applicant seeks a Variance from the Estate Zoning District Lot size requirement outlined in LMC Chapter 15-2.10.

Pursuant to LMC [§ 15-2.10-1](#), the purpose of the Estate Zoning District is to:

- A. allow very low density, environmentally sensitive residential Development which:
 - 1. preserves ridge tops, meadows, and visible hillsides,
 - 2. preserves large, cohesive, unbroken Areas of Open Space and undeveloped land,
 - 3. preserves and incorporates wetlands, drainage ways, and intermittent streams as amenities of Development,
 - 4. mitigates geologic and flood hazards,
 - 5. protects views along the City’s entry corridors, and
 - 6. decreases fire risk by keeping Development out of sensitive wild land interface Areas.
- B. incorporate pedestrian trail linkages between and through neighborhoods; and
- C. encourage comprehensive, efficient, Compatible Development which results in distinct and cohesive neighborhoods through application of the Sensitive Lands Ordinance.

The table below illustrates the requirements of the LMC in the Estate Zoning District outlined in LMC [§ 15-2.10-3](#) and LMC [§ 15-2.10-4](#):

Zoning Requirement	Analysis
Minimum Lot Size 3 acres	Variance Requested Does not comply: 2.15 acres
Lot Width 100'	Complies, if Parcels are combined - 279' measured at the shortest combined width. Parcel PC-850-2's greatest width is 198.26' and complies alone. Parcel PC-850-3's greatest width is 96.51' and does not comply alone.
Minimum Front, Side and Rear Setbacks 30'	New construction must comply
Maximum Building Height 28'	New construction must comply

There are no existing encroachments on the Parcels.

(II) The Board of Adjustment reviews the criteria outlined in LMC § 15-10-8(C) when considering a Variance.

In order to grant the requested Variance to the minimum Lot size in the Estate Zoning District, the Board of Adjustment must find that the five (5) criteria outlined in LMC [§ 15-10-8](#) are met. The applicant bears the burden of proving that all the conditions justifying a Variance have been met (see Exhibit A for the Applicant's Narrative).

In determining whether or not enforcement of the Zoning Ordinance would cause unreasonable hardship under LMC Section [15-10-9\(C\)\(1\)](#), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the Variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood. In determining whether or not the enforcement of the LMC would cause unreasonable hardship, the Board may not find an unreasonable hardship if the hardship is self-imposed or economic.

No construction can take place on either vacant Parcel because neither Parcel meets the Estate Zoning District three-acre minimum Lot size requirement. The Applicant seeks a Variance to combine the vacant Parcels to create one substandard 2.15-acre Lot for the construction of a SFD.

Pursuant to LMC [§ 15-10-8](#), "the Applicant shall bear the burden of proving that all of the conditions justifying a variance have been met." The Applicant's analysis is outlined below:

Variance Review Criteria	Analysis of Proposal
<p>1. Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code;</p>	<p><u>Applicant's Statement:</u> Given that there are no developable parcels surrounding the majority of the Subject Parcels, all of the purposes of the 'Estate Zone' are preserved. Specifically, in the event that a residence could be constructed, the surrounding area would still maintain low density, open areas would be maintained, and the structure would be consistent with and near other development, specifically development in the Alice Claim Subdivision, which borders the Subject Parcels to the north. All other stated purposes of the 'Estate' zone would be maintained. Allowing a residence to build on a 2.15 acre combined parcel, instead of the now required 3 acre minimum, surrounded by open area, will allow the City to continue to carry out the general purpose of the LMC. Conversely, not allowing these long-standing parcels to be used to their highest and best use, creates an almost insurmountable hardship on Ms. Dubie and the Taber Trust.</p>
<p>2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone;</p>	<p><u>Applicant's Statement:</u> Utah law, and general planning principles dictate that all land should be placed to its "highest and best use." Here, the Estate zone requires a minimum of 3 acres for a residential property. The Subject Parcels together equal a total of 2.15 acres of residential property. While slightly less than the required 3 acres in the Estate Zone, 2.15 acres is more than sufficient space to construct a residential property. Moreover, the surrounding land is owned by Talisker Land Holdings, LLC, and does not appear to be developable. Consequently, the applicant appears to be without the ability to add additional land to the 2.15 acres to reach the minimum 3-acre limit. As a result, the Subject Parcels are essentially "development-landlocked." Under different circumstances, multiple parcels could combine to form one lot, which would, at the very least, meet the minimum size requirements. That is an impossibility here, and as a result, a unique circumstances, which does not directly apply to the parcels in the same zone. Moreover, as set forth above in this letter, the Subject Parcels have existed under the same family ownership since the late 1800s and were once both developable. The Subject Parcels have not changed; instead, Park City changed its code, without notice to the owners. The Subject Parcels are differently situated and unique from all surrounding properties in that area.</p>
<p>3. Granting the variance is essential to the enjoyment</p>	<p><u>Applicant's Statement:</u> As set forth in Paragraph 2 and the History Section above, the</p>

<p>of a substantial Property right possessed by other Property in the same zone;</p>	<p>Subject Parcels are 'development-landlocked,' which means that, should the LMC be strictly enforced, the land cannot be used in any way consistent with its zoning. The concept behind the ' Estate Zone' is to group land together to meet minimum requirements. However, here, that cannot be done, and the result is land that not only cannot be used for its highest and best use but cannot be used at all. As currently enforced, there are no useful property rights associated with the land. Under current zoning, the long-standing Subject Parcels cannot be used at all.</p>
<p>4. The variance will not substantially affect the General Plan and will not be contrary to the public interest; and</p>	<p><u>Applicant's Statement:</u> The stated intentions and objectives of the General Plan would not be adversely affected or altered in any way by allowing a residential structure to be constructed on the Subject Parcels. Again, the request here is minimal – allowing a residence to be constructed on parcels that are only .85 acres under the minimum requirement - and which are largely surrounded by land that cannot be built upon. Instead, a grant of variance would allow the residential parcels to be used to construct a home, consistent with other parcels and lots in the immediate area. Additionally, as set forth in Paragraph 1 above, allowing a residential structure to be constructed does not violate or offend any of the elements of the ' Estate Zoning,' which elements are predicated upon the General Plan.</p>
<p>5. The spirit of the Land Management Code is observed and substantial justice done.</p>	<p><u>Applicant's Statement:</u> The Applicant did not take actions, which brought on these restrictions. Unlike many variance requests, the Applicant is not trying to build a few extra feet into a setback to accommodate a hot tub, or a few feet past the height limits to accommodate a roof-top deck, or to accommodate additional garages. The Applicant is also not trying to make use of remnant parcels of land. Instead, the Applicant is requesting the ability to construct a home on a residential parcel, which is near other residential parcels after holding the property for well over a century. The Subject Parcels have been in the family since the late 1800s. These are not circumstances that were created by the Applicant. However, demanding that land remain undevelopable renders it entirely useless, which is contrary to the Land Management Code, and the General Plan. Conversely, allowing the land to be used to its highest and best use is not only consistent with Utah law, but underscores the very essence of substantial justice.</p>

(III) The Development Review Committee³ reviewed the proposal and identified concerns regarding the access to the Lots, as described above.

Notice

Staff published notice on the Utah Public Notice website, the City's website, posted notice to the property, and mailed courtesy notice to property owners within 300 feet on October 24, 2022. The *Park Record* published notice on October 24, 2022.⁴

Public Input

Staff did not receive any public input at the time this report was published.

Alternatives

- The BOA may grant the Variance requested;
If the BOA grants the Variance, Staff recommends the BOA direct Staff to draft a Final Action Letter with 1) Conditions of Approval and development limitations consistent with the adjacent property approvals ([Alice Claim Subdivision](#)); and 2) condition the variance upon meeting otherwise applicable subdivision requirements of LMC [Chapter 15-7.1, Subdivision Procedures](#), and obtaining an approval by a date certain [2 years];
- The BOA may deny the Variance requested and direct staff to make findings of fact and conclusions consistent with the BOA's determinations; or
- The BOA may continue the discussion and request additional information on specific items.

Exhibits

Exhibit A: Applicant's Variance Narrative

Exhibit B: Existing Conditions

Exhibit C: Applicant's Access Narrative

Exhibit D: Applicant's Slope Narrative and Alice Claim Slope Analysis

³ The Development Review Committee meets the first and third Tuesday of each month to review and provide comments on Planning Applications, including review by the Building Department, Engineering Department, Sustainability Department, Transportation Planning Department, Code Enforcement, the City Attorney's Office, Local Utilities including Rocky Mountain Power and Dominion Energy, the Park City Fire District, Public Works, Public Utilities, and the Snyderville Basin Water Reclamation District (SBWRD).

⁴ LMC [§ 15-1-21](#)



ROISING DAVIDSON FROST

Gateway Center
136 Heber Ave
Suite 205
Park City, Utah 84060

Main 435.731.5451
Fax 435.200.9067

Robert S. Rosing
Melyssa D. Davidson
Nick W. Frost
Jared C. Bowman
Bastiaan K. Coebergh
Monica D. Gonzalez
Asa E. Kelley
Court J. Klekas II
Rebecca A. Royer
Cade W. Whitney
Vanessa A. Vietz

August 11, 2023

VIA EMAIL

Park City Board of Adjustment
445 Marsac Avenue
Park City, Utah 84060
planning@parkcity.org

Re: Variance Request PC-850-2 and PC-850-3

Park City Board of Adjustment Members:

This firm represents the landowners of Summit County Parcel No. PC-850-2, which is owned by the Majorie Jean Taber Living Trust (“Taber Trust”) and Parcel No. PC-850-3, which is owned by Kathy J. Dubie (“Ms. Dubie”), which are located to the southwest of the Alice Claim Subdivision (collectively, the “Subject Parcels”). The Taber Parcel is 1.44 acres in size and the Dubie Parcel is .71 acres. Collectively, the Subject Parcels are 2.15 acres in size and located in the ‘Estate’ zone. The minimum zone size under the current Estate Zoning is 3.0 acres for the construction of one residence. Ms. Dubie and the Taber Trust respectfully request that you consider the items set forth in this letter and approve the request for a variance accordingly so a home can be built on the Subject Parcels.

I. HISTORY

The history of the Subject Parcels is important to this application request. The Subject Parcels have been in the same family since the late 1800s or early 1900s, originally as a mining claim.¹ Attached to this letter, as **Exhibit A**, is a letter dated May 15, 1903 between Maggie Barnicott and the then Salt Lake County attorney, George Westervelt approving the patent to the Alice Claim for the Subject Parcels. Maggie Barnicott, along with her husband, were the original owners of the Subject Parcels and the great grandparents of the current owners.

Since that time, and as development continued to increase in the Park City area, it became necessary to establish rights of access to the Subject Parcels, which were solidified in a May 29, 1981 deed between the owners of the Subject Parcels and the surrounding landowners. Under then zoning regulations, both of the Subject Parcels had long enjoyed and were capable of

¹ The Trustees of the Taber Trust and Ms. Dubie are from the same family line.

development of one residential structure on each of the two parcels. However, in 1984, without providing written notice to the owners of the Subject Parcels, both of whom lived out of state, Park City Municipal (the “City”) changed the zoning of the Subject Parcels to ‘Estate’ zoning, requiring a minimum a minimum of 3 acres on each parcel in order to construct a home. This zoning amendment essentially stripped the owners of the Subject Parcel from all use of the Subject Parcels without providing the opportunity to the owners of the Subject Parcels to object or respond. Even the combination of both parcels together is still insufficient to achieve the required minimum under the current zoning regulation. The 1984 zoning amendment rendered to Subject Parcels useless and stripped a substantial amount of their value.

Importantly, the Subject Parcels have remained in the family since the 1800s and have never been developed, altered, or otherwise changed. In fact, the parcels have remained substantially the same since they were procured. The Subject Parcels are not remnant parcels, self-created parcels, or part of a once bigger project or parcel. They exist in their original, unaltered form, since the late 1800s or early 1900s.

II. VARIANCE REQUEST:

As a result, Ms. Dubie and the Taber Trust are respectfully requesting that an exception be made to the governing zoning ordinance affecting these parcels, allowing one (1) residential structure to be built on a combination of the two parcels. Under many municipality codes, including Summit County, the Subject Parcels would be considered “lots of record” and would therefore be entitled to the zoning in place when the lots or parcels were created. The principle behind those “lot of record” codes is simply predicated upon equitable principles – in other words – allowing the land owner to utilize what they purchased. Under those codes, each parcel or lot would be entitled to one residential structure. Here however, Ms. Dubie and the Taber Trust are requesting that this body allow for one (1) residential structure to be built on a combination of the two parcels.

Ms. Dubie and the Taber Trust understand that the City will likely require additional approvals, including a plat approval, in order to combine the lots and receive final approvals prior to building and that those approvals are outside of the scope of this application. Here, however, Ms. Dubie and the Taber Trust are requesting that this board take the first step and review the application and approve the required density, allowing Ms. Dubie and the Taber Trust to move forward for subsequent approvals with the City.

Additionally, the Subject Parcels are adjacent to the recently approved Alice Claim Subdivision, which is primarily located in a higher density, HR-1 zoning, allowing one residence to be constructed on lots, which are .10 acres in size for one residence. Here, after all necessary City approvals, the lot would be 2.15 acres in size for one residence.

III. REQUIREMENTS FOR APPROVAL:

1. *Literal Enforcement of Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code.*

- a. RESPONSE: Given that there are no developable parcels surrounding the majority of the Subject Parcels, all of the purposes of the ‘Estate Zone’ are preserved. Specifically, in the event that a residence could be constructed, the surrounding area would still maintain low density, open areas would be maintained, and the structure would be consistent with and near other development, specifically development in the Alice Claim Subdivision, which borders the Subject Parcels to the north. All other stated purposes of the ‘Estate’ zone would be maintained. Allowing a residence to build on a 2.15 acre combined parcel, instead of the now required 3 acre minimum, surrounded by open area, will allow the City to continue to carry out the general purpose of the LMC. Conversely, not allowing these long-standing parcels to be used to their highest and best use, creates an almost insurmountable hardship on Ms. Dubie and the Taber Trust.

2. *There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone.*

- a. RESPONSE: Utah law, and general planning principles dictate that all land should be placed to its “highest and best use.” Here, the Estate zone requires a minimum of 3 acres for a residential property. The Subject Parcels together equal a total of 2.15 acres of residential property. While slightly less than the required 3 acres in the Estate Zone, 2.15 acres is more than sufficient space to construct a residential property. Moreover, the surrounding land is owned by Talisker Land Holdings, LLC, and does not appear to be developable. Consequently, the applicant appears to be without the ability to add additional land to the 2.15 acres to reach the minimum 3-acre limit. As a result, the Subject Parcels are essentially “development-landlocked.” Under different circumstances, multiple parcels could combine to form one lot, which would, at the very least, meet the minimum size requirements. That is an impossibility here, and as a result, a unique circumstances, which does not directly apply to the parcels in the same zone. Moreover, as set forth above in this letter, the Subject Parcels have existed under the same family ownership since the late 1800s and were once both developable. The Subject Parcels have not changed; instead, Park City changed its code, without notice to the owners. The Subject Parcels are differently situated and unique from all surround properties in that area.

3. *Granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.*

- a. RESPONSE: As set forth in Paragraph 2 and the History Section above, the Subject Parcels are ‘development-landlocked,’ which means that, should the LMC be strictly enforced, the land cannot be used in any way consistent with its zoning. The concept behind the ‘Estate Zone’ is to group land together to meet minimum requirements. However, here, that cannot be done, and the result is land that not only cannot be used for its highest and best use but cannot be used at all. As currently enforced, there are no useful property rights associated with the land. Under current zoning, the long-standing Subject Parcels cannot be used at all.

4. *The variance will not substantially affect the General Plan and will not be contrary to the public interest.*

- a. RESPONSE: The stated intentions and objectives of the General Plan would not be adversely affected or altered in any way by allowing a residential structure to be constructed on the Subject Parcels. Again, the request here is minimal – allowing a residence to be constructed on parcels that are only .85 acres under the minimum requirement – and which are largely surrounded by land that cannot be built upon. Instead, a grant of variance would allow the residential parcels to be used to construct a home, consistent with other parcels and lots in the immediate area. Additionally, as set forth in Paragraph 1 above, allowing a residential structure to be constructed does not violate or offend any of the elements of the ‘Estate Zoning,’ which elements are predicated upon the General Plan.

5. *The spirit of the Land Management Code is observed and substantial justice done.*

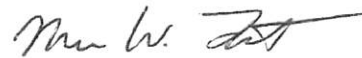
- a. RESPONSE: The Applicant did not take actions, which brought on these restrictions. Unlike many variance requests, the Applicant is not trying to build a few extra feet into a setback to accommodate a hot tub, or a few feet past the height limits to accommodate a roof-top deck, or to accommodate additional garages. The Applicant is also not trying to make use of remnant parcels of land. Instead, the Applicant is requesting the ability to construct a home on a residential parcel, which is near other residential parcels after holding the property for well over a century. The Subject Parcels have been in the family since the late 1800s. These are not circumstances that were created by the Applicant. However, demanding that land remain undevelopable renders it entirely useless, which is contrary to the Land Management Code, and the General Plan. Conversely, allowing the land to be used to its highest and best use is not only consistent with Utah law, but underscores the very essence of substantial justice.

IV. CONCLUSION:

Ms. Dubie and the Taber Trust respectfully request that this Board review and consider the information presented in this letter and find that a residential structure can be constructed on the Subject Parcels. Again, this is not a situation where a homeowner is trying to maximize the use of a remnant parcel, or push an existing parcel to its limits. Rather, this is a situation where a long-standing family is requesting reasonable use of their century old parcels, consistent with previous zoning regulations. If any further information is needed, or would be helpful, please let me know.

Sincerely,

ROSING DAVIDSON FROST

A handwritten signature in black ink, appearing to read "Nicholas W. Frost". The signature is fluid and cursive, with a prominent flourish at the end.

Nicholas W. Frost

EXHIBIT A

GEORGE WESTERVELT,
COUNTY ATTORNEY,
SALT LAKE CITY, UTAH.

J. J. WILFAKER,
DEPT. ASSISTANT,
DANA W. SMOUL,
SECOND ASSISTANT.

Salt Lake City, Utah, May 15, 1903.

Mrs. Maggie Barnicott,

Park City, Utah.

Dear Madam: -

In compliance with your letter of the 10th inst., I have procured your patent to the Alice Claim from the Land Office, and enclose the same herewith. It may perhaps be necessary to take some formal proceedings for the purpose of confirming your title, and if so, I shall be glad to attend to the matter for you. I may be in Park City some time during the summer and, if so, I will see you and talk the matter over.

In regard to the other matter you speak of, namely, the proposed lease to Mr. Martin Clark, I will say to you that Mr. Clark came to see me here and I explained matters thoroughly to him. You may rest assured that he will not make any trouble for you whatever. He seems to be a very square man and a sensible one. If there is any further information I can give you, or any other help in regard to the matter of this Alice Claim, let me know and I shall be glad to do what I can for you. Meanwhile, I remain,

Yours very truly,

George Westervelt

Lillian Zollinger

From: Nick Frost <frost@rosingdavidson.com>
Sent: Wednesday, November 1, 2023 1:56 PM
To: Lillian Zollinger
Cc: Mary Manley; Polly McLean
Subject: [External] Access - Parcels PC-850-2 and PC-850-3 Variances
Attachments: McSparron to Frank E. Dotson 1981.pdf; Taber to Frank E. Dotson 1981.pdf; Deed to PC-S-55.pdf

[CAUTION] This is an external email.

Lillian,

I am writing to provide you with information related to ingress and egress access to both of the subject parcels. On June 19, 1981, both Majorie Jean Taber, and Bonne Mae Avirett McSparron, conveyed a portion of their respective interests in the Alice Claim Survey No. 3331 to, among other owners, Frank Earl Dotson, the former owner of what is now a portion of the current Alice Claim Subdivision. I have attached both of these Quit Claim Deeds. Each of these deeds reserves and contains an "ingress and egress" access easement benefiting the subject parcels on the existing dirt road, through the Alice Claim Subdivision and connecting to King's road (the "Access Easement"). The Access Easement exists on and is recorded against the parent parcel to at least the following lots of real property: ALCM-1 through ALCM-5 and ALCM-OSP-A. In 2005, Frank E. Dotson, conveyed to King Development Group, LLC, the owner and Declarant of a material portion of the Alice Claim Subdivision, which now includes the above-referenced properties, which deed contains exception language referencing the Access Easement. I have attached a copy of that Special Warranty Deed. The predecessors to these properties contemplated, memorialized, and recorded the Access Easements to the subject properties. Lastly, the same access easement language is contained in both deeds for the subject properties.

Please note that the above information is being provided to you to establish a formulative basis for the subject parcels' access. However, should a variance be approved regarding the density issue, the applicants intend to communicate and cooperate with all property owners over which the Access Easement exists, including paying for and participating in maintenance and construction fees and costs, where necessary, as part of the future approval process with the City, including a plat approval.

Best,

NICK FROST

435-901-2995

frost@rosingdavidson.com

136 Heber Ave, Suite 205 Park City, Utah 84060



ROSIING
DAVIDSON
FROST

QUITCLAIM DEED

Entry No.	180257	Book	71190
RECORDED	6-19-81	at 4:51 M	Page 414-5
REQUEST of	SUMMIT CO.	TITLE	
FEE	\$ 5.00	WANDA Y. SPRIGGS, SUMMIT CO. RECORDER	
INDEXED		ABSTRACT	

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BONNIE MAE AVIRETT McSPARRON, Grantor, of Gary, County of Lake, State of Indiana, hereby QUITCLAIMS to DEWAYNE C. ANDERSON and ELLEN R. ANDERSON, husband and wife, ELWOOD L. NIELSEN, INA DOTSON and FRANK EARL DOTSON, Grantees, in proportion to their interests as they appear of record, the following described patented mining claim situated in Summit County, State of Utah:

Alice Claim, Mineral Survey No. 3331

EXCEPTING THEREFROM AND RESERVING unto Grantor and to her heirs, successors and assigns, forever, the following parcel of land embraced within the above-described patented mining claim:

Beginning at a point North 36°05'04" East 185 feet from Corner No. 7 of the Alice Claim (a part of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian) and running thence along the westerly boundary of the Alice Claim North 36°05'04" East 94 feet; thence South 25°11' East 370 feet; thence South 33°28'50" West 96.50 feet; thence North 25°11' West 375 feet more or less to the point of beginning, said parcel containing 0.71 acres, more or less.

FURTHER EXCEPTING AND RESERVING UNTO Grantor and to her heirs, successors and assigns, the right to use the Woodside road as means of ingress and egress to and from the above-described parcel of land reserved by Grantor, which road is presently a dirt road which traverses the Alice Claim and leads

BOOKM 190 PAGE 414

Entry No.	180-56	Book	70190
RECORDED	6-19-81	at	4:50 P. Page 3
REQUEST of	SUMMIT CO. TITLE		
FEE	WANDA Y. SPRIGGS, SUMMIT CO. RECORDER		
\$	5.00	BY <i>Wanda Y. Spriggs</i>	
INDEXED		ABSTRACT	

QUITCLAIM DEED

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MARJORIE JEAN TABER, Grantor, of Merrillville, County of Lake, State of Indiana, hereby QUITCLAIMS to DEWAYNE C. ANDERSON and ELLEN R. ANDERSON, husband and wife, ELWOOD L. NIELSEN, INA DOTSON and FRANK EARL DOTSON, Grantees, in proportion to their interests as they appear of record, the following described patented mining claim situated in Summit County, State of Utah:

Alice Claim, Mineral Survey No. 3331

EXCEPTING THEREFROM AND RESERVING unto Grantor and to her heirs, successors and assigns, forever, the following parcel of land embraced within the above-described patented mining claim:

Beginning at Corner No. 7 of the Alice Claim (a part of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian) and running thence along the westerly boundary of the Alice Claim North 36°05'04" East 185 feet; thence South 25°11' East 375 feet; thence South 29°44'07" West 198.23 feet; thence running North 25°11' West 400 feet more or less to the point of beginning, said parcel containing 1.44 acres, more or less.

FURTHER EXCEPTING AND RESERVING UNTO Grantor and to her heirs, successors and assigns, the right to use the Woodside road as means of ingress and egress to and from the above-described parcel of land reserved by Grantor, which road is presently a dirt road which traverses the Alice Claim and leads

BOOKM 190 PAGE 412

from King's Road in Park City, Utah, to a water tank situated in the southeastern portion of said Alice Claim, and which dirt road is adjacent to the easterly boundary line of the above-described parcel, of land reserved by Grantor.

FURTHER EXCEPTING AND RESERVING unto Grantor and to her heirs, successors and assigns, all of Grantor's right, title and interest in and to all ores, minerals, and mineral rights of every kind and description in, under and to the Alice Claim, together with the right to extract, remove and sell the same, but not the right to enter for such purposes upon the surface of the portion of the Alice Claim that is conveyed to Grantees by this deed.

WITNESS the hand of said Grantor as of the 29th day of May, 1981.

Marjorie Jean Taber
Marjorie Jean Taber

STATE OF INDIANA)
 : ss.
COUNTY OF LAKE)

On the 29 day of May, 1981, personally appeared before me MARJORIE JEAN TABER, signer of the foregoing instrument, who duly acknowledged to me that she executed the same.

My Commission Expires:

June 5, 1983

Suzanne C. Thiele
NOTARY PUBLIC
Residing at 5470 Broadway
Merrillville, Ind
76410

2

BOOKM 190 PAGE 413

00748795 Bk01728 Pg01564-01571

ALAN SPRIGGS, SUMMIT CO RECORDER
2005 AUG 29 16:17 PM FEE \$28.00 BY MT
REQUEST: COALITION TITLE AGENCY, INC.
Electronically Recorded by Simplifile

WHEN RECORDED RETURN TO:

Name: Grantee
Address: PO Box 244
PARK CITY, UT 84060

SPECIAL WARRANTY DEED

(Individual Form)

THIS DEED, made this 26th day of August, 2005, between Frank Dotson also known as Frank E. Dotson, GRANTOR of County, State of, hereby CONVEY(S) AND WARRANT(S) against the acts of the Grantor only to


King Development Group, LLC,

GRANTEE, of Summit County, State of Utah for the sum of Ten dollars and other good and valuable consideration, the tract(s) of land in Summit County, State of Utah described as follows:

See "Exhibit A" attached hereto.

Subject to and conditioned upon any and all matters, exceptions, easements, deed restrictions, encroachments, rights of way, encumbrances, discrepancies, conflicts, shortages, or any other facts that may be disclosed by a correct survey, all as are disclosed and required in Exhibit "B" attached hereto.

WITNESS, the hand of said grantor this 26 day of August, 2005.



Frank Dotson



Frank E. Dotson

STATE OF California)
COUNTY OF San Diego) ss.

The foregoing instrument was acknowledged before me this 26th day of August,
2015, by Frank Dotson also known as Frank E. Dotson

My commission expires 12-14-05. Witness my hand and official seal.

Carol Lee Harris
Notary Public:

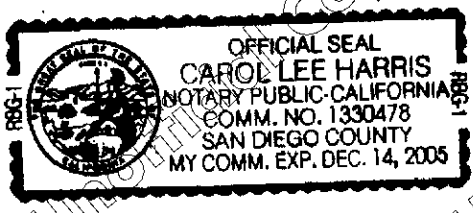


EXHIBIT "A"

Parcel 1:

Lots 1 through 7 inclusive and Lots 36 through 40 inclusive, Block 77, Millsite Reservation to Park City, according to the official plat thereof filed in the office of the Summit County Recorder.

(Tax Serial No. PC-712)

Parcel 2

Alice Lode Mining Claim, designated by the Surveyor General as Lot 3331, embracing a portion of the Northeast quarter of Section 21, Township 2 South, Range 4 East, SLB&M, and more particularly described as follows:

Beginning at corner No. 1, a pine post 4 inches square, marked 1-3331, with a mound of stone, from which corner No. 1 of Lot No. 655, the Park View lode claim, bears South 64°26' West 283.4 feet distant; and the quarter section corner between Sections 16 and 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian, bears North 22°33' West 1671 feet; distant; thence first course, magnetic variation 16°30' East, South 59°30' East 99 feet intersect line 1-2 of Lot No. 256, the Huron Mine lode claim at South 65°45' West 101 feet from corner No. 1; 267.4 feet intersect line 1-2 of said Lot No. 655; 566 feet to corner No. 2; thence second course, magnetic variation 16°33' East; North 7°34' East 145.2 feet intersect line 1-2 of said Lot No. 655; 340.3 feet to corner No. 3; thence third course, magnetic variation 16°40' East, North 30°54' East 301.9 feet intersect the West boundary line of the Northeast quarter of the Northeast quarter of said Section 21, 349.7 feet to No. 4; thence fourth course, magnetic variation 16°35' East, North 17°20' East, 788 feet to corner No. 5 on top of dividing ridge between Woodside and Empire Canyons, and not established; thence fifth course, magnetic variation 16°50' East, North 59°30' West 37 feet to witness corner to said corner No. 5, a pine post 4 inches square marked W.C. 5-3331, in mound of stones; 137.6 feet intersect line 2-3 of Lot 653, the Newell lode claim; 300.9 feet intersect West boundary line of the Northeast quarter of the Northeast quarter of said Section 21; 308.1 feet to a point from which discovery monument bears South 17°20' West 906 feet distant; 318.1 feet to corner No. 6; thence sixth course, magnetic variation 16°50' East, South 36° West 462.3 feet intersect line 2-3 of said Lot No. 653; 1,122.2 feet to corner No. 7 identical with corner No. 2 of Lot 56, the Woodside lode claim; thence seventh course, magnetic variation 16°30' East, South 2°06' West 223.2 feet intersect line 3-4 of said Lot No. 56 at South 65°45' West 99.1 feet from corner No. 3, also intersect line 3-4 of said Lot 256, at South 65°45' West 99.1 feet from corner No. 4 and from said corner No. 4 corner No. 1 of said Lot No. 256 bears South 24°15' East 200 feet distant, 356.2 feet to corner No. 1, the place of beginning.

Expressly excepting and excluding from these presents all that portion of the ground, hereinbefore described, embraced in said mining claims or Lot No's. 56, 256, 653 and 655 and

the Northeast quarter of the Northeast quarter of said Section 21, also those portions of survey No. 3057, the Grade Lode claim, in conflict with said Lot No's. 56, 256 and 655.

Also, Excepting therefrom, the following described tracts:

Beginning at Corner No. 7 of the Alice Claim, Mineral Survey No. 3331 (a part of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian); and running thence along the Westerly boundary of the Alice Claim North $36^{\circ}05'04''$ East 185 feet; thence South $25^{\circ}11'$ East 375 feet; thence South $29^{\circ}44'07''$ West 198.23 feet; thence running North $25^{\circ}11'$ West 400 feet, more or less, to the point of beginning.

Beginning at a point North $36^{\circ}05'04''$ East 185 feet from the corner No. 7 of the Alice Claim, Mineral Survey No. 3331 (a part of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian); and running thence along the Westerly boundary of the Alice Claim North $36^{\circ}05'04''$ East 94 feet; thence South $25^{\circ}11'$ East 370 feet; thence South $33^{\circ}28'50''$ West 96.50 feet; thence North $25^{\circ}11'$ West 375 feet, more or less, to the point of beginning.

Also, excepting therefrom the following:

A strip of land thirty feet in width, i.e., fifteen feet on either side of a line located as follows:

Commencing at a point 110 feet Westerly from the Southeast corner of the Alice Lode Mining Claim, patented as lot 3331, located in the Northeast quarter of Section 21, Township 2 South, Range 4 East, Salt Lake Base and Meridian, and in the Uintah Mining District, Summit County, Utah; and running thence North $7^{\circ}20'$ West 125 feet; thence North $20^{\circ}49'$ East 224.3 feet; thence North $28^{\circ}08'$ East 236.5 feet; thence North $3^{\circ}13'$ East 80.7 feet; thence North $9^{\circ}39'$ East 105 feet; thence North $20^{\circ}47'$ East 730.6 feet, to the North end line of said claim; with the addition of 60 feet on either side of said strip of land commencing 100 feet from the Southerly end of said strip and extending 300 feet Northerly on each side of said of land.

(Tax Serial No. PC-S-55)

EXHIBIT "B"

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceeding, whether or not shown by the records of such agency or by public record.
2. Any facts, rights, interests, or claims which are not shown by the public records, but which could be ascertained by an inspection of the land or by making inquiry of person in possession thereof.
3. Easements, liens, or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortages in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims, or title to water.
6. Any lien or right to a lien for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Any adverse claim based upon the assertion that (a) Some portion of the land forms the bed or bank of a navigable river or lake, or lies below the mean high water mark thereof; (b) The boundary of the land has been affected by a change in the course or water level of a navigable river or lake; (c) The land is subject to water rights, claims or title to water and to any law or governmental regulation pertaining to wetlands.

8. (PARCEL 1)

Taxes for the year 2005 are now accruing as a lien, but are not yet due and payable (Serial No. PC-712). Taxes for the year 2004 have been paid in the amount of \$1,016.06.

(PARCEL 2)

Commitment - Schedule B 2
Page 1 of 4

This commitment is invalid unless the insuring provisions and Schedules A and B are attached.

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Taxes for the year 2005 are now accruing as a lien, but are not yet due and payable (Serial No. PC-S-55). Taxes for the year 2004 have been paid in the amount of \$236.76.

9. (AFFECTS PARCEL 1)

The terms and conditions in that certain encroachment permit executed by and between Park City Municipal Corporation, and Robert Karz, recorded as Entry No. 213161, in Book 278, at Page 772-4 of the Official Records.

10. (AFFECTS THE WESTERLY PORTIONS OF LOT 36 THROUGH 40, BLOCK 77, MILLSITE RESERVATION)

The terms, conditions, covenants and easements contained in the certain Grant of Easement recorded January 16, 1986, as Entry No. 244949, in Book 370, at Page 209 in the office of the Summit County Recorder.

11. Easements and Right of Way for Public Roads as presently existing over, along and across said property.

12. (AFFECTS PORTIONS OF PARCEL 1)

Encroachment of a concrete retaining wall situated on the subject property onto the land adjoining said subject property to the North as disclosed by that certain Survey performed by Joe Dhaenans, Certificate No. 187821 and filed October 15, 1996 in the Summit County Recorder. Survey No. S-2442.

13. (AFFECTS PARCEL 1)

Reservations contained in that certain Special Warranty Deed executed by United Park City Mines Company, a Delaware corporation, recorded July 1, 1971, as Entry No. 113448, in Book M31, at Page 688 of the Official Records, set forth as follows:

Excepting and Reserving to Grantor, its successors and assigns, allures and minerals situated in, upon or under the above described tract of land, together with all rights in connection with or relative to the mining, removal or sale of the same (but not including the right to enter upon the surface of the premises)

THE FOLLOWING EXCEPTIONS 14 THROUGH 16 AFFECT PARCEL 2

14. Prescriptive Easements in favor of Park City Municipal Corporation, as disclosed by that certain Judgment filed under Civil No. 7145 and recorded November 22, 1989, as Entry No. 316054, in Book 543, at Page 387 and re-recorded April 4, 1990 as Entry No. 322903, in Book 560, at Page 459 of the official records, said Prescriptive Easements being more particularly described as follows:

Commitment - Schedule B 2
Page 2 of 4

This commitment is invalid unless the insuring provisions and Schedules A and B are attached.

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BK1728 PC1569

3. Park City Municipal Corporation holds a prescriptive easement to use and maintain the existing dirt through the real property know as the Alice Lode Mining Claim described herein for both use and maintenance of the road.

4. Park City Municipal Corporation holds a prescriptive easement to use and maintain a pipeline for the portion of the water pipeline route identified at trial as Segment B, which generally extends from the open reservoir Northwesterly to the existing dirt road across the real property known as Alice Lode Mining Claim described in No. 1 above.

5. The prescriptive easement for the dirt road described in Paragraph No. 3 above held by Park City Municipal Corporation encompasses as easement to use and maintain the water pipeline which parallels and follows the road as well which easement does not further burden the servient estate created by the road easement.

6. Park City Municipal Corporation obtained and holds an easement by necessity to access and to maintain such assess to the real property described in No. 2 above quieted to it.

7. Park City Municipal Corporation obtained and holds a easement by necessity for water lines leading to the real property quieted to it.

15. Easement and right of way for a dirt road as presently existing over, along and across said property as disclosed by a mining plat of said property.

16. Easement for ingress and egress and mineral reservations contained in those certain Quit Claim Deeds by Bonnie Mae Averett McSparron, and Marjorie Jean Tabor, recorded June 17, 1981, as Entry No. 180757 and 180756, in Book M190 at Pages 414 and 412, respectively, set forth as follows:

Further excepting and reserving unto Grantor and to her heirs, successors and Assigns, the right to use the Woodside road as means of ingress and egress to and from the above described parcel of land reserved by Grantor, which road is presently a dirt road which traverses the Alice Claim and Leads from King's Road in Park City, Utah, to a water tank situated in the Southeastern portion of said Alice Claim, and which dirt road is adjacent to the Easterly boundary line of the above described parcel of land reserved by Grantor.

Further excepting and reserving unto Grantor and to her heirs, successors and assigns, all of Grantor's right, title and interest in and to all ores, minerals, and mineral rights of every kind and description in, under and to the Alice Claim, together with the right to extract, remove and sell the same, but not the right to enter for such purposes upon the surface of the portion of the Alice Claim that is conveyed to Grantees by this deed.

17. Said property is located within the Park City Neighborhood Development Plan as set forth in Ordinance 82-3, recorded February 16, 1982, as Entry No. 188603, in Book 212, at Page 148, and Redevelopment Area as disclosed on plat recorded April 15, 1983, as Entry No. 204659, Summit

Commitment - Schedule B 2
Page 3 of 4

This commitment is invalid unless the insuring provisions and Schedules A and B are attached.

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County Recorder's Office.

Amendment to Park City Neighborhood Development Plan, recorded November 2, 1990, as Entry No. 332260, in Book 585, at Page 147, Summit County Recorder's Office.

18. Said property is located within the boundaries of the Snyderville Basin Water Reclamation District and is subject to charges and assessments levied thereunder.

19. (AFFECTS PARCEL 1)

Said property is located within the boundaries of PARK CITY, SUMMIT COUNTY LEVY, WEBER BASIN WATER CONSERVANCY DISTRICT, SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT, PARK CITY FIRE PROTECTION DISTRICT, PARK CITY SCHOOL DISTRICT, PARK CITY WATER SERVICE DISTRICT and is subject to charges and assessments levied thereunder.

20. (AFFECTS PARCEL 2)

Said property is located within the boundaries of PARK CITY, SUMMIT COUNTY LEVY, WEBER BASIN WATER CONSERVANCY DISTRICT, SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT, PARK CITY FIRE PROTECTION DISTRICT, PARK CITY SCHOOL DISTRICT, PARK CITY WATER SERVICE DISTRICT and is subject to charges and assessments levied thereunder.

NOTE: THE FOLLOWING NAMES HAVE BEEN CHECKED FOR JUDGMENTS:

Frank Dotson

Frank E. Dotson

Jerry Fiat

John Pellouchoud

NO UNSATISFIED JUDGMENTS HAVE BEEN FILED IN THE PAST EIGHT YEARS.

From: [Nick Frost](#)
To: [Lillian Zollinger](#)
Subject: [External] RE: Parcels PC-850-2 and PC-850-3 Variances
Date: Wednesday, November 1, 2023 3:50:39 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[Alice Claim - Slope.pdf](#)

[CAUTION] This is an external email.

Lillian,

Please see the attached Slope Analysis, which was submitted as part of the Alice Claim Subdivision approval and reflects the road/driveway area. Looks like it is in the same slope range as the remaining portion of the road and Alice Court. Please note that this is not our form/survey (just part of the public record for Alice Claim) and is meant to be informative only. Should the variance be granted and the applicants move forward with additional approval processes at the City, additional slope analysis surveys, massing, etc. shall be conducted and provided.

Best,

NICK FROST

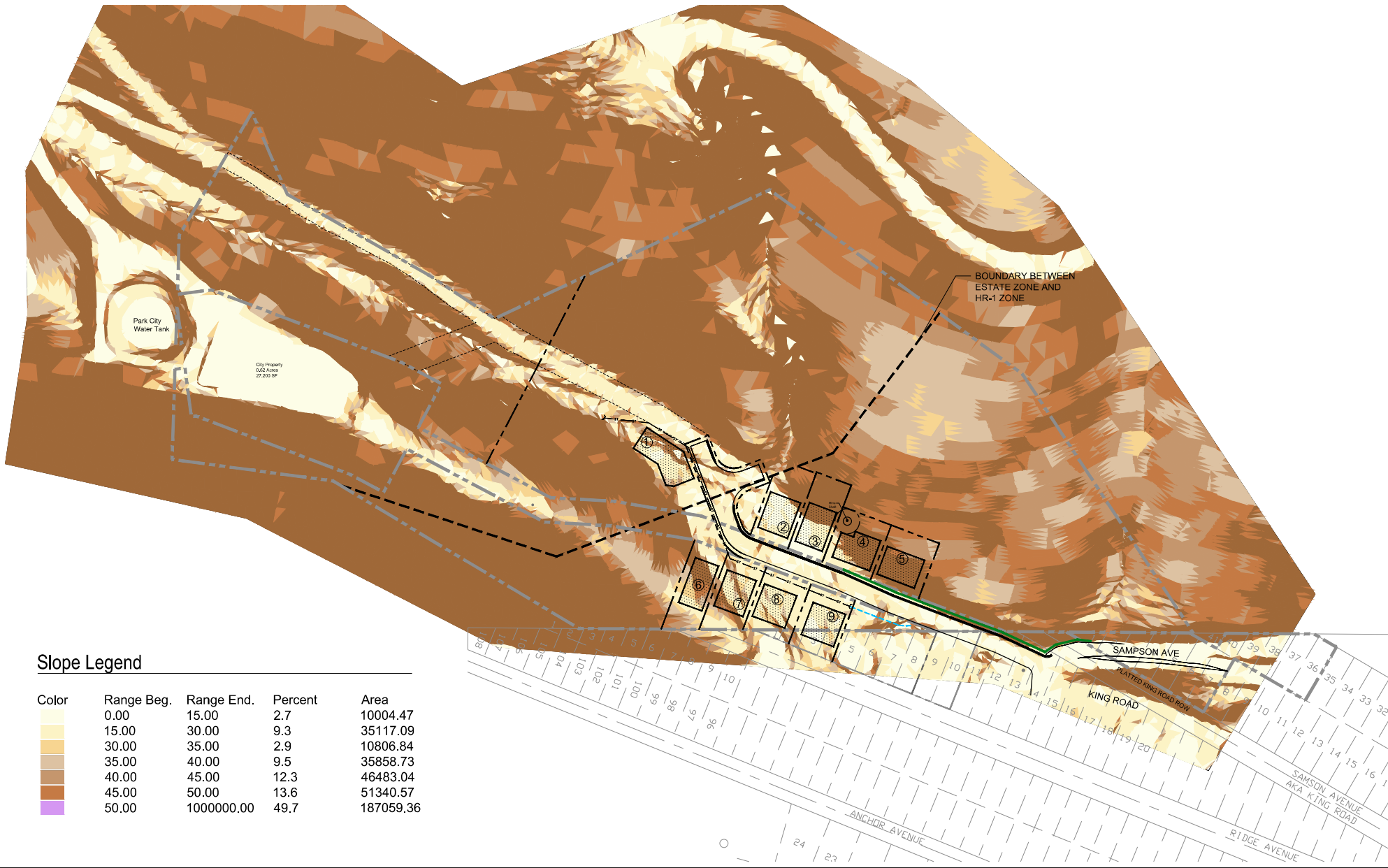
435-901-2995

frost@rosingdavidson.com

136 Heber Ave, Suite 205 Park City, Utah 84060



ROSING
DAVIDSON
FROST



Slope Legend

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

ALICE CLAIM

SLOPE ANALYSIS

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



0 10 50
 5 30 100
 SCALE: 1"=50'-0"
 DATE: FEBRUARY 10, 2017

