

PARK CITY MUNICIPAL CORPORATION  
PLANNING COMMISSION MEETING MINUTES  
COUNCIL CHAMBERS  
MARSAC MUNICIPAL BUILDING  
APRIL 9, 2014

COMMISSIONERS IN ATTENDANCE:

Chair Worel, Preston Campbell, Stewart Gross, John Phillips, Adam Strachan, Clay Stuard

EX OFFICIO:

Planning Director; Planning Manager, Kayla Sintz; Kirsten Whetstone, Planner; Francisco Astorga, Planner; Ryan Wassum, Planner; Christy Alexander, Planner; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING

**ROLL CALL**

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

**ADOPTION OF MINUTES**

March 26, 2014

Chair Worel referred to page 4 of the Staff report, page 2 of the minutes, following Public Input. She noted that the word **the** was added twice at the end of the second line and one should be removed.

Chair Worel referred to the last paragraph on page 4 of the Staff report, page 2 of the minutes, line 12 of the last paragraph, and corrected Mr. Wilson to correctly read, **Ms. Wilson**.

MOTION: Commissioner Gross moved to APPROVE the minutes of March 26 as amended. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

**PUBLIC INPUT**

There were no comments.

**STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES**

Planning Manager Sintz wanted to know how many Commissioners would be attending the joint City Council/Planning Commission meeting for the Bonanza Park and Form Based Code. The noon session would be a refresher course on the Form Based Code and everyone was invited to attend. The proposed start time for the actual meeting was 6:00 p.m.

Commissioner Strachan understood that Treasure Hill would be coming back to the Planning Commission and he asked if there was a proposed time frame. Planning Manager Sintz assumed that within the next two months the applicant would have an open house to re-introduce the project. The Planning Commission would first see the project in work session format and start from the beginning. The Staff will keep the Planning Commission updated on timing. Commissioner Strachan remarked that the Staff previously provided the Commissioners a disc with the complete history, all of the documents of the original MPD and all the Staff reports and the meeting minutes. He still had his disc and offered to loan it to the Staff to copy for the new Commissioners.

Commissioner Gross noted that the Kimball Arts Center has discussed an appeal. He asked if that would be coming up this month. Assistant City Attorney McLean explained that what the Kimball Arts Center was applying for falls within the Historic District under an allowed use. However, any allowed use requires an interpretation of the LMC by Staff; and any appeal of the Staff decision goes to the Planning Commission as the appeal authority. Since the Planning Commission could be in the position to act as a judge in a quasi-judicial hearing, they should not accept any emails or engage in any other ex-parte communication regarding the matter.

Commissioner Strachan asked if the Planning Commission would be the final appellate authority or if it would go on to City Council. Ms. McLean stated that the Planning Commission would be the final authority. Any appeal of the Planning Commission decision would go to the District Court. Commissioner Strachan asked if they could tell people who approach them to talk to their City Council member. Ms. McLean assumed that the public could talk to the City Council regarding their concerns; however, she understood that the public had the opportunity to be heard during the Historic District Design Review on March 31<sup>st</sup>. Once a decision is made, the Historic District Design review or issues related to the LMC have the ability to be appealed. In order to follow the system, Ms. McLean preferred that they advise people who approach them to contact the staff.

Commissioner Gross noted that the Planning Commissioner needed to appoint a Planning Commission liaison to replace him on the COSAC committee, as well as a second person to be an alternate. Commissioner Strachan offered to be the alternate. Commissioner Gross offered to provide more detail to any of the Commissioners who might want to consider replacing him as the liaison.

Board Member Campbell disclosed that he would be recusing himself from the 300 Deer Valley Loop matter and Echo Spur Subdivision due to professional relations with both projects.

**CONTINUATIONS – Public Hearing and Continuation to date specified.**

Round Valley Park City Annexation – Annexation of 1,368 acres located in Sections 28, 33, 34 and 35 T1SR4E and Sections 2 and 3, T2SR4E East of US 40 and North of SR248, requested zoning is ROS, Recreation Open Space (1,363 acres) and LI, Limited Industrial (5 acres).

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

MOTION: Commissioner Strachan moved to CONTINUE the Round Valley Park City Annexation to May 14, 2014. Commissioner Stuard seconded the motion.

VOTE: The motion passed unanimously.

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

**1. 520 Park Avenue – Steep Slope Conditional Use Permit  
(Application #PL-14-02242)**

Planner Ryan Wassum reviewed the request for a Steep Slope CUP for a new single family home with a proposed square footage of 4,015 square feet on a vacant 3,704.2 square foot platted lot located at 520 Park Avenue. Since the total floor area exceeds 1,000 square feet and construction is proposed on a slope of 30% or greater, a conditional use permit is required.

Planner Ryan stated that the plans were reviewed under the LMC criteria for a steep slope CUP and the Staff found no unmitigated impacts with this application. A Historic District Design Review pre-application was also reviewed concurrently by Staff and the design was found to comply with the Guidelines.

The Staff recommended that the Planning Commission review the application for a Steep Slope CUP at 520 Park Avenue and conduct a public hearing based on the Findings of Fact, Conclusions of Law and Conditions of Approval.

Craig Kitterman, the project architect, and Hal Timmons, representing the owner, were available to answer questions.

Chair Worel asked how the shed from an adjoining property that encroaches 45 square feet on the northwest corner was mitigated. Mr. Timmons replied that he has spoken with the neighbor in the back, and there is mutual agreement for an encroachment agreement to allow the encroachment as a condition to recording the plat. Mr. Timmons stated that it was a simple, straightforward agreement and he expected to have it next week.

Commissioner Strachan asked if the 10' stepping requirement applied. Planner Wassum stated that the 10' stepping requirement did apply and it was reflected under the Analysis Section on page 20 of the Staff report. He indicated on the elevation drawings where the stepping would occur. Commissioner Strachan assumed the stepping did not have to occur earlier because the first story was completely below grade. Planner Wassum replied that this was correct.

Chair Worel opened the public hearing.

Hope Melville, a resident at 527 Park Avenue, was concerned with the parking requirements for the structure. The building itself appears to be compatible with the neighbor; however, she counted eight bedrooms in the 4,000 square foot structure. When the owner advertises for nightly rentals they would be able to advertise that the house is suitable for groups of at least 20 people. Ms. Melville thought more than the two parking spaces proposed should be required. She believed the two parking spaces came from the proposal last year to build on two lots. In that proposal two parking spaces were required for each lot. The two lots were combined into one lot to build one larger building and only two parking spaces are required. Ms. Melville thought it would create an undue burden on the neighborhood when the house is fully occupied. In her opinion it was more of a lodge or business than a single family residence. Ms. Melville understood that when the building is licensed for nightly rental, the Building Department gives out the requested number of parking permits to park on the street. She did not think it was right to give parking permits for a building that was designed with inadequate parking. Ms. Melville hoped they would find a way to mitigate an excessive parking situation on the street.

Ruth Meintsma presented images she had prepared to support her comments on the exterior of the structure. She commented on the front yard topography and noted that Finding #17 mentions site grading, Finding 19 mentions streetscape, and Finding #20 mentions natural topography. Ms. Meintsma had concerns with regaining the front topography. The shoulder is currently 5' and because it is outside of the lot line that type of shoulder on a steep slope often gets widened. Due to the amount of excavation

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proposed for this project, she weet

Commissioner Phillips concurred with Commissioner Stuard.

Commissioner Strachan asked if the driveway would need to have a bridge or if they would backfill between the final grade and where the garage comes in. Mr. Kitterman replied that they were planning to backfill.

Mr. Kitterman stated that they were not opposed to returning the front yard to the existing grade. The retaining wall is to allow access to the front door. The intent is to return to existing grade rather than filling along the front of the house.

Planning Manager Sintz stated that the City Engineer would review the grading at the shoulder. He would review the driveway grade as well. Both items would be reviewed at the building permit issuance. Also, a complete landscape is also required for a building permit.

Commissioner Campbell was concerned after hearing that people in nightly rentals could obtain an unlimited number of parking passes. The neighbors should not be negatively impacted because the City has a bad policy in issuing parking passes. Planning Manager Sintz clarified that no one is allowed unlimited parking passes. If the Commissioners were interested, Kent Cashel could attend a future meeting to explain the process. Ms. Sintz stated that the City was currently looking at the impacts of parking in Old Town and they are very sympathetic to the process.

Commissioner Campbell thought the problem should be fixed; however, he did not believe it should be fixed with this application and the project denied because of the parking.

Chair Worel asked if the encroachment agreement needed to be included in the Conditions of Approval. Planner Astorga stated that he was the project planner for the plat and the encroachment agreement was a specific condition of approval of the plat. He did not believe it was necessary to add it again.

Commissioner Phillips referred to the rock wall and requested that the applicant find a way to fade it out and make it look more natural.

**MOTION:** Commissioner Strachan moved to APPROVE the Steep Slope Conditional Use Permit for 520 Park Avenue in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the Staff report. Commissioner Phillips seconded the motion.

**VOTE:** The motion passed unanimously.

Findings of Fact – 520 Park Avenue

1. The property is located at 520 Park Avenue.
2. The property is described as a resubdivision of Lot 44 and part of Lot 43, in Block 9 of the Park City Survey. The lot is a 50' by 75' "Old Town" lot and contains 3,704.2 sf of lot area. The allowable building footprint is 1504.3 sf for a lot of this size. The proposed building footprint is 1,503 sf.
3. The site is not listed as historically significant on the Park City Historic Sites Inventory and there are no structures on the lot.
4. The property is located in the HR-2, Subzone A, zoning district, and is subject to all requirements of the Park City Land Management Code (LMC) and the 2009 Design Guidelines for Historic Districts and Historic Sites.
5. Access to the property is from Park Avenue, a public street. The lot is a downhill lot.
6. 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.
7. The neighborhood is characterized by primarily historic and non-historic single family and duplex houses. Commercial lots and structures on Main Street back to the rear yard.
8. A Historic District Design Review (HDDR) application was reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009. The design was found to comply with the Guidelines.
9. The lot is an undeveloped lot containing primarily grasses, weeds, and shrubs that are not classified as significant vegetation.
10. There is a 45 sf shed encroachment in the northeast corner of the lot from the adjacent property that currently exists.
11. The proposed design is a single family dwelling consisting of 4,015 square feet of living area (including the 288 sf single car garage) with a proposed building footprint of 1,503 sf.
12. The driveway is proposed to be a maximum of 12 feet in width and 20 feet in length

from the edge of the street to the garage in order to place the entire length of the second parking space entirely within the lot. The garage door complies with the maximum width and height of nine feet (9').

13. The proposed structure complies with all setbacks.

14. The proposed structure complies with allowable height limits and height envelopes for the HR-2A zoning as the three (3) story split-level house measures less than 27 feet in height from existing grade, the structure is less than the maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters, and the design includes a 10 foot step back at a height slightly below 23 feet.

15. The proposal, as conditioned, complies with the Historic District Design Guidelines as well as the requirements of 15-5-5 of the LMC.

16. The proposed materials reflect the historic character of Park City's Historic Sites, incorporating simple forms, unadorned materials, and restrained ornamentation. The exterior elements are of human scale and the scale and height follows the predominant pattern of the neighborhood, in particular the pattern of houses on the downhill side of Park Avenue.

17. The 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 the foundation, roofing, materials, as well as window and door openings. The single car attached garage and off-street parking area also complies with the Design Guidelines and is consistent with the pattern established on the downhill side of Park Avenue.

18. No lighting has been proposed at this time. Lighting will be reviewed at the time of the building permit for compliance with the Land Management Code lighting standards.

19. The applicant submitted a visual analysis/ perspective, cross canyon view from the east, and a streetscape showing a contextual analysis of visual impacts on adjacent streetscape.

20. There will be no free-standing retaining walls that exceed six feet in height with the majority of retaining walls proposed at four feet (4') or less. 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.

21. The site design, stepping of the building mass, articulation, and decrease in the allowed difference between the existing and final grade for much of the structure mitigates impacts of construction on the 30% slope areas.

22. The plans include setback variations, increased setbacks, decreased building heights and an overall decrease in building volume and massing.

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

24. The garage height is 28.25 feet on a downhill lot; garage height may exceed up to 35' on a downhill lot subject to Planning Director approval.

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 – 520 Park Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.3-7(B).

2. The CUP, as conditioned, is consistent with the Park City General Plan.

3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.

4. The effects of any differences in use or scale have been mitigated through careful planning.

#### Conditions of Approval – 520 Park Avenue

1. All Standard Project Conditions shall apply.

2. No Building permit shall be issued until the Plat has been recorded.

3. City approval of a construction mitigation plan is a condition precedent to the

issuance of any building permits. The CMP shall include language regarding the method of protecting the historic house to the north from damage.

4. 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.
5. 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.
6. A final Landscape Plan shall be submitted to the City for review prior to building permit issuance. Such plan will include water efficient landscaping and drip irrigation. Lawn area shall be limited in area.
7. If required by the Chief Building Official based on a review of the soils and geotechnical report submitted with the building permit, the applicant shall submit a detailed shoring plan prior to the issue of a building permit. If required by the Chief Building Official, the shoring plan shall include calculations that have been prepared, stamped, and signed by a licensed structural engineer. The shoring plan shall take into consideration protection of the historic structure to the north.
8. This approval will expire on March 26, 2015, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by the Planning Director.
9. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission and the Final HDDR Design.
10. All retaining walls within any of the setback areas shall not exceed more than six feet (6') in height measured from final grade, except that retaining walls in the front yard shall not exceed four feet (4') in height, unless an exception is granted by the City Engineer per the LMC, Chapter 4.
11. Modified 13-D residential fire sprinklers are required for all new construction on this lot.

12. All exterior lighting, on porches, decks, garage doors, entryways, etc. shall be shielded to prevent glare onto adjacent property and public rights-of-way and shall be subdued in nature. Light trespass into the night sky is prohibited. Final lighting details will be reviewed by the Planning Staff prior to installation.

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

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

Chair Worel announced a change in the agenda and moved 300 Deer Valley Loop to the next item since they were continued from the last meeting.

**2. 300 Deer Valley Loop Road, Roundabout Condominiums – Condominium Plat Amendment (Application PL-13-02147)**

Commissioner Campbell recused himself and left the room.

Planner Christy Alexander reported that the Planning Commission reviewed this item on March 12<sup>th</sup> and after considerable discussion the Commissioners had concerns regarding the nature of development on the slope, as well as the drawings that were presented. Since then the applicant had submitted updated drawings and the Staff report was also updated since the March 12<sup>th</sup> meeting. The changes were highlighted in the Staff report for this meeting. The applicant also submitted the geo-technical report and additional information regarding the height and retaining walls. Planner Alexander presented the updated plat and the floor plans, as well as the height and setbacks.

Blake Henderson, the applicant, clarified that his request was to remove a lot line on two different lots. It is a center lot line and he owns both sides of the property. The reason for removing the lot line is to put in a fully subterranean underground garage, which would provide many benefits to the community, the City and the developer. Mr. Henderson stated that the drawings were updated to be architecturally clear on what he was trying to do, and to demonstrate the benefits of having an underground garage. Mr. Henderson presented a slide showing the proposed project, as well as what was currently approved under the developmental rights from 2007. He was not changing any of the development ideas or plans for the property. The density is one unit per every 6900 square feet. Currently approved is one unit for every 3700 square feet, which is far less than the density in the existing area. The proposed height is 22 feet,

which is less than the 32' feet allowed on the site. The proposed footprint is under the 3200 square feet that was approved. One larger subterranean garage across both lots boundary lines allows for considerably more parking spaces. For four units there would be 14 underground and completely hidden parking areas for the owners and visitors. In terms of the architecture, being able to put a full story underground allows more setback and green space between Deer Valley Drive and the building. It also allows the structure to sit further up on the hill for more separation. Due to the underground garage the massing was considerably less.

Mr. Henderson stated that another benefit of the underground garage is only one driveway entering on to Deer Valley Drive to accommodate all four units. It is one driveway and one garage door. The driveway is large enough to park a full suburban completely within the property on private land. It is a flat driveway with significant visibility going up and down Deer Valley Drive. Most of the hillside would be retained by the majority of the structure. Therefore, there would be very limited exposed retaining walls along Deer Valley Drive.

Mr. Henderson stated that the current proposal versus what was already approved is a benefit to the community and the City.

Commissioner Stuard asked Mr. Henderson to walk them through the geo-technical report and the recommendations for the grading process, temporary shoring and other related issues. Mr. Henderson was not prepared to comment on the geo-technical report because it is not his area of expertise. It was a licensed geo-tech report and he intended to build to the structural demands. Mr. Henderson trusted the report because it was done by professionals.

Commissioner Stuard stated that he has read a few geo-technical reports over the years and this one read very cautious. The report recognizes that it is a very steep slope and there could potentially be sliding problems, and having to use blasting or chipping techniques which could cause sliding. The report recommends temporary shoring. Commissioner Stuard believed that if Mr. Henderson was more familiar with reading the report he would appreciate the degree of risk involved in the excavation not only to those working on the property but also to the adjacent properties around it. Commissioner Stuard strongly recommended that Mr. Henderson have a geo-tech expert on the site at all times during the excavation and during the foundation work until the retaining wall is completely backfilled and drained appropriately. He believed this was a potentially dangerous situation.

Mr. Henderson understood the concern and agreed that they were making significant cuts. He stated that the property would be temporarily shored as required by the

Building Department. They would also intend to do permanent shoring for the project. The issues have been taken into consideration and they would follow whatever the Building Department requires for safety when excavating and shoring the hillside.

Planning Manager Sintz stated that Mr. Henderson would not be able to obtain a building permit without meeting all the requirements set in place by the International Building Codes

Commissioner Stuard noted that the Building Code requires a landscape bond to restore the site and re-vegetate if the developer fails to do it. In this case, it would be restoring a hillside. Planning Manager Sintz was certain that the Building Department would take that into consideration. Commissioner Stuard asked if Mr. Henderson planned to have a completion bond guarantee between himself and his general contractor. He was concerned that the excavation would occur and for unforeseen reasons the project would stop. If that happened and they encountered a rainy season where the soil gets saturated, the hillside would collapse and create a major problem. Commissioner Stuard thought it was in the best interest of the City and the developer to have some form of completion guarantee, at least until the foundation wall is completed. Ms. Sintz remarked that a completion guarantee is the purview of the Building Department and it was not relevant to the application. She was sure Mr. Henderson would meet all the requirements set forth by the Building Department.

Commissioner Gross had concerns with access and the driveway if a bus is pulled over at the bus stop. He could see problems occurring if people try to get in front of the bus to access their condo. Commissioner Gross thought a better solution would be to access off of Deer Valley Loop Road into Third Street. Planner Alexander stated that the City Engineer reviewed the access numerous times and he believed this was the best route. Deer Valley Loop is a dangerous, substandard road. Coming off of Deer Valley Road was the best compromise. Commissioner Gross thought it was the worst possible location along the entire frontage. He believed any other access would be better than what was currently shown, particularly with the bus situation.

Mr. Henderson explained the problems and safety issues of using Deer Valley Loop. He spent significant time with the City Engineer trying to determine the best access point. Mr. Henderson acknowledged that the access off Deer Valley Drive was not ideal, but it has good visibility and the driveway is flat and large enough to park a car.

Chair Worel opened the public hearing.

ReNae Rezac, City Staff, disclosed that she had received a phone call from Patricia Constable just prior to the meeting, asking about the order of this item on the agenda.

Ms. Constable lives in the area and has previously given public comment on this item. Ms. Rezac informed Ms. Constable that it was the last item on the agenda and she had not yet arrived.

Assistant City Attorney McLean suggested that the Planning Commission leave the public hearing open and delay the vote until later in the meeting to see if Ms. Constable arrives.

Commissioner Strachan supported leaving the public hearing open, but he thought the Commissioners should continue their discussion while the applicant's presentation was still fresh on their minds. They would still have the opportunity to amend their comments based on public input if necessary.

Commissioner Strachan thanked Mr. Henderson for updating the plans and providing the requested information. He also thanked Planner Alexander for highlighting the changes. Commissioner Strachan stated that the plan approved in 2007 was far worse than what was proposed today. If he had been on the Planning Commission in 2007 he probably would have looked at this application differently. Commissioner Strachan was reluctant to restrict a much better plan, but he struggled with the fact that three-quarters of the building was beneath existing grade. He has never seen such dramatic excavation on a site. Commissioner Strachan read from page 5 of the geo-technical report, "We anticipate that cuts of approximately 45 feet will be needed to accommodate the construction of the proposed building." He agreed with Commissioner Stuard that a bond or something else should be required to make sure the permanent shoring is in place first. Commissioner Strachan remarked that if the hillside slides someone would get hurt.

Mr. Henderson stated that the process is to excavate and shore, excavate and shore. Commissioner Strachan clarified that it was the permanent shoring; not temporary shoring. Mr. Henderson answered yes. He explained that they may do temporary shoring while excavating, but the permanent shoring will be placed as they excavate. He pointed out that the shoring must be done prior to the foundation. Commissioner Strachan asked how long it would take to complete the excavating and shoring process. Mr. Henderson estimated two months.

Commissioner Phillips stated that he has done this type of work as a general contractor. The process is to dig down 10 to 12 feet and then shore up the wall and continue doing that until the excavation is completed. It is a good process, it is permanent and the structure will not move. Based on his experience, Commissioner Phillips could not see any problems and he believed it was the safest way to excavate this project. He has never shored anything as large as what was proposed, but he has shored cuts that

deep. He pointed out that the total cut was 45 feet but it is done in increments. It is not one 45 foot cut. Commissioner Phillips believed the geo-tech would make site visits throughout the process because he has the liability.

Aside from the excavation, Commissioner Phillips liked the project and what the developer had done with so many other things. It was a pleasure not to have everything maxed out.

Commissioner Strachan deferred to Commissioner Phillips regarding the shoring based on his knowledge and expertise.

Commissioner Gross referred to Condition #8 and wanted to know which property would be involved in the encroachment agreement. Planner Alexander replied that it would be with the owner of 510 Ontario Avenue. Mr. Henderson explained that the hot tub at 510 Ontario currently sits on his setback.

Chair Worel stated that the Planning Commission would table further discussion on 300 Deer Valley Loop Road until the end of the meeting.

Commissioner Campbell returned to the meeting.

**3. 670 Deer Valley Loop Road – Condominium Plat Amendment**  
**(Application PL-14-02254)**

Planner Kirsten Whetstone handed out larger copies of the proposed plat, with narrative on the back side. She also provided two copies of the existing plat for reference.

Planner Whetstone reviewed the request for the first amended Portico Condominiums record of survey plat combining Units 1 and 2 of the constructed 19 unit condominium project known as the Portico Condominiums. The amended plat documents were the final as-built conditions for constructed Units 1 and 2. She noted that the record is scarce in terms of when the unit was actually combined. However, both the previous owner and the current owner purchased it when it was only one unit.

Planner Whetstone stated that the condominium project was started in 1996 with the parking structure, and the construction of the units began in 1999. The condominium plat was recorded in 2000. A clause in the CC&Rs allowed the original declarant to combine units. It is unclear which owner had made the initial request. Planner Whetstone explained that the current owner has financial issues and his bank will not lend on what appears to be two units in the recorded plat. For that reason the applicant was requesting to combine the two units into one. There would be no exterior changes

and the garage space for the two units would remain for the single unit.

Planner Whetstone reported that the Portico Condominium conditional use permit was approved in 1996 for 19 units. The unit equivalent formula was not used. The zoning is RM and a certain square footage is required for a certain number of units. The resulting 18 units would continue to comply with the conditional use permit.

Planner Whetstone stated that 15 units are constructed over a common parking garage. Unit 1, 2, 3 and 4 were each constructed as detached duplex structures. Planner Whetstone remarked that the Homeowners Association was also an applicant because of the common area between the two units. The HOA members voted and provided consent to this plat amendment. The HOA would have to sign the plat. As conditioned, the amended plat is consistent with the conditions of approval of the condominium plat and the conditional use permit.

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

Jack Johnson, representing the applicant, stated that he had prepared the amended plat. Greg Cropper, legal counsel for the applicant, believed that this was a straightforward application and his presence would be irrelevant.

Commissioner Stuard asked if there was guest parking in the project and whether amending the plat would create any guest parking issues. Mr. Cropper replied that there was guest parking in the project and each unit is allocated a certain number of parking spaces. This combined unit would have double allocation; therefore, nothing would change. Mr. Johnson noted that there would be four parking spaces and the garage for a one unit house.

Commissioner Stuard asked if the condominium plat amendment and/or the CC&Rs address the right of this unit to those parking spaces. Mr. Cropper answered yes. He explained that under the CC&Rs, the combined unit continues to be treated as two separate units for the purposes of voting, parking, and assessments. However, the plat has to show it as one unit because the lenders are not comfortable with one unit on two lots.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for the Portico Condominium Plat for Units 1 and 2, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Stuard seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 670 Deer Valley Loop Road

1. The property, Units 1 and 2 of the Portico Condominiums plat are located at 670 Deer Valley Loop Road.
2. The property is located within the Residential Medium Density (RM) zoning district.
3. On November 20, 1996, the Planning Commission approved the Portico CUP for 19 townhouse units on the 36,210 sf parcel.
4. On December 9, 1999, the City Council approved the Portico Condominiums Plat. This plat was recorded at Summit County on February 7, 2000.
5. On February 7, 2014, the Planning Department received an application for an amended condominium plat. The application was deemed complete upon receipt of the HOA letter and signature on the application.
6. The purpose of the amended condominium plat is to describe and document the as-built conditions for constructed Units 1 and 2 that were combined as proposed Unit 1.
7. No non-conforming conditions will result from this plat amendment.
8. The amended plat complies with the conditions of approval of the Portico CUP and the Portico Condominium plat and restrictions in the RM Zone.
9. Unit 1 contains a total of 2,315 square feet. Unit 2 contains 2,174 square feet, including the garage, storage area, and living area on three levels. Proposed Unit 1 contains 4,608 square feet, including the garage, storage area, living area, and all of the common walls on three levels.
10. No exterior changes are proposed.
11. The Portico Condominiums are served by common sewer laterals. The Portico Condominium HO is responsible for all sewer laterals.

12. As conditioned, this amended plat is consistent with the conditions of approval of the Portico Condominium plat.

13. Consistent with the amended Portico Condominiums CC&Rs, the HOA, by a required vote of the members, has provided consent to this plat amendment to memorialize the combination of Units 1 and 2.

Conclusions of Law – 670 Deer Valley Loop Road

1. There is good cause for this amended supplemental plat as it memorializes the as-built conditions that combined Units 1 and 2 into a single residential condominium unit.
2. The amended plat is consistent with the park City Land Management Code and applicable State law regarding condominium plats.
3. Neither the public nor any person will be materially injured by the amended plat.
4. Approval of the amended supplemental plat, subject to the conditions of approval stated below, will not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – 670 Deer Valley Drive Loop

1. The City Attorney and City Engineer will review and approve the final form of the supplemental 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 a Summit County within one (1) year from the date of City Council approval. If recordation has not occurred within the one year time frame, this approval will be void, unless a complete application requesting an extension is granted by the City Council.
3. All conditions of approval of the Portico Condominium CUP and of the Condominium plat, recorded at Summit County on February 7, 2000, shall continue to apply, and shall be noted on the amended plat.
4. **491 Echo Spur – Steep Slope Conditional Use Permit**  
**(Application PL-14-02276)**

Commissioner Campbell disclosed that he has an interest in another property on the

street and that project that was also on the agenda. However, after speaking with City Attorney Mark Harrington, they determined that there was no direct relationship between the two projects and he would not have to recuse himself on this matter. It would not affect his ability to fairly vote on this item.

Planner Francisco Astorga reported that this property was formerly known as 489 Echo Spur. However, the City Engineer, Matt Cassel has identified the address as 491 Echo Spur.

Planner Astorga reviewed the application for a Steep Slope Conditional Use Permit for construction on a steep slope, since a portion of the structure and a large portion of the access falls under the LMC requirements that trigger a review by the Planning Commission. Planner Astorga introduced the owner and applicant, Leeto Tlou, and the project architect, Scott Jaffa.

Planner Astorga was prepared to answer questions regarding the Staff analysis on pages 82 and 83 of the Staff report, as well as the Steep Slope Conditional Use Criteria beginning on page 83.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the steep slope conditional use permit in accordance with the Findings of Fact, Conclusions of Law and Conditions of Approval outlined in the Staff report.

Chair Worel opened the public hearing.

Alex Butwinski noted a reference in the Staff report indicating that this had gone to the City Council on the issue of breaking the ridgeline. He stated that it came before the City Council and because the ridgeline was poorly defined in the LMC, they determined that this application should move forward. Mr. Butwinski reminded the Commissioners that ridgeline was still clearly undefined in the LMC and he urged them not to revisit the ridgeline discussion. Mr. Butwinski thought the project was well-designed.

Chair Worel closed the public hearing.

Assistant City Attorney McLean reminded the Commissioners that they should focus their discussion on the application for a steep slope CUP and it should be reviewed against the criteria outlined in the Staff report.

Commissioner Strachan read from page 85 of the Staff report under Dwelling Volume. "The proposed structure is both horizontally and vertically articulated and broken

into compatible massing components. The design includes setback variations and lower building heights for portions of the structure.” He asked Planner Astorga to point out where the specific articulation was on the structure and the setback areas. Planner Astorga reviewed the west elevation. He explained that his intent for including the language in the Staff report was to say that it was not one big box. He identified a series of different planes that were broken up vertically and horizontally.

Mr. Jaffa stated that the project meets or exceeds all the design requirements in the Land Management Code, including the setbacks on the third floor from the inside walls. They were working with different materials. The chimney are used as the vertical stone element. A third chimney on the front of the house will house the mechanical equipment. Mr. Jaffa indicated a single-story transitioning down to a two story on the west elevation. Shed roofs were used to articulate the façade. Down the backside of the third floor there is a step back of more than 10’ off of the elevation. Mr. Jaffa commented on the different elements that provided significant undulation going vertically and horizontal on all sides. Planner Astorga concurred with Mr. Jaffa’s analysis.

Commissioner Stuard thought the element that made the building look tallest was the fireplace that runs from the lowest level above the highest roof on the north elevation. It was all stone and all the same dimension. He appreciated that it was an expensive element to construct; however, since this was on the end of Echo Spur and visible from Deer Valley and the roundabout, he suggested that the building might look less tall by eliminating the full height of the chimney, and instead using a direct vent fireplace for the mid-level master bedroom.

Mr. Jaffa stated that it was strictly an architectural element so they could consider Commissioner Stuard’s suggestion. Commissioner Stuard liked the design but he thought removing the chimney would give the elevation a lower profile visible from Deer Valley.

Commissioner Phillips concurred with Commissioner Stuard about lowering the chimney. He suggested lowering it to the same elevation as the chimney on the backside.

Mr. Jaffa stated that he was willing to consider it as long as it did not result in a long flat wall without any articulation. If the chimney height is lowered he would still be able to do a direct vent, but the intent of the design was to break up the roof massing with vertical elements. Commissioner Stuard believed that lowering the chimney and using direct vent would be a good solution.

Commissioner Gross asked if the retaining wall that was showing was the existing retaining wall. Planner Astorga answered yes.

Commissioner Strachan thought this was the first project caught between the newly passed General Plan and the existing LMC, which does not yet mirror the new General Plan. The problem is that the Planning Commission was required to make a conclusion of law that the project complies with the General Plan. He always looks at the purpose statement of the District, and one of the purpose statements of the HR-1 is to encourage construction of historically compatible structures. Commissioner Strachan noted that the newly approved General Plan addresses that issue, but he was unsure how to apply it to this application. He read from the General Plan because he believed it epitomizes this project. "21st century real estate demands and modern family necessities have threatened the historic urban fabric. To meet these demands, lot combinations have become common practice to accommodate larger residential structures and additions." Commissioner Strachan pointed out that the Planning Commission approved a lot combination that was overturned by the City Council.

"The resulting incremental changes have caused increased adverse effects on the historic pattern and aesthetic of the Old Town neighborhood. Although there are many influencing factors to compatibility, lot combinations are a major factor that must be reassessed by the Planning Commission to create new regulations to prevent further negative impacts to the fabric of the neighborhoods." The General Plan further states, "The built environment of the local historic districts should stay true to its architectural roots, specifically relative to the integrity, mass, scale and historic fabric of the mining boom era (1872- 1929)."

Commissioner Strachan noted that former Commissioner Savage consistently said that imposing historic district constraints on people would decrease the property value. He noted that the General Plan also speaks to that issue. With the restrictions placed on historic districts for limiting alterations, compatibility of additions, and prohibiting demolitions, the question often arises of whether or not owning property in a historic district is economically beneficial compared to owning property outside of a historic district. Fearing a loss of property rights, many owners within historic neighborhoods are opposed to being included in a locally or federally designated historic district. The question of value has been studied within many communities of the United States with consistent findings of higher valuations within historic districts."

Commissioner Strachan remarked that the project complies with the LMC, but from his reading it does not comply with the General Plan.

Assistant City Attorney McLean remarked that the new General Plan was adopted on

March 6<sup>th</sup>. This application was dated March 7<sup>th</sup> and; therefore it is subject to the new General Plan. Ms. McLean stated that if a project complies with the LMC but it is in conflict with the General Plan, the more restrictive document controls. In this case it would be the Land Management Code.

Commissioner Strachan agreed, but he could not make the required finding that it complies with the General Plan. Ms. McLean suggested that they amend the conclusion of law to say that it complies with the LMC. Commissioner Strachan noted that the purpose statement says that the project also has to comply with the General Plan. Ms. McLean thought they could wordsmith it to say that it complies with all the requirements of the Land Management Code, which is an embodiment of the General Plan. Commissioner Strachan was not comfortable with that approach. All other Steep Slope CUP approvals have had the Conclusion of Law that it is consistent with the General Plan.

Planner Astorga pointed out that the Planning Commission would encounter this issue with every application until the LMC is updated to match the newly approved General Plan.

Commissioner Strachan stated that he would not approve a Steep Slope CUP that does not comply with the General Plan. He would defer to the other Commissioners on whether or not to take the legal advice and amend the Findings and Conclusions.

Commissioner Stuard thought the issue of the LMC not matching the General Plan needed to be addressed by the City Council. The Planning Commission could potentially vote no on every application between now and when the LMC is amended based on the issue of finding compliance with the General Plan. He asked if there was a process for requesting that the City Council pass an ordinance stating that the Planning Commission is not required to find that applications are in compliance with the General Plan when they could not, even if they comply with the LMC.

Assistant City Attorney McLean understood the difficulty because it was in transition. However, she felt it was possible to make findings based on the LMC, which is the stricter document.

Commissioner Campbell was concerned that they were giving the implication that the LMC is defective. He thought it was absurd to imply that this house was sneaking through a window of opportunity, and that six months from now when the LMC is updated these types of houses would no longer be allowed.

Commissioner Strachan stated that it was a chicken and egg syndrome because the lot

combination triggers the incompatible homes. Commissioner Campbell stated that if the intent is to have fewer people living in the same space, he could not understand Commissioner Strachan's opposition to combining lots. Commissioner Strachan believed it required a much broader discussion outside of this project. The lot was already combined because when the Planning Commission unanimously forwarded a negative recommendation it was overturned by the City Council. The Council passed an ordinance to combine the lots. Assistant City Attorney stated that based on that action, the applicant was already vested with the lot size and the associated footprint.

Commissioner Stuard asked if language could be added to Conclusion of Law #2 stating that the application is consistent with the Park City General Plan that existed at the time the lot combination was approved.

Planner Astorga understood from the comments that it was the plat amendment and not the Steep Slope CUP that was inconsistent with the General Plan. Commissioner Stuard thought Commissioner Strachan was referring to the scale and mass of the structure.

Assistant City Attorney McLean recommended that they revise the language to say that the Steep Slope CUP is consistent with the Park City General Plan that was in place at the time of approval, and add an associated Finding with the specific footprint based upon the lot size. Commissioner Stuard thought the City Legal Department should draft language that would keep the Planning Commission from having to make findings that were not necessarily true.

Commissioner Phillips agreed that the City needed to come up with a short term solution until the LMIC is updated. He suggested a joint work session discussion with the City Council to resolve the problem, because the Planning Commission will encounter the same issue with nearly every application.

Commissioner Strachan thought a better approach was to give it to the City Council and let them decide how the Planning Commission should proceed with future applications. Commissioner Strachan did not want to forward a positive recommendation to the City Council and have them assume that everything was fine. The Council needed to be made aware of the situation and to address the issue.

Assistant City Attorney McLean stated that this application was a Steep Slope CUP and the Planning Commission would make the final decision. She noted that City Council Member Henney was present this evening as the City Council Liaison.

Council Member Henney stated that he had heard their comments and concerns and

he would take the issue to the City Council. He noted that the General Plan was the visioning document and the LMC was the code and ordinance document. As it stands today, he personally felt that the LMC was the guiding document.

Planning Manager Sintz understood that Commissioner Strachan had an issue with Conclusion of Law #3 regarding compatibility with the neighborhood. She pointed out that a requirement in the HR-1 zone is to be compatible in size and scale with the surrounding structures. She stated that if the lot combination created a size for the structure, in working with the Planner the applicant came with up a successful design that is compatible with this portion of the neighborhood.

Commissioner Strachan did not disagree. However, the problem is that the new General Plan is clear that it is tied to the LMC definition of Historic District. During the General Plan re-write they decided to take a more holistic approach to the compatibility analysis and not look only at the houses in the immediately surrounding area. They decided to look at all of the homes in the Historic District of greater Main Street and Old Town and impose that rubric on the compatibility analysis. Commissioner Strachan agreed that the proposed home was compatible with the surrounding structures, but it was not compatible with the structures in Daly Canyon. That was his view of how they address compatibility. Commissioner Strachan acknowledged that his concern was the dwelling volume requirement of the Code. They have never looked holistically at the compatible analysis and at the dwelling volume requirement on the basis of an Old Town lot.

Planning Sintz remarked that another possible outcome would be for the HR-1 zone to be taken out of the Historic District because it is not compatible. Commissioner Campbell asked if the HR-1 could be treated as a transitional neighborhood as opposed to removing it. Ms. Sintz believed that was a philosophical question.

Planner Astorga recalled that when the Planning Commission was entertaining a positive recommendation, they had drafted a condition of approval for a house limitation, but that was eventually dropped because of the ridge discussion. Planner Astorga had included the limitations in the Staff report, because as proposed, the structure meets the limitations that the Planning Commission had considered putting on the plat.

Chair Worel believed there was consensus regarding the inconsistency between the LMC and the General Plan. The challenge was to decide how to move forward this evening. She took a straw poll of the Commissioners regarding revisions to Conclusion of Law #2.

Commissioner Stuard thought that revising the language identifies the conundrum. If they strike it, it would be forgotten. The Commissioners concurred. Commissioner Stuard believed the applicant would prefer the language to remain as written because everyone wants to know that their use is consistent with the General Plan. However, he was unsure how that could be accomplished under the newly adopted General Plan.

Chair Worel clarified that the proposed wording for Conclusion of Law #2 would be, "...is consistent with the General Plan that existed at the time the lots were combined." Assistant City Attorney McLean was comfortable with the language.

MOTION: Commissioner Phillips moved to APPROVE the Steep Slope Conditional Use Permit for 491 Echo Spur, based on the Findings of Fact, Conclusions of Law and Conditions of Approval in the draft ordinance, and with the amendment to Conclusion of Law #2. Commissioner Campbell seconded the motion.

VOTE: The motion passed 5-1. Commissioner Strachan voted against the motion.

#### Findings of Fact – 491 Echo Spur

1. The property is located at 491 Echo Spur.
2. The property is located in the Historic Residential (HR-1) District.
3. The property, Lot A of the Lot 17, 18, and 19 Echo Spur Redevelopment Replat.
4. The lot contains 5,625 square feet.
5. A single family dwelling is an allowed use in the HR-1 District.
6. The proposed structure is 2,701 square feet in terms of gross residential floor area.
7. The proposed upper floor is 640 square feet in size.
8. The proposed garage is 596 square feet in size.
9. The main level is 1,865 square feet.
10. The basement level which does not count as gross residential floor area is 2,017 square feet in size.
11. The maximum building footprint for the lot is 2,050 square feet.

12. The proposed structure building footprint is 2,049 square feet.
13. The minimum front/rear setbacks are ten feet (10').
14. The front/rear yard setbacks are ten feet (10').
15. The minimum side yard setbacks are five feet (5') minimum and eighteen feet (18') total.
16. The side yard setbacks on the north side are fifteen feet (15').
17. The side yard setbacks on the south side are five feet (5').
18. The maximum building height is twenty-seven feet (27') from existing grade.
19. The proposed structure complies with the maximum building height and the other building height parameters outlined in the staff report.
20. The proposed use requires two off street parking spaces.
21. The proposed structure contains a two car garage.
22. The proposed structure and driveway are located in the center of the lot. The structure has an L shaped footprint.
23. The proposed single family dwelling meets all setbacks and has increased setbacks from the minimum towards the north side yard area.
24. The driveway is placed on southeast corner, the only logical place due to the retaining walls for the Echo Spur road.
25. The proposed building coverage (footprint) is 36%.
26. The impermeable lot coverage of the proposal is approximately 41%, which include the driveway, porch/entry, building footprint, and rear deck.
27. The applicant submitted a visual analysis, including a model, and renderings showing a contextual analysis of visual impacts.

28. The proposed structure cannot be seen from the key vantage points as indicated in the LMC § 15-15-1.283, with the exception of across canyon view.
29. The cross canyon view contains a back drop of the surrounding geography which does not break the skyline. The proposed building is surrounded by undeveloped lots.
30. The project will be accessed by a concrete slab on grade off the end of built Echo Spur. The driveway leads vehicles to the west directly to the two car garage.
31. The proposed driveway is placed over gentler slopes found on site which reduces the grading of the existing topography.
32. Minor retaining is necessary to regain natural grade around the proposed structure to provide for egress on the lower level as well as the rear patio.
33. Limited retaining is being requested around the driveway located in the front yard area.
34. The proposed structure will meet the LMC development standards of retaining walls in setback areas which range from four feet (4') to the maximum height of six feet (6') above final grade.
35. The driveway access was designed to come right off the built road leading towards the two car garage.
36. The main ridge orients with the contours.
37. The size of the lot allows the design to not offend the natural character of the site as seen on the submitted model.
38. All of the Echo Spur lots on the west side of the street are vacant.
39. The proposed structure is both horizontally and vertically articulated and broken into compatible massing components.
40. The design includes setback variations and lower building heights for portions of the structure.
41. The proposed massing and architectural design components are compatible with both the volume and massing of single family dwellings and mitigates differences in

scale between proposed Structure and existing Structures in the neighborhood.

42. The height of the main ridges ranges from 20 – 26 feet above existing grade.

43. The proposed building height minimizes the visual mass of the proposed structure.

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

#### Conclusions of Law – 491 Echo Spur

1. The Steep Slope CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B).

2. The Steep Slope CUP, as conditioned, is consistent with the Park City General Plan in place at the time the three (3) lot combination was approved by the City Council in October 2013.

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 – 491 Echo Spur

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 drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers 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 and the Design Guidelines for Historic Districts and Historic Sites.

7. As part of the building permit review process, the applicant shall submit a certified topographical survey of the property with roof elevations over topographic and U.S.G.S. elevation information relating to existing grade as well as the height of the proposed building ridges to confirm that the building complies with all height restrictions.

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 9, 2015, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval is requested in writing and is granted by the Planning Director per LMCS 15-1-10(G).

10. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission, subject to additional changes made during the Historic District Design Review.

**4. Echo Spur Subdivision – Lot 21-32, Block 58, Park City Survey - Plat (Application PL-14-02292)**

Commissioner Campbell recused himself and left the room.

Planner Astorga had received public comment and it was forwarded to the Planning Commission via email this morning.

Planner Astorga presented slides of the subject property located in the same neighborhood as the previous item. He noted that it is platted as McHenry Avenue. The site consists of 12 Old Town lots of record as shown on the survey. The three lots in the 491 Steep Slope CUP were lots 17, 18 and 19. Lot 20 is owned by Mike Green, and the lots owned by this applicant, Sean Kelleher, are Lots 21 through 32.

Planner Astorga noted that three of the lots did not meet the minimum lot size due to a

2008 land dispute with the owner of a historic home. The dispute was settled and the applicant deeded the land over to the adjacent property owner. Planner Astorga reported that the remaining lots were ready to move forward with a building permit application. However, if construction takes place on a steep slope it would go before the Planning Commission for a Steep Slope CUP. All the lots are within the HR-1 District and development would have to comply with the Historic District Design Guidelines.

Planner Astorga stated that there is a potential for nine lots, or possibly twelve if a partnership should occur between the applicant and the owner of the adjacent lots to gain full control of the three lots. Another option would be to request variances if they decided to build twelve single family dwellings on 12 Old Town lots of record.

Planner Astorga noted that a different type of plat amendment was entertained in 2012 and 2013 for a different concept, which the owner was no longer pursuing at this time. The applicant was requesting to replat the property into a seven lot plat amendment. Planner Astorga stated that Lots 1, 2, 3 and Lots 6 and 7 are exactly 1.5 Old Town lots. Due to the inability to control the land, Lot 4 would be the approximate equivalent of two lots of record.

Planner Astorga reviewed the plat amendment currently being requested by the applicant, Sean Kelleher. The Staff report contained a detailed analysis of surrounding properties in the area.

The Staff recommended that the Planning Commission conduct a public hearing for the Echo Spur subdivision plat amendment and consider forwarding a positive recommendation to the City Council.

Sean Kelleher stated that he spent a lot of time with Planner Astorga looking at different accommodations and different options. On the southern lots without steep slope issues, he had considered building on the 25' x 75' lots. However, it was not a good outcome and it was almost impossible to create off-street parking. The homes were small and not a size that people would want to purchase. Mr. Kelleher that he proposed the combinations presented because they were consistent with the size of the surrounding homes. He reviewed the proposed designs. The homes sizes range from 2700 square feet for the smaller lots to 3500 square feet for the larger lots. It is a give and take with trying to solve the parking and density issues that the neighbors have asked him to address.

Commissioner Strachan asked why Mr. Kelleher decided to scrap the old plan. Mr. Kelleher replied that he was unable to get on the agenda last year in May, June and

July to present their plan. In September he was told that there would not be a quorum. That reason, combined with discussions regarding the nature of the property, including the previous property that was just approved, caused concerns about the timing to move this project forward. Mr. Kelleher stated that this project has been in progress for eight years and it was time to do something that could be agreeable to everyone and move forward.

Commissioner Strachan asked if the plan for a subterranean garage was out, in or undecided. Mr. Kelleher replied that it was out. Commissioner Strachan recalled that it was a great plan but it did not comply with the Code.

Chair Worel opened the public hearing.

There were no comments.

Chair Worel closed the public hearing.

Commissioner Gross remarked that part of the process is working things through with the applicant. He thought this project was similar to things that happened years ago. Commissioner Gross pointed out that whatever they approve or deny today might not be what they would ultimately get in the end. He felt it was an interim place. He also liked the first proposal with the underground parking; but this was a new process because they wanted to encourage smaller houses on smaller lots. Commissioner Gross was concerned about approving something without knowing what they actually approved until a year later. Most of the applicants have a year to perfect whatever was approved. Commissioner Gross was unsure what the Planning Commission was being asked to do other than to provide Mr. Kelleher with a vehicle to sell his lots. He remarked that the ridgeline was a major concern that appeared to be off the table.

Commissioner Strachan stated that his comments were the same as what he had stated for the previous item. However, there was not a Conclusion of Law for this item stating that it complies with the General Plan.

Commissioner Stuard understood that public improvements were a contentious issue in the past. He wanted to know whether the public improvement had been completed to the final specifications and whether they were accepted for continuous maintenance, or whether remedial work needed to be done.

Planner Astorga replied that the improvements were accepted by the City Council. He was not prepared to comment on the yearly maintenance; however, he believed it would be treated as any other road that was accepted by the City. Mr. Kelleher stated

that a lot of time and money was spent bringing it up to engineering and building standards, and the City Council accepted it last fall. Commissioner Stuard asked if the retaining wall was part of the public improvements. Mr. Kelleher answered yes.

Commissioner Phillips stated that the only history he knew of the project came from what he had read. He had nothing more to add to the discussion at this point.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for the Echo Spur subdivision plat amendment, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Stuard seconded the motion.

VOTE: The motion was split 2-2. Commissioners Stuard and Phillips voted in favor of the motion. Commissioners Strachan and Gross voted against the motion. Commissioner Campbell was recused.

Chair Worel stated that she also preferred the design with the underground parking. However, she could find no reason to deny this proposal. Chair Worel broke the tie and voted in favor of the motion.

The motion passed.

#### Findings of Fact - Echo Spur Subdivision

1. The property is located on Echo Spur between platted Fourth Street (Rossi Hill Road) and platted Third Street.
2. The property is in the Historic Residential (HR-1) District.
3. The property entails lots 21 – 32, Block 58 of the Park City Survey.
4. The proposed plat creates a total of seven (7) lots of record from the twelve (12) Old Town lots. Three (3) of the existing twelve (12) lots, do not meet the minimum lot size due to a 2008 property ownership dispute and settlement.
5. The subject property is vacant.
6. Lot 1, 2, 3, 6, and 7 are 2,812.5 square feet.
7. Lot 4 is 3,772 square feet.

8. Lot 5 is 3,858 square feet.
9. The minimum lot area in the HR-1 District is 1,875 square feet for a single-family dwelling.
10. The seven (7) proposed lots meet the minimum lot area for single-family dwellings.
11. The lot width of lot 1, 2, 3, 6, and 7 is thirty-seven and a half feet (37.5').
12. The lot width of lot 4 and 5 is 56.25 feet.
13. The minimum width of a lot is twenty five feet (25').
14. The seven (7) proposed lots meet the minimum lot width.
15. The maximum building footprint of any structure located on a lot is calculated according to the formula for building footprint, illustrated in Table 15-2.2 of the Land Management Code (LMC).
16. The maximum building footprint for Lot 1, 2, 3, 6, and 7 are 1,200.7 square feet.
17. The maximum building footprint for Lot 4 is 1,525.8 SF square feet.
18. The maximum building footprint for Lot 5 is 1,553.0 SF square feet.
19. Front and rear yard setbacks are determined by the depth of each lot.
20. The minimum front and rear yard setbacks are ten feet (10'). The total front/rear yard setback is twenty feet (20').
21. Side yard setbacks are determined according to the width of each lot.
22. The minimum side yard setbacks for Lots 1, 2, 3, 6, and 7 are three feet (3'). The total side yard setbacks are six feet (6').
23. The minimum side yard setbacks for Lots 4 and 5 are five feet (5'). The total side yard setbacks are fourteen feet (14').
24. Single-family dwellings are an allowed use within the district.
25. Duplex dwelling are a conditional use, which are reviewed and approved by the

Planning Commission.

26. The proposed layout of the requested plat amendment allows lot 4 and 5 to have a duplex pending Planning Commission review and approval.

27. At this time the property owner has indicated that they would build seven (7) single-family dwellings.

28. Steep Slope Conditional Use Permit (CUP) is required for any structure in excess of one thousand square feet (1,000 sq. ft.) if said structure and/or access is located upon any existing slope of thirty percent (30%) or greater.

29. The combined building footprint of the existing lot configuration is currently 9,798 square feet.

30. The combined footprint of the proposed lot configuration is 9,082.3 square feet if approved.

31. The reconfiguration of the existing twelve (12) lots into the proposed seven (7) lot configuration will reduce the overall footprint by 715.7 square feet.

32. Staff has analyzed the site and finds that when viewing the site from across canyon (or any of the other ten [10] LMC defined vantage points), at approximately the same elevation, the site is framed by the existing higher topography behind the proposed development and the skyline is not broken.

33. The average lot width on the east side of Ontario Avenue is approximately thirty-six feet (36').

34. The average lot area on the east side of Ontario Avenue (including un-platted lot is combinations) is approximately 2,800.7 square feet, which equates to 1.49 Old Town Lots

35. The lots on the east side of Echo Spur, Gateway Estates Replat Subdivision (Amended), and Silver Pointe Subdivision, also within the HR-1 District, consist of much larger lots.

36. The proposed plat amendment consists of five (5) lots containing 2,812.5 square feet and two bigger (2) lots consisting 3,772 square feet (lot 4) and 3,858 square feet (lot 5).

37. The proposed five (5) lots are 1½ Old Town lot combinations while the other two (2) bigger lots are approximately 2 (2) Old Town Lot combinations.

38. The requested plat amendment is appropriate for this new neighborhood.

39. The east side of Echo Spur, also within the HR-1 District contains significantly larger lots that yield larger structures.

40. The west side of Echo Spur, east Ontario Avenue, contains a pattern of 1½ Old Town lot combination sites.

41. The mix of lot sizes provides appropriate transition between the larger lots and home sizes on the east side of Echo Spur towards the east side of Ontario Avenue.

42. The proposed plat amendment provides a good mix of different lot sizes within Echo Spur.

43. Traffic increases will be minimized from the potential development of the twelve (12) lots as the applicant proposes to decrease the density from twelve (12) lots to seven (7) lots of record for the purpose of constructing single-family dwellings.

44. In terms of the entire street the overall density would drop from the potential of sixteen (16) Old Town lots to nine (9) Lots of record.

45. When the road and utilities were built in 2009, the topography was slightly altered. By comparing a topographic survey on file dated October 2006, the lowest elevation located on this site was 7,156 feet and the highest elevation was 7,208 feet.

46. The current survey submitted with this plat amendment application indicates that the lowest elevation is the same at 7,156 feet while the highest is 7,202 feet.

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

#### Conclusions of Law – Echo Spur Subdivision

1. The plat amendment is consistent with the Park City Land Management Code and applicable State law regarding lot combinations.

2. Neither the public nor any person will be materially injured by the proposed plat amendment.

3. 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 – Echo Spur Subdivision

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 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 foot (10') snow storage easement shall be dedicated to Park City across the lot's frontage.
4. Modified 13-d sprinklers will be required for all new construction.

Commissioner Campbell returned to the meeting.

**6. 7101 Silver Lake Drive, North Silver Lake Condominium Plat –  
Condominium Record of Survey (Application PL-14-02225)**

Planner Astorga reported that this application was originally scheduled for February 12. Due to various circumstances it was continued to February 26<sup>th</sup> and again to April 9<sup>th</sup>.

Planner Astorga reviewed the application for a condominium record of survey plat, which allows 54 units to be subdivided as they are owned. Currently, the plat that was filed in 2005 has six units and an area defined as convertible space. As conditioned in the ordinance, the applicant would retire that document if the Condominium Record of Survey is approved.

Planner Astorga noted that originally there were 16 units, of which 3 were duplexes and the remaining ten were single family dwellings. Currently, the applicant was requesting to plat 14 units around the periphery of the multi-unit dwellings in the form of one duplex and ten single family dwellings. They were also requesting to move the two remaining units inside the multi-unit dwelling. Planner Astorga had confirmed that adding the two units would not make the building larger in terms of height, footprint or square footage

because two of the other units they were planning to build would be smaller. The Staff analysis found that the project was still in compliance with the Deer Valley Master Plan and the number of units would remain at 54 units.

Planner Astorga stated that the conditions discussed during the February 26<sup>th</sup> meeting for lockout units have been incorporated into the CC&Rs.

Chair Worel referred to a letter from Lisa Wilson on page 227 of the Staff report, in which Ms. Wilson alleges that a courtesy notice was not sent to adjacent home owners and that the sign was not posted. Planner Astorga replied that Ms. Wilson was incorrect and did not understand the process. When the item was continued to February 26<sup>th</sup> and then to April 9<sup>th</sup>, it was always continued to a date certain. Another notice is not mailed unless the item is continued to a date uncertain. Planner Astorga stated that this application met the local and state requirements for noticing when the application was continued. He had personally posted the sign in January.

Rich Lichtenstein, representing the applicant, reported that they had 40 reservations and they were excited to be mobilizing and getting ready to excavate and build out the project this summer.

Chair Worel opened the public hearing.

Bob Dillon, legal counsel with Jones Waldo, stated that he was representing a number of the adjoining neighbors who submitted several letters objecting to both the lockout appeal and this plat approval. Mr. Dillon noted that during the lockout approval reaffirmed a public statement that was made at that time. The objection letters were combined for both hearings so he would not repeat what was said. Mr. Dillon had reviewed the declaration and the plats and the applicant had made the changes requested by the neighbors. They approve the reduction of two units on the perimeter which eliminates two duplex units. Two units were placed inside the stacked building without increasing the size by making two units out of what was formerly shown as one two-story unit. Mr. Dillon had no objection to those changes. He stated that a main objection was the six condo units that had no defined structure. However, the new plat gives the dimensions for every unit in the project and they were pleased to see that. The applicant had submitted detailed plans to the Planning Department showing elevations and how they were calculated against the existing grade. Mr. Dillon stated that the neighbors want out of that argument because they do not have any basis for determining whether or not it is accurate, and prefer to leave that determination to the Planning Staff, as well as whether or not they comply with the conditions of approval of the project.

Chair Worel closed the public hearing.

Commissioner Strachan asked if the percentage of open space would change. Planner Astorga answered no. As measured, the open space exceeds the minimum of 60%.

The Commissioners questioned why the open space did not increase by removing the units from the perimeter. Planner Astorga explained that the original calculation underestimated the open space and did a blanket of all the periphery. At the time they did not know where the driveway would be located. Therefore, the open space was calculated with a bubble in the middle and everything around it, as well as Lot 2D.

Commissioner Gross asked if Lot 2D was the down slope on the north side. Planning Manager Sintz asked for the size of Lot 2D. John Shirley, the project architect, replied that it was 4 acres.

Chair Worel asked for the height of the existing model home. Mr. Shirley stated that it was slightly under the 45' height limit. Chair Worel referred to page 146 of the Staff report which talks about a self-imposed 33' height limit for the individual units. She asked if they intended to build all the units to the 45' height, or whether they would honor their self-imposed restriction. Mr. Shirley stated that the intention was to honor the self-imposed limit. He explained that there was a natural dip in the grade where the ski run was built to come around the project. In order to work with the natural contour, two homes would be built to the 45' height limit. The remaining units would be 33'.

Tom Bennett, Legal Counsel to the developer, stated that from the very beginning, as reflected in the meeting minutes going back to 2008, it was always represented that for the periphery units the self-imposed limit was 33', but that a few units or portions of those units broke the 33' line. Mr. Bennett stated that the Staff report contained a picture of a fog study which showed that several of the peripheral homes are higher. The model unit and the one next to it have always been shown as breaking through the 33' limit because of the contours of the land.

Planner Astorga stated that all of the conditions of approval of the original 2010 conditional use permit shall continue to apply, as well as the conditions of approval for the lockout units.

Commissioner Phillips asked why the applicant chose to do a self-imposed 33' height limit. Mr. Lichtenstein stated that it was part of the ongoing discussions with the neighbors. When they began to design the homes the architects indicated homes that needed to exceed the 33' limit. Commissioner Phillips clarified that the primary reason

was to work with the surrounding homeowners. Mr. Lichtenstein answered yes.

Chair Worel asked if the Commissioners concurred with the Staff findings that there are no detrimental impacts with this modification as the plat will still be in substantial compliance with the 201 CUP. The Commissioners concurred.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council for a condominium record of survey on the North Silver Lake Condominium Plat, based on the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the draft ordinance. Commissioner Campbell seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact 7101 - North Silver Lake Drive

1. The site is located at 7101 Silver Lake Drive.
2. The site is located in the Residential Development (RD) District.
3. A subdivision plat, known as the North Silver Lake Subdivision, was recorded in 1993. The subdivision created two (2) lots of record. According to this subdivision, Lot 2 was contemplated for further subdivision and future development.
4. Lot 2 North Silver Lake Subdivision was recorded in 1997. This subdivision further amended Lot 2 into four (4) separate lots. This record of survey plat is development of Lot 2B of the Lot 2 North Silver Lake Subdivision plat.
5. In 2005 the North Silver Lake Lodge Record of Survey Plat was recorded. This Plat subdivided Lot 2B into six (6) condominium units and identified convertible Land.
6. At this time the applicant requests to replace the North Silver Lake Lodge Record of Survey Plat (2005) with the proposed Record of Survey. Upon recordation of this current condominium plat, the North Silver Lake Lodge Record of Survey plat (2005) shall be retired.
7. The proposed Condominium Record of Survey plat identifies private, limited common, common areas, etc., within the project.
8. Under the Deer Valley Resort Master Plan the North Silver Lake Subdivision Lot

2B is permitted a density of 54 residential units and 14,552 square feet of commercial and support space.

9. In 2010 the Park City Planning Commission approved a Conditional Use Permit (CUP) for the development consisting of fifty four (54) private total units.

10. The proposed Condominium Record of Survey Plat amends Lot 2B of North Silver Lake Subdivision.

11. The boundary lines of each private unit are set forth on the proposed plat. The proposed Condominium Record of Survey plat consists of twelve (12) single-family dwellings, one (1) duplex unit, forty (40) multi-unit dwellings, two (2) American with Disabilities Act (ADA) compliant units (platted as common areas), three (3) commercial units, and corresponding common areas and facilities, limited common areas and facilities, support unit, and commercial units.

12. The support commercial areas mentioned above and all of the other amenities identified on the plat are for the exclusive use of the unit owners and their visitors, e.g. the only patrons allowed to use the spa, lockers, and the dining areas, are patrons staying at the development through the ownership or possible rental of the private units.

13. The Deer Valley Master Planned Development allocated 14,525 square feet of commercial/support commercial for the Silver Lake Community.

14. The 2010 approved CUP accommodated 5,140 square feet of support commercial space.

15. At this time the updated CUP plans and this Record of Survey indicates a combined area of 4,913 square feet of support commercial.

16. All findings in the analysis section of the staff report are incorporated herein.

17. The 2010 approved CUP include the fifty-four (54) units in the form of sixteen (16) single family dwellings and 38 units within the multi-unit dwellings.

18. Currently the applicant is requesting to plat fourteen (14) single family dwellings and forty (40) units within the same multi-unit dwelling.

19. The size of the multi-unit dwelling footprint is not expanding. The overall density is not increasing as the applicant requests to add the two (2) units from the single

family dwelling/duplex pool.

20. The condominium record of survey plat is in substantial compliance with the 2010 CUP. The size of the multi-unit dwelling is not expanding, and the overall density will remain at fifty-four (54) units.

Conclusions of Law – 1701 North Silver Lake

1. There is good cause for this Condominium Record of Survey.
2. The Condominium Record of Survey is consistent with the Park City Land Management Code and applicable State law regarding condominium record of survey plats.
3. Neither the public nor any person will be materially injured by the proposed condominium record of survey plat.
4. Approval of the condominium record of survey plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.
5. The condominium record of survey plat is consistent with the approved North Silver Lake Conditional Use Permit.

Conditions of Approval – 1701 North Silver Lake

1. The City Attorney and City Engineer will review and approve the final form and content of the condominium record of survey 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 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 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. A note shall be added to the plat referencing that the conditions of approval of the Deer Valley MPD and the 2010 North Silver Lake CUP apply to this plat.
4. The applicant shall be responsible of filing the proper documentation with Summit

County to retire the North Silver Lake Lodge Record of Survey Plat recorded in 2005.

5. All conditions of approval of the City Council's July 21, 2011 order shall continue to apply.

6. All conditions of approval of the Planning Commission's February 26, 2014 action modifying the CUP to allow Lockout Units shall continue to apply.

**7. 469 Ontario Avenue – Steep Slope CUP**

Planner Alexander reviewed the application for a Steep Slope CUP for a new single family home to be located at 469 Ontario Avenue. The home is proposed to be 3,000 square feet, including a single car garage, on a vacant 3,650 square foot lot. Because the total floor area exceeds 1,000 square feet and the slope is greater than 30%, a Steep Slope CUP is required.

The Staff had analyzed the site and found no issues with the steep slope criteria. All the criteria is consistent and there are no unmitigated impacted. Planner Alexander noted that the Staff report indicated that the house was currently under review for an HDDR. However, the applicant submitted new plans this week and she had approved the new window drawings.

The Staff recommended that the Planning Commission conduct a public hearing and consider approving the Steep Slope Conditional Use Permit.

Chair Worel opened the public hearing.

There were not comments.

Chair Worel closed the public hearing.

Commissioner Strachan thought this was a straightforward application. He liked the contrast of seeing a simple project versus some of the more difficult projects that come before them.

MOTION: Commissioner Strachan moved to APPROVE the Steep Slope conditional use permit for 469 Ontario Avenue, according to the Findings of Fact, Conclusions of Law and Conditions of Approval as found in the Staff report. Commissioner Gross seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 469 Ontario Avenue

1. The property is located at 469 Ontario Avenue.
2. The property is described as Lot 1 of the Ontario Pack Subdivision. The lot contains 3,650 sf of lot area. The allowable building footprint is 1,486.58 sf for a lot of this size.
3. The site is not listed as historically significant on the Park City Historic Sites Inventory and there are no structures on the lot.
4. The property is located in the HR-1 zoning district, and is subject to all requirements of the Park City Land Management Code (LMC) and the 2009 Design Guidelines for Historic Districts and Historic Sites.
5. Access to the property is from Ontario Avenue, a public street. The lot is a downhill lot.
6. 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.
7. The neighborhood is characterized by primarily non-historic single family and duplex houses. There are historic structures on Marsac Avenue, the street to the west of Ontario Avenue.
8. A Historic District Design Review (HDDR) application is being reviewed by staff for compliance with the Design Guidelines for Historic Districts and Historic Sites adopted in 2009. The design complies with the Guidelines except for the windows which are being revised.
9. The lot is an undeveloped lot containing primarily grasses, weeds, and shrubs that are not classified as significant vegetation.
10. There are no encroachments onto the Lot and there are no structures or wall on the Lot that encroach onto neighboring Lots.
11. The proposed design is for a single family dwelling consisting of 3,000 square feet (includes the single car garage) with a proposed building footprint of 1,435 sf.

12. The driveway is proposed to be a maximum of 12 feet in width and 18 feet in length from the edge of the street to the garage in order to place the entire length of the second parking space entirely within the lot. The garage door complies with the maximum width and height of nine feet (9').

13. The proposed structure complies with all setbacks.

14. The proposed structure complies with allowable height limits and height envelopes for the HR-1 zoning as the house measuring less than 27 feet in height from existing grade and the design includes a 10 foot step back at 23 feet on the rear elevation.

15. The proposal, as conditioned, complies with the requirements of 15-5-5 of the LMC. It is currently under review for compliance with the Historic District Design Guidelines.

16. The proposed materials reflect the historic character of Park City's Historic Sites, incorporating simple forms, unadorned materials, and restrained ornamentation. Though modern, the architectural style is a contemporary interpretation and complements the scale of historic buildings in Park City. The exterior elements are of human scale and the scale and height follows the predominant pattern of the neighborhood, in particular the pattern of houses on the downhill side of Ontario Avenue.

17. The 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 the foundation, roofing, materials, as well as window and door openings. The single car attached garage and off-street parking area also complies with the Design Guidelines and is consistent with the pattern established on the downhill side of Ontario Avenue.

18. No lighting has been proposed at this time. Lighting will be reviewed at the time of the building permit for compliance with the Land Management Code lighting standards.

19. The applicant submitted a visual analysis/ perspective, cross canyon view from the east, and a streetscape showing a contextual analysis of visual impacts on adjacent streetscape.

20. There will be no free-standing retaining walls that exceed six feet in height with the

majority of retaining walls proposed at four feet (4') or less. 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.

21. The site design, stepping of the building mass, articulation, and decrease in the allowed difference between the existing and final grade for much of the structure mitigates impacts of construction on the 30% slope areas.

22. The plans include setback variations, increased setbacks, decreased building heights and an overall decrease in building volume and massing.

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

24. The proposed structure complies with the twenty-seven feet (27') maximum building height requirement measured from existing grade and the highest portion is 27' from existing grade.

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 – 469 Ontario Avenue

1. The CUP, as conditioned, is consistent with the Park City Land Management Code, specifically section 15-2.2-6(B).

2. The CUP, as conditioned, is consistent with the Park City General Plan.

3. The proposed use will be compatible with the surrounding structures in use, scale, mass and circulation.

4. The effects of any differences in use or scale have been mitigated through careful planning.

#### Conditions of Approval – 469 Ontario Avenue

1. All Standard Project Conditions shall apply.

2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permit.
3. A final utility plan, including a drainage plan, for utility installation, public improvements, and storm drainage, shall be submitted with the building permit submittal and shall be reviewed and approved by the City Engineer and utility providers, including Snyderville Basin Water Reclamation District, prior to issuance of a building permit.
4. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
5. A final Landscape Plan shall be submitted to the City for review prior to building permit issuance. Such plan will include water efficient landscaping and drip irrigation. Lawn area shall be limited in area.
6. The plat must be recorded prior to building permit issuance.
7. An HDDR approval must be received prior to building permit issuance.
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 9, 2015, if a building permit has not been issued by the building department before the expiration date, unless an extension of this approval has been requested in writing prior to the expiration date and is granted by the Planning Director.
10. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission and the Final HDDR Design.
11. All retaining walls within any of the setback areas shall not exceed more than six feet (6') in height measured from final grade, except that retaining walls in the front yard shall not exceed four feet (4') in height, unless an exception is granted by the City Engineer per the LMC, Chapter 4.
12. Modified 13-D residential fire sprinklers are required for all new construction on this

lot.

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

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

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

**8. 901 Norfolk Avenue Subdivision, 901 and 907 Norfolk Avenue - Plat  
(Application PL-13-02180)**

Planner Alexander reported that the applicant was requesting a plat amendment due to the fact that when the property was surveyed they found that the rebar was located one foot off the existing property line. The title reports have shown Lot 1 at 26' wide and Lot 2 as 24' wide for several years. The purpose of the plat amendment is to correct the error to make sure that the property line exists exactly where the markers are located.

Planner Alexander noted that Lot 2 would have been a substandard lot at 24' wide, but a home that was built in 1991 currently sits across Lot 2 and Lot 3. It is the same property owner and they are requesting to remove the lot line between Lots 2 and 3, creating two new lots of record. An existing historic home sits on Lot 1 and encroaches on the 9<sup>th</sup> Street right-of-way. The applicant is required to enter into an encroachment agreement with the City.

Planner Alexander understood that the applicant intends to come in with an HDDR for additions to both of the existing homes.

Commissioner Strachan asked if the one-foot error created a domino effect all the way down the street. Planner Alexander replied that the one-foot error ends with Lot 2 so it does not keep going.

Commissioner Campbell asked what would happen if the applicant is not able to get an encroachment agreement with the City. Assistant City Attorney McLean replied that the City Engineer, Matt Cassel, determines whether or not there is an encroachment into the right-of-way, and it is fact specific. Requiring an encroachment agreement with the

City is standard and it memorializes the fact that it is an encroachment.

MOTION: Commissioner Stuard moved to forward a POSITIVE recommendation to the City Council for 901 Norfolk Avenue Subdivision, located at 901 and 907 Norfolk Avenue, based upon the Findings of Fact, Conclusions of Law, and Conditions of Approval as found in the draft ordinance. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 901 Norfolk Avenue Subdivision

1. The property is located at 901 and 907 Norfolk Avenue within the Historic Residential (HR-1) District.
2. On December 17, 2013, the applicant submitted an application for a plat amendment to amend three (3) lots containing a total of 5,625 square feet into two (2) lots of record in order to conform to the found rebar and cap and the existing ownership for 901 Norfolk Avenue and 907 Norfolk Avenue.
3. The proposed Lot 1 will contain 1,950 square feet and Lot 2 will contain 3,675 square feet.
4. The application was deemed complete on January 2, 2014.
5. The HR-1 zone requires a minimum lot area of 1,875 square feet for a single-family dwelling and 3,750 square feet for a duplex.
6. Based on the lot areas, the maximum footprint allowed for Lot 1 is 873.8 square feet and for Lot 2 is 1,494.7 square feet.
7. The properties have frontage on and access from Norfolk Avenue.
8. Lot 1 contains an existing historic single family dwelling and Lot 2 contains an existing non-historic single family dwelling.
9. As conditions, the proposed plat amendment does not create any new non-complying or non-conforming situations.
10. The historic home at 901 Norfolk encroaches into the 9<sup>th</sup> Street ROW by less than one foot (1') and must obtain an encroachment agreement with the City for that encroachment prior to plat recordation.

11. The plat amendment secures public snow storage easements across the frontage of the lots.

Conclusions of Law – 901 Norfolk Avenue Subdivision

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 – 901 Norfolk Avenue Subdivision

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. No building permit for any work shall be issued unless the applicant has first made application for a Historic District Design Review and a Steep Slope CUP application if applicable.
4. The applicant shall obtain an encroachment agreement from the City prior to recording the plat for the encroachments into the 9th Street ROW.
5. Modified 13-D sprinklers may be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation.
6. A 10 foot (10') wide public snow storage easement is required along the frontage of

the lots with Woodside Avenue and shall be shown on the plat.

The Planning Commission resumed their earlier discussion regarding 300 Deer Valley Loop Road.

9. **Continued Discussion on 300 Deer Valley Loop Road, Roundabout Condominiums – Plat Amendment** (Application PL-13092147)

Commissioner Campbell recused himself and left the room.

Chair Worel announced that the order of the agenda had changed and this item was presented and discussed earlier in the meeting. At that time, the public hearing was left open in the event that the public had judged the time of the public hearing based on the agenda.

Commissioner Strachan noted that the Commissioners would not repeat the comments they had already made during the discussion, and he suggested that the public read the minutes from this meeting when they become available.

Chair Worel called for public comment.

David Constable had concerns with how this project would be staged. It is a tight space and he wanted to know how construction would occur without blocking the sidewalk and the street. Pedestrians had a difficult time last summer during the Deer Valley Drive construction and it was a real problem. He believed that moving the bus stop closer to the Roundabout would exacerbate the problem in terms of traffic coming around the turn. He wanted to know if there were plans to stage the project without getting in the way of the public on a busy sidewalk.

Commissioner Strachan informed Mr. Constable that a condition of approval was added stating, "The construction mitigation plan required at building permit application shall stipulate that all staging of the project must be done entirely on the applicant's property, and that the hours of hauling shall be between 8:00 a.m. and 6:00 p.m. Monday through Friday throughout the duration of the project." Commissioner Strachan believed the 8:00 a.m. to 6:00 p.m. time frame mirrors the current LMC language for when construction activity begins and ends.

Planning Manager Sintz stated that the Planning Commission could consider adding a

condition of approval stating that a neighborhood meeting be held on building permit issuance to make the neighbors aware of the different conditions and how construction mitigation and other safety and welfare issues were addressed.

Patricia Constable noticed from the drawings that the steep slope appeared to be mitigated and there was more assurance that the hillside would not be sliding into the street. Chair Worel replied that she was correct. Commissioner Gross explained that permanent shoring was proposed as part of the excavation. Commissioner Strachan informed Ms. Constable that the Commissioners and the applicant had a lengthy discussion regarding the shoring process.

Assistant City Attorney McLean informed Ms. Constable that if she did not want to wait for the minutes, the recording of the meeting would be available within a day or two and she could contact the Planning Department for a copy. Blake Henderson, the applicant, offered to meet with Ms. Constable after the meeting to explain the shoring process.

Chair Worel closed the public hearing.

Commissioner Stuard noted that Finding of Fact #19 states that a geo-technical report has been reviewed and approved. He wanted to know who approved it since it is not the purview of the Planning Commission to review and approve geo-technical reports. Planning Manager Sintz revised the language to state, "A geo-technical report was provided to the Planning Commission for their review." Commissioner Stuard did not believe the brief review by the Planning Commission constitutes a full and necessary review.

Commissioner Phillips suggested revising the language to say that the geo-technical report was presented to the Planning Commission, but it should not say it was approved. Commissioner Gross thought they could add a condition of approval stating that the geo-technical report needs to be approved.

Mr. Henderson pointed out that it was a stamped certified geo-technical report by a licensed engineer. Commissioner Strachan clarified that the report as submitted needs to be approved by the City.

Chair Worel clarified that the wording in Finding of Fact 19 should read, "A geo-technical report was presented." Commissioner Stuard preferred to say it was submitted because the applicant was not able to read the report and walk them through it. The Commissioners concurred. The Finding was changed to read, "A geo-technical report was submitted."

Commissioner Strachan noted that the sidewalk that runs in front of the project is a dual use path that is used for biking and walking. He hoped that the construction staging would not interfere because it is the only way to get up and down Deer Valley Drive.

Planner Alexander noted that Condition of Approval #12 requires that all construction of the project must be staged on the property. Commissioner Gross asked if they should add a separate condition to required screening and fencing on the south side of the sidewalk. Commissioner Strachan suggested adding separate condition of approval stating, "The sidewalk on Deer Valley Drive shall remain passable at all times." Assistant City Attorney McLean recommended that they add the language to Condition #12, as opposed to making it a separate condition.

Chair Worel asked if the Commissioners wanted to add a condition of approval regarding a neighborhood meeting with the applicant. Mr. Henderson was not opposed to meeting with the neighbors and working through the plans; however, he was unclear on whether the neighbors would have a say in the construction mitigation plan. He was concerned that different opinions from different neighbors would stall the progress.

Commissioner Gross remarked that meeting with the neighbors would be more informational so they would know what to expect. Commissioner Phillips assumed that Mr. Henderson would take into consideration any concerns voiced by the neighbors.

Condition of Approval 15 was added to say, "The applicant shall conduct a neighborhood meeting that shall be held within 30 days of building permit issuance." Commissioner Stuard preferred "...within one week prior to the start of construction", rather than 30 days after the building permit.

Planning Manager Sintz suggested, "...within one week prior to the commencement of construction".

Commissioner Strachan thought they should require the applicant to make reasonable efforts to inform the neighbors. He drafted language to state, "The applicant shall make a reasonable effort to contact all the neighbors within 300 feet."

Commissioner Stuard was interested in adding language stating that the Building Department would look carefully at methods necessary to restore this site in the event that there is a cessation of construction. Planning Manager Sintz offered to schedule a work session where a representative from the Building Department could explain the current process. It would help the Commissioners understand the process for future applications. Assistant City Attorney McLean stated that the Staff would relay Commissioner Stuard's comments to the Building Department. She thought having a

work session with a Building Department representative was a good idea.

Commissioner Strachan reviewed the Findings and Conditions that were revised or added during this discussion.

Finding of Fact #19 – The geo-technical report was submitted.

Condition of Approval #12 – Add a sentence at the end, “The sidewalk on Deer Valley Drive shall remain passable at all times.

Add Condition of Approval #15 – Applicant shall conduct a meeting with surrounding neighborhoods within one week prior to beginning of construction. Applicant shall make reasonable efforts to inform all neighbors within 300’ of the meeting.

MOTION: Commissioner Strachan moved to forward a POSITIVE recommendation to the City Council for the Condominium Plat Amendment for 300 Deer Valley Loop Road, according to the Findings of Fact, Conclusions of Law and Conditions of Approval in the draft ordinance and as amended. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously. Commissioner Campbell was recused.

#### Findings of Fact – 300 Deer Valley Loop Road

1. The property is located at 300 Deer Valley Loop Road.
2. The property is located within the Residential (R-1) District.
3. The R-1 zone is a transitional zone in use and scale between the historic district and the Deer Valley Resort.
4. The condominium plat will create one (1) condominium lot of record containing a total of 27,779.15 square feet.
5. There are no existing structures on the property.
6. Access to the property will be from Deer Valley Drive in a single access point on a common driveway for all units to a shared underground parking structure.
7. The minimum lot size in the R-1 zone is 3,750 square feet for a duplex dwelling.

8. A duplex dwelling is an allowed use in the R-1 zone.
9. The total private area of the condominiums consists of 5,230.2 square feet; the Limited Common Area consists of 306 square feet.
10. Unit A consists of 3,769.6 square feet of private area and 2,852.3 square feet of limited common area. Unit B consists of 2,581.2 square feet of private area and 2,013 square feet of limited common area. Unit C consists of 2,581.2 square feet of private area and 2,013 square feet of limited common area. Unit D consists of 3,076.7 square feet of private area and 2,385.8 square feet of limited common area.
11. The entire project including the parking structure contains 9,446.1 square feet of common area, 12,008.7 square feet of private area, and 9,264.1 square feet of limited common area.
12. The footprints total 2,613 square feet for Units A&B combined and 2,286 square feet for Units C&D combined; with a total footprint of the project being 4,899 square feet.
13. The height of the buildings will be 22 feet above existing grade
14. The front yard setback will be 20 feet, the rear yard setback will be 10 feet and the side yard setbacks will be 10 feet each.
15. The shared parking structure contains a total of 14 parking spaces, exceeding the eight (8) parking space requirement.
16. There are existing encroachments on the property from the owner of 510 Ontario Avenue.
17. The existing shared access easement will be removed with the approval of this plat.
18. Minimal construction staging area is available along Deer Valley Loop Road and Deer Valley Drive.
19. The Geo-technical report was submitted.
20. A Construction Mitigation Plan will be required upon submittal of a Building Permit application.
21. On June 14, 2007, the City Council approved the Roundabout Subdivision Plat.

This plat was recorded February 21, 2008.

22. On November 13, 2013, the Planning Department received a complete application for the Roundabout Condominiums plat.

23. Due to the bus pull-out modifications along Deer Valley Drive, the applicant will need to deed a portion of property to the City for ROW improvements and receive another portion of existing ROW improvements back from the City. Exhibit C shows the 875 square feet that will be dedicated to the applicant and 164 square feet that will be dedicated to the City. The applicant previously dedicated 3,152.54 square feet to the City with the 2007 Subdivision for the bus pull-out and Deer Valley Drive and Deer Valley Loop ROW improvements (Exhibit E). In order for this to occur, the applicant will need to petition the City Council to vacate the 875 square feet of ROW.

24. As conditioned, this condominium plat is consistent with the conditions of approval of the Roundabout Subdivision plat as per the findings in the Analysis section.

#### Conclusions of Law – 300 Deer Valley Loop Road

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

#### Conditions of Approval – 300 Deer Valley Loop Road

1. The City Attorney and City Engineer will review and approve the final form of the condominium 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 Summit County within one (1) year from the date of City Council approval. If recordation has not occurred within the one year time frame, this approval 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 applicant stipulates restricting the development to two (2) condominium buildings with one (1) underground shared parking structure. This shall be noted on the plat.

4. The footprint of each condominium building will not exceed 3,200 square feet, to be noted on the plat.

5. Shared access for the four units will be a single access point for all units on a common driveway into a shared underground parking structure, accessed from Deer Valley Drive, to be noted on the plat.

6. All vehicles exiting the common driveway must pull out of the driveway onto Deer Valley Drive front-facing, to be noted on the plat.

7. Modified 13-D sprinklers will be required for new construction by the Chief Building Official at the time of review of the building permit submittal and shall be noted on the final mylar prior to recordation.

8. A 10 foot (10') wide public snow storage easement is required along the frontage of the lot with Deer Valley Drive and Deer Valley Loop Road and shall be shown on the plat.

9. A five foot (5') wide public utility easement is required along the rear and side lot lines.

10. The applicant shall submit a financial guarantee, in an amount approved by the City Engineer and in a form approved by the City Attorney, for the public improvements including, but not limited to, the fire hydrant, storm drain box, bus pull-out, improvements to Deer Valley Drive, and lighting, prior to plat recordation.

11. An encroachment agreement between the applicant and the owner of 510 Ontario Avenue that addresses all current encroachments (asphalt driveway, rock retaining wall and hot tub) onto the applicant's property shall be remedied prior to plat recordation.

12. The Construction Mitigation Plan required at Building Permit application shall stipulate that all staging of the project must be done entirely on the applicant's property and that the hours of hauling shall be between 8 am and 6 pm Monday

through Friday throughout the duration of the project. The sidewalk on Deer Valley Drive shall remain passable at all times.

13. There shall be a tie breaker mechanism in the CCR's.

14. Due to the bus pull-out modifications along Deer Valley Drive, the applicant will need to deed a portion of property to the City for ROW improvements and receive another portion of existing ROW improvements back from the City. In order for this to occur, the applicant will need to petition the City Council to vacate the 875 square feet of ROW prior to plat recordation.

15. Applicant shall conduct a meeting with the surrounding neighborhoods within one week prior to beginning of construction. Applicant shall make reasonable efforts to inform all neighbors of the meeting within 300'.

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

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