

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
FEBRUARY 8, 2017

COMMISSIONERS IN ATTENDANCE:

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

EX OFFICIO:

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

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REGULAR MEETING

ROLL CALL

Chair Strachan called the meeting to order at 5:30 p.m. and noted that all Commissioners were present.

PUBLIC INPUT

There were no comments.

ADOPTION OF MINUTES

January 11, 2017

MOTION: Commissioner Band moved to APPROVE the Minutes of January 11, 2017 as written. Commissioner Phillips seconded the motion.

VOTE: The motion passed unanimously.

STAFF/COMMISSIONER COMMUNICATIONS AND DISCLOSURES

There were no comments or reports from the Planning Department.

Commissioner Phillips suggested that this meeting would have been a good time to discuss some of the low hanging fruit on the Planning Commission list that they had started working on last year. He would have more hope moving forward if some of those items were included the next time the Planning Commission has a light agenda.

Director Erickson stated that the Planning Commission would see a series of LMC changes at the next meeting on February 22nd.

Chair Strachan remarked that the Planning Department was not given much notice that the Treasure Hill project would be continued to the next meeting. In order to place LMC changes or other items on an agenda, the City needs to provide the statutory public notice.

Commissioner Phillips requested that the Planning Commission be given the opportunity at the February 22nd meeting to briefly review the list and discuss a path forward.
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REGULAR AGENDA - DISCUSSION/PUBLIC HEARINGS/ POSSIBLE ACTION

1. **Request by Deer Crest Associates to amend the Deer Crest Settlement Agreement/Master Planned Development approved on December 29, 1995, to eliminate a required physical disconnect of Deer Hollow Road (aka Keetley Road) at the Slalom Village (aka Deer Hollow) development parcel location. Application PL-16-0326)**

Planner Kirsten Whetstone reviewed the request to amend the Deer Crest Settlement Agreement, which was part of the Deer Crest Annexation. The property is to the east of Lower Deer Valley. She noted that there were two parts to this request. One was to amend the Master Planned Development and how the development parcels are arranged. In this particular case it is primarily road circulation. The second part is a request for the Third Amendment to the Deer Crest Settlement Agreement with specific language about constructing a permanent disconnect of the Deer Hollow Road with the development of Slalom Village.

The Staff requested that the Planning Commission conduct a public hearing, discuss the five items listed on page 117 of the Staff report, and provide direction to Staff. Planner Whetstone asked the Commissioners to continue this item to March 22, 2017, at which time the Staff would come back with Findings based on their direction.

Planner Whetstone reported that she had received a considerable amount of public input, primarily from the Deer Crest Subdivision, which is a subdivision in Wasatch County that would be impacted by the closure of Deer Hollow Road. The Staff report included 50 emails of public input. Planner Whetstone provided the Commissioners the ten additional public comments that she received after the Staff report was prepared.

Planner Whetstone noted that the Staff report also included an analysis of the Master Planned Development criteria that were applicable to the idea of changing the circulation in the settlement agreement.

Tom Bennett, legal counsel representing the applicant, presented an overview of the request. He provided a brief history dating back to 1995 when the prior owners of the property, Park City Consolidated Mines and Trans-Wasatch Company, owned the property that is now Deer Crest. Approval for development was obtained from Wasatch County. There was litigation involving the City, and the litigation was resolved with a settlement agreement that was entered into in 1995. The settlement agreement both settled the litigation and acts in many ways as a development agreement for Deer Crest, and especially that portion of Deer Crest that is situated within Park City. The settlement agreement provided for the Annexation by Park City of a portion of the Deer Crest property that is in Wasatch County. It primarily includes the Roosevelt Gap site, where the St. Regis Hotel is located. It includes the Hidden Hollow and Snow Top Subdivisions, and it includes a piece of property referred to in the Settlement Agreement as the Slalom Village property. It is the base of the Mountaineer Ski lift and there is approval for a condominium project to be built at that location in the future. Mr. Bennett clarified that that property was annexed into Park City and Park City has planning authority over all of the annexed property. An Interlocal Agreement governs the relationship with Park City and Wasatch County with respect to the provision of services, allocation of tax monies and other things. Mr. Bennett stated that for emergency services Wasatch County provides fire protection and EMT protection. Park City provides police protections. Therefore, both Counties are impacted by this request.

Mr. Bennett recalled that at some point people became concerned about the possibility of back door traffic into Park City using what was then referred to as Keetley Road, which was a historic dirt road that was used for mining purposes and travel from the base of the Jordanelle Gondola to the Queen Esther Gate and down the other side. Mr. Bennett stated that people were appalled at the prospect of from Wasatch County entering into Park City through a secret back road, and that issue was addressed in the Settlement Agreement.

Mr. Bennett outlined the requirements in the Settlement Agreement. One requirement is to construct a disconnect to physically prevent people from making that connection. The Settlement Agreement also required that there be permanent access control gates both on the Jordanelle side and on the Deer Valley side to prevent people from entering in the Deer Crest Subdivision from either side, except for residents and guests. Mr. Bennett remarked that initially steel gates were put up on both sides to keep people out. Those gates were subsequently replaced by the manned access gates that currently exist. He explained that the gates were installed approximately 18 years ago; and they were built and are operated by the Deer Crest Master Owners Association, pursuant to the requirements of the Settlement Agreement.

Mr. Bennett stated that the Settlement Agreement also required that the CC&Rs for Deer Crest include a requirement to maintain those gates in perpetuity. The Settlement

Agreement also requires that the subdivision plats for Deer Crest include a plat note that required those gates to be constructed and maintained in perpetuity. It provided also provided that any change or elimination of the gates or failure to maintain them could only be done with the consent of the property owners and with the consent of Park City. Provisions were put in place in the very beginning to protect the City on a long-term basis against Deer Crest Development taking any action that might try and get around this disconnect requirement. Mr. Bennett stated that once those gates were put in place, the Former Chief Building Official, Ron Ivie, directed and authorized the original gate to be taken down so there could be travel over what became Deer Hollow Road. It was essential for the construction of improvements in many places in Deer Crest, but especially the construction of the St. Regis Hotel. It allowed for the construction traffic to circumvent most of the residences located in Deer Crest and to go directly up rather than having to wind around. In the course of being used it was found to be helpful. The emergency services providers liked it because it was a direct route to the St. Regis and over to Park City. The owners liked having the road open because it protected them from the additional traffic.

Mr. Bennett stated that the Settlement Agreement provides that at some point in the future there be a permanent disconnect at that disconnect site. The description for configuring that disconnect requires that when the Slalom Village project is constructed, at least a portion of it is literally built across the road, so the Slalom Village project becomes the permanent disconnect on Deer Hollow Road. In 2009 Deer Crest Jana, the developer of the St. Regis Deer Valley, came to the Planning Commission seeking an amendment to its CUP to modify some of the parking at Snow Park. There was a dispute with a neighbor in Deer Crest who contested it, and one of her arguments was that the St. Regis project should be stopped immediately because no one complied with the disconnect requirements. Mr. Bennett stated that there was discussion with the Planning Commission and the service providers at that time, and it was determined that the disconnect was not necessary. There appeared to be informal support from the Planning Commissioner, and they suggested that the applicant come back in the future with a formal request to eliminate the disconnect. Mr. Bennett noted that the process was started back then, but it was put on the back burner partly because there was no urgency, and partly because of confidence that eliminating the permanent disconnect requirement would be supported by all the interested parties.

Mr. Bennett remarked that in 2014/2015, Deer Crest Associates finally wrapped up a turnover agreement to the Deer Crest Master Association where Deer Crest Associates conveyed all of the common land in Deer Crest to the Master Association. It included all the roads and the large open space parcels. A number of minor disputes and issues that had arisen over the years were resolved with that turnover agreement. Mr. Bennett stated that part of the turnover agreement requested and required Deer Crest Associates to use its best efforts to have the disconnect requirement eliminated because it is extremely important to the Deer Crest Master Association to keep Deer Hollow Road open and not disconnected for specific reasons he would address.

Mr. Bennett reiterated that the applicant was initially told that they only needed to submit their request in a letter, and it would go straight to the City Council to consider an amendment to the Settlement Agreement. However, over time and as the Staff and others have looked at the request, the decision was made to bring it to the Planning Commission. Mr. Bennett pointed out that it began to be cast as also an amendment to an MPD. He wanted it on the record and very clear that Deer Crest Associates did not agree that it was an amendment to the MPD or that the Settlement Agreement constitutes an MPD. However, the applicant was trying to be cooperative and work through the issue.

Mr. Bennett summarized the reasons why the applicant believes the disconnect obligation should be eliminated from the settlement agreement. He clarified that they were asking to amend the settlement agreement on the disconnect issue only, to remove the requirement that there be a permanent disconnect put in place when the Slalom Village project is developed. The first reason is public safety. Using Deer Hollow Drive is the quickest and most efficient direct route from Wasatch County through Deer Crest to the St. Regis and to many of the homes within Deer Crest. It is the safest route because it is more direct and has fewer turns. It is also safer because it avoids having to send vehicles at high speeds through the more densely populated residential lots in the project. Mr. Bennett stated that an interlocal agreement under this settlement agreement requires regular meetings between Wasatch County and Park City. They met in 2013 and raised this issue and all of the emergency service providers expressed their support for eliminating the disconnect. Mr. Bennett stated that by coincidence there was a meeting yesterday with the same group, and the same consensus was expressed strongly by the emergency service providers to keep the road intact as a thoroughfare.

Mr. Bennett stated that the second reason is that the principle purpose for the disconnect was to prevent access between the Jordanelle and Park City through Deer Crest from either direction. That objective was satisfied with the existing control gates on either side. Mr. Bennett noted that the gates are continually manned and they have been extremely effective. The Settlement Agreement requires that the gates be in place, and the Master Association has done an outstanding job maintaining them. In the 18 years since the gates were installed, they were not aware of any complaints or claims that the gates have been ineffective at preventing access by the public from Wasatch County to Park City, or the reverse.

Mr. Bennett stated that the third point is that requiring the disconnect to be built in the future would still not prevent east-west access. If someone were to get through those gates, they could still travel from the Jordanelle to Deer Valley using the roads through Deer Crest. It would only take five minutes longer.

Mr. Bennett stated that the fourth issue is if the disconnect were put in place, that because of the extra time and difficulty circling through Deer Crest, he believed it was likely that it would result in an increase in traffic for vehicles attempting to access Deer Crest through the Queen Esther gate. People try it all the time and when they manage

to circumvent the system they are turned around at the gate. That creates additional traffic because people who go through Deer Crest and are turned around have to go back the same way. Mr. Bennett noted that all of the large delivery vehicles delivering to the St. Regis Deer Valley have to come through the Jordanelle gate and they all do it.

Lastly, Mr. Bennett stated that eliminating the disconnect requirement is supported by what they feel to be all of the stakeholders; the Deer Crest Master Association, the St. Regis Owners Associations, Wasatch County, and the Deer Valley Resort. He noted that the Planning Commission were given letters of support from Deer Crest Master Association, Deer Valley and Wasatch County. He met with them yesterday and confirmed their support.

Mr. Bennett believed that because of the existence and the effectiveness of the east and west control gates, that the requirement for a disconnect at Slalom Village is simply a solution to a problem that does not exist. Those gates are working and prohibit traffic through Deer Crest, and they have for 18 years without complaints. Mr. Bennett thought it was especially noteworthy to consider the level of support that has been indicated by the Deer Crest owners. Mr. Bennett stated that the Deer Crest Owners Association is the most effective way to assure that those access entry gates are going to be maintained, because the privacy and exclusivity that the gates provide is a key issue of importance for the owners in Deer Crest. It is a component of the value of their real estate, and they feel very strongly that those gates need to be maintained. Mr. Bennett believed they would do a better job than anyone in terms of maintaining the gates into the future, and ensuring that the objectives of the City as articulated in the Settlement Agreement are achieved.

Chair Strachan asked if mountain bikers and hikers have any rights to use Deer Hollow Road. The Spin Cycle stops there and the Village Trail picks up. He rides that road all the time and he wanted to know if that had been considered.

Joe Furlong, representing the Deer Crest Master Association, stated that the Settlement Agreement, and a separate Restrictive Covenant that Park City put in at the same time, discussed the issue of public access with cars. However, it does say that secondary access was permitted for bicycles, horses, skiers and pedestrians. Mr. Furlong remarked that mountain bikes and road bikes can be seen on Deer Hollow and Deer Crest Estates Drive.

Chair Strachan assumed that a decision to approve the request would change that. Mr. Furlong remarked that the CC&Rs incorporate the Settlement Agreement, as well as the Park City Restrictive Covenant and part and parcel. All of the elements are listed separate and distinct in terms of who can go through what gate and in what manner. Chair Strachan asked if a biker, as a secondary user as defined in the document, allowed to go through the gates. Mr. Furlong stated that there are passage ways to the right or left of the gates that allow bikers and pedestrians to pass by the monument that the gate swings on.

Commissioner Suesser asked if all of the service vehicles to the St. Regis use Deer Hollow Road, and if that was why the Deer Crest owners prefer that it remain open. Mr. Bennett answered yes on both questions. Commissioner Suesser understood that a gate at Jordanelle and Queen Esther was always anticipated. She asked if the City's only concern originally was public traffic along Deer Hollow Road coming into Park City. Planner Whetstone replied that it was the primary concern. The east and west perimeter gates were mentioned in the document, and it talked about the development that could occur and who could come through those gates. As part of the development for the Slalom Village it would definitely block that road and no one would be able to come through. However, in reading the details, it allows the guests the ability to be in that parking structure and to go in either direction. It also talks about having an emergency access lane. Planner Whetstone pointed out that it is in a canyon. The sides are steep and the road is steep, and there is not a lot of flat area. She stated that a conditional use permit would be required for the 83 units at Slalom Village and the emergency lane would have to be part of the CUP. Planner Whetstone remarked that the main concern was the through traffic mostly from Highway 40 into Park City. Commissioner Suesser clarified that it was a concern even though the gates were always anticipated. Planner Whetstone answered yes.

Planner Whetstone referred to the comment Mr. Bennett had made about being told by the Planning Commission to come back with a letter; and noted that it was actually the City Council who had said that in 2009 when the St. Regis requested a minor modification to build surface parking instead of a parking structure. It was one of the appeal items and the City Council discussed it and made the recommendation to Deer Crest to come back with a formal request for an amendment to the Settlement Agreement, and that it should be reviewed by the Planning Commission on recommendation. Planner Whetstone understood that City Attorney Mark Harrington took the recent request to the City Council and asked how to proceed. The City Council wanted the Planning Commission to make a recommendation on the Settlement Agreement amendment language, and the City Council would make the final determination.

Planner Whetstone stated that the Master Planned Development also came from the Legal Department because they said it was talking about a development plan and the Planning Commission would make that decision.

Commissioner Suesser asked if the Planning Department had received input from the stakeholders of the Slalom Village regarding this change to the MPD. Mr. Bennett replied that there are no stakeholders because the Slalom Village site is still owned by Deer Crest Associates. Mr. Bennett noted that over 400 noticing letters were sent out. As part of the process, Mr. Harrington had requested that they contact the Queen Esther Owners Association directly prior to this occurring, and they had done that. Mr. Bennett stated that there is a separate Settlement Agreement with the Queen Esther Association, and one of the provisions of that agreement is that if the owner/developer of Deer Crest comes in later and requests removal of the disconnect requirement, that

the Queen Esther owners are obligated not to oppose it. Planner Whetstone noted that that agreement was in the Staff report.

Mr. Bennett remarked that originally the control access gates at either end of Deer Crest were not manned gates. They were subsequently modified to be manned gates with codes. He believed that may have been in connection with the Queen Esther Settlement. The gates have been manned for the last 18 years.

Planner Whetstone remarked that the Planning Department noticed everyone within Deer Crest, as well as everyone within 300 feet of the west side, to make sure they notified anyone who would be impacted by traffic coming through that gate.

Commissioner Thimm asked if the gates are manned 24/7. Mr. Furlong replied that the Queen Esther gate is manned 24/7. The Jordanelle gate is manned from approximately 7:00 a.m. to 6:00 p.m. To gain access before and after those hours, an intercom at the base of the Jordanelle gate connects with the Queen Esther gate house. People need to identify themselves and get clearance from the gate operator before he will open the gate at Jordanelle.

Commissioner Thimm asked if emergency vehicles would have to go through the same process. Mr. Furlong answered yes, but it happens very quickly. Commissioner Thimm clarified that the other end is manned and the gate would be opened for an emergency vehicle.

Commissioner Thimm stated that if there is already a requirement on a recorded plat for perpetual maintenance and operation of these gates, he asked if there was a reason that would compel the Planning Commission to make maintenance a condition of their recommendation. Assistant City Attorney McLean stated that in this case, the maintenance is tied to the disconnect. For example, if the two gates are removed for any reason, the disconnect would be re-established. Mr. Bennett remarked that there is already a requirement in the Settlement Agreement that the Master Association maintain those gates. There is also a requirement to place a plat note to that affect and in the CC&Rs. If the Master Association were to eliminate that requirement, they would potentially be in violation of the Settlement Agreement and the City could come down on them. Mr. Bennett believed the City already has the right to take action if the control gates were eliminated or operated in such a way that they did not provide control. Planner Whetstone noted that it could also be incorporated into the language of the third amendment.

Commissioner Campbell wanted to know who pays to snow plow that road and for road maintenance. Mr. Bennett replied that both are paid for by the Master Association. Commissioner Campbell stated that in the three years he has been on the Planning Commission they have talked a lot about their hesitation to overturn decisions of previous Planning Commissions. They cannot bind the hands of future Commissioners, and past Commissions could not bind their hands. However, the Commissioners

struggle with overturning decisions that were previously made because they were not there during the negotiations to know why a specific decision was made.

Commissioner Band understood that it was part of the Settlement Agreement, and not a decision by the Planning Commission. Mr. Bennett replied that it was the Settlement Agreement, and the final decision now was for the City Council. The Council was looking for a recommendation from the Planning Commission before making their decision.

Commissioner Campbell agreed, but in each case, a previous agreement will be overturned for whatever reason. He struggled with the idea that these gates help Park City. The thought that they were keeping out people from Wasatch County was false because they could still come in; they just have to take a longer route. Commissioner Campbell stated that if he could vote, he would prefer to have the gates taken down so all the people who work in Deer Valley and live in Heber would have a quicker way to get to work. He was not convinced by the argument that these gates were for the good of everyone.

Mr. Bennett remarked that the roads, as they were laid out in Deer Valley, were intended to be small community neighborhood roads. They were not intended to address a significant traffic impact. Potentially, if half of the traffic coming in on SR248 from Wasatch County was routed up through Deer Crest, it would create an unpleasant situation with traffic coming through Deer Valley and trying to get out of Deer Valley Drive. He believed several hundred homeowners would be expressing their view.

Commissioner Campbell asked if the gates were an obligation or a right. Mr. Bennett believed it was both. Deer Crest was never opposed to the gates and they would view it as a right to have them. Commissioner Campbell pointed out that Deer Crest now wanted to change the agreement. Mr. Bennett explained that they only want to take out a provision that appears to have accomplished no purpose over the years. Mr. Campbell stated that in his opinion, traffic has gone from being a back burner issue to one of the most important issues they face today. They are constantly struggling for way to reduce the number of cars on the roads. One way to accomplish that is to divide up the number of access points. Commissioner Campbell looked for guidance from Director Erickson or Ms. McLean to eliminate the gates if they intend to renegotiate the Settlement Agreement.

Director Erickson did not believe there would be any support for adding several thousand trips a day on Deer Valley roads and through the roundabout. Neither the General Plan, LMC, Transportation Master Plan, or the Old Town Improvement Master Plan considered trip generation from Wasatch County. Following the logic of the applicant, the reason SR248 is four lanes in and out is to accommodate that traffic. Director Erickson pointed out that in addition to workers from Wasatch County, they would also be dealing with tourists moving through a very steep road. All the roads in Deer Valley are 6% and this particular road is 10%. Director Erickson pointed out that the road is not designed to handle that amount of traffic even if the gates were

eliminated. Director Erickson believed they would be overturning more decisions made by past Planning Commissions and City Councils by allowing through traffic, as opposed to just overturning an effort by the City Council at the end of a very difficult negotiation on the disconnect. He pointed out that it took Planner Whetstone four months to convince him that there was good public policy to do this. Director Erickson stated that Planner Whetstone was correct in her Staff report and he recommended that the Planning Commission consider supporting the Staff recommendation.

Commissioner Campbell felt that keeping the gates up and cutting the road in half were in conflict with each other. Director Erickson replied that it is a matter of size because the road would not handle half the traffic. Commissioner Campbell believed that it would only be used by ones who knew it was a shortcut, which would be less than half. Everyone else would continue to come into town the same way they have been. Planner Whetstone remarked that future development in Wasatch County is projected to be more than 5,000 units around Jordanelle. She pointed out that the road is private and those people could not use it.

Commissioner Phillips wanted to know what percent this MPD was built out. Mr. Bennett stated that all of the Deer Crest lots were platted and built out. He thought the only piece that was not built out was Slalom Village and the piece down by Jordanelle outside of the gate.

Commissioner Joyce pointed out that there was also the base of the funicular, condo developments and parking.

Commissioner Phillips explained that he asked the question in order to assess the numbers at full build out in terms of who would be using that road. Mr. Furlong stated that there are 105 single-family homes that have either been built or are currently under construction. Approximately 40 plus lots are unbuilt within the Deer Crest Estates area that either abut Deer Crest Estates Drive or are off cul-de-sacs that feed off of that. Of those 40+, approximately half are owned by people who own the house next door and bought them as view lots. Mr. Furlong believed that currently there were only three or four lots for sale.

Mr. Bennett stated that the next phase is all at Snow Park. Everything that could be built at Roosevelt Gap has been built. Commissioner Phillips asked for the density at Slalom Village. Planner Whetstone replied that it was 83 units at 2400 square feet. The St. Regis was 96 units.

Michael Zacarro, managing partner for the St. Regis, stated that he is was also a Board member for the Deer Crest Master Association. Mr. Zacarro reviewed the map and noted that if the disconnect existed, the blue area would remain unchanged. Any traffic coming in on the west side would still go over the same area of roadway, which was identified in blue. On the Queen Esther side, the map was split between green and red. Where it splits with the green is where the control gate would be under the Settlement Agreement. Halfway down that road is where the disconnect would occur. Coming in

from Jordanelle, the control gate would have been at the same point at the end of where that blue strip would be. Mr. Zacarro stated that if the disconnect were to be put in place, the traffic coming in from either of those two gates would still travel over part of the roadways that are colored blue. However, with the disconnect, all the traffic heading, which currently uses Deer Hollow Road would be following the path that is currently depicted in red. With the disconnect not in place, which currently exists, the traffic follows the part in the road identified in green.

Mr. Zacarro had done two measurements of the timing. Following the speed limits, the timing to travel from the end of one blue line to the other blue line is exactly 90 seconds. With the disconnect, traveling all the way around where the red is located, the travel time is six minutes and 36 seconds following the speed limit.

Chair Strachan opened the public hearing.

Steve Issowitz with Deer Valley Resort, spoke to the question of why there was both gates and the disconnect. From going through the history, he understood that there was skepticism that the gates would be large gates and maintained to keep everybody out, and that it would be scrutinized in a way that would not just let traffic come through. Mr. Issowitz thought the disconnect was an additional measure. At this point, he agreed with Mr. Zacarro that currently they were not seeing a problem and that would not change. They would only be putting people through the subdivision street instead of the more direct access. Mr. Issowitz noted that they could create an emergency lane with crash gates to keep other vehicles out. In 1995 the City did a great job trying to think forward about being protective of people coming and going into the City in an area that was not necessarily planned to hold that much traffic through the Queen Esther neighborhood. Mr. Issowitz believed Deer Crest had also done a great job since that time in manning those gates and scrutinizing the vehicles. He stated that Deer Valley Resort appreciates the consideration the Planning Commission might give to removing the disconnect. Mr. Issowitz stated that he had sent a letter that was included in the Staff report.

Gil Furlong, a full-time resident of the Deer Crest community and a member of the Deer Crest Homeowners Association. Mr. Furlong voiced their strong support for the application by DCA to eliminate the requirement for the disconnect. Mr. Furlong noted that the president of the HOA was unable to attend this evening, but he had sent a letter that was included in the Staff report outlining the reasoning for the amendment to the Settlement Agreement. Mr. Furlong explained that the fundamental reason is that the current system was working well if the objective was to limit the amount of traffic in and out of the Queen Esther area. It is controlled by the gates and it is a successful system. Mr. Furlong stated that if anyone had driven around Queen Esther in the last couple of week, it was down to a little more than one car width due to the snow loads, and the rationale for limiting traffic was strong. Most of the buildings in Queen Esther are built close to the road, limiting the ability to widen the Queen Esther roads. Mr. Furlong reiterated the adverse effects of the requirement as stated in the discussion. From the point of view of safety for residents and others, requiring delivery vehicles to meander

through the community would create a potential risk. Mr. Furlong noted that people from Snow Top and the upper reaches of Deer Crest going to Salt Lake will go out the Deer Hollow Road to Highway 40 and out of town. If that access is blocked, they will more likely go through the Queen Esther gate and through Park City to SR224 to get to I-80. Mr. Furlong stated that the original purpose was to keep traffic from going through the Queen Esther community as a short cut. The CC&Rs require the Master Association to maintain the gates, and the gates are working. Mr. Furlong commented on Mayflower and noted that the amount of development that will potentially occur in that area on both sides of I-80 is enormous. As it currently exists, none of those people can come through Deer Hollow to reach Deer Valley or Park City. He was unsure whether Queen Esther could handle the additional traffic from the condos and hotels if the road were open to allow people to go through. Mr. Furlong stated that requiring the disconnect provides nothing more than they already have, and it could have a lot of potential negatives outcomes.

William Williber, a Deer Crest resident at the Snow Top area, expressed many of the same concerns. He noted that a lot of the residents during Sundance and other events will use that exit and go down to the grocery stores in Heber, avoiding additional traffic going into Park City. That is one extra benefit from not having that disconnect. Without the disconnect he would head into Park City to the grocery store instead of going down the other way. Mr. Williber was concerned with the potential delay of the emergency service of five minutes just to put in the disconnect. He believed there already was a disconnect with the gates; and that they would only be blocking traffic for the residents within Deer Crest itself.

Mike Zacarro, Managing Partner of the St. Regis, stated that as managing partners of the Hotel they support this proposition. He recalled that when this disconnect issue came up in 2009 they were informally told as the applicant at that time to come back with an amendment. They received an email shortly later expecting that an amendment would be proposed by the local committee to go to the City Council to remove the disconnect requirement. Mr. Zacarro stated that one thing that has changed in the 18 years since this was put in, is that when the Settlement Agreement was done in 1995, it was not contemplated that there would be manned gates. There were two steel gates were located at the top and the bottom of Deer Hollow Road. In discussions with the Queen Esther Association two years after the Settlement Agreement, Deer Crest proposed having manned gates. In the settlement agreement with Queen Esther, a provision was put in that if the manned gates were not installed and there was ever a proposal to do away with the disconnect, that Queen Esther was obligated to support that proposal. Mr. Zacarro pointed out that in addition to delivery trucks for the hotel traveling up and down Deer Hollow road, he recalled that the Planning Commissioner required that all of the employees to use parking outside of the Jordanelle gate and travel by shuttle to and from the hotel. That is the current process for parking and shuttling employees. Having all that traffic go through the residential community would pose safety issues. Mr. Zacarro remarked that there is no pending proposal to implement the disconnect. The requirement to put in the disconnect does not occur until Slalom Village is built and completed. That could still be many years away. They

were coming to the Planning Commission this evening because they have been working the proposed amendment since 2014.

Mr. Zacarro commented on the suggestion by Commissioner Campbell to place other conditions. As an officer of the Board and a member of the DCA, he reminded the Commissioners that the applicant is Deer Crest Associates, the party to the Settlement Agreement. They do not control the roadways or the common areas. DCA cannot agree to conditions that would impact the Deer Crest Master Association without the consent of the Deer Crest Master Association, or consent from the majority of the homeowners.

Chair Strachan closed the public hearing.

The Commissioners reviewed the items for discussion outlined in the Staff report.

Commissioner Joyce remarked that there was an agreement between the City, Queen Esther, and all of the Deer Crest parties that basically limits traffic in a well-defined way. However, his concern was finding a simplistic mechanism to enforce it. Commissioner Joyce understood the perspective of the HOA in having a private community, and he agreed that it may be nice; but the City does not enforce CC&Rs. If things suddenly changed and traffic was getting through, he wanted to know what avenue Queen Esther would have to express their comments and concerns.

Commissioner Joyce referred to the second item for discussion and he liked the idea that as long as the gates are manned and maintained and the system continues to work, the disconnect would not have to be built. However, if that changes for any reason, it would trigger the disconnect.

Commissioner Joyce stated that he is at Deer Crest fairly often, and he could not imagine having the disconnect. Like Commissioner Campbell, he does not like to unravel a decision by a previous Planning Commission, but he could not attribute any value to the disconnect, other than having it as a hammer to make sure the gates continue to be well maintained. He cautioned that when they get into the agreements and the specific language, he would never want the CC&Rs referenced because the HOA could change the CC&Rs. Commissioner Joyce thought the current system was working and it made sense. His only concern was making sure that there was a mechanism to restrict it in the future.

Commissioner Joyce understood that there was a multi-jurisdictional meeting the day before. He had spoken with Diane Foster who said there was a lot of support from both sides to eliminate the disconnect requirement. His concern was that if something substantial happened, such as a fire, and they were trying to evacuate people out of the Deer Valley area, he thought that would be a circumstance where opening the gates for emergency evacuation would be appropriate. Commissioner Joyce wanted to understand what agreements and processes were in place to deal with something consequential.

Director Erickson noted that line item 3 in the discussion items states that the City will negotiate clearly defined terms for access and who gets the authority. He assumed that Deer Crest would want a discussion regarding snow maintenance, etc. Director Erickson anticipated negotiations on whether or not that could happen. Currently, in an emergency the Fire Marshall could open those gates.

Commissioner Joyce read Item 3, "Discuss the potential for allowing overflow traffic use of Deer Hollow Road for traffic emergencies...". He thought "traffic emergency" was a broad term and could mean skiers trying to get home if SR224 is backed up. If the language could include that type of situation, he would not support it. Director Erickson replied that the Staff was looking for that type of clarity from the Commissioners. Commissioner Joyce would like the fire trucks to be able to go through Deer Crest to get over to the other side. If they are going to talk about changing the rules for the road and safety is a primary reason, they need to consider the safety of more than just the residents who live in the Deer Crest Association.

Mr. Bennett noted that Section 5.4 of the Settlement Agreement identifies certain plat notes that need to be put on the plat in Deer Crest. Item 3 says, "Public safety access and utility easements are hereby dedicated for all roads". Mr. Bennett pointed out that there is an existing public safety access right throughout all of the roads in Deer Crest. Commissioner Joyce was not sure that language went far enough. Mr. Bennett thought it would be helpful to have the City Attorney's Office review what rights the Public Service people have right now. Part of the concern is that the Deer Crest Master Association owns the roads and actual control what happens with the roads in Deer Crest. However, they are not the applicant on this matter. The applicant is Deer Crest Associates and the party that is the successor and interest to the developer under the Settlement Agreement. Mr. Bennett stated that it would be easier if the City could conclude that the Fire Marshall has the legal right to request that the gates be opened for access in the event of a fire or emergency. Mr. Bennett remarked that the interplay between Deer Crest Associates and Deer Crest Master Association in terms of who has the right to enter into agreements with respect to specific uses of the road would get complicated.

Commissioner Joyce pointed out that there is an existing agreement that says when Deer Crest Associates build Slalom Village they will build a disconnect. If they cannot work out another agreement, the disconnect will be built according to the Settlement Agreement. Commissioner Joyce believed the disconnect should conditionally be eliminated, but the other issues needed to be resolved at the same time.

Mr. Zacarro stated that on behalf of the Deer Crest Association, if Park City does not currently have the right to open the gates during an evacuation or a similar emergency, the DCA would agree to allow it. Mr. Zacarro remarked that the Deer Crest Association would not be in favor of a condition that included access for traffic emergency. Emergency vehicles are already permitted by the Master Association. Mr. Zacarro was cognizant of the comments and concerns regarding what would happen if things change

in the future and the gates are not properly maintained or staffed. He met with the Staff three weeks ago and suggested that the requirement be “suspended” instead of “eliminated”. It would be suspended and would not have to be adhered to. If the Master Association were to ever fail to continue to operate those gates as they currently are, the City Council would have the right to reinstate the disconnect.

Commissioner Joyce was comfortable with the language change suggested by Mr. Zacarro. Planner Whetstone noted that the Settlement Agreement was with Deer Crest, but it was the Master Association that was suggesting the change. She questioned whether all three parties needed to sign, or whether the two Associations needed an agreement between them saying that they understand the suspension.

Commissioner Thimm supported removing the disconnect requirement. His most compelling reason was emergency vehicle access and safety for the public. Commissioner Thimm concurred with Commissioner Joyce about maintaining some level of enforcement, and conditions with respect to what would happen if the gates are not maintained. He believed that was important to address. Commissioner Thimm commented on the Staff recommendation to include conditions related to mine hazard and mine soil, and he thought those should be included as well.

Mr. Bennett thought there were already requirements in the MPD and CUP process that require mine conditions to be reviewed. When someone comes in with a CUP for Slalom Village, he understood they would be required to address that issue. Planner Whetstone replied that the requirement was added to the Master Planned Development criteria after this was approved. She noted that the language is consistent with other amendments to Master Plans to make sure they get the information with the CUP. Mr. Bennett was not opposed to adding the conditions, but he questioned whether it was necessary.

Commissioner Band understood why the disconnect was included in the Settlement Agreement, but she could find no reason to keep it. She supported Commissioner Joyce’s comments about clarification. She favored the “suspend the physical disconnect” language.

Commissioner Campbell clarified his earlier comments. He thought everyone agreed that the road should stay where it is as opposed to tearing up part of it and stopping traffic from getting through. However, in terms of renegotiating, he felt the Planning Commission had the position as the representatives of the residents of Park City to negotiate it. Commissioner Campbell thought their recommendation to the City Council should include language stating that as a deliberative body, the Planning Commission was in favor of leaving the road as it is, but they were also in favor using this opportunity to negotiate whatever the City Councils determines is best for the rest of the City.

Commissioner Band did not believe they should open the gates and allow people from Wasatch County to use it as an access road. Commissioner Campbell stated that the City has the right to do that. Commissioner Band understood they had the right, but she

was not comfortable making that recommendation. Commissioner Campbell clarified that he was not suggesting that they recommend that. Like Commissioner Joyce had said, if they want a chance to keep some control, it should have teeth to ensure they are not giving up control.

Commissioner Suesser was in favor of removing the disconnect and keeping the road functioning as it is now. She disagreed with Commissioner Campbell about allowing the overflow traffic. She thought that in certain circumstances, an occasional use of Deer Hollow Road for that reason was reasonable and practical. She assumed that was why the Staff added it as a point to consider and she would be in favor of it.

Commissioner Band disagreed. If the intent is to limit traffic and get people to ride public transit, she was opposed to opening a private road through a private community. She was unsure why the City's traffic emergency should become their traffic emergency.

Commissioner Phillips stated that after hearing all the comments he concurred with his fellow Commissioners regarding public safety. It is important for the people who live in this area, and he would also like it to be a benefit to people outside of this MPD if need be for emergencies. Commissioner Phillips remarked that it was tempting to want to create another access through a traffic emergency, but the roads are not built for it and it is subjective. He thought it should remain the way it is.

Chair Strachan had nothing further to add. He clarified for Mr. Bennett that a mine waste analysis is required under LMC 15-1 for a CUP.

MOTION: Commissioner Joyce moved to CONTINUE the Deer Crest Settlement Agreement modifications to March 22, 2017. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.