

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 22<sup>nd</sup>.

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 22<sup>nd</sup> meeting to briefly review the list and discuss a path forward.

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

1. 1061/1063 Lowell Avenue (Application #PL-16-03328) - The purpose of this plat is to vacate Lot 1 from the Northstar subdivision, which currently holds a duplex and has a deed line running through it. This plat amendment is synonymous with application #PL-16-03221; removing Lot 1 from the Northstar subdivision will possibly allow the following application to subdivide the current lot into 4 lots (becoming its own subdivision) for 4 single family homes. (Application PL-16-03328)

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

MOTION: Commissioner Joyce moved to CONTINUE 1061/1063 Lowell Avenue to a date uncertain. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

2. 1061/1063 Lowell Avenue (Application #PL-16-03321) - The purpose of this plat is to subdivide one lot with a current duplex on it, separating it into 4 lots for 4 single family homes. This plat amendment is contingent on the approval of the 1061/1063 Lowell Avenue PL-16-03328 plat amendment, which proposes to vacate Lot 1 from the Northstar Subdivision. (Application PL-16-03321)

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

MOTION: Commissioner Joyce moved to CONTINUE 1061/1063 Lowell Avenue plat subdivision to a date uncertain. Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

3. Treasure Hill Conditional Use Permit, Creole Gulch and Town Lift Mid-station Sites – Sweeney Properties Master Plan - PL-08-00370 (Application PL-16-03321)

Chair Strachan opened the public hearing.

Nathan Holt, stated that he and his wife live at the top of Lowell Avenue. When they attended Planning Commission meeting hearings about eight years ago on the same topic they thought everything had been resolved. They were disappointed to see this issue come back and the Planning Commission having to deal with it. Mr. Holt understood that this particular month was to be devoted to transportation type issues. During the month of January when they have had snow and the height of the ski season he and his wife observed certain things with regards to traffic on both Empire and Lowell. They noticed times when the snow has been piled high on both sides and the residents have parked in front of their residences, and there is room for only passage of a single vehicle on Lowell and Empire. They also observed vehicles that have come to serve the residences; particularly vans and two-wheel drive vehicles, that cannot make it up Empire or Lowell. The vehicles spin their wheels and they have to turn around blocking traffic. It is hard to imagine a large resort at the top of Lowell and Empire given these kinds of weather conditions. Mr. Holt noted that they had a personal experience with their waste hauler. They have a large bin that eight units use for trash. One of the weeks during January the waste hauler made five attempts to get up those streets to empty the bin and could not do it. He wondered whether safety vehicles, fire trucks, ambulances would have four-wheel drive, or if they would encounter the same difficulties as the water removal trucks during January. Mr. Holt stated that the delay in hauling away their trash occurred one week, and the same delay occurred to a lesser amount of time twice during the month of January.

Mr. Holt stated that they observed many pedestrians on Lowell and Empire going to and from the resort with their skis to the city center. Vehicles have to slow for pedestrians. He has seen in the plans that the developer was proposing two-way traffic plus parking for residences, plus a sidewalk. He wondered how that is possible given the constraints of the historic district. He asked if the plan is to cut away into the steep side of Lowell Avenue and build tall, ugly, cement retaining walls. He wanted to know what would be done with the snow that is plowed to the sides. He could find nothing in the plan with regards to what will be done with the circumstances they experienced during the month of January. Mr. Holt remarked that one mitigation would be to close the Resort during the ski season, but he could not imagine that was being proposed.

Mr. Holt understood there was talk about vested rights from the application that was made or approved in 1986. In the 15 years he and his wife have lived there, vacant lots have filled in, and many of the residential buildings were enlarged. They know from personal

experience that VRBO and Air BNB have entered in a big way the various residents who do not use their residence full time are renting them out. Therefore, there is continuous traffic and parking throughout the ski season that was not present in 1986. Mr. Holt remarked that there has been a substantial change in circumstance that should void any vested rights that are being claimed back in 1986. He thanked the Commissioners for allowing him to address them, and he appreciated the difficult task they have in solving this difficult issue.

Chair Strachan believed the continued transportation discussion would last longer than the month of February. He suggested that Mr. Holt monitor the agenda.

Rich Wyman with THINC wanted to note that THINC finds it ironic that the Treasure Hill applicant always complains that they are being denied their due process rights. However, the Planning Commission is ready to proceed and the Staff is ready to get to work, yet everyone is being asked to wait by the applicant, whose lack of diligence is the source of delay.

Chair Strachan closed the public hearing.

Commissioner Joyce stated that during the January meeting when they discussed the kinds of traffic concerns, there was a discussion about the amount of pedestrians through that area and the impacts it would have. Another piece was the traffic flow on Crescent Tram, and whether there were any people that were already using that as an outflow. A third issue was focusing on the intersection bridging Empire and Lowell. Commissioner Joyce pointed out that the biggest headache they see is Empire and Park. He wanted to make sure that when they do the study over Presidents weekend that they come back with something to address those concerns. He noted that most of those concerns were not in the previous traffic study, and if they only update what was already done there would still be a number of unanswered questions.

Director Erickson stated that he would verify the locations and dates of the counts to make sure it includes the four locations Commissioner Joyce had cited. He noted that the traffic study would also include a traffic impact analysis 101 to help them understand what the numbers mean and how they were calculated.

**MOTION:** Commissioner Joyce moved to CONTINUE the Treasure Hill Conditional Use Permit to March 8, 2017. Commissioner Band seconded the motion.

**VOTE:** The motion passed unanimously.

## **CONSENT AGENDA**

1. 422 Ontario Avenue – Steep Slope Conditional Use Permit for an Addition to a Historic House. (Application PL-16-03246)

Commissioner Joyce referred to one point on page 92 that said Discussion Requested. He asked if there was something that the Staff wanted the Planning Commission to address.

Planner Grahn clarified that she initially had a question but she worked with the architect and it was resolved. She apologized for not removing the discussion request from the Staff report.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Thimm moved to APPROVE the Consent Agenda. Commissioner Band seconded the motion.

VOTE: The motion passed unanimously.

### Findings of Fact – 422 Ontario Avenue

1. The property is located at 422 Ontario Avenue. The legal description is the north ½ of Lot 5 and all of Lot 6 of Block 58 of the Park City Survey.
2. The Park City Council approved the Sorensen Plat Amendment at this location on December 3, 2015; the plat has not yet been recorded.
3. On July 21, 2016, the Board of Adjustment (BOA) granted variances for the following:
  - a. LMC Section 15-2.2-3 (E), to the required twelve foot (12') side yard setbacks to allow a zero foot (0') setback to the front property line.
  - b. LMC Section 15-2.2-3 (H), to the required five foot (5') side yard setbacks to allow a three foot (3') setback to the north property lines.
  - c. LMC Section 15-2.2-5 (A) to the required maximum height of thirty five feet (35') to allow a maximum height of forty-one feet (41') measured from the lowest finish floor plane to the point of the highest wall top plate that

supports the ceiling joists or roof rafters.

4. A Historic District Design Review (HDDR) application is currently under review.
5. The property is located within the Historic Residential (HR-1) District and meets the purpose of the zone.
6. A single family dwelling is an allowed use in the HR-1 District.
7. Following recording of the plat amendment, the lot will contain 4,464 square feet. This is an uphill lot with an average slope of approximately 26.6%. The greatest slope on the property occurs in the center of the property, where the slope can reach up to 69.3%.
8. Access to the property is from Ontario Avenue, a public street.
9. Two (2) parking spaces are proposed on site. The applicant is proposing a two-car tandem garage to the north of the historic house.
10. The neighborhood is characterized by a mix of historic and non-historic residential structures, single family homes, and duplexes. The streetscape on the east, uphill side of the road, is dominated by garages and pedestrian entryways.
11. The proposal will create a single family dwelling of approximately 2,833 square feet, including the basement area and one-car garage.
12. An overall building footprint of 1,440 square feet is proposed following construction of the addition. The maximum allowed footprint for this lot is 1,736.8 square feet.
13. The proposed addition complies with the front and rear yard setbacks, as granted by the variance. The minimum front and rear yard setbacks are 12 feet; the applicant is proposing a 16 foot rear yard and the variance permitted a 0 foot front yard to accommodate the below-grade garage.
14. The proposed addition complies with the side yard setbacks, as granted by the variance. The minimum side yard setbacks are 5 feet. The historic house has a 2 foot side yard setback, and the basement level of the new addition will have a 3 foot side yard setback on the north side as permitted by the variance.
15. The proposed addition complies with the twenty-seven feet (27') maximum building height requirement measured from existing grade. Portions of the house are less

than twenty-seven feet (27') in height.

16. The proposed addition has an interior height of 41 feet, as granted by the variance.

17. The proposed development is located on the lot in a manner that reduces the visual and environmental impacts of the structure. The majority of the mass and bulk of the building will be below grade, so that only a one- to two-story addition will appear above grade on the hillside.

18. The applicant submitted a visual analysis, cross valley views, and a streetscape showing a contextual analysis of visual impacts of this house on the cross canyon views and the Ontario Avenue streetscape. The proposed house is compatible with the surrounding structures as the majority of the mass and bulk of the house will be buried underground based on this analysis.

19. Access points and driveways have been designed to minimize grading of the natural topography and reduce the overall building scale. Staff finds that the majority of the bulk and mass of this structure is located below grade. The architect has designed a two-car tandem garage that will be built below grade. The garage will sit at street level with only the front wall of the garage being visible from Ontario Avenue. Furthermore, the façade of the garage will also act as a retaining wall to step the hillside above.

20. The project has incorporated terracing to regain Natural Grade. In the front yard, the applicant is proposing to reconstruct the existing concrete and boulder wall along Ontario Avenue. The reconstructed wall will serve as both the front wall of the garage with terraced landscaped beds above it to help "ground" the mass of the new addition with vegetation. In the rear yard, a series of retaining walls will be introduced to create outdoor living spaces and an outdoor landscaped stair that climbs from the back of the house on the west side to the flat area on the east side of the lot. In addition to maintaining the grade, the terracing will also help with drainage issues that are currently rotting the back of the historic house.

21. Buildings, access, and infrastructure are located to minimize cut and fill that would alter the perceived natural topography of the Site. The new development has been located in such a way as to minimize cut and fill. As proposed, the design steps with and mass of the new addition will be concealed below grade as part of the basement-level garage. The areas above grade will appear to be one- to two-stories in height, which is compatible with the existing house and neighborhood.

22. The building mass is oriented with the lot's existing contours. The proposed

development steps with the grade and is broken into a series of individual smaller components that are compatible with the district. The building maintains a low profile as it steps with the existing contours and much of its bulk and mass is concealed below grade. The proposal is consistent with the Design Guidelines for Historic Districts and Historic Sites.

23. The applicant has incorporated setback variations to prevent a wall effect and reduce the building scale and setbacks on adjacent structures.

24. The proposed design is articulated and broken into compatible massing components. The design includes setback variations and lower building heights for portions of the structure. The design minimizes the visual mass and mitigates the differences in scale between the proposed house and surrounding structures.

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

26. On July 20, 2016, the Planning Department received an application for a Steep Slope Conditional Use Permit (CUP); the application was deemed complete on November 21, 2016.

27. The property was posted and notice was mailed to property owners within 300 feet on January 25. Legal notice was also published in the Park Record in accordance with requirements of the LMC on January 28, 2016.

28. The property is located outside of the Soils Ordinance.

29. The findings in the Analysis section of this report are incorporated herein. the existing grade and is compatible with the neighborhood.

#### Conclusions of Law – 422 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 – 422 Ontario Avenue

1. All Standard Project Conditions shall apply.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits. The CMP shall include language regarding the method of protecting adjacent structures.
3. City Engineer review and approval of all lot grading, utility installations, public improvements and drainage plans for compliance with City standards is a condition precedent to building permit issuance.
4. No building permit shall be issued until the Sorenson Plat Amendment at 422 Ontario Avenue is recorded.
5. This approval will expire on February 8, 2018, 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.
6. Plans submitted for a Building Permit must substantially comply with the plans reviewed and approved by the Planning Commission on February 8, 2017, and the Final HDDR Design.
7. 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.
8. Modified 13-D residential fire sprinklers are required for all new construction on this lot.
9. 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.
10. Construction waste should be diverted from the landfill and recycled when

possible.

11. Final landscape plan shall be provided at the time of the building permit and shall include existing vegetation, and include a replacement plan for any significant vegetation proposed to be removed.

12. The property is located outside the Park City Landscaping and Maintenance of Soil Cover Ordinance (Soils Ordinance) and therefore not regulated by the City for mine related impacts. If the property owner does encounter mine waste or mine waste impacted soils they must handle the material in accordance to State and Federal law.

13. Historic buildings which are lifted off the foundation must be returned to the completed foundation or basement within 45 days of lifting the building. Failure to do so will be a violation of the Preservation Plan and enforcement action through the financial guarantee for historic preservation could take place. The Planning Director may make a written determination to extend this period up to 30 additional days if, after consultation with the Historic Preservation Planner, Chief Building Official, and City Engineer, he determines that it is necessary based upon the need to immediately stabilize an existing Historic property, or specific site conditions such as access, or lack thereof, exist, or in an effort to reduce impacts on adjacent properties.

14. The Preservation Plan must include a review and stamp by a licensed and registered structural engineer on the proposed cribbing or shoring methods. If the contractor makes a revision to the cribbing or shoring plan, the structural engineer must approve the change in writing. Cribbing or shoring must be of engineered materials. Screw-type jacks for raising and lowering the building are not allowed. The owner (or through its agent or the contractor) is responsible for notifying the Planning Department if changes are made.

15. All excavation work to construct the foundation shall start on or after April 15th and be completed on or prior to October 15th. The Planning Director may make a written determination to extend this period up to 30 additional days if, after consultation with the Historic Preservation Planner, Chief Building Official, and City Engineer, determines that it is necessary based upon the need to immediately stabilize an existing Historic property, or specific site conditions such as access, or lack thereof, exist, or in an effort to reduce impacts on adjacent properties.

16. The built infrastructure currently located in the Ontario Avenue right-of-way, including the planter and block retaining wall, shall be removed as part of this

renovation.

17. No building permit shall be issued for the renovation of the historic house and construction of the addition until the plat has been recorded with the Summit County Recorder's Office.

## **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.

**2. Request for a one Lot and one Parcel subdivision plat, located at 9300 Marsac Avenue, to create a platted lot for development of Parcel B2 East of the Parcel B2 Master Planned Development Phase II, and to create a non-development parcel for ski area uses located on Twisted Branch Road.**  
**(Application PL-16-03338)**

Doug Ogleby, stated that he was representing REDUS Park City, a Wells Fargo controlled entity and steward of the remaining lands at Empire Pass.

Planner Whetstone reviewed the request for a final subdivision plat to create a platted lot for a 7.85 acre metes and bounds described parcel located within the Empire Pass Pod B2 Master Planned Development. The subdivision consists of a 6.91 acre, Lot 1, for future development of 81 UE that were approved in a conceptual manner with the B-2 Master Plan Development. Phase 1 in the Montage. This is Phase 2. A one-acre parcel would be used for ski area uses but no density would be assigned to it.

The Staff requested that the Planning Commission conduct a public hearing and forward a positive recommendation to the City Council with the findings of fact, conclusions of law and conditions of approval as outlined in the Staff report, as well as the proposed changes that were provided this evening. Planner Whetstone clarified that changes were made to the body of the Staff report and she thought those changes should be reflected in the findings and conditions.

Mr. Ogleby stated that Lot 1 would be the site of a future condo development. Parcel A is land that was previously targeted as a potential location for a ski bridge passing over Twisted Branch Road, which is why it was carved off from Lot 1. Mr. Ogleby stated that wine waste was removed from the site last summer. That work should be completed in the Spring when the snow melts. He referred to the revised findings and noted that there is an adit, which is a shallow, sloping tunnel that they found last summer. It was temporarily closed until they can engineer where the buildings will be located. They want to give the ultimate developer of that site the best opportunity to address it, whether they fill it with concrete, over-excavate it and backfill, or bridge over it. He pointed out that it would be addressed at building permit for the building to be built there.

Commissioner Joyce noted that the parking in that lot has been used for the Empire Lodge in the evenings for Fireside Dining. He wanted to know what would happen with that parking. Planner Whetstone stated that language in the Flagstaff Annexation Agreement states that if on a regular basis, if Empire Day Lodge is in need of parking they would have to use unit equivalents. It is supposed to be an on-mountain ski in/ski out restaurant and it should not have parking.

Mr. Ogleby stated that a provision in the MPD permits the construction of some parking for the Empire Day Lodge on the B-2 East site. That will ultimately be a discussion between the developer of this site and Deer Valley and it would be considered a CUP for the project to be built on these lands. He explained that the goal this evening is to create a platted lot of record where they can put density. Planner Whetstone stated that a condition of approval addresses the type of use of the Empire Day Lodge.

Commissioner Joyce stated that when this comes back to the Planning Commission that would be another question. He thought it was clear that Deer Valley has an issue because the Day Lodge was currently being used as a night lodge four or five nights a week. He thought it was evident that something needed to be done. Planner Whetstone replied that it would be addressed at the conditional use stage.

Director Erickson stated that if the Commissioners agreed, they could add a condition of approval stating that when a CUP is filed on Lot 1, the conditional use permit will address the current parking for Fireside Lodge. Commissioner Joyce favored adding that condition.

Chair Strachan asked if this was subject to a CUP. Director Erickson replied that all of the small scale MPDs are subject to a CUP. Mr. Ogleby was concerned that "address the parking at Empire Day Lodge" could mean different things to different people. Director Erickson stated that they would put it in the recommendation and the Staff would clean up the language before it goes to the City Council, rather than trying to work it out tonight. Planner Whetstone stated that they could address it consistent with the Flagstaff Development Agreement.

Commissioner Joyce referred to a requirement for 4.2 affordable UEs and tied to a plat note. Everything he read talked about on-mountain or on-site affordable housing. However, he recalled that 25% of affordable housing was on site. He asked Planner Whetstone to clarify the affordable housing both on-site and off-site.

Planner Whetstone explained that there is a requirement of 24.725 AUEs on the mountain per the Development Agreement. Most of the developments have provided one unit. Montage provided 7.8. She did a calculation and found that they needed to add additional on-mountain units. The applicant agreed to identify the affordable units on the plat so when somebody buys B-2 East they know are providing 4.2 units. The other plat was identified on the three lots. The Empire Club also has a requirement. Totaled together, they are slightly over on on-mountain. Talisker had the responsibility of providing the remaining units.

Mr. Ogleby stated that the Tower residence would also include one AUE, which would leave approximately five off-site AUEs required. REDUS, as the property owner selling off

the land, intends to come back to the Staff and the City Council with a plan on how to address that. They are creating the obligation for whoever buys these parcels to what they are doing on-site so they know the on-mountain has been looked after. REDUS is still carrying the responsibility for the off-mountain and they have theories on how to deal with that.

Planner Whetstone pointed out that there is also a gondola payment and several obligations for the entire development that triggers the certificates of occupancy. The City was working with REDUS on who will pay for and meet those obligations. The rest of the requirements that apply have to be complete or bonded for completion prior to issuance of any certificates of occupancy on Lot 1. The same condition was put on the other plats.

Chair Strachan opened the public hearing.

Steve Issowitz with Deer Valley stated that he was not prepared to speak to or answer the question about the parking, but he believed the Empire Lodge fell under the Deer Valley MPD and it does not apply to the Flagstaff MPD. He did not want this applicant to be saddled with issues that might exist for Empire Lodge. There is an entire history between 1999 and 2001. It went from day use to applications for the nightly restaurant. Parking was worked out when the surface lot went in on the Daly West, and after that when the Montage was going in, parking was allocated to Deer Valley's use within Montage, which they have now. They also have an agreement with United Park City Mines, when the Flagstaff Development Agreement was coming together, for additional spaces within the B-2 parcel, but that is on Deer Valley for Empire Lodge, and not necessarily on this applicant, as part of the Flagstaff Development Agreement. Mr. Issowitz suggested that they might need to research which MPD it falls under to alleviate any concerns, but he did not believe it applied to this parcel.

Mr. Ogleby stated that in reading the history there was no requirement for parking because it was supposed to be a day lodge. Within the Flagstaff B-2 MPD there is language that says, "This site may have additional parking provided for the benefit of Empire Day Lodge". It was more of a permissive use rather than a required use.

Commissioner Joyce was not concerned from the standpoint of this plat approval. It was reasonable to believe that if it is not addressed, when someone comes to the Planning Commission with a CUP to build out that property, there may or may not be a problem. He wanted to flag it so they will pay attention to it when the time comes.

Mr. Ogleby wanted to make sure they were not adding something that is perceived as creating an obligation on the buyer of this land that may not rightly be an obligation on the buyer.

Chair Strachan suggested that they leave that to Mr. Issowitz to enforce.

Chair Strachan closed the public hearing.

MOTION: Commissioner Phillips moved to forward a POSITIVE recommendation to the City Council regarding the B-2 East Subdivision pursuant to the Findings of Fact, Conclusions of Law and Conditions of Approval as stated in the Staff report and modified with the additional Finding of Fact #31 in redline, and Condition of Approval #10 dealing with the building permits on Lot 1 and Parcel A that were presented this evening.

Director Erickson pointed out that if the Planning Commission was not compelled to add an additional condition regarding the parking for Empire Lodge, they will run it with the MPD approval of B-2E, consistent with that language, and track it that way.

Commissioner Suesser seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – B-2 East Subdivision

1. The property is located at 9300 Marsac Avenue.
2. The zoning is Residential Development (RD) within Flagstaff Mountain Resort Annexation and the Village at Empire Pass B2 MPD (RD-MPD).
3. On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the Flagstaff Mountain area.
4. Resolution 20-99 granted the equivalent of a “large-scale” master planned development (MPD) and set forth the types and locations of land use, maximum densities, timing of development, development approval process, as well as development conditions and amenities for each parcel.
5. The Flagstaff Development Agreement was subsequently amended and recorded in March of 2007.
6. The Development Agreement specifies that a total of 87 acres, within three development pods (A, B1 and B2), of the 1,750 acres of annexation property may be developed for the Mountain Village.

7. The Mountain Village is further constrained to a maximum density of 785 UE configured in no more than 550 dwelling units as multi-family, hotel, or PUD units, provided the number of PUD units do not exceed 60. The Mountain Village is allowed 16 single family home sites. At least 50% of the residential units within the Mountain Village must be clustered within the primary development pod (Pod A).
8. There are currently 588.742 UE (382 multi-family units) platted within the Village at Empire Pass (Pods A, B1 and B2).
9. With approval of 81 UE (and up to a total of 70 multi-family condominium units) on Lot 1 of the B2 East Subdivision, there will be 669.742 UE platted, 452 (or fewer) units platted, and 57% of the units of Pods A, B1 and B2 will be located within Pod A. The numbers for UE and units do not include the UE and units proposed on the Village North Subdivision under concurrent review. There would then be 88.258 UE and 98 units available for the Village North subdivision, as well as for the un-built Tower Residential (Building One of the Village at Empire Pass MPD).
10. On March 14, 2007, the Planning Commission approved a Master Planned Development for Pod B2 at Empire Pass. The MPD approved 192 hotel rooms utilizing 69.6 Unit Equivalentents (UE) and 94 hotel condominiums utilizing 114 UE, on the west side parcel (Montage Resort and Spa). An additional 81 UE of residential condominiums were assigned to the B2 East parcel.
11. The Pod B2 MPD approved Resort Support Commercial uses for the 35,000 sf of Spa space and 28,059 sf for restaurants, bar, and retail space. The MPD approved 15,000 sf of meeting/conference space and lounge area based on the floor area of the building, not including the parking garage.
12. The Development Agreement allows a total maximum of 75,000 sf of MPD Resort Support Commercial floor area within Pods A, B1 and B2.
13. The Tower Club CUP in Pod A includes 2,264 sf of private dining room, kitchen and store and was approved for an amendment to the CUP for a dining room addition of 1,115 sf. The Tower Club CUP is approved for 3,379 sf of MPD Resort Support Commercial.
14. The Grand Lodge Condominium plat approved a total of 1,275 sf of MPD Resort Support Commercial.
15. There exists a total of 7,287 sf of unallocated Resort Support Commercial that can be allocated within the Village MPD to Pods A, B1, and B2. With approval of the

proposed application, 3,600 sf of Resort Support Commercial will be allocated to Lot 1, leaving a balance of 3,687 sf unallocated Resort Support Commercial available under the Flagstaff Development Agreement.

16. Accounting of the support commercial, residential accessory space, and support meeting space is finalized at the time of review of the Conditional Use Permit and memorialized in the final condominium plat(s).

17. On March 29, 2007, the City Council approved the Parcel B-2 Empire Village Subdivision creating three lots of record for Parcel B-2 (West). The Parcel B-2 Empire Village Subdivision amended and consolidated parcel A of the prior Empire Village Subdivision for the Empire Day Lodge and created Lot B, site of the Daly West head frame and access to JSSD underground mine tunnels, and Lot C, site of the Montage Resort and Spa CUP.

18. Subject property is a metes and bounds parcel and is not part of the Parcel B-2 Empire Village Subdivision plat.

19. The staff report for the Parcel B-2 Empire Village Subdivision indicates that the Parcel B-2 East would have to be platted to create a legal lot for development of 81 UE of residential condominiums.

20. Parcel B-2 Empire Village Subdivision plat was recorded on May 23, 2007.

21. The proposed B2 East Subdivision plat creates one lot and one parcel for the B-2 East parcel. Lot 1 is 6.91 acres in area and Parcel A is 0.94 acres in area. Total property consists of 7.85 acres.

22. Lot 1 has frontage on Marsac Avenue, a State Highway and utilities are available to the lot. A Line Extension Agreement approval letter was issued by SBWRD on January 24, 2017.

23. All existing and required easements will be recorded on the plat, including utilities, storm drainage, access, snow storage, etc. No changes are proposed to existing streets.

24. Final utility plans are required to be submitted with the Conditional Use Permit based on the proposed configuration of units and buildings. Additional off-site utility easements maybe required and will have to be recorded prior to issuance of building permits.

25. There is an existing curb cut off Marsac Avenue. Any relocation of this curb cut for future buildings requires review and approval by the City Engineer and UDOT.
26. There is no minimum or maximum lot size or lot width in the RD District.
27. All applicable requirements of Land Management Code apply, unless otherwise allowed per the Flagstaff Development Agreement and Pod B2 at Empire Pass MPD.
28. A height exception and building volumetric were approved with the Pod B2 at Empire Pass MPD.
29. The final Mylar plat is required to be approved and signed by the Snyderville Basin Water Reclamation District prior to recordation to ensure that requirements of the District are addressed.
30. Snow storage area is required along public streets and rights-of-way due to the possibility of large amounts of snowfall in this location.
31. In September 2016, the applicant began working under an Administrative Settlement and Order on Consent for removal Action with the EPA permit to remediate and remove mine sol from the property and to close an old mine shaft/adit. After the mine shaft closure was completed, this work was halted in November 2016 on account of the weather. Some contaminated soil remains onsite in the area of the former and remaining parking lot. The Adit (a gently sloping shallow tunnel) discovered during the mine shaft closure has been temporarily closed but will require further work at time of building construction.
32. On site affordable housing requirements are required by the Flagstaff Development-Affordable Housing Technical Report. This plat identifies an on-site housing obligation of 4.2 AUE (per requirements of the Affordable Housing Mitigation Plan) to be incorporated into the building (s) and noted on the plat.
33. Requirements of the Flagstaff Development Agreement will be reviewed and verified for compliance during the Conditional Use Permit application review for development of Lot 1. This includes transportation, affordable housing, environmental, transfer fees, construction mitigation, and others as may apply. Some of these obligations are triggered by the number of certificates of occupancy issued.
34. All findings within the Analysis section and the recitals above are incorporated herein as findings of fact.

Conclusions of Law – B-2 East Subdivision

1. There is good cause for this subdivision plat.
2. The subdivision plat is consistent with the Park City Land Management Code and applicable State law regarding subdivisions, the Park City General Plan, and the Empire Pass Pod B-2 Master Planned Development.
3. Neither the public nor any person will be materially injured by the proposed subdivision.
4. Approval of the subdivision, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – B-2 East Subdivision

1. The City Attorney and City Engineer will review and approve the final form and content of the subdivision 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 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 written request for an extension is submitted to the City prior to the expiration date and the City Council grants an extension.
3. All applicable conditions, regulations, requirements, and stipulations of the Amended and Restated Development Agreement for Flagstaff Mountain, Bonanza Flats, Richardson Flats, The 20-Acre Quinn's Junction Parcel, and Iron Mountain (recorded at Summit County on March 2, 2007), and associated Technical Reports and Agreements, continue to apply.
4. The plat will note that conditions of approval of the Village at Empire Pass Master Planned Development and the Pod B-2 Master Planned Development shall continue to apply.
5. Utility structures such as ground sleeves and transformers and other dry utility boxes must be located on the lots.
6. Non-exclusive public utility easements (PUE) shall be indicated on the plat prior to

recordation as approved by the City Engineer and SBWRD, including drainage easements.

7. A financial security to guarantee for the installation of any required public improvements is required prior to plat recordation in a form approved by the City Attorney and in an amount approved by the City Engineer.

8. A ten foot (10') wide public snow storage easement is required along the public street frontage of the Lot and Parcel.

9. Fire sprinklers are required for new construction per the Chief Building Official at the time of review of the building permit. A note stating this shall be on the plat.

10. No building permits shall be issued on Lot 1 or Parcel A until the mine shaft has been fully closed and mine soil remediation under EPA supervision has been completed. Prior to issuance of any building permits, documentation certifying the work is complete shall be presented to the Chief Building Official and Planning Director. As part of any building permit submission, property owner shall submit a closure plan for the adit, approved by a geotechnical engineer, and detailing any additional work required in conjunction with building construction in the vicinity of the adit.

11. Prior to building permit issuance, documentation from UDOT showing approval of any curb cuts onto Marsac Avenue, a state highway, is required. If documentation of the existing curb cut does not exist, a new application shall be submitted to UDOT for approval of the curb cut location. This approval shall be submitted to the City Engineer.

12. Any modifications to existing curb cuts for access to Marsac Avenue, a state highway, must be approved by the City Engineer and UDOT.

13. A Conditional Use Permit approval is required prior to issuance of a building permit for the residential building proposed on Lot 1.

14. A final grading and utility plan, including storm water and drainage plans, shall be submitted with the Conditional Use Permit for development on Lot 1, for approval by the City Engineer and SBWRD. No building permits shall be issued until all necessary utility easements are recorded.

15. A declaration of condominium and a record of condominium plat are required prior to the sale of individual units within the development.

16. Requirements of the affordable housing mitigation plan shall be addressed with the Conditional Use Permit and condominium plat. A note shall be included on the plat indicated that the development of Lot 1 has an on-site affordable housing obligation of 4.2 AUE, to be consistent with all requirements of the Flagstaff Affordable Housing Mitigation Plan. All deed restricted units shall be identified on the final condominium plat prior to recordation of such plat.

17. Wastewater service to B2 East Subdivision shall be provided by the Snyderville Basin Water Reclamation District. A Line Extension Agreement approval letter was provided by SBWRD on January 24, 2017. The Owner shall be responsible for extending the public wastewater system within Lot 1 according to requirements of the Line Extension Agreement. Easements associated with this agreement are to be depicted on the plat.

18. The property is located within a water source protection zone. All sewer construction must comply with State of Utah drinking water regulations.

19. This development is part of a common plan development and a MS4 storm water permit is required for all land disturbance activities for each separate phase of construction, prior to building permit issuance.

20. The CC&Rs shall provide notice and process for the tracking and collection of the Real Estate Transfer Fee as required and defined by the Flagstaff Mountain Development Agreement, as amended.

21. Requirements and obligations of the Flagstaff Mountain Development Agreement, as amended and recorded at Summit County in March of 2007, as apply to this Property, shall be completed, or bonded for completion, prior to issuance of certificates of occupancy for any approved development located on Lot 1, unless otherwise conditioned herein (e.g. soil and mine remediation to be complete prior to building permit issuance). This includes gondola payments, number of shuttles in operation, provision of affordable housing units, collection mechanism for real estate transfer fees, and all other such obligations as are outlined in the March 2007 Agreement, some of which are triggered by the number of certificates of occupancy issued.

22. A Construction Mitigation Plan shall be submitted with the Conditional Use Permit application and in advance of issuing building permits.

3. **Request for a three lot and one Parcel subdivision plat, known as Village at Empire Pass North Subdivision, located at the intersection of Village Way and**

**Marsac Avenue east of the Silver Strike chair lift, to create platted lots within the approved Village at Empire Pass Master Planned Development for Buildings 3 and 4, and for the Horseshoe Parcel townhouses located on the north side of Marsac Avenue across from the base of the Silver Strike chair lift, and to create a platted Parcel of a remnant parcel for ski area uses.**  
**(Application PL-16-03293)**

Director Erickson noted that Planner Whetstone and Assistant City Attorney McLean had spent significant time vetting all the remaining density in Empire Pass and allocating it to all the parcels. He stated that these two plats were a good lesson for how things should be done. Instead of waiting for a development to come forward and platting for density, REDUS had agreed to come forward and plat with density first before a conditional use permit. The result was a perfect allocation of where the density units are located and the unit equivalents for affordable housing.

Commissioner Joyce understood that there was a small amount of commercial space that had not been allocated. Planner Whetstone answered yes.

Mr. Ogleby, representing REDUS, stated that there was also residential density not recorded as a plat that would go on the Tower residences, as well as commercial density that will go on the Tower. Planner Whetstone stated that she used what had been approved for the CUP but had not been platted. They were all condominium plats and every square footage of what was recorded was on the plats. They now know exactly how many square feet are there and the number of UEs and units.

Planner Whetstone reviewed the application for a three lot subdivision with a small Parcel A, located at the Silver Strike Lift. Lots 2 and 3 are part of the Village at Empire Master Planned Development. Lodge parcels were approved with the Master Plan but not with the specific density. The applicant was asking for specific density; a UE and no more than a specific number of units for Lot 3. They were not asking for Lot 2 as this time. Lot 1 is identified in the Master Plan as townhouse and PUD style, means they are condominiumized but individual units.

Planner Whetstone reported that for Lot 3 the applicant was requesting 23.5 UEs, configured in no more than 23 individual units. She pointed out that final density and final design was dependent on the conditional use permit.

The Staff had done a full analysis and recommended that the Planning Commission conduct a public hearing and consider forwarding a positive recommendation to the City Council based on the findings of fact, conclusions of law, and conditions of approval found in the Staff report.

Chair Strachan opened the public hearing.

There were no comments.

Chair Strachan closed the public hearing.

MOTION: Commissioner Joyce moved to forward a POSITIVE recommendation to the City Council regarding the Village at Empire Pass North Subdivision, pursuant to the Findings of Fact, Conclusions of Law and Conditions of Approval as stated in the draft ordinance. Commissioner Thimm seconded the motion.

VOTE: The motion passed unanimously.

#### Findings of Fact – Village at Empire Pass North Subdivision

1. The property is located at Marsac Avenue and Village Way within Pod A of the Master Planned Development for the Village at Empire Pass. Addresses will be assigned prior to plat recordation.
2. The zoning is Residential Development (RD) within Flagstaff Mountain Resort Annexation and Village at Empire Pass MPD area (RD-MPD).
3. On June 24, 1999, Council adopted Ordinance 99-30 and Resolution 20-99 approving the annexation and development agreement for the Flagstaff Mountain area.
4. Resolution 20-99 granted the equivalent of a “large-scale” master planned development (MPD) and set forth the types and locations of land use, maximum densities, timing of development, development approval process, as well as development conditions and amenities for each parcel.
5. The Flagstaff Development Agreement was subsequently amended and recorded in March of 2007.
6. The Development Agreement specifies that a total of 87 acres, within three development pods (A, B1 and B2), of the 1,750 acres of annexation property may be developed for the Mountain Village.
7. The Mountain Village is further constrained to a maximum density of 785 UE configured in no more than 550 dwelling units as multi-family, hotel, or PUD units,

provided the number of PUD units do not exceed 60. The Mountain Village is also allowed 16 single family home sites. At least 50% of the residential units within the Mountain Village must be clustered within the primary development pod (Pod A).

8. There are currently 588.742 UE (382 multi-family units) platted within the Village at Empire Pass (Pods A, B1 and B2).

9. With approval of 23.5 UE (up to a maximum of 23 units) on Lot 3 of the Village at Empire Pass North Subdivision, there will be 612.242 UE platted (up to 405 MF units), and 69.4% of MF units in Pods A, B1 and B2 located within Pod A. If 81 UE (70 units) are also built on Pod B2 (see request for B2 East Subdivision at this same meeting) there will then be a total of 693.242 UE and 475 units with 59.2% of MF units located within Pod A.

10. Upon Conditional Use Permit approval of the 23.5 UE for Lot 3 and 81 UE for B2East, 91.758 UE and 75 dwelling units would remain to be allocated to remaining residential development sites in Pod A. The remaining sites include Lots 1 and 2 of this subdivision, Lodge Building 1 (Tower Residential), and Lots 1 and 2 of the Village at Empire Pass Phase 1 subdivision.

11. The applicant is not requesting allocation of any MPD Resort Support Commercial for this subdivision at this time. There exists a total of 7,287 sf of unallocated Resort Support Commercial that can be allocated within the Village MPD to Pods A, B1, and B2.

12. Accounting of the support commercial, residential accessory space, and support meeting space is finalized at the time of review of the Conditional Use Permits and memorialized with the final condominium plats.

13. On July 28, 2004, the Planning Commission approved a Master Planned Development for the Village at Empire Pass (Pod A), known as the Village Master Planned Development (VMPD) Pod A.

14. The purpose of the VMPD was to establish unit mix and density for the Village Master Plan, as well as addressing overall project infrastructure throughout the Annexation Area. The VMPD established building volumetric diagrams, including specific height exceptions, density, and development location.

15. The Village at Empire Pass West Side Subdivision plat was approved by Council in 2005 and recorded at Summit County on August 12, 2005. This subdivision platted

Lots 12-18 of the VMPD (west side).

16. Village at Empire Pass Phase I Subdivision plat was approved by Council on September 30, 2004 and platted the east side lots. An amended Village at Empire Pass Phase I Subdivision plat was approved on January 6, 2011 and recorded on January 4, 2012.

17. Six lodge buildings have been built to date within Pod A namely Shooting Star, Silver Strike, Flagstaff Lodge (was Snowberry Lodge), Arrowleaf A and Arrowleaf B, and Grand Lodge. A seventh building, One Empire Pass is currently under construction. Additionally, Larkspur East and Larkspur West Townhouses (attached homes), Paintbrush and Belles PUD style homes, and six single family homes in Banner Wood are platted within Pod A. Of these units, one Belles PUD unit and 2 Banner Wood single family units are remaining to be permitted and constructed. Additionally 4 PUD units within Nakoma in Pod B1 are remaining to be permitted and constructed.

18. Three of the large lodge buildings (Buildings 1, 3, and 4) as well as additional townhouse and PUD style units remain to be constructed within the Village MPD Pod A.

19. The proposed subdivision consists of property that is currently described by metes and bounds. The request is for a 3.0 acre Lot 1, for future townhouse and PUD units, a 1.57 acre Lot 2 for Lodge Building 4, a 0.67 acre Lot 3 for future Lodge Building 3, and a 0.10 acre Parcel A. The property consists of a total of 5.34 acres.

20. Lots 1 and 2 have frontage on Marsac Avenue, a State Highway. Lot 3 has frontage on Village Way, a private street. Lot 2 also has frontage on Village Way. Parcel A has access to Village via a proposed access easement across Lot 2.

21. Lots 2 and 3 will take access off Village Way. Location of access off Marsac Avenue requires review and approval by UDOT and the City Engineer, as Marsac Avenue is currently a state highway.

22. A Conditional Use Permit (CUP) is required prior to construction of the Lodge Buildings, PUD units, and townhouses.

23. Utilities are available to the lots. SBWRD recommended conditions and plat notes to address their concerns.

24. All existing and required easements will be recorded on the plat, including utilities,

storm drainage, access, snow storage, etc. No changes are proposed to existing streets.

25. Final utility plans are required to be submitted with the Conditional Use Permit based on the proposed configuration of units and buildings. Additional off-site utility easements maybe required and will have to be recorded prior to issuance of building permits.

26. There is no minimum or maximum lot size or lot width in the RD District.

27. All applicable requirements of Land Management Code apply, unless otherwise allowed per the Flagstaff Development Agreement and the Village at Empire Pass MPD.

28. A height exception and building volumetric were approved with the Village at Empire Pass Pod A Master Planned Development for the Lodge Buildings (Lots 2 and 3).

29. The final Mylar plat is required to be approved and signed by the Snyderville Basin Water Reclamation District prior to recordation to ensure that requirements of the District are addressed.

30. Snow storage area is required along public streets and rights-of-way due to the possibility of large amounts of snowfall in this location.

31. On site affordable housing requirements are required by the Flagstaff Development-Affordable Housing Technical Report. This plat identifies an on-site housing obligation of 1.1 AUE for Lot 3 and 2.0 AUE for Lot 2 (per requirements of the Affordable Housing Mitigation Plan) to be incorporated into MPD Lodge Buildings 3 and 4 and noted on the plat. Also 0.84 AUE are an outstanding requirement of the Tower Residences to be constructed in MPD Lodge Building 1. No AUE are planned or identified for Lot 1 of this subdivision.

32. Requirements of the Flagstaff Agreement will be reviewed and verified for compliance during the Conditional Use Permit applications reviewed for development on Lots 1, 2 and 3. This transportation, affordable housing, environmental, transfer fees, construction mitigation, and others as may apply. Some of these obligations are triggered by the number of certificates of occupancy issued.

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

Conclusions of Law – Village at Empire Pass North Subdivision

1. There is good cause for this subdivision plat.
2. The subdivision plat is consistent with the Park City Land Management Code and applicable State law regarding subdivisions, the Park City General Plan, and the Village at Empire Pass Master Planned Development.
3. Neither the public nor any person will be materially injured by the proposed subdivision.
4. Approval of the subdivision, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval – Village at Empire Pass North Subdivision

1. The City Attorney and City Engineer will review and approve the final form and content of the subdivision 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 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 written request for an extension is submitted to the City prior to the expiration date and the City Council grants an extension.
3. All applicable conditions, regulations, requirements, and stipulations of the Amended and Restated Development Agreement for Flagstaff Mountain, Bonanza Flats, Richardson Flats, The 20-Acre Quinn's Junction Parcel, and Iron Mountain (recorded at Summit County on March 2, 2007), and associated Technical Reports and Agreements, continue to apply.
4. The plat will note that conditions of approval of the Village at Empire Pass Master Planned Development (Pod A) shall continue to apply.
5. Utility structures such as ground sleeves and transformers and other dry utility boxes must be located on the lots.
6. Non-exclusive public utility easements (PUE) shall be indicated on the plat prior to recordation as approved by the City Engineer and SBWRD, including drainage easements.

7. A financial security to guarantee for the installation of any required public improvements is required prior to plat recordation in a form approved by the City Attorney and in an amount approved by the City Engineer.
8. A ten foot (10') wide snow storage easement is required along the private street frontages of the lots and a ten (10') wide public snow storage easement is required along public street frontages.
9. Fire sprinklers are required for new construction per the Chief Building Official at the time of review of the building permit. A note stating this shall be on the plat.
10. Prior to building permit issuance, documentation from UDOT showing approval of access to Lot 1 off Marsac Avenue is required. If documentation does not exist, a new application shall be submitted to UDOT for approval of the curb cut location. This approval shall be submitted to the City Engineer.
11. Any proposed curb cuts for access directly to Marsac Avenue, a state highway, must be approved by the City Engineer and UDOT.
12. A Conditional Use Permit approval is required prior to issuance of building permits on Lots 1, 2 and 3.
13. A final grading and utility plan, including storm water and drainage plans, shall be submitted with the Conditional Use Permits for development on Lots 1, 2 and 3, for approval by the City Engineer and SBWRD. No building permits shall be issued until all necessary utility easements are recorded.
14. A declaration of condominium and a record of condominium plat are required prior to the sale of individual units within the development.
15. All requirements of the affordable housing mitigation plan shall be addressed with the Conditional Use Permit and condominium plat. A note shall be included on the plat indicated that the development of Lot 3 has an on-site affordable housing obligation of 1.1 AUE and Lot 2 has an on-site affordable housing requirement of 2.0 AUE, to be consistent with all requirements of the Flagstaff Affordable Housing Mitigation Plan. Lot 1 has no on-site obligation. All deed restricted units shall be identified on the final condominium plats prior to recordation of such plats.
16. Wastewater service to Village at Empire Pass North Subdivision shall be provided by the Snyderville Basin Water Reclamation District. A Line Extension Agreement with

the District may be required for Lot 1. If a line extension is necessary, it shall be the responsibility of the Owner to extend the public wastewater system within Lot 1 according to the requirements of the Line Extension Agreement.

17. The property is located within a water source protection zone. All sewer construction must comply with State of Utah drinking water regulations.

18. This development is part of a common plan development and a MS4 storm water permit is required for all land disturbance activities for each separate phase of construction, prior to building permit issuance.

19. The CC&Rs shall provide notice and process for the tracking and collection of the Real Estate Transfer Fee as required and defined by the Flagstaff Mountain Development Agreement, as amended.

20. Requirements and obligations of the Flagstaff Mountain Development Agreement, as amended and recorded at Summit County in March of 2007, as apply to this Property, shall be completed, or bonded for completion, prior to issuance of certificates of occupancy for any approved development located on Lots 1, 2, and 3, unless otherwise conditioned herein. This includes gondola payments, number of shuttles in operation, provision of affordable housing units, collection mechanism for real estate transfer fees, and all other such obligations as are outlined in the March 2007 Agreement, some of which are triggered by the number of certificates of occupancy issued.

21. A Construction Mitigation Plan shall be submitted with the Conditional Use Permit applications and in advance of issuing building permits.

The Park City Planning Commission Meeting adjourned at 7:45 p.m.

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



## Kirsten Whetstone

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**From:** Jean-Marc Girardin <jgirardin@qstraint.com>  
**Sent:** Sunday, February 05, 2017 5:02 PM  
**To:** Kirsten Whetstone  
**Cc:** Jean-Marc Girardin  
**Subject:** Der Crest

Dear Kirsten

I was made aware of the discussion at Deer Crest. As a owner I will recommend:

Please eliminate the disconnect requirement because:

1. It will impair emergency services to Deer Crest.
2. It will increase traffic through Deer Crest residential areas.
3. It will increase traffic through the Queen Esther Gate.
4. There is no benefit in requiring the disconnect since Deer Crest is and always will be a gated community.

My regards,

Jean-Marc Girardin  
2828.Deer Pointe Dr  
Park City, UT  
Lot 99

## Kirsten Whetstone

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**From:** fays@aol.com  
**Sent:** Sunday, February 05, 2017 3:13 PM  
**To:** Kirsten Whetstone  
**Subject:** Disconnect requirement

1.

Dear Kirsten,

We are writing to let you know that we request that you please eliminate the disconnect requirement because:

1. It will impair emergency services to Deer Crest.
2. It will increase traffic through Deer Crest residential areas.
3. It will increase traffic through the Queen Esther Gate.
4. There is no benefit in requiring the disconnect since Deer Crest is and always will be a gated community.
- 5.

Thank you so much,

Fay and Bill Shutzer

10318 Summit View Drive

## Kirsten Whetstone

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**From:** William Macey <Macey@sterlinglp.com>  
**Sent:** Sunday, February 05, 2017 3:22 PM  
**To:** Kirsten Whetstone  
**Subject:** Please Eliminate the Requirement to Disconnect Deer Hollow Road

I am emailing you in *support* of the application to *eliminate* the requirement to disconnect Deer Hollow Road across from the bottom of the Mountaineer Lift. There are compelling reasons to eliminate this requirement:

- There is no benefit to the disconnect because Deer Crest is and will remain a gated community.
- However, there are major disadvantages to the disconnect, including: (1) it would cause emergency service vehicles to take longer to reach Deer Crest, (2) it would increase traffic through Deer Crest residential areas, and (3) it would increase traffic through that Gate.

I greatly appreciate your attention to this email.

Regards,

**M. William Macey, Jr.**  
10230 N. Summit View Drive  
Park City, UT 84060

## Kirsten Whetstone

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**From:** Loretta Kaufman <nyloretta@aol.com>  
**Sent:** Sunday, February 05, 2017 4:33 PM  
**To:** Kirsten Whetstone  
**Subject:** Deer Crest disconnect

We urge you to eliminate the disconnect requirement because:  
It will impair emergency services to Deer Crest.  
It will increase traffic through Deer Crest residential areas  
It will increase traffic through the Queen Esther Gate.  
There is no benefit in requiring the disconnect since  
Deer Crest is and always will be a gated community.

Thank you  
Loretta Kaufman  
Deer Crest homeowner

Sent from my iPad

## Kirsten Whetstone

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**From:** Letty Callinan <otcb@aol.com>  
**Sent:** Sunday, February 05, 2017 8:19 PM  
**To:** Kirsten Whetstone  
**Cc:** dtaylor@deervalleylodging.com  
**Subject:** The Deercreech Disconnect

Kirsten,

Thank you for your patience in explaining to me the Deercreech disconnect on Deer Hollow Road. It became very clear that the rationale for the disconnect no longer makes sense since the gates were added. I think creating a disconnect on Deer Hollow now would only cause more traffic to go through the windy neighborhood streets and make it harder for the service vehicles to access the St. Regis. I also am worried that it would limit alternate access routes in emergencies.

My husband and I are both in favor of eliminating the need to create a disconnect on Deer Hollow in Deercreech.

Sincerely yours,

Letitia Callinan  
Deercreech Lot 5U and 6U  
3151 and 3167 Home Run Court, Park City, Ut

Your communication should be sent to: [kirsten@parkcity.org](mailto:kirsten@parkcity.org) and include the following information:

Please eliminate the disconnect requirement because:

1. It will impair emergency services to Deer Crest.
2. It will increase traffic through Deer Crest residential areas.
3. It will increase traffic through the Queen Esther Gate.
4. There is no benefit in requiring the disconnect since Deer Crest is and always will be a gated community.
- 5.

Letty Callinan  
[otcb@aol.com](mailto:otcb@aol.com)  
(415) 407-9405

## Kirsten Whetstone

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**From:** Diane Pape <chefdyan@me.com>  
**Sent:** Monday, February 06, 2017 10:44 AM  
**To:** Kirsten Whetstone  
**Cc:** Anthony E. Meyer  
**Subject:** Anthony Meyer requests regarding Deer Hollow road disconnect at Deer Crest Estates

To whom it may concern:

As a Deer Crest owner and concerned citizen I am against any disconnect to the Deer Hollow Road across from the bottom of the Mountaineer Lift.

Please eliminate the disconnect requirement because:

1. It will impair emergency services to Deer Crest.
2. It will increase traffic through Deer Crest residential areas.
3. It will increase traffic through the Queen Esther Gate.
4. There is no benefit in requiring the disconnect since Deer Crest is and always will be a gated community.

Thank You,

Diane Pape for Anthony Meyer

## Kirsten Whetstone

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**From:** Pamela stevenson <pestevenson1@gmail.com>  
**Sent:** Monday, February 06, 2017 10:36 AM  
**To:** Kirsten Whetstone  
**Subject:** Deer Crest Community Disconnect discussion

Dear Kirsten

This email is to register our belief that the historical disconnect requirement is no longer needed and should be eliminated, for the following reasons:

Please eliminate the disconnect requirement because:

1. It will impair emergency services to Deer Crest.
2. It will increase traffic through Deer Crest residential areas.
3. It will increase traffic through the Queen Esther Gate.
4. There is no benefit in requiring the disconnect since Deer Crest is and always will be a gated community.

The Deer Crest community funded the construction of the road and its maintainance 365 days per year. This road should not be treated as a public by way, as that is not what was intended or agreed, when it was built.

Thank you

Pamela and Larry Stevenson

10531 N Summitview Dr

Park City, UT 84060

(Deer Crest Lot 61)

## Kirsten Whetstone

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**From:** Ken Whitney <kcwhitney58@gmail.com>  
**Sent:** Monday, February 06, 2017 8:37 AM  
**To:** Kirsten Whetstone  
**Subject:** Deer Crest disconnect

Park City Planning Commission:

As a resident of 2977 W Pioche Court in Deer Crest, I am writing to urge you to eliminate an old requirement to disconnect the Deer Hollow Road across from the bottom of the Mountaineer Lift.

In considering this I would like to draw your attention to four dramatically negative impacts should the disconnect proceed:

1. It will impair emergency services to Deer Crest.
2. It will increase traffic through Deer Crest residential areas.
3. It will increase traffic through the Queen Esther Gate.
4. There is no benefit in requiring the disconnect since Deer Crest is and always will be a gated community.

I appreciate your consideration.

Ken Whitney

## Kirsten Whetstone

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**From:** Josh Thimons <josh@municipalpoint.com>  
**Sent:** Tuesday, February 07, 2017 11:29 AM  
**To:** Kirsten Whetstone  
**Cc:** Don Taylor  
**Subject:** Disconnect

Kristen, I am a resident in Deer Crest (lot 102, 2867 W Deerpointe Dr).

Please eliminate the disconnect requirement because:

1. It will impair emergency services to Deer Crest.
2. It will increase traffic through Deer Crest residential areas.
3. It will increase traffic through the Queen Esther Gate.
4. There is no benefit in requiring the disconnect since Deer Crest is and always will be a gated community.

Thank you.

Josh Thimons

## Kirsten Whetstone

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**From:** Gmail <will@rockshorecapital.com>  
**Sent:** Tuesday, February 07, 2017 3:24 PM  
**To:** Kirsten Whetstone  
**Subject:** Deer crest disconnect requirement comments

My name is Will Nixon and I own lot 101 in deer crest where we have recently completed our home. 2847 w Deer Pointe Dr.

I am writing to request that the disconnect requirement within Deer Crest be eliminated for the following reasons:

1. It will impair emergency services to Deer Crest this potentially needlessly endangering my family
2. It will increase traffic through Deer Crest residential areas which I am particularly opposed to with having 4 children under the age of 14.
3. It will increase traffic through the Queen Esther Gate.
4. There is no benefit in requiring the disconnect since Deer Crest is and always will be a gated community.

Thank you for your consideration in this matter.

Sincerely,

Will Nixon

## Kirsten Whetstone

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**From:** Sarah M. Hall <sarahmckennanhall@gmail.com>  
**Sent:** Tuesday, February 07, 2017 4:35 AM  
**To:** Kirsten Whetstone  
**Subject:** Deer Hollow Road II Public Comment

Hi Kirsten,

I hope you are doing well! My husband and I are unable to attend the upcoming Park City Planning Commission meeting, but we would like to express our strong preference that the Staff and Commission eliminate the superfluous disconnect of our community's major emergency access road, Deer Hollow Road.

My husband and I are longtime homeowners and were full time residents in Deer Crest for many years, so we are intimately familiar with this important through Deer Hollow Road as we used it daily for many years. If the road is disconnected, then it will significantly increase traffic through the Queen Easter gate and accordingly on the already congested Deer Valley Drive. Additionally, there will be a surge of traffic through the winding Deer Crest Estates Road. That traffic will include the large St. Regis delivery trucks and employees who are shuttled in daily to the St. Regis as well as the countless over sized construction vehicles.

More importantly, the existing Deer Hollow Road serves as the quickest way for emergency access vehicles to reach many homes and St. Regis. If there were a large scale emergency, such as a large fire, Deer Hollow Road would be a faster route for many people and serve as an additional access road if Deer Crest Estates Drive was compromised.

Finally, the purpose of the disconnect requirement was to prevent general public from using Deer Hollow Road as a through street. However, that has been accomplished by the addition of the Queen Easter Gate house.

In conclusion, as longtime homeowners and full time residents of Park City, we strongly urge you to eliminate the Deer Hollow Drive disconnect. Thank you so much for all the time you have spent working on this matter as well as so many others within our community. I really appreciate all that you and the rest of the Park City team do for our community.

all the best,  
Sarah M. Hall

## Kirsten Whetstone

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**From:** William Macey <Macey@sterlinglp.com>  
**Sent:** Wednesday, February 08, 2017 3:12 PM  
**To:** Kirsten Whetstone  
**Subject:** Re: Please Eliminate the Requirement to Disconnect Deer Hollow Road

Thanks greatly

On Feb 8, 2017, at 4:07 PM, Kirsten Whetstone <[kirsten@parkcity.org](mailto:kirsten@parkcity.org)> wrote:

Hi William,

Thank you for your email regarding the Deer Crest Disconnect.  
I will provide a copy to the Planning Commission tonight.

Sincerely,

Kirsten

Kirsten A. Whetstone, MS, AICP  
Senior Planner

Park City Planning Department  
PO Box 1480  
Park City, UT 84060



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**From:** William Macey [<mailto:Macey@sterlinglp.com>]  
**Sent:** Sunday, February 05, 2017 3:22 PM  
**To:** Kirsten Whetstone  
**Subject:** Please Eliminate the Requirement to Disconnect Deer Hollow Road

I am emailing you in *support* of the application to *eliminate* the requirement to disconnect Deer Hollow Road across from the bottom of the Mountaineer Lift. There are compelling reasons to eliminate this requirement:

- There is no benefit to the disconnect because Deer Crest is and will remain a gated community.
- However, there are major disadvantages to the disconnect, including: (1) it would cause emergency service vehicles to take longer to reach Deer Crest, (2) it would increase traffic through Deer Crest residential areas, and (3) it would increase traffic through that Gate.

I greatly appreciate your attention to this email.

Regards,

**M. William Macey, Jr.**

## Kirsten Whetstone

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**From:** Spencer Pettine <spettine@gmail.com>  
**Sent:** Tuesday, February 07, 2017 9:49 PM  
**To:** Kirsten Whetstone  
**Subject:** Deer Hollow disconnect



To whom it may concern,

I'd like to express my concern for an outdated development plan and support for the proposed elimination of the creation of two cul de sacs on Deer Hollow Road that would eliminate a direct route from Highway 40 to our residence at 3448 Snowtop Ct.

As a young father of a two year old, my primary concern is that the elimination of this direct route will affect emergency services to our home in the event its required. The alternative route would require additional time for such services to reach our home and it would be a travesty and injustice if safety is compromised for the purpose of enforcing an outdated development plan.

I thank you for your work on this matter and please let me know if I can provide any additional information or support in this matter,

Spencer Pettine  
858-431-6079

Staff recommends the following revisions to findings of fact #13 and conditions of approval #10 for PL- 16-03338 B2 East Subdivision for Planning Consideration at February 8, 2017. Handed out to Planning Commission on 2.8.17.

#### Findings of Fact

13. In September 2016, the applicant began working under an Administrative Settlement and Order on Consent for Removal Action with the EPA permit to remediate and remove mine soil from the property and to ~~closedecommission~~ an old mine shaft/~~tunnel~~/adit on the property. After the mine shaft closure was completed, this work was halted in November 2016 on account of the weather. Some contaminated soil remains on site in the area of the former and remaining parking lot. The adit (a gently sloping shallow tunnel) discovered during the mine shaft closure has been temporarily closed but will require further work at time of building construction.

#### Conditions of Approval

10. No building permits shall be issued on Lot 1 or Parcel A until the mine shaft has been fully closed ~~decommissioned~~ and mine soil remediation under the EPA supervision ~~permitted mine soil remediation has been~~ has been completed. Prior to issuance of any building permits, documentation certifying the work is complete shall be presented to the Chief Building Official and Planning Director. As part of any building permit submission, property owner shall submit a closure plan for the adit, approved by a geotechnical engineer, and detailing any additional work required in conjunction with building construction in the vicinity of the adit.