

**Alta Planning Commission
Minutes
November 11, 2008**

The Alta Planning Commission held a meeting on November 11, 2008 at 12 pm at the Market Street Grill on 2985 East Cottonwood Parkway (6580 South), Salt Lake City. Planning Commission members in attendance included Skip Branch, Jan Striefel, Rob Voye, Joan Degiorgio, and Prescott Muir. Town of Alta staff present included John Guldner and Claire Runge. Town of Alta attorneys Kimberly Chytraus, Katie Lewis, and Shane Hillman were also present. Members of the public present included Mark Haik, Charles Livsey, Jeffrey Appel, Alan Sullivan, Carly Klein, Onno Wieringa, Inspector Stewart Gray, Captain Robin Pilcher, Erik Erlingsson, Craig Call, Jennifer Kecor, Clarence Kemp, Roger Bourke, Margaret Bourke, Forrest Bourke, Jennifer Garner (with a court recorder), and Susette Snider (with a court recorder).

INTRODUCTION AND COMMENTS FROM THE CHAIR

Mr. Branch welcomed everyone to the meeting and noted that the Planning Commission will be talking about future planning efforts at the end of the meeting.

Mr. Branch discussed a meeting with Mr. Guldner, Mr. Voye, and Mr. Muir with Mr. Steve Peer from Cafritz Interests. Mr. Peer was in the due diligence process with regards to taking over the Snowpine Lodge. Mr. Peer shared his thoughts about what he wants to do with the Snowpine and at the end of the meeting the Planning Commission representatives thanked Mr. Peer for coming and sharing his considerations.

Mr. Branch noted that Alta has already received 50 inches of snow and surely Mr. Wieringa is okay with that. Mr. Branch hopes that regardless of the economy, people still want to have skiing as part of their lifestyle.

REVIEW WITH POSSIBLE ACTION OF THE MINUTES FROM THE OCTOBER 14, 2008, MEETING

Mr. Branch asked Ms. Runge if she was up to date on the minutes. Ms. Runge replied that she was except for two meetings in which the tapes did not work. Ms. Runge added that Ms. Kate Black would be working on those minutes in the future.

Hearing no comments or questions, there was a motion by Ms. Striefel to approve the minutes of the October 14, 2008 Planning Commission meeting as submitted. There was a second by Mr. Voye and the motion was carried with all members voting in the affirmative with the exception of Ms. Degiorgio who abstained due to her absence at the October 14, 2008 meeting.

CONTINUED REVIEW WITH POSSIBLE ACTION ON THE PROPOSED PATSEY MARLEY HILL SUBDIVISION APPLICATION

Mr. Branch noted that the Planning Commission members probably feel like they have been living with the subdivision application for a long time, and Mr. Branch would like to bring everyone up to speed.

Mr. Branch noted that the Planning Commission and staff have been looking at the proposed Patsey Marley Subdivision Application for quite a while, and Mr. Branch discussed the chronology:

- July 17, 2007 the Shrontz Estate (the “Estate”) submitted to the Town a proposal for the Patsey Marley Hill Subdivision
- November 5, 2007 the Estate submitted supplemental information to the Town characterized by the Estate as official supplements.
- July 2007 to January 2008 there have been numerous discussions and correspondence between the Estate and the Town regarding the proposed Patsey Marley Hill Subdivision.
- January 2008 through March 2008 the Estate brought a lawsuit against the Town regarding the application, which settled. Mr. Branch noted that as far as the Planning Commission is concerned as part of the agreement the Planning Commission would be acting as an advisory role to the Town Council. The Town Council is the Land Use Authority and will decide on the application.
- April 11, 2008 the Estate submitted to the Town binders containing the proposed Patsey Marley Hill Subdivision application and documents relevant to the Town’s land use review.
- June 5, 2008 the Planning Commission had a meeting where additional materials were received.
- July, 8, 2008 the Planning Commission met to consider the proposed Patsey Marley Subdivision.
- October 14, 2008 was the last Planning Commission meeting, and the proposed application was discussed further
- Today, November 11, 2008 the Planning Commission is meeting to consider the proposed application.

Mr. Branch welcomed those in attendance and noted for today’s Planning Commission meeting in order to give input you need to be on the agenda.

Mr. Branch thanked the legal counsel for preparing the chronology document and the updated review checklist (the “checklist”; attached). Mr. Branch then asked Mr. Guldner if he would take the Planning Commission through the checklist.

Mr. Guldner stated that Captain Robin Pilcher and Inspector Stewart Gray from the Unified Fire Authority (UFA) were present and perhaps they could discuss the fire issues. Mr. Guldner also noted that the Planning Commission has a letter from the UFA from July 18, 2008. Mr. Branch asked if Mr. Pilcher or Mr. Gray would mind reviewing the letter and the Planning Commission could ask questions.

Inspector Gray began by noting that it was a lengthy review, starting with access issues for the proposed subdivision. Inspector Gray continued: the Fire Code requires that an approved fire apparatus access road needs to extend within 150 feet of each structure. That brings up the question of whether proposed driveways are driveways or access roads. If the distance from the edge of the street to the first part of the structure is longer than 150 feet, the UFA considers that a fire department access road. Fire department access roads need to be 20 feet wide, a grade of ten percent or below, have an approved turn radius, and a fire department turnaround.

Inspector Gray noted that department access roads are required to support 75,000 pounds, and all-weather driving capabilities. If there are gates, the gates need to be at least 20 feet wide with a lockbox to allow the fire department to get in. Inspector Gray noted that from the applicant's initial submittal, there were excessive road grades, excessive length, and driveways without turnarounds or appropriate widths. Since then, the UFA has seen multiple solutions to some of the grade issues, but as of today, the UFA has not had anything officially submitted that shows the grade issues have been addressed.

Inspector Gray next discussed fire protection water supplies. The UFA requires any new subdivisions to bring in infrastructure when possible, such as fire hydrants and adequate flow and duration of flow based upon the size of the structures. Inspector Gray noted that at a meeting with Mr. Livsey, the UFA recommended 1,500 gallons of water per minute for a duration of two hours for the capacity of the tank(s). Inspector Gray remarked that the UFA has not received anything from the applicant that shows where the applicant is proposing to put hydrants or what exactly the capacity would be.

Mr. Voye asked if the UFA has determined the size of the tank to get that specified flow to the proposed subdivision. Inspector Gray responded, no, that is up to the applicant. The UFA tells the applicant how much water it is required to have, and then the applicant tells UFA the size of the tank. If the applicant meets the minimum, that requirement is satisfied.

Mr. Muir asked how the UFA protects their interests: Does the UFA require a final sign-off on the plans before they record it? How does the UFA ensure compliance?

Inspector Gray responded: the UFA does not receive plans from anyone other than the Town of Alta. As the UFA initially receives the plans, the requirements are listed, and the plans are returned to the Town. The Town then distributes the plans to the applicant and whoever needs it. If anything is changed or upgraded, it goes through the Town. When the Town requests final approval for a plat, the UFA makes sure everything has been fixed on the plans. If the applicant cannot fix the problems, the applicant should send the UFA letters documenting why the applicant cannot fix the problem and note alternative means to provide adequate level of safety to make up for whatever the applicant could not address.

Ms. Chytraus noted that the UFA is required to sign the plat.

Mr. Branch asked if access is required 24 hours a day, year-round. Inspector Gray responded, yes. Inspector Gray noted that for the fire component, if there are code modifications that give some measure of safety, such as residential fire sprinklers, it is okay not to have year round

access. However, Inspector Gray added that for medical access, the UFA needs access 24 hours a day, every day, to be able to have some means of access or some alternative to provide an equivalent level of safety. Inspector Gray noted that is still an issue the UFA is waiting to hear about from the applicant.

Inspector Gray noted that this is a unique situation where a new proposed subdivision is going to have seasonal access. The UFA is not concerned with who has control over the roads and whether the road can be paved/plowed. The UFA just needs to know if they can get there. For example, if somebody at the top of the proposed subdivision is having a heart attack, the UFA needs to know that it can get there or that there is some alternative means for someone to get there. Captain Pilcher reiterated that the UFA is looking for an equivalency.

Mr. Guldner summarized that if the applicant has water, which to date has not been shown, the applicant could have an equivalency for fire access. Mr. Guldner added that there is no equivalency yet for medical emergencies.

Inspector Gray shared how at Alf's and Watson's Shelter during the ski season, the ski patrol brings down injured people. That is an example of an alternative means of obtaining that level of safety without access. If there are practical difficulties in obtaining one of the UFA's requirements, the code allows for alternative means and code modification as long as it provides the same level of safety.

Ms. Degiorgio asked about the homes in Grizzly Gulch. Mr. Guldner noted those homes were grandfathered in, as they were built up there in the 1950's and 60's before the Town existed and before these rules were in place. The Town cannot do the same for a brand new proposed subdivision.

Mr. Voye asked about the status of the Volunteer Alta Fire Department. Mr. Guldner commented that there is no longer a Volunteer Fire Department. Mr. Voye asked if the fire station at Snowbird provides fire service. Mr. Guldner replied that the Snowbird station is now a UFA fire station with incredible backup, incredible personnel, and great equipment. Inspector Gray noted that the Snowbird station is now manned with paramedics.

Ms. Chytraus asked Inspector Gray what the next step is. Inspector Gray commented that the UFA would like to see items addressed on the site plan, draw-outs or letters requesting some alternative means. However, Inspector Gray noted that the UFA wants to make sure, by alleviating UFA requirements, the UFA does not complicate the Town's requirements.

Ms. Chytraus asked if that involves coordination with the Building Official. Inspector Gray remarked, yes. If there is an issue that resolves a UFA problem and causes a Town problem that is where we need to get together and come together in the middle.

Ms. Chytraus asked Inspector Gray if he would continue to incrementally review the application. Inspector Gray replied that incremental review is very extensive. For the UFA it would work better if once the majority of the larger problems are solved, the Town sends the UFA another

review. Inspector Gray noted that the UFA will follow whatever procedure the Town would like the UFA to perform. If it would be easier for the Town to do incremental reviews, the UFA can do that. Inspector Gray reiterated that incremental reviews are just very time intensive and it does not really solve the larger problems. The UFA felt like they had gotten to the point where there is a lot of stuff that needs to be done before it would be productive to meet again. For the UFA, it would be better if the access issues have been addressed and when the Town and Forsgren is satisfied, then the UFA will look at the application again.

Ms. Chytraus noted that the Town received a letter from Salt Lake Valley Health Department (SLVHD) yesterday. Ms. Chytraus asked if the Planning Commission wants to discuss that now or revisit how the letter impacts the review.

Mr. Guldner believes that it does not make sense to get together and incrementally review a driveway grade if access and water have not been figured out. Mr. Guldner agrees with Inspector Gray; both the Town and the UFA are at a point where a lot more things need to happen before it makes sense to get together and talk about the smaller items. Captain Pilcher agreed.

Mr. Branch asked if the Planning Commission had any questions for Inspector Gray or Captain Pilcher. Mr. Branch thanked Captain Pilcher and Inspector Gray for coming and asked Mr. Guldner to address other concerns.

Mr. Guldner addressed the letter from SLVHD. Mr. Guldner first noted that the requirements for approval by the SLVHD are proof of adequate drinking water and a wastewater system. Mr. Guldner noted there is no need to expound on this, as no proof of adequate drinking water has been submitted. Mr. Branch noted that is why the letter states that the proposed subdivision cannot be approved by the SLVHD.

Mr. Guldner commented that Cottonwood Improvement District has the capacity to serve the proposed subdivision's sewer, and the line down the canyon has the capacity to handle all the sewage that could be generated from the proposed subdivision. However, Mr. Guldner noted that there is a 280-foot link in the sewer line that Cottonwood Improvement District will not accept. This part of the line is directly below the proposed subdivision. Mr. Guldner remarked that to date, there is no water. Mr. Guldner noted that once the applicant gets water, the Town can deal with sewer. Mr. Guldner summarized that the SLVHD cannot approve the proposed subdivision at this point because of the sewer and water situation.

As a side note, Mr. Guldner remarked that the fire code will not allow any combustible construction prior to actual water availability, but hopefully there would not be construction before there was water. Inspector Gray reiterated those thoughts.

Mr. Guldner began reviewing the checklist beginning on page one. Mr. Guldner noted that not every easement/right of way has been recorded, and that the Building Official considers the plat to be a "conceptual plat." Mr. Guldner then introduced Mr. Clarence Kemp, the Town's Building Official from Forsgren Associates and asked Mr. Kemp to discuss his memo.

Mr. Kemp began by saying the ordinance requires him, as the Building Official, to identify natural waterways. Mr. Kemp expressed that the ordinance was relatively silent to the natural waterway definition, so an attempt was made to distinguish waterways. Mr. Kemp noted that he says “attempt” as the determination was made in cold, dry, weather. Mr. Kemp expressed that his preference would be to do this next spring when water can be seen running down the hillside. Mr. Kemp noted that this is an obviously very wet area, even with the grades and slopes that are there. Mr. Kemp noted that the waterways identified were generally the same waterways and drainages that were identified on the applicant’s plat. Mr. Kemp presumed the applicant tended to label the waterways differently as the applicant could be worried about losing land space.

Mr. Kemp discussed his findings: He found a waterway created by tank overflow that was not a natural waterway. He also noted a minor drainage. Culverts were also looked at because they are indicative of where historic waterways are found. What is marked in yellow, would be viewed as a waterway based on observation. The ordinances define a waterway as being 50-feet from the high watermark. Mr. Kemp explained that given the fact that these waterways tend to be seasonal, it is a little hard to identify where the high watermark would be, and so 50-feet was measured out from the centerline. This natural waterway determination could be viewed as an issue that may affect the layout in a number of lots in the buildable areas. Mr. Kemp stated that, if scheduling permits, he would like to look at waterways again in the spring.

Mr. Branch asked Mr. Kemp if the best way to review the waterways accurately would be to wait for spring runoff. Mr. Kemp anticipates the applicant wants as few natural waterways as possible as it affects the applicant’s buildable area and bottom line. Mr. Kemp believes it to be important that we be as clean and accurate on this as possible. Mr. Kemp feels comfortable with what he has presented today.

Mr. Branch asked Mr. Voye if this discussion addresses some of his concerns. Mr. Voye expressed that it still really does not address the altering of waterways with construction. Mr. Guldner pointed out that one does not alter natural waterways for construction. Mr. Guldner noted that for example, when there is a natural waterway, it is identified, a 50-foot setback is in place, and there would be no alteration. Mr. Guldner believes that the channels identified as natural waterways are obvious and one can see the cut in the topography.

Mr. Kemp shared his experiences of being the city engineer for Holladay. The ordinances for the city of Holladay defines waterways more clearly but also gives the city engineer the ability to adjust setbacks if it makes environmental sense. In Holladay, the final decision is up to the Planning Commission. Mr. Kemp remarked that the Town of Alta does not provide that kind of latitude in their ordinances.

Mr. Muir asked how the Planning Commission can further the definition in the Town’s ordinance. Mr. Kemp did not have an answer, but commented that if one starts meddling with ordinances in the middle of the a process, it may well be grandfathered to the most liberal interpretation of what was there. Mr. Kemp noted further that perhaps the Town Council, if elected to more clearly define natural waterways, would most likely assume a liberal interpretation in terms of the developer’s point of view.

Mr. Guldner does not want to confuse the Town's definition of natural waterway with the Army Corps of Engineers or the State's, as they are different. Mr. Kemp added that they are different for different purposes.

Mr. Muir commented that the definitions of natural waterways in the Town's ordinances are not to the same standard as the definitions by the Army Corps of Engineers or the State. Mr. Muir asked Mr. Kemp what were his benchmarks for natural waterways. Mr. Kemp replied that he tends to benchmark it using the building codes because a request was made in his role as the Building Official. Mr. Kemp noted that he has had a lot of not so pleasant experiences with developers who have constructed structures in the way of a natural drainage; and whether it be minor or major, those problems never seem to go away. Mr. Kemp commented that as a Building Official, the storm drainage aspect is what is most important and that is why he wants to make sure we have a defined contributory drainage area.

Ms. Lewis asked if what was identified during the dry season is the most liberal interpretation of the ordinance. Mr. Kemp replied that it would be the most conservative interpretation. Mr. Kemp commented that if he had a question, he would tend to move on the side of "this is a waterway". Mr. Kemp noted that is why he is saying he'd like to see it after a rainstorm.

Hearing no other questions or comments, Mr. Branch thanked Mr. Kemp and asked Mr. Guldner to continue with the checklist.

Mr. Guldner began page two of the checklist. Mr. Guldner noted that the minimum lot area compliance hinges on the natural waterway definition.

Mr. Guldner read page three of the checklist and made the following remarks: The biggest issue with the natural hazards requirement besides erosion and natural waterways is the avalanche consideration. The applicant has created a plat note but it should be added to the plat note that "each structure has an individual avalanche study done for the structure in its exact location." The approval of the sewage system is not in compliance. The last two items on page three may or may not be in compliance and will be determined by the Planning Commission. Mr. Guldner commented that the proposed lot two may require mayoral approval to remove trees. Ms. Chytraus pointed out that the applicant had made a request to the Mayor. Mr. Guldner feels that request is a little premature at this point.

Mr. Muir asked about the last item on page three: has the applicant indicated the number of proposed parking stalls? Mr. Guldner stated that there are two set aside for each lot. However, Mr. Guldner remarked that ingress and egress, as defined in the Town's ordinance, are required to the parking spots; however, the spots will be inaccessible 6 to 8 months out of the year.

Mr. Guldner moved on and began to read page four of the checklist. Mr. Guldner discussed a parking plan, as it may be difficult for the applicant to do what everyone else does in Grizzly Gulch for parking. Mr. Guldner believes there is no more parking at the end of the paved road, and there may be a need to look at something that will not make the situation even worse. The

application does not meet UFA requirements, as it relates to ingress and egress and may not meet the ordinance requirements for parking either.

Mr. Guldner read page five from the checklist. Mr. Guldner noted that the soil suitability tests were performed but the results of the studies have not been received. In addition, minimum distance from a natural waterway does not comply. The last item on page five may be addressed with the CC&R's and a plat note.

Mr. Guldner read page six from the checklist. Mr. Guldner remarked that the first item, "Water and Sewer Requirements" does not comply. Mr. Guldner noted that "Town Ordinance 2002-0-4" is an outside agency checklist. Salt Lake City Department of Public Utilities (Water Division), SLVHD (Division of Water Quality), and SLVHD (Environmental Health Division) have not given approval.

Mr. Guldner continued on to the last page, page seven, of the checklist. Mr. Guldner noted that the only area of non-compliance on this page is the lack of approval from the UFA.

Ms. Chytraus reminded the Planning Commission that they are determining whether the application complies with the ordinances as they are currently written, and requirements cannot be imposed that are not in the ordinances. Ms. Chytraus commented that the Planning Commission should rely on technical advisors and staff as to determine compliance with those aspects of the ordinances, but the Planning Commission's recommendation is based on totality, not just one aspect.

Ms. Degiorgio asked Ms. Chytraus that if the applicant can meet the parking requirement but in reality, it will not work, is there no way to look beyond that. Ms. Chytraus responded, yes, however, there is a nuance in that answer: The minimum parking requirement is two on-site spaces. One of the ordinances says that the number of parking spaces can be determined by the Planning Commission, however, as Mr. Guldner also noted, the ordinance also says that adequate ingress and egress to the parking spaces is required for all uses including emergency vehicle use, service, and pedestrian access. UFA requirements address many of the access issues, but the Planning Commission has to determine if the applicant satisfied the Town ordinances for ingress and egress as well.

Mr. Muir asked what the applicant's default position is; without a subdivision what can they build assuming the applicant solves the issues of access and water? Mr. Guldner remarked on the history of the property: The Patsey Marley area was annexed in May of 1980 by the Town with FR-1 zoning. It was not a subdivision. It was straight FR, which required one net developable acre for a single family use. Contrary to an earlier statement by the Estate that a cluster development with a Planned Unit Development designation is not permitted, that could be a possibility. Over the years, many people have talked about doing something with this area. When it was annexed, it was clear that the developer was responsible for sewer, water, and access. So now when a fallback position is discussed, Mr. Guldner does not think the Estate can do anything until all of the conditions, even for a subdivision, are met.

Mr. Muir asked about development rights. Mr. Guldner noted that the term “development rights” is attached to a lot of conditions no matter what it is or where it is. Mr. Guldner noted that as to this particular piece of property, the Town has been looking at the same conditions for a while: two of the biggest conditions that affect the proposed subdivision as it relates to development rights are access and water.

Mr. Branch asked if there were any more questions for staff or counsel. Mr. Branch commented that the Planning Commission is at a point where it needs to decide what to do. Mr. Sullivan asked if the applicant could have a chance to talk. Mr. Branch welcomed Mr. Sullivan to speak.

Mr. Sullivan introduced himself as a representative of the Estate of JoAnne Shrontz, along with others here, including Mr. Livsey. Mr. Sullivan expressed that the applicant is anxious to comply with the requirements for subdivision approval. Mr. Sullivan believes it will not happen today, and probably not tomorrow, as there are a series of very complicated questions that the applicant needs to resolve. Mr. Sullivan commented that the applicant is intent on solving the water problem, and believes it will be successful in doing that.

Mr. Sullivan also noted that he had believed the access problem was resolved.

Mr. Sullivan acknowledged that the applicant received a series of checklists that it has been working its way through. The updated checklist was received on Friday afternoon and the applicant has been doing its best to work through the issues.

Mr. Sullivan noted that the applicant does not believe that access is an issue as a public road goes to and through the proposed subdivision. The applicant believes that the road has been a public road since the early part of the 20th century. Mr. Sullivan stated that, the only real problem is, how does the applicant get permission to plow the road so that the UFA can satisfy its concerns?

Mr. Sullivan believes that the State, the United States Forest Service, and the Town of Alta have disclaimed ownership of the road. However, the applicant believes that the Town clearly is the owner of the road and has political jurisdiction over the road. Mr. Sullivan reiterated that he believes the access problem was resolved.

Mr. Sullivan noted that some of the requirements that appear in the checklist were the first time the applicant saw those. Mr. Sullivan expressed that he would be happy to discuss which of those they are, but the applicant needs a little bit of time.

Mr. Sullivan believes that some of the requirements on the checklist really require action by the Town, including the aforementioned sewer connection. The applicant has requested the right to connect to the Town’s sewer system and the applicant has not received a response. The applicant understands that there are reasons for that and the applicant is working through those issues.

Mr. Sullivan noted that some of the requirements suggest that the Town has already rejected elements of the proposed subdivision. The applicant did not understand the rejection it saw

today in Mr. Kemp's report as it relates to natural waterways. Mr. Sullivan asked Ms. Chytraus if she disagreed. Ms. Chytraus responded, no, she just recalls that Mr. Kemp and Mr. Livsey had a meeting where they discussed all the natural waterways. Mr. Sullivan acknowledged there was discussion on the issue of natural waterways, but the applicant did not understand that a decision had been made. The applicant does not yet understand whether the decision that Mr. Kemp made is a final determination or whether he would like to wait until spring to have a further determination. The applicant would like the ability to analyze the chart Mr. Kemp has provided. Mr. Sullivan also noted that if the Planning Commission is inclined to make its decision today, the applicant asks that it be given more time to process these issues.

Mr. Sullivan asked for a response from the Town on requests the applicant has made. Mr. Sullivan believes that many issues raised in the new checklist are new, and the applicant would like the opportunity to address those. Most especially, the applicant asks for the opportunity to resolve the water issue because that is the issue on which much of this hinges.

Mr. Sullivan remarked that he, Mr. Livsey, and Mr. Call met with Mr. Jeff Niermeyer (Director of Salt Lake City Department of Public Utilities) and Mr. Rusty Vetter (Attorney for Salt Lake City) on October 24, 2008. Mr. Sullivan believes it was a productive meeting. There was a suggestion from Salt Lake City for the Estate to prepare a legal memo addressing the rights of the Estate to the water supply system of Quincy Mine and also the right to connect to the Town's water system. The applicant is currently preparing that memo and hopes to have the memo to Salt Lake City within the next ten days.

The applicant stated that if it cannot get consent from Salt Lake City to connect to the Town's water system, then the applicant intends to build a private water system. The applicant feels this would be a waste of resources but it intends to build a private water system. Mr. Sullivan noted that to build a private water system requires a Special Use Permit from the United States Forest Service (USFS). The applicant has had preliminary discussions with the USFS about obtaining such permit.

Mr. Sullivan acknowledged that this is an involved process and the applicant asks for the Planning Commission's patience. Mr. Sullivan asked the Planning Commission for a little bit of time so the applicant could continuously advise the Planning Commission on its progress so the applicant can come back when ready. Mr. Sullivan assured the Planning Commission that the applicant is being diligent.

Mr. Sullivan volunteered to address each issue in the matrix. Mr. Branch responded that the Planning Commission has already been through it. Mr. Sullivan asked Mr. Livsey if he had anything to add.

Mr. Livsey believes it is very unfair at this point to proceed. Mr. Livsey thinks there have been many misperceptions that have been communicated today and the applicant deserves the right to clarify those misperceptions. Mr. Livsey thanked the UFA for coming and expressing their opinions but Mr. Livsey believes it is unfair not to allow the applicant to work with the UFA. Mr. Livsey believes this is a breach of the Settlement Agreement signed by the Town promising

that the Town would work fairly and diligently with the applicant. Mr. Livsey remarked that the Town brought in Mr. Kemp today, who is cited on the checklist as having determined that the plat is not final and the applicant is not allowed to ask why.

Mr. Livsey opined that the Town has historically engaged in what Mr. Livsey refers to as a "hide-the-ball technique." Mr. Livsey stated that he does not believe this is fair. The applicant is here to discuss the issues. Mr. Livsey noted that there are two court reporters here and opined that the Planning Commission came to the meeting predisposed to take the action noticed on the agenda. Mr. Livsey does not think it is fair to push this application to the Town Council at this point. Mr. Livsey believes the applicant deserves the chance to work through these issues with the Planning Commission. Mr. Livsey thinks this is reasonable and would be consistent with the Settlement Agreement.

Mr. Branch asked Mr. Guldner if he had a staff recommendation. Mr. Guldner replied, no.

Ms. Striefel asked if the Planning Commission could wait until the applicant has all their issues resolved and let the applicant come back. Ms. Striefel asked that instead of reviewing the application a little bit at a time, could the Planning Commission tell the applicant that when all the requirements are satisfied, the Planning Commission will put the applicant back on the agenda.

Mr. Guldner noted that that is exactly what the Town asked for before the applicant sued the Town to look at the application. Mr. Guldner believes it would be good to wait until they had all of the requirements met. Ms. Chytraus clarified that the Settlement Agreement required the Town to deem the application complete for the purpose of review.

Ms. Chytraus's believes that the Planning Commission could continue to discuss this. Ms. Chytraus then noted that at the last Planning Commission meeting the applicant noted that the review process for compliance to the requirements could take anywhere from six months to two years. Ms. Chytraus noted that it is the Planning Commission's decision as to whether it can make a recommendation regarding compliance with the ordinances or if it wants to continue to go through the review process for as long as it might take.

Ms. Chytraus addressed a few items: She invited the applicant to look at the checklist and see that it is consistent with every summary that has been provided to the applicant since July. Regarding access issues, Ms. Chytraus does not believe that access has ever been resolved to the UFA's satisfaction. As for road ownership, Ms. Chytraus stated that the Town has been through an extensive review last year of the jurisdiction of the road, and stated that the road is not the Town's. There is a portion that may be a public road. There is also a portion that runs through the proposed subdivision itself that is regarded by the UFA as being private property owned by the Estate. The first and second switchbacks are considered to be under Forest Service jurisdiction. Ms. Chytraus believes that it is not quite as ambiguous as it has been represented.

Mr. Guldner noted that he has spoken with Mr. Niermeyer (Director of Salt Lake City Department of Public Utilities). Mr. Guldner emphasized that the September 3, 2008, Salt Lake City letter regarding water has not changed. The Town cannot wheel water from the Quincy

Mine through the Town's system and the Town cannot extend beyond the 1976 water contract boundaries. Mr. Guldner acknowledged that there is water at the Quincy Mine; however, the amount, quality, and number of connections have not been determined. Mr. Guldner reemphasized that regarding water, the position of Salt Lake City has not changed.

Regarding natural waterways, Mr. Guldner stated that the Town has visited the site twice; once with Mr. Livsey and one of the Town's lawyers, and the waterways that were just represented here earlier by Mr. Kemp were agreed to by Mr. Livsey. Mr. Livsey interjected that he believes that is a misstatement. Mr. Guldner replied that it was not a misstatement. Mr. Guldner noted he also went to the site with the engineer from Stantec, and that is how the location of some of the waterways were determined.

Mr. Branch stated that the Planning Commission needs to figure out what to do with the application. Ms. Striefel asked what the options were. Mr. Branch noted there are three options:

- 1) continue this process in the way the applicant is requesting; the Planning Commission holds more meetings to allow more information to be clarified and input to be given from the applicant
- 2) approve the application
- 3) disapprove the application based on the appearance of a lot of "X"s in the "does not comply" column on the checklist

Ms. Degiorgio noted there could be a fourth option; not to even give it a first judgment and say there are still a lot of questions. As the applicant has asked for more time, and if it can be done in a way not to vex Town staff and the Planning Commission, the Planning Commission could wait until applicant has resolved all the issues. Ms. Striefel agreed.

Mr. Branch asked Mr. Muir about his experiences in Salt Lake City with protracted applications. Mr. Muir responded that he is not sure if he is equipped to cite Salt Lake City's record. Mr. Muir believes it is a fairness issue. Mr. Muir noted that personally, he believes it is unreasonable to require all that level of detail to be resolved prior to the land use decision. In Mr. Muir's opinion, based on what is in front of him today, he could not approve this based on the information we have today as lots 9 and 10 are unbuildable.

Mr. Voye stated that to be fair, on the checklist, the Planning Commission should give the applicants the opportunity to get all the "X's" to the compliance column and then review the application. Mr. Voye believes that month after month of review does not make sense, and the Planning Commission is spinning their wheels, and so is the applicant. Mr. Voye also expressed that he is not sure if the timeframe is the right way to do it either.

Mr. Branch asked if the Planning Commission thinks there ought to be a time limit, especially considering Mr. Kemp would like to look at the waterway issue with spring runoff.

Ms. Striefel asked if there is a time limit in the ordinance. Mr. Guldner replied, no.

Mr. Branch asked a few questions to the Planning Commission: Should we talk about it some more? Should we come up with a motion? Should we just agree that the applicant needs more time to try to bring the “X’s” into the compliance column on the checklist?

Ms. Striefel asked if a motion to the effect of “the applicant should come back when it has all the “X’s” on the compliance side” comply with the Settlement Agreement.

Ms. Chytraus does not believe that would violate the Settlement Agreement. Ms. Chytraus stated that the law does not require the Town to hold the application open indefinitely. Ms. Chytraus stated that it is within the purview of the Planning Commission to require at least substantial compliance with the ordinances and that not every detail needs to be worked out. Ms. Chytraus also noted that it is up to the Planning Commission to decide what would be a reasonable timeframe.

Mr. Branch noted that if this application is on the agenda every time we meet, the Planning Commission could decide what to do with it. Ms. Striefel stated that the Planning Commission could request that the applicant comes back in six months and gives the Planning Commission a report. Mr. Voye commented that six months is not enough time. Ms. Striefel noted that not all the issues may be fully resolved, but the applicant could give a progress report to the Planning Commission. Ms. Degiorgio suggested that that perhaps the Planning Commission could recommend that the applicant come back at the end of July, after spring runoff has occurred, with a progress report and at a minimum have the water issue resolved.

Ms. Chytraus reminded the Planning Commission that the application was originally made in July 2007 and the Planning Commission started looking at the application in July 2008.

Mr. Branch asked Mr. Sullivan that in all fairness, if the Planning Commission were to look at the application again in July 2009, will the applicant do its best to satisfy all of the do-not-comply components. At that time, the Planning Commission could take an up or down vote. Mr. Branch asked Mr. Sullivan if he thinks that is fair.

Mr. Sullivan replied that it would be fair to give the applicant some time to work through the problems, but cannot promise the problems will be resolved by July 2009. Mr. Sullivan asks that the Planning Commission call the applicant in for a progress report in July 2009. Mr. Sullivan assured the Planning Commission that the applicant will work diligently to resolve the issues and asked for the Town’s help to resolve issues. Mr. Sullivan cannot say now that it would be fair to have an up and down vote in July because he is not sure what the situation is going to be at that time.

Mr. Branch asked the Planning Commission what they would like to do.

Ms. Striefel made a motion to request that the applicant come back in July of 2009 to give a progress report, and at that time the applicant will applicant show major progress in resolving these issues. The Planning Commission will decide at that meeting what to do. Mr. Muir seconded the motion. Mr. Branch asked if there was any further discussion about that motion, and if there is there anything to add. Mr. Muir added that this is at the applicant's request. Ms. Striefel agreed to that change. Mr. Branch asked for all those in favor to say aye. All Planning Commission members responded "aye." The motion was carried.

**UPDATE ON DIRECTION OF FUTURE PLANNING/MASTER PLANNING EFFORTS,
COMPILATION OF EXISTING PLANS**

Mr. Branch summarized efforts to date regarding future planning efforts: Mr. Branch, Mr. Nepstad, and Mr. Voye attended a meeting with Town Council to discuss a potential RFP. The idea of what Alta will look like in 2020 was discussed, and maybe the need to step back and think on a larger scale. It was suggested that all the previous studies and research concerning the Town be reviewed. If nothing else, we can see what has been studied about Alta and its future and realize what we need. Mr. Nepstad, Mr. Guldner and Town staff has been working on that effort.

Mr. Branch has talked with the Mayor about bringing in Mr. Miles Rademan (Park City and resort town planner) to talk to the Town/Town Council/Planning Commission about planning. Mr. Branch suggested we could bring in Mr. Rademan in January or February of 2009. Mr. Voye and Ms. Striefel agreed that sounded good.

Mr. Muir asked if Mr. Rademan would do a specific study for Alta. Mr. Branch responded, no. Mr. Branch continued that it has to do with Alta doing a major planning study because it has to be very comprehensive. Mr. Branch envisions that the meeting with Mr. Rademan could involve the visioning process with all the stakeholders. Ms. Degiorgio thinks this is a great idea to inspire people to see what the plan could do for them.

Mr. Branch expressed that he liked that Mr. Rademan has so much experience with the question of "what could it look like?" Mr. Branch also noted that Mr. Rademan has expressed that doing nothing is also an emotional and physical action. Mr. Branch also noted Mr. Rademan's experience with Park City; and that there is a lot in Park City now that was not in Mr. Rademan's original vision.

Ms. Runge asked Mr. Branch about our funding limitations with regards to the visioning process, e.g. how much will the visioning process cost, and how much money is actually available. Mr. Branch noted this is something to talk about as many of these grand visions cost around \$200,000. Mr. Branch noted that Mr. Rademan could talk to us about these funding issues.

There was some discussion as to the studies that have been looked at, and Mr. Guldner anticipates that future planning efforts could fill some gaps in the studies.

DATE OF NEXT MEETING

Mr. Branch noted that one of the items the Planning Commission should get back to is the ordinances. Mr. Branch suggested that the Planning Commission should talk about the Subdivision Ordinance at the next meeting.

The next meeting date was set for December 9, 2008. Mr. Voye remarked that he might be out of town.

Mr. Muir moved to adjourn the Planning Commission meeting. Ms. Striefel seconded the motion with all Planning Commission members voting in the affirmative. The motion was carried.

These minutes were passed and approved on the ninth day of December, 2008.

Claire E. Runge
Assistant Town Administrator

Note to File: On March 4, 2009, I, Claire E. Runge, changed the header (text in upper right hand corner) on pages 2-15 to reflect the correct date of the meeting. It originally read "October 14, 2008" and was changed to the correct date of the meeting, which was November 11, 2008. The minutes were reposted in this form, the morning of March 4, 2009.