

**Alta Planning Commission  
Minutes  
October 14, 2008**

The Alta Planning Commission held a meeting on October 14, 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, Jon Nepstad, and Prescott Muir. Town of Alta staff present included John Guldner and Claire Runge. Town of Alta attorneys Kimberly Chytraus and Katie Lewis were also present. Members of the public present included Mark Haik, Charles Livsey, Jeffrey Appel, Alan Sullivan, Carly Klein, Onno Wieringa, and Jennifer Garner (with a court recorder).

**REVIEW WITH POSSIBLE APPROVAL OF THE MINUTES FROM THE MAY 23, JUNE 10, AND JULY 8, 2008 PLANNING COMMISSION MEETINGS**

**Hearing no comments or questions, there was a motion by Mr. Voye to approve the minutes of the May 23, 2008 Planning Commission meeting as submitted. There was a second by Ms. Striefel and the motion was carried with all members voting in the affirmative with the exception of Mr. Muir who abstained due to his absence at the May 23 meeting.**

**Hearing no comments or questions, there was a motion by Mr. Nepstad to approve the minutes of the June 10, 2008 Planning Commission meeting as submitted. There was a second by Ms. Striefel and the motion was carried with all members voting in the affirmative.**

**Hearing no comments or questions, there was a motion by Ms. Striefel to approve the minutes of the July 8, 2008 Planning Commission meeting as submitted. There was a second by Mr. Muir and the motion was carried with all members voting in the affirmative with the exception of Mr. Nepstad who abstained due to his absence at the July 8 meeting.**

**DISCUSSION ON DIRECTION OF FUTURE PLANNING/MASTER PLANNING EFFORTS**

Mr. Branch acknowledged that the Planning Commission has been quite busy over the last few months. The Planning Commission was invited to the last Town Council meeting on Thursday, September 11, 2008 to discuss a Request for Proposal (RFP). Mr. Branch, Mr. Voye, Mr. Nepstad, and Mr. Guldner attended at this meeting.

Mr. Branch felt that we should be looking at the Town of Alta years down the road, and posed this question to the Town Council: what would the Town of Alta look like in 2020? Mr. Branch shared that he had meetings with Mr. Wieringa, Mayor Pollard, Mr. Guldner, and Mr. Miles Rademan (planner in Park City and national consultant for resort town planning) to discuss these planning efforts. Mr. Branch asked the Town Council about their interest in looking at the Town of Alta in the future. The Town Council showed interest in that idea.

Councilmember Dave Richards expressed interest in a community center. Another Planning Commission member noted that there are already other studies in existence.

First, the Town Council agreed to take a look at a larger plan (the 2020 idea) and look at what it would mean, cost, and how much time it would take. Second, it was suggested to compile all the studies that are in existence, look at them, and report to the Town Council at the November meeting. Mr. Branch asked if staff needs more time to understand those studies and how they would relate to future plans.

Mr. Guldner noted that staff has dug up a few studies and anticipates finding more. Mr. Guldner noted a plan from 1973, a countywide master plan for the canyons, and several UDOT transportation studies. Mr. Guldner stated that Alta has been studied to death. Mr. Guldner emphasized that the driving forces are the Town's ordinances and General Plan, ideas and intuition. Mr. Guldner doubted that we would find any magic bullets or holes in the plans that if plugged, Alta would be perfect.

Mr. Nepstad had located quite a few studies, and will provide a list of them. He noted that a good start of a study is to summarize other studies. However, Mr. Nepstad felt that we are still struggling with intent: should it be macro or micro? The Town Council and Planning Commission will meet again in November to discuss what they know and what the Commission would like to see, if anything.

Mr. Branch noted that in discussions with Mr. Rademan, Mr. Rademan brought up that doing nothing is also an option. The Planning Commission will look at studies that staff provides to see what the Town needs, and make a recommendation for the Town Council.

Ms. Striefel thought this sounded like a good idea and would be good to move forward with their idea.

Mr. Muir suggested that the old plans are lacking a business plan, and that might be something to look into. Mr. Guldner acknowledged that we have never looked at a business plan or economic analysis. Mr. Nepstad recalled an idea brought up at the Town Council meeting regarding a year round business plan.

Mr. Nepstad noted that after looking through over 16 studies he is not sure if something will jump out to say what were missing. However, it is a good exercise to go through all the old plans. He did note that some plans are quite old and wondered if they are still valid. Mr. Branch believed that Mr. Nepstad's comments would be valuable input for the Town Council.

### **INTRODUCTION AND COMMENTS FROM THE CHAIR**

In anticipation of the November deadline, Mr. Branch requested to hear back from staff in a couple of weeks. Mr. Guldner confirmed that staff would do that.

Mr. Guldner introduced Carly Klein who was helping the staff part time to assist with this project and GRAMA requests.

**UPDATE, STATUS REPORT AND DISCUSSION OF THE PROPOSED PATSEY MARLEY HILL SUBDIVISION APPLICATION**

Mr. Branch briefly recapped the last meeting and the discussion of the Patsey Marley Hill Subdivision Application. The Planning Commission sent a letter to Salt Lake City concerning the water issue, and they provided a response to various points. Salt Lake City confirmed the applicant has rights to Quincy mine water. Mr. Branch noted that Salt Lake City has left open questions about the quantity and quality of water. Mr. Branch asked if there is enough water for both culinary water and fire suppression. Salt Lake City did acknowledge that the applicant cannot tie into the Town of Alta water line, and Mr. Branch assumes the applicant would have to build an independent system. He asked the following additional questions: How is that done? Would there be a big pump house on the face of Collins? What would it look like? What kind of piping would be used? What about sewage?

Mr. Branch also addressed fire protection. The Unified Fire Authority (UFA) probably wants to look at year-round access to the site, widths of ingress/egress, and what each residence would need for holding tanks.

Mr. Guldner acknowledged that those are the two big issues. Slope, access, and tree issues are minor. Last meeting the Planning Commission did not have letter from UFA or Salt Lake City, but it has those now, and can now talk about this more definitively. The UFA is concerned with year-round access, but can address mountain issues with a reservoir at each property that can support a sprinkler head for 10 minutes. Mr. Guldner believes everything ties back to water. The Town of Alta water contract with Salt Lake City prohibits the Town from extending past the 1976 contract boundary. Extending water to Patsey Marley property would be a violation of the 1976 contract. In addition, Salt Lake City recognizes the applicant's right to water in Quincy mine, but cannot commit to either amount or quality. Salt Lake City also noted that water cannot be wheeled through Town system.

Mr. Branch encouraged the Planning Commission members to ask questions and share concerns/thoughts they might have.

Mr. Guldner noted that he, Ms. Lewis, and Mr. Livsey walked the site after last Thursday's Town Council meeting. The applicant has started soils exploration to define net developable acreage on each lot. On the walk, they did discover a couple of streams up above proposed lots 9&10 that were not originally shown on the site plan. Mr. Guldner acknowledged that the number of streams he brought up earlier that were not marked were in the wetland area.

Mr. Muir asked for the definition of a natural waterway, or if it was an Army Corps of Engineers standard. Mr. Guldner stated that it was a Town Zoning Ordinance standard. Ms. Lewis read the definition of a natural waterway from the ordinance.

Mr. Guldner brought up the lot where the proposed home site would effect mature trees. Ms. Chytraus clarified that is Lot 2. Ms. Chytraus also clarified that the building pad with mature trees was the preferred site, and the alternate building pad was in an area of slope over 30%. Mr. Guldner outlined the two options, 1) removing mature trees, and adhering to the slope requirement, or 2) violating the slope requirement but removing no trees. Mr. Guldner believes that the applicant could not meet the variance criteria in order to avoid removing trees. Ms. Chytraus noted that the applicant has made a request to the Mayor to remove trees.

Mr. Branch opened up the discussion to input from the applicant.

Mr. Alan Sullivan introduced himself as a representative from the Estate of JoAnne Shrontz, and introduced his two colleagues Mr. Charles Livsey, and Mr. Jeff Appel. Mr. Sullivan expressed appreciation for getting an advance copy of the outline of issues.

First, Mr. Sullivan discussed the water issue. He noted three parts to this issue: 1) the water transmission system 2) the quantity of water, and 3) the quality of water. Mr. Sullivan stated that Mr. Jeff Niermeyer (Director of Salt Lake City Department of Public Utilities) refused to provide consent to allow the applicant to hook onto the Town's system. However, Mr. Niermeyer confirmed the Estate's right to Quincy mine water. Mr. Sullivan acknowledged that quantity has not been determined and the applicant has asked Salt Lake City to do so. Mr. Sullivan noted several studies on the quality of the water; the most recent test performed last summer. Mr. Sullivan opined there will be no issues with the quality of the water and the applicant will take whatever additional steps are needed to satisfy the Planning Commission and the Town Council.

In regards to a transmission system, Mr. Sullivan believes it will be worthwhile and productive to have a meeting with Salt Lake City to see if there are circumstances in which Salt Lake City will provide consent to connect to the Town of Alta's water system. Mr. Sullivan asked for the support and cooperation from the Town of Alta. Mr. Sullivan feels that there are many reasons why it would be preferable to building an additional water system. Mr. Sullivan believes it would be in the Town's interest to explore those opportunities that exist to obtain Salt Lake City's consent.

Mr. Sullivan stated that the bottom line is if Salt Lake City does not provide consent, the applicant will take steps to develop a private water transmission system. The applicant is holding discussions with United States Forest Service (to get a Special Use Permit), the Army Corps of Engineering (to discuss wetland issues), and the Utah State Department of Drinking Water. The applicant is also looking at the potential relocation of the point source from the Quincy Mine to the Bay City Mine. If there was sufficient water at the Bay City Mine, the applicant could just swap the water so it could begin their private transmission system at a point closer to the proposed subdivision. Mr. Sullivan feels the requirement to develop a separate independent water delivery system would be wasteful and would deprive the Town of Alta of having more water in the system. Mr. Sullivan asked for the Town's cooperation.

Mr. Livsey showed the existing and proposed water system on a map prepared by Stantec. Mr. Livsey believes that if the applicant builds a new water system, it will not hook into the Town's

system. After a request by Mr. Branch, Mr. Livsey oriented the Planning Commission to the details of the map such as the location of the Quincy Mine and existing pipelines. The applicant proposes several water line paths through this area, and will work with Alta Ski Lifts and the federal government regarding using the existing line, or improving/adding a new line. Mr. Livsey pointed out the ideal path, and noted the location of the pump house. The applicant proposes to run the water line up SR 210 and believes that utility lines are permitted in state rights of way. Alternatively, the applicant could run the water line through the existing road (along the cross tow). Mr. Livsey stated that the applicant does not have a preference.

Mr. Livsey pointed out the proposed 170,000 gallon tank above the proposed subdivision. This tank will provide water for the proposed subdivision lots and will probably meet the UFA fire requirements. Mr. Livsey stated that as of about a week ago, the applicant received permission from the Town to begin to work with the UFA. The applicant has requested meetings with UFA and Forsgren Associates Inc. Mr. Livsey believes that if the applicant does have a private system it will not connect with the Town's system and new homes will have adequate fire protection however; fire protection for existing homes will not be very adequate. This is why the applicant wants to talk to Salt Lake City and the Town to discuss benefits of combining these systems. Ms. Chytraus asked Mr. Livsey to clarify where the water tank is located. Mr. Livsey noted that the proposed location will be above the homes in Grizzly Gulch. Mr. Livsey added that the Alta Ski Lifts owns that property and the applicant will need to work with them to acquire the property or certain rights to put a system in the desired location.

Ms. Lewis asked for clarification on the size of the tank. Mr. Livsey believes that it would be 175,000 gallons as per discussion with UFA and Stantec. Mr. Branch asked about the size of the tank in terms of dimension, e.g., how big, how tall, what would the diameter be? Mr. Livsey replied that it would be about half the size of the Town's tank for reference. The tank is proposed to be tucked up against the hill, partially buried in the back, partially exposed in the front.

Mr. Muir asked if the right to water could be conveyed to other properties. Mr. Livsey believes that the 1975 contract for Patsey Marley and the 1976 contract for the Town are "geographically handcuffed" and cannot extend water outside of certain boundaries. The [1975] contract only provides water for use on Patsey Marley Hill, and expressly precludes the applicant from using water elsewhere. Mr. Sullivan added that those water rights could not be used elsewhere without the consent of Salt Lake City.

Mr. Livsey noted that the applicant is using the letter that Ms. Chytraus prepared as an outline for today. Mr. Livsey then noted a mockup showing an aerial photo with the proposed subdivision on it. This shows where the proposed building pads, driveways, and lot lines are located. This was prepared at the Planning Commission's request.

Mr. Sullivan noted that approval from Salt Lake Valley Health Department (SLVHD) hinges on the water piece. The applicant feels it cannot get SLVHD approval until there is approval of the water source. Mr. Sullivan noted a letter from Mr. Guldner to the SLVHD that he just received last night. Ms. Chytraus clarified that it had been sent last Friday by email, and counsel will

resend it. Mr. Sullivan understands that the letter asks for SLVHD approval or denial within 30 days. Mr. Sullivan feels that it is premature to ask for approval or denial; however, it is reasonable to ask for approval with conditions. Ms. Chytraus noted that letter was based on a discussion with Mr. Robert Lund and Mr. Jerry Burke of SLVHD. They felt it was sufficient time for them to review it to allow the Planning Commission to move forward. Mr. Sullivan stated that the applicant has no objection to the 30 days, but believes that the most the SLVHD can do is give the applicant their conditions.

Mr. Sullivan moved on to discuss other items on the outline. Mr. Sullivan noted that the applicant has obtained certification for the slope map from Bush & Gudgell.

Concerning net developable acreage, Mr. Sullivan noted two issues. First, soil stability testing on each of the proposed lots is going on right now and is partially complete. Excavation permits were obtained and the applicant believes the testing will be done in the next week or so. Mr. Sullivan noted the second significant element is the requirement of a set back of 50 feet from natural waterways. This is an ordinance based requirement in the zoning code. Mr. Sullivan stated that the Estate is in disagreement with the Town over what a natural waterway is. One of the requirements in the definition is that it is natural, and Mr. Sullivan believes that definition does not include a seasonal drainage channel created by a road culvert. Mr. Sullivan believes that the recently identified waterways that were omitted from the applicant's site plan were just that, seasonal drainage channels resulting from the location of a culvert. Mr. Sullivan requests an authoritative determination by the Forsgren building official as to whether these are natural waterways within the meaning of the ordinance and the requirement.

Mr. Livsey stated that he was not sure where the misconception came from that the applicant failed to identify natural waterways. Mr. Livsey feels that from the very beginning, the waterways were identified and he would be happy to produce older copies of these maps. Ms. Chytraus pointed out that they are not marked as waterways, not included in the legend, and it is not clear to look at the site plan and identify them as such. Mr. Livsey then noted areas on the map that were labeled "seasonal drainage path" and believes that the applicant has labeled these waterways from the beginning. Mr. Livsey then noted other waterways on Lot 2, but the applicant does not feel that it is a natural waterway. The applicant has included them on the plats as a seasonal drainage path. Mr. Livsey clarified again that they have been on there the entire time. The only new development is the one on Lot 2 which the applicant asked Stantec to add as a seasonal irrigation path. Mr. Livsey requests that Forsgren look at the ordinance and make a determination.

Mr. Sullivan noted the importance of this issue as it impacts construction on two lots, and could have enormous economic consequences. Mr. Sullivan feels that it is in everyone's best interest to get this right.

Mr. Nepstad noted that he was struggling with the legend of the site plan. Mr. Nepstad suggested that the applicant should ask Stantec to include everything on the site plan. Mr. Nepstad feels that this would create a better visual.

Mr. Livsey posed a question to the Planning Commission: because the intermittent streams are culverted or the road topography slopes in such a way that it creates this intermittent drainage, can those streams be relocated? Mr. Livsey feels that this warrants discussion. If they were considered natural waterways it would have an impact on the proposed subdivision.

Ms. Striefel asked if those waterways in question ultimately go into a natural waterway. Mr. Livsey responded that everything does, it all ends up in the creek. Ms. Chytraus asked that because those waterways are culverted, does the location of the culvert change the nature of the waterway. Mr. Livsey noted that the culverts are shown on the utility plan and the grading plan. Mr. Livsey believes that since the road is flat, it acts like a burrow pit and collects all the road water and water from above, and it determines the course of the water. Mr. Livsey opined that either relocating and/or combining some of these natural waterways by connecting the culverts together would eliminate/decrease the problem, assuming they are natural waterways. Mr. Sullivan asked if the Planning Commission is interested, the applicant could propose some engineering solutions to this issue. Mr. Livsey asked if this could be made an action item. Ms. Chytraus stated that the Planning Commission can discuss what they would like to do, but in order to vote on an action item, it needs to be on the agenda.

Mr. Branch asked Mr. Guldner to jump in to alleviate confusion. Mr. Branch asked what is the impact as far as the drainage is concerned, and what is the effect of changing culverts.

Mr. Guldner believes that the culverts were placed to prevent road erosion by existing natural waterways. Instead of culverts, 15 years ago, water eroded the road and continued down the hill. Mr. Guldner clarified that if there is a natural waterway, 50 feet would be measured from each side of the natural waterway, and that is no longer part of the net developable acreage. While this requirement is in the Town's Zoning Ordinance, it originated from the SLVHD. Mr. Guldner reiterated that culverts do not create natural waterways; they were placed there to deal with flowing water that could destroy the road. However, the Town can certainly look at every single one of them and come up with a determination whether the culverts have changed the course of the natural waterways. Mr. Guldner believes that a natural waterway can be an intermittent stream, and if it is running for 3 months during spring runoff, it is a natural waterway.

Mr. Livsey suggested eliminating the culverts by having one culvert that runs down the side of the road and captures the waterways instead of pushing it onto the property. The water would then be delivered to the wetlands where all of the water naturally goes because of the creek. Mr. Livsey reiterated again that perhaps Forsgren should look at the issue to determine if they are natural waterways or not.

Mr. Guldner stated that the Town will have Forsgren go to the property and look at it. Mr. Guldner noted that Mr. Livsey's example is a good example. However, if we had culverts running all along the road then we would be redirecting a natural waterway. Mr. Guldner stated that if the road is washed out, the Town puts a culvert there and adds road base. The culverts were placed in the natural waterway paths; these culverts did not create natural waterways. Mr. Guldner reiterated that Forsgren will look at the situation on site.

Mr. Branch asked Mr. Voye if this discussion has answered his questions. Mr. Voye responded that he still has concerns about potential construction, grading, and foundations problems. Mr. Voye asked what happens to all the spring runoff as all of the trickles add up and end up being problems for people downhill. Mr. Voye is not sure if the culvert addresses that. He asked whether it is Town's responsibility or the responsibility of the developer to make sure runoff from above does not affect lower lots.

Mr. Guldner noted the 50-foot setback is not just for water quality but also for protection of the homeowner. The culverts do not do anything to address that, they are just trying to keep the road from eroding away. Mr. Guldner noted that you can see the channels, they are clear-cut. The Town can certainly go up there and identify them, as it could be a problem for the homebuilder and for water quality.

Ms. Chytraus asked Mr. Livsey if having Forsgren go out and look at them addresses his action item. Mr. Livsey replied, yes, Forsgren should go out and look. Mr. Livsey then asked if the Planning Commission wants to consider some engineering solutions to this issue.

Mr. Guldner was not sure if the applicant could consider something that would change what some would see as a natural waterway. Mr. Livsey interjected that that assumes they are natural. Mr. Livsey suggested that maybe Forsgren could make that determination before we can jump ahead.

Mr. Nepstad asked if the wetlands on the proposed subdivision are jurisdictional. Mr. Livsey replied they are. Mr. Nepstad asked if directly discharging more water by nature into the wetlands is going to be an issue. He asked if the quantity of water itself will be higher, is that a jurisdictional wetland issue that needs to be addressed by Army Corps of Engineering.

Mr. Branch asked if Mr. Guldner along with the help of Ms. Lewis and Ms. Chytraus could consider the question and advise the Planning Commission on how to make this an action item. Mr. Guldner and counsel agreed to do so.

Mr. Muir suggested that Forsgren should come in and give a report of what they have found. Mr. Muir feels it is not very material what is on the drawings; it is a matter of scale. He asked what rises to the level of a significant drainage channel that needs to be addressed for both environmental and ethical considerations.

Mr. Livsey believes that Forsgren has the capability to make a determination as to what is a natural waterway. Mr. Livsey believes that spring runoff should not affect that determination.

Ms. Chytraus asked Mr. Livsey if he was asking because of implications on the building permits process, or because of implications on net developable acreage. Mr. Livsey responded, both. He said if they are not natural waterways, it has no effect; if they are, it should be dealt with in the planning process so that if needed, the applicant could make sure net developable acreage is satisfied. Mr. Livsey asserted that it does not seem fair that in a few years when a homeowner

goes to apply for a building permit, the Town comes in and tweaks the location of a natural waterway so that a lot becomes unusable. If it is a natural waterway, the Town should denote it as such and account for it.

Ms. Chytraus noted that still does not take into account the possibility of a new natural waterway developing years down the road. That will still have to be dealt with in the building permit process.

Mr. Sullivan noted a request for a skier access plat note, and stated that the applicant is working with Alta Ski Lifts on that note. In addition, there was a request for a winter parking and vegetation plan note, and that was put together as well.

Mr. Muir asked why the Town's ordinances need to be repeated in the CC&R's, it seems redundant.

Mr. Guldner acknowledged that it is redundant. However, it is for the Town's protection and it is for the homeowners protection. He said, if somebody is going to be spending a few million dollars on a lot they should be put on notice.

Mr. Livsey believes that LUDMA does not empower a municipality to review the CC&R's, as the CC&R's are a private contract between the developer and the homeowner. The applicant provided the CC&R's to the Planning Commission to show the desire to follow the Town's ordinances. Certain things included in the CC&R's were to put people on notice. The applicant hopes that it is comfort food that we as a homeowners association intend to follow the rules that are prescribed in the ordinances, and we have gone to the extent of elaborating those rules in the CC&R's. The applicant feels it is appropriate to comment on CC&R's, but to make the CC&R's a condition upon approval is beyond the authority of a municipality or Planning Commission.

Ms. Chytraus noted that the staff report says the Town makes suggestions regarding the CC&R's. Ms. Chytraus believes there is no implication that that is a condition of the Planning Commission's approval.

Mr. Sullivan noted that the Lot 2 building option #1 would require cutting down several mature trees. The Town suggested the applicant look at an alternative. The alternative involved building on slope over 30%. However, Mr. Sullivan believes the applicant is in the process of obtaining mayoral approval for the removal of several trees.

Mr. Livsey noted that building pad option #2 is still on the map. Mr. Livsey believes the Town can very easily tweak the ordinance to allow the land use authority to make exceptions to the 30% slope requirement. Mr. Livsey feels that would be an easy solution to prevent removing trees. Mr. Livsey stated that the applicant does not have a vested interest in either building pad site. The Town and Planning Commission have expressed reluctance to remove trees. Acting on that preference, the applicant proposed an alternative on Lot 2. Mr. Livsey believes it is true the applicant cannot receive a variance. However, the applicant feels this would be a great place to tweak the ordinances to make exceptions to that slope requirement under certain circumstances.

Mr. Sullivan commented that the applicant is still trying to schedule a meeting with the UFA and noted that the Town has now given the UFA permission to deal with the applicant. Mr. Sullivan appreciates the efforts of the Planning Commission and would be happy to answer questions.

Mr. Livsey stated that to his knowledge, five test pits have been dug and he has been told that there are “no surprises here.” On a preliminary basis, it is exactly what they had expected. In addition, percolation tests have been performed. However, the applicant feels the percolation tests are not necessary but are required under the ordinance. The applicant does not believe that any net developable acreage will be affected by the soil stability tests.

Mr. Branch thanked the applicant for their presentation. Mr. Branch noted that the Planning Commission’s goal is to approve or disapprove of the Patsey Marley subdivision application as soon as possible and pass it along to the Town Council. Mr. Branch asked the applicant to summarize their meeting plans; specifically who are they meeting with, and what will they learn.

Mr. Livsey outlined the applicant’s meeting schedule.

- Meet with Army Corps of Engineers on Thursday, October 16, 2008, to discuss land around the Quincy Mine.
- Following Thursday, October 23, 2008, meet with the District Ranger of the Forest Service regarding a Temporary Special Use Permit for the existing Quincy Mine water system.
- Meet with Salt Lake City Director of Public Utilities next Friday, October 24, 2008, to discuss whether there are situations in which Salt Lake City would provide consent to the applicant to use the Town’s water system.
- Preliminary meetings have taken place with the Utah State Division of Drinking Water (USDDW) and Mr. Keith Hanson to discuss the proposed private water system. Mr. Livsey stated that USDDW has requested a meeting with the Town, and the applicant is not sure if that meeting has been established. The director of USDDW wants to talk about the pros and cons of having two systems. Mr. Livsey said, as a general standpoint, the State is against having multiple systems such as Mill Creek Canyon. He also said both Mill Creek and Emmigration are nightmares for the State to deal with to make sure tap water is suitable for consumption. Mr. Livsey believes that the USDDW wants to avoid that and is looking for solutions. In the worst-case scenario, the applicant will need to file a formal application for a private water system.
- The applicant has requested a meeting with the Mayor focusing on system design within the Town.
- Meetings with Forsgren and the UFA. The applicant said that the UFA is concerned with width of driveways, grade of driveways, placement of fire hydrants, and quantity of water to be stored in relation to the property. Mr. Livsey noted that the applicant has worked with the UFA for about two years now on these issues and now has the Town’s permission to have an official meeting to review the Patsey Marley subdivision application. In the meantime, the applicant has made some changes such to driveway width and grade to meet UFA requirements. The applicant still needs to work out exceptions for driveways with slope over/at 12%.

Mr. Muir asked Mr. Livsey about the UFA condition requiring a paved road 150 feet from each building pad. He also asked if the paved road discussed in the UFA letter requires year round access. Mr. Livsey replied that the UFA's point blank answer was that pavement was not the right word; gravel, road base are fine as long as it is adequate for a fire truck to drive on. As for year round access, Mr. Livsey claimed that the UFA said they approve things all the time all over the Wasatch Front that do not have year round access. Mr. Livsey said as long the applicant provides for other remedies such as sprinklers, water storage on site, the UFA will not worry about year round access.

Mr. Nepstad asked to see driveway slope on the site maps. Mr. Livsey said it is on there, and it has been changed since the applicant has disseminated the maps. Mr. Livsey noted on the site maps the preferred option for driveways and the alternative. The alternative has a common drive for the upper lots. Regarding driveway configuration, Mr. Livsey stated that the UFA has not expressed an opinion one way or another and the applicant does not have a preference. There was some discussion on the details of specific slopes on various driveways and the different sets of maps. Ms. Chytraus suggested to the applicant that it would be helpful to provide an update once the applicant finalizes plans with the UFA and Forsgren Associates Inc.

Mr. Nepstad also suggested that if the applicant is going to meet with the Army Corps of Engineers, the applicant should discuss the idea of discharging additional water into the wetland.

Mr. Livsey agreed with Mr. Nepstad and noted there may be a flood issue there. Mr. Livsey stated that there are three small seasonal drainages in the specified area and he is not sure if it is a good idea to combine them into one. Mr. Livsey believes that an engineer who knows what they are doing could solve this dilemma. Mr. Livsey thinks the applicant can get a determination and have a more informed conversation.

Ms. Chytraus went back to Mr. Muir's question about the UFA's access requirements. Ms. Chytraus understands from the inspector of the UFA that it has provided comments to the Estate regarding width of driveways, grade, etc.; and it has not provided comments that would deal with a situation where there is no culinary water on site. Ms. Chytraus stated that while the UFA could approve developments that do not have year round access, it requires modifications to have sprinklers, etc, but as part of that, it also requires a water source to serve those sprinklers. Ms. Chytraus noted that the inspector told her the UFA has not gotten to the point where it would provide the requirements for additional engineering. Ms. Chytraus thought that the Estate should not go to the time and expense of engineering a water system until the Estate has a more definite picture of what the water situation would look like.

Mr. Livsey claimed that the applicant has already designed the system and worked with the UFA. Mr. Livsey looks forward to the UFA's review, suggestions, and recommendations. In addition, the applicant looks forward to working with Salt Lake City Department of Public Utilities and hopes a solution can be found. However in the alternative, the applicant plans to build a private water system. Mr. Livsey then stated "it will happen."

Mr. Branch asked if the Planning Commission had any more concerns. Mr. Muir requested a determination by the Town engineer and to make whatever recommendation the Planning Commission has conditional upon that. Mr. Muir asked if there was any public input. Ms. Chytraus clarified that it was not a public hearing.

Ms. Striefel feels uncomfortable with tweaking the ordinance to allow building on over 30% slope. The alternative has to be removing trees, as it is allowed for and there is mitigation. Ms. Striefel stated that she does not think we should move on the slope, as it is too critical for the community.

Mr. Voye asked if the Planning Commission is glossing over parking. Mr. Voye noted that meetings have been held for many hours over one car. Mr. Voye asked if the application is adding 20 to 30 more cars, would Alta Ski Lifts have a concern as to where those cars are going? He asked, does the Town have jurisdiction? Mr. Voye also noted the end of the road is full and getting fuller and that is a big deal.

Mr. Livsey stated that the Town does have an ordinance regarding parking, and it stipulates single-family residences to have two on-site parking stalls. The applicant has presumed from the beginning it will do what everyone else does, use snowmobiles to get to the homes. The applicant had talked about paving and plowing the road the Albion Basin Road, and that was not well received. At one point, the applicant was looking at paving and plowing to the corner of the property and building a 20-30 car parking structure. However, Mr. Livsey feels this is expressly forbidden by the zoning ordinance as these lots are zoned for single-family residences, not commercial uses. Mr. Livsey recalled that Ms. Shrontz tried to get a re-zone for a commercial property but that was not successful. The applicant cannot figure out a way to get a commercial parking structure on this property, so the default is to do what everyone else does. Mr. Livsey expressed that parking in the Town is a concern and at the request of Mr. Guldner, the applicant has written a plat note to that extent. Mr. Livsey said that short of paving and plowing, the applicant cannot get people to their mandatory 2-car parking spots. He stated that the CC&R's mandate at least one garage per home, but homeowners could not get there other than by Over Snow Vehicle (OSV) during the winter. Mr. Livsey feels the applicant has complied with the ordinance and mandates from the Town. The applicant is open to dialogue along those lines, but solutions were not found that work within the zoning, and parking, snow removal, and relocating vehicles is a problem. He said it would be fantastic if owners could drive into a parking structure and not have to shovel their cars off after a big storm, but the applicant fails to see how this can happen.

Mr. Voye believes that does not solve anything. Mr. Voye understands that the applicant will provide parking at residences, but it is still such a problem. Who has jurisdiction over that?

Mr. Livsey commented that State Road 210 runs through there, and his interpretation is that no one wants to open that can of worms. Mr. Livsey opined that the federal government owns the surface through there and State Road 210 is statutorily defined wide enough for use. The State plows out a lot of that area as well as the Alta Ski Lifts and the Town. Mr. Livsey believes that the Town may not benefit from opening that can of worms.

Mr. Branch asked about the idea of plowing and paving year round.

Mr. Guldner noted that the Town does not know who would have authority to pave or plow, as ownership of the road is so far not defined. With regards to some of Mr. Livsey's comments, Mr. Guldner noted that, 1) the applicant cannot say that paving and plowing was looked at and not accepted because nobody knows the exact status of the entire width and length of that road, 2) there never was a rezoning attempt that failed, there were ideas, but they were never put forth, 3) the letter of the law might be met by providing two parking stalls for each single family house, but if you can not get to them in the winter, you may not be meeting the letter of the law. Mr. Guldner continued that currently there are probably 40 or 50 cars at the end of the road and there is a demand for 60 or 70. On the other side of the gate, there are probably 20 snowcats and snowmobiles that were there and approved before there was a town. He said it would be nice to figure out some sort of solution to this problem because there could be 20-30 more cars and 20-30 more snowcats and they will have nowhere to go.

Ms. Chytraus stated that the Planning Commission's role is to apply ordinances as they exist, and although it may highlight other problems that need to be solved, those solutions cannot be worked into the recommendation of this subdivision application. It is a very valid discussion; just remember those are two separate concepts.

Mr. Nepstad asked what happens if there is a fire in the winter. He asked how a firetruck gets through if it is not paved/plowed. Mr. Guldner replied that the truck could not get through, that is why UFA would require sprinkler systems. Mr. Livsey noted that mountain development is problematic.

Mr. Muir asked for an explanation regarding the purview of the Planning Commission. In addition, Mr. Muir stated it would be helpful to know the staff's recommendation relevant to the merits of this application against the ordinances and general plan. Mr. Branch remarked that it may be good to have a summary as it relates to these concerns.

Ms. Chytraus noted that purview of the Planning Commission is an advisory position to review the application and determine if the applicant complies with the Town's ordinances and State laws. If the application does not comply, the Planning Commission's recommendation should be that the Town Council should deny the application. If it does comply, the recommendation should be that the Town Council approves the application. The Town Council is not required to follow the recommendation, although part of the record of the Planning Commission's recommendation would be all these discussions and analysis that have created the recommendation.

Ms. Striefel asked if the Planning Commission is supposed to do that today. Ms. Chytraus remarked that no, not until the Planning Commission feels comfortable as to the compliance of the application. She said the Town staff has not formulated a specific recommendation, but based on reports and reviews the application does not currently comply with the Town's ordinances and state law. That is the status as of today and there is a need to solicit additional

information to bring the application into compliance. When the Planning Commission feels comfortable that it has the information it needs to make a recommendation, then it can make the recommendation. Ms. Chytraus noted there is no timeline on this, under state statute it is supposed to be a diligent review.

Mr. Branch asked Mr. Livsey, that with previously discussed meetings in mind, what is the timing involved. Mr. Branch asked whether it can it be done in 30 days by the next meeting?

Mr. Livsey replied that he cannot tell the Planning Commission when it will be ready to make a decision, and he thought that months ago the Planning Commission would have been at a decision. In Mr. Livsey's opinion, there are three decisions that could to be made: either approval or denial, or approval/disapproval subject to certain conditions. Mr. Livsey believes that the Planning Commission can recommend one way or another subject to certain things that need to be satisfied.

Mr. Branch repeated his question and asked Mr. Livsey when will these meetings be accomplished and does he think they could be accomplished in the next 30 days.

Mr. Livsey does not think every issue will be resolved in 30 days. Mr. Livsey cannot pin down when the state will approve the private water system, as it is a lengthy process. Mr. Livsey finds it difficult to predict if and when the federal government will grant a Temporary Special Use Permit, a Special Use Permit, or if the federal government wants to go through an environmental analysis (EA) process. Mr. Livsey recalled a snow mobile issue that required an EA process and it took two full years. Mr. Livsey is not sure how long it will take, but in all reality, he does not believe it will happen in 30 days. Mr. Livsey further remarked that it would be wonderful if we had an exact list of all the criteria upon which the recommendation is being based. Mr. Livsey noted he felt that the process is like an onion, as the applicant peels back layers, more layers appear, and there are more complications than when the applicant originally submitted the application. Mr. Livsey opined that what is required under the state law and the Town ordinance does not include the massive amounts of information the Planning Commission is reviewing, but thinks that Ms. Chytraus may disagree with that. Mr. Livsey feels that next meeting should not be scheduled for a decision on the application because additional information needs to be collected, and hopefully that can happen quickly.

Mr. Branch asked if Mr. Muir's questions would be satisfied by having the water engineer speak about water issues at the next meeting. Mr. Guldner clarified the building official is the Town engineer.

Mr. Branch commented that the Planning Commission is trying to get its arms around this application to be sure it understands every aspect of the proposed subdivision as it is related to the Planning Commission's purview and charge.

Mr. Muir opined that it is unfair to ask the applicant to satisfy every technical concern before the Planning Commission makes a recommendation to the Town Council. He said the Planning

Commission should target the big issues and condition its final approval on satisfaction of those issues. Mr. Muir believes that fire service and site drainage are fundamental issues.

Mr. Branch asked what are the specific concerns if the following elements were satisfied for subdivision approval. Mr. Branch asked what would those exact elements be? If the Planning Commission approves or disapproves the application it needs to be very clear about what those elements are. Mr. Branch does not think the Planning Commission can do that right now.

Ms. Chytraus asked if the Planning Commission would like to see the staff report in a different format. Mr. Nepstad suggested a scorecard format. Ms. Chytraus said she could make it more of a bullet-point/checklist format. Mr. Branch suggested a satisfied/not satisfied/what it takes to satisfy it box for each point. Mr. Nepstad also suggested that the list is sorted by priority. Ms. Chytraus commented that ultimately the applicant is entitled to approval when it complies with the ordinances and short of compliance with ordinances, the applicant is not entitled to approval. She stated that what the Planning Commission has been doing is discussing what the applicant needs to have happen to come into compliance. Mr. Branch noted that the Planning Commission is trying to get through this in fairness to everyone.

Ms. Striefel stated that the Planning Commission either disapproves because it does not have enough information or recommends approval subject to all kinds of conditions. She asked how long does the Planning Commission want to keep this going to wait for new information to take checks off the checklist?

Mr. Guldner remarked that the Planning Commission probably could decide today, but the decision could be radically different if the Planning Commission decided a month or two years from now.

Ms. Chytraus does not think there is a deadline for when the Planning Commission needs to make its recommendation. The Planning Commission should make the recommendation when it is comfortable with what has been submitted. Mr. Nepstad commented that based on the agencies the applicant needs to deal with, information would dribble in and he does not have a problem with that.

Mr. Muir asked if the applicant has a preference. Mr. Muir then remarked to the applicant that it should sense today that with a negative recommendation from staff, the Planning Commission would probably deny the application and forward it to the Town Council. Mr. Muir guessed that the conditions are so substantive he did not think the Planning Commission would go forward with a positive recommendation until the major conditions are satisfied. Mr. Muir stated that this is the reality the Planning Commission faces, does the applicant agree?

Mr. Livsey stated that the Estate and the Town disagree as to what is required to have an approved subdivision. Mr. Livsey then noted he would enjoy seeing the checklist that establishes all requirements. Mr. Livsey remarked again that this is like an onion; layers are peeled away and as it seems as though certain things are satisfied, other things are created as a result.

Ms. Chytraus asked Mr. Livsey if the state statute requires a plat be approved by the culinary water authority. Mr. Livsey responded that it does. Ms. Chytraus asked Mr. Livsey if the applicant has that approval. Mr. Livsey responded that if the applicant has a private water system it is the culinary water authority. Ms. Chytraus noted that the applicant does not have the approval to build a private water system. She reiterated the question: as of today, does the applicant have that approval? Mr. Livsey replied that he does not believe that the applicant has to have its private water system approved. Ms. Chytraus responded that was not her question, and asked again: state statute and the Town's ordinances require approval by Salt Lake City Department of Public Utilities and the culinary water authority-- does the applicant have that as of today? Mr. Livsey stated that we will choose to disagree, but would like to see the checklist to resolve as many issues as possible. Ms. Chytraus noted that is what the Planning Commission has been doing.

Mr. Livsey noted that he does not mean to diminish any efforts, he thinks the Planning Commission, staff, and attorneys have spent a great deal of time on this and worked with the applicant. Mr. Livsey feels everyone is diligently pursuing the review of the application and he commends the effort of the Planning Commission and thanks them for their time.

Mr. Branch asked if everyone is okay with the checklist idea and staying in motion on this with the idea of getting a decision as quickly as the Planning Commission can.

#### **DATE OF NEXT MEETING**

Mr. Branch noted the next scheduled meeting would be Tuesday November 11, 2008. Noting that the Town Council is meeting November 13, 2008, if the information regarding planning documents, and research is ready to be presented, Mr. Branch and Mr. Guldner are willing to represent the Planning Commission at that meeting.

Mr. Branch noted that as far as the Planning Commission's work is concerned, the item that requires the most amount of time would be the Patsey Marley subdivision application. Therefore, to accomplish both items, the Planning Commission needs two meetings that week on November 11, 2008 and the Town Council meeting on November 13, 2008. Mr. Branch asked if it would be okay if he represented the Planning Commission at the November 13, 2008, Town Council meeting

Mr. Voye asked what would be on the agenda for the November 11, 2008, meeting. He asked whether the Planning Commission is just going to go around in circles about the Patsey Marley subdivision application. Mr. Branch commented that if the Planning Commission has enough information to meet and talk, the Planning Commission will meet, if there is not, it will not have a meeting.

Mr. Muir asked for an update on Scenic Byways. Mr. Nepstad noted that the stakeholders had a wrap-up summary meeting and recommended that both Big and Little Cottonwood Canyons be nominated for National Scenic Byway Designation Status. This designation could open avenues

for grants at federal/state/non-profit level to implement ideas that are contained in the Scenic Byways plan. The designation application will be submitted to the United States Department of Transportation in December. Mr. Branch asked what the national designation does. Mr. Nepstad commented that it puts the Byway on the national register and provides opportunities for additional money for improvements. He suggested that someone from Fehr & Peers should present at the next meeting.

Mr. Guldner noted that in all of the recent planning efforts, the Town forgot about the newest annexation. The Town annexed 324 acres on the north side of the road at the Alta Ski Lift's request in December 2002. The land was zoned FR-20, and is a big chunk of land done after the Town's last general plan update. Mr. Guldner asks Mr. Wieringa if he has anything to say or hand out about this annexation. Mr. Wieringa commented that he had nothing to say and passed out a handout to the Planning Commission members.

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

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These minutes were passed and approved on the eleventh day of November, 2008.

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Claire E. Runge  
Assistant Town Administrator