

**Alta Planning Commission  
Minutes  
July 8, 2008**

The Alta Planning Commission held a meeting on July 8, 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, 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, Herbert Livsey, Jeffrey Appel, Alan Sullivan, Craig Call, Onno Wieringa, and Jennifer Garner (with a court recorder).

Planning Commission chair Mr. Branch welcomed everyone and briefly outlined the meeting.

**Introduction and Comments from the Chair**

Mr. Branch introduced Ms. Runge as the new Assistant Town Administrator. Ms. Runge introduced herself and expressed that she is looking forward to working for the Town of Alta.

Mr. Branch discussed the plans for the future of Alta and what they may look like. How do we move forward? How do we focus on quality of growth in Alta? Mr. Branch planned on contacting Mr. Wieringa at Alta Ski Lifts to share ideas and plans.

**Discussion with Possible Approval the Following Minutes from the Planning Commission Meeting of May 23, 2008**

Mr. Branch suggested that since the minutes had just been received, they should be looked at and approved next meeting. The Planning Commission agreed.

**Presentation of Patsey Marley Hill Subdivision Application**

Mr. Branch reminded the Planning Commission that legal agreements stipulate the Patsey Marley subdivision application be looked at under ordinances in place when the application was deemed complete. The main objective of the Planning Commission today is to gather as much information as possible for clarity and concern for the Town's ordinances, and to pass along a recommendation to the Town Council. Mr. Branch then turned the meeting over to those individuals presenting on behalf of Patsey Marley subdivision application. Mr. Branch encouraged the applicant to keep the presentation to around 30 minutes, after which questions and concerns will be addressed.

Mr. Sullivan introduced himself as the "ringleader" and a lawyer representing the Shrontz Estate. Mr. Sullivan then introduced those representing the Estate: Mr. Herbert Livsey, the personal representative of the Estate; Mr. Jeff Appel, a lawyer and expert on water issues; Mr. Craig Call, a land use lawyer who has been retained by the Estate; and Mr.

Charles Livsey, also retained by the Estate and is an expert on the plans regarding this project.

Mr. Sullivan outlined the presentation and stated that the applicant's objective is to obtain a list of tasks from the Planning Commission containing concerns to be addressed so the applicant can provide more information about issues not resolved.

Mr. Sullivan commented that the staff report received last week was very helpful for preparation of this presentation. Mr. Sullivan thanked the Planning Commission for providing a wonderful public service, and expressed the desire to be respectful of their time.

Mr. Sullivan began by noting that the application was first filed last summer (July 2007), and further submissions were made in November 2007 and June 2008 to address concerns that had arisen.

Mr. Sullivan then oriented the Planning Commission to the original plat and site plans. He noted that in some cases there are two plans, A and B. A is the preference, and B is an alternative. Mr. Charles Livsey discussed the difference between A and B site plans. In the preferred option A, each lot has its own driveway, with several driveways built on a grade above 30%. Mr. Livsey noted that during the pending ordinance period, the Town put forth a Subdivision Ordinance that discusses the minimization of length of driveway/road on a grade over 30%. Although that Ordinance was never passed, Option B was created to avoid driveways/roads going over 30%+ slopes and has a common shared drive for Lots 7-10 to avoid grades above 30%.

The other difference between plans A and B is on Lot 1. The driveway of Lot 1 comes down a steep grade that the applicant feels is not a natural grade, but created as a result of the fit of the road itself. Pursuant to the ordinance, the applicant feels they can construct on that grade. However, in attempt to keep with the harmony of the ordinance, the driveway for Lot 1 comes straight across the 30% slope. Mr. Livsey also noted the difference in options A and B for the grading and utility site plans for the different driveway configurations.

Mr. Branch asked Mr. Livsey to go through each of the lots and show the building pads. Mr. Livsey pointed out the building pads for each lot and explained that under the proposed CC&R's, the homeowner could build anywhere in that pad taking into account the 25% disturbance requirement. Mr. Branch asked Mr. Livsey to take a step back and show the Planning Commission where things are a little more generally; e.g. where is the Summer Road, ski lifts, Cat Shop, etc. Mr. Livsey pointed out the features on the plat Mr. Branch requested. Mr. Livsey went back to discussing the building pads. He showed the Planning Commission where the total acres and total buildable acres were listed. He also noted that less sensitive areas were pre-designated as potential building pads.

Mr. Livsey addressed a question regarding natural waterways, and noted that all proposed development is well away from Little Cottonwood Creek, and 50 feet away from any natural waterway. Mr. Livsey pointed out the waterways on the plat as depicted by the engineering firm Stantec. He also pointed out seasonal drainages, which he believes were created by culverts. Regardless of the designation, he noted that the building pads do not include those waterways, or any wetland area.

Mr. Muir asked if a specific distance needs to be maintained from those secondary waterways, or if those waterways are excluded. Mr. Livsey commented that he was not sure, and said he could ask Stantec.

Mr. Sullivan began to discuss water. Mr. Sullivan acknowledged that this is complicated, with three pieces to this issue:

- 1) Does the applicant have the right to sufficient amount of water?
- 2) Is the water quality adequate for culinary water?
- 3) How does the applicant get water to the proposed subdivision?

In reference to (1) Mr. Sullivan referenced the May 20, 1975 Water Supply Agreement between Salt Lake City and landowners, including John D. Cahill, which stated that Salt Lake City will provide 150,000 gallons per day from the Quincy Mine. Second, Mr. Sullivan noted a letter from April 26, 2000 between Ira Rubinfeld (lawyer for Joanne Shrontz) and Salt Lake City discussing the assignment of Mr. Cahill's rights to Ms. Shrontz. Finally, Mr. Sullivan pointed out the City's official consent to the assignment of Mr. Cahill's rights to Ms. Shrontz. Mr. Sullivan stated that the applicant does not believe that availability of water is an issue. Mr. Sullivan has been told that the applicant's right to water could serve 50 homes, but they are only asking to serve 10 homes.

In reference to (2) Mr. Sullivan informed the Planning Commission that a water quality study for the Quincy Mine was undertaken in August 2007.

Concerning (3) Mr. Sullivan believes that the applicant has the right to connect to the Town's water system. Mr. Sullivan asked the Town for cooperation to ensure that a separate water delivery line does not need to be developed. The applicant feels it would be wasteful to develop a separate water delivery line between the Quincy Mine and the project.

Mr. Sullivan noted a September 10, 1977 letter between Charles Eubank (former Public Works Director for the Town of Alta) and Mr. Cahill, which stated that Mr. Cahill had the right to hook onto Town water system. The applicant believes this is a contractual agreement.

Mr. Charles Livsey began to discuss the issue of fire service. The UFA (Unified Fire Authority) will continue to review the subdivision application. The UFA's preliminary assessment does acknowledge limited access to the sites and assumption that the applicant would be hooking onto the Town's water system. Mr. Livsey noted that each

home would be required to have an internal fire sprinkler system. The applicant believes this is a safe and reasonable requirement and a note would be put on the plat. Mr. Livsey anticipates that they can solve all of the UFA's concerns. He also noted that winter access should not be a problem, as winter access is a common problem in all of the canyons and the UFA will condition its approval based on a sprinkler system.

Mr. Sullivan touched on the issue of road access. The applicant feels that this is not an issue, as an existing road goes straight through the subdivision. Moving along, Mr. Charles Livsey noted that the avalanche risk has been evaluated and should be part of the proposed CC&R's and incorporated into the project.

Mr. Livsey next discussed vegetation. Mr. Livsey noted a survey that was undertaken to note major vegetation. Lot 2, the "problem child," is the only lot in which construction on the building envelope will require removing a tree. Mr. Livsey noted that in order to cut down a tree, one must obtain mayoral approval at the building permit stage. The applicant does not want any lot to not receive a building permit, so all the lots have been designed with building permit requirements in mind. One of the solutions discussed in the meeting between the Town staff and the applicant was to move the building pad on Lot 2 to an area with slope above 30%. The applicant feels that it is very reasonable to move the building pad on Lot 2 to slope over 30% instead of having the building pad in an area where a tree needs to be removed. In addition, there is a chance that the placement of fire turn-arounds as required by UFA could affect two trees, but it is hoped to be avoided.

Mr. Sullivan addressed some "chicken and egg problems." He asked for the Town's preference for delivering water to this project. The applicant feels it cannot respond to sewer questions until it knows more. If the Estate were required to build a new infrastructure system, they would like to get final approval so they can justify the dollars spent. Mr. Sullivan noted that it would require a lot of money and they hope they do not have to go that direction. The Estate hopes it can connect to the Town's water system, as they do not want to duplicate a system that is already in existence.

Mr. Livsey noted another "chicken and egg" issue. The staff report required approval from Salt Lake City Public Utilities Department and Salt Lake Valley Health Department. In order to do this, the Town of Alta needs to decide if the Estate can use the Town's sewer system. The applicant requested that the Town look into this issue.

Mr. Sullivan recounted another "chicken and egg" problem concerning water infrastructure. The applicant believes that a 1979 request to Salt Lake City suggests that there would be no problem extending the water line. The applicant requested that the Town support the applicant and talk to Salt Lake City about extending the water line.

Mr. Branch opened the meeting up to questions for the presenters. Mr. Branch first asked how the proposed development of the property went from a hotel to 10 lots. Mr. Charles Livsey noted that the land was zoned for single family residences, and believes a re-zone

is only granted if someone owes you a favor. Mr. Livsey believes that in the case of the Shrontz Estate, no one owes them a favor. Mr. Livsey then stated, “the dream passed away with the dreamer.” Mr. Herbert Livsey echoed those sentiments and noted that when working with Jody and Duane Shrontz on the hotel project, the proposal got further and further away from approval. The applicant decided to take the path the land was zoned for.

Mr. Branch asked the applicant why this project is good for Alta. Mr. Herbert Livsey expressed the desire to create a development that was sensitive to the environment and the ordinances of Alta. Mr. Livsey believes that the property was approved for 16 lots, and their experts decided the maximum number of appropriate lots would be 10. There are already probably 20 or 30 homes up there and the subdivision would only add 10. The applicant feels the development minimizes the effect on the environment and will be a beautiful addition to the Town of Alta. Mr. Call felt caught off guard by the question and noted that the project embraced the existing zoning in the 2005 General Plan and even incorporated the proposed Watershed Ordinance.

Mr. Muir asked the applicant why it did not consider a Planned Unit Development (PUD) for the property. Mr. Charles Livsey believed that the current ordinances do not allow clustering on the property. To Mr. Livsey’s knowledge, Mr. Cahill had four different copies of cluster plans that were not well received. Mr. Livsey noted that this obviously was not in front of this Planning Commission, except for one current member was on that Planning Commission, but has recused himself from this Planning Commission. The applicant does not have an objection to clustering, however Mr. Livsey believes that it is not permitted under the ordinance. Mr. Livsey believes that it would be the same as coming in and asking for a hotel, which would be in essence the same as re-zoning the property.

Mr. Muir asked for a clarification regarding the issues of minimum lot width as discussed in the staff report. Ms. Chytraus clarified that minimum lot width needs to be 200 feet on road frontage, and that Lot 3 may be in question. Lot 3 does have frontage on the lower part of the road but not the upper part of the road where the driveway would be. Ms. Striefel noted that the Lot 3 was extremely steep.

Mr. Voye noted that he used to live up there, and the area was boggy and wet. Mr. Voye asked if anyone had gone up there and walked around on the property. Mr. Livsey noted that he spent time out there with survey crews. He believes that most of the homes are clustered outside of the bog zone, with the exception of the “steep hill.”

Mr. Guldner addressed the “Herculean effort” undertaken for this project and appreciated the work of the applicant to address almost everything. Mr. Guldner believes that on 25 acres, creating a 10 lot subdivision it is possible to address every single problem, whether it is slope, avalanche, etc.

Mr. Guldner pointed out that the Avalanche Ordinance, avalanche construction, and avalanche requirements need to be added on the plat. The Vegetation Ordinance will also need to be noted on the plat. The Town still needs to further review the slope analysis to check whether driveways are on natural slope or manmade slope.

Mr. Guldner also brought up that one lot that may require a tree to be cut down, and that will be noted on the plat as well. In regards to that issue, Mr. Guldner noted that there are options on that lot we can discuss later. Mr. Guldner noted that the Town still reserves the right to check for final compliance notably for natural waterways (intermittent streams) and slope. Mr. Guldner noted that while walking the property a week ago, he noticed several intermittent streams not noted on site plans. The Town's ordinance calls for intermittent streams to be treated the same as natural waterways. The ordinance calls for a setback of 50 feet from any natural waterways, which includes intermittent streams. This is easy to address and easy to field check.

Mr. Guldner next addressed driveways. The ordinances allow construction to be a maximum disturbance of 25% including driveways, so a shorter driveway does not necessarily lead to less disturbance. A shorter driveway could mean a bigger house and a longer driveway could mean a smaller house. In addition, the Town needs to check whether driveways on slope greater than 30% are the result of steepness manmade roadcut.

Aside from getting the water to the proposed subdivision, Mr. Guldner referred to the three water related items discussed by Mr. Sullivan. With regard to quantity of water, there is a difference between what is on paper and what is actually available. Paper water may be available, but no one has looked at, or used that water source for a long time. Finally, what is the state of the Quincy Mine?

Mr. Charles Livsey described the structure of the Quincy Mine, a drainage tunnel that is 1500 feet long. Mr. Livsey noted flow tests from the 50's and 70's, and acknowledged recent flow tests have not been performed. Mr. Livsey described that a bulkhead was emplaced which restricts the actual flow that comes out of the mine. However, once the bulkhead fills up it drops down into the South Hecla Mine. Therefore, the Quincy Mine produces more water in excess of what actually comes out of the mine itself. In addition, it is alleged that the entire mine was cut through quartz so it is a self-sustaining mine with no timber inside. Mr. Charles Livsey believes that the Quincy Mine is the cleanest water source in the entire town and has antimony and heavy metal levels well below EPA standards. According to ChemTech-Ford, zero treatment would be required to put the water into a tap. Mr. Livsey did acknowledge that the mine still needed approval by the state.

Ms. Striefel asked how the Planning Commission will know if they have paper versus real water, and who is responsible for finding out. Mr. Guldner noted that the Town has not checked if it is paper water or available water. However, the Town will need to make

sure the applicant have real water and that it is pure. There were tests in 1972 and one last year, but the Town will need more security that the water is pure.

Mr. Muir followed up by asking if it is the Planning Commission's job to know if water is legally available. Ms. Chytraus replied that the Planning Commission needs to be satisfied with the information that is presented to make a recommendation. Some aspects are more legal questions, and some things the Planning Commission needs to ask Salt Lake City. Mr. Muir then asked what are the parameters that the Planning Commission should then weigh in on. Ms. Chytraus replied that the role of the Planning Commission would be to consider whether the application complies with the Town's existing ordinances.

Ms. Striefel asked if it was one of the Planning Commissions tasks to decide whether the applicant should use the mine water or whether the Town can extend their water line. Ms. Chytraus responded that this a question that comes up in the application, and the Planning Commission should consult with Salt Lake City about this.

Mr. Guldner brought up the three issues with water that Mr. Sullivan discussed earlier. The amount and purity of water are mechanical problems, which can be figured out. However, the Town does not have an answer of how the applicant can get water to the site. The Town cannot go beyond its 1976 contract boundary.

Discussion ensued between Mr. Muir and Mr. Guldner over whether the Town can, or already had obviated from the contract. Mr. Guldner reiterated that the Town cannot extend past the contract boundary without the approval of Salt Lake City.

Ms. Chytraus referenced the 2002 letter from Salt Lake City that transferred the Quincy Mine water rights to Ms. Joanne Shrontz from Mr. Cahill. Ms. Chytraus noted that certain conditions in that letter that should be reviewed, as it is not obvious that the City has granted the further right to extend.

Mr. Muir asked for clarification on tab 16 in the binder, a letter from Mr. Ray L. Montgomery (Salt Lake City Assistant Attorney) to Mr. Robert Peterson (attorney for John Cahill). Mr. Appel believes that the letter is a fair analysis of the contract. The applicant believes the letter indicates that once the applicant is ready to develop, water will be available.

Mr. Muir asked if Salt Lake City is waiting for the Town of Alta to ask about water. Mr. Livsey reported that in discussions with Salt Lake City, Salt Lake City needs to know what the Town needs to approve the subdivision. Mr. Livsey believes that Salt Lake City said that the 2000 and 2002 letters expressly give the applicant all the rights to use the water on the property. In a nutshell Mr. Livsey believes Salt Lake City only needs to know what the Town needs and it will give it to the applicant.

Mr. Striefel noted that she sits on the Salt Lake City Public Utilities Advisory Committee.

Mr. Guldner noted that although those letters refer to a contract right, i.e. water from the Quincy Mine, it does not give the right to hook onto the Town's water system. Mr. Livsey confirmed that is a fair statement.

As a next step, Mr. Charles Livsey requested that the Town have a meaningful dialogue with Salt Lake City asking for consent. The applicant has talked to the State Division of Drinking Water, and their opinion is that duplicative systems do not make sense. The State Division of Drinking Water is afraid of Mill Creek Canyon, which has multiple systems and is a nightmare.

Mr. Guldner stepped back a bit and discussed some history. Patsey Marley was annexed to the Town in 1980, with the developer to be responsible for sewer, water, and road. The annexation was 27.25 acres, 25.16 of which we are talking about today. The additional two acres remaining are in two parcels. One is down low on the property and is part of a ski run. The other is on an upper corner of the property and is as developable as Patsey Marley. Ms. Striefel asked who owned the additional two acres. Mr. Guldner replied that the Alta Ski Lifts owns those additional acres.

Mr. Guldner also clarified that there was never approval for 16 units in the subdivision. There was a conceptual approval, but it was never ratified by the Town Council, and never part of annexation. The only thing that was part of the annexation was the zoning.

Mr. Guldner also clarified the hotel idea brought up earlier. The hotel was a concept that Ms. Jody Shrontz loved. It was going to be a small hotel just below the road as you enter the property behind the Cat House. The project started out as a small and very exclusive hotel. However, it had the exact same problems the Planning Commission is dealing with now, including getting water to the hotel. The reason the hotel concept got further and further behind was because it got bigger and bigger. The hotel picked up condos and houses along the way, and the concept got a little more confused. No one can be sure what would have happened if Jody and Duane were still with us.

Mr. Guldner noted that the property has a wild and colorful history. Mr. Guldner asserted that it is possible to approve 10 lots on 25 acres under all the Town's ordinances. However, he asked the applicant how it will address water and access. The UFA will come up with a way to deal with fire access, but the applicant has not addressed what to do and how to respond to medical and police emergencies.

Mr. Muir asked how this is different then the other houses in Grizzly Gulch. Mr. Guldner noted that there are 12 houses in Grizzly Gulch and all but 3 or 4 were built in the 1950's while no one was really looking. When the town incorporated, those houses were part of the original Town of Alta. Those people put their houses and properties on the line to create a town and get services like sewer and water. Subsequent annexations were never promised water and sewer. Mr. Muir noted that it seemed odd that the Town passes this parcel to get to Grizzly Gulch and provide services.

Mr. Guldner outlined the outstanding concerns as soil suitability, vegetation, water, sewer, slope, and intermittent streams. Mr. Muir commented that vegetation, streams, and slope are measurable, and if there were indeed water rights, it would be in the Town's best interest to provide sewer instead of having septic tanks all over the place. Mr. Guldner agreed.

Mr. Guldner requested to see more natural features in the plans, such as both switchbacks, the Grizzly Gulch houses, and the Cat Shop. Mr. Guldner also questioned the intent to preserve the winter steep hill to prevent people from having to drive 2 miles through the property, instead of a half of a mile. In addition, how will the applicant address winter access for use of the road for cross-country skiing, hiking, downhill skiing, and snowshoeing? What is going to happen to the winter parking for Albion Basin snowcats? Finally, Mr. Guldner asked where we are now. Mr. Guldner felt that the applicant is in the same place we were a year ago: how can the applicant get water to the site?

Mr. Sullivan and Ms. Chytraus suggested that the Town needs to talk to Salt Lake City.

Mr. Muir asked what the Town's preference was to the A or B option. Mr. Guldner stated that A was better since it would mean shorter driveways and less disturbance. Ms. Chytraus clarified that they are still trying to determine whether the driveways go over natural slope or manmade slope over 30%.

There was some discussion regarding minimum frontage requirements and definitions. Ms. Chytraus noted there is one lot where the driveway comes off the road where there is less than the minimum 200-foot frontage. That Lot does not meet the requirement and needs to be checked for consistency with the ordinances. Mr. Livsey felt that the definition of frontage was a bit circular, and makes it hard to know exactly how and where to measure. To this effect, the applicant avoided tiny cramped lots, and feels the lots are harmonious with the ordinances.

Mr. Branch outlined the tasks before the Planning Commission

- 1) Can the applicant get water from Quincy Mine?
- 2) How does the applicant get water to the site?
- 3) Can the applicant tie into the sewer line?
- 4) Who has jurisdiction over emergency access?

Mr. Voye asked if the Town water system could handle the additional load. Mr. Guldner noted that it is possible; however, it would require more pumping up the hill and it would put more strain on the system. Mr. Appel suggested another option of tying the Quincy Mine directly into the existing Town source.

**Discussion of Agenda for Next Meeting**

Mr. Guldner suggested that staff could help address the technical questions, e.g. slope, vegetation, soil suitability, natural waterways, cat/winter access etc., and the counsel could work on water and access. Ms. Chytraus suggested that the Planning Commission will contact Salt Lake City regarding water. In addition, efforts will be continued to coordinate subdivision access with the UFA. Mr. Branch asked for a time-frame, and Ms. Chytraus believed that these issues could be addressed by August. The next Planning Commission meeting was set for the second Tuesday in August in the hopes that many of these questions will be answered.

**Ms. Striefel moved that the staff address all issues unrelated to water and access, and the counsel will work on consulting with Salt Lake City about water and access. Mr. Muir seconded the motion with all Planning Commission members voting in the affirmative. The motion was carried.**

Ms. Striefel asked about the other two acres on the property belonging to Alts Ski Lifts. Mr. Branch suggested that Mr. Guldner meet with Alta Ski Lifts to discuss their intentions for this property.

Mr. Charles Livsey asked about rescheduling the next Planning Commission meeting to accommodate his schedule. Mr. Branch said they might try to accommodate his request.

Mr. Muir asked if the proposed CC&R's could reflect the risk inherent with limited access. Ms. Chytraus agreed and felt there should be a notice regarding that issue.

Mr. Charles Livsey brought up emergency access again. Mr. Charles Livsey opined that the USFS would not assert any jurisdiction over the road that goes through the proposed Patsy Marley subdivision. Mr. Livsey noted that a 1941 Forest Service Easement noted that the road goes to fee payer. This brings about another "chicken and egg" problem. The ordinance says the proposed subdivision needs Utah Department of Transportation (UDOT) approval, but UDOT asserts that it does not have authority or jurisdiction. UDOT will not review the subdivision, so the applicant went to the United States Forest Service (USFS). The USFS cannot assert authority or jurisdiction, so if anything, the applicant believes it is a Town road. The applicant feels that the Town and the applicant came to an agreement at a previous meeting and access is not an issue.

Ms. Chytraus clarified the tasks at hand for the Town counsel. Town counsel will go over outstanding concerns or clarifications, meet with UFA, and have discussions with Salt Lake City. Mr. Branch stated that the Planning Commission wants to know how to best move this along both quickly and efficiently. Mr. Muir asked if there is a reason to meet if the Planning Commission does not have any results. Mr. Branch said no, he did not believe so.

Ms. Chytraus asked if it would be helpful to send a letter to Salt Lake City asking for confirmations and consents that are needed with regards to water. Mr. Branch agreed.

**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 fourteenth day of October, 2008.

---

Claire E. Runge  
Assistant Town Administrator