

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
OCTOBER 17, 1996**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, October 17, 1996.

A G E N D A

Closed Session - To be held in Work Session Room - Main Level

1:00 p.m. Field trip and discussion on property acquisition

Work Session - To be held in Work Session Room - Main Level

5:00 p.m. Council questions and comments

5:20 p.m. Snow removal plan

5:40 p.m. Winter transit plan

Regular Meeting - To be held in Council Chambers - Lower Level

6:00 p.m.

I ROLL CALL

II PUBLIC INPUT

III COMMUNICATIONS FROM COUNCIL AND STAFF

**IV REVISED MINUTES OF DECEMBER 14, 1995 AND JULY 25, 1996 AND WORK
SESSION NOTES AND MINUTES OF MEETING OF SEPTEMBER 26, 1996**

V APPEAL

Reconsideration of an appeal of the Planning Commission approval of February 28, 1996 of the Sweeney Town Run Large Scale MPD

VI ADJOURNMENT

Posted: 10/14/96

PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
OCTOBER 17, 1996

Present: Mayor Brad Olch; Council members Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock

Toby Ross, City Manager; Jodi Hoffman, City Attorney; Rick Lewis, Community Development Director; Myles Rademan, Public Affairs Director; John Lind, Water and Streets Superintendent; Hope Bleecker, Transportation Director

1. **Council questions and comments.** Roger Harlan reported that he attended the Parks and Recreation Board meeting where Bob Johnston provided a good recommendation for the RFP, which was unanimously approved by the Board. At that meeting, Landscape Architect Jennifer Harrington provided an update on a federally funded project at the intersection of Payday Drive and Holiday Ranch Loop Road. The City Manager relayed that the Manager's Report next week may include a schedule on the RFP. The Parks and Recreation Board's recommendation on the selection of the contractor and the contract will come back to Council. Chuck Klingenstein noted that Chris Larson resigned from the Historic District Commission as the Planning Commission liaison. Rick Lewis clarified that Mr. Larson will continue to serve until someone else is appointed. The Mayor stated that he relayed Ms. Kerr's concern regarding conflicts in scheduling fund-raisers at the Chamber/Bureau Executive Board meeting; the Board will take the matter into consideration. Ms. Kerr thanked the Mayor and added that she attended a parking meeting last night and pointed out that there are quite a few public parking spaces accommodating abandoned trailers and motorcycles, etc. She suggested that they be tagged and towed before snow removal efforts occur.

Rick Lewis introduced new planners, Kevin Picollo and Brooks Robinson. He continued that a retreat is scheduled with the Planning Commission and staff on November 1 and 2, and asked that Council return a survey regarding planning issues before the retreat. With regard to neighborhood meetings, Myles Rademan suggested that Council hold them after its retreat in January. Ms. Kerr preferred to discuss projects and issues like the parking TZO, and heights in the Historic District with the public and to schedule the meetings before goals are set. Paul Sincock agreed. Hugh Daniels reminded the Council that the original plan was holding meetings again six or seven months from February when the meetings were held last year. It was on the master calendar and then slipped away. There was discussion about the staff time involved in scheduling neighborhood meetings. Myles Rademan felt that he could set up meeting rooms and provide notice. Ms. Kerr pointed out the merits of receiving public input from the neighborhood meetings before setting goals and objectives. The City Council decided to schedule meetings on December 2, 3 and 4.

The Mayor informed Council that Mayor Ziegler from Courchevel will be visiting Park City. A dinner is scheduled on October 31 and a cocktail party on October 28.

2. **Snow removal.** John Lind discussed the leased computer weather system at the Public Works facility. He informed Council that because the City provides snow removal services to new subdivisions when 50% build-out occurs, new responsibilities have been added and eventually, staff will be requesting additional equipment. Mr. Lind also commented on the increasing demand for snow storage locations and the loss of lots because of in-fill development, particularly in Old Town, resulting in snow being hauled. There is also the loss of snow storage at the Public Works facility because of construction. Through illustration of slides, he discussed the mapped priority system and the exceptions made for some medical professionals. Mr. Lind emphasized that cul-de-sacs are third priority and there are about 58 throughout town. Mr. Lind explained that Aerie Drive has been one-way in the past but will be two-way with warning signs and remotely operated flashing lights. Mr. Harlan expressed concerns about liability and wasn't convinced that changing it to one-way was a good decision. Mr. Lind explained that the one-way approach becomes dangerous when drivers don't pay attention to the signage. Mr. Harrington explained that the City's charge is not only to eliminate the risk of being sued but the risk of harm. Staff felt that there was a greater risk of accidents to occur with the one-way because of violations and it is difficult to enforce. It also added a risk to snowplow drivers. Mr. Lind assured Council that the signage will be clear and precise and will encourage people to use Mellow Mountain Road during snow storms. The Mayor stated that he is familiar with the road in the winter and felt that there was a problem with the one-way and supported the proposed signage. Mr. Harlan suggested that police officers go door-to-door as it would be more effective than door-hangers or public service announcements. Mr. Lind reported that snowplowing training will begin the first week in November and the department will have crews on line by November 10. In response to a question from Chuck Klingenstein regarding harmful snow-melting materials, Mr. Lind responded that the City uses Class C salt with 50% utelite and magnesium chloride on Main Street and Swede Alley only. Mr. Lind assured Mr. Klingenstein that the chemicals dilute. There was discussion about snow storage and the noise involved, rendering the Old Sewer Treatment Plat Site unsuitable.

3. **Winter transit plan.** See attached staff report. Hope Bleecker reported that she met the CEO of MARTA who relayed that he would be willing to set up a meeting with Council when he is again in town. Ms. Bleecker explained that the transit system is basically four routes and the trolley and Silver Lake service. It is proposed to add a Main Street/Prospector express bus, and Silver/Lake Ontario Canyon service to the Silver Mine Adventure. Through illustration of a slide, she discussed the bus routes, more specifically the new Silver Lake service. In response to a question from Shauna Kerr, Ms. Bleecker indicated that the City does not have the equipment to optimize the service to the Silver Mine, but will use a 15 passenger bus which will operate up the Mine Road. This will operate from 7 a.m. to 10:30 p.m. and will be an hourly service. In response to question from Paul Sincock, Ms. Bleecker recognized that the Silver Mine is not within the City limits and the City will negotiate an agreement for reimbursement of transportation services which will be taxed like similar recreation businesses in accordance with the City's business licensee fee schedule. Based on the bed base in Prospector and the affordable housing units, she discussed the proposed Prospector/Main Street service. Paul Sincock relayed that he has received calls suggesting

the reversal of the Holiday Ranch Loop route, up and around Little Kate and down Monitor so that children will be closer to school in the morning, eliminating car trips. Ms. Bleecker responded that she would evaluate the trip time on a counter-clockwise rotation. Chuck Klingenstein pointed out the merits of accommodating locals which would encourage the use of the bus system. He hoped that frequencies could be reviewed at a later date, as sometimes the buses are late. Ms. Bleecker continued that the City has a contract with Smart Maps who is designing 17" x 22" folding maps with the route schedule and the bus stops will have new signage outlining the bus schedule. She discussed the map which will be displayed at the Park City Ski Area, Deer Valley Resort, and Prospector. There was discussion about displays on Main Street and the Silver Mine Adventure. Mr. Harlan commented that there is not much romance in riding on a standard bus and Ms. Bleecker explained that vehicles like the trolley are designed to travel at slower speeds and would not meet schedules or operate well on most of our streets. Ms. Bleecker explained that staff is not recommending a permanent fixed route on Payday in Thaynes Canyon as the counts fell short. However, since residents use the service, she suggested Payday as a mediation service with a dispatcher which would be posted in the area. A smaller vehicle would be used as the design of the streets did not accommodate a standard bus very well. Hugh Daniels pointed out the conflict of storing snow at Sandridge and paving it for parking. It was explained that Sandridge will be paved next year and it is not anticipated that a lot of snow will be stored at that location and will not interfere with residents parking there. Toby Ross assured Mr. Daniels that the \$48,000 allocated for service extensions will not affect existing program funding.

Prepared by Janet M. Scott

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
OCTOBER 17, 1996**

I ROLL CALL

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, October 17, 1996. Members in attendance were Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; Mark Harrington, Assistant City Attorney; and Jodi Hoffman, City Attorney.

II PUBLIC INPUT

The Mayor invited the public to comment on any matter of City business not scheduled on the agenda.

Town Run Project - Marianne Cone stated that she has comments with regard to the process for the appeal. Mayor Olch suggested that she comment when the reconsideration is addressed on the agenda. She indicated that the City Manager's comments on the radio lead people to believe that there would be public input on the appeal. Toby Ross indicated that he tried to make it clear that the applicants and the appellants would be a party to the discussion on the appeal and stated that there would be a public input session. Marianne Cone continued that people misinterpreted his comment. Mr. Ross apologized as it was not his intent to indicate that this was a public hearing which not been the practice throughout the appeal process.

III COMMUNICATIONS FROM COUNCIL AND STAFF

Sidewalk snow removal - Nick Amabile, President of Sun Creek Home Owners, asked who is responsible for sidewalk snow removal. There are handicapped people in the project and the sidewalk from Sun Creek to the Prospector Health Club and the Plaza is never cleaned. The City Manager explained that the City maintains a limited number of sidewalks, and this particular sidewalk is the responsibility of the property owners. Mr. Ross continued that part of the problem is that the sidewalk is too small for the City's equipment, and reiterated that maintenance is the legal responsibility of the property owner.

**IV REVISED MINUTES OF DECEMBER 14, 1995 AND JULY 25, 1996 AND
WORK SESSION NOTES AND MINUTES OF MEETING OF SEPTEMBER 26, 1996**

Mayor Olch requested a motion on the revised Minutes of December 14, 1995 and a vote from members who were serving on the Council at that time. Shauna Kerr, "I move approval". Roger Harlan seconded. Motion carried.

Hugh Daniels	Not in office
Roger Harlan	Aye
Shauna Kerr	Aye
Chuck Klingenstein	Not in office
Paul Sincock	Not in office

Mayor Olch requested a motion on the revised Minutes of July 25, 1996 and Work Session Notes and Minutes of Meeting of September 26, 1996. Hugh Daniels corrected the work "implemented" to "eliminated" and "has" to "as" on Page 4 of the Work Session Notes. Hugh Daniels, "I move approval of the revised July 25, 1996 Minutes and the Work Session Notes and Minutes as amended, for the Meeting of September 26, 1996". Paul Sincock seconded. Motion carried unanimously.

V APPEAL

Reconsideration of an appeal of the Planning Commission approval of February 28, 1996 of the Sweeney Town Run Large Scale MPD - The Mayor invited Marianne Cone, citizen appellant to speak. Ms. Cone indicated that her concerns do not deal with the project, but a separate legal matter concerning process which is appropriate to settle at this time. She spoke on behalf of the citizen appellants who believe as do their counsel, that this meeting is proceeding in a manner which is not legal. According to the Park City Land Management Code, Page 1-23, she quoted the last sentence from Subsection (g). "The decision of the Council shall stand, and those affected by the decision may act in reliance on it unless and until the court enters an interlocutory or final order stating the effectiveness of that decision." She stated that they relied on that. Mr. Cone continued that on May 9, 1996, there was a straw poll where the Council members relayed their inclinations on the Sweeney Project. There was no motion or vote. She noted that on June 6, 1996, the City Council voted to deny the application and the citizen appellants assumed that the decision of the Council would stand as did the citizenry and applicants. She quoted Pat Sweeney as saying that he would not be appealing the decision. At that meeting, findings of fact were being reviewed and Mr. Sweeney said "that without reconsideration of the width, that he is asking for a denial". Those Council members who voted on the motion voted to set aside a discussion of the findings of fact, because of Mr. Sweeney's request for a denial. Ms. Cone indicated that the motion that Council member Kerr made and was voted upon is "I move that if the 32 feet is still a deal-breaker, I don't think it's to anyone's advantage to continue to talk about the other issues and I will renew my motion based on Pat's request that if we cannot grant a 32 foot width, that we deny the project. I will so move". She emphasized that no amendment was made to that motion and a majority of the Council agreed to that motion to set aside the issues because Mr. Sweeney requested a denial. She quoted from the minutes moments before the decision to accept the applicant's request for a denial, "The Mayor asked what the appellant's options are in the event of a denial. The City Attorney explained that he has a right of appeal to the District Court and a right to resubmit an application to amend his master plan". Ms. Cone emphasized that this reflects the Code and that there was no mention at that time that the Council needed to act on the findings of fact to make the decision final. She stated that Shauna Kerr, Roger Harlan and Chuck Klingenstein voted yes to accept denial of the applicant's project. On the July 18, 1996 meeting, the Council discussed whether to allow reconsideration of the project following a letter of apology from the applicant, Pat Sweeney. She explained that Jo Scott, representing her and other appellants, questioned the legality of the reconsideration based on findings of fact. Shauna Kerr also expressed the same concern. Ms. Cone quoted Jodi Hoffman from the minutes from the beginning of the meeting, "The Council may debate and adopt the proposed findings of fact and conclusions of law, deny the amendments to the Sweeney Large Scale Master Planned Development, or an alternative considering the applicant's request for reconsideration which probably should be discussed first". The Council voted to reconsider.

Ms. Cone asked that before this meeting proceeds that the Council show the following two things: (1) where in the Code the process of appeal is dependent upon approving the findings of fact after the decision of the Council has been made; and (2) where in the Code does it allow a reconsideration of a project, particularly where an applicant has requested a denial of his project and after Council voted to accept his request. She stressed that the burden of proof on this issue is on the City, not on the citizen appellants and that the matter needs to be resolved before proceeding with the meeting.

Ms. Hoffman responded that Subsection (g), which Ms. Cone relies, is based on final action of the City Council as opposed to a simple vote. When a Council acts in a quasi-judicial manner, it has been the practice of her office and sporadically the office before her, that once the Council indicates the rationale and where it wants to go, to reduce the rationale to findings, conclusions and conditions of approval, or if there is a denial there are no conditions. She stated that that is what she indicated on June 6, 1996 and Council member Kerr questioned whether or not that would be necessary and she responded that it would, because the decision of the Council was not to deny the applicant's proposal. The decision of the Council was to condition the Town Bridge to a width that wasn't applied for and one that the applicant indicated he was unwilling to accept. The City Attorney continued that the basis upon which the Council's decision to condition the width to no more than 30 feet needed to be reflected in the record so that there would be a basis upon which denial would stand. If Council was simply denying the 40 foot application, there would not need to be additional findings and conditions, but because the Council decision essentially prompted the request for denial, there needed to be those in the record. She stated that it had been her advice to the audience on June 6, to the applicant on June 6, and everyone throughout the process and added that she had discussions with Marianne Cone, Jo Scott, and Mary Wintzer that all of these things would be forthcoming and there would be a time and a place to critique the findings and conditions. In fact, the ones that came back were conditions for denial. Prior to the Council taking action on the findings, conclusions and conditions, there was a request for reconsideration from the applicant and the Council decided in a 4-1 vote to reconsider. Ms. Hoffman stated that there has been no final action and no basis upon which an appeal can be taken. Once there is a final action, then either party can decide whether or not it needs to appeal.

Shauna Kerr responded that she questioned this at the time to reconsider because it is a peculiar proceeding that had never been done before to the best of her knowledge. Ms. Hoffman answered that it had been done for every appeal since she has been City Attorney including the Coffee Cottage, Broken Thumb, Cows, Snow Creek Crossing, and Zions. Ms. Kerr clarified that she is referring to a motion to reconsider, not findings. Council member Kerr continued that she looked through the codes and it is Ms. Hoffman's interpretation that until Council enters findings of fact and conclusions of law that there is no final action, but according the Park City Municipal Code the City Council acts by either ordinance, resolution or motion. Ms. Kerr emphasized that a motion is effective when in fact, there is a vote and in this case, the vote for a third class city is three votes and that is when action is taken. That is also the way it is in the Utah Code. She stated that governmental agencies act either through ordinance, resolution or motion and she could not find anything in the City code or the in the State Code where Council is required to have specific findings. Mr. Kerr stated that if in fact if our Code was to require on an appeal that Council have specific findings of fact, it should state it because it clearly states in Land Management Code 1.16(a) "Written Findings Required. The Planning Commission or Historic District Commission, whichever has acted, shall prepare detailed written findings of any application that it denies. These findings

shall state the reasons for denial and the provisions of the Code or other City ordinances.” She added that there are no requirements for Council findings in the section dealing with appeal. She stated that if findings were required of the Council, the Code would state that as well. Mr. Kerr recognized the legal reason for findings is avoiding the appearance of arbitrariness or capriciousness and it is a good practice, but in this case it is a legal fiction that enabled the Council “two bites of the same apple”. The City’s Code very clearly states, and as stated on the record by Ms. Hoffman, that Mr. Sweeney’s remedy in the event of a denial is an appeal or a new application. Ms. Kerr reiterated that those are the only remedies that the Code provides the applicant; the Code does not provide for a reconsideration and this is a very peculiar process. The vote of the Council was a final action and the action became appealable at that point in time, because the Code states that the Council acts through ordinances, resolutions, or motions. Ms. Kerr agreed with the citizen appellants that this is inappropriate and that the applicant’s remedy is to go to court.

Mr. Sincock asked how the Utah Code addresses Council’s ability to reconsider any of its actions. Ms. Hoffman felt that the better source of authority is from the U. S. Constitution and the Utah Constitution and interpretations of those two which deal with the due process clause. When a City Council is acting as a judicial body, it acts as judges and not as legislators. When it acts as judges, there are 11 different criteria that must be abided by, some of which is the appearance of fairness and others are a little more mundane. A judicial decision is a formal entry on the record which memorializes what the Council has done. Ms. Hoffman agreed that there is nothing in the Code which requires formal written findings, conclusions and conditions. Assistant City Attorney Mark Harrington interjected that there is an indirect reference because they are required of the HDC and Planning Commission. Ms. Hoffman continued that due process is what process is due under the circumstances, and at a minimum for judicial decisions, it is a written finding and order of what the Council has done and for the last three years, her practice has been to bring written findings, conclusions and conditions to the Council for its decision. She could think of five instances where Council has enacted them one or two weeks after Council has given staff direction. That becomes the process that is due, based on practice. The process for this project has produced three sets of findings that have been written, first to approve, to deny and now draft findings to approve again. She stated that it has been the practice of this Council and previous Councils. She indicated that she is not saying that if Council didn’t want findings or conditions that the decision would be wrong, she is stating that it has been the past practice of the Council and it is prudent for the Council always to enact findings and on the June 6, 1996 meeting at which point in time there was a motion to deny, Ms. Hoffman stated that she very clearly stated that she would come back to Council with findings and conditions. At that point in time, there was a question as to the need for that because the decision was a denial, and Ms. Hoffman stated that she explained later and again on the record that the path by which Council got to a point at which the applicant could not accept what Council was doing, needed to be created. Ms. Kerr countered that the record of June 6, 1996 has no discussion with regard to coming back to Council with conditions and noted that was the meeting of July 18, 1996. Ms. Kerr clarified that at the end of the June 6, 1996 meeting, the motion that is of record and the only finding that needed to be made is that the applicant in essence pulled his project because the Council would not grant 32 feet. Ms. Kerr emphasized that that is what her motion said, it is the only finding that a judge would need to know, and the only finding applicable. There was only one action alone based on the 32 foot width and the applicant requested a denial. None of the rest of this discussion is relevant to the meeting and the only finding is that; it is made in the way of a motion, which is an official record. Ms. Kerr stated that it satisfies any due process requirement and providing the applicant a second opportunity is not provided for in the Code.

Mr. Sincock indicated that he still does not have an answer to his question about what the Utah Code says about the ability of a Council to reconsider any of its actions. Jodi Hoffman responded that the Utah Code specifies compliance with the U. S. Constitution and the Utah Constitution which requires due process to the applicant. The due process given every applicant while she has been City Attorney under these circumstances is to have a final action recorded with findings, conditions and conclusions. Mr. Kerr clarified that Mr. Sincock is not asking about findings but reconsideration which is different as it has not been done for anyone else. Jodi Hoffman added that the reconsideration is also a "fiction" because there hasn't been a final action. The request for reconsideration in many respects is premature; normally in a judicial action the request for reconsideration occurs after a final decision. The City Attorney noted that here hasn't been a final decision yet made. Typically there are ten days from a final action to request reconsideration and there hasn't been a final action yet. Paul Sincock asked that regardless of whether it was a final action, what are the constraints in a reconsideration of Council's actions. Ms. Hoffman believed that Council can reconsider. Ms. Kerr stated that she believed Council can't because the Code provides that once a decision is made by Council, an applicant or a person can rely on that until there is an interlocutory judgment from the court. Once Council acts, unless there is an action from the court, people can rely upon that action to stand and if Council could reconsider every vote, it would render that paragraph useless and what in the world what that language mean.

Hugh Daniels stressed that he is having difficulty making a decision recognizing that his fellow Council member, Shauna Kerr is an attorney and the City Attorney is his counsel and would prefer without prejudice to anyone to continue this until there is a final decision on this matter that the Council is comfortable with after the City Attorney and her staff have completed the appropriate research and appropriate written concerns from Ms. Kerr. Mr. Klingenstein concurred even if it requires an opinion from the Attorney General's Office. He added that he has the utmost respect for the City Attorney but it is important that Council come to resolution on this because some interesting points have been raised, and he is not an expert in the law.

Marianne Cone pointed out that in the June 6, 1996 minutes two options were presented by Ms. Hoffman as if Council were acting in a legislative way and not a judicial way, including the applicant's right to appeal to District Court or to resubmit. There was no discussion of any other course, which does reflect the LMC. Ms. Cone added that her legal counsel also found that the HDC and Planning Commission adopt findings of fact and the City Council doesn't and by its omission, indicates that Council is not bound to do them nor are they allowed to do them. Ms. Hoffman disagreed. Ms. Hoffman reiterated her remarks about providing applicants with findings, conclusions and conditions over the past three years. In response to Ms. Kerr, Ms. Hoffman stated that it is legal but not required. She continued that had the City not engaged in that process for the last three years, it would not be required, but it is prudent. Ms. Hoffman believed that it is likely that it is now required because of the practice over the past three years.

Mr. Olch asked Ms. Kerr how this is different than Council's regular practice. Ms. Kerr responded that the LMC specifically states what Council does in the event of an appeal and how it acts. Findings of fact and conclusions are prudent and they are an advantage to protect the City in the event things go further, but this is not a case where the City needs any protection because the applicant withdrew his request and asked for a denial. She emphasized that because of that, no findings need to be made regarding the project except the only finding made in her motion; the finding that says at Pat Sweeney's request the Council is granting a denial. This is the difference.

Ms. Kerr continued that Jodi Hoffman is stating that the applicants are entitled to this due process, but stressed that the findings and conditions are not for the applicants' benefit, but for the protection of the City. She reiterated that the final action of the Council is when the motion is taken under the Utah Code and the City Code. Even though findings and conditions have been provided in the past, the official action is really when Council votes. Mr. Harlan understood that Mr. Sweeney withdrew his appeal but not his request. Ms. Hoffman interpreted it as Mr. Sweeney having an approval from the Planning Commission for a 40 foot wide bridge and there were restrictions on commercial uses on the west that he appealed and the citizen appellants appealed the width of the bridge or the bridge itself. Based on lengthy Council deliberation and consideration of proposed findings and conditions, the Council limited his approval that the Planning Commission rendered by narrowing the bridge by 10 feet and conditioned the approval in several other ways. Based on what the Council was about to do, Mr. Sweeney asked for a denial. Ms. Hoffman emphasized that the Council still needs to have findings and conditions which justified and established the rationale for the narrower bridge, which provoked Mr. Sweeney's request for denial. She stated that in two weeks findings for denial were prepared and Mr. Sweeney would have been free to appeal those had the Council enacted those with the argument that somehow the Council had been arbitrary and capricious in the decision to narrow the bridge. The Council subsequently on a 4-1 vote supported a reconsideration and it is unfortunate that it is now October as memories have faded. Ms. Hoffman emphasized that findings and conditions are required for the denial, but were never enacted by the Council and the appeal is still open. In response to a question from Roger Harlan, Ms. Hoffman indicated that it is conceivable that Mr. Sweeney could sue the City if findings and conditions were not adopted.

Council member Daniels noted that his is not a legal expert and three members on the Council have only been serving on the Council for 10 months. He felt that this is a technical question and one that he is comfortable with voting on tonight and it would be his preference that the legal staff provide information and counsel at the appropriate time so that a decision can be made and this issue can be resolved. Hugh Daniels, "I move to postpone this current action until we have received that information". Chuck Klingenstein seconded and asked if postponement was the correct term or if it should be a continuance. Paul Sincock believed that he read in the Utah Code that a City Council can reconsider, with a majority vote, any action taken. Ms. Hoffman advised that it really doesn't apply to the quasi-judicial thinking of this board and generally the Code speaks to legislative issues. She added that this is a judicial matter and relates to the due process clause. Ms. Kerr interjected that the Council is now acting under the LMC appeal provisions, but Ms. Hoffman added also under the due process laws under the Constitution.

Roger Harlan felt that the only value in a continuation is bringing in someone like a judge to settle the matter so that it can proceed. Ms. Hoffman indicated that she will be happy to do whatever Council desires and disdains giving legal advice in this manner. In response to a question from Roger Harlan regarding whether the public is ill-served by this discussion, Ms. Hoffman responded that the public benefits to a certain extent by hearing the deliberation. There was discussion about Ms. Hoffman's brief. Ms. Kerr stated that the reason she brought this up is because there has been public discussion with regard to how abnormal and irregular the procedure was and there is public confusion about the reconsideration. She would welcome a declaratory judgment on whether or not Council can proceed with this from the court declaring whether or not the reconsideration was appropriate. Ms. Kerr would like the public to be assured that the Council has not acted in any abnormal manner in processing the appeal of the Town Run. Hugh Daniels noted that in making the motion, he is looking for additional information to help him make a decision, as

ultimately it is the Council's decision and is not sure that it has to be referred to a judge. He asked for time for the City's counsel to prepare some information and advise Council to make a decision in public session. Paul Sincock agreed that it is the Council's decision and Chuck Klingenstein asked for a date certain. Toby Ross felt that it depends on the appellants participating in providing a counter-brief or critique of the brief. The Mayor felt that this matter needs to take its own course and could be resolved when Ms. Hoffman is prepared to come back to Council.

Jo Scott, appellant, strongly felt that Council needs an impartial opinion rendered in this case. Shauna Kerr's and Jodi Hoffman's disagreement illustrates the problem in interpreting the law and she hoped that the motion would be amended to include an impartial judgement. She felt that this would be fairer to Pat Sweeney and the citizen appellants. The City Attorney's opinion could be viewed as slanted and the whole matter not resolved; there needs to be a definitive answer. Hugh Daniels stated that he is not willing to make that amendment as the City's counsel works for the entire Council. He added that Ms. Kerr is an elected representative and not the Council's attorney, although she is an attorney and has more knowledge than the rest of the Council members. Ms. Scott indicated that Ms. Hoffman is not their attorney and doesn't represent the people and if that is the kind of judgment the Council is seeking, they have other options. Ms. Hoffman stated that she does not normally do this or offer this, but she will seek out one of the three best land use attorneys she knows in the state and get a land use opinion. Ms. Kerr felt that this is a technical and statutory matter rather than land use. Ms. Hoffman argued that it is a land use decision and has nothing to do with Robert's Rules of Order and it doesn't come up very often in any other context. Ms. Hoffman stated that it will be someone like Tom Elison or Jodi Burnett and she will hire someone as soon as possible. Based on what Ms. Hoffman has said, Mr. Harlan indicated that he will change his vote.

Hugh Daniels	Aye
Roger Harlan	Aye
Shauna Kerr	Aye
Chuck Klingenstein	Aye
Paul Sincock	Aye

Motion carried.

IV ADJOURNMENT

With no further business, the meeting of the City Council was adjourned.

MEMORANDUM OF CLOSED SESSION

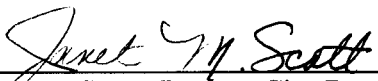
The City Council participated in a field trip at approximately 1 p.m. for the purpose of later discussion on property acquisition. Members in attendance were Mayor Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. The City Council returned to the Marsac Building and remained in closed session until the meeting opened at approximately 5:15 p.m.

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City Council Meeting
October 17, 1996

The meeting for which these minutes were prepared was noticed by posting 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott



Janet M. Scott, Deputy City Recorder





COUNCIL AGENDA REPORT

DATE: October 17, 1996
DEPARTMENT: Public Works
AUTHORS: Jerry Gibbs and John Lind
TITLE: 1996-97 Snow Removal Operations Plan
TYPE OF ITEM: Informational

SUMMARY RECOMMENDATIONS: Approve the 1996-97 Snow Removal Operations Plan.

DESCRIPTION:

A. Topic: The 1996-97 Snow Removal Operations Plan.

B. Background: Each year prior to the snow season, the snow removal plan is reviewed to consider possible changes. Modifications may be required due to variations in anticipated snow levels, increased service levels, new development, and inadequacy of snow storage sites. Council has identified *Quality of Service* as a high priority in its Action Agenda. The Snow Removal Plan ensures an equal balance of safety throughout Park City. Issues that have been considered by previous Councils are the quantity and usage of salt, the amount of haulage, the one-way traffic designations to upper Park Avenue and Aerie Drive, and snow storage locations. Council authorized the purchase of an additional snow blower in FY97 to be used in residential areas, thereby limiting the use of loaders in an effort to reduce property damage.

C. Analysis: The plan is similar to previous years. The city is divided into specific areas with designated pieces of equipment designed to meet the street snow removal needs of that area. The sidewalks, bike paths, and stairs are also divided into specific areas to ensure adequate overall snow removal service. The streets snow removal employees are scheduled to provide twenty hours-per-day coverage seven days per week. This represents two ten-hour shifts per day which can be expanded to twelve-hour shifts with only two hours overtime. For the sidewalks/stairs, employees work ten-hour days seven days per week. For both groups, during extreme snowfall situations, overtime is utilized to increase crew sizing.

Training

Training of employees begins the first part of November; with crews beginning their work schedules Sunday, November 10. Crew employees receive training on sequence of operations, priority levels, equipment and city familiarization, snow haulage techniques, customer courtesy, operations safety, and overall performance expectations. Crews work day shifts, assigned to various projects until snowfall begins. Full crews are maintained until at least Presidents weekend and then extended only if conditions require full service.

One-way Designation and Signage

The winter one-way designation of Aerie Drive was made in 1985. Reasoning for this decision was based on allowing the snowplow operator to "plow upward" in both lanes without the concern of oncoming traffic. The one-way designation has been from the Deer Valley Drive intersection to the Golden Way/Aerie Drive intersection. Slopes in this section can exceed 12%. Drivers have ignored the one-way designation during the past winter seasons, and development activity has continued to move down Aerie Drive. Thus property owners and developers are requesting that Aerie Drive remain two-way. In order to mitigate the problems of maintaining two-way traffic, it is recommended that various year-round warning signs and remotely-operated flashing signs be installed to warn motorists that: 1) snowplows are in their lane; 2) the road may be snow-packed, and there are slick and icy conditions ahead; 3) the grade is in excess of 12%; and 4) motorists are encouraged to use Mellow Mountain Road as an alternate route when lights are flashing. These remotely-operated signs would be utilized during storm activity and then turned off once the road is clear and dry. All residents on the Aerie would be advised with door hangers that this procedure would be in place.

The portion of Park Avenue from King Road to Heber Avenue will be designated one-way heading north. This has been successful in past seasons. The one-way signage will be installed and covered, then put into effect when the first snow storm arrives and covered again at the end of the snow season.

Signs that designate the mine road as closed, located just before Heber Avenue and Deer Valley Drive and at the top of the Interconnect Road from Silver Lake Drive, would also be remotely activated, capturing drivers' attention. The lower sign is on State right-of-way; however, the State has agreed to an improved sign.

De-icing Material

Liquid magnesium chloride was used on selected streets during part of last season. The supplier, storage tank, and small-scale applicator equipment are now in place. The goal this season is to expand the use of the magnesium chloride rather than the salt/utelite in the business core area. An evaluation will be made this season to determine the effectiveness of this product and whether or not its continued use is warranted.

Snow Storage:

In years past, snow storage was located west of the present Public Works facility at Short Line and Ironhorse. Since the new Public Works facility is currently under construction and occupying this space, the site is no longer available for snow storage.

Typically in a winter season, the number of snow hauls completed during the night is twelve, with contractor cost varying from \$400 to \$650 per operating hour. The total number of 10-wheel dump truck loads hauled away in a night's activity is 550-600 loads.

The snow haulage mountain is pushed up to make additional room, easily approaching 45 feet high.

The new sites within the city area recommended for snow storage, in sequential order, are:

1. Marsac and Hillside lot - maximum of two haulages.
2. Hwy 248/40 - north side of service road.

Other sites that were considered are the City Farm property east side of Hwy 224, the old sewer treatment plant site, and the North Forty lot northeast of the middle school. Each of these sites has its limitations and may possibly be objectionable to residents located in and around the site. The Hwy 224 site, in particular, has safety concerns and presents a potential view problem since it is located in the view corridor. The Marsac/Hillside lot will be used for initial season snow haulage/storage. Communication efforts will be made with area residents through mailers and other media to mitigate the impact of nighttime operations. Other preparatory work, such as building a snow berm wall, may well be successful in minimizing area concerns.

The Hwy 248/40 site will be used for the remainder of the season. This site is located along the old 248 roadway and is 3.1 miles from Empire/Park Avenue. Current estimates of additional trucks and transportation costs required for this site are 6-8 trucks per night, or a \$300-\$400 per hour cost.

The Snow Removal Plan and Brochures are attached for Council's review.

D. Department Review: This is a combined effort of Public Works and Parks to provide an efficient plan for safe thoroughfares, along with solid employee performance, materials, and equipment.

ALTERNATIVES:

- A. Approve the 1996-97 Snow Removal Operations Plan; the use of two snow storage sites; and Aerie Drive two-way traffic, with use of warning and remotely-activated flashing signs.
- B. Modify the request.

C. No changes.

SIGNIFICANT IMPACTS: The overall priority-based Snow Removal Operations Plan has offered safe roadways within Park City. The utilization of the four city snow storage sites will minimize transportation, site push-up cost, and number of trucks required. Estimated cost of a haulage truck over the season approaches \$6,000, and push-up cost varies between \$10,000 and \$15,000 for the season. To maintain current production levels if a site outside of town is used, an estimated four additional trucks would be required, costing \$36,000 to \$60,000.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

1. Increased costs.
2. Decreased roadway safety.
3. Inadequate snow dump sites.

RECOMMENDATION:

Approve recommended changes to the 1996-97 Snow Removal Operations Plan, use of four snow storage sites, and Aerie Drive two-way traffic with warning and remotely-activated flashing signs.

SNOW REMOVAL OPERATIONS PLAN 1996-97

GOAL: Provide safe roads in all weather conditions for the health and safety of residents and guests. Provide access to commercial and recreational areas and especially for emergency vehicles throughout Park City.

Snowplowing and all sidewalks/stairs snow removal efforts will be completed on a priority basis, within eight hours after the end of a storm.

Changes recommended this year are for expanded use of snow blowers used in cleanup activities within the various areas, minimizing property damage and placing the snow in the right-of-way. Liquid magnesium chloride will be used for the entire season on Main/Swede, thereby reducing the icing and cleanup problems. Other designated areas for snow storage will be used. Two-way status will be maintained on Aerie Drive up from the beltway Deer Valley Drive. Remote-controlled warning signs at the bottom and top of Aerie Drive will designate that the roadway has plows in the traffic lane and that the road may be icy. The signs will be turned off when the road is dry. Aerie residents will be advised of this change by use of door hangers and encouraged to use Mellow Mountain Road since the lower grade is 4-14%.

Additional remote-controlled warning/advisory flashing lights (similar to school crossing lights) are recommended for Deer Valley Drive/Heber and at the top of the Guardsman Connection/Silver Lake Drive intersection, advising of the closed status of the mine road.

Haulage within the Evergreen area is required because of snow load, and because snow storage on downhill lots can cause landscape damage beyond the right-of-way.

There will be four (4) basic areas of service:

- I. Old Town
- II. Deer Valley
- III. Aerie/Prospector
- IV. Thaynes/Park Meadows/Risner Ridge/Iron Canyon

The priority levels of service, in accordance with snow brochure and map, are:

- 1. Bus routes, upper elevation streets, business core areas, Royal Street and Guardsman connection.
- 2. Through streets within residential areas, business core parking areas.
- 3. Cul-de-sacs within residential areas.
- 4. Parking areas in the business core, cleaned daily as part of area operations requirements.
- 5. All other public streets.
- 6. General cleanup, push-back, and undeveloped area cleanup.

Sequence of designated area operators requires equipment to stay with storm activity to ensure that complete job and overall "goal" is achieved.

MAIN STREET

Primary snow haulage, based on snow load, will be performed on Wednesday night. Additional haulage and cleanup, based on snow load, will be performed, early Sunday and Friday mornings for Main Street/Swede Alley. The snow storage area located on upper Marsac will be used for this snow in order to reduce haulage costs. Sidewalk crews, starting at 6:00 a.m., will clear parking areas on Swede Alley, Marsac and core sidewalks. The snow haulage effort begins on Park Avenue and moves south, with Main Street cleared beginning at 2:00 a.m. KPCW is utilized to advise residents/businesses of the scheduled snow haulage.

PARKING LOTS

Parking lots are included in each specific plow's area of responsibility and receive high priority status; e.g., Old Town is done by Old Town Unimog, and Racquet Club is done by the two-ton that serves Thaynes Canyon/Park Meadows. This effort is supplemented by sidewalks personnel each day beginning at 6:00 a.m. in the business core area.

ONE-WAY STREETS

Park Avenue becomes one-way going north from Heber to King Road. Having this street one-way allows for control of winter traffic, increased snow removal effectiveness, and better parking control.

OLD TOWN HAULAGE

Haulage in the Old Town area will be conducted on a scheduled basis once the accumulation demands it. This schedule will include Daly, Upper Norfolk, upper Park Avenue and Woodside. Signs, door hangers and KPCW will be utilized to assist with communications to residents.

STREETS

AREA/EQUIPMENT/SCHEDULE

<u>Area</u>	<u>Designated Equipment</u>	<u>Procedure</u>
I. Old Town	Unimog-chained	Rossi Hill and Old Town to North Silver King Drive
II. Deer Valley	2-ton International	Upper/Lower Deer Valley and Solamere
III. Aerie/Prospector	Unimog	All of Prospector and Aerie including Sunnyside and Meadow Mountain Road
IV. Thaynes/Park Meadows Risner/Iron Canyon	2-ton International on Main and interconnects; Unimog on cul-de-sacs	Includes Thaynes and Iron Canyon, Risner Ridge Ridgeview and Park Meadows

All parking areas are to be completed by designated equipment.

Personnel

7 Full-time
10 Part-time seasonal

Additional trained, backup personnel will be provided by Public Works. There will be four crews of four people each with a coverage of 7 days a week, 20 hours a day. Crews will be expanded during "snow" days to ensure that all areas will have required equipment.

SIDEWALKS/STAIRS

The sidewalks/stairs plan designates snow removal within ten (10) hours of the start of the storm, based on the priority sequence. Service begins at 6:00 a.m.

Overview

Historically, city sidewalks have been cleared on Main Street and lower Park Avenue. These efforts have been carried out with no financial obligation. Plowing of sidewalks along Park Avenue, lower Deer Valley Drive to Stonebridge, and to the middle school has been successful in that it provides walkway areas along these heavily traveled areas and keeps the pedestrians out of the street areas. These are the recommended public streets, with the specific plowing sequence detailed below:

STAIRS SHOVELING SCHEDULE

WINTER 1996-97

STAIRS A

1. Marsac Building
2. China Bridge
3. Swede Alley to Sandridge
4. 2nd and Main to Park Avenue
5. 2nd and Park Avenue to Woodside
6. 2nd and Woodside to Norfolk
7. Marsac to Ontario

STAIRS B

1. 3rd and Main to Park Avenue
2. 3rd and Park Avenue to Woodside
3. 3rd and Woodside to Norfolk
4. 4th and Main to Park Avenue
5. 4th and Park Avenue to Woodside
6. 5th and Park Avenue to Woodside
7. 6th and Park Avenue to Woodside
8. 11th and Woodside to Norfolk
9. 13th and Norfolk to Empire

STAIRS C

1. Racquet Club
2. Carl Winters School (Park City Library)
3. Miners Building
4. Liquor Store
5. T.M.I.
6. Main Street Walk
7. Miners

The sidewalk from Park Avenue to Bonanza on the north side of Ironhorse will join Park Avenue to the bike path system and encourage pedestrians to use the sidewalk. Length is approximately four (4) blocks on one side.

Priority Levels

1. Main Street and Park Avenue sidewalks and City building entrances.
2. Bike paths and the Old Town Stairs, facilitating pedestrian traffic to and from the business district and providing access to the schools.
3. All bus stops and fire hydrants. The Parks Department will remove the snow from sheltered bus stops to accommodate City bus patrons. Snow will be removed from around the fire hydrants to ensure locating them in an emergency situation.
4. The City Cemetery driveway will be plowed periodically to allow vehicle access in the event of a burial.
5. Bombardier sequence:

The sequence starts at Mt. Air Cafe, continues to Empire up to Park City Ski Area and back down to Park Avenue, then up to Carl Winters, continuing on to Heber, completing the right side of Heber to Main Street. From Main, the sequence continues to 6th, then the sidewalk of Park Avenue and back to Main Street. Going up Main Street to Sandridge, it continues back down Main Street to the bottom, including the turnaround and then the Swede Alley sidewalks.

The sequence next includes the bike path up Deer Valley Drive to Stonebridge, continuing back down the bike path to Marsac, then the bike path from Marsac/Heber to Wyatt Earp. From there, it continues to North Forty, then comes back to Kearns and heads right toward the Racquet Club and returns on the other side of the street back to Kearns.

The second pass continues on the left side of Park Avenue, then the short section by the Wardley Realty office, beginning again at Jan's and completing the rest of the way to Mt. Air Cafe and on to the Radisson. The second pass to Mt. Air continues left, passing the cemetery. This complete pass requires approximately 3-4 hours.

Nest the bike path from Prospector Park to Cooke Drive is cleared, then the pathway from the middle school to Meadows Drive.

The pathway around lower Deer Valley Drive from Marsac Avenue east is then cleared.

Prospector is completed by Prospector Property Management.

Personnel

2 Full-time
7 Part-time

Two crews of four people each will provide seven-day-a-week coverage, with one person being the coordinator and concentrating on business core, filling in, and customer relations.

Concentrated coverage will begin November 10 and extend through April.

Training for all personnel will be November 6, 7, and 8, 1996.

DE-ICERS

Magnesium chloride and calcium chloride will be used on sidewalks, depending on temperatures.

Utelite aggregate mixed with Class C road salt will be blended in a 50/50 mix for street use. This approach minimizes the use of salt, yet allows streets to remain free of ice. Main Street area is mechanically swept as required, to maximize the cleanliness of the area.

In 1996-97 the crews will again be using liquid "freezeguard" (magnesium chloride) on Main Street and Park Avenue. This product minimizes the ability of ice to adhere to the asphalt. Application of this product should allow for a reduction in the use of salt/utelite. The application equipment, storage tank, and vendor are now in place, allowing for a complete season to evaluate the effectiveness of the magnesium chloride. A recommendation to Council will be made next year regarding the overall effectiveness of this product.

EDUCATION

Last year's snow levels created significant problems with private snow removal contractors. The snow ordinance was neither understood nor enforced. To correct this, all registered snow contractors will be invited to a breakfast meeting, for the purpose of reviewing the snow removal ordinance and its application, discussing the legal ramifications of noncompliance, discussing the contractors' concerns, and introducing the City Attorney and Police Chief.

Once the snow plan is finalized, brochures will again be disseminated to residents, with additional copies available for hotels. Local media will provide further information, as required.

Operator training this year will include customer relations, definition of expectations, levels of performance, and procedures. Training will focus on a plan of operation for streets and sidewalks and will highlight problem areas identified from previous years' operations. These areas include towing, haulage schedule, equipment performance, and snow removal sequence. Training will also provide a solid understanding of snow season goals.

The local school system will also be contacted to provide educational information to students regarding the dangers of snow equipment and the hazards of playing in and around snow banks.

DATE: October 17, 1996
DEPARTMENT: Public Works
AUTHOR: Hope Bleecker, Transportation Director
TITLE: Proposed 96/97 Winter Transit Service
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Approve the Transportation Division's recommendations for winter transit service to include new expansions of service in Prospector Square and Silver Lake Village. The total cost of the expansion is \$89,000. Funding for the project is readily available through a combination of budgeted expenditures, private sources, and the transportation fund balance.

DESCRIPTION:

A. Topic: 1996 Winter Season Transit Service

B. Background: The Transportation Department operates winter transit service over a 167 day season between November 15 and April 30. A reduced level of service begins with the opening of the Park City Ski Area and offers a twenty-minute frequency on all routes except Silver Lake. This service is operated with approximately five vehicles. Seven to nine vehicles are introduced into service when the Chamber of Commerce's occupancy projections exceed 40%. The increase normally occurs with the opening of Deer Valley Resort during the second weekend of December. It is estimated that the off-peak service will operate over 42 days and that peak service will operate approximately 125 days.

Existing Service:

There are three service rotations which occur between the hours of 7:00 a.m. and 1:10 a.m. in order to serve employees, skier demand, and other local and visitor needs.

- **Rotation #1 Employee Service**

Employee service begins at 7:00 a.m. at the Park City Ski Area. One bus serves the Prospector and Park Meadows subdivisions. The vehicle continues to Park City Ski Area, to Deer Valley, and becomes the Silver Lake/Royal Street bus. Another bus begins the same routing at 7:25 a.m. and continues on that route until 7:50 a.m. It returns to the Park City Ski Area at 8:00 a.m. and joins eight vehicles in rotation #2.

- **Rotation #2 Peak Period Service**

This service operates daily from 8:00 a.m. until 11:00 p.m. Outlying areas of Thaynes Canyon, Park Meadows, and Prospector Square receive service on a twenty-minute frequency. Deer Valley and Main Street receive ten-minute frequency. A service connection runs from the Snow Park Lodge to Silver Lake Village, supplying thirty-minute frequency between the hours of 8:00 a.m. and 10:30 p.m. On weekends, holidays, and many weekdays, several extra busses operate during the peak hour between 9:00 a.m.-10:00 a.m. and 4:00 p.m.-5:00 p.m. to move peak passenger loads. Labor for the peak hour service is often supplied by bus drivers on an overtime basis or by other C.D.L. operators within the Public Works Department.

- **Rotation #3 City-Wide Evening Service**

This is a two vehicle rotation which follows a slight variation of the daily route alignment and services all major areas of the City including Park Meadows, Prospector, and Thaynes Canyon. The service operates between 11:00 p.m. and 1:10 a.m.

Proposed Service Extensions

Two new routes are recommended for testing this season as a result of increased densities, seasonal occupancy increases, and numerous public requests.

- **Main Street/Prospector:** A new evening test route between Prospector Square hotels and dwelling units is proposed for the winter season between November 15 and April 30 from 4:45 p.m. -10:45 p.m. The route would begin in Prospector Square and the last trip from Main Street would occur at 10:25 p.m. The route would serve the Prospector Square area via an express route to Main Street using Park Avenue and returning via Deer Valley Drive. Staff is developing a proposal for use of the Kearns Boulevard parking lots during the evening for the purpose of implementing advertised satellite parking.
- **Silver Lake/Ontario Canyon:** New daily and evening service is proposed for testing during the winter season between the hours of 7:00 a.m. and 10:30 p.m. The service is being designed in accordance with input from passengers and employees who have requested service links with the Heber Avenue transfer point. Service connections to the Silver Mine Adventure were offered last year via Silver Lake/Deer Valley routing, and as a result the service increased by approximately 4,000 one-way passengers during the winter season. The new Ontario Canyon corridor will foster new ridership from service connections off of the main service routes and is recommended as a more direct link between the two business communities. The route will be helpful in measuring demand from the Heber Avenue transfer area to Silver Lake, as the present connection from Snowpark Lodge is awkward for passengers who seek access to upper Deer Valley via Snowpark Lodge. It is foreseeable that if the Ontario Canyon service is successful, significant changes to the method of service delivery on the original Deer Valley route will occur.

C. Analysis:

Prospector/Main Street

Evening transit service is part of a comprehensive plan to increase ridership from the increasingly popular Prospector Area. The proposed routing would follow Park Avenue south to the Heber Avenue transfer point and would proceed north on Deer Valley Drive, northeast along Bonanza, north on Comstock, west on Kearns Boulevard, southwest on Bonanza Drive, and west on Deer Valley Drive to Park Avenue.

The goal of the service is to provide ten-minute frequency to the area in order to mitigate parking demands. As mentioned above, the Park City School District will be approached with a request to utilize parking spaces in the lots beside the high school as satellite parking.

The evening service recommendation was part of the Wilbur Smith proposal to address mitigation of parking demand in the downtown core. The recommendation included a cost estimate of \$30,000 which was programmed in the current transportation budget. Staff's estimate to operate the proposed 1,169 service hours at the cost of \$28.50 per service hour equals a total of \$33,320. Implementation of the service as proposed requires a budget transfer from the transportation fund balance of at least \$5,000.

Silver Lake/Ontario Canyon

The opening of the Silver Mine Adventure in addition to the successful operation of the Deer Valley Mid-mountain area requires new approaches to addressing travel demands to, from, and within Deer Valley. The proposed corridor along Ontario Canyon Road is recommended for the following reasons.

- Operation of the route for one season will allow staff to develop criteria for expansions and reductions of service within Deer Valley.
- The route will supply increased transit options for Deer Valley employees who currently have no parking.
- Additional transit options for residents and visitors will foster increased economic development between the two commercial areas of Silver Lake and Main Street.

The proposed route would operate between 7:00 a.m. and 10:00 p.m. It would depart hourly from the Heber Avenue transfer point and travel to the Silver Mine Adventure, including a stop near the Sandridge Lot. It would continue to Silver Lake Village to Royal Street and Snow Park Lodge. It would travel via Deer Valley Drive to a Main Street termination point. The service would operate 16 hours per day, 7 days per week between December 7 and April 6 (118 days). The 1,888 hours of service will cost \$54,000. It is expected that a total budget increase of \$43,000 would be drawn from the transportation fund balance in order to supply the necessary

operating revenues. The remaining \$11,000 would be supplied under an agreement between the City and the United Park City Mine Company (located outside of the transit service district) which specifies payment for transit service according to a formula for transit taxation of recreational properties.

D. Department Review:

This proposal has been reviewed by the City Manager, the Department of Public Works, and the Finance Department. Extensive coordination between the Prospector properties, Deer Valley Resort, and the Silver Lake Merchants has taken place and the service has been designed to address travel requirements for employees and visitors of these areas.

ALTERNATIVES:

- A. **Approve the Winter Transit Program:** This alternative is recommended to more effectively provide additional transit options for the guests and residents of Park City. The recommendation requires a budget transfer from the transportation fund balance in the amount of \$48,000.
- B. **Operate Winter Service without the Proposed Additions:** This alternative is not recommended because it will not effectively address travel demands, nor will it address continuous requests for service from area residents, businesses, and employees.
- C. **Continue the Item:** In order for the service to be staffed and effectively marketed, the decision should be rendered as soon as possible. This is not a recommended alternative.
- D. **Do Nothing:** The winter transit program requires Council approval. This is not a preferred alternative.

SIGNIFICANT IMPACTS:

The significant impact of increased transit service would be that additional options for the rider would result. The proposed extensions would allow staff to collect data specific to addressing the Council's overall goal of traffic mitigation. The proposed service expansions would result in a budget impact of \$48,000, and whereas the funding is not obligated in an existing account, it is readily available from the transportation fund balance. If the recommendations are implemented, productivity and benefits would be carefully studied during the season to evaluate initial success and the long-term impacts of the investment before more permanent implementation would

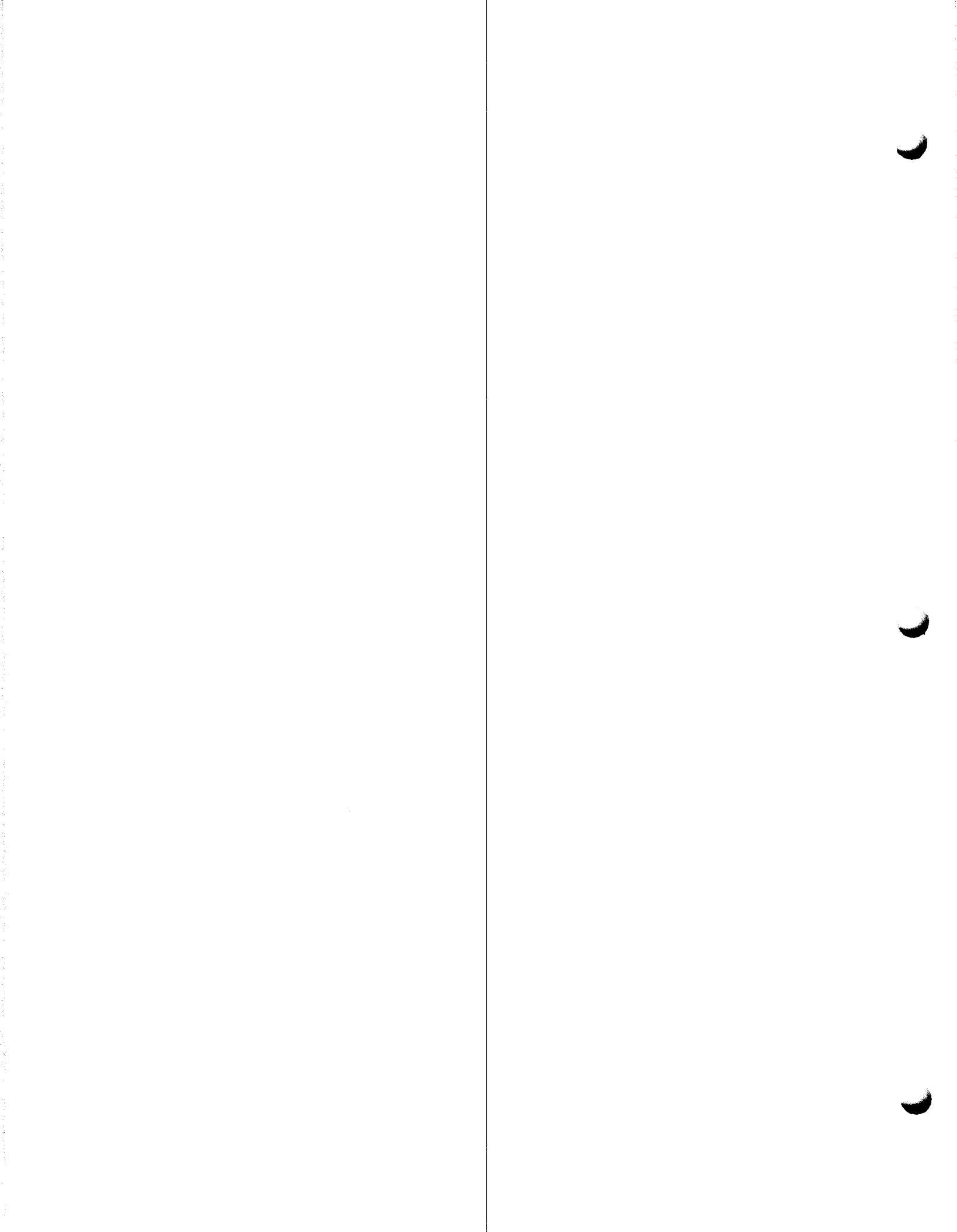
occur.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

The consequences of not approving the Silver Lake Ontario Canyon route are a delay in the design of appropriate options between Main Street and Deer Valley. The consequences of not approving the increased frequency from Prospector Square are increased evening auto traffic demands for the Main Street Area. There will be significant opposition from Deer Valley businesses if the Silver Lake Ontario Canyon service is not approved.

RECOMMENDATION:

Approve the Transportation Division's recommendations for winter transit service to include new expansions of service in Prospector Square and Silver Lake Village. The total cost of the expansion is \$89,000. Funding for the project is readily available through a combination of budgeted expenditures, private sources, and the transportation fund balance.





CITY COUNCIL REPORT

DATE: October 8, 1996 (October 17, 1996 meeting)
DEPARTMENT: Planning Department
AUTHOR: Planning Staff
TITLE: Sweeney Town Run Large Scale MPD Amendments
TYPE OF ITEM: Reconsideration of the Appeal of Planning Commission Action on Revised Sweeney Large Scale Master Plan Development

PROJECT STATISTICS

Project Name: Sweeney Town Run Large-Scale MPD Amendments
Applicant: Quitting Time, LTD
Location: West of Park Ave., East of Norfolk Ave., and South of 8th Street, including a portion of the Town Lift Base Area, the Sweeney Master Plan Coalition West area, and the Larremore parcels between Norfolk and Woodside.
Zoning: HRC-MPD, HCB-MPD, HR-1, and ROS
Adjacent Land Uses: Lift Base, Mixed Use MPD, Historic Residential, Vacant and Commercial.
Date of Application: March 1, 1995 for MPD
March 8, 1996 for appeals

SUMMARY OF MEETINGS

February 28, 1996- Planning Commission approved the Sweeney Town Run Large Scale Master Plan Amendments with conditions as outlined in the revised staff report (on file in the Planning Department).

March 7, 1996- City Council discussed the call-up and appeal of the Planning Commission decision. They outlined the process and set a schedule for future meetings regarding the appeal.

April 4, 1996- City Council reviewed the history and background of the Sweeney Large Scale MPD. Council submitted questions to staff regarding approved amendments to the Sweeney Large Scale MPD and asked staff to distribute those questions to the appellants (both applicant and citizen) for discussion at the next meeting.

April 18, 1996- Appellants responded to Council's questions with presentations and visual displays. The Council entertained additional questions and concerns from the citizen appellants. Councilman Sincock presented several alternatives for consideration by the applicant, citizen appellants, and Council. The appeal hearing was continued to the May 2 meeting.

May 2, 1996- City Council continued to discuss the applicant's proposal as well as several alternatives presented by Mr. Sincock. The citizen appellants addressed the Council with their concerns. The applicant gave an overview of his concerns with the various alternatives. The appeal hearing was continued to the May 9 meeting.

May 9, 1996- City Council reviewed a decision matrix and eight alternatives as outlined by Staff. Council received comment from the applicant and the citizen appellants. Further discussion occurred regarding the bridge structure, bridge width, location of bridge supports, the proposed Special Improvement District (SID), commercial uses on the west side of Park Avenue, closure of Woodside Avenue, and snow-making. Staff was directed to prepare findings of fact and conditions of approval based on the Council's discussion. The appeal hearing was continued to a future date to give staff time to draft the findings and conditions and receive input from the applicant and citizen appellants.

June 6, 1996- Council deliberated on findings of fact, conclusions of law, and conditions of approval regarding the appeal of Planning Commission's approval of February 28, 1996, as drafted by staff. Staff identified several issues that need to be resolved in concept prior to enacting the findings. These issues included 1) snow-making parameters, including location of the snow making guns, 2) timing of the bridge construction, 3) general construction phasing, 4) approval expiration and timing, 5) base zoning and what happens to it if approval expires, and 6) the existing historic tower and structure. Council did not finish deliberation of the findings and conditions.

The meeting continued with a discussion of the proposed skier bridge width. A 25' wide skier surface with a maximum bridge width of 30' was indicated on the conditions of approval, based on the previous meetings. A 30' total width regardless of skier width was discussed. The applicant indicated that based on recent changes by his designers and on recent conversations with the Ski Area, he could agree to a 33' bridge with a 32' wide skier surface. The applicant indicated he made a good faith effort to come up with a width that worked for the ski area and that he couldn't accept anything less than the 33' total width. Council women Kerr moved to deny the project "...I will renew my motion based on Pat's request that if we could not grant a 32 foot width that we deny the project..." The motion carried 3 votes to 2. (See attached minutes, Exhibit A).

June 28, 1996- Applicant requests reconsideration of appeal.

July 18, 1996- City Council voted 4 to 1 in favor of the applicant's request (see letter attached, Exhibit B) for reconsideration of the appeal and to continued deliberations on the findings of fact, conclusions of law, and conditions of approval regarding amendments to the Sweeney Large Scale Master Plan.

July 25, 1996- City Council discussed the scheduling of the Town Run appeal reconsideration and directed planning staff to review the agendas for the next 6 months and suggest a time when the project can be heard without disrupting Council's schedule.

RECOMMENDATION

Staff recommends that the Council review information from previous Council packets, including staff reports and meeting minutes, and continue deliberation of the findings of fact, conclusions of law, and conditions of approval regarding the appeal of the Planning Commission's February 28, 1996 action on the Amendments to the Sweeney Large Scale Master Plan (see attached Exhibit C).

EXHIBITS

- A. Minutes of the June 6, 1996 Council meeting regarding the appeal
- B. June 28, 1996 letter from Pat Sweeney
- C. Revised findings of fact, conclusions of law, and conditions of approval (revised from the Planning Commission approval, based on input from the appellants and Council).

2, the revised budget was presented and this resolution adopts the changes to the current fiscal year and tentatively adopts recommendations for FY 1996-97. He noted that there was a discussion during work session for changes to this budget. A public hearing and adoption is scheduled on June 20. Shauna Kerr, "I move to approve this resolution with an amendment that we add into Attachment A, the \$75,000 increase in the police budget to fund an additional officer". Chuck Klingenstein seconded. Hugh Daniels acknowledged the good work of the Council and the staff during the budget process. Motion carried unanimously.

IX OLD BUSINESS

Deliberation on findings of fact, conclusions of law, and conditions of approval regarding the appeal of the Planning Commission's approval of February 28, 1996 on the Sweeney Town Run Large Scale MPD - As a part of drafting this document, City Attorney Jodi Hoffman explained that the staff has identified several issues that need to be resolved in concept prior to enacting these findings. She placed snow-making restrictions within 300 feet of Park Avenue and received feedback from the appellant that this is contrary to what the Planning Commission decided as an extensive noise survey was conducted. Paul Sincock explained that this was his suggestion recognizing that the Planning Commission considered noise but it did not address where the guns could be located. He felt that snow would drift in the street and would like to see snow-making to the west side of the bridge; it doesn't have to be 300 feet. Hugh Daniels didn't feel that this is contrary to the Planning Commission's decision as noise is a different issue and suggested that 300 feet may not be the right number but there should be language about identifying a location where it would not blow onto Park Avenue and 8th Street. Ms. Kerr felt that this is different than decibel levels, that this is a health and safety issue and that the problem is more critical on Park Avenue than Woodside Avenue.

Ms. Hoffman pointed out that the next issue is the bridge construction period. Chuck Klingenstein suggested a mechanism that after approval, there is substantial completion within 18 to 24 months. Since there is a lot of work that needs to be done and other board approvals, Mr. Klingenstein felt that 24 months may be more reasonable. Paul Sincock added out that once the applicant has made application for a small scale MPD, the timing of the process is largely out of his control. He suggested tying a time limit to the completion of an application, and once that is approved, a time limit on the construction period. Hugh Daniels felt that this is reasonable. Ms. Hoffman expressed that it is reasonable that the applicant submit a complete application within six months of the date of approval and a year to complete construction from the date of MPD approval. Paul Sincock felt that 18 months was more appropriate given the construction cycle. Pat Sweeney did not feel that 18 months was enough time. He suggested that after small scale MPD approval that they have 18 months to commence construction and they would bond for completion. Mary Wintzer stated that it was their concern that there would be an construction eyesore and that 18 months is not unreasonable. The Mayor summarized that it is Council consensus that once construction commences, they have 18 months for substantial completion. The City Attorney asked for clarification of the time period from small scale MPD approval to construction. Paul Sincock favored one year to start construction from the approval date and would not designate a completion date. Ms. Kerr didn't feel that there is enough control in the UBC to push private projects along and although there is a bond, it would not be in the City's best interest to finish the project. She felt that there should be a date for completion. Roger Harlan pointed out that this project will impact a street and it should be conditioned. In consideration that the applicant has six months to complete an

application, and one year after that to commence construction, Chuck Klingenstein felt that 18 months is too generous to complete the bridge. Pat Sweeney stated that he assumed that it would include the buildings, since the bridge makes no sense without the buildings. The bridge itself, is a small feature of the project. Jack Mahoney added that the bond and their loans are sufficient guarantees that the project gets completed. Pat Sweeney commented that they would have to go to the Planning Commission for preliminary and final plat approval and also the HDC for review and felt that they need 18 months as opposed to a year.

Toby Ross clarified that Council would want the project to go away if there isn't any progress, and if the applicant fails to submit a complete application, the project goes away. Secondly, the concept that the project would go away if isn't completed within two or three years is not very helpful. He urged Council to consider a reasonable time frame from the point at which they get approval to commencing construction. Mr. Ross relayed that Council could set a time of six months to apply, a year or 18 months to commence construction, and then use the bonding process from that point on to assure as rapid a production as possible. If there are no options when the completion date has not been met, there are no controls anyway. Paul Sincock favored that after the approval of the small scale MPD to provide 24 months to commence construction. Chuck Klingenstein stated that he would lean toward 18 months and if that is a problem, to come back to Council. Hugh Daniels and Roger Harlan agreed with Mr. Klingenstein. There was a consensus for six months and 18 months. Ms. Hoffman read the new Condition 15 with these time periods inserted and stressed that lack of performance would result in Mr. Sweeney's inability to build the bridge, but there would not be a reversion to the base zoning. Mr. Sincock commented that that doesn't make sense as Mr. Sweeney is trading density for the ability to extend the run. Jodi Hoffman explained that the Planning Commission has already amended his MPD and Mr. Sweeney no longer has the 16 unit equivalents, but rather 10.75 unit equivalents with a 40 foot wide bridge, until Council amends that approval with a 25 foot wide bridge. She continued that Council may want a reverter in the conditions with regard to the base zoning. Pat Sweeney stated that if the project does not work out for some reason, to lose 5.25 unit equivalents is not acceptable and is punitive. He added that if Council approves the bridge tonight, it still has to be approved by the Ski Area, Ted Larramore, and the details of the maintenance has to be worked out. For instance, if the bridge or some snow-making requirement is not acceptable to the Ski Area, he would lose 5.25 unit equivalents, and he felt that the project should lapse back to the original master plan. He stated that once they obtain financing and begin the project, they are committed, but until they get to that point, it would be unfair punishment. Jodi Hoffman responded that the conditions can be drafted so that it reverts back to the 16 unit equivalents but it has not been drafted to reflect that at this point. Mr. Sweeney stressed that the opponents have testified that what they have approved now is fine and would prefer it to the amendment. Paul Sincock expressed that it would be an undue hardship to have him go through this process and also give up unit equivalents. Mr. Sweeney felt that the time periods are fair, if the approval reverted back to the original master plan. Ms. Kerr stated that if during the early stages the project isn't pursued, then it seems fair that there be the option to revert back to the original plan, but if the project has gone through a three year process with staff, then the old one is expired. Jodi Hoffman clarified that the applicant has six months to submit a complete application for a small scale MPD, 18 months to commence construction. He can revert back to his 16 unit equivalents during these time frames; if that time frame runs then it's back to base zoning.

Ms. Hoffman discussed the condition that if a CAD is issued for one of the historic structures that the applicant must demonstrate good faith efforts to relocate the structures within the Historic District. The citizen appellants wanted to strike "demonstrate a good faith effort" to create a requirement to keep them in the Historic District. Roger Harlan was not convinced that these structures have to be relocated. Pat Sweeney stated that if they can reach agreement with Council on the approval, they will leave the tower and leave the house if it is okay with Ted Larramore. Mr. Sweeney stated that a lot of time shouldn't be wasted on this issue because he knows differently, is willing to do something significantly different, and would like to talk about bridge width and ski rentals. Paul Sincock suggested that this condition be stricken since there is a CAD process, but the Mayor felt that it is better to have a high level of detail for all parties involved. Hugh Daniels and Shauna Kerr agreed that the "good faith" language should be stricken.

Ms. Hoffman emphasized that Council can decide if it wants to again review the width of the bridge; there is a request from the Ski Area and the applicant to increase the bridge width to 33 feet with 32 feet of skiable surface, and reconsidering this is not a requirement is due process. Paul Sincock stated that he suggested that the maximum width be 30 feet outside to outside and he relayed that Mr. Klingenstein preferred 25 feet skiable. Mr. Sincock was not open to expanding the width. Chuck Klingenstein stated that he did not want to reconsider this. Hugh Daniels recalled that he and Mr. Klingenstein supported a 25 foot skiway and a maximum of 30 feet, the 25 feet being the key measurement. He was surprised to learn that the new proposal only requires six inches on the sides of the skiable area. Ms. Hoffman read the drafted condition which is 25 feet skiable surface and as narrow as possible up to a maximum of 30 feet. Hugh Daniels stated that he supports the original direction. There was consensus to not reconsider the width. Mr. Sweeney stated that without reconsideration of the width, that he is asking for a denial. He stressed that the 25 foot skiable width does not work, has some strong arguments why it doesn't work and would like the opportunity to make them one more time to consider the big picture. He again stated that if Council is prepared to make a decision on the 25 foot width, he asked that the appeal be denied. Doug Clyde of the Ski Area added that 25 feet is an unacceptable width and has never been acceptable. Chuck Klingenstein stated that the only way he would entertain listening to this proposal is if the other side was allowed the opportunity to present new information as well. Mr. Sweeney stated that this is more of a final argument in context with the big picture and it is felt that some things can be done that have not been talked about and it is important enough to be considered. He added that 25 feet is a vote for no bridge, because if he builds a bridge he wants to do it right.

Shauna Kerr, "Based on that, I would move that we grant Pat's request and deny the project". The motion died for lack of a second. Hugh Daniels expressed that he is somewhat distressed that at the nth hour, we have the big picture as we have been asking for the big picture all along. Although he wants to hear as much information as possible to make a decision that is good for the community, he is upset that it is at the last gasping moment. However, Mr. Daniels stated that he is interested in hearing all of the information. The Mayor asked if this was new information. Mr. Sweeney responded that it is reiterating some things in a different context. He added that he felt that the tower could be left to very close to where it is and that 715 Woodside can be preserved either off-site or on-site, depending on the wishes of Ted Larramore. Mr. Sweeney continued that this has been a difficult process as he could not talk to Council members individually, the conditions were not available until Monday and he did not feel it improper for him to make a presentation.

Paul Sincock stated that the width was just formalized in the conditions but Mr. Sweeney has known for a month the consensus of Council; it is his inclination is to stay with 30 feet outside to outside. If that is not acceptable, then he would probably second Ms. Kerr's motion. Chuck Klingenstein added that now all of a sudden this issue is dragged out longer and to allow new information at this time is not fair to the citizen appellants who don't want to see a bridge at all. Mr. Sweeney stated that his perception of the 25 foot bridge is a three-legged horse. Hugh Daniels interjected that if there is a design change that makes it a better project and a way to keep the historic structures in tact, he felt it reasonable to hear a presentation. The Mayor agreed with Mr. Daniels and would provide the citizen appellants time to respond. Shauna Kerr asked if there is anything that hasn't been said at this point as all along the appellants have requested a greater width while Council has insisted on a narrower bridge. She felt that in an effort to getting to "yes" that there are many conditions placed on the project and maybe it is better to be honest and say no. Ms. Kerr continued that it is important to be honest with the applicant because he has worked hard and rather than Council deciding what width of bridge works best for his project, maybe we lack the courage to say that the bridge concept doesn't work. She felt that the Council is trying too hard to get this bridge approved in some format that is palatable to the Council when in actuality, there may be levels of discomfort that we're not acknowledging to ourselves. Roger Harlan commented that he would like to hear the presentation and why seven feet makes a difference. Chuck Klingenstein felt that it would be unfair to the citizen appellants. Jack Mahoney voiced his displeasure that they are always referred to as the developers and are never referred to as citizens as they are towns people. Mary Wintzer stated that she doesn't have a problem with a short presentation, but be realistic about how long it will take. They are not prepared to rebut it and would have to come back for another meeting.

Ms. Wintzer asked that Condition No. 1 be rewritten as it states, "Improving the access to skiing and mountain biking benefits the community beyond the properties immediately adjacent to the Town Lift by enhancing the attractiveness of Park City as a destination resort". The citizen appellants are concerned that it lays the ground for taxing the entire community to maintain the bridge. She asked that "benefits the community beyond" be amended to read "benefits the properties immediately adjacent to the Town Lift" or "may benefit the properties immediately adjacent to the Town Lift". There was discussion about language changes, and it was the consensus of the Council to strike the entire sentence. Marianne Cone stated that she couldn't understand why the bridge couldn't be a walking bridge.

Paul Sincock relayed that his preference is that the bridge be 30 feet wide, so in consideration of the new proposal, the skiable surface could be 29 feet as far as he is concerned. He asked why three feet of skiable width is a deal-breaker. Mr. Sweeney responded that the issue is safety. The Ski Area has stressed that a 35 foot skiable surface is the safest minimal space, but have indicated that maybe 32 feet works, but in no way does 25 feet work. Mr. Sweeney explained that the skiable surface width creates safety, and because of the elevation of the bridge people will only see the edge of the bridge. To narrow it sacrifices safety and the other benefits associated with the bridge. When they came from the Planning Commission, they had a 40 foot wide structure with 35 feet skiable which was padded. If they use a cable-stay bridge, they can build a structure that is a foot thick instead of six feet to eight feet thick. Additionally, they can swing a wider bridge parallel to the lift and have open railings on the bridge, making it a better plan. Mr. Sweeney stated that the bridge will be shorter as it flares into the maze; this is an opportunity that this community will never see again and he stressed that he is not interested in a walking bridge. Doug Clyde of the Ski Area, addressed the condition that this bridge is served by a 25 foot run which is absolutely untrue. He

stated that he made a written correction to the City Attorney that this bridge is served by a 25 foot run which merges with a 54 foot run into a 60 foot run. He continued that the staff has never made the case that 25 feet is an acceptable width; the only example of a 25 foot bridge is the one in Deer Valley that serves a couple of dozen of single family homes. Phil Jones of the Ski Area relayed that as a company it is their philosophy that what is good for the town is good for them. If there is an incident on the bridge, that incident will be compared to ski runs not to ski bridges. He explained that ski bridges are not typical, and they will be compared of having a ski *run* not a ski *bridge* that is 25 feet. He indicated that he preferred 40 feet when this process started and still does. If someone is hurt, the Ski Area will be sued.

Mary Wintzer reminded Council that the HDC approved the bridge with a 25 foot width and the citizen appellants felt that was a firm commitment. The Mayor asked if the HDC approved a number and the Planning Commission approved a different number. Ms. Wintzer responded that the Planning Commission was convinced that the width should go from 25 feet to 40 feet. Mr. Sweeney emphasized that it was never 25 feet and would like to pull the record if this is important to Council. He stated that it is Ms. Whetstone's recollection that the HDC approval is in the same configuration as the Planning Commission. Ms. Whetstone clarified that the HDC only makes recommendations on the design and she recalled that it was 40 feet. Staff had made a recommendation to the Planning Commission before that of 25 feet. Paul Sincock stated that the distinctions between the two are not important to him, and he felt that Council should proceed with approval and let Mr. Sweeney decide what he is going to do. He still felt that a 30 foot bridge is adequate and that the approval process should proceed and not be stalled just because "they dared us". Hugh Daniels relayed that he was willing to live with a maximum 30 foot wide bridge, but is still in favor of a narrow bridge. He supports the project and believes that it is good for the community. Mr. Daniels wasn't as concerned about skiable area; the community has asked to bring it down in size and he agreed with Mr. Sincock that he is not ready to be dared as he needs to make a decision to the best of his ability for the benefit of the community as a whole. He again clarified that the skiable area could be as wide as 29 feet.

Jane Anderson, business owner in Deer Valley, indicated that she opened a business in Beaver Creek, Colorado where there is a ski bridge that cannot be wider than 30 feet. She felt that it is probably 500 feet in length and it serves homes and skiers coming down to the general area. Beaver Creek has had no problems with the bridge. In consideration of the competition in getting skiers, she felt that this idea is good and hoped it would happen

Marianne Cone again suggested that a walking bridge be an option. Ms. Kerr considered this more as a maze for a lift than a ski run. Mr. Sincock noted that the alternative to no ski bridge is that people will ski down to Woodside as they do now. He doesn't view it as a ski run but as an access bridge to the base of the lift and that is why he supports a 30 foot maximum width. Chuck Klingenstein stated that he was looking at this as a ski bridge as opposed to a ski run and stressed that there are no standards for this and that is the biggest problem. He felt that the appellants are reenforcing the attitude that "everyone hold your cards until you get to this Council". He asked why this information was not presented to the Planning Commission. Toby Ross responded that the applicants offered information that resulted in the approval of a 40 foot bridge. Mr. Klingenstein stated that the Planning Commission originally wanted a 25 foot bridge and approved a 40 foot bridge because this new information was never offered. Toby Ross asked for clarification of the new information. Mr. Klingenstein explained that the absolute 40 feet has been

reduced to 33 feet with 32 feet skiable and that to him is new information. Pat Sweeney explained that this proposal was a good faith effort to find a better answer and if he did something wrong in doing this during this process, he apologizes. Chuck Klingenstein explained that the Planning Commission should have received that information and would like to see a better process at a lower level so that Council can get on with other business. He stated that they've "lost him" and no one seems to have a feeling on the downhill numbers. Ms. Whetstone clarified that the Planning Commission never made a decision on the 25 feet and when they voted, they voted for 40 feet. The findings that they made in approving the 40 feet were based on safety and the industry standards relayed by the Ski Area. She continued that this was a maximum width, so it was hoped that through the design that it would be less than 40 feet.

Roger Harlan asked if there is case law for a standard width for a ski bridge that would encourage someone to pursue a lawsuit. Phil Jones responded that the 40 foot bridge came from comparables on the mountain; 25 feet could not be compared to anything at the area. With regard to lawsuits, they lose whether they win or not because they have to pay the attorneys. If there was case law, ski areas would look a lot different than they do. If somebody is hurt, the opposing side will dig up everything, and probably dig up the records from this meeting where he has been quoted as saying 40 feet and a 30 foot bridge is being considered. .

The Mayor stated that the ski areas that have bridges are upgrading them and making them larger. He felt that we have an opportunity to do it right the first time if the Council wants a bridge. He still agrees with his son that a few more feet could make a big difference as everyone will be skiing in the middle of the bridge. Mary Wintzer stated that since Council made its decision a few weeks ago, they were disappointed but the one thing that they have counted on was Council "holding the line".

The Council indicated a consensus of 30 feet wide outside to outside. Jodi Hoffman pointed out that if the bridge isn't 32 feet, to render a denial. Mr. Sweeney agreed. Mr. Sweeney personally felt that it is important for the community to hear him out. Paul Sincock felt that there is a lot invested here and suggested that it be continued as emotions are running high. Chuck Klingenstein indicated that there is a point where you wear people out. The Mayor asked if Council would like to discuss other outstanding issues.

Shauna Kerr, "I move that if the 32 feet is still a deal-breaker. I don't think it is to any one's advantage to continue to talk about the other issues and I will renew my motion based on Pat's request that if we could not grant a 32 foot (width) that we deny the project. I will so move". Chuck Klingenstein seconded. Roger Harlan stated that Council is reacting to Mr. Sweeney's statements tonight as it was a deal-breaker. Mr. Harlan added that he has always liked the concept of the bridge but will vote on the basis of Mr. Sweeney's comments. Mr. Sincock commented that if Mr. Sweeney had gone to the HDC with 32 feet in the first place, it might have been approved long ago. Now, there is another "do or die" statement that he is being taken up on and Mr. Sweeney is risking the entire thing, and is likely to get it. He is sorry to see the emotion of the moment decide this rather than well reasoned thought. Hugh Daniels concurred and although things are processed to death, the Council tried to move on this in a timely manner and he didn't know if he would approve 32 feet. He is disappointed that both sides may be making decisions based on anger and frustration which is not good decision-making or leadership for the community. He encouraged Council not to vote in favor of this motion, because it is not good solid thinking for the benefit of the community. Jack

Mahoney interjected that when the bridge was first designed the side beams and the padding took up to five feet, and they have spent many hours toward a lighter bridge which has resulted in the 33 foot design. This design is not a "sandbag", but a logical progression that the Ski Area just reviewed. Doug Clyde explained that the design has its narrowest point at 32 feet and flares on the downhill end and it is also a shorter bridge. The Mayor asked what the appellant's options are in the event of a denial. The City Attorney explained that he has a right of appeal to the District Court and a right to resubmit an application to amend his master plan. Shauna Kerr countered that his right of appeal to District Court will be without merit because he is the one that requested that we take this action. Pat Sweeney stated that they will not be appealing this, and added that he isn't trying to sandbag the Council, but rather to present a better design. The Mayor asked for a vote.

Hugh Daniels	Nay
Roger Harlan	Aye
Shauna Kerr	Aye
Chuck Klingenstein	Aye
Paul Sincock	Nay

Motion carried.

X ADJOURNMENT

With no further business, the meeting of the City Council was adjourned.

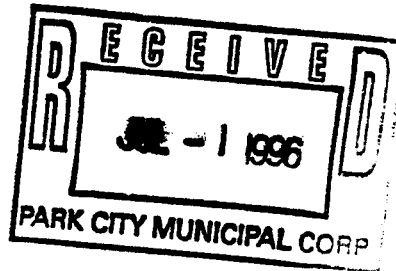
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The meeting for which these minutes were prepared was noticed by posting 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

Janet M. Scott, Deputy City Recorder

Quitting Time Ltd.
P.O. Box 2429
Park City, Utah 84060
801-649-7077 / FAX 801-649-6215



June 28, 1996

Park City Council
P.O. Box 1480
Park City, Utah 84060

Dear Council:

This letter is the appellant's request for reconsideration of the City Council's recent denial of the Town Run. The applicant, the newly formed Old Town Park and Trails Coalition, and a broad range of Park City residents encourage the City Council to overturn the project denial in favor of an approval based on the conditions and findings of fact upon which they were previously prepared to approve.

The appellant would like to apologize for his part in the emotional meeting which led to the unfortunate action now being appealed. With emotions running high, we understand how our words were taken as an ultimatum. We hope the Council will feel as we do that the final decision on this matter should be based on the best long term interests of the City, not the emotions which appeared to motivate everyone's words, decisions and actions at the last meeting. Clearly we have all invested much-to-much work to let this exciting opportunity end with the Council's last action.

We would have made this request for reconsideration sooner, however, we felt it prudent to first meet with the property owners who would have to financially participate in the project. After our recent meeting, the Old Town Park and Trails Coalition was formed and we are now optimistic any unresolved funding details can be satisfactorily addressed over the next several months. We wanted the City Council to act on our request knowing that those in the immediate area are committed to and pledge their emotional and financial support for the Town Run.

Therefore, Quitting Time respectfully requests that you reconsider your decision on the Town Run. We suggest the following language for your consideration which we feel meets our common objectives.

1. The proposed bridge shall be designed to minimize, to the greatest extent possible, the structure that is necessary to accommodate a safe skier experience. The entire bridge solid platform width shall be as narrow as possible, and shall not exceed 30' measured on a perpendicular plane from outside edge to outside edge. The bridge shall run parallel to the lift line and shall have open railing.
10. No bar or restaurant, shall be permitted in the HRC zoned portion of the MPD which is located on the Coalition West parcel. The Coalition West HRC land uses shall be restricted

as follows: Retail uses shall be limited to those uses generally associated with the accommodation of hotel guests and other tourism related businesses and shall be oriented primarily to the neighborhood pedestrian accessible bedbase, such as but not limited to an antique store, art gallery, museum or supply store, bakery, camera shop, candy store, clothing store, florist, gifts and sundries, pharmacy or drug store, sporting goods store, ski storage and repair, variety store.

15. This amendment to allow the construction of the ski bridge shall lapse to the underlying SPMP, if the owner does not submit a small-scale application within 6 months of the Approval Date. If Small-Scale MPD Approval is obtained, this Amendment shall lapse to the underlying SPMP if the owner does not commence construction of the bridge within 18 months of Approval. Prior to commencing construction of the bridge, the applicant shall post adequate security, for the benefit of the City, to ensure completion of the bridge, and to ensure the provision for the maintenance of general liability insurance with a single limit of no less than \$1 million (1996 PV), with the City named on the policy as an additional insured.
19. The historic tram tower shall be preserved as provided in the currently approved SPMP at its approximate height, location, and alignment. The 721 Woodside House shall be restored at its approximate location.

We appreciate your consideration of the above suggestions and look forward to meeting with you. There remain many details to be resolved, but we are convinced all parties, including the City, can work together to make the Town Run a reality. Thank you for considering our request and for working with us towards this end.

Sincerely,



Patrick J. Sweeney
President of MPE Inc., General Partner Quitting Time Ltd.

BEFORE THE CITY COUNCIL OF THE PARK CITY MUNICIPAL CORPORATION

DRAFT

Quitting Time, LTD- Appellant	)	FINDINGS, CONCLUSIONS AND
Nine Citizens- Appellants	)	CONDITIONS REVERSING IN
	)	PART AND UPHOLDING IN
v.	)	PART 1996 MPD AMENDMENTS
	)	TO THE SWEENEY LARGE-SCALE
Park City Planning Commission	)	MASTER PLANNED DEVELOPMENT

This matter, having come on regularly for hearing upon appeal, with both appellants appearing *pro se*, and with the City Council being advised by the Office of the City Attorney; and having reviewed the files and records herein, supplemented by:

1. Sweeney Statement of Appeal with exhibits filed March 8, 1996
2. Citizen Appellants' Statement of Appeal filed March 8, 1996
3. April 4, 1996 City Council Report with exhibits (CDD staff)
4. April 4, 1996 response of Citizen Appellants, with questions of Council
5. April 18, 1996 Council Agenda Report with exhibits including Council questions for staff and appellants (CDD staff)
6. April 18, 1996 response from Pat Sweeney
7. April 18, 1996 response from Park City Ski Area
8. Options A through C prepared by Paul Sincock
9. Park City Ski Area's May 1, 1996 response to Options A through C
10. Citizen Appellants' May 2, outline of concerns, questions and actions
11. Sweeney's May 2, 1996 response to Citizen Appellants' Appeal
12. CAD graphics prepared by David Belz for Sweeney appellants
13. Citizen Appellants' petition in support of appeal

and having taken testimony of CDD staff and of all concerned parties on April 4, April 18, May 2, and May 9, 1996 and having been fully advised in the premises, the City Council enters the following Findings of Fact, Conclusions of Law, and Conditions of Approval:

FINDINGS OF FACT:

1. Park City is an historic mining town with a tourism-based economy. A bridge connecting the Park City Ski Area with the extension of historic Main Street will encourage and reinforce nightly lodging at the base of the Town Lift. Improving

EXHIBIT C.

44

the access to skiing for nightly lodging benefits the community beyond the properties immediately adjacent to the Town Lift by enhancing the attractiveness of Park City as a destination resort. A well designed ski bridge is not incompatible with the City's historic district. Bridges and similar structures such as the Crescent Tram and China Bridge are part of Park City's history. The ski bridge and associated ski run would reduce the density of permitted development and would provide open space and view corridors which would not be available if the densities currently allowed were developed.

2. In 1986, the Park City Planning Commission approved the Sweeney Properties Large-Scale Master Plan for 125 acres of land owned by the Sweeney Family on Treasure Mountain, to and across Park Avenue. The Planning Commission amended the Sweeney Properties Large-Scale Master Plan in 1987 (SPMP).
3. In 1996, the Planning Commission approved the amended SPMP to decrease the general density and to reconfigure of a portion of the SPMP to allow a skier bridge. The Planning Commission did not consider and therefore did not grant Small-Scale Master Planning approval of any structure, or group of structures, as part of the planning approval presently on appeal.
4. The Planning Commission considered all submissions by the applicant, the planning staff's analysis of the proposals, and held hearings on July 26, September 13, November 15, 1995 and on January 10, 1996 to receive testimony and evidence from the public on all aspects of the proposed plan.
5. On July 26, 1995, the Planning Commission requested the applicant to discuss the proposed revisions in the context of the entire MPD. Pursuant to the Planning Commission's request, the applicant commissioned a depiction of a version of revisions to the Creole Gulch and Mid-Station development sites that would be possible if the Town Run and Bridge were approved. The applicant submitted the information to the Planning Commission on September 13, 1995. The information clarified that Planning Commission approval of the Town Run and Bridge would increase the applicant's flexibility to rearrange approved density on other portions of the SPMP.
6. On appeal, all parties agreed to an expanded evidentiary process which allowed the Council to consider information that was not afforded the Planning Commission, including information from the Park City Ski Area (PCSA) regarding the PCSA's operation and development plans, and the appellants' reactions to several options, including Option A: a narrower bridge; Option B: closure of Park

Avenue and a bridge over Woodside Avenue; Option C: development under the present 1986/87 approval.

7. There ski industry has not adopted a consistent standard for proper ski bridge width within an urban environment. Within our own community, the widths of both ski runs and ski bridges vary widely. The proposed Town Bridge would be the first bridge within Park City's historic urban core. It would be accessed by The Drift, a ski run that is less than 25 feet wide.
8. The last 250 feet of the ski run leading up to the proposed Town Bridge is relatively flat (4% grade).
9. The proposed Town Bridge will function as the terminus of a ski run, rather than as an extension of a ski run. As such, skiers should approach and traverse the bridge at a slow rate of speed.
10. Public safety, skier safety, liability, and long-term maintenance are important considerations in designing the ski run and the skier bridge. In part, a ski area can increase skier safety with appropriate design, signage, and staffing during peak periods to regulate skier speed.
11. The proposed Town Bridge primarily benefits the private sector. The Applicant submitted no evidence that the public will use the proposed summer park in a manner disproportionate to the manner the public uses other public spaces associated with large-scale commercial development such as the Summit Watch plaza.
12. Computer-assisted photographs generated to assist the Council on appeal demonstrate that the 40 foot bridge width and the angle at which it is proposed to span Park Avenue creates an unpleasant tunnel effect and will, at times, cast a shadow over one full block of Park Avenue. The applicant offered no convincing evidence that the bridge width must be 40 feet to ensure skier safety or the commercial viability of the amendments. The applicant expressed indifference to the ultimate bridge width and deferred to the PCSA.
13. A smaller bridge, parallel to current alignment of the Town Lift would reduce the adverse impacts of the proposed bridge and would create a more pleasing urban form.
14. A truss, trestle, or suspension bridge design could lessen the visual impact of the bridge and would obviate the applicant's stated need to place abutments within the

Park Avenue right-of-way. Bridge abutments in the City right-of-way pose an undesirable use of City right-of-way and create an unnecessary risk of liability to the City.

15. A smaller bridge, parallel to current alignment of the Town Lift would lower the applicant's project costs.
16. Construction of any bridge and buildings associated with already-approved aspects of this project will effect the character of the surrounding neighborhood. Structures approved through the Small-Scale MPD process should be compatible with the surrounding neighborhood in size, mass, scale, height, and architectural character. Impacts created by the buildings should be mitigated using the Historic District Design Guidelines as a basis for review. The Historic District Design Guidelines may require structures with size, mass, scale, and height well less than the maximum parameters suggested by this and prior approvals. Models and site plans the applicant has submitted in support of the amended MPD have not been evaluated for conformity with Small-Scale MPD nor design review considerations.
17. The Coalition West site was originally master planned for residential uses on the west side of Park Avenue. Without an MPD, the background zoning is for commercial and resort-related development (HRC) along Park Avenue and for residential uses (HR-1) along Woodside Avenue. The applicant proposed limited commercial uses on the Coalition East and West sites, and proposed to exclude restaurants and bars. Restaurants and bars are also excluded in the proposed changes to the HRC zone currently under review by the Planning Commission. The Planning Commission approved limited commercial uses on the Coalition East and West sites, as circumscribed by the proposed LMC revisions to the HRC zone.
18. As part of the 1987 amendments to the SPMP, the Planning Commission approved the transfer of at least three unit equivalents of residential use to the Coalition West site, increasing the density from 13 unit equivalents to 16 unit equivalents, using "some" commercial unit equivalents, consistent with the HRC zone, to absorb the additional units within the existing building envelop. The record is unclear how many commercial unit equivalents were allowed on the Coalition West parcel.
19. On August 23, 1990 the City Council rezoned the Coalition East and the eastern half of the Coalition West sites to HRC-MPD and the western half of the Coalition West site HR-1-MPD. That action reflected the 1987 amendments to the SPMP and had no further force and effect on the designation of allowed uses.

20. The applicant, through David Belz, presented convincing evidence that the approved retaining wall on 8th street and within the Woodside right-of-way should be redesigned as a sloped berm and landscaped with decorative rock, trees and shrubs.
21. The amended MPD on appeal includes an extension of the Town Run. The PCSA has further indicated that it will improve the existing Town Run with snow making and grooming if the Town Bridge is constructed. Ski runs (along with snow making and grooming operations for the runs) are conditional uses within the HR-1 and HRC zones.
22. Snow making and grooming can be noisy, intrusive activities and can create road hazards in an urban environment if improperly managed.
23. As part of its review of the proposed Town Run and Bridge revisions to the SPMP, the Planning Commission requested a demonstration of several different types of snow making systems. The demonstration showed that the small snow-making guns created an acceptable noise level: below 80 to 85 dBA leq at a distance of 50' from the base of the gun.
24. The snow making demonstration also showed that even the smallest snow making guns can cause substantial (up to 300') snow drift under windy conditions.
25. The Town Run/Bridge project is located in an area of high pedestrian and vehicular activity. Impacts from project construction activity will compound the noise and annoyances suffered by the community.
26. Construction phasing and proper staging can reduce the negative impacts of construction activity on the surrounding neighborhood and on the community as a whole.
27. Once the project is constructed, however, the Town Run, Bridge and Lift should be operated fully, to mitigate traffic impacts and to justify the expense and inconvenience of construction and loss of public right of way.
28. The 1986 approval of the SPMP included a condition that "as projects are submitted for conditional use approval, the City shall review them for required employee housing in accordance with adopted ordinances in effect at the time of application". Presently, there are no ordinances which require employee housing

as mitigation for commercial development. However, staff is in the process of drafting such an ordinance. If the Council approves an employee housing ordinance prior to the date on which the applicant seeks Small-Scale Master Plan approval for the Coalition West site, such ordinance will have full force and effect.

29. The proposed plan includes a permanent closure of and fill over Woodside Avenue. In 1991 the applicants commissioned a traffic study to evaluate the impacts of a Woodside Avenue closure. That study indicated minimal traffic disruption as a result of the proposed closure. Traffic patterns and projected build-out have not changed so dramatically from 1991 to render the traffic study invalid.
30. There are significant public utilities within the Woodside Avenue right-of-way.
31. On appeal, the applicant clarified that the proposed amendments to the SPMP decrease the maximum density for the combined Coalition East and West parcels by 5.25 unit equivalents. The applicant proposes a maximum of 9.15 unit equivalents on the Coalition West parcel (of which a maximum of 5.5 unit equivalents are commercial) and an additional 1.6 unit equivalents on the Coalition East parcel.

CONCLUSIONS OF LAW

1. The Planning Commission erred in describing the Town Run and Bridge proposal as unrelated to the remainder of the MPD. However, because the Planning Commission actively reviewed the Town Run and Bridge in the context of the entire SPMP, and because additional revisions to the SPMP are contingent on Planning Commission action, the Planning Commission's error is harmless, and has been remedied by Finding of Fact (Number 3) on appeal.
2. The Planning Commission erred in approving the Town Bridge with a forty foot wide span and an unnecessarily-skewed alignment. The Planning Commission failed to consider how such a bridge would create an unacceptable risk to the health, safety, and welfare of the general public. The Nine Citizens' appeal is hereby granted to the extent that it is remedied by Corrected Conditions of Approval in these respects.
3. The applicant is not entitled to Small-Scale MPD or design approval at this level (Large-Scale MPD) of development review.

4. Subject to Corrected Conditions of Approval described below, the proposed revisions are in substantial conformance with the Comprehensive Plan and the Land Management Code.
5. In all remaining respects, the Planning Commission properly approved the subject amendments to the SPMP.
6. A Special Improvement District (SID) is not an appropriate method to finance and construct or maintain the bridge or to maintain open space areas within the project.
7. In all remaining respects, the appeals are hereby denied.

CORRECTED CONDITIONS OF APPROVAL

1. The proposed bridge structure shall be designed to minimize, to the greatest extent possible, the structure that is necessary to accommodate a skier surface of no more than 25' as measured on a perpendicular plane from the interior wall of the bridge structure. The entire bridge width shall be as narrow as possible, and shall not exceed 30' measured on a perpendicular plane from outside edge to outside edge.
2. No bridge support shall be located within the City right-of-way.
3. The bridge shall be aligned, to the greatest extent possible, to be parallel with the existing ski lift, to reduce shadowing over the 8th and Park Avenue intersection, to reduce the overall length of the span, and to ensure an adequate line of sight at all relevant intersections.
4. The bridge must be designed to minimize the mass, to reduce the depth of the girders, and to create a visually-interesting and historically-compatible element of the lower Old Town area.
5. An adequately-secured contract to hold harmless and to indemnify the City for any liability arising from the siting, construction, operation, and maintenance of the bridge is a condition precedent to the issuance of any right of way encroachment permit or Conditional Use Permit to allow construction of the bridge and/or its appurtenances.
6. Applicant must petition to vacate that portion of Woodside Avenue that applicant proposes to fill as an extension of the Town Run. Applicant must submit a

satisfactory plan for accessing and protecting public utilities within the Woodside Avenue right-of-way as a condition precedent to public vacation of any portion of Woodside Avenue.

6. Historic District Commission design review and approval of all structures, including the bridge, retaining walls or berms, parking structure and buildings for architectural design, including mass, scale, colors and materials, and for conformance with the Historic District Guidelines, is a condition precedent to building permit issuance.
7. Planning Commission review and approval of a Small-Scale MPD for all structures is a condition precedent to building permit issuance.
8. The maximum allowable building heights shall be 27' in the HR-1 zoned portion of the MPD, measured from natural or finished grade, whichever yields the smaller/shorter structure. The maximum allowable building heights shall be 35' in the HRC zoned portion of the MPD. These are maximum heights only, the overriding requirement for these buildings is that they be compatible in mass and scale with the surrounding neighborhood, including the historic structures on the west side of Park Avenue. To meet the compatibility requirement it may be necessary to reduce the overall height of the structures.
9. No commercial business which generates a high volume of vehicular pick-up and drop-off traffic, nor any bar or restaurant, shall be permitted in the HRC zoned portion of the MPD which is located on the Coalition West parcel. The SPMP shall be modified to include proposed changes to the land use table for the HRC zone, as described on **Table 1**, attached.
10. Parking for all uses shall comply with the requirements of Chapter 13 of the LMC as amended. If specifically approved by the Planning Commission during the Small-Scale MPD process, up to 3 parking spaces may be shared between the Coalition West and East parcels, provided the total number of spaces complies with the Code. If problems arise with day skier parking, the applicant shall implement a parking management plan, approved by the City.
11. Planning Commission approval of a Conditional Use Permit for the ski run from the Mid-Station to the Skier Plaza is a condition precedent to grading, installation of snow making, construction of amenities, or operation of the extended ski run. The Conditional Use Permit, at its minimum, shall restrict snow making and

grooming and shall condition use of the run from the Mid-Station to the Skier Plaza as follows:

- A. Guns shall be located within the ski run easement and shall be spaced approximately 100' apart. Certain weather conditions may warrant spacing the guns closer together to more efficiently make snow.
 - B. Snowmaking shall not occur within 300 feet of Park Avenue.
 - C. Only smaller, quieter, grooming units may be used at the base of the Town Run, Bridge, and Lift area.
 - D. The noise level from an individual gun or combination of guns and typical background noise shall not exceed 85 dBA. Leq, measured 50' horizontally from the base of the gun under steady state operation. Leq is computed over a one hour sample period.
 - E. The Town Lift, Bridge and extended Town Run shall operate, under normal weather conditions, from December 1 to April 1.
- 12. A comprehensive, perpetual, landscaping, storm water management, maintenance agreement and a summertime public access easement satisfactory to the City are conditions precedent to Conditional Use Permit approval for the ski run, skier bridge and open spaces.
 - 13. A construction phasing and staging plan satisfactory to the City is a condition precedent to any permit for development of the Coalition West parcel.
 - 14. This amendment to allow the construction on the ski bridge shall lapse if the owner does not commence construction of the bridge within two years of a Small-Scale MPD approval for the Coalition West parcel. Prior to commencing construction of the bridge, the applicant shall post adequate security, for the benefit of the City, to insure completion of the bridge, and to ensure the provision for the maintenance of general liability insurance with a single limit of no less than \$1 million (1996 PV), with the City named on the policy as an additional insured.
 - 15. Prior to construction commencing in any existing City right-of-way, the Main Street connection to Deer Valley Drive shall be, constructed, operational, and dedicated to the City.

16. Employee housing shall be provided consistent with conditions of approval for the Sweeney Large-Scale MPD; and shall be addressed in detail prior to approval of a Small-Scale MPD; and shall meet the standards of any resolutions or ordinances in effect at the time of submittal of any Small-Scale MPD.
17. The Conditional Use Permit for the ski run extension shall include provisions for limited pedestrian access across the ski run where Woodside Avenue and Crescent Walkway now exist. The Crescent Walkway shall be preserved.
18. A Certificate of Appropriateness for Demolition (CAD) is a condition precedent to the demolition or relocation of the house at 721 Woodside Ave. and the historic tower which sits in the future 7th Street right-of-way. If the HDC awards a CAD, the applicant shall demonstrate a good faith effort to relocate the structures within the historic district.
19. Favorable City Council action is a condition precedent to rezone the ROS parcels contemplated by the proposed MPD amendments.
20. All previous conditions of the SPMP shall continue to apply, unless specifically amended herein.
21. All Park City Standard Project Conditions and standard setbacks for each zone apply.

BEFORE THE CITY COUNCIL OF THE PARK CITY MUNICIPAL CORPORATION

Quitting Time, LTD- Appellant	)	FINDINGS, <u>CONDITIONS</u>
Nine Citizens- Appellants	)	<u>AND CONCLUSIONS APPROVING</u>
	)	1996 AMENDMENTS
	)	TO THE SWEENEY
v.	)	LARGE-SCALE MASTER
	)	PLANNED DEVELOPMENT
Park City Planning Commission	)	

This matter, having come on regularly for hearing upon appeal, with both appellants appearing without representation, and with the City Council being advised by the Office of the City Attorney; and having reviewed the files and records herein, supplemented by:

1. Sweeney Statement of Appeal with exhibits filed March 8, 1996
2. Citizen Appellants' Statement of Appeal filed March 8, 1996
3. April 4, 1996 City Council Report with exhibits (CDD staff)
4. April 4, 1996 response of Citizen Appellants, with questions of Council
5. April 18, 1996 Council Agenda Report with exhibits including Council questions for staff and appellants (CDD staff)
6. April 18, 1996 response from Pat Sweeney
7. April 18, 1996 response from Park City Ski Area
8. Options A through C prepared by Paul Sincock
9. Park City Ski Area's May 1, 1996 response to Options A through C
10. Citizen Appellants' May 2, outline of concerns, questions and actions
11. Sweeney's May 2, 1996 response to Citizen Appellants' Appeal
12. CAD graphics prepared by David Belz for Sweeney appellants
13. Citizen Appellants' petition in support of appeal
14. June 28, 1996 request for reconsideration from Pat Sweeney

and having taken testimony of CDD staff and of all concerned parties on April 4, April 18, May 2, May 9, 1996, June 6, 1996, July 18, 1996 and October 17, 1996 and having been fully advised in the premises, the City Council enters the following Findings of Fact, Conclusions of Law, and Conditions of Approval:

FINDINGS OF FACT:

1. Park City is an historic mining town with a tourism-based economy. A bridge connecting the Park City Ski Area with the extension of historic Main Street could encourage and reinforce local commerce and nightly lodging at the base of the Town Lift. A well designed ski bridge is not incompatible with the City's historic district. Bridges and similar structures such as the Crescent Tram and China Bridge are part of Park City's history. The ski bridge and associated ski run would reduce the density of permitted development and would provide open space and view corridors which would not be available if the densities currently allowed were developed.
2. In 1986, the Park City Planning Commission approved the Sweeney Properties Large-Scale Master Plan for 125 acres of land owned by the Sweeney Family on Treasure Mountain, to and across Park Avenue. The Planning Commission amended the Sweeney Properties Large-Scale Master Plan in 1987 (SPMP).
3. In 1995 the Applicant proposed to amend the SPMP to close Woodside Avenue, extend Seventh Street from Park Avenue to Woodside Avenue, reduce approved density on the Coalition West parcel, extend the Town Run from Woodside Avenue to Park Avenue, bridge Park Avenue with a ski run extending to a plaza at the base of the Town Lift, and provide public access to an improved summertime park on the bridge and length of the newly-extended ski run. That proposal is reflected in Exhibit A. On February 28, 1996, the Planning Commission approved the amended SPMP, with conditions of approval which specifically modified the concept approval described in Exhibit A.
4. The 1996 Planning Commission decision to approve an amended SPMP did not grant Small-Scale Master Planning approval of any structure, or group of structures, as part of the planning approval presently on appeal.
5. The Planning Commission considered all submissions by the applicant, the planning staff's analysis of the proposals, and held hearings on July 26, September 13, November 15, 1995 and on January 10, 1996 to receive testimony and evidence from the public on all aspects of the proposed plan.

6. On July 26, 1995, the Planning Commission asked the applicant to discuss the proposed revisions in the context of the entire SPMP. Pursuant to the Planning Commission's request, the applicant commissioned a depiction of a version of revisions to the Creole Gulch and Mid-Station development sites that would be possible if the Town Run and Bridge were approved. The applicant submitted the information to the Planning Commission on September 13, 1995. The information clarified that Planning Commission approval of the Town Run and Bridge would increase the applicant's flexibility to propose rearranging already-approved densities and configurations on other portions of the SPMP.
7. On appeal, all parties agreed to an expanded evidentiary process which allowed the Council to consider information that was not afforded the Planning Commission, including information from the Park City Ski Area (PCSA) regarding the PCSA's operation and development plans, and the appellants' reactions to several options, including Option A: a narrower bridge; Option B: closure of Park Avenue and a bridge over Woodside Avenue; and Option C: development under the present 1986/87 approval.
8. The ski industry has not adopted a consistent standard for proper ski bridge width within an urban environment. Within our own community, the widths of both ski runs and ski bridges vary widely. The proposed Town Bridge would be the first bridge within Park City's historic urban core. It would be accessed by a ski run that, in places, is 22- 25 feet wide, which merges with a 54 foot-wide run into a 60 foot-wide run.
9. The last 200 feet of the ski run leading up to the proposed Town Bridge is relatively flat (4% grade).
10. The proposed Town Bridge will function as the terminus of a ski run, rather than as an extension of a ski run. As such, in general, the bridge area can be managed in a manner that will encourage skiers should to approach and traverse the bridge at a slower rate of speed.
11. Public safety, skier safety, liability, and long-term maintenance are important considerations in designing the ski run and the skier bridge. In part, a ski area can increase skier safety with appropriate design, signage, and staffing during peak periods to regulate skier speed.
12. The proposed Town Bridge primarily benefits the private sector. The Applicant submitted no evidence that the public will use the proposed summer park in a manner disproportionate to the manner the public uses other public spaces

associated with large-scale commercial development such as the Summit Watch plaza.

13. Computer-assisted photographs generated to assist the Council on appeal demonstrate that the proposed 40 foot bridge width and the angle at which it is proposed to span Park Avenue create an unpleasant tunnel effect and will, at times, cast a lengthy shadow over the intersection of Park Avenue and Eight Street. Park City Ski Area testimony that the bridge width should be 40 feet to ensure skier safety or the commercial viability of the amendments was not convincing.
14. A smaller bridge, parallel to current alignment of the Town Lift would reduce the adverse impacts of the proposed bridge and would create a more pleasing urban form.
15. A truss, trestle, or suspension bridge design could lessen the visual impact of the bridge and would obviate the applicant's stated need to place abutments within the Park Avenue right-of-way. Bridge abutments in the City right-of-way pose an undesirable use of City right-of-way and create an unnecessary risk of liability to the City.
16. A smaller bridge, parallel to current alignment of the Town Lift may lower the applicant's project costs.
17. Construction of any bridge and buildings associated with already-approved aspects of this project will effect the character of the surrounding neighborhood. Structures approved through the Small-Scale MPD process should be compatible with the surrounding neighborhood in size, mass, scale, height, and architectural character. Impacts created by the buildings should be mitigated using the Historic District Design Guidelines as a basis for review. The Historic District Design Guidelines may require structures with size, mass, scale, and height well less than the maximum parameters suggested by this and prior approvals. Models and site plans the applicant has submitted in support of the amended MPD have not been evaluated for conformity with Small-Scale MPD nor design review considerations.
18. The Coalition West site was originally master planned for residential uses on the west side of Park Avenue. Without an MPD, the background zoning is for low intensity commercial and resort-related development (HRC) along Park Avenue and for residential uses (HR-1) along Woodside Avenue. The applicant proposed limited commercial uses on the Coalition East and West sites, and proposed to exclude restaurants and bars. Restaurants and bars are also excluded in the proposed changes to the HRC zone currently under review by the Planning Commission. The Planning Commission approved limited commercial uses on the

Coalition East and West sites, as circumscribed by proposed, but as yet not adopted, revisions to the HRC zone.

19. As part of the 1987 amendments to the SPMP, the Planning Commission approved the transfer of at least three unit equivalents of residential use to the Coalition West site, increasing the density from 13 unit equivalents to 16 unit equivalents, using "some" commercial unit equivalents, consistent with the HRC zone, to absorb the additional units within the existing building envelop. The record is unclear how many commercial unit equivalents were intended to be allowed on the Coalition West parcel as a result of the 1987 amendments.
20. On August 23, 1990 the City Council rezoned the Coalition East parcel HCB-MPD and the eastern half of the Coalition West parcels to HRC-MPD and the western half of the Coalition West parcels HR-1-MPD. That action completed the legislative actions necessary to validate the 1987 amendments to the SPMP but shed no further light on the designation of allowed uses on the Coalition West parcels.
21. The amended portion of the SPMP that is now on appeal includes an extension of the Town Run to the lift base. The PCSA has further indicated that it will improve the existing Town Run with snow making and grooming if the Town Bridge is constructed. Ski runs (along with snow making and grooming operations for the runs) are conditional uses within the HR-1 and HRC zones.
22. Snow making and grooming can be noisy, intrusive activities and can create road hazards in an urban environment if improperly managed.
23. As part of its review of the proposed Town Run and Bridge revisions to the SPMP, the Planning Commission requested a demonstration of several different types of snow making systems. The demonstration showed that the smallest snow-making guns, which represented the best available technology to quietly make snow, created an acceptable noise level.
24. The Town Run/Bridge project is located in an area of high pedestrian and vehicular activity. Impacts from project construction activity will compound the noise and annoyances suffered by the community.
25. Construction phasing and proper staging can reduce the negative impacts of construction activity on the surrounding neighborhood and on the community as a whole.

26. Once the project is constructed, however, the Town Run, Bridge and Lift should be operated fully, to mitigate traffic impacts generated by surrounding resort uses and to justify the expense and inconvenience of its construction and the associated loss of Woodside Avenue right of way.
27. The 1986 approval of the SPMP included a condition that "as projects are submitted for conditional use approval, the City shall review them for required employee housing in accordance with adopted ordinances in effect at the time of application". Presently, there are no resolutions or ordinances which require employee housing as mitigation for commercial development. However, staff is in the process of drafting such a resolution. If the Council approves an employee housing ordinance or resolution prior to the date on which the applicant seeks Small-Scale Master Plan approval for the Coalition West site, such ordinance or resolution will have full force and effect and will obligate the applicant to provide employee housing in conformity with the standards set forth in the ordinance or resolution.
28. The proposed plan includes a closure of and fill over Woodside Avenue. In 1991 the applicants commissioned a traffic study to evaluate the impacts of a Woodside Avenue closure. That study indicated minimal traffic disruption as a result of the proposed closure. Traffic patterns and projected build-out have not changed so dramatically from 1991 to render the traffic study invalid.
29. There are significant public utilities within the Woodside Avenue right-of-way.
30. On appeal, the applicant clarified that the proposed amendments to the SPMP decrease the maximum density for the combined Coalition East and West parcels by 5.25 unit equivalents. The applicant proposes a maximum of 9.15 unit equivalents on the Coalition West parcel (of which a maximum of 5.5 unit equivalents are commercial) and an additional 1.6 unit equivalents on the Coalition East parcel.
31. Council deliberated the facts and ~~decided~~^{entered a decision} on May 9, 1996 to affirm in part and to reverse in part the Planning Commission's approval of an amended SPMP. That decision, in pertinent part, further amended the Planning Commission approval to reduce and realign the proposed bridge width to a maximum of 30 feet. The May 9, 1996 decision was memorialized in draft findings and debated on June 6, 1996, at which time the applicant asked for a denial, rather than approval as conditioned. On June 28, 1996 the applicant requested that Council reconsider its denial, and proposed additional project amenities as an offer of good faith. The additional project amenities and conditions are and included in the following Corrected Conditions of Approval:

1. ~~The proposed bridge structure shall be designed to minimize, to the greatest extent possible, the structure that is necessary to accommodate a skier surface of no more than 25' as measured on a perpendicular plane from the interior wall of the bridge structure.~~ The entire bridge width shall be as narrow as possible, and shall not exceed 30' measured on a perpendicular plane from outside edge to outside edge.
2. No bridge support shall be located within the City right-of-way.
3. The bridge shall be aligned to be parallel with the existing ski lift, to reduce shadowing over the 8th and Park Avenue intersection, to reduce the overall length of the span, and to ensure an adequate line of sight at all relevant intersections.
4. The bridge must be designed to minimize the mass, to reduce the depth of the girders, and to create a visually-interesting and historically-compatible element of the lower Old Town area.
5. An adequately-secured contract, consistent with Deer Valley Bridge agreements, to hold harmless and to indemnify the City for any liability arising from the siting, construction, operation, and maintenance of the bridge is a condition precedent to the issuance of any right of way encroachment permit or Conditional Use Permit to allow construction of the bridge and/or its appurtenances.
6. Applicant must petition to vacate that portion of Woodside Avenue that applicant proposes to fill as an extension of the Town Run. Applicant must submit a satisfactory plan for accessing and protecting public utilities within the Woodside Avenue right-of-way as a condition precedent to public vacation of any portion of Woodside Avenue.
7. Historic District Commission design review and approval of all structures, including the bridge, retaining walls or berms, parking structure and buildings for architectural design, including mass, scale, colors and materials, and for

conformance with the Historic District Guidelines, is a condition precedent to building permit issuance.

8. Planning Commission review and approval of a Small-Scale MPD for all structures is a condition precedent to building permit issuance.
9. The maximum allowable building heights shall be 27' in the HR-1 zoned portion of the MPD, measured from natural or finished grade, whichever yields the smaller/shorter structure. The maximum allowable building heights shall be 35' in the HRC zoned portion of the MPD. Like any permitted use within the zone, the MPD describes maximum heights only. The over-riding requirement for these buildings is that they be compatible in mass and scale with the surrounding neighborhood, including the historic structures on the west side of Park Avenue. To meet the compatibility requirement it may be necessary to reduce the overall height of portions of the structures.
10. No commercial business which generates a high volume of vehicular pick-up and drop-off traffic, nor any bar or restaurant, shall be permitted in the HRC zoned portion of the MPD which is located on the Coalition West parcel. The Coalition West parcel shall be limited as follows: Retail uses shall be limited to support commercial uses and shall be oriented primarily to the neighborhood, pedestrian-accessible bed-base, such as an antique store, art gallery, museum or supply store, bakery, camera shop, candy store, clothing store florist, gifts and sundries, pharmacy or drug store, sporting goods store, ski storage and repair or variety store. ~~The SPMP shall be modified to include proposed changes to the land use table for the HRC zone, as described on Table 1, attached.~~
11. Parking for all uses shall comply with the requirements of Chapter 13 of the LMC as amended. If specifically approved by the Planning Commission during the Small-Scale MPD process, up to 3 parking spaces may be shared between the Coalition West and East parcels, provided the total number of spaces complies with the Code. If problems arise with day skier parking, the applicant shall implement an on-site parking management plan, approved by the City.

12. Planning Commission approval of a Conditional Use Permit for the ski run from the Mid-Station to the Skier Plaza is a condition precedent to grading, installation of snow making, construction of amenities, or operation of the extended ski run. The Conditional Use Permit, at its minimum, shall restrict snow making and grooming and shall condition use of the run from the Mid-Station to the Skier Plaza as follows:

A. Guns shall be located within the ski run easement and shall be spaced approximately 100' apart. Certain weather conditions may warrant spacing the guns closer together to more efficiently make snow. Guns shall be placed and operated to prevent drift onto Park Avenue.

B. The Ski Area shall use the best available technology in quiet snow making equipment. At its maximum, the noise level from an individual gun or combination of guns and typical background noise shall not exceed 85 dBA. Leq, measured 50' horizontally from the base of the gun under steady state operation. Leq is computed over a one hour sample period. Placement of the snow making guns shall be regulated to ensure that snow making creates no operational conflict with the use or maintainence of City streets.

C. The Town Lift, Bridge and extended Town Run shall operate daily, to the greatest extent practicable considering mountain priorities, and snow making opportunities, under normal weather conditions, daily, from December 1 to April 1.

D. No night skiing on the Town Run.

13. Applicant shall execute a comprehensive, perpetual, landscaping, storm water management, maintenance agreement (adequately secured) and a summertime public access easement satisfactory to the City prior to the Planning Commission's issuance of a Conditional Use Permit for the ski run, skier bridge and open spaces.

14. A construction phasing and staging plan satisfactory to the City is a condition precedent to any permit for development of the Coalition West parcel.
15. This amendment to allow the construction on the ski bridge shall lapse to the underlying SPMP if the owner does not submit a small-scale MPD application within 6 months of the date of this action. If the owner obtains Small-Scale MPD approval, this amendment shall lapse to the underlying SPMP if the owner does not commence construction of the bridge within 18 months of the Small-Scale MPD approval. Prior to commencing construction of the bridge, the applicant shall post adequate security, for the benefit of the City, to insure completion of the bridge, and to ensure the provision for the maintenance of general liability insurance with a single limit of no less than \$1 million (1996 PV), with the City named on the policy as an additional insured.
16. Prior to construction commencing in any existing City right-of-way, the Main Street connection to Deer Valley Drive shall be, constructed, operational, and dedicated to the City.
17. Employee housing shall be provided consistent with conditions of approval for the Sweeney Large-Scale MPD; and shall be addressed in detail prior to approval of a Small-Scale MPD; and shall meet the standards of any resolutions or ordinances in effect at the time of submittal of any Small-Scale MPD.
18. The Conditional Use Permit for the ski run extension shall include provisions for pedestrian access across the ski run where Woodside Avenue and Crescent Walkway now exist. The Crescent Walkway shall be preserved.
19. The historic tram tower shall be preserved at its current approximate height, location and alignment. The house at 721 Woodside Ave. shall be fully restored at its approximate location. ~~A Certificate of Appropriateness for Demolition (CAD) is a condition precedent to the demolition or relocation of the house at 721 Woodside Ave. and the historic tram tower which sits in the proposed Seventh Street right-of-way.~~

~~If the HDC awards a CAD(s), the applicant shall relocate the structure(s) within the historic district. If the HDC does not award a CAD for the historic tram tower, the applicant will realign the Seventh Street right of way, to City standards, prior to petitioning to vacate Woodside Avenue.~~

20. Favorable City Council action is a condition precedent to rezone and re-plat the ROS parcels contemplated by the proposed MPD amendments.
21. All previous conditions of the SPMP shall continue to apply, unless specifically amended herein.
22. All Park City Standard Project Conditions and standard setbacks for each zone apply.

~~32. On June 8, 1996, Council reviewed proposed findings of fact, conclusions of law and Corrected Conditions of Approval, modified the proposed findings, entertained new concepts for an amended SPMP and took argument from the appellants. At that time, representatives of the Park City Ski Area stated that the PCSA would not operate a bridge with a skier surface width of less than 32 feet. Pat Sweeney stated that he preferred a denial of the Town Bridge concept in its entirety, to an approval with a maximum bridge width of 30 feet.~~

CONCLUSIONS OF LAW

1. The Planning Commission erred in describing the Town Run and Bridge proposal as unrelated to the remainder of the MPD. However, because the Planning Commission actively reviewed the Town Run and Bridge in the context of the entire SPMP, and because additional revisions to the SPMP are contingent on Planning Commission action, the Planning Commission's error is harmless, and has been remedied by Finding of Fact Number 3 on appeal.
2. The Planning Commission erred in approving the Town Bridge with a forty foot wide span and an unnecessarily-skewed alignment. The Planning Commission failed to consider how such a bridge would create an unacceptable risk to the health, safety, and welfare of the general public. The Nine Citizens' appeal is hereby granted to the extent that it is remedied by Corrected Conditions of Approval in these respects.
3. The applicant is not entitled to Small-Scale MPD or design approval at this level (Large-Scale MPD) of development review.

4. Subject to Corrected Conditions of Approval, the proposed revisions would be in substantial conformance with the Comprehensive Plan and the Land Management Code.
5. In all remaining respects, the Planning Commission properly approved the subject amendments to the SPMP.
6. A Special Improvement District (SID) is not an appropriate method to finance and construct or maintain the bridge or to maintain open space areas within the project.
7. Based on the previous findings of fact and conditions of approval the 1996 Amendments to the Sweeney Large-Scale Master Planned Development are hereby approved exclusively on the Park City Ski Area's representations, and on Pat Sweeney's request for denial, the applicant's proposed SPMP amendments are hereby DENIED in their entirety.

Dated this 17th day of October, 1996

Park City Municipal Corporation

Bradley A. Olch, Mayor

Attest:

Anita Sheldon, City Recorder

Approved as to form:

Jodi Hoffman, City Attorney

BEFORE THE CITY COUNCIL OF THE PARK CITY MUNICIPAL CORPORATION

Quitting Time, LTD- Appellant	)	FINDINGS, <u>CONDITIONS</u>
Nine Citizens- Appellants	)	<u>AND CONCLUSIONS APPROVING</u>
	)	1996 AMENDMENTS
	)	TO THE SWEENEY
v.	)	LARGE-SCALE MASTER
	)	PLANNED DEVELOPMENT
Park City Planning Commission	)	

This matter, having come on regularly for hearing upon appeal, with both appellants appearing without representation, and with the City Council being advised by the Office of the City Attorney; and having reviewed the files and records herein, supplemented by:

1. Sweeney Statement of Appeal with exhibits filed March 8, 1996
2. Citizen Appellants' Statement of Appeal filed March 8, 1996
3. April 4, 1996 City Council Report with exhibits (CDD staff)
4. April 4, 1996 response of Citizen Appellants, with questions of Council
5. April 18, 1996 Council Agenda Report with exhibits including Council questions for staff and appellants (CDD staff)
6. April 18, 1996 response from Pat Sweeney
7. April 18, 1996 response from Park City Ski Area
8. Options A through C prepared by Paul Sincock
9. Park City Ski Area's May 1, 1996 response to Options A through C
10. Citizen Appellants' May 2, outline of concerns, questions and actions
11. Sweeney's May 2, 1996 response to Citizen Appellants' Appeal
12. CAD graphics prepared by David Belz for Sweeney appellants
13. Citizen Appellants' petition in support of appeal
14. June 28, 1996 request for reconsideration from Pat Sweeney

and having taken testimony of CDD staff and of all concerned parties on April 4, April 18, May 2, May 9, 1996, June 6, 1996, July 18, 1996 and October 17, 1996 and having been fully advised in the premises, the City Council enters the following Findings of Fact, Conclusions of Law, and Conditions of Approval:

FINDINGS OF FACT:

1. Park City is an historic mining town with a tourism-based economy. A bridge connecting the Park City Ski Area with the extension of historic Main Street could encourage and reinforce local commerce and nightly lodging at the base of the Town Lift. A well designed ski bridge is not incompatible with the City's historic district. Bridges and similar structures such as the Crescent Tram and China Bridge are part of Park City's history. The ski bridge and associated ski run would reduce the density of permitted development and would provide open space and view corridors which would not be available if the densities currently allowed were developed.
2. In 1986, the Park City Planning Commission approved the Sweeney Properties Large-Scale Master Plan for 125 acres of land owned by the Sweeney Family on Treasure Mountain, to and across Park Avenue. The Planning Commission amended the Sweeney Properties Large-Scale Master Plan in 1987 (SPMP).
3. In 1995 the Applicant proposed to amend the SPMP to close Woodside Avenue, extend Seventh Street from Park Avenue to Woodside Avenue, reduce approved density on the Coalition West parcel, extend the Town Run from Woodside Avenue to Park Avenue, bridge Park Avenue with a ski run extending to a plaza at the base of the Town Lift, and provide public access to an improved summertime park on the bridge and length of the newly-extended ski run. That proposal is reflected in Exhibit A. On February 28, 1996, the Planning Commission approved the amended SPMP, with conditions of approval which specifically modified the concept approval described in Exhibit A.
4. The 1996 Planning Commission decision to approve an amended SPMP did not grant Small-Scale Master Planning approval of any structure, or group of structures, as part of the planning approval presently on appeal.
5. The Planning Commission considered all submissions by the applicant, the planning staff's analysis of the proposals, and held hearings on July 26, September 13, November 15, 1995 and on January 10, 1996 to receive testimony and evidence from the public on all aspects of the proposed plan.

6. On July 26, 1995, the Planning Commission asked the applicant to discuss the proposed revisions in the context of the entire SPMP. Pursuant to the Planning Commission's request, the applicant commissioned a depiction of a version of revisions to the Creole Gulch and Mid-Station development sites that would be possible if the Town Run and Bridge were approved. The applicant submitted the information to the Planning Commission on September 13, 1995. The information clarified that Planning Commission approval of the Town Run and Bridge would increase the applicant's flexibility to propose rearranging already-approved densities and configurations on other portions of the SPMP.
7. On appeal, all parties agreed to an expanded evidentiary process which allowed the Council to consider information that was not afforded the Planning Commission, including information from the Park City Ski Area (PCSA) regarding the PCSA's operation and development plans, and the appellants' reactions to several options, including Option A: a narrower bridge; Option B: closure of Park Avenue and a bridge over Woodside Avenue; and Option C: development under the present 1986/87 approval.
8. The ski industry has not adopted a consistent standard for proper ski bridge width within an urban environment. Within our own community, the widths of both ski runs and ski bridges vary widely. The proposed Town Bridge would be the first bridge within Park City's historic urban core. It would be accessed by a ski run that, in places, is 22- 25 feet wide, which merges with a 54 foot-wide run into a 60 foot-wide run.
9. The last 200 feet of the ski run leading up to the proposed Town Bridge is relatively flat (4% grade).
10. The proposed Town Bridge will function as the terminus of a ski run, rather than as an extension of a ski run. As such, in general, the bridge area can be managed in a manner that will encourage skiers should to approach and traverse the bridge at a slower rate of speed.
11. Public safety, skier safety, liability, and long-term maintenance are important considerations in designing the ski run and the skier bridge. In part, a ski area can increase skier safety with appropriate design, signage, and staffing during peak periods to regulate skier speed.
12. The proposed Town Bridge primarily benefits the private sector. The Applicant submitted no evidence that the public will use the proposed summer park in a manner disproportionate to the manner the public uses other public spaces

associated with large-scale commercial development such as the Summit Watch plaza.

13. Computer-assisted photographs generated to assist the Council on appeal demonstrate that the proposed 40 foot bridge width and the angle at which it is proposed to span Park Avenue create an unpleasant tunnel effect and will, at times, cast a lengthy shadow over the intersection of Park Avenue and Eight Street. Park City Ski Area testimony that the bridge width should be 40 feet to ensure skier safety or the commercial viability of the amendments was not convincing.
14. A smaller bridge, parallel to current alignment of the Town Lift would reduce the adverse impacts of the proposed bridge and would create a more pleasing urban form.
15. A truss, trestle, or suspension bridge design could lessen the visual impact of the bridge and would obviate the applicant's stated need to place abutments within the Park Avenue right-of-way. Bridge abutments in the City right-of-way pose an undesirable use of City right-of-way and create an unnecessary risk of liability to the City.
16. A smaller bridge, parallel to current alignment of the Town Lift may lower the applicant's project costs.
17. Construction of any bridge and buildings associated with already-approved aspects of this project will effect the character of the surrounding neighborhood. Structures approved through the Small-Scale MPD process should be compatible with the surrounding neighborhood in size, mass, scale, height, and architectural character. Impacts created by the buildings should be mitigated using the Historic District Design Guidelines as a basis for review. The Historic District Design Guidelines may require structures with size, mass, scale, and height well less than the maximum parameters suggested by this and prior approvals. Models and site plans the applicant has submitted in support of the amended MPD have not been evaluated for conformity with Small-Scale MPD nor design review considerations.
18. The Coalition West site was originally master planned for residential uses on the west side of Park Avenue. Without an MPD, the background zoning is for low intensity commercial and resort-related development (HRC) along Park Avenue and for residential uses (HR-1) along Woodside Avenue. The applicant proposed limited commercial uses on the Coalition East and West sites, and proposed to exclude restaurants and bars. Restaurants and bars are also excluded in the proposed changes to the HRC zone currently under review by the Planning Commission. The Planning Commission approved limited commercial uses on the

Coalition East and West sites, as circumscribed by proposed, but as yet not adopted, revisions to the HRC zone.

19. As part of the 1987 amendments to the SPMP, the Planning Commission approved the transfer of at least three unit equivalents of residential use to the Coalition West site, increasing the density from 13 unit equivalents to 16 unit equivalents, using "some" commercial unit equivalents, consistent with the HRC zone, to absorb the additional units within the existing building envelop. The record is unclear how many commercial unit equivalents were intended to be allowed on the Coalition West parcel as a result of the 1987 amendments.
20. On August 23, 1990 the City Council rezoned the Coalition East parcel HCB-MPD and the eastern half of the Coalition West parcels to HRC-MPD and the western half of the Coalition West parcels HR-1-MPD. That action completed the legislative actions necessary to validate the 1987 amendments to the SPMP but shed no further light on the designation of allowed uses on the Coalition West parcels.
21. The amended portion of the SPMP that is now on appeal includes an extension of the Town Run to the lift base. The PCSA has further indicated that it will improve the existing Town Run with snow making and grooming if the Town Bridge is constructed. Ski runs (along with snow making and grooming operations for the runs) are conditional uses within the HR-1 and HRC zones.
22. Snow making and grooming can be noisy, intrusive activities and can create road hazards in an urban environment if improperly managed.
23. As part of its review of the proposed Town Run and Bridge revisions to the SPMP, the Planning Commission requested a demonstration of several different types of snow making systems. The demonstration showed that the smallest snow-making guns, which represented the best available technology to quietly make snow, created an acceptable noise level.
24. The Town Run/Bridge project is located in an area of high pedestrian and vehicular activity. Impacts from project construction activity will compound the noise and annoyances suffered by the community.
25. Construction phasing and proper staging can reduce the negative impacts of construction activity on the surrounding neighborhood and on the community as a whole.

26. Once the project is constructed, however, the Town Run, Bridge and Lift should be operated fully, to mitigate traffic impacts generated by surrounding resort uses and to justify the expense and inconvenience of its construction and the associated loss of Woodside Avenue right of way.
27. The 1986 approval of the SPMP included a condition that "as projects are submitted for conditional use approval, the City shall review them for required employee housing in accordance with adopted ordinances in effect at the time of application". Presently, there are no resolutions or ordinances which require employee housing as mitigation for commercial development. However, staff is in the process of drafting such a resolution. If the Council approves an employee housing ordinance or resolution prior to the date on which the applicant seeks Small-Scale Master Plan approval for the Coalition West site, such ordinance or resolution will have full force and effect and will obligate the applicant to provide employee housing in conformity with the standards set forth in the ordinance or resolution.
28. The proposed plan includes a closure of and fill over Woodside Avenue. In 1991 the applicants commissioned a traffic study to evaluate the impacts of a Woodside Avenue closure. That study indicated minimal traffic disruption as a result of the proposed closure. Traffic patterns and projected build-out have not changed so dramatically from 1991 to render the traffic study invalid.
29. There are significant public utilities within the Woodside Avenue right-of-way.
30. On appeal, the applicant clarified that the proposed amendments to the SPMP decrease the maximum density for the combined Coalition East and West parcels by 5.25 unit equivalents. The applicant proposes a maximum of 9.15 unit equivalents on the Coalition West parcel (of which a maximum of 5.5 unit equivalents are commercial) and an additional 1.6 unit equivalents on the Coalition East parcel.
31. Council deliberated the facts and ~~decided~~entered a decision on May 9, 1996 to affirm in part and to reverse in part the Planning Commission's approval of an amended SPMP. That decision, in pertinent part, further amended the Planning Commission approval to reduce and realign the proposed bridge width to a maximum of 30 feet. The May 9, 1996 decision was memorialized in draft findings and debated on June 6, 1996, at which time the applicant asked for a denial, rather than approval as conditioned. On June 28, 1996 the applicant requested that Council reconsider its denial, and proposed additional project amenities as an offer of good faith. The additional project amenities and conditions are and included in the following Corrected Conditions of Approval:

1. ~~The proposed bridge structure shall be designed to minimize, to the greatest extent possible, the structure that is necessary to accommodate a skier surface of no more than 25' as measured on a perpendicular plane from the interior wall of the bridge structure.~~ The entire bridge width shall be as narrow as possible, and shall not exceed 30' measured on a perpendicular plane from outside edge to outside edge.
2. No bridge support shall be located within the City right-of-way.
3. The bridge shall be aligned to be parallel with the existing ski lift, to reduce shadowing over the 8th and Park Avenue intersection, to reduce the overall length of the span, and to ensure an adequate line of sight at all relevant intersections.
4. The bridge must be designed to minimize the mass, to reduce the depth of the girders, and to create a visually-interesting and historically-compatible element of the lower Old Town area.
5. An adequately-secured contract, consistent with Deer Valley Bridge agreements, to hold harmless and to indemnify the City for any liability arising from the siting, construction, operation, and maintenance of the bridge is a condition precedent to the issuance of any right of way encroachment permit or Conditional Use Permit to allow construction of the bridge and/or its appurtenances.
6. Applicant must petition to vacate that portion of Woodside Avenue that applicant proposes to fill as an extension of the Town Run. Applicant must submit a satisfactory plan for accessing and protecting public utilities within the Woodside Avenue right-of-way as a condition precedent to public vacation of any portion of Woodside Avenue.
7. Historic District Commission design review and approval of all structures, including the bridge, retaining walls or berms, parking structure and buildings for architectural design, including mass, scale, colors and materials, and for

conformance with the Historic District Guidelines, is a condition precedent to building permit issuance.

8. Planning Commission review and approval of a Small-Scale MPD for all structures is a condition precedent to building permit issuance.
9. The maximum allowable building heights shall be 27' in the HR-1 zoned portion of the MPD, measured from natural or finished grade, whichever yields the smaller/shorter structure. The maximum allowable building heights shall be 35' in the HRC zoned portion of the MPD. Like any permitted use within the zone, the MPD describes maximum heights only. The over-riding requirement for these buildings is that they be compatible in mass and scale with the surrounding neighborhood, including the historic structures on the west side of Park Avenue. To meet the compatibility requirement it may be necessary to reduce the overall height of portions of the structures.
10. No commercial business which generates a high volume of vehicular pick-up and drop-off traffic, nor any bar or restaurant, shall be permitted in the HRC zoned portion of the MPD which is located on the Coalition West parcel. The Coalition West parcel shall be limited as follows: Retail uses shall be limited to support commercial uses and shall be oriented primarily to the neighborhood, pedestrian-accessible bed-base, such as an antique store, art gallery, museum or supply store, bakery, camera shop, candy store, clothing store florist, gifts and sundries, pharmacy or drug store, sporting goods store, ski storage and repair or variety store. ~~The SPMP shall be modified to include proposed changes to the land use table for the HRC zone, as described on Table 1, attached.~~
11. Parking for all uses shall comply with the requirements of Chapter 13 of the LMC as amended. If specifically approved by the Planning Commission during the Small-Scale MPD process, up to 3 parking spaces may be shared between the Coalition West and East parcels, provided the total number of spaces complies with the Code. If problems arise with day skier parking, the applicant shall implement an on-site parking management plan, approved by the City.

12. Planning Commission approval of a Conditional Use Permit for the ski run from the Mid-Station to the Skier Plaza is a condition precedent to grading, installation of snow making, construction of amenities, or operation of the extended ski run. The Conditional Use Permit, at its minimum, shall restrict snow making and grooming and shall condition use of the run from the Mid-Station to the Skier Plaza as follows:

A. Guns shall be located within the ski run easement and shall be spaced approximately 100' apart. Certain weather conditions may warrant spacing the guns closer together to more efficiently make snow. Guns shall be placed and operated to prevent drift onto Park Avenue.

B. The Ski Area shall use the best available technology in quiet snow making equipment. At its maximum, the noise level from an individual gun or combination of guns and typical background noise shall not exceed 85 dBA. Leq, measured 50' horizontally from the base of the gun under steady state operation. Leq is computed over a one hour sample period. Placement of the snow making guns shall be regulated to ensure that snow making creates no operational conflict with the use or maintainence of City streets.

C. The Town Lift, Bridge and extended Town Run shall operate daily, to the greatest extent practicable considering mountain priorities, and snow making opportunities, under normal weather conditions, daily, from December 1 to April 1.

D. No night skiing on the Town Run.

13. Applicant shall execute a comprehensive, perpetual, landscaping, storm water management, maintenance agreement (adequately secured) and a summertime public access easement satisfactory to the City prior to the Planning Commission's issuance of a Conditional Use Permit for the ski run, skier bridge and open spaces.

14. A construction phasing and staging plan satisfactory to the City is a condition precedent to any permit for development of the Coalition West parcel.
15. This amendment to allow the construction on the ski bridge shall lapse to the underlying SPMP if the owner does not submit a small-scale MPD application within 6 months of the date of this action. If the owner obtains Small-Scale MPD approval, this amendment shall lapse to the underlying SPMP if the owner does not commence construction of the bridge within 18 months of the Small-Scale MPD approval. Prior to commencing construction of the bridge, the applicant shall post adequate security, for the benefit of the City, to insure completion of the bridge, and to ensure the provision for the maintenance of general liability insurance with a single limit of no less than \$1 million (1996 PV), with the City named on the policy as an additional insured.
16. Prior to construction commencing in any existing City right-of-way, the Main Street connection to Deer Valley Drive shall be, constructed, operational, and dedicated to the City.
17. Employee housing shall be provided consistent with conditions of approval for the Sweeney Large-Scale MPD; and shall be addressed in detail prior to approval of a Small-Scale MPD; and shall meet the standards of any resolutions or ordinances in effect at the time of submittal of any Small-Scale MPD.
18. The Conditional Use Permit for the ski run extension shall include provisions for pedestrian access across the ski run where Woodside Avenue and Crescent Walkway now exist. The Crescent Walkway shall be preserved.
19. The historic tram tower shall be preserved at its current approximate height, location and alignment. The house at 721 Woodside Ave. shall be fully restored at its approximate location. ~~A Certificate of Appropriateness for Demolition (CAD) is a condition precedent to the demolition or relocation of the house at 721 Woodside Ave. and the historic tram tower which sits in the proposed Seventh Street right-of-way.~~

~~If the HDC awards a CAD(s), the applicant shall relocate the structure(s) within the historic district. If the HDC does not award a CAD for the historic tram tower, the applicant will realign the Seventh Street right of way, to City standards, prior to petitioning to vacate Woodside Avenue.~~

20. Favorable City Council action is a condition precedent to rezone and re-plat the ROS parcels contemplated by the proposed MPD amendments.
21. All previous conditions of the SPMP shall continue to apply, unless specifically amended herein.
22. All Park City Standard Project Conditions and standard setbacks for each zone apply.

~~32. On June 8, 1996, Council reviewed proposed findings of fact, conclusions of law and Corrected Conditions of Approval, modified the proposed findings, entertained new concepts for an amended SPMP and took argument from the appellants. At that time, representatives of the Park City Ski Area stated that the PCSA would not operate a bridge with a skier surface width of less than 32 feet. Pat Sweeney stated that he preferred a denial of the Town Bridge concept in its entirety, to an approval with a maximum bridge width of 30 feet.~~

CONCLUSIONS OF LAW

1. The Planning Commission erred in describing the Town Run and Bridge proposal as unrelated to the remainder of the MPD. However, because the Planning Commission actively reviewed the Town Run and Bridge in the context of the entire SPMP, and because additional revisions to the SPMP are contingent on Planning Commission action, the Planning Commission's error is harmless, and has been remedied by Finding of Fact Number 3 on appeal.
2. The Planning Commission erred in approving the Town Bridge with a forty foot wide span and an unnecessarily-skewed alignment. The Planning Commission failed to consider how such a bridge would create an unacceptable risk to the health, safety, and welfare of the general public. The Nine Citizens' appeal is hereby granted to the extent that it is remedied by Corrected Conditions of Approval in these respects.
3. The applicant is not entitled to Small-Scale MPD or design approval at this level (Large-Scale MPD) of development review.

4. Subject to Corrected Conditions of Approval, the proposed revisions would be in substantial conformance with the Comprehensive Plan and the Land Management Code.
5. In all remaining respects, the Planning Commission properly approved the subject amendments to the SPMP.
6. A Special Improvement District (SID) is not an appropriate method to finance and construct or maintain the bridge or to maintain open space areas within the project.
7. ~~Based on the previous findings of fact and conditions of approval the 1996 Amendments to the Sweeney Large-Scale Master Planned Development are hereby approved exclusively on the Park City Ski Area's representations, and on Pat Sweeney's request for denial, the applicant's proposed SPMP amendments are hereby DENIED in their entirety.~~

Dated this 17th day of October, 1996

Park City Municipal Corporation

Bradley A. Olch, Mayor

Attest:

Anita Sheldon, City Recorder

Approved as to form:

Jodi Hoffman, City Attorney